

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Shannon Sheridan,

*Appellant,*

v.

Case No. 2012-REM-06-0152

Athens County Sheriff,

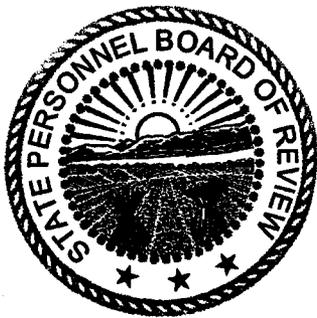
*Appellee,*

**ORDER**

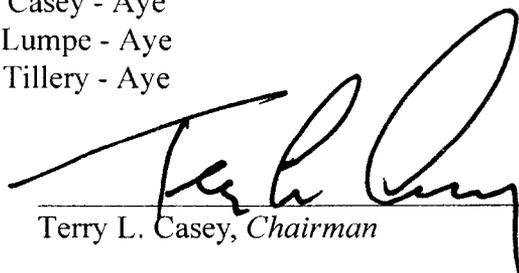
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed and the oral argument presented by counsel before the Board, the Board hereby adopts the Findings of the Administrative Law Judge and modifies the Recommendation of the Administrative Law Judge, as follows.

Wherefore, it is hereby **ORDERED** that Appellant be **REINSTATED** to his position with Appellee effective five months after the effective date of Appellant's instant removal, but with no back pay for any additional time for which Appellant received a continuance in this matter conditioned on potential back pay being held in abeyance. It is further **ORDERED** that Appellant be subject to a Last Chance Agreement upon his return to the employment of Appellee, that the terms of the Agreement be appropriate, and that Appellant must accept any additional requisite training which Appellee considers to be necessary in order for Appellant to fully and faithfully carry out his duties.



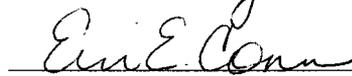
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
Terry L. Casey, *Chairman*

**CERTIFICATION**

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, February 13, 2014.

  
Erin E. Conn  
Clerk

**NOTE:** Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

2/13/14ec

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Shannon Sheridan,

Case No. 12-REM-06-0152

*Appellant*

v.

September 10, 2013

Athens County Sheriff,

Christopher R. Young

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

On June 25, 2012, the Athens County Sheriff office (herein after ACSO) served an Order of Removal, in accordance with Ohio Revised Code (O.R.C.) § 124.34, upon the Appellant, Shannon Sheridan, a Deputy Sheriff. The order alleged the following:

This will notify you that you are removed from your position of Deputy Sheriff effective June 26, 2012.

The reason for this action is that you have been guilty of

1. On or about May 18, 2012, after repeated orders by Captain Bryan Cooper to leave his office, you were insubordinate toward Captain Cooper by refusing his orders and slamming your fist on the desk.
2. During the approximate period of February 2012 to May 2012, while assuming the duties as an instructor with the Athens County Sheriff's Academy you engaged in sexually harassing conduct towards Athens County Sheriff's Academy female cadets.
3. On or about June 12, 2012 during an investigatory interview you may false and misleading statements to Captain Bryan Cooper and Lieutenant Aaron Maynard.
4. On or about June 4, 2012, you engaged in a loud, discourteous, and argumentative conversation with Agent Byron Guinther in full view of the public in front of the Sheriff's Office and, subsequently made a false and/or misleading

complaint to Agent Guinther's employer. 5. On or about May 18, 2012, you failed to properly process and log evidence under your control consistent with established policies.

Thereafter, on June 29, 2012, the Appellant filed a timely appeal from this Order of Removal. The record hearing in this case was held on January 11, 2013, February 12, 2013 and February 15, 2013 and concluded upon the submission of simultaneous post hearing briefs filed on July 15, 2013. The Appellant, Shannon Sheridan, appeared at the record hearing and was represented by Mark J. Volcheck, Attorney at Law. The Appellee, the Athens County Sheriff's Office, was present through its designee Captain Bryan Cooper and was represented by Matthew B. Baker, Attorney at Law.

This hearing was conducted by the State Personnel Board of Review in accordance with O.R.C. § 124.34, which specifically provides that an employee may file an appeal of any order filed under O.R.C. § 124.34, within ten (10) days after having received the order with the State Personnel Board of Review. The parties agreed and stipulated to the jurisdiction of this Board, as well as to the timely filing of the appeal. The parties further stipulated that the Collective bargaining agreement included the Appellant as a member unit, and any appeals which took place would be directly forwarded to State Personnel Board of Review.

### **STATEMENT OF THE CASE**

Appellee's first witness to testify on cross examination was Mr. Shannon Sheridan. Mr. Sheridan stated he began working for the Athens County Sheriff's Office in April/May of 2004. The Sheriff who hired Mr. Sheridan was Mr. Vernon Castle. Mr. Sheridan has had no breaks in service since his initial hiring, and his last day of service was June 22, 2012, under current Sheriff Patrick Kelly. Mr. Sheridan then identified Appellee's Exhibit A as a document the Sheriff gave to him on his last day of work regarding the instant order of removal. Mr. Sheridan then identified Appellee's Exhibit D as the policies (the policies for the chapters in which Mr. Sheridan was charged under) of the Athens County Sheriff's Office. Mr. Sheridan then identified Appellee's Exhibit E as documents he signed on December 7, 2011, acknowledging his understanding of policy 2.12, 2.15, 3.01, 3.05, 3.06, and 4.09.

Mr. Sheridan was first questioned regarding the fourth charge of "on or about June 4, 2012, you engaged in a loud, discourteous and argumentative conversation with Agent Byron Guinther in full view of the public in front of the Sheriff's Office and subsequently made a false and/or misleading complaint to Agent Guinther's employer." Upon questioning Mr. Sheridan explained that on June 4, 2012, he had an interaction with Agent Byron Guinther at approximately 11:40 a.m. when he was walking down a hallway in the Athens County Court House, and Mr. Byron Guinther pointed at him saying "there he is." Mr. Sheridan stated that Mr. Guinther was accompanied by a man who Mr. Sheridan did not recognize at that time, but Mr. Sheridan later learned the gentleman with Mr. Guinther was a Washington County Investigator. The witness stated that when Mr. Guinther approached him, he asked Mr. Guinther why he was investigating him. Mr. Sheridan then stated that Mr. Guinther then became agitated with the situation, and began yelling at him. The Washington County Investigator then told Mr. Sheridan he needed to speak to him, and Mr. Sheridan then explained his attorney advised him not to speak to him (the investigator).

Mr. Sheridan was then questioned about the June 12, 2012, interview with Cpt. Cooper. During that interview Mr. Sheridan attempted to portray the level of agitation Mr. Guinther displayed during the interaction in the street, but was unable to remember exactly what was said during the interview at the hearing (with Cpt. Cooper). Mr. Sheridan explained that during the interview with Cpt. Cooper, he told Cpt. Cooper that he did not raise his voice or yell and scream at Mr. Guinther. Mr. Sheridan then explained that during his interaction with Mr. Guinther he was dressed in his Court Uniform, and he was armed. At the time of the altercation, Mr. Sheridan did not remember seeing anyone other than Mr. Guinther, the Washington County Investigator and Deputy Keith Tabler at the scene of the altercation. Mr. Sheridan stated that most of the conversation occurred inside the courthouse, but Mr. Guinther followed him outside the building. The witness explained that the conversation continued outside because Mr. Guinther continued to engage him, and at one point Deputy Tabler intervened in the conversation and stood between Mr. Guinther and Mr. Sheridan and told them this was not the place to have this argument.

Once the situation ended, Mr. Sheridan stated that he made a complaint to the Ohio Board of Liquor Control about Mr. Guinther's actions. Mr. Sheridan made the complaint by phone, explaining that Mr. Guinther "went off on him and continued to yell and curse at him."

Next, Mr. Sheridan then testified to the workplace harassment charge levied against him in relation to his time as an Academy Instructor for the Athens County Sheriff's Office. On June 12, 2012, Mr. Sheridan was involved in a Garrity Hearing with Cpt. Cooper in relation to the complaint. Mr. Sheridan testified that in that hearing he explained that he had never attempted to push the personal space of any cadet in the Academy. Mr. Sheridan never told a cadet in a private or public setting he was going to push their personal space. During the interview, Mr. Sheridan told Cpt. Cooper he was unsure of who Jennifer Atkins was until after he was notified that a complaint had been filed.

Mr. Sheridan then explained that eight or nine Cadets were enrolled in the Academy, two of which were female. During the interview, Mr. Sheridan denied ever pushing the personal space of Ms. Jennifer Atkins or any other Cadet. Mr. Sheridan further explained, during the interview, that no Cadet ever complained to him about pushing their personal space. During the interview with Cpt. Cooper, Mr. Sheridan stated that he never had a personal conversation with any Cadet about sexual situations. Further, Mr. Sheridan explained that he did not ask Ms. Ebony Smith in front of the class if she was a lesbian. During his time as an Instructor for the Academy, Mr. Sheridan testified that he did not make a comment directed towards Ms. Jennifer Atkins, "nice hooker handles." However, Mr. Sheridan stated that Mr. Sam Disaia, a fellow cadet, was the individual who made the remark to Ms. Atkins.

Mr. Sheridan explained, when questioned, when he was an Instructor at the Academy, the Cadets would take a 10 minute break every hour on the hour, while lunch was an hour. As the Instructor, Mr. Sheridan stated he did not have lunch with the Cadets, but he did speak with them during break periods. Mr. Sheridan explained that he did not persistently get very close to Cadets during break periods; nor did he recall ever being close to a Cadet in the Academy. Mr. Sheridan stated he did not persistently get very close to Ms. Atkins.

Mr. Sheridan explained that he did not tell Ms. Atkins that she is beautiful and could use it to her advantage in law enforcement. Mr. Sheridan was solicited into a conversation by Cadet Ben Taylor about Ms. Atkins' boyfriend. Mr. Sheridan said he did not want to get involved with the conversation, but was further questioned by the Cadets. Mr. Sheridan said "she is a pretty girl and can do what she wants, and if she doesn't like her current boyfriend she can go find someone else."

However, Mr. Sheridan explained that he told a story about a female exposing herself once or twice. During the Interacting with the Special Needs Population class, Mr. Sheridan told a story about a mentally challenged woman undressing in the back seat of his cruiser. Mr. Sheridan also told a story about a woman exposing herself during a routine traffic stop. Mr. Sheridan was questioned if he stated "she had nice boobs and I wanted to look but I couldn't." Mr. Sheridan explained that what he said was "she may have nice boobs but you cannot look at them, you are an officer of the law." Mr. Sheridan explained that he told these stories to explain the pitfalls of the police profession. Mr. Sheridan further stated that he told these stories in an attempt to tell personal experiences from his time as an officer, as the Academy training manual suggested instructors do. Mr. Sheridan explained he told the stories in an attempt to educate the Cadets so they would be prepared for anything that could possibly happen in the workforce.

Mr. Sheridan was then questioned about his instruction in the class Non-Violent Crowds. Mr. Sheridan explained, when questioned, that he never used Ms. Atkins as a test subject in the class; as he did not have her stand up in the class or anything of that nature. Mr. Sheridan explained that had he known Ms. Atkins was afraid of him, or knew there was some claim against him, he never would have used her as a test subject or even gone back to the class. Mr. Sheridan then explained he never touched Ms. Atkins, but he was standing by her when he made a gesture. Mr. Sheridan was teaching the class and made a gesture in the air, a controlled move of escorting someone/holding them, asking what do you as an officer do if brush a woman's breast while arresting her. Mr. Sheridan was questioned if he asked the class "what if you are arresting peaceful protestors and you brush against a woman's breast", and while asking this question he walked across the classroom, grabbed Ms. Atkins arm, and she jerked it away stating to Mr. Sheridan "then you apologize before she breaks your face." Mr. Sheridan stated she did not make that statement, and if Cadets came and testified contrary to his statement that they would be either lying or have a full time job with the office. Mr. Sheridan then alleged Ms. Atkins received special treatment, and the Sheriff's office gave Ms. Atkins special treatment in relation to hiring her.

Mr. Sheridan explained that he understands that Ms. Atkins was given special treatment by the Sheriff's office because Sheriff Patrick Kelly has always had a severe distain towards him. Mr. Sheridan explained that in 1996 Sheriff Patrick Kelly told him that he would make Mr. Sheridan's time at the office difficult as long as he was an officer there. Both Sheriff Kelly and Cpt. Cooper

told Mr. Sheridan many times there would be repercussions for any action that he (Mr. Sheridan) took. Further, Mr. Sheridan explained that he had no sexual feelings towards Ms. Atkins or Ms. Smith at all, and he went to the Academy solely to teach.

Mr. Sheridan then identified Appellee's Exhibit H, as a notice of pre-disciplinary hearing and explained that he remembered having a pre-disciplinary hearing, specifically on June 18, 2012, regarding the instant allegations. Mr. Sheridan then identified Appellee's Exhibit Ex. J as a letter of written reprimand that was rescinded in Mr. Sheridan's favor and Appellee's Exhibits L and Appellee's Exhibit M as a letters of reprimand against Mr. Sheridan that he had previously seen, regarding him not wearing body armor.

On direct examination, Mr. Sheridan explained that he is married, 43 years old and has two college degrees from Ohio University in 2000 and Hocking College in 1993 with an associate's degree in police science. Mr. Sheridan explained that he began working as full time Deputy in April/May of 2004 and worked as a full time Deputy in the Sheriff's office until his termination in 2012. Further, Mr. Sheridan testified that prior to his work as a Deputy he was commissioned as a Special Deputy in April 1991 until he was given a full time position.

Mr. Sheridan, when questioned, testified to the charge of "on or about May 18, 2012, you failed to properly process and log evidence under your control consistent with established policies." In the spring of 2012, Mr. Sheridan explained that he was working a case involving Mr. Gene Perry's stolen tools. Mr. Sheridan became aware of the situation by being dispatched to the crime scene, where he then investigated the situation. When Mr. Sheridan became aware of the situation, he began investigating the crime by speaking to informants in the area. Mr. Sheridan's informant told him who had purchased the tools, and he went to speak to those individuals. The individuals who purchased the tools told Mr. Sheridan who they had bought them from, and Mr. Sheridan went to arrest the individual. Mr. Sheridan approached the suspect and obtained a confession from the individual who stole the tools from Mr. Perry. Mr. Sheridan then filed a report with the prosecutor's office and forwarded all the information he had about the situation to the prosecutor. Mr. Sheridan then explained that he later ran into Mr. Perry at a gas station and explained to him that he had solved his case. Mr. Sheridan testified that he told Mr. Perry that the individual who stole the tools was supposed to return

them, but had not at that point in time. Mr. Sheridan explained that he told Mr. Perry to go to the prosecutor's office to handle the remainder of the case.

Mr. Sheridan was then questioned about rule 4.09, a policy concerning evidence collection in the Athens County Sheriff's Office. Mr. Sheridan was questioned about Appellee's Exhibit D, asking if the rule addressed the chain of custody for evidence in the Sheriff's Office, which he answered in the affirmative. Mr. Sheridan explained that possession or chain of custody begins when the evidence is recovered, and a receipt of the property is made out to the person delivering the evidence. The receipt includes the name of the person the property is received from. Mr. Sheridan explained that officers have property receipt books in their cruiser specifically so property taken as evidence can be documented. Mr. Sheridan then explained that evidence obtained is documented in the office reporting system. The Sheriff's Office has a system that documents the entire time the evidence is in the possession of the Sheriff's Office. The evidence is tagged by stating who, what, when, where and why so that it can properly be stored in a secure temporary and later returned.

After Mr. Sheridan submitted his case file (for Mr. Perry) to the prosecutor he noticed tools were in his mailbox. The tools appeared in Mr. Sheridan's mailbox during a period where his shift time was transitioning from afternoons to midnights. Mr. Sheridan had also taken some time off during this time, so he was unsure when the tools were placed in his mailbox. Mr. Sheridan explained that he was not aware of tools being in his mailbox for a period of two weeks or six months because of his time away. When Mr. Sheridan did notice the tools in his mailbox, he was unsure exactly what they were. The tools in question had no identification, no evidence tag, no receipt or even a note of when the tools had come into the office. At the time the tools were in Mr. Sheridan's Mailbox, Mr. Perry's case was not the only tool case Mr. Sheridan was currently involved with.

Mr. Sheridan later contacted Ms. Angie Waldron, a secretary in the Sheriff's office, about the tools in an attempt to determine where the tools had come from. Mr. Sheridan explained that Ms. Waldron does not work on Mr. Sheridan's shift, thus it took a few days to contact Ms. Waldron because she was busy, but eventually he was able to reach her who explained to Mr. Sheridan that a woman had dropped off the tools during the day some time ago.

When Mr. Sheridan noticed the tools in his mailbox he attempted to determine if the tools were Mr. Perry's. Mr. Sheridan went to Mr. Perry's house to have him identify them, but was unable to reach him. Mr. Sheridan was initially unable to determine if the tools were Mr. Perry's because the names on the tools did not match the ones Mr. Perry had lost. Mr. Sheridan contacted the prosecutor to determine if the tools should be released, but was unable to reach him. Because it was difficult to get in contact with the prosecutor due to scheduling difficulties (Mr. Sheridan worked nights and had to call during the day while he was off duty), it took a few days for Mr. Sheridan to directly speak to the prosecutor. Later, Mr. Sheridan received a message from the prosecutor that he did not want the tools released. Mr. Sheridan explained that he specifically wanted to speak to the prosecutor because he had dealt with difficult situations in the office and did not want to create any possible difficult situations. As a Deputy, Mr. Sheridan is allowed to release evidence as it has been common practice in the office for Deputies to obtain permission to release evidence without logging the evidence in with the office.

Mr. Sheridan identified and testified to Appellant's Exhibit 38 as a picture of a machine that had been improperly entered as evidence at the Court House. Mr. Sheridan explained that a fellow Deputy had pointed out this piece of evidence to him as something that was not properly entered. Mr. Sheridan explained Appellant's Exhibit 39 was the evidence tag for Appellant's Exhibit 38 that had been improperly entered. The evidence tag stated 06/05/2011, a year before Mr. Sheridan was being charged for improperly entering Mr. Perry's evidence. The evidence from Appellant's Exhibit 38 had been left in the open and improperly entered for over a year. Had the evidence been properly entered it would be located in the evidence area behind two locked doors. Mr. Sheridan then identified Appellants Exhibit 40 as a marijuana plant/pot evidence that was sitting in the conference room that had not been bagged or tagged properly, as well.

Mr. Sheridan then explained he has seen other situations where evidence obtained by officers has not been strictly entered as evidence based on the policies provided by the office. Mr. Sheridan has seen Officers break bong and pipes confiscated during traffic stops without entering them into evidence.

Mr. Sheridan then testified to the allegation of "on or about May 18, 2012, after repeated orders by Cpt. Bryan Cooper to leave his office you were insubordinate toward Cpt. Cooper by refusing his orders and slamming your fist on his desk." On or about May 18, 2012, Mr. Sheridan recalled receiving an email from

Cpt. Cooper concerning the air tools left in his mailbox. Mr. Sheridan emailed Cpt. Cooper back that he wanted to receive permission from the prosecuting attorney and have Mr. Perry identify the tools before he released them. During this time, Mr. Sheridan explained that he was also having trouble with his voice mail box, as office had recently changed the voice mail system, and he was unable to access his voice mail (approximately since November). Mr. Sheridan explained he notified Ms. Michelle Williams and Cpt. Cooper about his voice mail problem.

On or about May 18, 2012, after emailing Cpt. Cooper about the voice mail situation, Mr. Sheridan went to Cpt. Cooper's office and explained he wanted to be left alone, that he was not part of Steve Cain's campaign and just wanted to work. Mr. Sheridan explained he did not slam his fist on Cpt. Cooper's desk as alleged; but that he hit his fist into his other hand which then hit Cpt. Cooper's desk. Afterwards, Mr. Sheridan testified Cpt. Cooper ordered him out of his office, and he complied. Mr. Sheridan explained he was never, and has never been, defiant towards authority at the Athens County Sheriff's Office.

Mr. Sheridan then testified once again to the allegation of sexual harassment towards two female Cadets during his time as an Instructor at the Athens County Sheriff's Office Academy. Mr. Sheridan explained he began his tenure as an Instructor for the Athens County Sheriff's Academy in the summer of 2011. At the time he began his instruction, he was presented with a contract for the time he was an Instructor and identified Appellant's Exhibit 37 as the contract that Mr. Sheridan had to sign, or he could not teach in the Academy. Mr. Sheridan explained that either Cpt. Cooper or Bryce Fick (lead Instructor/Academy Coordinator) presented him with the contract. As noted in paragraph J of the contract, it states that Mr. Sheridan's work as an Instructor is described as an independent contractor and his pay will be 20.00 dollars per hour. Mr. Sheridan was told that the Academy and his time as a Deputy had nothing to do with one another. Further, Mr. Sheridan was unable to file grievances about his time at the Academy because it was separate from his time as a Deputy Sheriff. Mr. Sheridan's pay as an Instructor was separate from his pay as a Deputy Sheriff and if he had to teach during his Deputy hours he had to either take time off.

As a Deputy Sheriff, Mr. Sheridan's testified that his work week is characterized as a full time 40 hour work week. As a full time Deputy Sheriff, Mr. Sheridan is a member of the OPBA Employees and the bargaining unit is set out in a separate agreement between the OPBA and the Athens County Sheriff's Office.

Mr. Sheridan identified Appellant's Exhibit 20 as the bargaining agreement between the union and the Sheriff's Office, and page 31 of the document shows that Mr. Sheridan was at Step 6 of the portrayed pay scale. Mr. Sheridan then identified Appellant's Exhibit 34 as a copy of his pay stub from 04-09-11 to 04-22-11, as a full time Deputy Sheriff making 20.48 per hour. Mr. Sheridan then identified Appellant's Exhibit 33 as his pay stub from the Academy from 04-09-11 to 04-22-11, making \$20.0250 per hour as an Athens County Sheriff Academy Instructor.

Mr. Sheridan then identified Article 19 of Appellant's Exhibit 20 as the article that identified overtime pay for a Deputy Sheriff, as pay for work in excess of eight hours per day or 40 hours per week. All hours in which an individual is in paid status count towards those hours, and overtime pay is paid as time and a half. Any time worked as an Instructor for the Athens County Sheriffs Academy is not recognizable as overtime pay or as time worked as a Deputy. Mr. Sheridan identified Appellant's Exhibit 32 as his pay stub receipt from 5-19-12 to 06-01-12 as a Deputy Sheriff. Appellant's Exhibit 32 identified Mr. Sheridan's pay as \$20.99 an hour and his employee number as 4495. Mr. Sheridan then identified Appellant's Exhibit 31 as a pay stub from the Academy from 5-19-12 to 06-01-12 wherein Mr. Sheridan's pay as \$20.025 an hour and that he had worked 32 hours during that pay period as an Instructor. The pay stub represented the amount of time he worked during the entire Academy, not specifically for that pay period. None of the time Mr. Sheridan worked in 2012 for the Academy as an Instructor was payable as full time work as a Deputy or overtime pay for the Athens County Sheriff's Office.

Mr. Sheridan then identified Appellant's Exhibit 43 as the sign in sheet at the Academy and how Instructor pay was tracked. The first page of exhibit 43 explained that Mr. Sheridan taught the class interacting with the Special Needs Population on February 4, 2012, for 8 hours. The following rosters located within exhibit 43 were the roster attendance lists for the class he (Mr. Sheridan) taught during the Academy. Mr. Sheridan then explained that Mr. Cook was not located on the attendance rosters within exhibit 43 because he was more of a non-traditional Cadet. Mr. Cook did not attend all the classes in the Academy because he had already completed certain portions of the Academy. Mr. Sheridan explained that Mr. Cook was present for the Interacting with Special Needs Population class, but he was unsure what other classes Mr. Cook attended.

Mr. Sheridan was then questioned about the set up of the class room he instructed. Mr. Sheridan explained that a common table was set up in the center of

the room that all the Cadets sat around. Three tables were used within the class room, making somewhat of a horse shoe shape with an open space in the center. Mr. Sheridan explained that for breaks, the Cadets were given an hour lunch, if the school day was an eight hour day and they were also given a 10 minute break every hour on the hour. During the break periods, everyone would file into the large atrium located in the school. Most of the time during the break period the Cadets would perform calisthenics (sit-ups, push-ups, jumping jacks), and once the exercises had been completed the Cadets had the remainder of the time to relax amongst themselves. During the free time, Mr. Sheridan mostly spoke to Cadet Jason White about Ohio University Football, or other small talk. During that time most of the Cadets were simply waiting in the atrium area.

Based on Mr. Sheridan's explanation of the lunch break protocol, the only classes he taught that would have a lunch break were the Interacting with Special Needs Population class on February 4, 2012, and the Stops and Approaches class on May 5, 2012. During the classes Mr. Sheridan taught in 2012, Mr. Sheridan attended Subway and Wings Over Athens for his lunch break. For the lunch break during the Interacting with Special Needs class Mr. Sheridan went to Subway and ate alone, and for the Stops and Approaches class he went with Mr. John Morris and ate at Wings Over Athens. Mr. Sheridan identified Appellant's Exhibit 22 as a document that his wife had printed off that shows his credit card history from February 4, 2012, identifying a purchase at Subway. Mr. Sheridan then identified Appellant's Exhibit 23 as his credit card history identifying where he ate lunch for May 5, 2012, at Wings Over Athens.

Mr. Sheridan stated that during his time as an Instructor he never harassed Ms. Jennifer Atkins by positioning himself close to her. He explained he was unable to remember who Ms. Atkins was until after the Academy had ended. He stated he never got physically close to Ms. Jennifer Atkins for the purpose of making her uncomfortable or for the purpose of pushing into her physical space. Mr. Sheridan explained that he never advised Ms. Atkins that he was going to push into her physical space. Mr. Sheridan was never advised by Ms. Atkins to stop pushing into her physical space or to stop positioning himself close to her, as well. Mr. Sheridan was never advised by Ms. Atkins to not be in her physical space. Mr. Sheridan explained he never told Ms. Atkins he was going to invade her physical space to make her uncomfortable. Further, Mr. Sheridan explained he never told Ms. Atkins she has personal space issues. However, Mr. Sheridan advised the class that things will be discussed in the class that likely will make them uncomfortable, and if it does

they need to speak up and say something. Mr. Sheridan explained that he never followed Ms. Atkins around the lobby of the school, nor did he step close to Ms. Atkins causing her to step back throughout the lobby of the school. Mr. Sheridan explained that he was unaware of a possible situation with the Academy until Cpt. Cooper called him explaining someone had filed a complaint.

Mr. Sheridan then explained that during the Stops and Approaches class he noticed Ms. Atkins was avoiding him. At the lower parking lot at the Athens High School they were running a scenario where a cruiser was pulling over a vehicle. Mr. Sheridan's cruiser was parked against a curb, while a Cadet's vehicle was being pulled over by a cruiser from the Sheriff's office. All the Cadets were clustered behind Mr. Sheridan's cruiser during the scenario, where one lawn chair was actually located. Ms. Atkins was sitting in the lawn chair, and Mr. Ben Taylor was sitting in her lap. At one point Ms. Atkins got out of the lawn chair and moved to a different position sitting on the ground. The scenario had then changed and Mr. Sheridan could not hear what the scenario was at that time. Mr. Sheridan walked towards the scenario so he could hear what was being discussed, and it happened to be in the direction of Ms. Atkins. When Mr. Sheridan approached, Ms. Atkins jumped up from the ground and ran away from him. Initially, Mr. Sheridan thought it was strange, but did not react. Once Mr. Sheridan had identified what was happening with the scenario, he moved back to the position he had been previously standing. At this time Ms. Atkins had positioned herself where Mr. Sheridan had been previously standing, and where he was repositioning himself. When he approached his previous position Ms. Atkins ran away once again. Mr. Sheridan then questioned Ms. Atkins "Did I do something to you? Do I smell bad? You make me feel like uncle creepy." Mr. Sheridan explained that he had been running previously so his clothes could have smelled bad, but he was genuinely unsure why she had run away from him. Mr. Sheridan explained that he had never noticed Ms. Atkins trying to avoid him prior to the situation at the Stops and Approaches class.

When questioned, Mr. Sheridan explained he had very few conversations with Ms. Atkins. One of the most memorable conversations he had with Ms. Atkins was when she offered him peanut butter. On break during the Academy, Ms. Atkins was sitting in the atrium eating peanut butter. Mr. Sheridan was intrigued by what she was eating, and asked what it was. Ms. Atkins stated it was peanut butter, and offered some to Mr. Sheridan. Mr. Sheridan stated that he rejected her offer, but stated during his testimony "if she was so afraid of me, so terrified of me, why would she offer me some of her peanut butter?"

Mr. Sheridan was then questioned if he had ever told Ms. Atkins she will need to get used to being uncomfortable in "this line of work." Mr. Sheridan stated he never told her she needed to get used to being uncomfortable. Mr. Sheridan also explained that Ms. Atkins never told him that he made her uncomfortable by putting her outside of her comfort zone. Mr. Sheridan explained that Ms. Atkins interacted with the other Cadets in the Academy "similar to a 14 year old girl." Further, when questioned, Mr. Sheridan explained that Mr. Sam Disaia was the group leader, and was in charge of the Academy group.

On May 5, 2012, at approximately 7:40 a.m. Mr. Sheridan recalled seeing Ms. Atkins from his cruiser before the Stops and Approaches class. Mr. Sheridan was waiting in his car for the class to start, and Mr. Disaia approached his driver side window. Mr. Sheridan explained that he had previously been eating outside his vehicle and had left an item from McDonalds on the cruiser. While Mr. Sheridan and Mr. Disaia were speaking, the witness recalled that Ms. Atkins came outside of Athens High School, stopped, then turned around and started walking back towards the school. Mr. Disaia then yelled to her as she was walking away "nice whore handles, or something along those lines." Mr. Sheridan stated he did not make the statement "nice hooker handles" to Ms. Atkins, and Mr. Disaia was the individual who actually made the statement.

After the Riot Formations class, Mr. Sheridan recalled telling a story about a woman exposing herself to him during a traffic stop. Mr. Sheridan explained he told the story for educational purposes. Mr. Sheridan explained that he said "the woman could have great boobs, but you cannot look at them as you need to diffuse the situation." Mr. Sheridan explained that he told the story before during the Academy in 2011, and did not receive any complaints. Mr. Sheridan explained he told that particular story about the woman exposing herself one time, and did not believe it was a crude or inappropriate story.

Mr. Sheridan then explained the story he told the Cadets about a special needs woman (during the Special Need Population class) who undressed in the back seat of his cruiser. Mr. Sheridan explained that this woman had inappropriate sexual boundaries and would consistently get in trouble. While Mr. Sheridan was transporting the woman she began taking her clothes off. This woman was one of the first people Mr. Sheridan transported while he was a full time Deputy, and at the

time of the incident he was very worried about it. He told the story to the Cadets because they need to be open about situations like this that occur while on duty. Mr. Sheridan stated he did not believe that story was inappropriate to teach to Cadets during the Academy. Mr. Sheridan then identified Appellant's Exhibit 42 as the Special Notes to Commanders and Instructors for the Academy. The pages in exhibit 42 explained that part of the duties as an Instructor was to explain the moral and ethical duties of officers. Mr. Sheridan believed his story about the special needs woman helped further the moral and ethical education of the Cadets.

On March 29, 2012, Mr. Sheridan explained he was the course instructor for Controlling Non-Violent Crowds. Mr. Sheridan explained that he posed the question to the male Cadets in the class "what would you do if while arresting a female you brushed a female's breast?" Mr. Sheridan explained that he was moving about the classroom during the time the question was posed, and performed an escort like movement to portray the situation. Mr. Sheridan stated he did not touch Ms. Atkins in any way, but did make a gesture towards her. He was demonstrating to the class how the situation could occur and Ms. Atkins did not recoil or pull away from Mr. Sheridan because he did not touch her. Ms. Atkins did not jump away from Mr. Sheridan during the interaction and stayed seated throughout the lecture. Further, Mr. Sheridan stated that Ms. Atkins never said that he was being rude or inappropriate towards her during the class.

Mr. Sheridan was then questioned if he ever asked Ms. Smith if she was gay or lesbian. Mr. Sheridan did recall that during a class period that subject was discussed by the Cadets, but he was unsure what specific class it was in. Mr. Sheridan believed it may have been during the Interacting with the Special Needs Population class, but could not remember. During the class Mr. Sheridan explained that officers have dealt with breaking up gay and lesbian couples in domestic violence situations and a Cadet responded "Ebony would know all about that." Mr. Sheridan stated he looked at her and did not really know how to respond. Ms. Smith anticipated Mr. Sheridan asking if she was a lesbian, but he did not specifically ask her. Ms. Smith then asked Mr. Sheridan "what does that have to do with class?" He responded "you're right, let's move on".

Mr. Sheridan was then questioned about the interview with Cpt. Cooper and Lt. Maynard on or about June 12, 2012. That interview was given under orders with Garrity protections. Mr. Sheridan explained he answered the questions posed truthfully, and the interview was recorded and provided to him and his attorney.

On or about June 4, 2012, Mr. Sheridan was approached by Mr. Byron Guinther. Mr. Guinther is a liquor control agent who is assigned to drug instances for the Athens County Sheriff's Office. On the date in question Mr. Sheridan was at the Athens County Court House because he was subpoenaed to a court hearing. During that time period Mr. Sheridan was working nights for the Office, and on the date in question the only obligation he had was to show up to court. Once Mr. Sheridan had finished with his court duty, he began walking down the stairs to leave the facility. As Mr. Sheridan was walking through the hallway to leave, he was accompanied by Mr. Keith Tabler. As Mr. Guinther entered the facility alongside the Washington County Investigator (Mr. Johnson), he pointed at Mr. Sheridan and said "there he is." Mr. Sheridan questioned Mr. Guinther "why are you investigating me?" Mr. Guinther responded "I got you, I got you." Mr. Johnson asked Mr. Sheridan if he could speak to him, and Mr. Sheridan told him no, his attorney has advised him not to speak to him (Mr. Johnson). Mr. Sheridan then turned to Mr. Guinther and asked him what his bosses in Columbus would think about his behavior right now. Mr. Guinther responded "My boss is next door, my boss is Pat Kelly." Mr. Johnson then asked Mr. Sheridan again if he will speak to him and Mr. Sheridan told him no. Mr. Sheridan then attempted to go through the door way to leave the premises, and Mr. Guinther was continuously telling Mr. Sheridan he needed to come speak to him. Mr. Tabler then put his hand on Mr. Sheridan and said "you need to stop this." Mr. Sheridan said "I'm fine" and began walking up the street towards his car. As Mr. Sheridan was walking away from the Court House, Mr. Guinther stayed at the doorway to the Court House, and kept yelling to Mr. Sheridan "come on, come on in." When Mr. Sheridan returned to his car he immediately called his supervisor, Mr. Rodney Smith, and told him specifically what had happened. Mr. Sheridan stated he did not yell, scream, or try to engage with Mr. Guinther.

Mr. Sheridan explained that Mr. Guinther tried to speak to him twice, both inside the building and outside the building, and Mr. Sheridan denied the conversation both times. Upon questioning from the Administrative Law Judge, Mr. Sheridan explained that likely Mr. Guinther and Mr. Johnson came to the court house to specifically speak to Mr. Sheridan. Mr. Guinther continuously persisted in having a conversation with Mr. Sheridan, and followed him in an attempt to have the conversation. Mr. Sheridan then explained that he did not notice any passer bys during the conversation, or that the conversation was being noticed by other individuals.

Mr. Sheridan then explained that he made a verbal complaint to Agent Guinther's employer, the Ohio Investigative Unit. When Mr. Sheridan returned to his car he called Rodney Smith, his supervisor. After he spoke to Mr. Smith he spoke with a state Fire Marshall, Allen Flickenger. Mr. Sheridan spoke to the second in command at the Ohio Investigative Unit, filing a general verbal complaint. Mr. Sheridan relayed the entire interaction to the Investigative Unit, and explained that Mr. Guinther's behavior was truly unprofessional.

Appellant then proffered Ex. 25- Ex. 30. Appellants Ex. 25 was a letter concerning Mr. Sheridan's actions in relation to helping a woman's husband. Appellants Ex. 26 was a notice of commendation awarded on March 31, 2011. Appellants Ex. 27 was a safe driving award given to Mr. Sheridan on March 4, 2010. Appellants Ex. 28 was a certificate of merit given to Mr. Sheridan on March 4, 2010. Appellants Ex. 29 was a commendation awarded to Mr. Sheridan on March 4, 2010. Appellants Ex. 30 was a life saving award given to Mr. Sheridan on March 8, 2012.

Mr. Sheridan then identified Appellant's Exhibit 2 as an email between him and Sheriff Kelly about a pre disciplinary hearing that had been scheduled. Mr. Sheridan then explained that on Saturday morning, June 16, 2012, at approximately midnight or 1AM, Mr. Sheridan was served with documents that scheduled a pre-disciplinary hearing Monday Morning June 18, 2012. Mr. Sheridan received notice of the hearing at his home with his wife, not during a shift he was working.

Mr. Sheridan then elaborated on his relationship with Sheriff Kelly. Mr. Sheridan has known Sheriff Kelly since April 1991 when Sheriff Kelly was a Lieutenant. Mr. Sheridan stated that in April 1996 Sheriff Kelly told Mr. Sheridan that as long as he (Sheriff Kelly) had anything to do with the Athens County Sheriff's Office, he (Mr. Sheridan) would not be there.

Mr. Sheridan then explained that he has never previously received a complaint in relation to his duty as an Academy Instructor. During his time as an Instructor in 2011, Mr. Sheridan had female Cadets in his class and he never received a complaint. Mr. Sheridan has never received a complaint as a full time Deputy Sheriff. Mr. Sheridan then explained that prior to his time at the Sheriff's Office he worked for Presley Schools as a counselor for kids and worked with mainly women and never received a complaint. Further, as his time as an Instructor, Mr. Sheridan explained that he never made a sexual advance or sexually derogatory remark to any women.

Mr. Sheridan explained he has had the opportunity to review Sheriff Policy 3.01 on sexual harassment, and he understands that policy. Mr. Sheridan explained he and his wife would make gifts for female staff in the office and females would give him a hug as a thank you. When questioned, Mr. Sheridan stated that he understood that technically this is a violation, but that it wasn't unwanted contact. Additionally, Mr. Sheridan explained that his past has been heavily involved with working with women and he has never had a complaint filed against him.

In relation to acting as an Instructor for the Athens County Sheriff's Academy, Mr. Sheridan explained he was never given any rules to explain how to teach the class. Mr. Sheridan identified Appellant's Exhibit 3 as a letter to the Sheriff about his grievance relating to his removal from his position. Mr. Sheridan then identified Appellant's Exhibit 7 as a notice of appeal sent to the State Personnel Board of Review.

Mr. Sheridan was then questioned about uniforms for the Academy. Mr. Sheridan explained that for a majority of the time he taught at the Academy he wore khaki pants and a black instructor shirt that identified the Academy on the front pocket. Mr. Sheridan stated he did not recall wearing his Deputy uniform to teach during the 2012 Academy, but he did wear his Deputy uniform during the Academy he taught at 2011.

Mr. Sheridan then explained that when Mr. Guinther approached him he was aware that Mr. Guinther was performing a criminal investigation, but he was never ordered by the Athens County Sheriff's Office to speak to Mr. Guinther.

Upon re-cross examination, Mr. Sheridan was initially questioned about the mishandling of evidence allegation. Mr. Sheridan explained that the tools in question were left in his mailbox. Mr. Sheridan explained that he believed the tools came into the office on the first Friday he was off of work after he transitioned to the midnight shift, at least three or four days after he began working midnights. The Administrative Law Judge questioned Mr. Sheridan about the protocol of what an officer does when a shift begins, specifically asking if it is normal to check your mailbox. Mr. Sheridan explained that the shift begins when the Deputy gets in his car, and he may not necessarily check his mailbox daily. Deputies are not required to go to the Sheriff's office daily, and even if they need to meet with a supervisor they could meet on patrol somewhere. Mr. Sheridan explained that he would not regularly check his mailbox at the Sheriff's office, especially when he was working

midnights. Mr. Sheridan also has another mailbox in the Deputies room, but he would only check it, when necessary.

Mr. Sheridan explained that his mailbox was located in the Deputies room, which was a separate room from the rest of the main building. When Mr. Sheridan noticed the tools were in his mailbox, he initially left them in his mailbox. Mr. Sheridan attempted to figure out where the tools came from, and left the tools in his mailbox for approximately 10 days or two weeks. Mr. Sheridan explained that the location of his mailbox is not a secured area under the policy provided, but Cpt. Cooper told him that the area was a secure area. Mr. Sheridan explained that policy states that the evidence should have been left in the secured area near the blue lockers, and per the policy, leaving the tools in his mailbox was a violation.

Mr. Sheridan was then questioned about Appellant's Exhibit 38 a picture he took when he was still a Deputy that he believed the evidence pictured was a violation of the evidence policy, but he did not report it to anyone. The Administrative Law Judge then questioned Mr. Sheridan where the picture was taken. Mr. Sheridan explained that the picture was taken in an unsecured area, on the second floor above an old jail cell. The area was unsecured because the court staff could get into the area where he took the picture. Mr. Sheridan explained that his tools were located in a secured area behind a black gate, while the machine photographed in exhibit 38 was not secured because it could be accessed by the court staff.

Mr. Sheridan then explained that leaving his tools where he did was a violation of the evidence policy. Mr. Sheridan then stated his contention was his mishandling of evidence should be excused because other evidence had been mishandled. Mr. Sheridan explained that Appellant's Exhibit 40 was mishandled evidence. He took the picture in exhibit 40 while he was still a Deputy and while he was on duty. Mr. Sheridan did not report the mishandled evidence in exhibit 40 because a senior officer knew about the evidence being located in that room. Mr. Sheridan did not report or do anything to correct the mishandled evidence in exhibit 40, as well.

Mr. Sheridan was then questioned how many times he had seen other Deputies mishandle evidence. Mr. Sheridan explained that he has seen Cpt. Cooper, John Deek, and other deputies discard bongs, break bongs, and discard marijuana without properly entering the evidence. Mr. Sheridan explained he has

seen officers destroy evidence, such as drugs and paraphernalia, when they were not going to be charging the individual. Mr. Sheridan was questioned what portion of the evidence policy would give a Deputy authority to destroy property taken in the line of duty, to which he said there is not one. However, Mr. Sheridan explained that under the current Sheriff Kelly, he has not seen any Deputy destroy evidence, but under the previous Sheriff he had seen Deputies destroy evidence.

Mr. Sheridan was then questioned about his time as an Instructor for the Athens County Sheriff's Academy. Mr. Sheridan was questioned about Appellant's Exhibit 37. The training dates on exhibit 37 do not include the year for 2012. Mr. Sheridan explained that the contract signed would count for 2012 as well. Mr. Sheridan was told he could not file grievances about what happened during the Academy by his union attorney, Mark Volcheck, John Deek, Mark Rights, and Cpt. Cooper. Mr. Sheridan explained he did not believe he had the right to file grievances because he was told he could not file them. Even though Mr. Sheridan was told he could not file a grievance, he felt there were situations that he wanted to grieve.

Mr. Sheridan was then questioned if he ever took leave as Deputy to teach at the Academy. Mr. Sheridan explained that he took about four hours off (comp time) to teach at the Academy. Mr. Sheridan was required to fill out a form for comp time, and he did fill out that form, but he could not remember the specific date. Mr. Sheridan then explained that he was not allowed to teach at the Academy at one point because he was written up for some type of discipline. Mr. Sheridan explained that he was not allowed to file a grievance in relation to this situation.

Mr. Sheridan was then questioned again about the uniform he wore while teaching. Mr. Sheridan stated that during the 2012 Academy he mainly wore a polo shirt to teach in, not his Deputy uniform. Mr. Sheridan stated that during his time as an Instructor at the Academy he was not bound by the policies set forth by the Athens County Sheriff's Office. Mr. Sheridan explained that he was employed by the Athens County Sheriff's Office while he was an Instructor, and did drive his car to the Academy on at least one occasion. Mr. Sheridan stated that even though he was approved to wear his Deputy Uniform and drive his cruiser, he was not under the policies and procedures of the Athens County Sheriff's Office while acting as an Instructor, to his understanding.

The Administrative Law Judge then questioned Mr. Sheridan if individuals who were not trained peace officers could instruct at the Academy. Mr. Sheridan explained that he was not sure how certain individuals became certified to teach at the Academy, but non-law enforcement people did teach at the Academy.

Mr. Sheridan then was questioned about the sexual harassment allegation, specifically relating to the "hooker handles" statement. Mr. Sheridan stated that Mr. Disaia and Ms. Atkins were lying when they stated that he (Mr. Sheridan) made the comment. Mr. Sheridan repeated once again that Mr. Disaia made the statement. Mr. Sheridan then explained that during his Garrity interview with Cpt. Cooper he denied making the "hooker handles" statement. Mr. Sheridan was then directed to Appellant's Exhibit 18, page 23, line 12 and explained that at the time he answered the question in the interview with Cpt. Cooper that he could not remember who made the statement "nice hooker handles." Mr. Sheridan stated that when he went into the Garrity hearing with Cpt. Cooper and Lt. Maynard he could not remember initially who made the "hooker handles" comment, but after reading the complaints he was able to recall who made the statement later.

Mr. Sheridan then explained that the "nice hooker handles" comment is not an appropriate comment. The Administrative Law Judge questioned Mr. Sheridan what he would do if a Cadet made that comment in his vicinity. Mr. Sheridan explained that he told Mr. Disaia that his comment was "getting close to the line."

Mr. Sheridan was then questioned about the sexual harassment allegation in relation to Ms. Smith. Mr. Sheridan stated that he did not ask Ms. Smith if she was a lesbian, and the Cadets who testified to the contrary were either lying or mislead.

Mr. Sheridan was then questioned about the story he told to the Cadets about a woman exposing herself. Mr. Sheridan was asked if he said "Boob" or "Breast" and he believed he said "Breast" because the word "Boob" is too invasive.

Mr. Sheridan was then questioned about the sexual harassment allegation in relation to Ms. Atkins. Mr. Sheridan was questioned why he chose to demonstrate the scenario "what happens if while arresting a female you brush against her breast." Mr. Sheridan explained that he picked Ms. Atkins because she happened to be close to him while he was teaching. Mr. Sheridan explained that she was simply the closest human being to him while he was teaching.

Mr. Sheridan was then questioned about his initial testimony during direct examination to Appellee about his alleged comment towards Ms. Smith. Mr. Sheridan explained that he would not be offended by someone asking his sexuality, and did not believe it was inappropriate for one Cadet to ask another that question.

Mr. Sheridan was once again questioned about his altercation with Mr. Guinther. Mr. Sheridan explained he asked Mr. Guinther "why are you investigating me?" inside the Athens County Court House. Mr. Sheridan denied the allegation that he initiated the altercation between him and Mr. Sheridan; as he asked Mr. Guinther why he was investigating him because he believed he and Mr. Guinther were friends. Mr. Sheridan denied starting the altercation, but did state he asked Mr. Guinther the first question before the altercation occurred. Mr. Sheridan explained that Mr. Tabler was present for the altercation, and should have seen that he (Mr. Sheridan) did not start the altercation. Mr. Sheridan explained that he was ashamed of Mr. Tabler's testimony, and stated he believed Mr. Tabler had an incentive to not speak the truth about what truly happened on the date in question. Further, Mr. Sheridan was questioned if Mr. Tabler was being untruthful when he stated he saw civilians during the altercation, or if Mr. Sheridan had simply not seen them. Mr. Sheridan explained he was unsure what Mr. Tabler had seen, but he was the individual being chastised for an altercation he could not control.

Mr. Sheridan was then questioned about individuals who stated they were out to get him. Mr. Sheridan was asked what union stewards told Mr. Sheridan they were out to get him. Mr. Sheridan stated that Doug Prights and John Deek had stated that he (Mr. Sheridan) did not want a war, but he had started one. Mr. Sheridan then explained that in 1996 Sheriff Kelly (lieutenant at that time) stated "you won't be part of this Sheriff's Office as long as I (Kelly) am part of it."

Mr. Sheridan was then questioned about his time as an Academy Instructor. Mr. Sheridan was questioned about whether his position as an Instructor was secondary employment. Mr. Sheridan stated he was unaware of the workplace harassment policy 3.01 that defined workplace for officers as including any area, place, or when and where on duty, to include authorized secondary employment where the officer is performing security or law enforcement services, or any activity taken in the course of employment or under the color of law. Mr. Sheridan then explained he was unaware of the policy in 3.01 stating sexually harassing conduct includes, but is not limited to the following actions: telling suggestive ("dirty") stories.

Mr. Sheridan stated that if Ms. Atkins testimony were truthful, then he (Mr. Sheridan) should be in trouble.

On re-direct examination, Mr. Sheridan was then directed to Appellant's Exhibits 38 and 39 and explained that Appellant's Exhibit 39 was the evidence tag for Appellant's Exhibit 38. Mr. Sheridan was questioned about the long term storage procedure of evidence. Mr. Sheridan explained the long term storage area was in a separate room from where the evidence pictured was stored. Mr. Sheridan was then questioned about Appellant's Exhibit 40 and explained that the pots pictured in Appellant's Exhibit 40 was not a long term storage area, as they were in the conference room that was typically unlocked.

Mr. Sheridan was then questioned about Appellant's Exhibit 37 the contract regarding employment at the Academy that either Cpt. Cooper or Bryce Fick told him to sign, but he was unaware that the other lines of the contract were unsigned.

Mr. Sheridan was then questioned about the sexual harassment allegations once again. With respect to his testimony in relation to "telling" dirty stories Mr. Sheridan explained that he did not believe he was telling dirty stories, but rather stories that were necessary and proper to the education of the Cadets.

The Appellee then called as its second witness to testify, Mr. Samuel Disaia. Mr. Disaia is currently serving as a Reserve Deputy for the Athens County Sheriff's Office. Mr. Disaia explained he knows Mr. Sheridan because Mr. Sheridan was an Instructor for the Sheriff's Academy that Mr. Disaia attended in 2012.

Mr. Disaia was initially questioned about the comment "nice hooker handles" directed towards Ms. Atkins. Mr. Disaia stated that originally he remembered the comment vaguely, but was unable to recall when and where it was made. Mr. Disaia then explained that Ms. Atkins was able to refresh his memory of the specific date and time. Mr. Disaia then recalled standing next to the driver's side window of Mr. Sheridan's cruiser while he (Mr. Sheridan) was inside (the cruiser). A McDonald's bag was stuck in the front of the cruiser; while Mr. Disaia was discussing the bag with Mr. Sheridan, Ms. Atkins walked by the front of the vehicle. Mr. Disaia alerted Ms. Atkins of the bag on the car, and she made some response which he could not recall. Mr. Sheridan then responded with "nice hooker handle's, those will come in handy later" comment. Mr. Disaia stated he did not make that comment to Ms. Atkins, as Mr. Sheridan made the statement.

Mr. Disaia then explained how he knew Ms. Atkins. Ms. Atkins was a Cadet in the Academy alongside Mr. Disaia, and Ms. Atkins is currently employed at the Athens County Sheriff's Office as an Environmental Officer.

Upon cross examination, Mr. Disaia testified that he has been in his position with the Athens County Sheriff's Office for approximately six months, since about June of 2012 when the Academy ended. Mr. Disaia explained he had attended all the classes taught by Mr. Sheridan, which includes the Interacting with the Special Needs Population class.

Mr. Disaia was then questioned about his investigative interview with Detective Sgt. Johnson that occurred on May 22, 2012. (See Appellant's Exhibit 44, starting on page 38). Mr. Disaia relayed to Sgt. Johnson that he did not witness Mr. Sheridan make any inappropriate comments to Ms. Atkins. Mr. Disaia stated that in his opinion he did not find any comments Mr. Sheridan made as offensive. Mr. Disaia explained that if the comments had been inappropriate or offensive to him or another Cadet he would have reported the information. Mr. Disaia did not report this situation or any situation that occurred during the 2012 Academy.

Mr. Disaia was then questioned about Mr. Sheridan positioning himself close to Ms. Atkins. Mr. Disaia stated he did not personally witness Ms. Atkins saying to Mr. Sheridan "please move away from me." Mr. Disaia did witness Ms. Atkins moving away from Mr. Sheridan when the Cadets were talking in small groups, but Mr. Disaia stated that he did not witness Mr. Sheridan follow Ms. Atkins around the lobby of the school.

Mr. Disaia further explained he attended every class taught at the Academy. Mr. Disaia stated he did witness Mr. Sheridan ask Ms. Smith if she was a lesbian. The Appellant then presented Mr. Disaia with Appellant's Exhibit 44, which was the transcript of Mr. Disaia's interview with Detective Johnson. During the interview with Detective Johnson, Mr. Disaia agreed when questioned, that he stated that he did not hear Mr. Sheridan ask Ms. Smith if she was a lesbian. Mr. Disaia explained that his recollection of the incident was different at the time of the interview because "he did not think anything of the incident at the time because of the topic of the class being discussed." Mr. Disaia believed the comment was contextual due to the topic of the class on the date in question.

Mr. Disaia stated that since the interview with Detective Johnson, he has spoken to Mr. Matt Baker, Ms. Atkins and multiple Cadets. Mr. Disaia explained that at first he was unable to remember certain events, but after some explanation from Ms. Atkins, he was able to remember the situations which had occurred. When Mr. Disaia initially spoke with Mr. Baker in November, he told him he did not remember a "hooker handle" comment. Mr. Disaia then explained he changed his memory that he remembered the "hooker handle" comment about two weeks ago, when he was speaking to Ms. Atkins.

Mr. Disaia was then questioned about how he came into contact with Ms. Atkins about the situation. Mr. Disaia stated that he initiated the contact with Ms. Atkins due to Mr. Baker's advice. Mr. Baker asked Mr. Disaia to speak to Ms. Atkins about the "hooker handles" question in order to help him remember what had happened. Mr. Disaia and Ms. Atkins would work together at the Sheriff's Office after the Academy had ended, and Mr. Disaia was able to speak to her about the situation during that time period.

Mr. Disaia then explained that he never specifically witnessed Mr. Sheridan say to Ms. Atkins "I am going to invade your personal space." Upon questioning by the Administrative Law Judge, Mr. Disaia explained that Mr. Sheridan's actions were generally contextual to the lesson being taught. Further, Mr. Disaia testified that he never witnessed Mr. Sheridan specifically say he was going to invade someone's personal space, but Mr. Sheridan would do things, such as get close to people, to see how people were going to react. Mr. Disaia stated he was never uncomfortable with what Mr. Sheridan did or was doing throughout the Academy.

On re-direct examination, Mr. Disaia then stepped down from the witness stand to demonstrate how Mr. Sheridan would get close to people. Mr. Disaia then stated that he did witness Mr. Sheridan get close to Ms. Atkins, and she was uncomfortable about it, but did not make it evident to Mr. Sheridan. Mr. Disaia did witness Ms. Atkins move away from Mr. Sheridan, but Mr. Disaia did not witness Mr. Sheridan reposition himself close to her after she moved away. Mr. Sheridan did not position himself close to Ms. Atkins every time he was an instructor; as he believed he may have done it approximately two times.

Mr. Disaia then explained that the lesbian comment stated in class was directed towards Ms. Smith, and Mr. Sheridan did not ask any men in the class if

they were gay. Mr. Disaia then explained that defensive tactics were discussed in class, but not during times when Mr. Sheridan taught at the Academy. Mr. Disaia explained they were instructed in defensive tactics on how to properly approach and stand near people. Mr. Disaia was then questioned if Mr. Sheridan's behavior of approaching people was in line with what was taught during the Academy, but he was unable to give a response. Mr. Disaia did state that you should not allow someone to get close to you, but was unable to compare this maneuver to the defensive tactics learned during the academy.

Mr. Disaia was then questioned about his initial interview with Mr. Baker. Mr. Disaia stated he spoke to Mr. Baker by telephone, and Mr. Baker advised him (Mr. Disaia) to speak to Ms. Atkins in order to help him remember specific situations. Mr. Disaia further stated that Mr. Baker advised him to tell the truth when and if he did testify at a hearing, and Mr. Disaia stated he had told the truth during the hearing.

On re-cross examination Mr. Disaia was asked about the defensive tactics the Cadets were taught during the Academy. Mr. Disaia explained that when Mr. Sheridan approached the Cadets, it had nothing to do with defensive tactics; he did it to simply get close to see how people would react, in his opinion.

The third witness to testify on direct examination by the Appellee was Mr. David Dudley. Mr. Dudley was a Cadet in the Academy that ran between January 2012 and May 2012. Mr. Dudley knew Mr. Sheridan as an Instructor at the Academy and as a Deputy Sheriff at the Athens County Sheriff's Office. Mr. Dudley explained he is currently a Reserve Deputy for the Athens County Sheriff's Office.

Mr. Dudley knows Ms. Atkins as a fellow student from the Athens County Sheriff's Office. Mr. Dudley was initially questioned about any strange situations that occurred between Mr. Sheridan and Ms. Atkins. Mr. Dudley explained that Ms. Atkins always seemed uncomfortable around Mr. Sheridan. Mr. Dudley explained that situations occurred during the Academy that led for Ms. Atkins to be uncomfortable with Mr. Sheridan. Mr. Dudley remembered Mr. Sheridan apologizing for brushing against Ms. Atkins in class, but did not witness the actual event.

Mr. Dudley was then questioned if he had seen Mr. Sheridan approach Ms. Atkins closely. Mr. Dudley explained that a scenario was posed about allowing individuals to encroach upon you, and that Officers should not allow individuals to get into their personal space, but they must learn to be comfortable with it. Mr.

Dudley explained the context of the instruction was that Officers need to become aware of people getting close to you. Mr. Dudley then stated that he did see Mr. Sheridan get close to Ms. Atkins in the hallway of the school one time, and he did see her back away from him. The witness testified that Ms. Atkins gave the impression that she was uncomfortable around Mr. Sheridan, and she complained to other students.

When Mr. Dudley observed Mr. Sheridan get close to Ms. Atkins, he described it as a repetitive occurrence that happened more than once at the same time. Upon questioning by the Administrative Law Judge, Mr. Dudley stated that he had seen Mr. Sheridan approach Ms. Atkins, where she would back up and he would re-approach and she would once again back away. Mr. Dudley stated that he had seen this situation occur in the atrium of the Athens High School, but he did not specifically recall Ms. Atkins saying to Mr. Sheridan "stop getting close to me."

Mr. Dudley then stated he attended a class taught by Mr. Sheridan titled Control of Non-Violent Crowds. Mr. Dudley did not specifically recall Mr. Sheridan using Ms. Atkins as a test subject during that class. Mr. Dudley did recall the scenario being posed about what to do if an Officer accidentally brushed against a woman's breast.

Mr. Dudley stated he did remember Ms. Smith being asked by Mr. Sheridan if she was a lesbian. He did not believe the question was an appropriate comment to make during the class. Mr. Dudley stated that even based on the context of the class, most of the Cadets were shocked by the lesbian question. Mr. Sheridan never asked any of the male Cadets in class if they were gay.

Mr. Dudley then explained he recalled a story being told by Mr. Sheridan about a woman exposing her breast. He did not recall if Mr. Sheridan had told the story more than once, and did not believe the story was relevant to the content of the course. Mr. Dudley did not believe the story was appropriate to be told in front of female cadets. Mr. Dudley did remember Mr. Sheridan making a statement such as "even if they are really nice breasts, you cannot look."

Mr. Dudley was then questioned if he recalled a comment being directed towards Ms. Atkins from Mr. Sheridan stating "nice hooker handles, they will come in handy later on." Mr. Dudley explained he heard the comment being made. Upon questioning by the Administrative Law Judge, Mr. Dudley explained he could not

remember specifically where the comment was made, but it could have been either in the classroom or in the hallway. Upon questioning by the Appellee, Mr. Dudley stated it is possible he heard the comment elsewhere.

On cross examination, Mr. Dudley he works as an Information Specialist at the Cheek Law Offices in Columbus Ohio, along with also serving as a Reserve Deputy with the Athens County Sheriff's Office, a position that he has held since he graduated from the Academy.

Mr. Dudley then explained he attended the Interacting with the Special Needs Population class in February 2012. Mr. Dudley also attended the Control of Non-Violent Crowds class, and the Riot Formations class taught by Mr. Sheridan. Mr. Dudley stated that he did not attend the Stops and Approaches class taught on May 5, 2012, the date allegedly that the "nice hooker handles" comment was made. After the March Riots Formations class, Mr. Dudley did not recall attending any other classes taught by Mr. Sheridan.

Mr. Dudley was then questioned about being interviewed by a Washington County Detective. Mr. Dudley stated he did not specifically recall what his response was after being asked by the interviewer if he witnessed Mr. Sheridan being close to Ms. Atkins during break times. Mr. Dudley was then directed to Appellant's Exhibit 44A, the transcript from his interview with the detective. Mr. Dudley read from page eight, line 7 that he responded "No" to the question whether he had seen Mr. Sheridan close to Ms. Atkins. Mr. Dudley explained that he is changing his answer to the question because he has had things brought to his attention by Mr. Baker. Mr. Dudley also stated that his recollection of the Academy is better at the time of the hearing than at the time of the interview because the interview was tape recorded in the parking lot of the High School. Mr. Dudley further stated that Mr. Baker asked similar questions when he spoke with him over the phone for approximately 15 minutes. Mr. Dudley explained that Mr. Baker initiated the conversation, but never revealed how other Cadets answered his questions.

Mr. Dudley was then questioned if he had ever heard Ms. Atkins tell Mr. Sheridan to "stop being close to me." Mr. Dudley explained he did hear Ms. Atkins say something similar to that statement about once, but could not recall specifically when the statement was made. Mr. Dudley stated that he heard Ms. Atkins tell others that she wishes Mr. Sheridan would stop being so close to her numerous times, but never heard her say it specifically to Mr. Sheridan. Mr. Dudley was then

questioned by the Administrative Law Judge if Ms. Atkins had other problems with Instructors at the Academy. Mr. Dudley stated that Ms. Atkins did not have problems with any other Instructors being too close to her.

Mr. Dudley was then questioned that if he had witnessed inappropriate conduct or harassment between Mr. Sheridan and a Cadet he would have made a complaint, but he did not make any complaints to Mr. Sheridan's superiors. Upon further questioning by the Administrative Law Judge, Mr. Dudley stated that he did not make a complaint because he was worried about passing the course. In a teacher-student environment, Mr. Dudley explained he was worried about impacting his ability to pass the course.

Mr. Dudley was then questioned about Mr. Sheridan's story of a woman exposing her breasts at a traffic stop. Mr. Dudley explained he had heard the story, but at first was unsure if it was presented in an instructional context. Upon questioning from the Administrative Law Judge, Mr. Dudley stated "Yea, I guess that could be instructional." Mr. Dudley was directed to page 5 of Appellant's Exhibit 44A where he explained that Mr. Sheridan's story could be related to possible things that could happen in the police workforce. Mr. Dudley was then directed to page 10 of Appellant's Exhibit 44A, where he explained that he did not recall if Mr. Sheridan asked Ms. Smith if she was a lesbian. Mr. Dudley then explained that his recollection of the instance has changed since the initial interview, and he did recall Mr. Sheridan asking Ms. Smith if she was a lesbian. Since the interview Mr. Dudley explained he has spoken with other Cadets from the Academy and Mr. Matt Baker.

On re-direct examination, Mr. Dudley was questioned about the story of the woman exposing her breasts at a traffic stop. In his opinion, the story that was told was excessive and unnecessary to be told with two female Cadets in the class. Mr. Dudley then explained that he was interviewed by Detective Johnson on May 23, 2012, while the Academy was still in session.

On re-cross examination Mr. Dudley explained that had the story been told in the presence of only male Cadets it likely would not have been inappropriate. Mr. Dudley did state that female Officers are still entrusted with all the trials and tribulations that male officers are entrusted with, but the story was still inappropriate.

On re-direct examination Mr. Dudley could not recall if Mr. Sheridan said boobs, breast or chest while telling the story.

Appellee then called its fourth witness to testify, Ms Ebony Smith, on direct examination. Ms. Smith testified that she was a Cadet at the Athens County Sheriffs Academy that ran from January 2012 to May 2012. Ms. Smith explained she knew Mr. Sheridan as an Instructor who worked with the Athens County Sheriff's Office and Ms. Atkins as a fellow Cadet.

Ms. Smith was initially questioned if Mr. Sheridan had ever closely approached her. Ms. Smith explained that during a specific class, the topic of discussion became mental disturbances. Ms. Atkins advised the class that she had bi-polar disorder, and she shared it with the class. During break time of that day, Mr. Sheridan approached Ms. Smith in the hallway very closely, and asked her if standing close to her made her uncomfortable. Ms. Smith told him no, it does not make her uncomfortable. Mr. Sheridan responded that he knew certain people with bi-polar disorder, and they usually would not be comfortable with an individual getting so close to them. Regardless of the situation, Ms. Smith explained that Mr. Sheridan getting close did not bother her. However, Ms. Smith then explained that Mr. Sheridan would get approximately one foot from her, whom she considered that area, her personal space. Ms. Smith explained that Mr. Sheridan stated that she and Ms. Atkins would need to get used to having people in their personal space being law enforcement officers. Mr. Sheridan never explained why female law enforcement officers would need to get used to people being in their personal space. Mr. Sheridan never made similar statement to the male Cadets or got similarly close to the male Cadets.

Ms. Smith explained that in the Academy, the Cadets were taught defensive tactics, and Mr. Sheridan's positioning close to the Cadets was contrary to what had been taught in the class. Ms. Smith explained that the Cadets had been specifically instructed in defensive tactics to keep individuals about an arm's length away from them so that individuals could react to people encroaching upon them. Based on what Ms. Smith learned at the Academy, the Cadets should not allow someone into their personal space in order to ensure they are not attacked by an individual. Ms. Smith then explained that she heard Mr. Sheridan make a comment about Ms. Atkins personal appearance during lunch time. Ms. Atkins had been speaking about her relationship at a lunch table, and Mr. Sheridan stated that "Ms. Atkins is beautiful and should not allow her boyfriend to treat her that way." Ms. Smith further stated that she heard Mr. Sheridan state that Ms. Atkins was beautiful and she could use that to her advantage as a law enforcement officer.

Ms. Smith then explained she remembered Mr. Sheridan trying to use Ms. Atkins as a test subject in a class he was instructing. Ms. Smith could not remember the specific situation, but she remembered Mr. Sheridan taking Ms. Atkins arm, and Ms. Atkins jerking her arm away. Ms. Smith stated Ms. Atkins was very uncomfortable during the encounter, and that is why she jerked her arm away.

Ms. Smith then explained that she remembered Mr. Sheridan telling a story of a woman exposing herself to him at a traffic stop. Mr. Sheridan explained that "although he wanted to look at them (her breasts), he couldn't, and he had to act professionally and try to ignore them." Ms. Smith did not believe the story was appropriate because she did not know how it related to the subject matter being discussed.

Ms. Smith then stated she did not hear Mr. Sheridan say to Ms. Atkins "nice hooker handles", but Ms. Atkins did tell Ms. Smith about the situation.

Ms. Smith was then asked if Mr. Sheridan ever asked about her sexual preference. Ms. Smith explained she could not recall the exact subject that was being discussed, but Mr. Sheridan asked if she was a lesbian in class. During a class lecture, Mr. Sheridan turned to her quickly and asked if she was a lesbian. Ms. Smith answered no initially to Mr. Sheridan's inquiry if she was a lesbian, but she answered yes when he asked if she liked women. Ms. Smith explained that the question was offensive to her, and Mr. Sheridan never asked any male Cadets about their sexual preference.

On cross examination Ms. Smith explained she graduated from the Academy in 2012, but does not currently hold any commission with the Sheriff's Office. Ms. Smith currently works at Victoria's Secret in Parkersburg, West Virginia. Ms. Smith explained she attended all the classes at the Cadet Academy. Ms. Smith never made a complaint about Mr. Sheridan before Ms. Atkins complaint was filed. Ms. Smith further stated that she never filed a complaint against Mr. Sheridan. Ms. Atkins was then questioned about her testimony relating to Mr. Sheridan's comment about Ms. Atkins personal appearance. Ms. Smith could not remember the specific date, but did recall that Mr. Sheridan did sit with the Cadets while at lunch. The witness stated that Mr. Sheridan did not eat his lunch with the Cadets during the date in question, but sat with them for some time. Ms. Smith explained that the comment was made during either a Saturday or Sunday class, and happened in the presence of her (Ms. Smith), Ms. Atkins, Mr. Disaia and Mr. Sheridan.

Ms. Smith then explained that could not remember Mr. Sheridan positioning himself close to Ms. Atkins, but she did recall an incident when Ms. Atkins told Mr. Sheridan to stay away from her. During a class period, Mr. Sheridan touched Ms. Atkins and Ms. Atkins told him "No, stay away from me."

Ms. Smith then explained that she never heard Mr. Sheridan tell Ms. Atkins he was going to invade her personal space. Ms. Smith then explained that she never believed Mr. Sheridan wanted a sexual or romantic relationship with Ms. Atkins. Ms. Smith explained she never heard Mr. Sheridan make a remark about "hooker handles." Ms. Smith explained that during breaks at the Academy she would talk with other Cadets in the atrium area. Ms. Smith then explained she did not remember what class she was in or what the discussion was when she was questioned by Mr. Sheridan about her sexual preference. Ms. Smith was then questioned about the incident where Mr. Sheridan grabbed Ms. Atkins arm. Ms. Smith explained that she actually saw Mr. Sheridan touch Ms. Atkins shoulder area, but it was not in an escort like grip/maneuver.

Ms. Smith stated that since she graduated from the Academy, she has kept in touch with her fellow Cadets and has spoken to them regularly. Ms. Smith stated she kept in contact with Ms. Atkins, Mr. Disaia, Mr. Ben Taylor and Mr. Cory Bland. Ms. Smith spoke about this case with her fellow Cadets and with Mr. Baker.

On re-direct examination Ms. Smith testified that she observed Mr. Sheridan touch Ms. Atkins. Ms. Smith explained that Mr. Sheridan reached over and touched Ms. Atkins shoulder area, and Ms. Atkins jerked her body away. However, Ms. Smith could not remember if Ms. Atkins made any remark after she moved her body away from Mr. Sheridan, or on what date. Ms. Smith was then questioned about her testimony relating to Mr. Sheridan's desire to have a sexual relationship with Ms. Atkins. Ms. Smith stated she really was unsure what Mr. Sheridan wanted from Ms. Atkins. Ms. Smith was then questioned about Mr. Sheridan's inquisition into her sexual preference, and stated she felt the question would never be appropriate.

The Appellant then re-called Ms. Smith as a witness upon direct examination. Ms. Smith explained she could not recall what class the shoulder touching incident occurred. Ms. Smith was then directed to Appellant's Exhibit. 44, the transcript from the investigative interview. Ms. Smith turned to page 11, where Detective Johnson was asking her about the shoulder incident. Ms. Smith read from the testimony

presented in Ex. 44G where she explained that “she was unsure if Mr. Sheridan actually touched Ms. Atkins, but rather Ms. Atkins believed he was going to touch her.” Ms. Smith further stated in the interview that she did not believe Mr. Sheridan was going to touch Ms. Atkins. Ms. Smith then explained that she did not remember making these statements in the interview with Detective Johnson, and she does not remember many of the things she said during that time period.

The Appellee’s fifth witness to testify upon direct examination was Mr. Cory Bland. Mr. Bland stated that he was a Cadet in the Academy that ran from January 2012 to May 2012, and knew Ms. Atkins as a fellow Cadet and Mr. Sheridan as an Instructor.

Mr. Bland initially testified that he did see Mr. Sheridan standing unusually close to Ms. Atkins during the academy. During a break period at the Athens County High School, Mr. Bland witnessed Mr. Sheridan get close to Ms. Atkins, where she would move away in response and Mr. Sheridan would reposition himself close to her once again. Mr. Bland witnessed a similar situation occur in the classroom during the Academy. Mr. Bland never personally heard or witnessed Ms. Atkins telling Mr. Sheridan to back away, but Ms. Atkins told him (Mr. Bland) she had told Mr. Sheridan to back away. Mr. Bland recalled Mr. Sheridan telling Ms. Atkins she needed to get used to people being in her personal space since it was part of the job of being a cop. Mr. Sheridan made the comment towards the whole class, but it was apparent it was directed to Ms. Atkins because he was positioning himself close to her at that time. Mr. Bland stated it was apparent to him at that time that Ms. Atkins was uncomfortable with what was going on. Mr. Bland never witnessed Mr. Sheridan getting close to male Cadets during the Academy.

Mr. Bland then stated that he heard Mr. Sheridan ask Ms. Smith if she was a lesbian in one of the classes.

On cross examination, Mr. Bland stated he graduated from the Academy, and currently has a commission with the Athens County Sheriff’s Office. Mr. Bland currently volunteers as a reserve Deputy at the Sheriff’s Office and works at Auto Zone. Mr. Bland stated he attended all the classes at the Sheriff’s Academy. Mr. Bland stated he did not file any complaints with the Athens County Sheriff’s Office regarding Mr. Sheridan’s behavior. Mr. Bland further stated that had he witnessed harassing behavior he would not have reported it because it was not part of his business; it was for Ms. Atkins to do.

Mr. Bland stated he witnessed Mr. Sheridan get close to Ms. Atkins on two occasions, once in the classroom and once in the lobby of the High School. Mr. Bland never personally witnessed Ms. Atkins tell Mr. Sheridan not to get close to her. Mr. Bland then testified that he heard Mr. Sheridan ask Ms. Smith if she was a lesbian, but the topic of discussion in that class was about gays and lesbians, and that Ms. Smith did not respond to Mr. Sheridan's question.

The Appellee's sixth witness to testify on direct examination was Mr. Seth Cook. Mr. Cook stated he was a Cadet at the Athens County Sheriffs Academy from January 2012 to May 2012. Mr. Cook explained he knew Mr. Sheridan as an Instructor from the Academy, and Ms. Smith as a fellow Cadet and fellow church member.

Mr. Cook initially testified to Mr. Sheridan standing unusually close to Ms. Atkins. Mr. Cook had witnessed Mr. Sheridan stand close to her on breaks, he also witnessed Mr. Sheridan approach her out of her peripheral vision. Mr. Cook explained that Mr. Sheridan stated he stood close to individuals in order to see how they would react. Ms. Smith would usually back away from Mr. Sheridan when he approached her, but it would usually be in a joking manner. Mr. Cook stated he never specifically heard or witnessed Ms. Atkins tell Mr. Sheridan to stay away. Mr. Cook then explained he heard Mr. Sheridan engage in a personal conversation with Ms. Atkins. Mr. Cook explained he felt the conversation was odd or awkward for Ms. Atkins, as well because she was discussing things he felt inappropriate to discuss with an instructor. Ms. Atkins was standing in a group, along with Mr. Sheridan, and they were discussing a previous night at a night club, as well as Ms. Atkins' boyfriend. Mr. Cook stated he backed away from the conversation because he felt it was an inappropriate discussion to have with an instructor.

Mr. Cook then testified on cross examination. Mr. Cook explained he was a law enforcement officer before the academy began. Mr. Cook explained he was considered a prior equivalent during the academy because he had previously taken some of the classes. Mr. Cook had attended West Virginia Police Academy, and currently works at Bell Creek Police Department in Washington County Ohio. Mr. Cook is not employed or commissioned with the Athens County Sheriff's Office.

Mr. Cook then testified to the courses he attended. Mr. Cook explained he attended Interacting with the Special Need Population class, and the Stops and

Approaches class. Mr. Cook explained he did not attend Non-Violent Crowds or Riot Formations. Mr. Cook only needed to attend certain blocks of classes because of his previous Academy experience. Mr. Cook explained when he witnessed Mr. Sheridan stand close to Ms. Atkins, in her personal space, and it made him feel awkward. Mr. Cook then apologized to Mr. Sheridan for not approaching him and telling him about the situation, so that we wouldn't be here now.

The Appellee's seventh witness to testify on direct examination was Mr. Benjamin Taylor. Mr. Taylor was a Cadet at the Academy from January 2012 to May 2012. Mr. Taylor knew Mr. Sheridan as an Instructor and Ms. Atkins as a fellow Cadet. Mr. Taylor initially testified to Mr. Sheridan standing close to Ms. Atkins. Mr. Taylor witnessed Mr. Sheridan closely approach Ms. Atkins and she would respond "whoa buddy" and back away. Mr. Taylor witnessed this occurrence multiple times in the classroom and while on break. The situation had occurred so many times at one point that Ms. Atkins stayed in the bathroom during break.

Mr. Taylor then testified that he heard Mr. Sheridan ask Ms. Smith if she was a lesbian in a cultural diversity class. Mr. Taylor felt it was an inappropriate question to ask a Cadet during class. Mr. Taylor stated he did not hear Mr. Sheridan ask any male Cadets their sexual preference. Mr. Taylor then testified to the "hooker handles" comment, which he said that he did not hear the comment directly Ms. Atkins brought it up to him. Mr. Taylor then explained he only missed one class during the Academy, the class taught on April 20, 2012. Mr. Taylor stated he remembered a scenario being posed to the Cadets about "what if you accidentally brush against a woman's breast" but could not recall the specific instance. Mr. Taylor did not remember a situation where Mr. Sheridan grabbed Ms. Atkins arm and she jumped away.

On cross examination Mr. Taylor testified that he currently volunteers at the Athens County Sheriff's Office.

On re-direct examination Mr. Taylor then testified to what personal space is to him as the area around someone where they become uncomfortable with someone so close. Mr. Taylor stated that Mr. Sheridan would stand about an arm's length from Ms. Atkins.

On the second day of hearing, the Appellee's eighth witness to testify on direct examination was Mr. Keith Tabler. Mr. Tabler testified that he is currently a

Deputy Sheriff with the Athens County Sheriff's Office. Mr. Tabler began working at the Sheriff's Office in January of 2009, and has worked with Mr. Sheridan.

Mr. Tabler initially testified to the argument that occurred on June 4, 2012. Mr. Tabler explained he witnessed an incident between Mr. Sheridan and Agent Byron Guinther. Mr. Tabler and Mr. Sheridan had juvenile court on the date in question. While the individuals were leaving the Court House, Mr. Tabler saw Mr. Guinther and an unknown individual at that time approach Mr. Sheridan. Mr. Tabler would later learn the unknown individual was a Washington County Investigator, and heard Mr. Sheridan tell the individual that he was advised not to speak to him. At the time the situation occurred Mr. Sheridan was wearing a Deputies Uniform. After Mr. Sheridan and the Investigator had their conversation, Mr. Sheridan turned to Mr. Guinther (who was not wearing a uniform) and asked him "what do you have involved with this." Mr. Guinther responded he had nothing to do with the situation. Mr. Guinther is currently working at the Athens County Sheriff's Office in some capacity, but is generally employed as a Liquor Control Agent.

Mr. Tabler then explained that when the conversation ended, the individuals left the building. The Investigator left the building first, followed by Mr. Sheridan, then Mr. Tabler, and finally Mr. Guinther. Mr. Tabler's car was parked across the street, and he began to walk towards his vehicle. When Mr. Sheridan exited, he walked to the left towards the Sheriff's Office. Mr. Tabler then heard a conversation between Mr. Sheridan and Mr. Guinther while he was walking across the road. Mr. Tabler said he, and other people walking by, noticed the conversation. Mr. Tabler then approached the individuals and told them if the conversation needed to happen, it needed to happen inside the building. Mr. Tabler testified that the tone of the conversation was a heated argument. After Mr. Tabler told the two individuals they needed to take the conversation inside, he began making his way towards his car. After Mr. Tabler approached his vehicle, he once again heard Mr. Sheridan and Mr. Guinther arguing. Mr. Tabler stated that civilians were present during the argument, and one couple in particular heard the argument. A couple walking by had stopped and took notice of the argument, and simply observed the argument.

Mr. Tabler felt the need to stop the argument, and told the individuals to go inside, because it was happening on the street. He believed the conversation did not need to occur outside. After Mr. Tabler approached his car after speaking to the individuals, he was unsure what the men were arguing about again, but he knew it was loud because of the distance between him and the men. Mr. Tabler could not

entirely recall what was being said in the conversation because he was focused on stopping the conversation. Mr. Tabler further stated he never witnessed Mr. Guinther impede Mr. Sheridan's ability to walk.

On cross examination Mr. Tabler explained that he did not witness Mr. Sheridan walk entirely from the Court House to his vehicle. The witness explained that each of the three conversations was about 10 to 15 seconds. Further, Mr. Tabler testified Mr. Sheridan was walking in a direct path to his vehicle, and did not veer off on a path to engage Mr. Guinther.

On re-direct examination Mr. Tabler then testified that both Mr. Guinther and Mr. Sheridan were loud during the interaction. He stated that he intervened twice while the argument was in the street. Upon questioning by the Administrative Law Judge, Mr. Tabler explained he is not Mr. Sheridan's supervisor.

The Appellee then called Ms. Jennifer Atkins to testify as the ninth witness on direct examination. Ms. Atkins explained she is currently an Environmental Deputy with the Athens County Sheriff's Office, and was a Cadet at the Academy that ran from January 2012 to May/June 2012. Ms. Atkins stated she knew Mr. Sheridan as an Instructor for the Academy and as a Deputy. Ms. Atkins stated that most times Mr. Sheridan taught he was dressed in his Deputy Uniform.

Ms. Atkins testified she knew Ms. Smith as a fellow Cadet in the Academy, and heard Mr. Sheridan ask Ms. Smith her sexual preference. Ms. Atkins could not remember the specific day the incident happened, but she heard Mr. Sheridan ask Ms. Atkins in class if she (Ms. Smith) was gay. Ms. Atkins stated she had some difficulty with Mr. Sheridan as an instructor at the Academy, and believed that nearly every time Mr. Sheridan taught there was an issue with a crude or inappropriate comment or encroachment upon people's personal space. Ms. Atkins stated the physical space boundaries situation began during a break period at the Academy. Initially, Mr. Sheridan would approach Ms. Smith very closely, but it would not bother her because she did not have personal space issues. Mr. Sheridan at one point turned to Ms. Atkins and stated he was going to approach her personal space next, and push her limits. Ms. Atkins told him that she did not want him to approach her. Mr. Sheridan then at one point did step close to her and she backed away, he would then re-approach and she would back away once again. Ms. Atkins explained they would repeat this incident until they covered some pretty good distance.

The witness explained that Mr. Sheridan stated to her that she needed to become comfortable with people being in her personal space as a female police officer. Ms. Atkins stated that Mr. Sheridan's scenario contradicted what she was taught in defensive tactics, that you should not allow an individual to become too close to you. Ms. Atkins explained that this occurred almost every break during the Academy when Mr. Sheridan was teaching. Ms. Atkins explained she told Mr. Sheridan to stop, repeatedly, but he would persist regardless of her demands, stating "she needed to get used to this." Ms. Atkins explained that this situation didn't really occur during class periods, but Mr. Sheridan would position himself close to her chair. Even though the classroom had clear aisles within it, Mr. Sheridan would still position himself close to her.

Ms. Atkins then explained that Mr. Sheridan interjected into a personal conversation she was having. During one break period, Ms. Atkins was having a conversation with a fellow Cadet about her boyfriend. Mr. Sheridan interjected into the conversation and gave Ms. Atkins advice about how to handle her relationship. Ms. Atkins did not solicit any advice from Mr. Sheridan, and his advice made her somewhat uncomfortable because he was an Instructor. Ms. Atkins stated she walked away from the conversation when Mr. Sheridan began to interject. Ms. Atkins then explained she never had any trouble with other Instructors interjecting into her personal life or attempting to push her personal bubble.

Ms. Atkins was then questioned if Mr. Sheridan ever commented on her physical appearance. The witness stated Mr. Sheridan commented on her hairstyle and told her that attractive female cops will be able to use it (their attractiveness) to their advantage in law enforcement. Ms. Atkins explained that she had braided her hair one day, and as she walked by Mr. Sheridan's car, Mr. Sheridan stated "Nice Hooker handles." Ms. Atkins stated she had walked by the driver side window of Mr. Sheridan's car because a McDonald's bag had been stuck in the push bumper on the front of the car, and a fellow Cadet had called out for her to come look at it. Ms. Atkins explained the comment made her feel very uncomfortable, and she did not have a response to it.

Ms. Atkins then explained she had an incident with Mr. Sheridan during a class where they discussed peaceful protests. While teaching, Mr. Sheridan posed the question "what if while arresting a female, you brush against her breast?" While Mr. Sheridan was posing the question he was holding onto Ms. Atkins arm and appeared to be mimicking his words with actions. In response to the scenario Ms.

Atkins jerked her arm away and jumped away from Mr. Sheridan. Ms. Atkins then stated "then you apologize or else she breaks your face." Ms. Atkins then explained she never approached a supervisor about her situation with Mr. Sheridan because of her perception of how law enforcement worked. Ms. Atkins viewed law enforcement as a brotherhood and did not want to be labeled as the individual who tattled on someone inside. She always believed the situation would just go away, but it escalated instead.

Ms. Atkins explained that she reported the situation against with Mr. Sheridan in somewhat of a strange manner. Ms. Atkins asked Captain Cooper if she could not ride with a specific Deputy as a Reserve Officer. Captain Cooper said yes that could be arranged, but questioned Ms. Atkins why she wanted this done. Ms. Atkins didn't want to ride with Mr. Sheridan because she did not want a situation similar to what happened during the Academy to occur while out on patrol. Ms. Atkins then explained she was hired before she graduated from the Academy pending she passed the final exam. However, the witness testified that her hiring was not in any way connected to her situation with Mr. Sheridan in anyway.

On cross examination, Ms. Atkins stated her final exam for the Academy was around June 12, 2012, and that a week separated the final class and the final exam. Ms. Atkins attended all the classes taught at the Academy, and she recalled the Interacting with Special Needs Class taught by Mr. Sheridan. Ms. Atkins was then directed to Appellant's Exhibit 43 wherein she identified it as the sign in sheet from the Academy. Ms. Atkins stated her signature was on each of the pages shown for the classes she attended. Ms. Atkins then explained she was hired as a part time Deputy by Sheriff Kelly in June of 2012, and makes about \$14 an hour. Ms. Atkins testified that she became aware of the position for Environmental Deputy when Captain Cooper notified her of the opening, but she was unsure of the specific date of the notification. About two weeks before the Academy ended she heard of the position and met with the Sheriff to discuss the position. Sometime later she met with the Sheriff again and he offered her the position pending her passing of the final exam. Ms. Atkins stated she did not have to fill out a written application, but did submit a resume to the Sheriff. Prior to attending the Academy, Ms. Atkins explained that she studied at Ohio University, and will be graduating with a Bachelors Degree in May. Although Ms. Atkins stated that she has no experience in the environmental field, she explained that she did have experience in conservation and recycling. The witness explained that while growing up in Washington County she learned about conservation tactics for about 11 years.

During the Academy, Ms. Atkins when questioned explained she socialized with the other Cadets. She discussed her dating life with a few of the Cadets she was closer with, but she attempted to keep her dating life separate. During breaks or lunches at the Academy she would socialize with most of the Cadets, and she explained that a Subway and McDonalds were close to the Academy so most of the Cadets would walk to the restaurants together.

Ms. Atkins then testified to the “hooker handles” comment made by Mr. Sheridan. She stated the comment was made on May 5, 2012, before the Stops and Approaches class. Ms. Atkins was then directed to Appellant’s Exhibit 46B and identified it as a complaint letter Ms. Atkins wrote about her incidents with Mr. Sheridan. Ms. Atkins wrote the letter at her home and brought it to Cpt. Cooper, after being requested to do the same. When questioned Ms. Atkins, agreed that she did not make any mention of the incident where Mr. Sheridan posed the question of brushing a female’s breast and grabbed her arm or the incident where Mr. Sheridan asked Ms. Smith if she was a lesbian. Ms. Atkins then explained that in her complaint she made no mention of Mr. Sheridan positioning himself unnecessarily close to her, as well either.

Ms. Atkins then explained that the “hooker handles” statement was made upon her arriving to class, outside by Mr. Sheridan’s cruiser on May 5, 2012. The witness stated that Mr. Disaia was the Cadet standing by Mr. Sheridan’s cruiser when the incident occurred and that she told Cpt. Cooper that Mr. Disaia was close by when the comment was made. Ms. Atkins explained that she really only discussed the situation with Cpt. Cooper and that she believed that Sheriff Kelly was aware of her complaint, but she never sat down and had a conversation with him about the incidents. Ms. Atkins explained she has spoken with Mr. Disaia about the case against Mr. Sheridan while at work, but mostly about logistical issues.

Ms. Atkins then explained she had spoken about the “hooker handles” comment with Mr. Disaia, prior to her testimony today. At one point Ms. Atkins stated that she came to understand that Mr. Disaia received a list of potential questions, and that he asked her about the recollection of the story. Ms. Atkins stated that she did not tell Mr. Disaia her recollection of the story, but he did explain to her what he believed happened on the date in question. However, the witness upon questioning stated she did not recall discussing the situation of Ms. Smith being asked if she was a lesbian with Mr. Disaia.

The Appellee then called Cpt. Bryan Cooper as the tenth witness to testify on direct examination. Cpt. Cooper, when questioned, explained he has held the Captain's position for about 3 years, and that before being a Captain he was a Deputy, K-9 handler, Sergeant, Lieutenant and Lieutenant of Operations, positions that he has held since he began working at the Athens County Sheriff's Office in 1993. Further, the witness stated that he has known Mr. Sheridan since approximately the 4<sup>th</sup> grade.

Cpt. Cooper initially testified to the charge of insubordination against Mr. Sheridan. Cpt. Cooper explained that Mr. Sheridan came to his office while he was preparing for an event that would be held that night, and told him (Mr. Sheridan) to return later. Mr. Sheridan was hoping to discuss the mishandling of evidence situation, but Cpt. Cooper was unable to discuss the matter at that specific time. Upon further questioning, Mr. Sheridan was ordered to leave his (Cpt. Cooper's) office, as he put it, and refused. Cpt. Cooper explained the Athens County Sheriff's Office is a paramilitary type organization, and when an individual is given a command they need to obey.

Cpt. Cooper then testified to the complaint about the Athens County Sheriff's Academy. Initially Ms. Michelle Davis called Cpt. Cooper explaining that Ms. Atkins was upset about something and Cpt. Cooper needed to contact her. Ms. Atkins called to complain because she was upset and confused about some of the behavior in the Academy; specifically stating Mr. Sheridan made her feel uncomfortable. Cpt. Cooper then went to the Sheriff to determine what to do, and to file a preliminary investigation. The Sheriff gave Cpt. Cooper the go ahead, and Cpt. Cooper then selected three individuals at random from the Academy for interviewing.

After interviewing the individuals, Cpt. Cooper stopped the investigation because he believed he had enough information and contacted the Sheriff's office. The Sheriff then contacted Buckeye State Sheriff's Department who sent investigators to the scene. Cpt. Cooper then removed himself from the investigation. The Buckeye State Sheriff investigators then performed the investigation and filed a report. Cpt. Cooper read that report and determined that harassment had occurred, and he could either file criminal charges against Mr. Sheridan or terminate him. Cpt. Cooper decided to remove Mr. Sheridan from his position based on his review of the report.

As part of the investigation, Cpt. Cooper stated he then questioned Mr. Sheridan about the complaints at the Academy on June 12, 2012. Cpt. Cooper stated he questioned Mr. Sheridan about pushing the space of cadets, and Mr. Sheridan denied the complaint. Cpt. Cooper also questioned Mr. Sheridan if he did actually push the space of a cadet, and Mr. Sheridan again denied the complaint. Cpt. Cooper asked Mr. Sheridan if he had ever been told by an Academy Cadet that he made a Cadet uncomfortable by pushing their personal space, Mr. Sheridan denied this statement. Cpt. Cooper asked Mr. Sheridan if he ever attempted to push the personal space of Ms. Ebony Smith, and he denied this. Cpt. Cooper asked Mr. Sheridan if he knew Ms. Atkins and if he pushed her personal space, Mr. Sheridan stated he did not know who Ms. Atkins was until after the complaint was filed and he denied pushing her personal space. Cpt. Cooper then asked Mr. Sheridan if he ever discussed matters of personal nature with a cadet, and Mr. Sheridan denied this. Cpt. Cooper asked Mr. Sheridan if he ever said anything of a sexual nature about a Cadet's personal appearance, and he denied this statement. Cpt. Cooper asked Mr. Sheridan if he ever asked Ms. Smith about her sexual preference and Mr. Sheridan denied this. Cpt. Cooper asked Mr. Sheridan if he stated to Ms. Atkins "nice hooker handles they will come in handy later" and Mr. Sheridan denied this statement, as well.

Cpt. Cooper then stated that the charges against Mr. Sheridan were policies located within the employee handbook, and the Sheriff had authorized the result of his investigation. Cpt. Cooper then identified Appellee's Exhibit H as a notice of a disciplinary hearing. This notice directed Mr. Sheridan to show up on June 18, 2012, and report to Cpt. Cooper's office. Cpt. Cooper then explained that Instructor's at the Academy can either show up to teach either dressed professionally or in uniform. If an Instructor decides to appear in uniform, he is representing the Athens County Sheriff's Department.

Cpt. Cooper was then questioned on cross-examination. Cpt. Cooper explained he has provided the Appellant with multiple documents in relation to the case at hand. Cpt. Cooper was directed to Appellant's Exhibit 43, which were the sign in sheets from the Academy, Cpt. Cooper explained that these were the sign in sheets from the Academy, and they signify who attended and who instructed that specific date. Cpt. Cooper was then directed to Appellant's Exhibit 21 and identified it as the calendar for the Academy that identified the date, day and hour of all the classes in the Academy. Cpt. Cooper explained he is the Commander of the

Academy, where he basically oversees the Academy administrative procedures and ensures it flows properly. Cpt. Cooper explained that the Academy began with one class in 2010, and has had two classes every year since then, and that he has been the Commander since the Academy began. All of the instructors at the Academy are either law enforcement officers or serve as law enforcement officers in some capacity.

Cpt. Cooper was then directed to Appellant's Exhibit 37 was identified as a contract between the Academy and the Instructors, and was used as a basic guideline to how Instructors would be paid. Cpt. Cooper said the Sheriff makes the ultimate approval of contracts, but he (Cpt. Cooper) was involved with creating the document. At the start of the 2011 Academy Cpt. Cooper stated that he presented the contract to Mr. Sheridan, as it was his obligation and responsibility to present the contract to the instructors, as Commander. Cpt. Cooper explained that when he presented the contract to the Instructors that their pay would not be on a union scale, it would be on a lower scale. The document identifies the pay for Instructors as \$20 per hour, alongside workers and PERS compensation. The witness explained that for both 2011 and 2012, Mr. Sheridan's time teaching as an Instructor was separate from his time as a full time deputy. As a full time Deputy, Mr. Sheridan's work week consisted of 40 hours for every seven days. Cpt. Cooper then read paragraph (J) of Appellant's Exhibit 37 which stated that "the trainer agrees to perform the services described herein as an Independent Contractor and attests that they are not an employee of ACSO."

Cpt. Cooper was then directed to Appellants Exhibit 20 who identified it as the collective bargaining agreement between the Athens County Sheriff's Office and the OPBA. The witness agreed, when questioned, that the collective bargaining unit sets the wages for full time Deputy Sheriffs. Cpt. Cooper was directed to page 31 of Appellant's Exhibit 20, under the wage schedule provided, and explained that Mr. Sheridan was under step 6. Mr. Sheridan was paid \$20 per hour as an Instructor irrespective of how many hours he worked as a Deputy Sheriff.

Cpt. Cooper then testified to the Gene Perry evidence situation. On May 18, 2012, the witness testified that Mr. Sheridan went to his office to discuss an email he had recently sent to him (Mr. Sheridan). Cpt. Cooper explained that Mr. Sheridan came into his office, and he told him (Mr. Sheridan) that he would not talk to him until Monday and repeatedly told him he was not going to talk about the situation until Monday. Cpt. Cooper stated that Mr. Sheridan became agitated with him and

slammed his fist on his desk. The witness then stated he then ordered Mr. Sheridan to leave his office. Cpt. Cooper was then directed to Appellants Exhibit 45, a document that he created after the incident. Cpt. Cooper testified that he created the document because he knew there would be an issue about Mr. Sheridan's improper handling of evidence and his insubordination.

Cpt. Cooper was asked if he believed it was a conflict of interest for him to interview Mr. Sheridan about his alleged insubordination, since he was involved in the allegation. Cpt. Cooper said he did not believe it was inappropriate for him to perform the interview because he simply asked the questions; as he did not make the final judgment. Cpt. Cooper was directed to the transcript from the Garrity interview. Cpt. Cooper, when questioned, testified that he had already made up an opinion about the incident prior to performing the interview with Mr. Sheridan.

Cpt. Cooper was directed to Appellee's Exhibit D and read from the rule regarding the handling of evidence, and stated that the rule addresses the chain of custody policy practiced by the Athens County Sheriff's Office. Cpt. Cooper explained the chain of custody begins when the evidence is obtained. Cpt. Cooper explained that under the rule, when the evidence is received by a Deputy there is a receipt, if it is received under another person it generally is not given a receipt. While the rule does not distinguish between Deputies and other individuals in the office, the above practice is still followed. Based on Cpt. Cooper's investigation, he determined Ms. Angie Waldron received the evidence, but he was unsure what it was. The witness stated that Ms. Waldron knew the items needed to be reported to Mr. Sheridan, but she did not know exactly what the items were. Because Ms. Waldron did not know exactly what it was, she did not create an evidence receipt for the items. During the investigation, Cpt. Cooper said it was not possible for Mr. Sheridan to have contacted the prosecutor about the evidence because Mr. Sheridan did not know the evidence was in his mailbox.

Cpt. Cooper was then directed to Appellee's Exhibit D, policy 3.01 on workplace harassment in the Sheriff's Office. Cpt. Cooper stated that the rules provided are not just for individuals working in the Athens County Sheriff's Office. Cpt. Cooper was then questioned about paragraph H of 3.01, where he was asked if he asked any of the witnesses involved in the situation were asked to supply a written witness report. Cpt. Cooper stated that Ms. Atkins was the only individual who provided a written witness report (Appellant's Exhibit 46B). Ms. Atkins witness statement was the only witness statement provided during the workplace

harassment investigation. After Cpt. Cooper spoke with Ms. Atkins, he spoke with Mr. Seth Cook, Mr. Jason White and Ms. Ebony Smith. During the questioning of the individuals, Cpt. Cooper asked the Cadets what they saw during the Academy. Cpt. Cooper stated he did recite Ms. Atkins allegations to the individuals, but did not record those conversations. After the preliminary investigation phase, Cpt. Cooper advised the Washington County Investigative Unit. Cpt. Cooper stated that when the Washington County Investigator became involved with the situation, he (Cpt. Cooper) was still the individual who performed the Garrity interview with Mr. Sheridan.

Cpt. Cooper explained that during the Garrity interview he believed he asked Mr. Sheridan about the woman exposing herself story. However, that portion of the interview was not specifically located in Appellant's Exhibit 18, although Cpt. Cooper believed he asked the question. Cpt. Cooper then was questioned about Mr. Sheridan making hand gestures during the interview. The parties then stipulated to entering the transcript from the interview into evidence.

Cpt. Cooper explained that Mr. Guinther is not an employee of the Athens County Sheriff's Office. Mr. Guinther had no interest in the investigation with the Washington County Investigator. Mr. Guinther is also not Mr. Sheridan's supervisor or even in his line of command. Mr. Guinther admitted that Mr. Sheridan did not want to speak to him, but Mr. Guinther asked Mr. Sheridan several times to go somewhere with him to speak. Cpt. Cooper identified Appellant's Exhibit 47 as a statement he received from Mr. Guinther.

On re-direct examination, Cpt. Cooper was then questioned about the mishandling of evidence charge levied against Mr. Sheridan. Cpt. Cooper explained the tools were in Mr. Sheridan's mailbox for about two-three weeks. The tools were not large, and were somewhat smaller air tools. Cpt. Cooper explained that the tools were small enough to miss unless you specifically looked into the mailbox, and noted Mr. Sheridan should not have left the tools in the mailbox, and should have checked his box regularly.

Cpt. Cooper then explained that even if Mr. Sheridan was an independent contractor, he still must oblige by the policies and procedures of the Athens County Sheriff's Office if he is wearing his uniform or holding himself out as an Athens County Sheriff's Office.

The eleventh witness to testify on direct examination by the Appellee was Lt. Aaron Maynard. Lt. Maynard explained he is currently a Patrol Lieutenant with the Athens County Sheriff's Office, and has been employed for about 14 years. Further, when questioned, Lt. Maynard stated he knew Mr. Sheridan as an employee at the Athens County Sheriff's Office. Lt. Maynard stated on June 12, 2012, he participated in an investigatory interview of Mr. Sheridan with Cpt. Cooper. Lt. Maynard explained he has been Mr. Sheridan's supervisor for about two and a half years. Lt. Maynard has been a Lieutenant since about 2009. Lt. Maynard explained that in terms of counseling and mentoring, he has dealt with Mr. Sheridan more than any other individual in the office. Lt. Maynard has helped Mr. Sheridan with appearance, dealing with others, case management, wearing of body armor and many other occasions. Lt. Maynard felt he has been overly fair with dealing with Mr. Sheridan in relation to his behavior at the Office.

On cross examination, Lt. Maynard was questioned about Mr. Sheridan showing up to work late. Lt. Maynard explained he remembered Mr. Sheridan showing up to work late one time, but this is not a contractual violation warranting discipline.

#### **FINDINGS OF FACT**

1. The jurisdiction of this Board to conduct this hearing was established by O.R.C § 124.34.
2. Mr. Sheridan served as a full time Athens County Deputy Sheriff from 2004 until 2012, although he was commissioned as a Special Deputy in April 1991 until he was given a full time position.
3. Mr. Sheridan served as an Instructor for the Athens County Sheriff's Academy from 2011 until 2012.
4. Mr. Sheridan has never received a complaint prior to the case at hand for his time served as an Instructor for the Athens County Sheriff's Academy.

5. Mr. Sheridan has received discipline from the Athens County Sheriff's Office for issues of insubordination prior to the case at hand, specifically due to instances of improper uniform attire, refusal to wear body armor and tardiness.
  
6. Mr. Sheridan was removed from his position of Deputy Sheriff for violating O.R.C § 124.34 based on five (5) charges.
  - a. Insubordination - On or about May 18, 2012, after repeated orders by Cpt. Bryan Cooper to leave his office you were insubordinate toward Cpt. Cooper by refusing his orders and slamming your fist on his desk.
  - b. Sexual Harassment - During the approximate period of February 2012 to May 2012, while assuming the duties as an Instructor with the Athens County Sheriff's Academy you engaged in sexually harassing conduct towards two Athens County Sheriffs Academy female cadets.
  - c. False/Misleading Statements - On or about June 12, 2012 during an investigatory interview you made false and misleading statements to Cpt. Bryan Cooper and Lt. Aaron Maynard.
  - d. Argument in Public - On or about June 4, 2012, you engaged in a loud, discourteous and argumentative conversation with Agent Byron Guinther in full view of the public in front of the Sheriff's office and subsequently made a false and/or misleading complaint to Agent Gunither's employer.
  - e. Mishandling of Evidence - On or about May 18, 2012, you failed to properly process and log evidence under your control consistent with established policies. The following testimony will be divided based on the specific witness and the relation of their testimony to a specific charge

7. On June 25, 2012, at approximately midnight, Appellee Athens County Sheriff's Office hand delivered Mr. Sheridan an O.R.C § 124.34 Order of Removal which removed Mr. Sheridan from his position effective June 26, 2012.
8. Appellee stipulates to the fact that Appellant's appeal was timely filed.
9. The Appellee, by a preponderance of the evidence, established that standards of conduct existed for and were known by Mr. Sheridan. The testimony and documentary evidence presented at the record hearing established by a preponderance of the evidence that the Appellant:
  - a. Insubordination
    - i. Did not stop speaking to Cpt. Cooper about his voicemail when asked to do so.
    - ii. Left Cpt. Coopers office when ordered to do so.
    - iii. Hit his hand on Cpt. Cooper's desk.
  - b. Sexual Harassment
    - i. Did position himself close to female Academy Cadets, but not every time he was around the female Cadets.
    - ii. Did not make the statement "Nice hooker handles, they will come in handy later" to Ms. Atkins.
    - iii. Did engage in personal conversations with Cadets at the Academy.
    - iv. Told the Academy Cadets about a woman undressing in the back seat of his cruiser in order to share a real life scenario he experienced.
    - v. Told the Academy Cadets a story about a woman exposing her breasts to him while on duty in order to explain that difficult situations can occur while acting as a law enforcement officer.
    - vi. Did question Ms. Smith if she is a lesbian while instructing the class.

- vii. Did not touch Ms. Atkins while asking the class “what do you do if while arresting a female, you touch her breast?”
- c. False/Misleading Statements
  - i. Answered specific questions in the Garrity interview to the best of his ability.
- d. Argument in Public
  - i. Was approached by Mr. Guinther at the Athens County Court House, who engaged Mr. Sheridan in a shouting match.
  - ii. Two members of the public did view the argument with Mr. Guinther.
- e. Mishandling of Evidence
  - i. Was actively attempting to determine who the tools in his mailbox belonged to, and where they had come from.
  - ii. Was actively seeking permission from the County Prosecutors Office to determine what to do with the tools located in his mailbox.
  - iii. Even though evidence guidelines existed at the Athens County Sheriff’s Office, they were not regularly followed and obeyed by many Officers.
  - iv. No evidence was introduced at the record hearing the Appellant took in the evidence or that the evidence in question was even properly tagged and logged when received by the Athens County Sherriff’s Office.

### **CONCLUSIONS OF LAW**

As in any disciplinary appeal before this Board, Appellee bears the burden of establishing by a preponderance of the evidence, certain facts. Appellee must prove that Appellant’s due process rights were observed, and that it substantially complied with the procedural requirements established by the Ohio Revised Code

and Ohio Administrative Code in administering Appellant's discipline, and that Appellant committed one or more of the enumerated infractions listed in O.R.C. § 124.34 and the disciplinary order.

With regard to the infractions alleged, Appellee must prove for each infraction that Appellee had an established standard of conduct, that the standard was communicated to Appellant, that Appellant violated that standard of conduct, and that the discipline imposed upon Appellant was an appropriate response. In weighing the appropriateness of the discipline imposed upon Appellant, this Board will consider the seriousness of Appellant's infraction, Appellant's prior work record and/or disciplinary history, Appellant's employment tenure, and any evidence of mitigating circumstances or disparate treatment of similarly situated employees presented by Appellant.

Due process requires that a classified civil servant who is about to be disciplined receive oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to be heard prior to the imposition of discipline, coupled with post-disciplinary administrative procedures as provided by O.R.C. § 124.34. *Seltzer v. Cuyahoga County Dept. of Human Services* (1987), 38 Ohio App.3d 121. Information contained in the record indicates that Appellant was notified of and had an opportunity to participate in a pre-disciplinary hearing. The Appellant also had notice of the charges against him and an opportunity to respond to those charges. Accordingly, the undersigned Administrative Law Judge finds that Appellee substantially complied with the procedural requirements established by the Ohio Revised Code and Ohio Administrative Code in removing Appellant.

This Board's scrutiny may, therefore, proceed to the merits of the charges made against Appellant. Appellee established by a preponderance of the evidence that it had established standards of conduct and that such standards had been communicated to Appellant. According to the O.R.C. § 124.34 Order, Appellant's removal was based upon his, insubordination and neglect of duty.

The initial charged levied against Mr. Shannon Sheridan of insubordination was found to be valid. The Athens County Sheriff's Office defines insubordination as follows:

"Deputies and employees promptly obey all lawful orders and directions given by supervisors. The failure or deliberate refusal of

deputies and employees to obey such orders is insubordination. Flouting the authority of a superior by displaying obvious disrespect or by disputing orders is likewise insubordination.”

Athens County Sheriff's Office Law Enforcement Policies and Procedures of 2009, Policy 2.15 (2011).

The Athens County Sheriff's Office defines Direct or Verbal orders as the following:

“Direct orders are most often issued through the spoken word. These orders may be given at roll call, but most often are issued verbally during the course of the shift. Personnel are to respond to verbal orders given by supervisors, the Operations Officer, and the Sheriff. In those cases where someone who is not your supervisor, Operations Officer or the Sheriff, gives you a direct or verbal order or command, it is the responsibility of the deputy receiving the order or instruction to verify the order through their post orders or supervisor before complying with the order or instruction. Compliance with Direct or verbal orders is only required or appropriate when the order given is lawful. To be a lawful order, the instruction must be in harmony or compliance with the law, Directives, general orders and policies established by the Sheriff.”

Based on the testimony presented, Mr. Sheridan's actions in relation to Cpt. Cooper did not amount to insubordination, by a preponderance of the evidence. When Mr. Sheridan entered Cpt. Cooper's office to discuss his voicemail situation, although he was never specifically ordered to stop talking about that topic, he was asked to stop, to which he did not. Cpt. Cooper's testimony explained that he repeatedly told Mr. Sheridan that he could not discuss the voicemail problem; his testimony did not state that he ordered Mr. Sheridan to stop speaking about the situation. Because Mr. Sheridan was never specifically given a lawful order to stop speaking to Cpt. Cooper at that time, one could say that Mr. Sheridan was not guilty of insubordination, in this regard. However, the evidence revealed that when Mr. Sheridan was ordered to leave Cpt. Cooper's office, he did comply with this order. Because Mr. Sheridan complied with the only direct order he received, the allegation of insubordination in relation to this discussion is unfounded. Cpt. Cooper's refusal to speak to Mr. Sheridan at the time in question could have been

considered a direction from a superior, but it still does not amount to insubordination.

While Mr. Sheridan was not insubordinate during the situation discussed above, he should not have hit his hand on Cpt. Cooper's desk. Mr. Sheridan's action of hitting his hand on the desk is certainly disrespectful, and could be considered flouting the authority of a superior. Based on the testimony provided and the context of the situation, Mr. Sheridan's actions were not as disrespectful as the charge outlines, but could have found to have been found guilty of a failure of good behavior, as will be discussed further.

The second charge (sexual harassment) against Mr. Sheridan also was not found by a preponderance of the evidence. Although, Mr. Sheridan's actions as an Instructor for the Athens County Sheriff's Office were inappropriate and unprofessional at times, but his actions did not amount to sexual harassment in the eyes of this Administrative Law Judge.

Sexual harassment is defined by the Athens County Sheriff's Office as:

"Unwanted and offensive sexual advances or sexually derogatory or discriminatory remarks, as those made by an employer to an employee, or employee to employee or the creation of a sexually objectionable environment."

Athens County Sheriff's Office Law Enforcement Policies and Procedures of 2009, Policy 3.01 (2011).

Based on the policy set forth and the testimony provided, Mr. Sheridan is not guilty of sexual harassment. In closing the Appellee's case in chief, they were unable to prove by a preponderance of the evidence that Mr. Sheridan had engaged in activity that amounted to sexual harassment. The testimony explained that Mr. Sheridan stood close to the female cadets during break periods at the Academy, but his activity was not severe and pervasive in any way. Mr. Sheridan did not make any severe or pervasive sexual advances or sexual comments to the Cadets during his time as an Instructor. Granted, Mr. Sheridan's conduct was out of line with his normal duties as an Instructor at the Academy, it did not amount to sexual harassment.

The Appellee was unable to prove by a preponderance of the evidence that Mr. Sheridan was the individual who stated "nice hooker handles, those will come in handy later." Based on the individuals who testified in relation to this incident, this Administrative Law Judge was unable to decipher exactly who made the statement. Three individuals testified to the "hooker handles" comment situation but none of the stories matched up. Mr. Sheridan testified that Ms. Atkins was walking out of the High School towards Mr. Sheridan's cruiser, but was a decent distance from the cruiser, when Mr. Disaia made the comment. Mr. Disaia stated that Ms. Atkins was walking past the front of the cruiser when Mr. Sheridan made the comment to Ms. Atkins. Ms. Atkins then explained she was walking past the driver side window of the cruiser when the comment was made.

Multiple individuals testified throughout the hearing that all the Cadets were very close with one another, and had a very joking-like relationship. Based on the relationship the Cadets had with one another, and how friendly and joking they had become, it is very likely that someone other than Mr. Sheridan could have made the comment to Ms. Atkins. Due to the conflicting testimony of all the individuals involved, this Administrative Law Judge cannot say by a preponderance of the evidence that Mr. Sheridan made that specific comment.

Even if Mr. Sheridan did not make the comment, based on his testimony a Cadet did make that comment in his presence. As an Instructor, Mr. Sheridan should not have allowed a Cadet to speak to another Cadet in that manner. As an instructor of future police officers, Mr. Sheridan should be instilling in his Cadets proper speech etiquette. Mr. Sheridan explained in his testimony that he did say something to Mr. Disaia about the comment, but he did not reveal this information until after being questioned by the Administrative Law Judge. Because Mr. Sheridan allowed a Cadet to speak in such a derogatory manner in his presence, and did not reprimand that Cadet for his actions, he exhibited a failure of good behavior, in this regard in the very least.

Based on the testimony provided, we cannot determine by a preponderance of the evidence Mr. Sheridan actually touched Ms. Atkins during a class period. Ms. Atkins alleged Mr. Sheridan grabbed her arm while he was posing a question in class, and she jumped and re-coiled her arm in defense. Throughout the hearing, only one other Cadet was able to testify to the situation, Ms. Smith. Even though Ms. Smith testified to the situation, she could not recall Ms. Atkins responding to Mr. Sheridan. It appears that Ms. Atkins believed Mr. Sheridan was going to grab her

arm, and over-reacted before something actually occurred. Had a situation occurred in class where a student jumped away from a teacher and responded "and then she breaks your face," multiple, if not all the students present, would remember that situation. Based on the testimony provided, this Administrative Law Judge cannot say that it is more likely than not that Mr. Sheridan grabbed Ms. Atkins.

It is more likely than not that Mr. Sheridan did ask Ms. Smith if she was a lesbian in class. While asking a student their sexual orientation is certainly inappropriate in a teacher-student situation, it does not amount to sexual harassment. Asking a student their sexual orientation could be considered a sexually derogatory remark as outlined in the Athens County Sheriff's Policy, but the context of the situation explains otherwise. Based on the testimony provided, Mr. Sheridan awkwardly posed the question during a lecture, but realized it was inappropriate and attempted to move away from the situation. While Mr. Sheridan's interaction with Ms. Smith was not sexual harassment, it did amount, in this Administrative Law Judge's determination, to a "failure of good behavior."

Revised Code Chapter 124 does not define "failure of good behavior." However, Black's Law Dictionary defines "failure of good behavior" as:

"Behavior contrary to recognized standards of propriety and morality, misconduct or wrong conduct (further citations omitted)." Black's Law Dictionary at page 594 (Deluxe 6<sup>th</sup> addition 1990).

For the Appellee to establish an employee violated and/or was guilty of failure of good behavior, the Appellee must demonstrate that the behavior in question was contrary to the recognized standards of propriety and morality or that the employee demonstrated or participated in misconduct or wrong conduct. While the Athens County Sheriff's Academy did not provide Mr. Sheridan with a set rubric or curriculum stating what to teach the Cadets, an Instructor should be aware of what is appropriate and relevant material to be asking Cadets during class. Asking a Cadet their sexual orientation is not appropriate conduct within the Sheriff's Academy, and is contrary to the recognized standards of reasonableness and morality expected of an instructor. Additionally, not reprimanding a cadet about a comment he made, if Mr. Sheridan's testimony were to be believed, also amounts to a failure of good behavior, as well. Because Mr. Sheridan exhibited behavior

contrary to what is expected of an Instructor, he demonstrated failure of good behavior.

The third allegation against Mr. Sheridan is also unfounded. Appellee states in its brief, at length, that Mr. Sheridan lied consistently and continuously throughout the hearing process. The allegation relates specifically to the interview Mr. Sheridan had with Cpt. Cooper and Lt. Maynard, this Administrative Law Judge cannot say by a preponderance of the evidence that Mr. Sheridan actually lied during the investigative interview or during the hearing process. The totality of the actual procedure of the investigative interview causes this Administrative Law Judge to heavily scrutinize the process. The fact that Cpt. Cooper was the individual who filed charges for insubordination against Mr. Sheridan and performed the investigative interview relating to those charges can lead one to believe the interview process was flawed at best, and was outcome driven.

Cpt. Cooper stated in his testimony that prior to interviewing Mr. Sheridan he already determined his opinion of the outcome for the situation. Looking at the testimony itself, many of the questions asked of Mr. Sheridan in the interview were coercive in the way they were asked, baiting the Appellant to utter a confused or inaccurate response. Based on the totality of the situation, it is difficult to determine that the investigative interview was truly impartial and fair for Mr. Sheridan. Because the interview appears to be improper, and most of the questions were slanted in one regard, it is difficult to find Mr. Sheridan guilty of giving false or misleading statements, or at least that the Appellee proved this charge by a preponderance of the evidence.

The fourth allegation against Mr. Sheridan of "having a loud argument in plain sight of the viewing public" has merit. Mr. Sheridan certainly engaged in a loud, discourteous argument in the view of the public, but he did not commit an act so egregious that it would be detrimental to the Athens County Sheriff's Office, but clearly was a failure of good behavior.

Mr. Sheridan testified that at the time of the incident he was wearing his Deputies uniform. An individual who wears a Deputy Sheriff's Uniform informs others that they are representing the Athens County Sheriff's Office, engaging in a shouting match on a major road in Athens, Ohio in front of the County Court House is not acceptable behavior for a law enforcement officer. Mr. Sheridan exhibited a

“failure of good behavior” as previously defined. While Mr. Sheridan’s behavior was inappropriate, that alone would not warrant removal.

The fifth allegation (mishandling evidence) against Mr. Sheridan is unfounded. Placing the blame of mishandling the evidence in question is suspect in the eyes of this Administrative Law Judge. When Mr. Perry’s tools initially came into the Athens County Sheriff’s Office they were improperly logged in and received by the office secretary. The Secretary then placed the tools into Mr. Sheridan’s mailbox with no notification of who brought the tools into the office, where they came from, or who the tools allegedly belonged to. Placing the blame on Mr. Sheridan for leaving evidence in his mailbox that was improperly documented by someone else is truly unfair. Mr. Sheridan did not know where the tools had come from, or that it was actually evidence. Mr. Sheridan’s testimony even explained that Mr. Perry’s case was not the only case he was currently working on that involved tools. By a preponderance of the evidence, it cannot be determined that Mr. Sheridan improperly handled evidence.

However, there remains a question of whether the discipline imposed should be sustained. The undersigned Administrative Law Judge recommends that the evidence presented at the record hearing, taking the totality of the circumstances into account is insufficient to support the removal of the Appellant. In this case the evidence revealed that the Appellant, Mr. Shannon Sheridan, had worked for approximately 8 years full-time as a Deputy Sheriff, and previously had served as a commissioned Special Deputy for the proceeding 13 years, only to have only a couple of very minor rules violations, coupled with the fact that a majority of the charges, including what can be considered the most egregious violation herein, the violation of sexual harassment charge, were not proven by a preponderance of the evidence. Further, in this case, the Appellee did not prove by a preponderance of the evidence the charges of insubordination, false/misleading statements and the mishandling of evidence, as well.

It should be noted that while the Appellee did not prove by a preponderance charges of sexual harassment and insubordination, the Appellant was guilty of a failure good behavior with portions of those two charges. With respect to the sexual harassment violation, the undersigned concluded that while the Athens County Sheriff’s Academy did not provide Mr. Sheridan with a set rubric or curriculum stating what to teach the Cadets, an Instructor should be aware of what is appropriate and relevant material to be asking Cadets during class. Asking a Cadet

their sexual orientation is not appropriate conduct within the Sheriff's Academy, and is contrary to the recognized standards of reasonableness and morality expected of an instructor. Additionally, not reprimanding a cadet about a comment he made, if Mr. Sheridan's testimony were to be believed, also amounts to a failure of good behavior, as well. Because Mr. Sheridan exhibited behavior contrary to what is expected of an Instructor, he demonstrated failure of good behavior. Additionally, with respect to the insubordination charge, and the slamming of one's fist down on a superior's desk, even if by accident, Mr. Sheridan's action of hitting his hand on the desk was certainly disrespectful and flouting the authority of a superior and found to have been found guilty of a failure of good behavior.

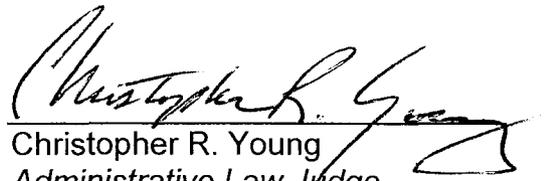
Further, as previously stated the charges of mishandling of the evidence and providing false/misleading statements were not proven by a preponderance of the evidence. Thus, the only charge that was fully proven was the fourth charge, that being the "argument in public" charge. Accordingly, the undersigned Administrative Law Judge concludes that the Appellant's actions did violate the Athens County Sheriff's office regulations and/or policies in violation under Ohio Revised Code Section 124.34 for failure good behavior. Although Mr. Sheridan's actions as an Instructor for the Athens County Sheriff's Office did not amount to sexual harassment, they were still not appropriate and tantamount to failures of good behavior.

Based on the following conclusions, I find that the order of removal for the Appellant was improper based on the allegations set forth in the order of removal. While the Appellant's behavior was certainly inappropriate, it did not amount to the level necessary to completely remove him from his position as a Deputy Sheriff, and would respectfully modify the Appellant's discipline to reflect a 60 day suspension from service and order him to attend a sensitivity class. This recommendation as to the suspension is made in the hope that such disciplinary action will impress upon the Appellant, and others, the necessity of complying with the rules violated and that such future misconduct in this area will not occur.

### **RECOMMENDATION**

Therefore, I respectfully **RECOMMEND** that the instant order of removal issued to the Appellant, effective June 26, 2012, be modified to reflect a suspension of sixty (60) days pursuant to O.R.C. section 124.34, and for the Appellant to attend a sensitivity class, subject to any and all monetary setoffs.

Shannon Sheridan  
Case No. 12-REM-06-0152  
Page 57

  
Christopher R. Young  
*Administrative Law Judge*

CRY: