

CANANDAIGUA POLICE DEPARTMENT
21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424

716-394-3311

October 17, 2000

CPD#8915-00

TO: Chief of Police

FROM: Lt. Michael R. Sheridan

SUBJECT: Investigation of personal complaint of P.O. Cummings

ACCUSED: P.O. Craig Cummings #812, male/cau , DOA: 08-23-93, patrol division

COMPLAINANT: [REDACTED] Canandaigua N.Y.

ALLEGATIONS: 1. [REDACTED] reported receiving a threatening phone call from P.O. Cummings, who was on duty at the time. Also, while driving northbound on South Main St. P.O. Cummings, on the same evening as the alleged phone call, tailgated her in his marked patrol vehicle, on South Main St. onto Ontario St. until he pulled into the police station.

INVESTIGATION: On October 17, 2000 at approximately 1650hrs. I personally interviewed [REDACTED] in my office. [REDACTED] is a part-time employee of the police department as both a typist, which she does in the morning, and on certain afternoons assists at the Phoenix Project.

Throughout my interview with [REDACTED] I found her to quite consistent with her written memorandum to Lt. Wittenberg dated October 12, 2000, which I have attached as part of this investigation. That at approximately 2300 hrs. 10-10-2000 while she was in the Pickering Pub she received a phone call from Ofc. Cummings, who she knew to be on duty. Cummings she felt was very upset at her due to a phone call she had with [REDACTED] earlier in the evening in which [REDACTED] warned [REDACTED] that if she was dating Cummings to be careful that she could be headed for heartbreak. This is due to Ofc. Cummings supposedly seeing women. [REDACTED] does add that she and Ofc. Cummings did see each other socially earlier in the summer, and that she did hold romantic feelings toward him then, but not now. She further adds that on numerous occasions she and [REDACTED] visited Cummings residence. [REDACTED] states that she felt Cummings was getting more upset as the conversation went on. [REDACTED] states Cummings said something like she better keep her fucking mouth shut before he puts something in her mouth to keep it permanently shut. Other statements were made like "you're fucking with the wrong person" The last thing Cummings said to her was "stay the fuck out of my life". This conversation she feels lasted approximately 4-5 minutes.

[REDACTED] states that she left the Pickering Pub at approximately midnight she along with two friends, [REDACTED] and [REDACTED] left and drove in her vehicle to go to Sam's Restaurant. Approximately one half hour later (0030hrs.) [REDACTED] states she drove [REDACTED] back to his vehicle

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which was parked at the Pickering Pub. After doing so, and alone in her vehicle, she turned off of Bristol St. northbound onto South Main St. when a police car began tailgating her. She states the vehicle was so close that she could see that it was CP# 44, which she knows that P.O. Cummings operates. She further states she could see Cummings face in her rear view mirror. She alleges he followed her from approximately the Country Ewe right onto Ontario St. until the police car turned into the police parking lot. At this she returned to Sam's, until she left which was approximately 0100hrs., where she went directly home and did not have any more contact with Ofc. Cummings.

At the end of my interview with her I asked if she feels nervous by Ofc. Cummings and she replied "I don't like that he is on "B" tour". Also that she is afraid he would get someone to harm her. I asked her if when they were seeing each other did he ever strike her- which she stated no. I asked how did she know he was on duty when he called - she replied that she could hear the police radio in the background, plus she knew it was his night to work. I asked [REDACTED] if she thought of contacting the duty sergeant that night, and she stated she did not because she was afraid she might have done something wrong. Only after a few days did she get the courage up to advise Lt. Wittenberg. Finally I asked her since she contacted Lt. Wittenberg has she had any contact with Ofc. Cummings and she states she has not. This interview terminated at approximately 1730hrs.

On Tuesday October 17, 2000 I interviewed P.O. Cummings in my office. I strongly advised Cummings that he could have a union representative with him during this interview. He declined to have a rep. Upon my request Sgt. Walker sat in on the interview.

I asked Cummings if in the evening hours of October 10, 2000 did he call [REDACTED] from his cellular phone. He replied he did. He thought it was around 2130 hrs. but was unsure of the time. I asked him if it could have been 2300 hrs., and he stated that it could. I asked Cummings if he was on duty when he made this telephone call, and he stated that he was. I asked him if he knew where [REDACTED] was at the time of the call, in which he stated he did not, but that she told him that she was at the Pickering Pub. I asked him what the conversation was about, and he states he told her to stay out of his life and to stop spreading rumors around town about him. Cummings states that he did indeed use vulgar language, as he was upset. Cummings states he had received a phone call earlier in the evening from [REDACTED] who advised him that she had earlier received a call from [REDACTED] advising her to be careful because Cummings was "stringing along" about 10 different women around town, and that she should stop seeing him because he was no good. I asked Cummings if the phone call in which [REDACTED] called him was when he was on duty, and he stated that he was not sure, but it could have been. Cummings states he told [REDACTED] to "get the fuck out of my ass, and stay out of my life". Cummings further states he told [REDACTED] that "you've had a problem keeping your mouth shut in the past, and you continue to have a problem". "If you continue to spread rumors someday, someone is going to put a fist in your mouth, and you are not going to be able to talk any more". I asked

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Cummings if he considered what he admitted to saying a threat? He answered no, that it was just a verbal warning. I asked the difference, and he stated that as police officers we often use verbal warnings, and he does not consider them a threat. Ofc. Cummings states that quite often when he goes out socially [REDACTED] shows up soon after, and he feels she has romantic interests in him, and cannot get over it. Cummings states he felt the conversation lasted approximately 1 1/2 minutes.

I asked Cummings if he saw [REDACTED] vehicle parked behind the Pickering Pub, and he states he couldn't remember. I asked him if he saw [REDACTED] operating her vehicle later in the evening, and he states she came off of a side street in front of his vehicle, then turned right onto Ontario St., which he did also as he was going to the police station. I asked him if he was tailgating her, and he states absolutely not. I further stated "are you telling me that she happened to turn right in front of his vehicle". He states yes. Cummings ended by saying that at approximately 1500 hrs. on Sunday October 15 while he was working "B" tour sitting northbound on South Main St. at the bypass waiting for the light to change, [REDACTED] was southbound in her vehicle and held up a piece of paper, with her middle finger raised. Cummings feels it was the letter he received from Chief McCarthy advising him of this complaint.

I asked Cummings if he thought it was a good practice to use his cellular phone, while on duty, to make personal calls. He stated it was not a good practice. I further asked Cummings if he used his cell phone for a lot of personal affairs while he is working, and he stated he did not. I advised him that I personally see him on the phone quite a bit. I asked him if I were to see his phone record of incoming and outgoing calls would it show an excess of use for personal business while working. He stated that it might. I strongly advised Cummings to immediately discontinue the use of his cell phone for personal business while on duty. I further advised him to continue following the Chief's directive to avoid any contact with [REDACTED].

SUMMATION: [REDACTED] reports Ofc. Cummings contacted her on her cell phone, while he was on duty, in a very upset state and verbally threatened her. Ofc. Cummings admits phoning [REDACTED] while on duty. Although saying to her "if you continue to spread rumors someday, someone is going to put a fist in your mouth, and you are not going to be able to talk any more", he feels he did not threaten her.

[REDACTED] states later in the evening Ofc. Cummings tailgated her while she was northbound on South Main St. Ofc. Cummings denies this although he does state he saw her vehicle turn off of a side street so as to be in front of him.

FINDINGS: My investigation has shown that Ofc. Cummings is in violation of the following Canandaigua Police Department Rules and Regulations:

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1. 3-2 UNBECOMING CONDUCT: "Officers shall conduct themselves at all time, both on and off duty, in such a manner as to reflect most favorable on the department..."

Ofc. Cummings is accused by [REDACTED] of threatening her, while speaking with her on the telephone. By Cummings own admission he stated "If you continue to spread rumors someday, someone is going to put a fist in your mouth, and you are not going to be able to talk any more." Although Ofc. Cummings states he feels this is not a threat, this is a threat. Quite probably this is a veil threat, but a threat nonetheless.

The allegation of a threat by Ofc. Cummings toward [REDACTED] is sustained.

2. 3-6 NEGLECT OF DUTY: "Officers shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty." It is very apparent that while on a cell phone, in admitted state of being upset, Ofc. Cummings cannot be attentive to the duty of a patrol officer. Personal business is to be conducted on personal time not on duty time.

The allegation of Ofc. Cummings regarding neglect of duty is sustained.

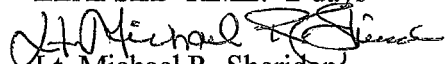
3. 3-43- OPERATING VEHICLES: "Members shall operate official vehicles in a careful and prudent manner, and shall obey all laws and all departmental procedures pertaining to such operation..." Although it is very coincidental that Ofc. Cummings just happened to have [REDACTED] turn in front of his vehicle on the night in question, there is no other evidence to indicate hazardous and/or illegal driving on the part of Ofc. Cummings.

The allegation of tailgating is not-sustained.

DATE INITIATED: October 16, 2000

DATE COMPLETED: October 18, 2000

ELAPSED TIME: 2 days


Lt. Michael R. Sheridan

Patrol Division Commander

CANANDAIGUA POLICE DEPARTMENT

PERSONNEL COMPLAINT REPORT

CPD # 8915-00

I.A.# _____

Date /Time 10-12-00 1100hr

Manner Complaint Received: In person Letter Telephone

Location of Occurrence: Pickering Pub Date/Time Occurred: 10-10-00 2300 hrs.

Employees involved: 1. Craig Cummings 2. _____ 3. _____

CODE: C = Complainant W = Witness O = Other

Code: C Name: _____ Sex: F D.O.B.: _____

Address: _____ City: Canandaigua State: NY Phone: _____

Complaint: (if additional space is necessary use CPD# _____ Supplementary Report)

_____ Reports that she was harassed and threatened by on duty officer P.O. Craig Cummings on Oct 10, 2000 at 2300hrs. She states that the harassment and threats were made by Cummings when he called her by cell phone while she was with friends at the Pickering Pub. She further states that when she left the Pub at Inter in the evening, our City Police car 44, operated by Cummings, tailgated her to the Police Department driveway. The attached letter of _____ contains the specific details and is made part of this report.

NOTICE: PURSUANT TO THE NEW YORK STATE PENAL LAW SECTION 210.45, IT IS A CRIME PUNISHABLE AS A CLASS A MISDEMEANOR TO KNOWINGLY MAKE A FALSE STATEMENT HEREIN.

Complainant

Print Name: _____

Supervisor

Signature: [Signature]

Signature: _____

Employee Notified Date: 10-12-00 - by Chief via letter

Thursday, October 12, 2000

To: Lt. Wittenberg
From: [REDACTED]
Re: Requested Documentation

Tuesday, October 10, 2000, at or around 9:00pm I returned a phone call from former intern student and friend, [REDACTED] P.O. Craig Cummings came up in conversation and she said they were seeing each other and possibly dating. I advised her to be careful only because I have heard roomers about him and in her best interest to be careful and be ready for heartbreak. After the conversation, my friend [REDACTED] and I went out to the Pickering Pub around 9:45pm. About 11pm that same night I received a call on my cell phone and caller identification showing the call from P.O. Cummings's cell phone. Between the noise in the Pickering and the sound of his police radio in the back ground, I went outside the Pickering Pub as to hear him better. Sounding enraged and using vulgar language, calling me a fucking bitch, he was asking why I would say things about him to [REDACTED] that were not true. I said I was just watching out for her own good considering she does not reside in Canandaigua. Craig then made a threat toward me saying I better keep my fucking mouth shut before he puts something in my mouth to permanently shut me up. I then asked if he were threatening me and he said, "Yep, I am." Craig also made it clear that I will be getting what I deserve and anything I have coming to me I deserve, he also stated I was fucking with the wrong person. The phone conversation lasted about five minutes and when I returned to my friends I was very upset and went into the rest room emotional, with my friend [REDACTED].

Later that same night around midnight, while driving up Main Street, I noticed a patrol car marked 44 riding excessively close to the bumper of my car. After looking in my rear view mirror I noticed it was P.O. Cummings as he continued riding my bumper. I turned down Ontario Street as so did he then he turned into the Canandaigua Police Department.

Respectively submitted,
[REDACTED]
[REDACTED]

CANANDAIGUA POLICE DEPARTMENT

21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424
(716)396-5035 Phone
(716)396-5034 Fax
Dial 911 for All Emergencies

Patrick W. McCarthy
Chief of Police



October 19, 2000

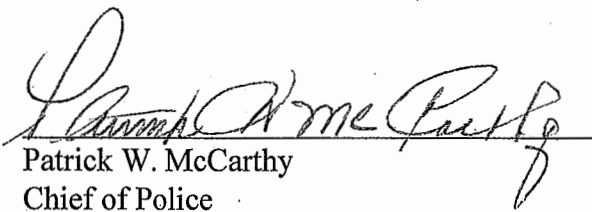
TO: P.O. Craig S. Cummings
FROM: Chief Patrick W. McCarthy
SUBJECT: Command Discipline


Based upon your decision to accept Command Discipline as contained in the October 19th communication to you outlining the charges preferred against you and acknowledging your waiver of a Section 75 hearing as per New York State Civil Service Law, the following penalty is imposed.

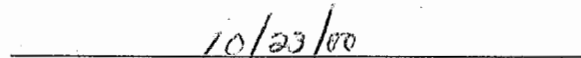
Violation of Department Regulation 3-2 Unbecoming Conduct
Violation of Department Regulation 3-6 Neglect of Duty

One (1) Personal Day to be forfeited from the 2000 Contractual Provision

PWMcC:cb


Patrick W. McCarthy
Chief of Police


Police Officer Craig S. Cummings


Date

CANANDAIGUA POLICE DEPARTMENT

21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424
(716)396-5035 Phone
(716)396-5034 Fax
Dial 911 for All Emergencies

Patrick W. McCarthy
Chief of Police



October 19, 2000

TO: P.O. Craig Cummings
FROM: Chief Patrick W. McCarthy
SUBJECT: Disciplinary Charge

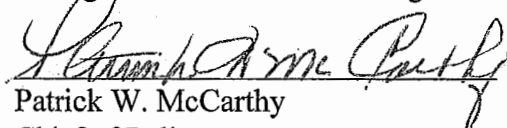
The investigation of harassment charges brought against you by [REDACTED] has been completed. Based upon the results of this investigation, the Department finds that you are guilty of two violations of Department Regulations and are therefore subject to the following charges being preferred against you:

Violation of Department Regulation 3-2 Unbecoming Conduct - "Officers shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorable on the Department." Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department, or that which impairs the operation or efficiency of the Department. By Officer Cummings' own admission, he stated "If you are going to continue to spread rumors, someday, someone is going to put a fist in your mouth and you're not going to be able to talk anymore." This is obviously intended as a threat or warning regardless of the fact that the pronoun "someone" is used as the entity referred to as carrying out the act the accused suggested as a probable outcome. Little doubt is left as to whom and by whom this remark was intended.

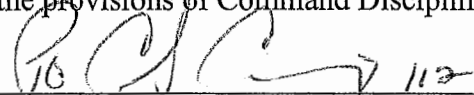
Violation of Department Regulation 3-6 Neglect of Duty - "Officers shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty." Conducting telephone conversations of the nature of the call to [REDACTED] on the night of October 10, 2000 is obviously not duty related and given the context of the subject matter of said call, clearly denotes a mental state not in compliance with the requirement to be attentive to duty.

Based upon the foregoing, you are entitled to a formal hearing under Section 75 of the Civil Service Law. You are also entitled to the provisions of G.O. 18.02 - Section E - Command Discipline. Should you wish to utilize the Command Discipline provision, you must endorse this memo which will formally record your waiver of a right to a Section 75 hearing.

PWMcC:cb


Patrick W. McCarthy
Chief of Police

I hereby waive my right to a Section 75 Hearing and request these charges to be adjudicated through the provisions of Command Discipline.


Police Officer Craig S. Cummings

10/23/00
Date

INSTRUCTIONS TO ADDRESSEE

- 1. Write Reply at Bottom.
- 2. Return White Copy and Retain Yellow Copy.
- 3. Use Fold Marks on Right Edge of Form for Window Envelope

INSTRUCTIONS TO ORIGINATOR

- 1. Detach Pink Copy
- 2. Send White and Yellow Parts to Person Addressed.
- 3. Use Fold Mark on Left Edge of Form for Window Envelope

From

POLICE DEPARTMENT

City of Canandaigua
 21 Ontario Street
 Canandaigua, New York 14424
 (716) 394-3311 & 396-5035

PLEASE RETURN THIS MESSAGE REPLY TO



To

Lieut. Tom Wittenburg

DATE	25 Oct. 2000
SUBJECT	PERSONAL DAY DEDUCTION P.O. CUMMING'S

Message

Please deduct (1) personal day from P.O. Craig Cumming's time records - year 2000. Please enter a footnote indicating the personal day deduction is the result of a Command Discipline proceeding based upon two violations of Department regulations.

cc - P.O. Cumming's
 File

Signed

Reply

DATE _____

Signed _____

ORIGINATOR FOLD MARKS

ADDRESSEE FOLD MARKS