COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

CHRIS GRAHAM, JORGE LOPEZ, MEREDITH RYAN, KELLY AUER, COMMITTEE FOR PUBLIC COUNSEL SERVICES, and HAMPDEN COUNTY LAWYERS FOR JUSTICE,
Petitioners,

v.

DISTRICT ATTORNEY FOR HAMPDEN COUNTY,
Respondent.

PETITIONER'S RECORD APPENDIX
PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3 AND c. 231A, § 1

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Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau

United States Department of Justice
Civil Rights Division
and
United States Attorney's Office
District of Massachusetts

July 8, 2020

EXECUTIVE SUMMARY

On April 13, 2018, the United States Department of Justice initiated an investigation of the Springfield Police Department's (SPD, or "Department") Narcotics Bureau, pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. § 12601.[1] The Narcotics Bureau is a small unit of SPD plainclothes officers tasked with enforcing drug-related laws. Following a thorough investigation, there is reasonable cause to believe that Narcotics Bureau officers engage in a pattern or practice of excessive force in violation of the Fourth Amendment of the United States Constitution.[2]

Specifically, our investigation identified evidence that Narcotics Bureau officers repeatedly punch individuals in the face unnecessarily, in part because they escalate encounters with civilians too quickly, and resort to unreasonable takedown maneuvers that, like head strikes, could reasonably be expected to cause head injuries.

This pattern or practice of excessive force is directly attributable to systemic deficiencies in policies, accountability systems, and training. For example, unlike most other police departments, SPD policies do not require officers to report "hands on" uses of force such as punches and kicks. This practice enables Narcotics Bureau officers to routinely avoid reporting any use of hands-on force or to submit vague and misleading reports documenting their uses of force. We also found examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force. Supervisors fail to effectively review uses of force that Narcotics Bureau officers do report. Deficiencies within SPD's broader systems of accountability exacerbate these issues. For example, although SPD policy requires that senior command staff refer to SPD's Internal Investigations Unit (IIU) any questionable force incident resulting in injury, from 2013 to 2018, command staff did not make any referrals in cases involving the Narcotics Bureau; indeed, not a single such referral was made throughout the entire Department. Further, while IIU has investigated some excessive force complaints made by members of the public, its investigations lack critical content needed to determine if an allegation should be sustained. This has resulted in zero sustained findings of excessive force against any Narcotics Bureau officer in the last six years.

Against this backdrop, Narcotics Bureau officers engage in uses of excessive force without accountability. For example, in October 2018, the United States indicted a veteran Narcotics Bureau sergeant for color of law violations related to his 2016 arrest of two juveniles. The indictment alleges that the sergeant kicked one of the youths in the head, spat on him, and said, "welcome to the white man's world." Further, the sergeant allegedly threatened to, among other things, crush one of the youth's skulls and "fucking get away with it," "fucking bring the dog back [and] let him fucking go after" a youth, "fucking kill [one of the youth] in the parking lot," charge a youth with a murder and "fucking make it stick," and that he would "stick a

[1] The investigation has been conducted jointly by the United States Attorney's Office for the District of Massachusetts and the Special Litigation Section of the Civil Rights Division.

[2] The Department of Justice does not serve as a tribunal authorized to make factual findings and legal conclusions binding on, or admissible in, any court, and nothing in this Report should be construed as such. Accordingly, this Report is not intended to be admissible evidence and does not create any legal rights or obligations.

fucking kilo of coke in [one of the youth's] pocket and put [him] away for fucking fifteen years." The indictment also alleges that during interrogation, the sergeant "pointed to blood on his boot" and told one of the youths that if he lied, the youth's "blood would be on [the sergeant's] boot next." The case is pending.

Moreover, there is reasonable cause to believe that officers use excessive force even more often than our investigation uncovered. Indeed, we identified evidence that officers underreport force that should be documented even under SPD's minimal reporting standards. In many of these cases, the evidence that is available suggests the force used may have caused serious injury and may have exceeded the level of force justified by the circumstances of the incident.

This report is based on a comprehensive review of over 114,000 pages of SPD's incident reports, investigative reports, policies, training materials, and other internal documents; interviews with SPD officers and City officials; and interviews with community members. Our investigation was conducted with the assistance of two law enforcement experts, one of whom served as a narcotics unit officer in a Massachusetts city, and both of whom have extensive experience reviewing use-of-force incidents and analyzing internal affairs investigations.

We appreciate the cooperation and professionalism that City officials, SPD command staff, and many hard-working SPD officers demonstrated throughout our investigation. We understand that SPD officers perform an immense service to the Springfield community that often places them in dangerous situations, and that Narcotics Bureau officers in particular are tasked with serving felony warrants and making arrests of individuals suspected of serious drug and weapons offenses. We hope that everyone in Springfield—City officials, SPD officers, and residents alike—will view this report as an opportunity to positively address failures within the Narcotics Bureau and make policing in Springfield lawful, safer, and more effective.

I. BACKGROUND

A. Springfield, Massachusetts

According to 2010 census data, Springfield is the third largest city in Massachusetts, with a population of over 153,000. Springfield's population is approximately 52% white, 36% Hispanic or Latino, 22% Black, and 2% Asian. The median income in Springfield is $34,628, which is below the national average of $49,445. Approximately 27% of the population lives in poverty, with 43% of Latino residents, 27% of Black residents, and 19% of white residents living below the poverty line.

Springfield is governed by an elected Mayor and City Council. The current Mayor, Domenic Sarno, is a former Springfield City Councilman who has been Mayor since 2007. The Springfield City Council is composed of eight members representing each of Springfield's eight wards, and five at-large members. The Council is led by President Justin Hurst and Vice-President Marcus Williams.

B. Springfield Police Department

SPD has approximately 500 sworn officers. The Department is led by a police Commissioner, whom the Mayor appoints to a four-year term. Cheryl Clapprood, the current Commissioner, is a 40-year SPD veteran who was appointed by the Mayor in September 2019. The Department is organized into three major divisions: South/Investigations Division, Central/Uniform Division, and North/Administrative Division. Each division is headed by a deputy chief, who reports to the Commissioner. Together, the divisions cover nine geographic patrol areas, or "sectors," as well as a number of different specialty units.

The Narcotics Bureau,[3] which falls under the purview of the South/Investigations Division deputy chief, is a small unit of SPD plainclothes officers tasked with apprehending those suspected of narcotics offenses and executing narcotics search and arrest warrants. The Narcotics Bureau also includes the Vice Unit, the Warrant Apprehension Unit, the Task Force (which includes several officers assigned to regional federal and state drug task forces), the Property Unit, and Licensing. Fully staffed, the unit consists of 24 officers, three sergeants, one lieutenant, and one captain, who oversees the unit.

The Internal Investigations Unit (IIU) is charged with investigating allegations of misconduct against the Department and its employees. The IIU is staffed by a captain, lieutenant, and three sergeants. While the IIU conducts investigations of allegations of officer misconduct and drafts reports summarizing findings of fact, IIU investigators *do not* weigh evidence, draw conclusions, or recommend findings. Rather, IIU presents its reports to the Commissioner, or, in the case of certain types of civilian complaints, the Community Police Hearing Board (CPHB or Board), a seven-member civilian panel of mayoral appointees intended to bring community input to SPD's internal investigation and discipline process. For those complaints, a subset of CPHB members review each IIU file to determine whether to make findings and disciplinary recommendations on the basis of the file alone, or whether to hold a hearing. Where they occur, CPHB hearings are conducted like trials, with city solicitors acting as prosecutors and union counsel defending accused officers. Regardless of whether or not there is a hearing, CPHB members make recommendations about the complaint's disposition and an officer's discipline to the Commissioner, who is the ultimate decisionmaker on both whether the complaint is sustained and, if so, how much discipline is imposed.[4]

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[3] SPD called this bureau the "Narcotics Unit" until approximately 2011, when Commissioner Fitchett renamed it the "Special Investigations Unit." In September 2019, Commissioner Clapprood renamed the "Special Investigations Unit" as the "Narcotics Bureau." While the title of this unit has changed, the core functions and responsibilities of this unit have not.

[4] Under the Executive Order that created the CPHB on February 3, 2010, the CPHB had the authority to make a recommendation for any discipline warranted. On March 2, 2016, the Executive Order was amended to eliminate CPHB's authority to make discipline recommendations. The CPHB could only make written findings of fact regarding the merits of the complaint and make a recommendation as to whether any discipline was warranted. The Executive Order was amended again on December 29, 2017 to reinstate CPHB's authority to make discipline recommendations. CPHB currently relies on guidance from the City's Department of Labor Relations in making disciplinary recommendations.

Two unions represent the interests of SPD supervisors and officers. The International Brotherhood of Police Officers represents the interests of patrol officers. The Springfield Police Supervisors Association represents the interests of sergeants, lieutenants, and captains. Each union has a collective bargaining agreement (CBA) with the City that establishes the terms and conditions of employment. In July 2018, the City Council approved a new CBA negotiated by the patrol officer's union and the City. The supervisors' union CBA was tentatively approved by the union and the City in March 2019. The recently negotiated contracts include the initiation of a body-worn camera pilot program, the adoption of a social media policy, a peer support program, as well as several provisions related to promotions, evaluations, and discipline.

C. Recent Events In the Narcotics Bureau and SPD

Several recent incidents have raised public concern regarding force and accountability issues within SPD, and within the Narcotics Bureau in particular. As discussed above, a Narcotics Bureau sergeant was indicted for threatening juveniles in a February 2016 incident. In addition to the federal criminal charges filed against this officer, one of the youths filed a civil lawsuit alleging that the officer used excessive force against him. The lawsuit alleges officers beat the youth so severely that he received a fractured nose, two black eyes, and numerous head contusions and abrasions. The sergeant who threatened the youths initially received a 60-day suspension for the incident, but SPD suspended him without pay after he was criminally indicted by a federal grand jury in 2018. The civil lawsuit against the City and the criminal charges against the sergeant are both still pending. As a result of this controversy, local prosecutors have had trouble successfully prosecuting drug crimes in Springfield, in large part due to the fact that they have not been able to rely on testimony from discredited Narcotics Bureau officers.[5]

While this investigation focused on the Narcotics Bureau, our conclusions about that Bureau are supported by SPD's response to its officers' uses of excessive force generally. In one incident, six off-duty SPD officers not assigned to the Narcotics Bureau fought with four men in a parking lot outside a bar in April 2015. The officers reportedly caused significant injuries to the men, including knocking one unconscious and fracturing his leg and skull, kicking and punching another while he lay on the ground covering his bleeding face, and kicking a third man in the head repeatedly. The Massachusetts Attorney General's Office has criminal charges pending against several then off-duty and then on-duty SPD officers; charges include both assault and battery and that some officers covered up the incident by providing false reporting. The alleged beating of civilians outside a bar and alleged willingness of officers to cover up fellow officers' misconduct demonstrate accountability lapses within the Department. With the charges pending, SPD reinstated to full service five officers in April 2020.

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[5] *See, e.g.*, Buffy Spencer, *Drug Cases Dropped Against Springfield Couple; Hinged on Police Officer Gregg Bigda*, MassLive, Jan. 23, 2017; available at http://www.masslive.com/news/index.ssf/2017/01/drug_cases_dropped_against_spr.html; Buffy Spencer, *Prosecution Problems Caused by Suspended Narcotics Detective Gregg Bigda Result in 'Gift' Sentence*, MassLive, Oct. 15, 2016, available at https://www.masslive.com/news/2016/10/prosecution_problems_caused_by.html; Buffy Spencer, *Yet Another Drug Trafficking Case Dropped Because of Springfield Officer Gregg Bigda's Involvement*, MassLive, Dec. 9, 2016, available at http://www.masslive.com/news/index.ssf/2016/12/another_drug_tarfficking_case.html.

In another widely reported incident, a former Narcotics Bureau evidence officer was indicted in January 2016 for stealing cash from the narcotics evidence room. The stolen cash allegedly was obtained from more than 170 drug cases and totaled almost $400,000. The officer was a 43-year-veteran of SPD, and at the time of his retirement in July 2014, was the longest-serving officer in SPD. The officer died before this matter could be resolved legally or administratively.

The City and SPD have taken some steps to address matters within the Department. First, after the 2016 indictment of the Narcotics Bureau evidence officer for theft, SPD requested a City-led audit of SPD's record-keeping practices. The audit found that the Department lacked comprehensive policies or procedures related to seized cash and its disposition; had an inadequate system for logging and tracking seized cash; and had not developed any safeguards to protect against improper access or handling of currency. The audit report recommended several measures, most significantly updates to SPD's record-keeping system for seized cash that SPD has implemented.

Second, the City hired a consultant to review SPD's accountability systems, as well as all SPD policies. This review focused on protocols and did not include a review of any use-of-force incidents or internal investigation files. In early 2019, the consultant issued its first report,[6] which addressed accountability, finding that although SPD has some practices in place regarding complaint intake, classification, and investigation, the practices are not comprehensive or codified appropriately in policy. The report recommended that IIU create a detailed internal affairs manual outlining the process for receiving, investigating, and resolving complaints. It also recommended that IIU create an updated electronic case management system to document and track complaints. The report further recommended improvements to the CPHB by expanding the Board from seven members to at least nine, staffing the Board with individuals who have relevant police and trial experience, and appointing an oversight coordinator that would be responsible for the daily administration of the Board. The City and SPD have publicly committed to implementing these reforms. To date, SPD has revised its IIU policies and added a captain to oversee IIU. In addition, the City added an additional CPHB member, bringing the total to eight members, and allocated additional resources to the CPHB.

Although SPD's and the City's efforts to address weaknesses in its policies and accountability systems is an important first step in the reform process, more is required to address the constitutional violations and systemic deficiencies detailed in this report.

[6] The second report, on policies, remains in progress.

II. METHODOLOGY

This investigation relies on several sources of information. We interviewed City officials, SPD's current and former command staff, SPD officers, and other stakeholders within the City of Springfield. We conducted onsite tours in April 2018, August 2018, December 2018, February 2019, and May 2019. We also met with SPD's Training Division, IIU investigators, and representatives of the patrol officer and supervisor unions. A significant portion of each of these interviews consisted of understanding how use-of-force policies are interpreted and applied by commanders and officers in practice.

Although we attempted several times, we did not individually interview any Narcotics Bureau commanders or officers currently serving within the Narcotics Bureau. SPD informed us that Narcotics Bureau command staff and officers were unwilling to engage in one-on-one interviews with us. We did, however, conduct a group interview with Narcotics Bureau supervisors. We also met informally with several groups of Narcotics Bureau supervisors and officers to inform them of our investigation and learn about general Narcotics Bureau operations. In all, we spoke to over 40 SPD officers and command staff.

We also sought to learn more from individuals and groups who have had direct interactions with Narcotics Bureau officers. We held community meetings in different regions of the City; met with individuals who had either witnessed, had knowledge of, or had been subjected to force by SPD officers; met with plaintiff's attorneys and criminal defense lawyers; spoke with attorneys in the Hampden County District Attorney's Office and FBI agents working cases in the Springfield area; and spoke to over 50 religious leaders and community stakeholders. We also met with the majority of CPHB members.

This investigation also included an extensive review of documentary evidence. We reviewed over 114,000 pages in total, including SPD's policies and procedures; training materials related to the use of force and accountability; SPD internal affairs protocols; and other materials relating to the general operations of the Department and use-of-force practices in particular. We also reviewed over 100 report files for over 100 internal investigations conducted by IIU, as well as 74 personnel files.

Most significantly, the investigation included a comprehensive review of officer reports regarding specific incidents in which an SPD officer used force. There is no single report used to document force within SPD. Rather, officers use three main types of documents to record force – (1) the "Prisoner Injury File," (2) the "Arrest Report," and (3) the "Use-of-force Report" – each of which is described below:

1. Prisoner Injury Files. A "Prisoner Injury File" is the most common report that officers use to document the use of force. Each such file includes:
    a. SPD-276 form;
    b. Non-mug shot photographs of the arrestee and his injuries;
    c. Prisoner injury report narrative(s); and
    d. Arrest Report.

When a prisoner is booked, an officer in charge (typically the booking sergeant) must complete an SPD-276 form when he or she "finds any bruises, cuts or other injuries" on a prisoner.[7] In the SPD-276 form, the officer documents the arresting officer's name(s), the prisoner's name, the prisoner's marks or bruises, and how the marks or bruises were caused. The booking sergeant also takes non-mugshot photos for inclusion in the file.

Under SPD policy, the commanding officer also obtains prisoner injury report narratives from all officers involved with the arrest if a prisoner's injury is alleged or suspected to have been inflicted by an officer.[8] In the report narratives, officers are supposed to detail any force used by the involved officers and the circumstances surrounding the use of force. A prisoner injury file also includes the related arrest report for the encounter in which the injury was sustained.

If a prisoner's injury requires medical attention, policy requires the SPD Captain of Professional Standards to cause a preliminary investigation to be conducted to ensure that proper procedures were followed.[9] The prisoner injury files we reviewed generally included a boilerplate memo from the commanding officer stating that the prisoner's injuries were consistent with the officers' narratives and recommending no further investigation into the incident.

2. Arrest Reports. Some references to uses of force are also captured on SPD's "Arrest Report" form. This form is principally used to document arrests, not uses of force, but the form includes a section where officers document the circumstances and justification for an arrest, which sometimes include reports of force being used. However, while an arrest report narrative may reference the force incidentally used to effect an arrest, it does not typically provide a detailed description of the actions justifying a use of force, and/or the precise nature of the use of force that one would expect in a use-of-force report.

3. Use-of-force Reports. SPD only requires officers to file a "Use-of-force Report" when they use a less-lethal force *tool*, such as electronic weapons (*e.g.*, Tasers), oleoresin capsicum spray (OC spray), batons, or other impact tools. Unlike most other police departments, SPD policy does not require written reports to be completed when hands-on force alone is used, such as punching or kicking.[10]

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[7] *See* Massachusetts General Law (M.G.L.) ch. 276 § 33.

[8] Revised AO 88-594 Prisoner Injury/Arrest Reports (effective date Jan. 27, 2010).

[9] SO 10-005, Prisoner Medical Attention Injury (effective date Jan. 17, 2010).

[10] SPD General Order 500.76, Reporting the Use of Deadly Force and Less Lethal Force Tools, p. 2 (effective date Jan. 1, 2015). By contrast, most other police departments require officers to report any kind of force that exceeds what is necessary for compliant handcuffing. For example, the Massachusetts Chiefs of Police Association recommends that: "All officers shall complete a Use of Force Report if they are involved in any instance wherein physical force greater than handcuffing of a compliant detainee, 'soft hand physical compliance techniques' or 'come-alongs' are utilized…" *See* https://www.erving-ma.gov/sites/ervingma/files/uploads/1.01_use_of_force.pdf; *see also* Baltimore Police Department Policy 725, Use of Force Reporting, Review, and Assessment, p. 2,4 (effective date Nov. 24, 2019) (requiring

> While SPD policy does not preclude officers from reporting other types of force, no officer we interviewed indicated that he or she submits use-of-force reports for hands-on uses of force. Instead, SPD officers sometimes report uses of hands-on force informally in one of the two other forms listed above: a prisoner injury report narrative or an arrest report.

We requested and received every arrest report and use-of-force report for a five-year period spanning from 2013-2018, and every prisoner injury file created from 2013 through 2019. This set of documentation included over 1,700 prisoner injury files, approximately 26,000 arrest reports, and over 700 use-of-force reports. In light of the fact that this investigation is focused on the Narcotics Bureau specifically, we reviewed every one of the 84 prisoner injury files involving a Narcotics Bureau officer's use of any form of force from 2013-2019, as well as many of the approximately 5,500 Narcotics Bureau arrest reports between 2013 and 2018. We also reviewed all use-of-force reports involving Narcotics Bureau officers from 2013-2018 – a total of just 10 reports for a five-year period. Some of the 10 use-of-force reports overlap with the uses of force reported in the prisoner injury files and document the injuries that resulted from the use of OC spray and tasers. In addition to reviewing all Narcotics Bureau-related incident reports, we also reviewed hundreds of other use-of-force incidents, both to ensure that our investigation did not omit incidents involving Narcotics Bureau officers and to better understand the use-of-force practices of the Department as a whole.

III. THE NARCOTICS BUREAU'S USE-OF-FORCE PRACTICES

We have reasonable cause to believe that Narcotics Bureau officers engage in a pattern or practice of using excessive force in violation of the Fourth Amendment.[11] We reviewed the Narcotics Bureau's force practices mindful that officers have both the right and responsibility to protect themselves and others from threats of harm, which could arise at any point in a particular situation. Nonetheless, our investigation showed that Narcotics Bureau officers resort to force when there is no legal justification to do so, and that in situations where force is justified, Narcotics Bureau officers use force that is more severe and dangerous than is reasonable. In particular, our investigation revealed a pattern or practice of unlawful non-lethal and less-lethal use of force within the Narcotics Bureau.

A. Legal Standard

The use of excessive force by a law enforcement officer violates the Fourth Amendment. *Graham v. Connor*, 490 U.S. 386, 394 (1989). Excessive force claims are analyzed under the Fourth Amendment's "reasonableness" standard, and courts are to balance "the nature and

officers to complete use-of-force reports for hand control, escort, and pressure point compliance techniques, as well as "[f]orcible takedowns that do not result in actual injury or complaints of injury"); Portland Police Bureau, Policy 1010.00, Use of Force (effective Jan. 19, 2020) (categorizing resisted handcuffing, resisted control, and all takedowns, whether controlled or resisted, as reportable uses of force).

[11] Throughout, we use the terms "unreasonable" and "excessive" interchangeably; both terms refer to force that exceeds constitutional limits, or in other words, is disproportional in light of the threat posed to officers or others, the level of resistance, and the severity of the crime suspected.

quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake." *Id.* at 396 (internal citations omitted). Courts use a "totality of the circumstances" approach and assess the reasonableness of the force "from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* The reasonableness inquiry is an objective one: "whether the officer's actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying inquiry or motivation." *Id.* at 397. Even if uses of force do not result in serious injuries, the force can still be excessive. *Bastien v. Goddard*, 279 F.3d 10, 14 (1st Cir. 2002); *Alexis v. McDonalds Rests. of Mass., Inc.*, 67 F.3d 341, 353 & n.11 (1st Cir. 1995).

While this investigation focused on whether Narcotics Bureau officers' use-of-force practices exceed constitutional limits, SPD also places limits on officers' use of force through Department policies. SPD's main general order governing the use of force provides: "It is the policy of the Springfield Police Department that an officer's force response must be objectively reasonable in consideration of the officer's perception of the risk/threat presented, and the officer's perception of the subject's actions."[12] That general order also contains a use-of-force continuum that indicates available force options in particular situations depending on the level of resistance an officer encounters.[13]

To establish a pattern or practice of violations, the United States must prove "more than the mere occurrence of isolated or 'accidental' or sporadic discriminatory acts." *See Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324, 336 (1977). It must "establish by a preponderance of the evidence that . . . [violating federal law] was . . . the regular rather than the unusual practice." *Bazemore v. Friday*, 478 U.S. 385, 398 (1986) (quoting *Teamsters*, 431 U.S. at 336); *see also EEOC v. Am. Nat'l Bank*, 652 F.2d 1176, 1188 (4th Cir. 1981) (explaining that a "cumulation of evidence, including statistics, patterns, practices, general policies, or specific instances of discrimination" can be used to prove a pattern or practice). Additionally, unlike Section 1983 *Monell* claims brought by private plaintiffs, the United States does not need to show that the City had an official custom or policy that was the "moving force" behind the constitutional violations in order to establish municipal liability under Section 12601; rather, the pattern or practice of unconstitutional conduct is alone sufficient to establish liability. *See United States v. Town of Colo. City*, 934 F.3d 804, 811 (9th Cir. 2019) (holding that Section 12601 establishes liability for municipalities based on general agency principles).

B. SPD's Narcotics Bureau Engages in a Pattern or Practice of Unreasonable Force in Violation of the Fourth Amendment

Our investigation determined that Narcotics Bureau officers use non-lethal and less-lethal force unreasonably with high frequency. Our review of 2013-2019 prisoner injury files involving Narcotics Bureau officers, for example, showed that a substantial portion of reported uses of force were unreasonable, based on an application of the standards articulated in *Graham v. Connor*, 490 U.S. 386 (1989), and an examination of whether the officers' level of force was proportional in light of whether the subject demonstrated compliance, passive resistance, active

[12] SPD General Order 100.20 (Effective Date: Jan. 1, 2015) at 1.

[13] *Id.* at 2-5.

resistance, or assaultive behavior.[14] Within this pattern or practice of excessive force, our investigation identified a specific trend of Narcotics Bureau officers striking suspects in the head, or otherwise using force that results in blows to the head, in situations where such force is not justified. Our investigation was narrowly focused on the use of force by the Narcotics Bureau; however, our conclusion is supported by evidence of other SPD officers escalating encounters and employing head strikes without justification.

Narcotics Bureau officers regularly punch subjects in the head and neck area without legal justification. The routine reliance on punches during arrests and other encounters that we discovered during our investigation indicates a propensity to use force impulsively rather than tactically, and as part of a command-and-control approach to force rather than an approach that employs force only as needed to respond to a concrete threat. This reliance on punches to the head also indicates a failure of officers to appropriately comprehend the seriousness of head strikes and the resistance that must be encountered to justify their use. Punches and other blows to the head are dangerous, and can create a substantial likelihood of causing death or serious bodily injury. *See Conlogue v. Hamilton*, 906 F.3d 150, 156 (1st Cir. 2018); *Wade v. Fresno Police Dep't.*, No. 1:09-CV-0599 AWI-BAM, 2012 WL 253252 (E.D. Cal. Jan. 25, 2012), *aff'd*, 529 Fed. Appx. 840 (9th Cir. 2013) (unpublished) ("Choking and punching are broadly characterized as non-lethal levels of force, though both may be employed in a manner that creates a substantial risk of death or serious bodily injury.").

To its credit, SPD has adopted general orders that recognize the seriousness of head strikes. A policy on impact tactics provides that "officer[s] should avoid strikes to the subject's head, neck, spine, kidney and solar plexus area(s). Targeting of more vulnerable areas of a subject's body should be undertaken only under the proper circumstances."[15] And SPD's main use-of-force policy designates head strikes as a "level four" use of force on a five-level continuum, with only deadly force requiring greater justification. The policy establishes that punches to the head are not permissible unless a subject is actually "assaultive," defined as engaged in a perceived or actual attack on the officer or another person. If a subject is instead exhibiting only "active resistance," an SPD officer must use compliance techniques other than punches to the head.[16]

Similarly, according to nationally accepted standards, punching a subject in the face should not be the first method of trying to gain compliance of a subject. Indeed, some states'

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[14] As discussed in detail in Section III.C, our analysis likely undercounts the frequency of unreasonable force. First, of the Narcotics Bureau prisoner injury files from the period that we reviewed, in 46% of cases, officers failed to provide sufficient detail to make a determination one way or another as to the legality of the force used. These incidents did not factor into our investigative conclusions about excessive force even though the records of these incidents do not contain adequate information to determine the force used was justified. Moreover, while we reviewed all reported Narcotics Bureau uses of force, our investigation identified evidence that force used by Narcotics Bureau officers commonly goes unreported. For example, in reviewing all of the Narcotics Bureau's 2017 arrest reports where the narrative indicates that the prisoner was likely to have been injured at the hands of an officer, booking sergeants only completed SPD-276 forms 11% of the time, indicating a large number of force incidents that were not reported by officers, reviewed by supervisors, or available to us during this investigation.

[15] SPD General Order No. 500.50, Impact Tactics.

[16] SPD General Order 100.20, at pp. 3-4 (effective date Jan. 1, 2015).

training standards expressly note the dangers of this form of force, including that "a blow of sufficient force with any personal body weapon [such as hands and feet] to a vulnerable part of body during an attack could result in injury or fatality," including face, throat, head, and neck.[17] Scientific and professional literature confirms that punching someone in the head, face or neck area has the potential to cause disfigurement, damage major blood vessels, can lead to traumatic brain injury, and can possibly even sever the spinal cord.[18] Punches to the head also often result in additional head injuries if and when a subject falls to the hard ground. In addition, fist strikes are not only dangerous for subjects, but also create a real risk of injury to officers. If an officer injures his or her dominant hand while executing a fist strike, the officer is made vulnerable by being unable to access other force tools to protect himself.[19] Even in situations where strikes to a subject's head are warranted, palm strikes or hammer punches are safer for both the officer and subject than knuckle punches.

Contrary to law, SPD policy, and national standards, Narcotics Bureau officers routinely resort to punching subjects' head areas with closed fists as an immediate response to resistance without attempting to obtain compliance through other less serious uses of force. Out of all 84 Narcotics Bureau Prisoner Injury Files from 2013 through 2019, roughly 19% of the uses of force reviewed included punches to subjects' heads, and approximately an additional 8% involved injuries to subjects' heads from another form of a head strike. In a significant number of these cases, such force was unreasonable.

For example, in one incident, Narcotics Bureau officers punched V.A., a 25-year-old man, following a foot pursuit.[20] When the four Narcotics Bureau officers approached V.A. and motioned to him to remove his earphones, officer reports state that V.A. pushed one of the officers and began running away. After they caught up to V.A., a Narcotics Bureau supervisor delivered multiple punches to V.A.'s face, allegedly because V.A. looked prepared to fight by holding his closed fist in a "punching position." V.A. sustained a broken nose and lip laceration requiring three stitches. The incident then allegedly continued on the ground with an officer and V.A. exchanging blows, though there is no evidence indicating that the officer sustained any injuries. Instead, it appears that officers chased V.A. and initiated the use of force by striking V.A., a non-assaultive subject, with multiple punches, immediately using a means of force that was disproportionate to the subject's resistance without attempting other less dangerous uses of force. Given that four officers were present, other methods of control could have been used instead of immediately punching him in the head.

In another incident, a Narcotics Bureau officer punched T.S., a 17-year-old youth, as he rode a motorbike past a group of Narcotics Bureau officers. At the time of the punch, the officers were making unrelated arrests; when the youth rode his motorbike past the officers,

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[17] California Peace Officers and Standards Training LD 33.01.E04.

[18] Ed Flosi, *When a Cop Throws a Punch to the Face*, policeone.com, Nov. 11, 2010, available at https://www.policeone.com/legal/articles/2866927-When-a-cop-throws-a-punch-to-the-face/; *Traumatic Brain Injury*, American Association of Neurological Surgeons, available at https://www.aans.org/en/Patients/Neurosurgical-Conditions-and-Treatments/Traumatic-Brain-Injury.

[19] *See* Mike Siegfried, *Safer Strikes*, policemag.com, Aug. 5, 2010, available at https://www.policemag.com/340364/safer-strikes.

[20] Name abbreviations used in this letter are pseudonyms.

reportedly at a high rate of speed, an officer struck the youth. In the involved officer's arrest report, he does not characterize the strike as a punch, but rather states that he "extended his left arm" to prevent the youth from colliding with him on the motorbike. The 17-year-old then "swerved" his motorbike and the officer ended up "mak[ing] contact" with the youth's head and shoulder area. Administering a fist strike in this circumstance was particularly dangerous as the youth could have easily lost control of the motorbike, severely injuring himself, the officer, or others. The subject's brother, L.S., was also punched in the face, but by a different Narcotics Bureau officer. The officer who punched L.S. reported that he did so because L.S. ran towards the officer "with his fist clenched and arm cocked back." None of the other officers at the scene corroborated the punching officer's account.

In a third incident, a Narcotics Bureau officer pushed J.B., a 22-year-old man, in the face following a foot pursuit where J.B. exhibited no assaultive behavior. After four Narcotics Bureau officers observed J.B. to be engaged in a narcotics transaction, an officer engaged in a foot pursuit and shoved J.B. from behind so that he fell to the ground. As reported by the officer in the prisoner injury report narrative, J.B. rolled over and began to push at the officer in an attempt to escape, as opposed to in an assaultive manner. The Narcotics Bureau officer then struck J.B. in the face with a closed fist, resulting in a laceration to his lower lip. Nothing in the officer's narrative indicated that J.B. was engaging in the kind of active physical threat that would condone the use of a knuckle punch to the face. The fact that four Narcotics Bureau officers were involved in this arrest made it even less necessary to strike the subject in the head to gain compliance.

These incidents are merely examples and are not atypical within the Narcotics Bureau. We found multiple incidents in which officers used head strikes following a pursuit, even when officer reports suggest the subject was already subdued, including an incident where the Department of Justice has charged the officer with criminal color of law violations. Tellingly, a former Narcotics Bureau officer reported that people know that if you mess with the SPD or try to run, you "get a beat down." Incident reports we reviewed support this officer's observation.

In many incidents involving head strikes, Narcotics Bureau officers unnecessarily escalate encounters and immediately punch subjects without employing other control tactics that are lower on the use-of-force continuum. While law enforcement officers may inevitably need to use force to carry out their job, the law prohibits officers from using force that is disproportionate to the threat at hand. *See Graham*, 490 U.S. at 396; *Jennings v. Jones*, 499 F.3d 2, 11 (1st Cir. 2007). Generally, using a greater level of force is not reasonable when the officer did not encounter "any danger or physical resistance that required him to escalate his use of force" to effectuate arrest. *See Jennings*, 499 F.3d at 20-21 (use of increased force after a subject stops resisting violates the Fourth Amendment). Nonetheless, we reviewed multiple incidents in which officers used more severe force than the situation warranted.

In the course of one drug arrest, for example, a Narcotics Bureau officer punched R.F., a slight, middle-aged man, while attempting to retrieve contraband. Officer reports state that R.F. resisted opening his fist and instead attempted to free his wrist from the Narcotics Bureau officer's grasp; officers then immediately punched him in the face. The Narcotics Bureau officer who punched R.F. escalated the situation without attempting other means of gaining compliance,

unnecessarily resulting in a serious use of force. R.F. is not a large individual – 5'9" and 140 pounds – and there was no evidence that he had access to a weapon or otherwise posed a threat. The arrest report also shows that at least four Narcotics Bureau officers were on the scene. These circumstances do not justify escalating the encounter to include use of a head strike.

In many situations, Narcotics Bureau officers quickly escalate their situational responses to involve force without first identifying themselves as officers or issuing verbal commands. Given that Narcotics Bureau officers often operate as plainclothes officers, they often do not have uniforms or other indicators that would help distinguish them as law enforcement officers. Nonetheless, we found that officers fail to take basic steps to identify themselves before resorting to force. *See Shea v. Porter*, 56 F. Supp. 3d 65, 88 (D. Mass. 2014) (considering the fact that the subject did not believe or know that the person in plain clothes was indeed a police officer as an additional factor weighing in favor of a finding of excessive force). In one incident, *see infra* Section III.C.3., video footage shows that officers rushed into a store and immediately hit S.L. in the face. The encounter happened so quickly that it appears the plainclothes officers failed to identify themselves. The video lacks audio, but at a minimum, the video makes clear that if officers did announce themselves or issue a command, they failed to provide S.L. with any time to react to the officers and surrender before he was hit.

Relatedly, we reviewed incidents in which officers' failure to identify themselves resulted in pursuits that ultimately escalated into unreasonable uses of force. In two nearly identical situations we reviewed involving vehicle pursuits, the drivers stated that they did not immediately stop their vehicles because they did not know that the plainclothes Narcotics Bureau officers in pursuit were in fact officers and instead feared they were being chased by criminals. The narcotics officers were in unmarked cars, and did not activate their lights. Once the drivers did eventually stop their cars—in one case because an officer in a marked cruiser came on scene and activated his blue lights, and in the other case because the individual collided with another car—the police then used unreasonable force to effect the arrests.

In the case of P.J., he claimed that he fled in his vehicle because he was being chased by an unmarked vehicle and did not know law enforcement officers were in that vehicle. In one report, an officer describes "extracting [P.J.] through the passenger side door and proned [him] face down onto the pavement." Photos show he sustained significant injuries—severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. These injuries are inconsistent with the officers' reports that P.J. had "small cuts to the face," and are instead consistent with repeated strikes of his head.

In the case of F.D., two Narcotics Bureau officers, including one supervisor, stated that after a brief pursuit of F.D.'s vehicle, they pulled F.D. from the car onto the ground. One officer's report says F.D. was "placed" on the ground and another officer's report states that F.D. was "escorted" to the ground. But photos of the abrasions to F.D.'s face demonstrate the use of serious force and multiple points of impact including: the left side of his forehead, the right side of his forehead, and his cheek. F.D. reported in an interview that he was kicked in the face and upper body area 10-12 times, with multiple officers taking turns kicking him. Regardless of whether these injuries were caused by an aggressive takedown or direct kicks to the head, the

prisoner injury report narratives do not indicate that any such force was necessary. None of the officer reports state that F.D. resisted arrest or was combative, and this is further supported by the fact that he was not arrested for resisting arrest or assault and battery of a police officer. According to documents, 12 officers were listed as involved with the arrest and four officers completed prisoner injury report narratives, all arising from an incident that began when F.D. failed to stop because he did not know he was being chased by officers.

Had Narcotics Bureau officers properly announced themselves and given P.J. and F.D. an opportunity to surrender peacefully, which both reportedly did once they finally realized the plainclothes officers were law enforcement officers, the Narcotics Bureau officers could have likely engaged in a straightforward arrest without the use of unreasonable force.

In addition to directly striking subjects' heads, Narcotics Bureau officers also engage in similar conduct that, like head strikes, could reasonably be expected to cause head injuries without legal justification, including conducting unnecessarily forceful takedowns. This type of force is particularly troublesome because the resulting crash to the pavement can cause serious injuries such as bone fractures and head trauma. *See Raiche v. Pietroski*, 623 F.3d 30 (1st Cir. 2010) (tackling plaintiff from his motorcycle and slamming him into the pavement constituted excessive force).

For example, in the course of a recent arrest, roughly a dozen officers, most of them Narcotics Bureau officers, executed a narcotics warrant for A.E. After a vehicle pursuit, A.E. eventually stopped but refused to get out of the car, and officers physically pulled him out. At some point during his extraction from the car, A.E.'s head struck the pavement directly, and the booking photos show significant swelling in his right forehead area in two points of impact, indicating that officers likely used additional force once A.E. was on the ground. The officers' own reports indicate that Narcotics Bureau officers had A.E. under control at all times, and nothing indicates that his head needed to be slammed to the pavement. Despite the serious head injuries depicted in the booking photos, one officer's report described A.E. as having only a "minor injury" above his eye. Notably, the Narcotics Bureau officers' accounts of what happened in the course of the arrest are also inconsistent with each other. One Narcotics Bureau officer reported that A.E. and other officers fell to the ground together, and that A.E. then continued to struggle and resist handcuffing. Another officer did not mention that any officers fell to the ground, and instead reported that A.E. tried to pull away when officers handcuffed him and "stumbled falling to the ground." Viewed in isolation, each officer's report fails to describe circumstances that would justify the level of force used in this encounter. Viewed together, the inconsistencies between these reports demonstrate that the officers did not accurately report how A.E. sustained the significant and multiple injuries to his head.

Across these and other incidents, we identified trends and practices that are unique to the specialized work of the Narcotics Bureau. First, as discussed above, the fact that Narcotics Bureau officers often fail to identify themselves when they are in plainclothes and attempting to stop or arrest a suspect has resulted in unreasonable—and avoidable—uses of force. Second, Narcotics Bureau officers often execute search warrants or planned seizures, operations that often involve many officers. The tactical benefit of having multiple officers on scene should be that officers have the opportunity to engage in more strategic planning of the arrest or raid. In

practice, however, the presence of multiple narcotics officers appears to lead to less thoughtful decision-making and increased uses of force. Further, in some of the incidents summarized above, one of the many officers on scene included a supervisor, which means that supervisors are not only involved in the use of force, but implicitly approving the uses of force.

C. Narcotics Bureau Force Violations Are Likely More Widespread Than Indicated in SPD Documents

Our investigation shows that the pattern or practice is likely more widespread than is captured by SPD documents. We identified substantial evidence that, over the last six years: (1) Narcotics Bureau officers failed to report use-of-force incidents that should have been reported even under SPD's lax policies; (2) where force did get reported, officers often used vague language, which prevented us from identifying a particular use of force as unlawful in a significant number of cases; and (3) officers made false reports that were inconsistent with other available evidence, including video and photographs, suggesting that there are additional instances of unreasonable force that we were not able accurately to assess in cases where no photographic or video evidence exists.

1. Narcotics Bureau officers underreport uses of force

Narcotics Bureau officers regularly underreport uses of force and the injuries that result. As discussed above in Section II, SPD policy requires all uses of force that cause an injury to a subject to be documented in a prisoner injury file; only then is a particular use of force reviewed by a supervisor. During our review of arrest reports, however, we identified a large number of incidents in which officers reported using force to apprehend a suspect on the arrest report but failed to complete an accompanying prisoner injury file to specifically document the force used. These references to force in arrest reports included uses of force like takedowns or forcibly removing a suspect from a vehicle while he or she was resisting. While the officers' descriptions of force in these arrests reports is typically vague, in many cases, the force was likely to have caused some injury. In 2018, there were 32 Narcotics Bureau arrest reports that referred to a use of force where an injury may have likely occurred. Yet, Narcotics Bureau officers failed to complete a prisoner injury file in 21 (66%) of those incidents. Similarly, for 2017, 81 Narcotics Bureau arrest reports referred to a use of force where an injury to a prisoner likely occurred. Narcotics Bureau officers failed to complete a prisoner injury file in 72 (89%) of those cases.

For example, during the execution of an arrest warrant in 2017, a Narcotics Bureau officer used force against a subject who refused to exit his home, but the officer did not report the use of force in a prisoner injury file. Citing an "aggressive barking dog," the officer executing the warrant deployed one burst of oleoresin capsicum (OC) spray to the subject's face through a window, and then pulled the subject through the door. Once the subject was out of the house, the officer used a leg sweep, causing the subject to land on the floor of the porch. The officer then struck the subject with his fist in the upper arm/shoulder area. The force employed during this incident was not reported in a prisoner injury file.

According to another Narcotics Bureau arrest report from 2018, while executing an arrest warrant related to the sale of narcotics, officers took a subject from the front seat of a car and

placed him face down on the street in order to be handcuffed. The arrest report notes that he "sustained minor abrasions to his forehead." There is no accompanying prisoner injury file for this incident.

Among the over 5,000 Narcotics Bureau arrest reports we received during our investigation, many refer to a use of force that is not documented anywhere else. Given that arrest reports only contain cursory references to force used during the arrest, the failure to properly complete a prisoner injury file in cases where force resulted in injury likely shielded many additional uses of force from our review. This also underscores the failures in supervisory oversight within the Department, as supervisors reviewing these arrest reports should have filled out SPD-276 forms at the time of booking, and additionally directed the involved officers to fill out prisoner injury report narratives.

2. Prisoner injury report narratives are often vague and fail to detail officer actions

Narcotics Bureau officers' narratives in the prisoner injury reports they do file are consistently vague and use generic, patterned language. In many cases, this makes it impossible to identify the circumstances surrounding a particular use of force or whether the reported force was unreasonable. Indeed, we were unable to make a determination about the reasonableness of force in 43% of the Narcotics Bureau prisoner injury files reviewed during this investigation, and accordingly, supervisors too lacked the information they needed to determine whether their officers were using force appropriately.

Officers regularly use rote and pat language to justify their uses of force without providing individualized descriptions. Reports often contain conclusory language calling a particular use of force reasonable without describing in detail the circumstances surrounding the use of force. One report, for example, said that as the officer attempted to stop the subject from fleeing, they "both violently fell to the ground. Once on the ground [the subject] continued to struggle[,] at which point [another officer] arrived and began assisting and controlling and placing [the subject] under arrest." The report concludes by stating, "[o]nly reasonable and necessary force was used to apprehend the subject." Other reports acknowledge some sort of a struggle, but fail to document the specific resistance encountered or the specific type of force used by the officers involved. One such prisoner injury narrative simply stated about a female subject that, "[d]ue to her resisting [arrest] and in order for us to safely handcuff her, we had to bring her down, in a prone position, face first, onto the sidewalk. During this struggle she sustained scrapes to her face area."

The use of vague and rote language obscures the details of many incidents, and precludes meaningful supervision and oversight within the Department.

3. Narcotics Bureau officers submit reports with inaccurate or falsified information

During our investigation, we sought to compare the narratives Narcotics Bureau officers reported in prisoner injury files with other available evidence regarding the same incident, such

as photographs and/or videos. We found multiple incidents in which available evidence discredited the Narcotics Bureau officers' account of what occurred. This is consistent with a former SPD officer's characterization of the Narcotics Bureau as a "rogue unit," whose officers were known for routinely cutting corners.

In the case of P.J., described above, a Narcotics Bureau officer stated that he made an effort "to extract[ ] [P.J.] through the passenger side door and prone[] [him] face down onto the pavement." According to another officer's narrative, this resulted in "minor abrasions to the right side of his face," and according to the booking sergeant in charge of filling out the SPD-276 form, P.J. had "small cuts to the face." These descriptions of P.J.'s injuries are plainly contradicted by the photographs in his prisoner injury file. These photographs clearly show severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. The injuries present in the photographs are inconsistent with the officers' reports, and are instead consistent with repeated strikes to P.J.'s head. Further, when interviewed by IIU after P.J. filed a complaint, a civilian witness stated that she saw officers kick P.J. in the head and body. During his IIU interview, P.J. stated that one officer struck him in the head with the butt of a handgun, and that once on the ground, several officers began kicking and punching him in the head and the body. P.J. further alleged that, once back at the station and in a holding room, a Narcotics Bureau officer walked in and beat him severely in the face with a book, causing him to bleed profusely. To be clear, there is no other corroboration of P.J.'s version of events besides the photographs we reviewed and the statement of the civilian witness. But these pieces of evidence are more consistent with some of P.J.'s reporting of the takedown than the officers' reports. Although IIU investigated P.J.'s complaint, IIU failed to sustain P.J's allegations and the officers received no discipline.

Instances of officers downplaying the extent of a prisoner's injuries in their official reports were commonplace in the files we reviewed. In another prisoner injury file, Narcotics Bureau officers report that M.K., a 5'3" man, had a "small cut over and under his left eye," whereas the photographs show not only the small cuts but that his eye was almost swollen shut.

In a 2016 incident, security camera footage directly contradicted aspects of the reports of Narcotics Bureau officers. In reports documenting a Narcotics Bureau arrest of S.L., a Narcotics Bureau officer stated that as he reached out to secure S.L., S.L. "backed away and struck [him] in the face with a closed fist." The officer reported that he then struck S.L. in the face and upper body in an attempt to stop S.L. from striking him again. As reported by the officer, the circumstances of this interaction would justify the force used. But the officer's account is belied by video evidence, which shows S.L. standing, looking down at a piece of paper in his hand, when two plainclothes officers rush towards S.L., grab his wrist and tackle him to the ground. But for the video evidence of what happened in this use of force, the use of force described in the misleading reports provided by the officers would have appeared reasonable.

In many cases, we were only able to identify untruthful reporting—and deficiencies in the way force was actually used—because photographic and/or video evidence happened to be available. However, these inaccurate reports indicate that it is not uncommon for Narcotics Bureau officers to write false or incomplete narratives that justify their uses of force. Because

many prisoner injury files lack photographs of subjects' injuries (in contravention of SPD policy) or video evidence of the arrest, the inaccurate narratives raise substantial concern that there are other uses of unreasonable force that are falsely reported.

D. Deficiencies in Basic Department Operations Contribute to the Narcotics Bureau's Pattern or Practice of Excessive Force

SPD's deficient use-of-force and accountability policies—failure to require detailed and consistent use-of-force reporting, and failure to meaningfully review use-of-force reporting—directly contributes to the Narcotics Bureau's pattern or practice of unreasonable force. Conversely, reform in this area would go a long way to mitigating the problem.

1. SPD policy does not require appropriate use-of-force reporting

SPD's use-of-force policies establish a use-of-force continuum showing different levels of resistance and the severity of force justified by each. However, the Department's use-of-force policies lack certain common provisions that, if adopted, could have the capacity to reduce the incidence of unreasonable force. Most significantly, while we identified many instances in which Narcotics Bureau officers unnecessarily escalated encounters, SPD policy does not require officers to attempt to de-escalate encounters before resorting to force. The relevant policy states only that officers "may de-escalate, stabilize or escalate his/her response based upon his/her risk assessment and the perceptions of the subject's degree of compliance or non-compliance." The policy does not provide guidance regarding potential de-escalation techniques available to officers. Further, while we identified several uses of unreasonable force where multiple officers were on the scene, SPD policy does not require officers to intervene if they observe an unlawful use of force occurring.[21]

Moreover, the use-of-force reporting policy does not require the reporting of certain significant uses of force, such as takedowns, punches, or other "hands on" uses of force. Further, even where policy requires reporting of particular types of force, policy does not specify the level of detail to be reported or supervisor responsibilities in reviewing the reports. Thus, current policy allows the vague reporting we saw in prisoner injury report narratives and arrest reports. Without a reporting mechanism that documents force and is reviewable by supervisors, Narcotics Bureau officers are able to engage in force without appropriate oversight.

As discussed in Section II, three types of reports can contain information regarding a use of force: (1) Prisoner Injury Files; (2) Arrest Reports; and (3) Use of Force Reports, which must be completed following the deployment of specific weapons, including OC spray and electronic control weapons. Even in combination, however, these forms do not capture – and SPD policy does not require the reporting of – uses of force that do not involve specific weapons or injuries to jailed suspects. This massive gap in policy means that officers do not report many uses of force.

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[21] While we did not review any incidents involving lethal encounters, SPD policy also does not include any requirement that officers attempt to warn individuals before firing their service weapons if it is reasonable to do so, does not prohibit or otherwise directly limit the use of neck restraints, and does not explicitly require that medical care be provided following a use of force once it is safe to do so.

First, prisoner injury files are ineffective as a general force report as they are not used to capture force unless it caused an observable injury. This provides too much discretion as to whether force should be reported, and risks officers being able to avoid reporting uses of force that *do* result in injuries by claiming they did not see one. Nor does SPD policy provide any guidance regarding what constitutes an "injury" and thus triggers the required creation of a prisoner injury file, which exacerbates the inconsistency of reporting. Under SPD policy, Narcotics Bureau officers need not report uses of force involving strong hands, punches and other hand strikes, feet, or elbow strikes unless they result in an injury. In interviews with Narcotics Bureau officers and other SPD officers, they confirmed that it is not Department practice to record these types of uses of force, and that any use of arrest reports or prisoner injury files that happen to document such encounters is aberrational. This practice is especially problematic given that Narcotics Bureau officers primarily use hands-on force.

Second, current force reporting practices do not capture any uses of force against a non-prisoner or a non-arrestee. Because prisoner injury files and arrest reports are the primary documents used to capture uses of force, no mechanism exists to monitor uses of force against individuals who are stopped by the police but not ultimately arrested. Indeed, we reviewed multiple IIU complaints against Narcotics Bureau officers for using excessive force against individuals who were not arrested. In one of them, the complainant alleged that a Narcotics Bureau officer reached in the car while she was driving, pushed her against the seat, and grabbed her hand and slammed it into the dashboard so hard that she was bruised. In her IIU complaint, she submitted photos showing bruises. Because she was not arrested, no arrest report or Prisoner Injury file exists for this incident. In another incident, the complainant alleged that a Narcotics Bureau officer pulled him out of a car and handcuffed him roughly, only to release him because they had attempted to arrest the wrong person. Following IIU investigations, neither of these complaints were sustained. The importance of access to IIU and strong complaint investigation procedures is particularly salient in situations where SPD officers do not have to draft arrest reports or other documentation concerning an encounter with an individual. Under SPD's current system, an IIU complaint is the only way these allegations of officer force will come to light.

Third, though many officers essentially treat the prisoner injury report narrative as a general use-of-force report, prisoner injury files serve a very different function: namely, to comprehensively document and review prisoner injuries alleged or suspected to have been inflicted by an officer. Because of this principal function, officers tend to use the report narratives only to document injuries. In many cases, officers simply report injuries that prisoners had before officers arrived, likely for liability purposes. For example, of all prisoner injury files from 2013 through 2018, the content of about one-third was limited to documenting that a prisoner had an injury before officers arrived to the scene.

2. Narcotics Bureau supervisors do not meaningfully review uses of force

The fact that Narcotics Bureau officers can routinely submit use-of-force reports and prisoner injury report narratives that lack meaningful detail about a use of force is especially concerning in light of the fact that Narcotics Bureau supervisors reviewed and approved all of

the uses of force, including those highlighted in this report. Despite the many instances of unreasonable force identified by our team, SPD Captains signed off on every single prisoner injury file without once referring an incident of force to the Commissioner for IIU investigation. This occurred despite the fact that, on multiple occasions, outside evidence, including video footage, demonstrated that Narcotics Bureau officers' descriptions of events involving use-of-force situations was not credible.

SPD does not have a policy addressing supervisory responsibilities in reviewing prisoner injury files, arrest reports, or use-of-force reports, and the dearth of detail contained in the prisoner injury files supports a conclusion that supervisors do not ask questions, require more information to be submitted, or critically review the reports to ensure that uses of force are appropriate. This results in failures in supervisory oversight at every stage of review. We understand that, in theory, prisoner injury files are reviewed by a sergeant, a watch commander, the SPD Quality Assurance Captain, and ultimately the Commissioner. In practice, however, it appears that the prisoner injury files are rubber stamped without any meaningful review.

As discussed above in Section II, booking sergeants fill out the SPD-276 form. Booking sergeants are not assigned specifically to the Narcotics Bureau, but are supervisors who are stationed at the booking desk and help process arrestees – regardless of the specific unit that arrested the person. Almost universally, these entries on the SPD-276 form are brief and lack detail. Nor does it appear that supervisors require officers to provide more information when additional detail is needed to describe an encounter. For example, it is not uncommon for booking sergeants to document that a prisoner "states undercover officers beat him," or that a prisoner states that "officers punched and used knees to hit him." These statements should lead to further inquiry by the reviewing supervisor to identify the nature of the force to determine whether it was reasonable. Nothing in policy requires supervisors to do so, nor do they do so in practice.

The SPD Quality Assurance Captain reviews prisoner injury files to flag any instances where a prisoner's documented injuries are inconsistent with the prisoner injury report narratives. This review occurs after the chain of command of the officer using force reviews the file. While this role is important, it does not appear that the review is meaningful. Of all 1,700 prisoner injury files produced, we saw only 179 SPD Quality Assurance Captain memos analyzing whether a prisoner's injury was consistent with the officer's account. The Quality Assurance Captain signed off on <u>every single</u> prisoner injury file, without once referring an incident of force to the Commissioner for IIU investigation. Indeed, during our review of every prisoner injury file between 2013 and 2018, we only saw a single instance in which the Quality Assurance Captain requested that the arresting officers submit report narratives to explain how the prisoner received his injury when the officer narratives were absent; once submitted, the file was approved without referral to IIU. We heard in interviews that the Quality Assurance Captain refers prisoner injury files to IIU regularly, but we saw no evidence or documentation of this in our review of the prisoner injury files, and our reviews of IIU investigations similarly did not reveal any use-of-force investigations based on prisoner injury files that had been administratively referred by the Commissioner.

The lack of rigorous supervisory review of uses of force enables deficient force reporting by involved officers. More significantly, it leads to officers using force, particularly hands-on force, without fear of oversight or consequence.

3. SPD does not have adequate systems in place to detect, address, and prevent officer misconduct

Police departments have the responsibility to detect misconduct and take steps to prevent their officers from engaging in it. The components of an effective accountability system are well-established and include procedures to ensure that misconduct is fully reported by fellow officers and supervisors; that complaints from members of the public are accepted and not discouraged, and that all allegations of misconduct are investigated thoroughly and fairly, without regard to improper external factors or biases. Developed and implemented properly, these systems will fairly and objectively determine whether officers acted both lawfully and consistently with departmental policy or should instead face discipline, as well as determine whether the incident raises policy, training, tactical, or equipment concerns that need to be addressed for officer and civilian safety. These basic measures are essential for ensuring that misconduct occurs rarely and that, when it does occur, officers are held accountable.[22]

SPD does not have an adequate accountability system in place. As a result, Narcotics Bureau officers who use excessive force or engage in other violations of law or policy typically face no internal consequences. SPD fails to hold its IIU to even basic standards, creating and perpetuating an environment that permits constitutional violations by officers.

a. SPD's complaint intake processes are flawed

SPD's actions have discouraged citizens from filing complaints against officers. While SPD purports to accept citizen complaints at any location, to any officer, and in any form, we learned during our investigation that, in practice, this is not the case. SPD commanders we interviewed said that they do not accept citizen complaints and instead tell complainants that they must go to IIU. Some officers also reported that, if complainants appear at SPD headquarters on Pearl Street, officers there have similarly rejected their complaint and instead instructed them to go to the IIU office on Maple Street.

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[22] Courts considering police misconduct cases—including courts considering cases involving SPD, and Narcotics Bureau officers in particular—have long acknowledged that deficiencies in systems and operations can unequivocally lead or contribute to constitutional violations. *See, e.g.*, *Douglas v. Bigda*, No. 14-30210-MAP, Report and Recommendation Regarding Defendant's Motion for Summary Judgment (D. Mass. Oct. 14, 2016) (adopted in full by the District Court judge in *Douglas v. City of Springfield*, No. CV 14-30210-MAP, 2017 WL 123422, at *1 (D. Mass. Jan. 12, 2017) (denying the City's motion for summary judgment in a case against seven Narcotics Bureau officers for excessive force explicitly finding that, "[i]f a jury concluded that Springfield's IIU process was ineffective or weak, it could further conclude that a resulting failure to take appropriate action in response to complaints of excessive force might lead Springfield's officers to believe such conduct would be tolerated."); *Comfort v. Town of Pittsfield*, 924 F. Supp. 1219, 1233 (D. Me. 1996) (denying the Town's motion for summary judgment on claims related to police officers' use of excessive force and finding sufficient evidence to establish the possibility that a police chief's "management style created atmosphere in which officers in his command believed that he would not punish their use of excessive force.")

Community members echoed the challenges involved in filing complaints against SPD officers. We heard members of the public complain that the Department fails to provide residents with clear guidance on how and where they can obtain a complaint form. When community members are able to navigate the intake process, they assert that they are faced with lengthy delays when trying to acquire complaint forms. One community member said that when she told an officer in person at SPD headquarters that she wanted to file a complaint, the officer treated her poorly and made her wait 30 minutes before giving her the form. Another community member stated that he had to wait five hours to file a complaint at a precinct. In a case involving Narcotics Bureau officers, the federal court denied summary judgment to the defendants and concluded that SPD's "IIU documents submitted as evidence by Plaintiff show what appears to be a consistent pattern of rejecting civilian complaints against police officers." *Douglas v. Bigda*, No. 14-30210-MAP, Report and Recommendation Regarding Defendant's Motion for Summary Judgment (D. Mass. Oct. 14, 2016), adopted in full by the District Court judge in *Douglas v. City of Springfield*, No. CV 14-30210-MAP, 2017 WL 123422, at *1 (D. Mass. Jan. 12, 2017).

b. Investigations of misconduct allegations are inadequate

Even when complaints do come to SPD, there are deficiencies apparent in the quality of the investigations of those complaints, which has directly undermined SPD's ability to hold officers accountable where appropriate. These deficiencies also apply to internal referrals of misconduct.

Problems in SPD's misconduct investigations arise from the outset of the process, as there is a lack of consistency in how SPD classifies complaints. Like many departments, SPD assigns some minor categories of complaints and allegations of misconduct to the chain of command for investigation, while more serious allegations are assigned to IIU given its specialized focus on conducting such investigations. In interviews, officers asserted that all allegations of excessive force are handled by IIU, rather than by supervisors in the chain of command; but documents show this is not the case. We found multiple chain of command investigations between 2013 and 2018 that involved allegations of excessive force and thus should have been handled by IIU, but were not.

Our review of chain of command investigations of allegations of excessive force showed significant shortcomings in investigative techniques. For example, a prisoner complained that the "police beat me up," sprayed OC, and struck him three times on the back of the head with a flashlight. The prisoner injury report narrative states that the prisoner had a laceration on the left side of his head and was transported to the emergency room of a local hospital for treatment. SPD's Commissioner classified this excessive force complaint as a complaint that needed to be reviewed only by the officer's chain of command. The investigative file consisted of the officers' statements and the arrest report; there was no statement from the complainant or witnesses. The supervisor's discipline was to recommend retraining to "clearly articulat[e] use of force in reporting to accurately depict necessity." The *prima facie* evidence in the reports indicated that that the officer's force was potentially excessive; in response to the subject's resisting arrest, the office struck the subject with a flashlight three times in the head–force that

could potentially cause death or serious bodily injury. Had SPD referred this case to IIU for a full investigation, the Department could have reasonably sustained an excessive force complaint, rather than finding only that the officer erred by improperly failing to justify his use of force.

When complaints of excessive force are referred to IIU for investigation, those investigations also have significant deficiencies. We reviewed five years of IIU reports on investigations of excessive force and a number of other types of investigations of Narcotics Unit officers. That review showed that IIU investigators are not using basic investigative techniques needed to accurately determine if an allegation of excessive force should be sustained. IIU interviews often lack detail and important content. For example, in many instances, the interviewer does not ask for any information from the officer beyond what is included in the officer's arrest report. Instead, IIU investigators copy and paste officers' reports into the investigation report narrative. Interviews are not memorialized by IIU investigators, and instead the IIU investigator asks the officers interviewed to write their own report on what was said. The reports that result from these interviews are of poor quality. The format, structure, and presentation of the information in IIU reports is often confusing and does not convey an understanding of the issues or the violations under investigation. Often, multiple source documents are pasted into the report narrative without any description or attempt to resolve confusion between the different sources of information. In many reports, the allegations are not clearly stated or clearly answered, the relevant facts bearing on the truth of each allegation are not analyzed or clearly reported; and the language is repetitive, resulting in reports that are overly long and difficult to read despite lacking critical content. Often the IIU investigator does not attempt to clarify inconsistences between or among witness statements, or between oral interviews and officer reports.

In one IIU investigation regarding allegations of excessive force conducted in the spring of 2016, IIU failed to interview several key witnesses who observed the incident. The incident so disturbed the witnesses that they recounted it in social media postings the same day. The IIU investigator knew who the witnesses were, where they lived, and had taken a statement from another witness confirming their identities, yet never interviewed them, noting instead in the report that "all efforts to contact [them] were unsuccessful," without any detail as to what "efforts" he made. Other IIU files document similar failings in following up with key witnesses, including law enforcement officers from other agencies, to conduct interviews and obtain essential information.[23]

These failures in how SPD investigates allegations of misconduct are directly attributable to the lack of adequate policies, guidance, and training for officers regarding how to conduct internal investigations. Although SPD's Policy Manual makes a general reference to IIU and

[23] These deficiencies are not limited to investigations of excessive force, but instead are present across different types of investigations and reflect a broader and deeper lack of capacity within IIU. For example, when investigating a complaint that Narcotics Bureau officers were drinking alcohol on duty, IIU failed to interview at least a dozen named potential witnesses. Attempts to reach witnesses involved just making one phone call or sending one email before giving up. In that case, IIU ultimately interviewed only one witness who was not a law enforcement officer (who had no information). The investigative report consisted entirely of nearly identical statements from officers denying the allegations.

SPD does have an "IIU General Guidelines" document,[24] no policies specifically detail how IIU complaints are to be investigated, such as how IIU investigators should collect evidence, canvass for and interview witnesses, or draft investigative reports. Pursuant to the patrol officer and supervisor unions' CBAs, IIU also has a 90-day timeframe to finish investigations, which is short when compared to other law enforcement agencies. Nor does SPD supply IIU officers with sufficient training regarding their specific responsibilities as investigators.

c. Springfield's Community Police Hearing Board lacks the support and training it needs to make sound conclusions and determinations

Springfield created the CPHB to increase transparency within SPD and enhance the Springfield community's involvement in ensuring accountability within their Police Department. In practice, however, the CPHB fails to fulfill these goals. The CPHB fails to equip its members with the training and resources needed to adequately perform these tasks. For example, unlike many other law enforcement agencies, SPD's complaint review and discipline system prohibits sworn internal investigations officers– those who conduct the investigations and have the most knowledge of the facts – from making conclusions and recommendations. Instead, it tasks community members, most of whom have little experience in policing, with making preliminary determinations on use-of-force allegations and recommending discipline without any meaningful guidance. Officers we spoke to perceive the CPHB as untrained laypeople who do not have the resources to competently assess evidence or reach sound conclusions; we also heard from community members who view the CPHB as politicized and ineffective. To the extent that the Springfield community seeks to have a board comprised of community members make additional recommendations regarding the disposition of misconduct investigations and potential discipline, steps must be taken to enable that responsibility to be carried out effectively and appropriately.

In any event, the CPHB receives very few use-of-force investigations to review. As discussed above, SPD supervisors have not referred a single Narcotics Bureau use-of-force incident to IIU for investigation; and between 2013-2016, only six complaints by members of the public involving excessive force by a Narcotics Bureau officer made it to IIU. In five of those six IIU cases involving allegations of excessive force by a Narcotics Bureau officer in 2013-2018, the officers were exonerated or the allegations were not sustained. The sixth case involves a Narcotics Bureau officer who has been charged with federal crimes related to his alleged use of force in the incident. In that case, the indicted officer negotiated a 60-day unpaid suspension and remains an SPD officer. Neither CPHB nor SPD made a finding regarding whether the officer's conduct violated policy in that case. While the Commissioner has the authority to impose discipline regardless of CPHB's recommendations to correct lapses in accountability; we found no cases where the Commissioner reversed the CPHB's recommendation.

d. SPD fails to impose discipline even in the rare cases where violations of policy are sustained

As discussed above, we could not identify a single instance of SPD sustaining a finding of excessive force involving a Narcotics Bureau officer. But even in cases involving other types of misconduct, when IIU investigations are sustained, Narcotics Bureau officers rarely face

[24] SPD Policy Manual, Rules 32 and 35.

discipline from SPD. Narcotics Bureau officers are less likely to receive discipline from SPD compared to officers in other units. Between 2013-2018, in cases where SPD sustained allegations of misconduct, 11% of allegations involving SPD officers outside of the Narcotics Bureau resulted in discipline, but only 5% of allegations involving Narcotics Bureau officers resulted in discipline. In addition, there is no formal document or database recording past officer discipline to use as a guideline for the Commissioner. As a result, there are apparent inconsistencies in discipline.

SPD's overall failure to discipline its officers for using excessive force is probative of SPD's failure to discipline Narcotics Bureau officers for using excessive force. Records show that the failures within SPD's accountability systems are longstanding. In addition to the instances of excessive force uncovered through our review, courts have found SPD officer misconduct on multiple occasions where SPD failed to hold officers accountable. For example, a jury awarded $250,000 to a plaintiff after finding that an SPD officer (not in the Narcotics Bureau) used excessive force and committed assault and battery when he hit the plaintiff with a baton in 2013. *Hutchins v. Springfield*, Case No. 3:16-cv-30008-NMG (D. Mass. Jan. 20, 2019). SPD did not discipline any of the officers involved in the *Hutchins* case. In another lawsuit against the City of Springfield, a plaintiff alleged that in 2012, several Narcotics Bureau officers punched the plaintiff in the jaw, beat him up, and hit him multiple times with the butt of a pistol. *See Douglas v. Bigda*, No. 14-30210-MAP, Report and Recommendation Regarding Defendant's Motion for Summary Judgment (D. Mass. Oct. 14, 2016), adopted in full by the District Court judge in *Douglas v. City of Springfield*, No. CV 14-30210-MAP, 2017 WL 123422, at *1 (D. Mass. Jan. 12, 2017). None of the Narcotics Bureau officers involved in this incident were investigated or disciplined by SPD. The *Douglas* Court determined that "[a] reasonable finder of fact could also infer that there were flaws in the city's investigation of civilian complaints that demonstrated deliberate indifference to the risks posed by officers against whom large numbers of civilian complaints about excessive use of force had been made." The *Douglas* lawsuit settled for $60,000 in 2017. According to records created and produced by the City of Springfield and other publicly available reports, the City paid over $5.25 million in police misconduct settlements between 2006 and 2019.[25] By contrast, two nearby cities of similar size, Bridgeport, Connecticut and Lowell, Massachusetts, appear to have paid $249,000 and $817,000, respectively, in police misconduct settlements during the same 13-year timeframe.[26] This

[25] *See* Stephanie Barry, *Springfield Paid Out $3.9 million Over 10 years in Police Misconduct Lawsuits*, MassLive, Sept. 6, 2017, available at https://www.masslive.com/news/2017/09/springfield_police_misconduct_lawsuits.html; Dan Glaun, *Springfield to Pay $885,000 in Settlements in Alleged 2015 Police Beating Even as Grand Jury Considers Indictments*, MassLive, Sept. 26, 2018, available at https://www.masslive.com/news/2018/09/post_1008.html (reporting $885,000 settlement); Peter Goonan, *Springfield City Council Approves $450,000 for Police Brutality Settlement*, MassLive, June 17, 2019, available at https://www.masslive.com/news/2019/06/springfield-city-council-approves-450000-for-police-brutality-settlement.html (reporting $450,000 settlement).

[26] Bridgeport: *see* Daniel Tepfer, *City Settles Police Brutality Lawsuit*, CTPost, May 28, 2014, available at https://www.ctpost.com/local/article/City-settles-police-brutality-lawsuit-5508039.php (reporting $198,000 settlement); Daniel Tepfer, *City Pays Settlements in Police Brutality Cases*, CTPost, July 26, 2017, available at https://www.ctpost.com/local/article/City-pays-settlements-in-police-brutality-cases-11437279.php (reporting $16,000 settlement); Brian Lockhart, *Bridgport Settles Lawsuit Over*

disparity supports our conclusion that SPD officers are engaging in a pattern or practice of excessive force. Yet, the SPD has failed to use its administrative powers to hold these officers accountable.

4. SPD's failure to train officers contributes to the pattern or practice of excessive force

SPD's Training Division does not conduct comprehensive in-service training for Narcotics Bureau officers, or any officers, on the use of punches and strikes– the types of force that underlie the pattern or practice we have identified. As a result, Narcotics Bureau officers must recall and rely on recruit training, often received years ago, when assessing when and how to deliver a punch or strike.

In addition, SPD Narcotics Bureau sergeants are not taught how to address Springfield- or supervisor-specific issues that may arise while they are managing officers. They do not receive formal training on the following important topics: how to complete SPD-276 forms; how to comprehensively review prisoner injury report narratives; how to follow up with officers about key report omissions and specious language; or how to handle any pushback from officers about the need to provide more detailed information in reports.

Finally, there is no coordination between command staff, IIU, those responsible for creating SPD policy, and the Training Division to identify problematic patterns or trends that evidence a need for additional training.

IV. PRELIMINARY ASSESSMENT OF REMEDIES

Addressing the constitutional violations we identified during our investigation will require changes to the policy, training, and accountability systems within the Narcotics Bureau of SPD. These changes would improve SPD's handling of force issues if they applied to SPD as a whole. Bringing about lawful and effective policing by the Narcotics Bureau will also require the sustained commitment of City and SPD leaders in ensuring accountability and transparency within SPD. While the full range of necessary measures is beyond the scope of this document, it is clear that changes in the following areas must be made:

1. Enhance Force Reporting and Review Procedures. SPD should implement a use-of-force reporting procedure that: (1) requires officers to report all uses of force, including hands-on uses of force, uses of force that do not result in injury, and uses of force that do not occur with an arrestee; and (2) instructs supervisors on how to review uses of force and

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Family's Arrest, CTPost, Dec. 4, 2018, available at https://www.ctpost.com/local/article/Bridgeport-settles-lawsuit-over-family-s-arrest-13442920.php (reporting $35,000 settlement).

Lowell: *see* Robert Mills & Lauren Peterson, *City of Lowell to Settle Confidential Informant Lawsuit for $750G*, Lowell Sun, Oct. 18, 2017, available at https://www.lowellsun.com/2017/10/18/city-of-lowell-to-settle-confidential-informant-lawsuit-for-750g/ (reporting $750,000 settlement); Grant Welker, *Lowell Settlements Cost Taxpayers*, Lowell Sun, June 14, 2015, available at https://www.lowellsun.com/2015/06/14/lowell-settlements-cost-taxpayers/ (reporting one $27,000 settlement and two $20,000 settlements).

implement disciplinary action where necessary. Officers and supervisors should receive comprehensive training on the new reporting and review procedures.

2. Adopt New Use-of-force Training. New training curricula should explicitly address the importance of avoiding fist strikes to the head, neck, and face area, and avoiding kicking suspects. SPD should also expand its training on bystander liability to ensure officers intervene to prevent problematic events from escalating and report excessive uses of force that they witness.

3. Review and Revise IIU Policies and Training. IIU requires new policies, procedures, and training to ensure that civilian complaints are properly taken, and that IIU officers use proper interviewing and investigative techniques in order to conduct meaningful investigations.

4. Increase Accountability Mechanisms. SPD should adopt policies and procedures so that officer discipline is meaningful, consistent, and appropriate. SPD should also address the fact that administrative charges can be dismissed due to timeliness issues.

V. CONCLUSION

Our investigation has determined that there is reasonable cause to believe that Narcotics Bureau officers have engaged in a pattern or practice of excessive force, which is directly attributable to systemic deficiencies in SPD's policies, accountability systems, and training.

We are encouraged by SPD's cooperation and by its initial efforts to address reform. We hope SPD will take advantage of its new leadership and the retention of an outside consulting firm to resolve the issues we identified within the Narcotics Bureau. We look forward to working cooperatively with the City of Springfield and SPD to develop and implement sustainable reform measures to address the violations and deficiencies outlined in this report.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF CHRIS GRAHAM

I, Chris Graham, state as follows:

1. I am a resident of Springfield, Massachusetts, and former defendant in a criminal matter in the Hampden Superior Court. Specifically, I was being re-tried for carrying a firearm without a license and possession of a loaded firearm after the original verdicts against me were vacated because the Commonwealth failed to give me statements from a witness that confirmed that the firearm was not mine. On March 25, 2021, the Commonwealth filed a nolle prosequi.
2. On July 2, 2017, I was arrested by Springfield Police Department (SPD) officers and charged with assault and battery with a dangerous weapon, carrying a firearm without a license, and possession of a loaded firearm. I am not guilty of these charges.
3. In the hours prior to my arrest, I had been celebrating my promotion to store manager. After my arrest, however, the court ordered that I stay away from firearms, which my job did stock. Consequently, I had to leave my job and lose my promotion.
4. My arrest occurred after I was accused of initiating an altercation outside a local sports bar with two off-duty officers: SPD Officer Remington McNabb and Hampden County Correctional Officer Adam Pafumi.
5. The alleged altercation started as I passed by where two people (later identified as the off-duty officers) were standing close to the road. As I passed, I heard a loud noise signaling to me that my car had been hit. I believe that one of the two officers hit my car as I passed them.

6. I pulled into the parking lot to see if any damage had been done to my vehicle. I saw that my car had sustained damage to the back taillight and trunk glass.
7. As I was standing near my car, I noticed a crowd approaching the two officers. A fight then broke out between the officers and the crowd. I was not involved in the fight and do not know why it started. I saw one of the officers get knocked to the ground during this fight, so I called for an ambulance to help him.
8. I was arrested by on-duty SPD officers that Officer McNabb had called directly. To my knowledge, SPD did not arrest or question any other person who was present for the fight and no one who was actually involved in the fight was arrested or questioned.
9. At some point, Officer McNabb hit me in the face with his firearm. I asked for medical attention, but my request was ignored.
10. Subsequently, SPD officers wrote a report alleging, falsely, that I pulled a firearm on the two officers and pointed it at Officer Pafumi's chest. It also alleges, falsely, that Officer McNabb pulled his firearm to stop me. Those allegations are false. The firearm alleged to have been in my possession was recovered nearby. It was not mine. At no time during this interaction did I have a firearm.
11. After a jury trial on April 5, 2018, I was acquitted of the assault and battery charge. However, I was convicted of the firearm charges. As a result, I served 18 months in Hampshire County House of Correction and one month of probation. I also paid various fines.
12. Earlier, in September 2017, I filed a complaint with the SPD's internal affairs department complaining that, after the July 2017 incident at the sports bar, I was targeted and harassed by SPD officers.
13. Between July and September 2017, I was pulled over multiple times, including by Officer McNabb. Only once did I receive a ticket as a result of these interactions; that speeding ticket

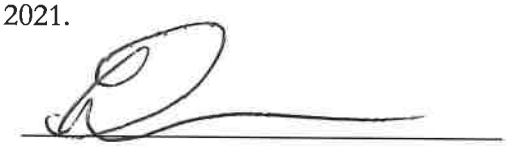
was dismissed. At least one of these encounters included me being handcuffed and left on the sidewalk while my car was searched. Nothing unlawful or illegal was recovered during these searches.

14. After I filed the complaint in September 2017, I also changed cars because I suspected that SPD was targeting my vehicle, with which they were familiar. SPD's harassment of me then stopped.
15. I appealed my conviction, and my appellate counsel was able to discover witness statements that were not disclosed to me before or during my trial. These witness statements supported my defense that I never possessed the firearm found at the scene.
16. Specifically, a witness gave statements as part of the investigation into the September 2017 complaint I made with the SPD internal affairs department. That witness had also called 911 when the fight outside the bar started. In that 911 call, the witness identified the person holding the gun as a white person, which I am not; his statements confirmed that I was not holding a weapon.
17. A Motion for a New Trial was filed on my behalf and granted because the Commonwealth failed to produce this witness's statements. The appeal was stayed in light of the Motion, and the firearm charges were vacated.
18. I spent 18 months in jail and one month on probation on false charges, and lost my job and promotion, in part because the Commonwealth failed to turn over 911 calls to my counsel that would have helped prove my innocence.
19. I understand that the U.S. Department of Justice has found substantial evidence that SPD officers use excessive force, including "escalating encounters and employing head strikes without justification," and submit reports with "false or incomplete narratives that justify their uses of force." I understand that the report does not identify all officers involved in misconduct. This evidence could be relevant to my defense as my case certainly fits this pattern. However, to date,

I have seen none of, and have not been afforded the opportunity to review, this substantial evidence.

20. On or about March 25, 2021, the Commonwealth filed a nolle prosequi in my case. Although the Commonwealth is not bringing a new trial at this time, my case was not dismissed with prejudice and I could face a new trial on these charges.

Signed under the pains and penalties of perjury on April __, 2021.



Chris Graham

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss.

No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF
PURSUANT TO G. L. c. 211, § 3

Being duly sworn, I do hereby depose and say:

1. I, MarySita Miles, was assigned by the Committee for Public Counsel Services to represent Christopher Graham in the appeal from his conviction from Hampden County Superior Court Docket no. 1779CR00403.

2. He was convicted by a jury of carrying a loaded firearm without a license in violation of G.L. c. 269, §10(a) and possession of a loaded shotgun in violation of G.L. c. 268, §10(n).

3. The convictions stem from an alleged altercation in the parking lot of a Springfield bar on July 2, 2017.

4. In support of their case, the Commonwealth presented the eyewitness testimony of Springfield Police Officer Remington McNabb and Corrections Officer Adam Pafumi.

5. No physical evidence connected Mr. Graham to the firearm in question and the determination of whether Mr. Graham was in possession of the firearm came down to an issue of the credibility of the Commonwealth's witnesses.

6. Upon assignment, I retrieved Mr. Graham's file from his trial attorney. The trial attorney's file consisted solely of the Grand Jury minutes, Indictments, Police Report, DNA report, and Firearm Certification.

7. Even though it was clear from the police reports that 9-1-1 calls had been made, none had been turned over by the Commonwealth.

8. After investigation into the allegations, I learned that Mr. Graham had made accusations to the Springfield Police's Internal Investigation Unit ("IIU") that Office McNabb was harassing Mr. Graham. His trial attorney accompanied him to the meeting with IIU.

9. After a public records request, I received a copy of the IIU's findings authored by Sergeant Monique McCoy dated August 22, 2017 ("IIU Report") which was redacted. Contained in the IIU Report were details of an interview between Sergeant McCoy and a witness who made a 9-1-1 call on July 2, 2017, about the incident in question. The witness stated that the only person he saw with a gun was the white guy (McNabb).

10. A copy of this 9-1-1 call was never disclosed in discovery by the Hampden County District Attorney's Office, specifically ADA Christopher E. McDonald who was the prosecuting attorney.

11. On February 14, 2019, I sent an email to ADA Kate McMahon at the Hampden County District Attorney's Office. I attached a copy of the redacted IIU Report and stated that the report indicated a possible exculpatory witness that was never disclosed to trial counsel. The IIU Report indicates that Sgt. McCoy was aware that this witness had made a 9-1-1 call on July 2, 2017, at 02:09:55 a.m. about the incident in question. This witness recounted the entire chain of events that constituted the charges against Mr. Graham.

12. She responded that the District Attorney's Office was never in possession of the IIU Report and I should speak with the Springfield Police Department. She made no mention of the fact that the IIU Report stated that the witness had made a 9-1-1 call about the incident.

13. On March 7, 2019, I sent a follow up e-mail to ADA McMahon and indicated to her that it was my position that the information "I requested was a 9-1-1 call made on the night of the incident and not part of the internal investigation into Officer McNabb. Accordingly, it is my position, that the 9-1-1 call was in and has been in your office's custody prior to and after trial and that [her] office has a duty to release the 9-1-1 call and the number from which it originated."

14. On March 8, 2019, ADA McMahon forwarded my email to ADA McDonald and stated "[h]e has requested the 9-1-1 record and CAD sheet from the Springfield Police Department. Once we receive them, I will forward them to you."

15. On March 19, 2019, I sent a follow up e-mail to ADA McMahon to check on the status of the matter. She responded that day that the 9-1-1 tape and CAD sheet had been mailed to my office late last week.

16. Based on this information, I filed a Motion for Discovery asking for an unredacted copy of the IIU Report and the subscriber information for the

telephone number from the IIU Report and the 9-1-1 call. The trial court (Sweeney, J.) allowed my motion and I received both an unredacted copy of the IIU report and the subscriber information for the phone number.

17. Based on this information, I filed a Motion for New Trial pursuant to Rule 30(b) that Mr. Graham was entitled to dismissal of his convictions due to the failure of the Commonwealth to turn over possibly exculpatory material and trial counsel's ineffective representation in failing to investigate Mr. Graham's complaints and request discovery.

18. On December 30, 2019, Mr. Graham's Motion For New Trial was allowed by the Honorable Constance M. Sweeney who found "significant weaknesses in the Commonwealth's case" and held that "it rested on the credibility of two [police] witnesses with inconsistent and facially unrealistic accounts of the incident; accounts that were contradicted by the credible, unimpeached testimony of [the defense witness]," and that if trial counsel had been aware of and utilized the information in the 9-1-1 call, the jury might have come to a different conclusion.

19. As of this date, I have not had any communication with the Hampden County District Attorney's Office as to whether an investigation into Officer Remington McNabb and Adam Pafumi's account of the incident was fabricated.

Signed under the pains and penalties of perjury, this 3rd day of March 2021.

MarySita Miles

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above captioned petition for relief pursuant to G. L. c. 211, § 3, I, John Nolen, Esq., hereby depose and state:

1. I am a trial attorney in the Springfield office of CPCS's Public Defender Division.
2. I have been in this position since August 1, 2012.
3. I am a member of the bar in good standing in the Commonwealth of Massachusetts.
4. In my capacity as an attorney for CPCS, I am regularly appointed as counsel for indigent defendants in the Hampden Superior Court and Springfield District Court.
5. In my experience, the Hampden County District Attorney's Office (HCDAO) lacks sufficient *Brady* protocols to effectively meet their obligations to defendants before the Court.
    a. Records of police misconduct are only begrudgingly given, are almost never given without express request by defense counsel, and do not follow any uniform procedure that I am aware of.
    b. These practices by the HCDAO require me to expend hours piecing together disclosures from multiple cases to determine what evidence exists pertaining to multiple officers in the Springfield Police Department (SPD) over, at least, five years.
    c. This lack of transparency has resulted in instances where I was not able to fully inform my clients of the nature of the evidence brought against them and the backgrounds of the officers called to testify against them.

Case Involving SPD Officer Daniel Billingsley

6. For example, in April of 2017, I was in court on the day of trial in a case where SPD Officer Daniel Billingsley was a key witness in the Commonwealth's case against my client.
7. On the day of trial, the assigned Hampden County Assistant District Attorney (ADA) orally asked the court to prohibit me, as well as counsel for the co-defendant, from questioning Officer Billingsley about an incident at "Nathan Bill's Bar."

8. The ADA specified that Officer Billingsley was a named defendant in a civil suit brought by individuals who alleged that Officer Billingsley and other off-duty SPD officers beat them and that on-duty officers subsequently covered up the beating.

9. I was not aware at the time of trial, but have since learned, that the Hampden County District Attorney's Office had known about and had begun investigating the incident almost two years before the trial and issued a memorandum about it some two months before the trial in my case. See Ex. 1 - Findings and Determinations Relative to Criminal Charges, April 8, 2015, Island Pond Road Assault.

10. Those materials include a Special Report by the SPD's Major Crimes Unit dated August 14, 2015, which I have subsequently obtained. See Ex. 2 – Special Report to the Commission from the Major Crimes Unit dated August 14, 2015. The report states that Officer Billingsley was off-duty and seen outside the bar, page 13, and that Officer Billingsley refused to answer questions about the incident "pursuant to the Constitution of the United States and Commonwealth of Massachusetts." *Id.* at 15.

11. While the witnesses' accounts differ somewhat, the memorandum relays that Officer Billingsley was identified by multiple witnesses, both in the bar and after, and that Officer Billingsley had a verbal altercation with one of the victims. Ex. 1 at 4-6.

12. None of the materials from this investigation were made available to me either prior to or on the day of trial.

13. After the Judge denied the Commonwealth's attempt to prevent questioning, the assigned ADA drastically reduced the charges in the case.

14. As originally charged, the client faced a substantial minimum mandatory sentence.

15. As reduced by the Commonwealth, they removed the mandatory sentence and recommended a one year probation sentence.

16. This was agreed to and the case closed.

17. My lack of access to the exculpatory statements from and about Officer Billingsley significantly limited my ability to advise my client on every aspect of his case, including the plea agreement.

18. In my experience, the ADA's handling of this case, including the lack of full and open disclosures concerning an officer accused of misconduct, is typical of the HCDAO and continues to impact my cases on behalf of other clients.

Client Representation

19. On January 9, 2020, I was appointed to represent a client (my "Client") in Hampden Superior Court (Docket No. 1979-CR-00528) in my capacity as an attorney for CPCS. My Client has been indicted for unlawful possession of a controlled substance with intent to distribute (Class A – Heroin) under G. L. c. 94C, § 32(b). He has pled not guilty to the charge.

20. The credibility of SPD officers is a central issue in my Client's case.

21. For example, the police report contains a statement, which reporting SPD Narcotics Bureau Officer Felix Aguirre elaborated on and slightly contradicted during his grand jury testimony, that my Client made a "spontaneous utterance" that drugs founds during the execution of a search warrant of his home were his. My Client denies voluntarily making such a statement. Notably, Officer Aguirre's contradictory grand jury statements also draw into question the voluntariness of my Client's statement.

22. Particularly because the credibility of SPD officers is central to the case, information regarding any past misconduct of the officers involved in my Client's case could be important to his defense. This would include, for example, evidence about any officers that submitted false or misleading police reports, such as those described in the July 2020 U.S. Department of Justice report concerning the Springfield Police Department.

23. Obtaining information concerning the credibility of and any misconduct by the officers involved in my Client's case is also a necessary part of my ability to properly discharge my professional and ethical obligations to best advise my Client as to his legal options and case strategy. However, to date, I have received no exculpatory information from the district attorney's office about any of the involved officers.

24. In the absence of adequate investigation and disclosures on behalf of the Commonwealth, I will be constrained to devote more of my own resources to investigating facts relating to the credibility and potential misconduct of officers involved in my Client's case.

25. For example, a "Google" search of Officer Aguirre's name shows a prior court hearing during which a Hampden Superior Court Judge found him not credible. Specifically, according to a media report, the judge read into record: "I don't believe what officer Aguirre testified to plain and simple."[1] This judicial finding has not been disclosed to me in my Client's case,

[1] *See* 'This is beyond convoluted': Judge tosses out evidence in drug case, has harsh words about Springfield police officer retrieved on 2/26/2021 from https://www.masslive.com/news/2018/09/judge_in_tossing_out_evidence.html

and I will need to devote time and resources to searching for the relevant case and transcripts and/or audio.

26. My Client's case remains pending and has suffered some delays due to the global coronavirus pandemic.

Representation of Chris Graham

27. After Chris Graham was granted a new trial in December 2019, I was assigned to represent Mr. Graham in Hampden Superior Court in my capacity as an attorney for CPCS.

28. Previously, on April 5, 2018, following a jury trial, Mr. Graham was found guilty of carrying a firearm without a license under G. L. c. 269, § 10(a) and sentenced to serve a term of 18 months in the house of corrections plus fines. He was also found guilty of possession of a loaded firearm under G. L. c. 269, § 10(n) and sentenced to one year of probation plus fines. He was acquitted by the jury on an assault and battery on a police officer with a dangerous weapon charge. Mr. Graham has throughout maintained that he is innocent of the crimes.

29. Although I did not represent Mr. Graham at this trial in 2018, it is my understanding that the credibility of the officers involved in Mr. Graham's case was a central issue at the trial.

30. Mr. Graham was accused of engaging in an altercation with SPD Officer Remington McNabb and Correctional Officer Adam Pafumi outside of a local bar on July 2, 2017, while both officers were off-duty. The officers alleged that Mr. Graham was the aggressor and that he approached them with a gun, while the defense contended that the officers were the first aggressors and that he never had a gun. The Commonwealth presented no physical evidence at trial, including DNA tests or fingerprints, tying Mr. Graham with the firearm found at the scene.

31. On December 30, 2019, Mr. Graham was granted a new trial after exculpatory evidence was discovered by his appellate attorney, MarySita Miles. A central issue in Mr. Graham's case concerned the credibility of SPD officers involved in this incident, including whether they engaged in prior misconduct, such as using excessive force or falsifying police reports to conceal unlawful force. To the best of my knowledge, this information was not available and there was no investigation or disclosure of misconduct concerning any of the SPD officers involved in Mr. Graham's incident.

32. Although the Commonwealth previously stated its intent to retry Mr. Graham on the firearm charges, on or about March 25, 2021, the Commonwealth filed a *nolle prosequi*. Nonetheless, these charges have not been dismissed with prejudice and Mr. Graham could be subject to re-trial.

Signed and sworn under the pains and penalties of perjury.

/s/ John Nolen
John Nolen, Esq.

Date: 4/5/21

Exhibit 1

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE DISTRICT ATTORNEY
HAMPDEN DISTRICT

HALL OF JUSTICE
50 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01102-0559

SUPERIOR COURT
TEL: 413-747-1000
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SPRINGFIELD DISTRICT COURT
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Findings and Determinations Relative to Criminal Charges
April 8, 2015, Island Pond Road Assault

Facts

In the early morning hours of April 8, 2015, police responded to a 911 call reporting a disturbance in the vicinity of 70 Island Pond Road, Springfield. The caller stated that a man was down but she couldn't see what had happened. The call came in at 2:04 a.m. and units were immediately dispatched.

Upon arrival, officers found four men in the area behind 50 Island Pond Road. One man was on the ground and being helped up by the others. All appeared to have cuts, bruises and some torn or disheveled clothing. The four men told the responding officers that they were beaten and struck by assailants who used fists and unidentified items that rendered one of the men unable to move his legs. When the men fell to the ground, they were kicked and punched about their bodies and head. They attempted to defend themselves, but were overwhelmed by the larger group. Paramedics who arrived simultaneous with the police observed the injured men and briefly treated two. None of the injured parties wanted to be transported to the hospital, according to statements given by the responding paramedics.

Officers at the scene attempted to obtain details of the assault from the four men. The men described their attackers as white males between the ages of 25 and 45 of varying heights. The four men believed their assailants to be "off duty" police officers who had been inside Nathan Bills earlier in the evening and had engaged in a verbal altercation with one of the four men. Officers were told the assailants had left the scene running north on Island Pond Road. Two officers drove in the direction that the assailants were reported to have gone, but they saw no one and returned a short time later. The officers who remained with the victims obtained their identification and spoke with each of the men individually. One of the men was considered to be disorderly and was placed in a cruiser, but never arrested. The other three men said that they did not wish to go to the hospital and were brought to their vehicle and allowed to leave.

On May 7, 2015, Mr. Herman Cumby came to the Springfield Police Department to file a formal complaint against the department's responding officers and report his belief that the assailants that night were off-duty police officers. Police Commissioner John Barbieri assigned Mr. Cumby's complaint to Captain Trent Duda of the Major Crimes Unit for further investigation.

On July 9, 2015, after multiple attempts to reach Mr. Cumby by letter and phone call, Captain Duda met with Mr. Cumby and his attorney. This meeting resulted in Captain Duda amending his investigation to include possible charges of assault and battery causing serious bodily injury and assault and battery, based on the knowledge of Mr. Cumby's injuries from the incident in question.

On August 14, 2015, Captain Duda filed his completed report on the investigation to Commissioner Barbieri and reported his findings shortly thereafter to Hampden District Attorney Anthony D. Gulluni. The District Attorney accepted the matter for review and began a separate inquiry into possible criminal charges against members of the Springfield Police Department who were suspected of being involved in the assault of Mr. Cumby and his friends. The District Attorney's review included information provided by Captain Larry Brown of the Internal Investigation Unit of the Springfield Police Department. Captain Brown and the Internal Investigation Unit conducted a separate investigation from the Major Crimes Unit and their completed report was provided to the District Attorney on July 26, 2016 by the City of Springfield Law Department.

In order to complete the investigation into the allegations, the District Attorney's review included the following: Special Report to the Commissioner by the Major Crime Unit, Special Report to the Commissioner from the Internal Investigations Unit, Bank of America surveillance video, Springfield Police recorded dispatch line audio, Springfield Police department roll call and dispatch logs, video statements by three of the victims, statements of a cab driver and bar manager, victims' medical records, AMR pre-hospital care reports and dispatch logs, and various photographs.

Three of the four victims were also interviewed separately by the First Assistant District Attorney and investigator of the Hampden District Attorney's Office.

Legal Issues

Whether the Commonwealth is able to meet its burden of proof and charge one or more individuals with the commission of an assault and battery causing serious bodily injury to Mr. Herman Cumby.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery against Mr. Herman Cumby, Mr. Jozelle Ligon, Mr. Jackie Ligon, and/or Mr. Michael Cintron.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (baton) against Mr. Herman Cumby.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (Taser) against Mr. Jackie Ligon.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (shod foot) against Mr. Herman Cumby, Mr. Jozelle Ligon, Mr. Jackie Ligon, and/or Mr. Michael Cintron.

Analysis

The victims in this matter all reported being assaulted in a parking lot in the area of Island Pond Road and Warehouse Street in Springfield. Mr. Herman Cumby suffered serious injuries from the assault, including a fractured/dislocated ankle and four damaged front teeth. He also suffered numerous cuts and bruises. After a medical assessment by paramedics at the scene, Mr. Cumby declined transport to a hospital. He did receive treatment at Baystate Medical Center on April 8, 2015. He continues to need medical treatment for the injury to his ankle as well as additional dental work. Mr. Jackie Ligon suffered temporary immobility as a result of being struck with something cold and sharp, according to his description. He was hit and kicked in his torso, head, and face while immobile on the ground. He also suffered numerous cuts and bruises. After a medical assessment from paramedics, Mr. Jackie Ligon declined transport to a hospital that night. Mr. Jozelle Ligon and Michael Cintron had visible cuts and bruising but did not seek medical assistance at the scene. Mr. Jozelle Ligon sought medical treatment on April 8, 2015 at Baystate Wing Hospital in Palmer for injuries that he described as coming from being struck by an "unknown object".

An assault and battery is the intentional and unjustified use of force upon the person of another, however slight, or the intentional doing of a wanton or grossly negligent act causing personal

injury to another. Commonwealth v. Bianco, 390 Mass. 254, 263 (1983). The injuries suffered by all three of the victims are clear. The physical assaults committed by several members of the large crowd were intentional and unjustified. The victims describe being pushed, struck with fists, and kicked by their assailants. Although questioning by the investigating officers did not focus on the type of footwear worn by the attackers, the testimony of the victims and their confirmed injuries would sufficiently sustain our burden on the charge of assault and battery with a dangerous weapon, shod foot.

A review of the evidence gathered by the Major Crimes Unit and Internal Investigation Unit of the Springfield Police Department reveals that identifying the assailants was problematic for the victims. Several members of the Springfield Police Department spoke to the victims on the night of the incident. According to each officer at the scene, the victims were consistent in their description of the incident and their attackers. The description of the assailants given by the victims that night was "white males between the ages of 25-45" who were believed to be "off duty or rookie police officers". The knowledge that they were off duty officers came from a comment made to the victims by a bar employee during a verbal altercation inside the bar earlier in the evening. On-duty patrol officers who responded to the earlier incident confirmed the presence of off-duty officers Daniel Billingsley, Melissa Rodriguez, Anthony Cicero, and Christian Cicero at Nathan Bill's at around 1:15 a.m. These four identified off-duty officers were not seen by any of the responding officers when they arrived at the scene approximately 50 minutes later. Responding officers were told that the assailants had fled the scene in a northerly direction down Island Pond Road, which resulted in two of the patrol officers driving in search of the described assailants. No suspects were located.

After Mr. Cumby's May 7, 2015 complaint to the Springfield Police Department in which he alleged that the assailants in his attack were off-duty police officers, detectives from both the Internal Investigations Unit and the Major Crimes Unit made numerous attempts to contact Mr. Cumby by phone call, certified letters, and direct contact at his home and other known addresses. On June 23, 2015, Mr. Cumby responds to a telephone call from Sgt. Jeffrey Martucci. On July 9, 2015, Mr. Cumby and his attorney come to the Springfield Police Department where Mr. Cumby is interviewed in the presence of his attorney. The interview is videotaped. Mr. Cumby described the initial incident inside Nathan Bill's and the events that led to his group being asked to leave the bar. He described the attack as beginning near Rocky's and that it involved 12-15 people, all white, all young, and all male. He is shown 1,985 pictures of white males between the ages of 21 and 30. Included in these 1,985 photographs are pictures of Springfield Police officers who fit the description given by Mr. Cumby. Mr. Cumby is unable to identify anyone. He is then shown 658 pictures of only Springfield Police officers. Included in the 658 photographs are pictures of the off-duty officers identified as being present at Nathan Bill's on the night of the incident. Mr. Cumby is unable to identify anyone from that set of photographs. He identifies an officer who "looks familiar" and who is later discovered to have been working but assigned elsewhere and was not at Nathan Bill's at any time on April 7th-April 8th. During

the videotaped interview, Mr. Cumby acknowledges being hit from behind and being immediately rendered unconscious. He stated that he never saw anyone or any weapons. Mr. Cumby also acknowledges having consumed a couple of alcoholic drinks and being concerned about operating his vehicle.

Mr. Cumby was subsequently interviewed by police officers assigned to the Internal Investigations Unit on three occasions: May 25, 2015, July 30, 2015, and September 17, 2015. None of these interviews are videotaped. On May 25, Mr. Cumby gives a detailed verbal statement to Sgt. William Andrew. Sgt. Andrew summarizes the statement in his report. There is no signed statement by Mr. Cumby or an acknowledgment that he reviewed and approved of the officer's report. In Sgt. Andrew's report, Mr. Cumby describes the evening leading up to the assault and the assault itself. He describes people he believes were involved or who were present. Based on Mr. Cumby's descriptions, he is asked to view 264 photographs of police officers. He admits to having a hard time picking anyone and says he is "not good with faces". On July 30, he was shown 18 photographs of male police officers and he identified seven as being present at Nathan Bill's, or in the parking lot, or both. Of the seven men identified, five had confirmed alibis. Of the remaining two, one was Officer Daniel Billingsley, who was also identified by on-duty officers who responded to the scene at 1:15 a.m. Mr. Cumby did not identify Officer Billingsley as an assailant, only and specifically as just present. The last officer identified by Mr. Cumby was never seen by on-duty officers at the scene and was also not identified by Mr. Cumby as an assailant. On September 17, Mr. Cumby viewed a third photographic array consisting of six male police officers and was unable to identify any of the officers as being present that night.

On July 17, 2015 Mr. Cumby brought his two cousins, Jackie and Jozelle Ligon, to the Springfield Police Department to be interviewed regarding the incident at Nathan Bill's and the later assault. Detectives assigned to the Major Crimes Unit interviewed the two men separately. The facts detailing what leads up to the men being asked to leave the bar is mostly consistent with Mr. Cumby's earlier statement. They all describe their attackers as males, mostly white males, and that the group surrounding them was approximately 8-12 in number. Both men were asked to view photographs in order to identify the assailants.

On July 17, 2015, after viewing 1,188 pictures, Jackie Ligon identified Officer Daniel Billingsley with an 80%-90% certainty as being present in the parking lot during the altercation and as being the person with whom he had a verbal altercation inside of the bar. Jackie Ligon also described an individual who was a Latino, white, or Italian male with a heavy moustache who appeared to be in his late-forties who had a weapon in his coat. Therefore, he viewed 1,981 photographs of Latino males and identified one of those with a 40%-50% certainty as this individual. This person was not a police officer and was not at Nathan Bills on April 8th. When shown photographs of only Springfield Police officers, which included the off-duty officers identified as present at Nathan Bill's, Jackie Ligon could only identify two officers who he

described as responding officers and not assailants. Of those two officers, one was in fact on-duty and responded to the scene, the other officer worked a different shift and did not respond to the scene on the night in question.

Sgt. Andrew of the Internal Investigations Unit interviewed Jackie Ligon on three separate occasions: June 4, 2015, August 1, 2015 and September 17, 2015. Jackie Ligon's initial statement to Sgt. Andrew described in detail the events of the evening in question. There are differences between his statement to the Internal Investigations detectives and his statement to Major Crimes Unit detectives. His statement to the Major Crimes Unit is videotaped and his statement to the Internal Investigations Unit is not. His statement to the Internal Investigations Unit is a summary from Sgt. Andrew and is not signed or reviewed by Jackie Ligon.

In his statement to detectives in the Major Crimes Unit on July 17, 2015, Jackie Ligon cannot identify any assailants despite reviewing thousands of photographs. He identifies Officer Daniel Billingsley with an 80-90% certainty as the person with whom he had a verbal altercation, but not as an assailant. He also cannot positively identify any weapons (other than footwear) as being used by the assailants. He states that he hears a "click", which sounded like an expandable baton, and he saw an older Latino male put something inside his jacket but could only see a "handle". However, when questioned by Sgt. Andrew of the Internal Investigations Unit on June 4, 2015, Jackie Ligon describes certain individuals as having weapons, and seeing the weapons used. He tells Sgt. Andrew he saw one assailant with an "expandable baton" and another with a "Taser or stun gun". He also names a particular officer as being the one who punches his brother Jozelle and describes a 6'5" or 6'4" male as pushing Jozelle. On this same date, Jackie Ligon views 264 pictures of Springfield Police officers and identifies five individuals, but never indicates how he knows them or how they are involved in this matter.

During his second interview with Internal Investigations on August 1, 2015, which is also unrecorded, Mr. Jackie Ligon is asked to view another array of 18 photographs of male police officers that was assembled by Sgt. Andrew in an attempt to identify involved parties. At this meeting, Jackie Ligon identifies Officer Daniel Billingsley as the individual who punched his brother. This identification contradicts his videotaped statement to Major Crimes detectives and his earlier verbal statement to Internal Investigations detectives. Jackie Ligon also identifies officers as being present at the scene who have confirmed alibis and could not have been at Nathan Bill's or Murphy's on the night in question.

At his third interview with Internal Investigations on September 17, 2015, also unrecorded, Jackie Ligon is asked to identify the officer he believed possessed the stun gun or taser. He is shown an array consisting of six police officers and he is unable to provide a positive identification. He chooses two photographs of two different officers and tells Sgt. Andrew that it is "definitely one of these two", but he cannot state which one with any degree of certainty.

Of the two remaining victims, Mr. Jozelle Ligon meets with detectives assigned to the Major Crimes Unit and provides a videotaped statement on July 17, 2015. He details an incident occurring inside the bar earlier in the night that is generally consistent with the statements of Mr. Cumby and Jackie Ligon. Of concern is Jozelle Ligon's belief that the assault happened approximately ten minutes after they had been asked to leave the bar, which would make the time of the assault closer to midnight than 2:00 a.m., as documented by surveillance video and the statements of all other witnesses. Jozelle Ligon describes an initial verbal aggressor as a "short, bald, off-duty cop" and then he is attacked by numerous people so he covered up to protect his face. Jozelle Ligon admits that he had been drinking prior to entering the bar and was "probably a little drunker than drunk" but he believed he could identify his assailant. After viewing 5,220 photographs, Jozelle Ligon identified one individual with a 50% certainty as his assailant. The individual was an unknown subject who, based on reasonable evidence, has not resided or been seen in the area since 2006. Attempts to reach this individual were unsuccessful. Jozelle Ligon also viewed photographs consisting of only Springfield Police officers and he was unable to identify anyone as being present on the night in question.

On August 1, 2015, Sgt. Andrew of the Internal Investigations Unit interviewed Jozelle Ligon for the first time. This interview is not recorded and the witness does not give a signed statement of fact or an acknowledgement the report was reviewed and approved by the witness for accuracy. During this interview, Jozelle Ligon gives descriptions of individuals with whom he interacted and individuals who pushed his brother. Jozelle Ligon also describes the man who punched him, who the Internal Investigations Unit report identifies as Christian Cicero. This identification contradicts Jackie Ligon's identification of Daniel Billingsley as responsible for the same behavior, the punching of Jozelle Ligon, and also contradicts Jozelle Ligon's previous videotaped interview with Major Crimes. No photographic array is shown to Jozelle Ligon on August 1, 2015 and no identification process is described in the Internal Investigations Unit report.

Michael Cintron was the last victim to be interviewed. The interview was conducted by the Internal Investigation Unit on April 1, 2016. Mr. Cintron was never interviewed by Major Crimes Unit detectives.

Mr. Cintron provided his own hand written statement to the officer that detailed the events of the evening including physical descriptions of assailants and weapons. Sgt. Andrew compiled an array of thirty-three Springfield Police officers that included the officers identified through the Major Crimes Unit investigation. Mr. Cintron failed to identify an assailant, but did identify Officer Daniel Billingsley as being a bar employee who kicked them out of the bar and was present at the time of the assault. No other officers were identified.

Conclusion

This investigation and any criminal charges that could result from this investigation depend almost exclusively on a positive identification of the assailant(s). To date, no such identification has been made by any of the victims or any eyewitnesses.

In order to indict a person for a crime, the prosecution must present sufficient evidence to establish the identity of the accused and probable cause to arrest him. Commonwealth v. O'Dell, 392 Mass. 445, 450 (1984). That is, the prosecution must have sufficient evidence that the defendant is the person who committed the crime.

Because people have been wrongfully convicted based, in some cases, on mistaken identifications, courts throughout the country have revamped the rules allowing eyewitness identifications at trial. The Supreme Judicial Court of Massachusetts has made several recent rules that limit identification evidence at trial.

If a person who witnessed a crime has made a less than unequivocal, positive identification of the defendant before trial, the witness will be permitted to identify the defendant at trial *only* if there is *good reason* for the judge to allow the in-court identification. Commonwealth v. Collins, 470 Mass. 255, 261-62 (2014). Good reason is limited to cases in which the witness's ability to identify the defendant is not based only on her having witnessed the defendant during the commission of the crime. Trial judges have been instructed to require a high degree of certainty by the eyewitness for identification to be considered "unequivocal" and "positive".

Despite varying accounts of what occurred prior to the assault, who was present before and after the assault, and who committed the various assaults, it is undeniable that Mr. Herman Cumby, Mr. Jackie Ligon, Mr. Jozelle Ligon, and Mr. Michael Cintron were assaulted and beaten by several individuals on April 8, 2015. The men were beaten about their body and face by fists, shod feet, and quite possibly dangerous weapons. As a result, all of the men suffered visible injuries and Mr. Cumby suffered serious injury, as well.

However, it is also undeniable that the victims' admitted lack of recollection of the events and the assailants, inconsistent versions of the incident, their admitted alcohol consumption, and ultimately and most significantly, their lack of legally sound and positive identifications of those who committed a criminal offense, hamstrings the Commonwealth from initiating a criminal complaint or indictment. The Massachusetts Supreme Judicial Court Rules of Professional Conduct, Rule 3.8, states that a "prosecutor in a criminal case shall refrain from prosecuting where the prosecutor lacks a good faith belief that probable cause to support the charge exists." While the victims' credibility and earnestness are not in question, the fact that their accounts and attempted identifications chart a tortuous course is inarguable. With this unavoidable reality, the standard of probable cause is not met. Moreover, should we look beyond the initial, modest

standards of probable cause, the estimable burdens of proof required to convict, which are designed to protect the principle that a person is innocent until proven guilty, would firmly stand in the way of a successful prosecution in this case. Therefore, with the evidence presently in the possession of this office, there is no probable cause to charge any person(s) with criminal offense(s) from the events on April 8, 2015. The criminal investigation as conducted by the Hampden District Attorney is, therefore, presently closed.

Submitted: February 2, 2017

Anthony D. Gulluni
Hampden District Attorney

Cc:
Commissioner John Barbieri
Springfield Police Department
130 Pearl Street
Springfield, MA 01105

Exhibit 2

Springfield Police Department

Major Crimes
Sergeants or Superior Officers Report

Date: 8/14/2015

Special Report to Commissioner Barbieri

Sir,

This report is in regards to SO# 15-115 which directed me to conduct a criminal investigation into incident report #15-3466-OF, which possibly involved off duty Springfield Police officers. The incident occurred on April 8th at approximately 2:05 AM in the vicinity of 70 Island Pond Rd. The following is a timeline and summary of the investigation and submitted reports.

On May 7th, 2015 Mr. [redacted], one of the victims listed in the above incident report, made a citizen's complaint with IIU regarding a disturbance he was involved in. During the disturbance he suffered injuries consisting of a dislocated ankle and had several teeth knocked out. He found out the assailants could have been off-duty Springfield Police officers. The report also lists three other victims, Mr. [redacted] Mr. [redacted] and Mr. [redacted]

Several attempts were made to contact Mr. [redacted] and the other victims. There was no response to our requests through messages and business cards left at the address provided and through other address discovered through the investigation. On 6/23/15 Sgt. Martucci was able to speak with Mr. [redacted] and he stated that he would need to speak with his attorney regarding an interview. However, in this time, several other involved parties were contacted for investigative purposes.

On 6/19/15 Lt. Kennedy interviewed Mr. [redacted], the bar manager, regarding the incident that occurred on 4/8/15.The interview occurred at the Springfield Police Dept. and was videotaped. He stated he remembers 3 black males by the bar and two of them were older then the third, who he described as thin. At the end of trivia night contest that occurs on Tuesday's, a couple was leaving the bar. The manager said that the male was the one who runs the contest. They were arguing about something. As they were leaving, the male slammed the door. The thin black male apparently became upset and started taking off his sweatshirt and started towards the direction of the couple. Mr. [redacted] then spoke to this black male to calm him down.

Shortly after this, same black male became involved in another argument with another patron. This argument had to do with something the black male may have said to the patron's girlfriend. At this point Mr. [redacted] asked the black male to leave. Mr. [redacted] states that the black male and his friends left.

Shortly after the other two black males asked if they could come in and finish their drinks. Mr. [redacted] allowed them back in and they then left shortly after. They then stood outside for a while and Mr. [redacted] went out and told them to leave. They told him they did not have a ride and Mr. [redacted] called a cab for them. When the cab arrived the black males waved the cab off. While this was occurring a cruiser entered the parking lot. Mr. [redacted] stated he did not call 911. Mr. [redacted] asked the officers in the cruiser to ask the males to leave, which they did. Mr. [redacted] says he never saw the black males again. He also states he never saw a fight.

Mr. [redacted] stated he could not identify the black males. When asked about security cameras, he stated that there were not any cameras covering the parking lot. The DVD should be viewed in its entirety for completeness.

On 6/30/15 Sgt. Martucci interviewed Yellow Cab taxi driver [redacted] The interview was conducted at the Springfield Police Dept. and was videotaped. Mr. [redacted] remembers being called to Nathan Bill's on 4/8/15 for a fare. The request was for a ride to Orange and Hancock St. The call also did not list a callback number. When he arrived the fare was for 3-4 black males although one might have been Hispanic. He did not recall the ages. One of the black males entered the cab and when Mr. [redacted] asked if they had any money, he replied he did not, so Mr. [redacted] did not complete the transport.

Mr. [redacted] could not identify anyone since he picks up so many fares since that date, and there was nothing memorable about the individuals. The entire DVD should be viewed for completeness.

On7/8/15 Lt. Kennedy spoke with [redacted] regarding the incident. This interview was conducted at Nathan Bill's Bar while she was working. She states she was the bartender on duty 4/8/15. Tuesdays are not her regular nights to work, Wednesdays are her usual shift. She stated she remembers three black males coming into the bar later in the night. She stated that they were a little loud but did not see them being involved in any argument or

incident with any other customers. She also states they had one drink and left, and that they were not asked to leave, but left on their own. She did not see any incident in the parking lot, nor did she hear of any fight occurring.

Mr. [redacted] was initially reluctant to speak with investigators out of fear of police retaliation. He finally agreed to an interview, with his attorney present, on July 9th. The interview was conducted with his attorney, Attorney [redacted], in Interview Room A. Capt. Duda and Lt. Charest conducted the interview which was videotaped.

Mr. [redacted] told investigators that he went to Nathan Bill's Bar and Restaurant with his two cousins, the [redacted] brothers, and his cousins' friend [redacted]. Mr. [redacted] drove them all there in his truck. At one point in the evening he noticed [redacted] having a heated discussion with another bar patron. He went over and intervened and they went outside. Mr. [redacted] found out that there was a misunderstanding between the patron and his cousin over some whistling and who it was directed at. The bar patron thought it was directed towards his girlfriend but Mr. [redacted] told Mr. [redacted] he was trying to get the attention of the bartender. Other people soon joined them outside, including who Mr. [redacted] believes was the bar manager. During the time outside a marked cruiser entered the parking lot. Then two more marked cruisers arrived. Mr. [redacted] attempted to explain the situation to the uniformed officers but it was not well received. At this point everything had calmed down and people were going to head back inside. As Mr. [redacted] and his friends went to re-enter the bar, the patron that [redacted] was arguing with stopped him from re-entering. This started another argument between the two. At some point the officers asked Mr. [redacted] and his party to leave for the night. Mr. [redacted] nervous because he had been drinking, decided he was not going to get into his truck to drive. The 4 of them walked around the corner towards Rocky's Hardware. Mr. [redacted] states that they were going to walk to [redacted] house, a few blocks away. Mr. [redacted] also stated that the 4 of them were now arguing because the others felt Mr. [redacted] should not leave his truck there.

Mr. [redacted] then decided he was going to take a walk and call his girlfriend. He walked down Allen St. to the laundromat and headed back. He states he walked for about 30-40 minutes. As he got closer to Island Pond and Allen Sts. he could still hear his cousins. They did not go to [redacted]

house like he thought they were going to do. As he got closer he heard somebody say "what's up now?" He then was able to see 12-15 people approaching the [redacted] and [redacted]

He jogged over to the area near Murphy's Store where the group was now located. He got between his cousin [redacted] and the man he was having words with. Mr. [redacted] states it was the same man from the bar. At some point, shortly after he was hit from behind and knocked out. He awoke to the police on scene and an ambulance. He did not receive medical treatment for his injuries at this time.

Mr. [redacted], during this interview, viewed 1,985 pictures of white males between the ages of 21-30. Mr. [redacted] described the group as all white males and young. Mr. [redacted] did not identify anyone as being present or hitting him. He then viewed 658 pictures of Springfield Police officers. The pictures are of officers in uniform, with and without hats on. Mr. [redacted] did not identify anyone from these photographs either. He did state that he thinks Officer Sean Collins looks familiar but could not be sure. Mr. [redacted] also states he did not see a weapon that was shown or used during this altercation. Officer Sean Collins wrote a report stating he was not at Nathan Bill's the night of the incident and was actually IOD at the time. Please see included summary and DVD of this interview.

On July 17th, Mr. [redacted] arrived at the police station with his two cousins, [redacted] and [redacted] so they could be interviewed regarding the incident. Capt. Duda and Lt. Kennedy spoke to [redacted] in Interview Room A. The interview was videotaped with his permission. [redacted] told investigators that he was at Nathan Bill's with his brother [redacted], his cousin [redacted], and their friend [redacted]. At some point [redacted] whistled for the bartender. Apparently another patron in the bar took offense because he thought [redacted] was whistling at somebody else. [redacted] went to intervene to calm the situation down. [redacted] described the individual he was speaking to as short and bald. There were several others with him. After discussing it with the individuals, [redacted] offered to buy them all drinks but somebody said to him that they were off duty police officers and didn't need anyone to buy them drinks. They shook hands and returned to their respective places in the bar. [redacted] states that at some point they decided to leave the bar, and [redacted] had a conversation with the bar manager who told them they could finish their drinks, but [redacted] could not return to the bar. They then decided to leave since they couldn't all stay.

As they were leaving they encountered a Springfield Police marked SUV entering the parking lot. [redacted] states that they then called for a cab because they didn't want to drive after having a few drinks. [redacted] states that when the cab arrived somebody motioned for the cab to leave. [redacted] told investigators that they never spoke to the cab driver when the cab arrived. They then walked to the area near Rocky's and the car wash.

While there, they were approached by the same group of males from inside the bar. [redacted] saw one male put something inside his jacket. He described this male as an older Hispanic male. He did not remember seeing this male earlier. One of the males pushed [redacted] and another male punched him. [redacted] then states he punched both these males. During this altercation he heard what to him sounded like a click, similar to an expandable baton, and somebody struck Mr. [redacted] in the head. [redacted] could not be specific on what type of object it was, nor did he see a baton. [redacted] was fighting with several individuals when he felt something cold hit him in the back. He fell immediately to the ground and felt like he couldn't move. He was then kicked about the head and face. Mr. [redacted] told investigators that there were approximately 8-12 individuals involved in the assault. He stated that they were mostly white males.

Police and an ambulance arrived at some point after the incident. [redacted] did not elect to receive any medical treatment.

Mr. [redacted] was then shown photographic images of white males from the ages of 21-30 years old that were computer generated. This generated 6,179 images .Mr. [redacted] stopped at image #372, and identified this individual as being the person he had the verbal disagreement with inside the bar and who was at Rocky's during the altercation. He states he was 80% to 90% positive. The individual was identified as Daniel Billingsley. Mr. [redacted] stopped looking at photos after viewing 1,188 pictures.

Mr. [redacted] was then shown 1,981 photos of Hispanic males, aged 44-50 years old as described by Mr. [redacted] From these phots he picked out picture #85 as the Hispanic male who put something in his coat and then zipped it up prior to the fight. Mr. [redacted] put this identification at 40% to 50%. This person was identified as Mr. [redacted] (dob of [redacted]

He was then shown photographs of Springfield Police Officers, with and without hats on. He again identified Officer Billingsley as the same person he spoke to inside Nathan Bill's and who was at Rocky's. He also picked out

pictures of Officer Jeremy Rivas and Officer Ray Bermudez as being responding officers at Nathan Bill's and the fight afterwards.

A check of the Springfield Police Dept.'s roster for 4/8/15 has Officer R. Bermudez working the front window from 8 AM- 4 PM, not working the 12 AM- 8 AM shift.

Mr. [redacted] signed and dated all the phots he picked out. The interview should be viewed in its full entirety for its completeness.

Also on 7/17/15 Mr. [redacted] gave a statement to Sgt.'s Martucci and McCoy regarding his recollection of the incident. This interview occurred in Interview Room D and was videotaped with Mr. [redacted] permission.

Mr. [redacted] also stated that he arrived with his brother [redacted] and his cousin [redacted] to Nathan Bill's on 4/8/15. They arrived in Mr. [redacted]'s black Suburban. He was at the bar an hour or so and had 4 drinks. He had been whistling at the bartender during the course of the night to get his drinks, so he decided to whistle again for another. Mr. [redacted] was curious as to how to whistle like that so [redacted] showed him. This resulted in a male approaching him asking why he was whistling at his girlfriend. A female then approached and she stated that she felt the whistle was directed at her and was disrespectful. [redacted] then decided to go outside to get some air where he was joined by his brother [redacted] and Mr. [redacted]. While outside they spoke to a person who identified himself as the owner of the establishment. The owner said that the people in the bar were "off duty rookie cops." [redacted] told the owner there wasn't a problem and they thought he was whistling at their girl.

The owner stated they could go inside and finish their drinks, except for [redacted], because of the situation. The others went back inside and gathered [redacted] belongings and his brother called a cab. They were getting ready to leave when a police "truck" pulled into the lot. When the "truck" pulled up another bar patron came running out pointing saying "him, him, him." Mr. [redacted] never spoke with this individual and their group walked over to the area of Murphy's.

They were there about 10 minutes when the he heard "come here, come here." Mr. [redacted] states that the "off duty cops" had followed them over to where their group was standing. Mr. [redacted] states the group was white males, ages 30-35.He put the group at 4-6 individuals. He described two of the individuals as tall and muscular, since one of the individuals was flexing his arms. He described one other male as short and bald.

A confrontation ensued and Mr. [redacted] states that during this confrontation, the cab his brother called showed up and drove off. Mr. [redacted] states that the "short bald off duty cop" pushed past his brother and struck him. Mr. [redacted] then covered himself up on the ground protecting himself from being struck. He states multiple people were striking him.

As Mr. [redacted] was attempting to get up he noticed more people arriving. He now totaled the number of people between 16-18 individuals. He also told investigators that after a few drinks and being hit in the head everything was spinning. Mr. [redacted] noticed that Mr. [redacted] and his brother [redacted] had been knocked out, and Mr. [redacted] was still fighting. Mr. [redacted] states "somebody swung something" at his brother, striking him in the head and knocking him out.

Mr. [redacted] states that a SUV cruiser arrived on scene. He described the officers as a black female and Hispanic male, clean cut with spikey hair. The male officer handcuffed him and placed him in the cruiser. According to Mr. [redacted] the cruiser then began to drive off when somebody stopped it and Mr. [redacted] was released. Mr. [redacted] told investigators this person did not have a badge or gun and was not inside Nathan Bill's earlier.

Photos were generated based on Mr. [redacted] description of the males he encountered, being white males between 30-35 years old. He stated he could identify the subject he fought with, as well as the responding officers. This generated 5220 photos. During the viewing of photos Mr. [redacted] stated to investigators that besides the drinks he had at the bar he had also been drinking at home prior to. He stated it was "probable he was a little drunker then drunk. Not pissy drunk but feeling nice." Mr. [redacted] viewed the photos and picked out one photo of the man he thought pushed past his brother and started fighting with him. He identified this male at 50%. He signed and dated the photo and told investigators "this is the one I had the fight with." The subject he picked out was [redacted] dob of [redacted]).

Mr [redacted] then viewed photos of Springfield Police Officers, in the same format as previously mentioned. He was not able to identify anyone from the photos. He stated to investigators that "he sees the black female officer on traffic duty and she was not in the IIU photos."

Mr. [redacted] stated he sought treatment at Wing Memorial in Palmer for his injuries he received in the disturbance.

The whole DVD should be watched in its entirety for completeness.

Attempts were made by investigators to contact Mr. [redacted] regarding the incident. Investigators went to his address at [redacted] Groveland on several different occasions. On 6/30/15 Sgt. Martucci sent a letter, certified mail, to the address asking him to contact us. It should be stated that that Mr. [redacted] and Mr. [redacted] both mentioned in their interviews that he was reluctant and not interested in being involved. Investigators asked them to try and convince him to cooperate, but at the time of this report he has not made any contact with investigators.

Capt. Duda made several attempts to locate [redacted], who was described as the older Hispanic male putting something in his jacket prior to the altercation. A check with Springfield Police Records Management last shows an address of [redacted] Bay St. The information was accurate up to 9/9/08. A check with the CLEAR database showed an address of [redacted] Kenyon St as of 2012. The RMV also has this as his last known address. CLEAR also indicated a cell phone number of 413-[redacted]. A call to that number is a FAX machine currently. Capt. Duda went to [redacted] Kenyon St. and spoke with the occupants. They sate they have been living there for 15 years and when shown a picture state they have never seen Mr. [redacted] before.

Sgt. Martucci also made several attempts to make contact with [redacted] The RMV has his address as [redacted] Savoy Ave. Mr. [redacted] identified this male as the patron he had a fight with at Rocky's. His last involvement with the Springfield Police Dept. was in 2006. Sgt. Martucci went to the house several times and left business cards asking him to contact us, but he has not responded.

A search of the Springfield Police Dept.'s CAD system revealed two calls generated in the above corresponding locations, Nathan Bill's Bar and Restaurant and 70 Island Pond Road (Murphy's Convenience Store) on the morning of 4/8/15. The first call was a disturbance call at Nathan Bill's that was self-initiated by Officers Darren Nguyen and his partner Shavonne Lewis. Also responding to that disturbance was Officer Derrick Gentry-Mitchell and Officer Jeremy Rivas, Officer Nathan Perez and Officer James D'Amour. This call occurred at 1:16 AM. These officers also responded to a disturbance call at 2:04 AM at Murphy's located at 70 Island Pond Rd. Responding officers were given a set of questions by Capt. Duda to answer

regarding their activity that night. Below is a summary of their reports. Please see attached reports.

Officer Nguyen in his report states that he was beginning a directive patrol at approximately 1:116 AM in the Nathan Bill's area, 110 Island Pond Rd. He states that a few days prior to the incident, Mr. [redacted] who is the owner of Nathan Bill's, made a report with Officer Nguyen regarding Mr. [redacted] having his two rims and tires stolen off his truck from the parking lot (report #15-3358-OF taken on 4/5/15). As he and his partner, Officer Lewis, were pulling into the parking lot, Mr. [redacted] drew their attention to where he was standing. Mr. [redacted] stated there was a disturbance a few minutes earlier and the people involved were asked to leave and they were currently outside.

Officer Nguyen states that he recalls that he spoke to black males and there was only a verbal disturbance and that the black males were waiting for a ride at this point. It was determined that it was only a verbal incident and no report was necessary. Officer Nguyen did not see any off-duty officers present at Nathan Bill's.

Shortly after around 2:04 AM he and his partner were dispatched to area of Murphy's for another disturbance, involving a "man down" and AMR was being sent as a precaution. Officer Nguyen states that upon his arrival one of the black subjects stated they got into a fight with a bunch of "white boys." The victims stated they didn't know who their attackers were. One subject was unconscious but breathing.

Officer Nguyen further writes that one black male that was present that did qualify for a disorderly arrest. This subject, instead of telling officers what happened, was yelling and screaming with his shirt off and started walking towards Rocky's Hardware. After advising the subject several times to calm down, he was placed into handcuffs and in the back of Officer Nguyen's cruiser.

At around the same moment Sgt. Bortolussi and AMR arrived on scene. Officer Nguyen states that the subject in the back of the cruiser was released after he calmed down. Officer Nguyen completed incident report #15-3466-OF for the disturbance.

Officer Shavonne Lewis submitted a written report regarding her actions on 4/8/15. She was working with Officer Nguyen on this date. She also reported that they were doing a directive patrol based on Officer Nguyen's previous

report on the tire theft. This occurred on her night off. As the entered the parking lot her attention was directed towards three black males who were "talking very loudly and animatedly to one another." She states she pulled the cruiser up to the black males and the bar manager approached the car. The manager stated that the three black males had caused trouble in the bar earlier but they were "all set." She states that she saw off-duty officers Christian Cicero, Anthony Cicero, Daniel Billingsley and Melissa Rodriguez standing outside the bar, along with other patrons when she arrived.

When Officer Lewis questioned the black males they stated they were "good" and waiting for their brother to come out of the bar. Once the fourth male exited they said they were going to wait for a cab and started walking south on Island Pond Rd. She states she parked her cruiser at Murphy's to monitor them and the four black males seemed "annoyed" by them doing this. The four males told officers they were going to walk home and that they lived close. Officer Lewis states that they walked south on Island Pond and turned right onto Allen St. At this time they cleared from the call. Officer Lewis states she did not enter the bar for any reason.

At 2:04 AM her and her partner were dispatched to Murphy's on Island Pond Rd. for a disturbance. Upon arrival she observed the same four black males she had dealt with earlier at Nathan Bill's. She states one male was on the ground and the others were standing over him. As she approached the males, one male, described as being a shorter one, began to try and pick up the male off the ground. He appeared to be unconscious and breathing. She states that her and Officer Rivas gave medical attention to the victim as well as a taller black male.

Officer Lewis states that the male on the ground came to and began to throw up. Officer Lewis writes that when she asked the males what happened they replied "we good!" and they "know how this stuff goes." She further writes they were uncooperative and vague when presented with questions. When she pressed again in her questioning she was told they were "jumped by some white boys." They refused to provide any additional information.

AMR and Sgt. Bortolussi arrived on scene at this point. Officer Lewis states that AMR offered medical attention to all individuals and all initially refused. The male that was unconscious decided to get treated, and entered

the back of the ambulance and sat on the bed. She further states that the other males convinced him he was ok and he exited the truck.

Officer Lewis writes that the short male was creating a scene, "yelling profanities, waving his arms and being uncooperative. He was asked several times to quiet down, and Officer Nguyen handcuffed him and placed him in their cruiser briefly until he calmed down. He was then released.

Officer Lewis states that one of the males called for a ride, when the ride arrived three of the males got into the car. The taller male told her that his car was still parked in the Nathan Bill's parking lot. Officers escorted him to his vehicle and watched him leave.

Officer Jeremy Rivas wrote a report regarding the above incident. He states he arrived to Nathan Bill's with his partner Officer Derrick Gentry-Mitchell and observed Officers Nguyen and Lewis standing outside telling 3 black males to leave the establishment. He also states that he saw off-duty officers Anthony Cicero, Christian Cicero, Daniel Billingsley and Melissa Rodriguez standing outside with other patrons. He does not remember who he spoke with but remembers being told that the shortest black male was causing trouble inside. He was told that the short black male was harassing females and was asked more than once to stop. When asked to leave the short black male broke a glass and went outside and waited with two other friends; while the fourth closed out the tab. While outside the short black male was belligerent and loud and causing a disturbance. Officers demanded that he along with his friend vacate the area. Officers waited a couple of minutes and the black males left south on Island Pond Rd. Officer Rivas also writes that the four black males stated they would "be back." He states officers never entered the bar.

Officer Rivas was then dispatched to Murphy's at approximately 2:04 AM. Officers observed four black males on Warehouse St and one of the males was on the ground and injured. Officer Rivas states all four males had injuries but the one on the ground was the worst. Officer Rivas states his brother, the shortest black male, attempted to get him up. Once on his feet this male began to vomit profusely. Officer Rivas states that at this point officers could not get any type of story because the males were all "riled up." After getting them to calm down the black males told officers "man them white boys jumped us." AMR arrived and put the man who had been on the ground in the back of the rig.

Officer Rivas states that he pulled the "big athletically built male in gray" aside. This male told him a "bunch of white guys from the bar whom they had words with earlier, came outside talking trash and jumped them." He stated there were roughly "10 white guys." He also stated that he and his friends "were from New York and had just gotten out of jail and were looking to enjoy a couple of beers." Officer Rivas further writes that at this point the male in back of the ambulance was fully alert and got out of the ambulance. He did not want any more medical treatment and signed a refusal form.

Officer Rivas further states that none of the males were being cooperative. The shortest male was being belligerent and "screaming, flailing his arms about, pacing around and speaking very aggressively." Officer Rivas asked the athletic male to try and calm him down. He states that this subject was placed into handcuffs and put in the back of a cruiser. Officer Rivas states that the tallest male had a car in the parking lot of Nathan Bill's and went to retrieve escorted by officers. The male seemed okay and drove away. The other three males also "went on their way."

Officer Derrick Gentry-Mitchell wrote a report regarding the above incident. He arrived at Nathan Bill's with his partner Officer Rivas at approximately 1:16 AM. Upon his arrival he observed three black males, one of whom was yelling profanities, causing a scene and refusing to leave. He states that "several staff members from Nathan Bill's" informed officers these individuals were no longer welcome at the bar and had been asked to leave. Officers advised them they needed to go home for the night. Officer Gentry states that these individuals left stating "they would be back." Officer Mitchell states that there was a large group of bar patrons present in front of the business, who appeared to be uninvolved in the disturbance. He states that he observed off-duty officer Christian Cicero present in the group. Officer Mitchell states he did not enter the bar.

At approximately 2:04 AM they were dispatched to Murphy's on Island Pond Rd. for a man down. Upon Officers Mitchell's arrival he observed the same three black males who were present when officers responded to Nathan Bill's previously. Officer Mitchell states "these individuals had all sustained lacerations to their faces and arms, and appeared to have been in some sort of physical altercation." Officer Mitchell spoke to one of the individuals who, when asked what happened replied by saying "we was jumped by a

hundred crackers, but we good." When Officer Mitchell asked him to clarify he "continued to yell these same words each time I asked him." This subject could not provide Officer Mitchell with any further description then "a hundred white boys" and would not provide a better description. Officer Mitchell states that they were treated by AMR and released after refusing to be transported. Officer Mitchell states they searched the area for anyone matching the description with negative results.

Officer Nathanael Perez wrote a report about his involvement with the above incident. He and his partner James D'Amour responded to Officer Nguyen and Officer Lewis calling out of a disturbance at Nathan Bill's. Officer Perez states that upon arrival he observed 3 black males, one who appeared very upset and was yelling, leaving the bar. He states "we advised these males to leave the area, at which they were initially uncooperative." The eventually did leave, walking north on Island Pond Rd. He and Officer D'Amour parked along Island Pond Rd. to observe these males leave the area. They also observed a crowd of people standing outside the entrance of the bar.

They spoke with people on scene, as well as one of the bar owners, known to Officer Perez as "[redacted]old him that the male who was visibly upset was kicked out of the bar for causing a disturbance. Officer Perez states that he saw off-duty officers Christian Cicero, Daniel Billingsley and Melissa Rodriguez outside the bar.

Officer Perez further writes that when they responded to Murphy's at 2:04 AM, he observed four black males, one of whom appeared to be visibly injured on Warehouse Street. Officer Perez states that three of the four black males were the same group of people who had been advised to leave the area previously.

Officer Perez states that they stated to Officer D'Amour and him that "they had returned to the bar after having been advised to leave. They then stated that they were jumped by a group of white people and they took off heading north on Island Pond Rd. Officer Perez and D'Amour then left the scene and proceeded to search for the assailants. After a search with negative results they returned to the scene.

Upon their return to the scene they observed Sgt. Bortolussi, Officers Nguyen, Lewis, Rivas, Mitchell on scene. Officer Perez and his partner began assisting the other officers. Officer Perez states that while speaking with the males they were all being uncooperative. He states the shorter male

was being "exceptionally uncooperative and aggressive" towards him and the other officers. Officer Perez states that this male was secured in the rear of a cruiser. He was released when he calmed down. Officer Perez states that AMR treated the male who he stated had been previously injured. After exiting the ambulance, the males were picked up by another vehicle and left the area.

Officer James D'Amour wrote a report regarding the above incident. Officer D'Amour states that he and his partner Officer Perez responded to Nathan Bill's to assist other officers.. Upon their arrival he observed three black males screaming and shouting in the street, walking away from Nathan Bill's. Officer D'Amour states that they were acting loud and causing a scene and one of the males did not have his shirt on. He further states that they all seemed intoxicated and were asked to go home several times. After several attempts the males stated they would go home.

When responding to Murphy's he observed the same three black males that were observed in the disturbance earlier in the night. The three males told officers they had been jumped by "a bunch of white guys" and they all ran down Island Pond Rd. to flee the scene. At this point, he and his partner drove down Island Pond Rd. in the direction stated by the three males, but could not locate anyone. When they arrived back to the scene, AMR responded to treat the individuals and they declined further medical attention.

Sgt. Louis Bortolussi wrote a report regarding his involvement of the above incident. HE states he responded to Murphy's Pop Shop for a disturbance. Upon his arrival officers were already on scene. The officers were with three or four alleged victims of an assault and battery. He states AMR responded and gave first aid to the subjects that were injured.. He states at this time there were no other subjects on scene involved in the altercation. Sgt. Bortolussi further states he was not aware that the altercation might have involved off-duty officers. He also states while on scene he was told the subjects were being uncooperative and did not want a report of the incident. Sgt. Bortolussi instructed Officers Nguyen and Lewis to make a report of the incident.

Video from Bank of America was obtained by Sgt. William Andrew. The Bank of America is located adjacent to Nathan Bill's. It is titled East Forest Park Office Camera 1. On 4/8/15 it shows several Springfield Police marked

cruisers arrive to the area in the parking lot near Nathan Bill's at approximately 1:16 AM. Springfield Police officers can be seen speaking to several people. The officers then leave shortly after. Later the video shows a Springfield Police cruiser enter the lot around 2:09 AM and exit shortly after. The video also shows a second cruiser at 2:11 AM and an AMR ambulance enter the lot. Both vehicles exit shortly after with nothing unusual to note.

The video is of poor quality lacking significant detail for facial recognition. A copy of the video was submitted to the F.B.I for their assistance with possible enhancement on 7/21/15.

On 7/27/15 Capt. Duda made contact with Mr. [redacted] (413-[redacted] of [redacted] Arden St). Mr. [redacted] phone number was identified as calling 911 for the disturbance at Murphy's at 2:04 AM. During the phone interview, Mr. [redacted] told Capt. Duda that he and his wife heard a lot of noise and yelling outside. When they looked out their window they could see a large fight occurring and what looked like somebody kicking and punching somebody on the ground. He states there were several people involved. He further states it was too dark to see if they were black or white. His wife then called 911 to report the disturbance.

On 7/28/15 Officers Christian Cicero, Anthony Cicero, Daniel Billingsley and Melissa Rodriguez submitted reports to Capt. Duda declining to answer questions pursuant to the Constitution of the United States and Commonwealth of Massachusetts.

A Pre-Hospital Care Report ("run sheet") sheet was obtained from AMR regarding their response to the incident. The AMR crew, Ambulance #433, staffed by EMT's [redacted] and [redacted], was dispatched at 2:05 AM and arrived on scene at 2:08 AM. The report indicates that the crew spoke to a [redacted] (dob [redacted] of [redacted] Page Blvd.). He reported no complaint. The AMR crews observations stated the patient had a contusion on the right side of his head. The report also says the patient thinks he was jumped and "he thinks someone tazered him." The patient refused transport.

Please see all attached reports and DVD's.

Springfield Police Department

Major Crimes

Sergeants or Superior Officers Report

Respectfully submitted,

Capt Trent

Capt. Trent Duda #020497

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above captioned petition for relief pursuant to G. L. c. 211, § 3, I, Nicholas John Raring, Esq., hereby depose and state:

1. I am a member of the bar in good standing in the Commonwealth of Massachusetts.
2. I have been employed by CPCS as a staff attorney in the Springfield Office of the Public Defender Division since 2007.
3. During my employment with CPCS, I estimate that I have handled more than one-thousand cases. The vast majority of those cases were investigated by the Springfield Police Department (herein "SPD").
4. In my experience, I very rarely receive a "Use of Force Report" in discovery in cases where the SPD used lethal force (i.e. discharging a firearm, motor vehicle collision) or a less-lethal force tool (i.e. OC Spray, Taser, etc.).
5. In fact, I cannot now recall the last time I received a "Use of Force Report" generated by the SPD, and a cursory search of some of my closed case files where I remembered the Springfield police used force against my client did not uncover one.
6. If a Use of Force Report had been generated in a particular case, I would expect it to be provided in discovery automatically pursuant to Mass. R. Crim. P. 14(a)(1)(A)(vii) – as it would be a material and relevant police report.

7. While it has been some time since I last received a "Use of Force Report," on those occasions where I did receive such a report, I don't remember that it ever contained more than a paragraph or two that appeared to be cut and pasted from the main police report narrative. It rarely, if ever, gave further details regarding the force used or the injuries inflicted.

Signed this third day of March, 2021, under the pains and penalties of perjury.

\s\ Nicholas J. Raring
Nicholas J. Raring, Esq.

‘One of the worst police departments in the country’: Reign of brutality brings a reckoning in Springfield

Long before a scathing report from the Justice Department, Springfield police exhibited a shocking brutality

By **Dugan Arnett** **and** **Laura Crimaldi** Globe Staff, Updated July 25, 2020, 4:08 p.m.



Justin Douglas was beaten by Springfield police in 2012 after he was handcuffed and placed under arrest for illegal firearms charges. JESSICA RINALDI/GLOBE STAFF

SPRINGFIELD — It was the city’s worst-kept secret, an unspoken understanding

between the local narcotics unit and people on the streets they policed.

If you run from the cops, a former narcotics officer with the Springfield Police Department told federal investigators, you "get a beat down."

It was not just patrol-car rhetoric. Over the course of the past decade, the beatings came fast and fierce, and with such regularity that even the Trump administration — with its well-documented support for forceful police tactics — eventually intervened.

An explosive report released July 8 by the US Department of Justice, which details deep dysfunction within the department, has brought the national conversation on police brutality to the doorstep of this city of 154,000, where issues of crime and poverty have persisted even as recent economic development, including the construction of a billion-dollar downtown casino, has offered the promise of better days.

Initiated in 2018 and focused largely on the department's narcotics bureau, the investigation paints a portrait of a rogue unit with little oversight, populated by officers who needlessly escalate encounters, levy brutal beatings without legal justification or reprimand, and routinely provide misleading or false arrest reports to cover up the assaults.

Perhaps most striking was the brazenness with which members of the unit carried themselves, with one narcotics detective telling a 15-year-old suspect being questioned about a stolen vehicle that "I could crush your [expletive] skull and [expletive] get away with it" — even as surveillance cameras rolled.

"The brutality was obviously awful to read," says Christy Lopez, a law professor at Georgetown University and former deputy chief with the Department of Justice who was not involved in the Springfield probe but previously led investigations into troubled police departments in Los Angeles, Chicago, and Ferguson, Mo. "But in some

ways, the more abhorrent part was … the attitude of the police department, which seemed to be 'Who cares?' "

Against the backdrop of a national movement against police brutality, the report has prompted widespread outrage. Springfield Mayor Domenic J. Sarno and his police commissioner have vowed to implement the DOJ's recommendations, saying the work of reform was underway before the report was released.



Hampden County Defenders held a Black Lives Matter rally in Court Square in Springfield in July. The march was organized and led by criminal defense lawyers, legal aid workers, social workers, and community-based organizations. SUZANNE KREITER/GLOBE STAFF

But to many in this city, where more than half of residents are Black or Hispanic, the report merely affirmed what has long been known.

Interviews with nearly two dozen residents, attorneys, and city officials — as well as police records and lawsuits reviewed by the Globe — reveal a longstanding pattern of brutality, often against residents of color, that has deeply fractured community-police

relations, cost the city millions in legal settlements, and left a trail of damage.

The US Department of Justice "didn't pick Springfield to make an example of them," says Matthew Segal of the American Civil Liberties Union of Massachusetts.

It was chosen, he said, because it's "one of the worst police departments in the country."

* * *

At the moment Michael Ververis regained consciousness, he found himself handcuffed and bleeding from the head, having been choked and dragged across a snowy sidewalk in front of dozens of onlookers.

Ververis had spent the evening of Jan. 8, 2011 with friends in Springfield's entertainment district. When the outing was over, as he and a co-worker began their drive back to Connecticut, he said, an officer directing traffic near busy Worthington Street — apparently unhappy with how slow the vehicle was moving — hit the back of the car with a flashlight or nightstick, shattering a taillight. The co-worker, who was driving, stopped the car and got out to assess the damage. When the co-worker got back in the car, he rolled down the window on the passenger-side — where Ververis was sitting — and asked the officer for his badge number.

Immediately, Ververis told the Globe, he was set on by officers, who hit him repeatedly through the window before pulling him from the vehicle. At one point, he said, he was placed in a choke-hold, causing him to temporarily lose consciousness.

"Look at what they're [expletive] doing!" screamed a woman as she filmed the scene from the window of a nearby building.

The video would later be used to help acquit Ververis, who is white, of the charges levied against him that night: assault and battery on an officer, resisting arrest, and

disorderly conduct — including a claim that Ververis had reached for an officer's gun.

"I'm privileged enough to say that I survived, and I got to fight my case," says Ververis, 32, who eventually received a $175,000 settlement from the city. Others, he said, have "gone through way worse."

Indeed, the cases outlined in the 28-page Justice Department report do not make for easy reading. There is the 17-year-old punched by an officer as he rode a motorbike past members of the narcotics unit as they made unrelated arrests. And the slight middle-aged man punched in the face during a drug arrest despite not acting aggressively himself.

In various cases, investigators found that those attempting to flee police suffered mightily for it, sometimes with stitches or broken bones.

Among the most disturbing cases included in the report involved two narcotics officers questioning teenage suspects accused of stealing an unmarked police SUV in February 2016. As surveillance cameras captured the exchange, officer Gregg Bigda, who is white, tells a 15-year-old Latino boy that "I'm not hampered by the [expletive] truth because I don't give a [expletive]. People like you belong in jail. … I'll stick a [expletive] kilo of coke in your pocket and put you away for [expletive] 15 years."

To another teen suspect in the case, Bigda displayed a dirty boot, saying it was stained with the blood of one of the other boys. "That'll be yours on this shoe," he said, pointing to his other boot.

"They knew they were on video," says Howard Friedman, a Boston-based civil rights lawyer who is currently suing the city of Springfield on behalf of another one of the teens, a 14-year-old Latino boy who says he was kicked in the face and spat on by Bigda while handcuffed. "That shows knowledge that they will be protected by their department, no matter how outrageous their conduct is."

Despite such abuses, the DOJ report found, officers in the unit rarely went punished.

Though department policy requires senior staff commanders to refer any questionable use-of-force incident resulting in prisoner injuries to the Internal Investigations Unit, the DOJ found that between 2013 and 2018, not a single referral was made in cases involving the narcotics unit or the department as a whole. Civilian allegations made to internal affairs also went unpunished; in the past six years, the report noted, not a single excessive force complaint against a narcotics officer has been sustained by the department.

In March, an officer admitted to sufficient facts for a guilty finding after he was charged with assaulting a man who went to police headquarters in 2017 to complain about a parking ticket. The officer wasn't disciplined, a police spokesman said, but faces a federal civil lawsuit over the confrontation, which was caught on surveillance video.

In another high-profile incident, this one from 2015, several off-duty Springfield officers were accused of attacking four Black men outside Nathan Bill's Bar and Restaurant following a disagreement inside. During the attack, Paul Cumby, of Chicopee, said he was knocked unconscious after being struck on the head from behind and awoke with a broken leg, dislocated ankle, and four teeth knocked loose. The DOJ report said another man was repeatedly kicked in the head by the off-duty officers.

Cumby settled a suit with the city in 2018, and Massachusetts Attorney General Maura Healey is prosecuting the case criminally, including accusations that responding officers helped cover up the incident. To date, no officers have been fired.

The misconduct has created problems that extend well beyond the department.

Local prosecutors have struggled to successfully prosecute drug crimes, according to

the DOJ report, “in large part [because] they have not been able to rely on testimony from discredited Narcotics Bureau officers.” What’s more, lawsuits brought by citizens alleging police abuse have regularly forced the city to dole out sizable settlements.

Between 2006 and 2019, Springfield spent more than $5.25 million in police misconduct settlements, according to the DOJ. By comparison, Bridgeport, Conn. — a city of similar size — paid just $249,000 for such settlements during the same period, the DOJ said.

The city paid Kissa Owens $1 million, for instance, after her 15-year-old son, Delano Walker Jr., was killed during an encounter with police in 2009. Walker, who was Black, was talking on his phone and walking with two friends when a white officer approached him and told him to get off the phone. When Walker refused, the officer lunged at the teen’s throat, according to testimony in a federal civil suit. As Walker backed away, he stepped into oncoming traffic and was struck and killed.

Even in cases where settlements have been reached, however, officers have oftentimes emerged unscathed.

In a federal civil lawsuit filed in 2014, Justin Douglas, 39, said he was pistol-whipped by Bigda while handcuffed during a 2012 arrest in a West Springfield motel room.

But while the city agreed to pay $60,000 in 2017 to settle the suit, Springfield police never investigated or disciplined the seven officers who were in the motel room that day with Douglas, according to the Justice Department.

“I was wrong,” said Douglas, who pleaded guilty to illegal firearms charges and was sentenced to serve up to 8½ years in prison. “I had those weapons … I did the time. Well, what about this racist cop, man, lying and falsifying and doing [expletive] to people that’s unjust?

“What about that?”

* * *

In recent weeks, prompted by roiling national debate surrounding policing, Mayor Sarno reallocated $125,000 from the $50.3 million police budget to fund social programs. He has vowed to review the department’s policies on the use of force and asked the city council to grant subpoena power to a civilian board that hears complaints against officers.

But some critics deride the moves as the hollow maneuverings of a mayoral administration that has not only ignored problems within the police department, but actively impeded reform.

In 2017, when then-city council president Orlando Ramos created a 15-member committee to examine police-community relations, the mayor’s office declined to take part; in a letter to Ramos at the time, Sarno called the committee “redundant” and cited the falling crime rate as evidence that the city’s current efforts were working. When members of the committee eventually presented their findings to the mayor — including a survey that found Black and Hispanic residents were far less satisfied with the police department than white residents — “it went completely ignored,” Ramos said.

Though more than half of the department’s patrol officers are Black, Latino, or Asian, 70 percent of supervisors on the force of about 500 are white.

In 2016, meanwhile, after a federal magistrate judge determined the city demonstrated “deliberate indifference” to the risks posed by officers with repeated civilian complaints, Sarno defended the department, telling The Republican newspaper that officers “are dealing with the dregs of society.”

“We’ve always been told by the administration, basically, that there’s nothing wrong

with the police department," said Ramos, who along with other city councilors is currently locked in a contentious battle with the mayor over the organizational structure of the police department. "I'm sick and tired of hearing that 'we're already doing that.' It's obvious right now that we're not doing enough."

Currently heading the department is Cheryl Clapprood, a longtime Springfield officer who overcame an early-career scandal — she was convicted of filing a false report in an incident involving a department vehicle — to be named the SPD's first female commissioner last September.



Springfield Police Commissioner Cheryl Clapprood at department headquarters in 2019. MATTHEW CAVANAUGH/FOR THE BOSTON GLOBE

But Clapprood's short tenure has been plagued by high-profile controversies.

In April, citing staff shortages due to the pandemic, Clapprood reinstated five of the officers under indictment for covering up the 2015 attack outside Nathan Bill's bar.

Facing backlash and demonstrations over police brutality, Sarno ordered the officers to be suspended again.

Her decision last month to fire a 30-year-old Latina detective for a pro-Black Lives Matter social media post received national media attention, as well as condemnation from some city councilors. And a recent online petition calls her leadership "tone deaf" and "combative" while calling for her removal as commissioner.

To date, it has garnered more than 1,500 signatures.

* * *

Clapprood has vowed to take the corrective measures suggested in the DOJ report, including revamping use-of-force training and internal discipline procedures, and she has announced a new mandate requiring that plainclothes officers wear body cameras. But her public comments have also been tinged with defiance.

During a press conference earlier this month, she downplayed the DOJ investigators' findings as "not a lot of cases," and later insisted in an interview with a Springfield radio station that the department isn't as "loosey-goosey" as the report suggests.

"They're not talking about nightstick strikes or tasers," she said. "They're talking about fists, and they're talking about take-downs, and they're talking about people who get hurt on a take-down and may have a scrape or an injury."

Officer Joseph Gentile, president of the union for Springfield's patrol officers, praised the narcotics bureau in an interview for doing a "tremendous job," adding that "we're happy to do anything we can to help make us a better police department."

How far the Justice Department will go to ensure a departmental overhaul also remains to be seen.

Previous federal probes of troubled police departments have typically included

federally enforced agreements to ensure the implementation of reforms. A federal investigation of police abuses in Ferguson, for instance, mandated a court-appointed monitor to oversee the department for at least five years.

But the July 8 Springfield report included no such agreement, and officials from both the Justice Department and US Attorney's Office declined to say whether one would be forthcoming.

"We'd like to reach an agreement that shows we voluntarily complied with everything and still make it an enforceable agreement," said Springfield city solicitor Edward M. Pikula, adding that the city hopes to avoid a lawsuit by the Justice Department.

Meanwhile, the legacy of past abuses lives on in victims.



Le'Keisha Brown received a $9,000 settlement from the city of Springfield as a result of a misconduct lawsuit she filed over a police encounter in 2015. ERIN CLARK/GLOBE STAFF

In March 2015, Le'Keisha Brown was on the cusp of earning a criminal justice degree from Springfield Technical Community College when she arrived at a relative's home to mediate a family dispute.

When she told an officer responding to a call about the dispute that he couldn't enter her nephews' home without a warrant, a lawsuit later alleged, Brown, who is Black, was shoved twice by a Black officer, led away in handcuffs, and charged with assault and battery, resisting arrest, and disorderly conduct.

In 2016, a judge found Brown innocent of resisting arrest, and a jury acquitted her of the remaining charges. She also received a $9,000 settlement from the city after a federal judge found that a reasonable jury "could conclude that [Brown] was falsely arrested in violation of her federal civil rights."

By then, though, the damage had been done.

Though Brown completed her criminal justice studies in 2016, she said her criminal case has continued to affect job searches, and she has never realized her goal of working with juveniles in trouble with the law.

Today, she works as a certified nursing and patient care assistant — the same field she was in when she began studying criminal justice.

More than five years after her brief encounter with the Springfield Police Department, Brown says, "I'm still trying to rebuild my name."

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Show 135 comments

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN ss.

SUPERIOR COURT
CRIMINAL ACTION
No. 1979CR00156

HAMPDEN COUNTY
SUPERIOR COURT
FILED
DEC 17 2019
CLERK OF COURTS

COMMONWEALTH

vs.

JOSE DIAZ

MEMORANDUM OF DECISION AND ORDER ON DEFENDANT'S MOTION TO DISMISS

The defendant, Jose Diaz, is charged with assault and battery by means of a dangerous weapon as to Jackie and Jozelle Ligon and Michael Cintron, assault and battery as to Jackie and Jozelle Ligon and Michael Cintron, and assault and battery causing serious bodily injury as to Herman "Paul" Cumby. Jose Diaz argues that the indictments brought against him should be dismissed because the evidence presented to the grand jury was insufficient as a matter of law to establish the requisite probable cause. For the reasons set forth below, Jose Diaz's motion is **DENIED**.

BACKGROUND

The testimony and other evidence presented to the grand jury set forth the following: On the evening of April 7, 2015, several off-duty Springfield police officers and a number of their spouses met for a birthday celebration at Shaker Bowl in East Longmeadow. Among the group were an off-duty officer celebrating his birthday, Daniel Billingsley; his girlfriend and fellow off-duty officer, Melissa Rodriguez; off-duty officers Anthony and Christian Cicero; the Ciceros' spouses; and a cousin of Melissa Rodriguez. Following their gathering at the bowling alley, Daniel Billingsley, Melissa Rodriguez, and both Cicero brothers went to

12/18/19 Emailed to parties w/o, k

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Nathan Bill's Bar ("Nathan Bill's"), located at 110 Island Pond Road in Springfield. Fellow off-duty Springfield police officers Jeffrey Bienvenue, Seth Barker, and Jameson Williams were at the bar around the time of the first group's arrival. Later in the evening, before closing, fellow officer Christopher Collins arrived at the bar.

Robert Gossman and John Sullivan own Nathan Bill's. On the night of April 7, Joseph Sullivan was working at the bar as manager. Francesca Decaro was working that night as bartender. John Sullivan was present at the bar. He was drinking that night, but not working. Another off-duty Springfield police officer, Jose Diaz, was present at the bar and drinking. Jose Diaz arrived at the bar after drinking with two friends and fellow officers, Aaron Butler and Jose Canini, at Sophia's Sports Bar earlier that evening. Jose Diaz was known to carry a taser-type device in the center console of his truck.

Nathan Bill's frequently hosts off-duty Springfield officers. It faces a parking lot in a strip mall and is abutted on one side by a Bank of America branch with a drive-through ATM and security cameras. Immediately to the east of the bar is a small grassy median and Island Pond Road, which runs north-south. A few hundred feet south of the Bank of America and Nathan Bill's complex is a car wash and, south of that, a second string of businesses, including a restaurant called Murphy's Pop Shop and a hardware store named Rocky's, which face another parking lot.

Anthony DiSantis, another Springfield police officer, left his four-to-midnight shift and met his wife and other members of the birthday party at Nathan Bill's sometime between 11:45 p.m. and midnight. Uniformed officers Darren Nguyen and his partner Shavonne Lewis were patrolling the area of Springfield where Nathan Bill's is located that night. Officers Jeremy Rivas and Derrick Gentry-Mitchell in one cruiser and James D'Amour and Nathanael Perez in

another were patrolling adjacent sector units. Sgt. Louis Bortolussi was the shift supervisor for those units that night.

The four named victims, brothers Jackie and Jozelle Ligon, their cousin Herman "Paul" Cumby, and their friend Michael Cintron, met and went out for drinks at Nathan Bill's the evening of April 7. They arrived at Nathan Bill's sometime before midnight. Sometime around or after 1 a.m., Jozelle Ligon whistled for the bartender loud enough to be heard throughout the bar. Michael Cintron asked Jozelle Ligon to show him how he whistled, and Jozelle Ligon did so. Daniel Billingsley, believing the whistle to have been directed at Melissa Rodriguez, approached the bar and confronted Jozelle Ligon. Others from Daniel Billingsley's group joined him in confronting the named victims. Jozelle Ligon asked Daniel Billingsley if the female bartender was his girlfriend. Melissa Rodriguez then identified herself as Daniel Billingsley's girlfriend and said she took the whistle to be directed to her. The verbal altercation was apparent to others in the bar. In the exchange of raised voices, Jose Diaz yelled at the victims and called them "niggers."

Joe Sullivan intervened, separated Daniel Billingsley, and spoke to the named victims. Jackie Ligon attempted to pacify Daniel Billingsley, offering to buy his group drinks. In response, he was told that Daniel Billingsley's group were off-duty police officers, that they had "a tab." Sometime around this time, co-owner of Nathan Bill's, John Sullivan, spoke to the named victims, telling them that Daniel Billingsley's group were off-duty officers, that they were in a "cop bar," and that they needed to behave themselves.

Jackie encouraged Jozelle Ligon to go outside, and he did so. Jackie Ligon, Michael Cintron, and Paul Cumby joined him. Joe Sullivan spoke to Jackie Ligon on his way outside, telling Jackie he appreciated his efforts and recognized him as a patron of the bar. Joe Sullivan

further told Jackie that he did not want an altercation with Daniel Billingsley's group because they were rookie Springfield police officers and were "hotheads." While the named victims were outside, Daniel Billingsley, Christian and Anthony Cicero, and Melissa Rodriguez also came out and stood in the front of the bar. Joe Sullivan offered to allow the named victims to return inside to finish their drinks. One in Daniel Billingsley's group pointed at Jozelle Ligon and said he would not be allowed back in. Hearing this, the named victims elected not to go back inside.

During the verbal altercation, within the several minutes leading up to approximately 1:14 a.m., text messages were sent from Anthony Cicero's cell phone to the personal cell phone of Shavonne Lewis who was driving her cruiser with her partner Darren Nguyen. Eight messages were exchanged back and forth. At that time, Shavonne Lewis drove to Nathan Bill's and stopped in the parking lot. At approximately 1:16 a.m., the police radio dispatcher relayed a call for a disturbance at Nathan Bill's. Darren Nguyen and Shavonne Lewis had initiated the call. Two other cruisers with officers Jeremy Rivas, Derrick Gentry-Mitchell, James D'Amour, and Nathanael Perez responded and parked near the front of the bar in view of the Bank of America surveillance cameras. As the cruisers arrived, an individual who was with Daniel Billingsley outside the bar pointed out Jozelle Ligon to the responding officers and identified him as the indivdiual who caused the dispute inside the bar. Shortly after the police cruisers' arrival, Darren Nguyen and Jozelle Ligon exchanged angry words, and an officer accused Jackie Ligon's group of being "assholes." Several responding officers recognized the off-duty police officers in the group with Daniel Billingsley outside the bar and spoke with them. John Sullivan spoke to Darren Nguyen and Shavonne Lewis and recounted the verbal altercation with the named victims, telling the officers that he had informed the named victims

that Nathan Bill's was a "cop bar" and that they needed to behave themselves.

The named victims left the area on foot toward Island Pond Road. Paul Cumby did not want to drive the truck they had taken to Nathan Bill's as he worried that the Springfield Police would seek to punish them over the verbal altercation and pull him over. He walked away from his group for a time, speaking on his cell phone. The responding cruisers departed approximately 10 minutes after arriving at Nathan Bill's.

A few minutes later, Jackie Ligon and Michael Cintron, waiting for Paul Cumby to return, walked back to an area near the bar to await a cab they had called. Jozelle Ligon joined them there approximately five to ten minutes later.

While outside the bar, Jozelle Ligon phoned Desirae Robinson, who lived nearby. He told her that he missed her, that he was leaving Nathan Bill's, and asked to meet her near the parking lot at Rocky's. Desirae Robinson agreed and drove there in her gray Honda Civic.

Around this time, a taxi cab approached and stopped outside Nathan Bill's near the curb and then left. Before it left, Anthony DiSantis approached the vehicle and spoke to the driver. Anthony DiSantis inquired why the cab was there, and the driver asked if there was anyone who had called for a ride. Anthony DiSantis replied that some individuals who had been kicked out a few minutes before may have called for a ride. The driver told him that "[w]ell, if it's for those guys over there, they're crazy. I'm not letting them in my cab." The cab then left the area.

Anthony DiSantis then walked to the corner of the building near the Bank of America ATM and saw the named victims a short distance away. He went back inside and approached the Daniel Billingsley group, telling them that the named victims were still close by outside the bar, that the named victims had waved off the cab and, instead, remained nearby.

In response, Daniel Billingsley, Jeffrey Bienvenue, Anthony Cicero, and Christian Cicero, left Nathan Bill's. Anthony DiSantis and John Sullivan, who were behind the bar, heard yelling and decided to take Anthony DiSantis's truck to find Daniel Billingsley's group sensing "something is about to happen or whatever." DiSantis wanted to "probably go over there just to make sure that everything is okay or see what happens or if something does happen, you know, go from there or whatever." The two men and Chris Collins got into Anthony DiSantis's truck and drove to the Murphy's parking lot. Jose Diaz joined Daniel Billingsley, Christian Cicero, and Jeffrey Bienvenue as they left on foot in the direction of Murphy's, past the cameras at Bank of America. Jose Diaz was in the lead, and he was armed on his right side. Daniel Billingsley, Christian Cicero, and Jeffrey Bienvenue were captured on camera behind Jose Diaz.

Moments later another off-duty officer passed by the bank cameras going in the same direction. Approximately two minutes later, Anthony Cicero ran by the bank cameras headed toward Murphy's, joined a few minutes later by Jameson Williams and Igor Basovskiy. Agent Brannan identified Igor Basovskiy during his testimony reviewing the surveillance video. Paul Cumby identified Igor Basovskiy in a photo array. Melissa Rodriguez and Derrick Gentry-Mitchell identified Igor Basovskiy in still photographs taken of the surveillance video. Similarly, Agent Brannan, Melissa Rodriguez and Derrick Gentry-Mitchell identified Jameson Williams.

As the Daniel Billingsley group exited Nathan Bill's and made their way toward Murphy's, Jozelle Ligon met Desirae Robinson in the Murphy's parking lot. He and Desirae Robinson spoke for a few minutes while she sat in her car. As a voice called out words such as "what's up, now," Daniel Billingsley's group appeared and moved toward the named victims.

The commotion drew Paul Cumby back toward the parking lot. Jackie Ligon walked over to meet the off-duty officers first and asked what was going on.

Daniel Billingsley was out front, agitated. He told Jackie Ligon that he and his friends were still angry about what happened in the bar. Around the same time, Jose Diaz, wearing a blue fleece jacket, pulled an object out from under his clothing and said, "I'm going to get these motherfuckers." Daniel Billingsley told Jose Diaz, "Not now." Jackie Ligon attempted to calm down the officers. Paul Cumby, Jozelle Ligon, and Michael Cintron joined Jackie Ligon. Daniel Billingsley stated repeatedly, "It has to happen." One in Daniel Billingsley's group was also heard to say, "Calm down, rookie."

During the exchange of words between the two groups, Anthony DiSantis, John Sullivan, and Christopher Collins arrived in Anthony DiSantis's truck, having driven just beyond Murphy's and come back toward the opposing groups from the south. Paul Cumby attempted to get between Jackie Ligon and Daniel Billingsley. At the same or almost the same moment, a tall member of Daniel Billingsley's group pushed Jozelle Ligon; another hit Jozelle Ligon; and a fight began.

One of Daniel Billingsley's group lunged forward and punched Jozelle Ligon, and another struck Paul Cumby in the head. Both sides threw punches. During the fight, Jose Diaz drew his gun and pointed it at the named victims. The gun was never fired; a member of Daniel Billingsley's group told him to put it away, and Jose Diaz was hit hard in the face and knocked to the ground. Anthony DiSantis, coming in from behind the victim's group, noticed one of the named victims standing over or near Jose Diaz. He approached the named victim, grabbed his shoulder, spun him around, and punched him as the named victim punched back.

At the climactic moment when the Daniel Billingsley group confronted the victims,

Jackie Ligon identified the one who physically pushed Jozelle Ligon as the "tall" member of Daniel Billingsley's group. Multiple witnesses described Jameson Williams as a "very large individual," "significantly" larger than the other off-duty officers who were present at the fight. Jameson Williams was estimated to be 6'2" or 6'3" and greater than 300 pounds.

Anthony DiSantis specifically recognized Daniel Billingsley, Jose Diaz, and John Sullivan engaged in the fight. Jeffrey Bienvenue recognized Daniel Billingsley, Christian Cicero, and Anthony Cicero also in the fight to his right. Jeffrey Bienvenue joined in the melee and stated he was pulled out, inferentially by one of his own group, amidst the scrum. At that point, Jeffrey Bienvenue noticed Jameson Williams, face bloodied, leaning on a building and hunched over.

Paul Cumby later selected, among others, photographs of Daniel Billingsley and Igor Basovskiy when asked to identify the members of Daniel Billingsley's group who were inside Nathan Bill's and then attacked the victims at Murphy's. Jackie Ligon later selected, among others, a photograph of Daniel Billingsley as the off-duty officer to whom he spoke inside and outside Nathan Bill's and at Murphy's as the one out front who said, "It has to happen." Michael Cintron identified a photograph of Daniel Billingsley as an off-duty officer he saw in Nathan Bill's and later at Murphy's in an altercation with Jozelle Ligon.

During the assault, Jozelle Ligon was knocked to the ground. He covered his face and was kicked repeatedly while down. He bled from the face and head. Paul Cumby sustained multiple blows to his head, fracturing a portion of his skull, knocking loose teeth, and causing a concussion. Paul Cumby was also struck hard in the leg, fracturing his tibia, dislocating his ankle, and severing ligaments. Also during the assault, Jackie Ligon was struck and then, from

behind, felt a cold sensation and dropped to the ground, unable to move -- known effects of being hit with a stun gun. Jackie Ligon was kicked in the head repeatedly and could see the shoes of one of his attackers.

Jeffrey Bienvenue, Jameson Williams, both Cicero brothers, Daniel Billingsley, John Sullivan, and others were captured on the Bank of America ATM video returning on foot from the area of the assault approximately 10 minutes after the group had left in the direction of Murphy's, followed moments later by Jose Diaz. As depicted on the video recording, mere minutes after the Daniel Billingsley group attacked the victims, a group of three men appear on the video facing the grassy area out to Island Pond Road, walking from Murphy's and returning to Nathan Bill's. Moments later, Jameson Williams reappears in the left-hand frame of the same view that depicts John Sullivan, running, and another man returning from the fight. The video shows Jameson Williams standing in view of the camera for several moments, looking back down Island Pond Road in the direction of Murphy's, waiting for his fellow off-duty officers. He is breathing heavily. As several more of his group return at a fast pace – first Daniel Billingsley, followed quickly by Anthony and Christian Cicero – Jameson Williams, waiting alongside Jeffrey Bienvenue who was previously not visible, turns back to the left, disappears from view, and returns to the area immediately in front of Nathan Bill's with Jeffrey Bienvenue, Anthony and Christian Cicero, and Daniel Billingsley.

A 911 call for a fight near Murphy's over the radio caused the same three uniformed units to respond, again with the Darren Nguyen/Shavonne Lewis cruiser arriving first. Jeffrey Bienvenue saw Shavonne Lewis. He fled from the responding officers' blue lights on foot and hid behind a car in a side parking lot of Nathan Bill's. Jeffrey Bienvenue testified that he hid from the responding cruisers because he did not "want to be here right now" and that, in

fleeing, he was "covering [his] cheeks and . . . getting away from the scene."

Paul Cumby regained consciousness minutes after the fight, and Jozelle Ligon and Michael Cintron were attempting to help Jackie Ligon up from the pavement. American Medical Response ("AMR") EMTs John Sheehan-Ferreira and Christian Perkins arrived on scene in an ambulance, as did Sgt. Louis Bortolussi. Jozelle Ligon continued to lift his brother as Jeremy Rivas and Shavonne Lewis asked that he stop. As he let go, Jackie Ligon fell to the ground. The EMTs helped Jackie Ligon to the rear of their ambulance. One also tended to Paul Cumby. The EMTs offered to transport the named victims to a hospital. The EMTs suggested that Paul Cumby's injuries were slight, that he could sleep it off, and that a visit to an emergency room would be expensive. AMR policy required any person refusing medical treatment to sign a written waiver to that effect or the EMTs to obtain a signature of a witness to a refusal, but the EMT report does not contain any of the named victims' signatures waiving treatment or transport. Nor does it note refusals to sign.

Angry about the fight and the injuries to his brother, Jozelle Ligon complained loudly to the uniformed officers that he and his friends had been attacked by off-duty police officers. Darren Nguyen stated that Jozelle Ligon was causing a disturbance, placed him under arrest and put him in the back of a cruiser. In a side conversation with Paul Cumby or Michael Cintron about the identity of the assailants, Jeremy Rivas learned that the victims had been attacked by a group of men from Nathan Bill's with whom they'd had a fight earlier, and that off-duty officers were at the bar. Jeremy Rivas conveyed this information to Darren Nguyen and Shavonne Lewis. Darren Nguyen and Louis Bortolussi got into a heated disagreement. Louis Bortolussi ordered Darren Nguyen to author the report and to release Jozelle Ligon from custody. Jeremy Rivas and Derrick Gentry-Mitchell escorted the named victims back to

Nathan Bill's to retrieve Cumby's truck.

Anthony DiSantis returned to Nathan Bill's in his truck, alone. He re-entered the bar, met his wife, paid his bill, and went to leave with her. Jose Diaz was inside, sitting at the bar, as was John Sullivan. Jeffrey Bienvenue also paid and went home. Within approximately two minutes of returning, Daniel Billingsley was captured on camera leaving the bar with Melissa Rodriguez and escorting her through the parking lot.

After 2 a.m., past the closing hour, John Sullivan and Jose Diaz were still at Nathan Bill's. Darren Nguyen and Shavonne Lewis had moved their cruiser into the Nathan Bill's lot. Shavonne Lewis used her phone while Darren Nguyen drafted the incident report. Around this time, phone logs indicate that Shavonne Lewis had telephonic (voice and/or text message) contact with Anthony Cicero, Christian Cicero, Melissa Rodriguez, and Jeffrey Bienvenue.

Jose Diaz was intoxicated, and complained that he had lost the keys to his vehicle. John Sullivan, Jeremy Rivas, and Derrick Gentry-Mitchell helped Jose Diaz search for his keys. While searching, Jose Diaz stated he had been in the fight that took place south of the bar toward Murphy's, that he "and some of the guys" had walked over there, that during the fight a black male had knocked him out, and that when he came to the others were gone. During the search for Jose Diaz's keys, John Sullivan stated that he had spoken to the named victims several times while they were in the bar, that he told them it was a cop bar, that they should behave themselves and stop bothering the women, and that they should continue to have their drinks. John Sullivan further observed that the named victims were not listening and that it was like talking to children. The group located Jose Diaz's keys and John Sullivan stated he would drive Jose Diaz home.

Paul Cumby stayed overnight at Jackie Ligon's home. He lost consciousness several

times and Jackie Ligon brought him to the emergency room at Baystate Medical Center ("Baystate"). Once there, Paul Cumby and the other named victims learned precisely how badly he had been injured. Paul Cumby learned that he had suffered a broken leg, torn ligaments in and a dislocated ankle, four front teeth very loose, a concussion caused by a skull fracture, and multiple gashes. The torn ligaments in Paul Cumby's right ankle required surgery. The injuries to his teeth and other areas were permanent, and his teeth were removed and replaced with false teeth.

Jackie Ligon was not seen after speaking with the EMTs on scene near Murphy's. During the fight, he suffered the loss of feeling in his body and ability to walk. Jozelle Ligon later sought treatment for his injuries at Wing Memorial Hospital in Palmer and returned a second time for pain in his side. Michael Cintron suffered wounds to his leg, head, and arms from being punched, kicked, and hit with a baton.

That morning, April 8, Darren Nguyen and Shavonne Lewis sought out Jose Diaz's then-girlfriend, Kate Cavanaugh, a nurse at Baystate, the region's largest hospital and primary trauma center.

Darren Nguyen told Kate Cavanaugh that there had been an incident and that she should check in on Jose Diaz. When she got off work, Kate Cavanaugh went to Jose Diaz's house, finding him asleep in his bed. He was bleeding from a cut on his nose, and he had two swollen black eyes. She roused him and asked him what had happened. He replied that he had been in a fight involving another officer, that he had left the bar, "cold-cocked" and knocked to the ground. She encouraged him to go to the hospital, but he said he could not and refused to go. Kate Cavanaugh left for home and returned later in the day, before Jose Diaz was scheduled to start his shift. She found Jose Diaz asleep. She encouraged him to go to the hospital and to call

in sick from work. He refused to do either. Jose Diaz visited Kate Cavanaugh at Baystate around midnight during her shift and brought her coffee; the swelling and black eyes had worsened, and one eye was badly bloodshot. She asked him how he could have gone to work looking like that, and he replied that no one had seen him.

Later on the morning of the attack, Jeffrey Bienvenue observed that he had injuries to his head and made several attempts to see medical providers other than a hospital emergency room. For the shift immediately after the attack, Daniel Billingsley and Christian Cicero both called in sick. Daniel Billingsley reported that he had a migraine, and Christian Cicero reported that he had a broken toe.

In the days following the attack, Kate Cavanaugh heard rumors about what had happened and she continued to question Jose Diaz. He revealed that he had been at the bar with other officers, that there had been a verbal altercation with a group of men, and that the officers present – one of whom was Daniel Billingsley – had asked Nathan Bill's management to eject the men from the bar. Jose Diaz stated that the altercation was about one of the men whistling at Daniel Billingsley's girlfriend, who was also a police officer. During a trip to Boston together while his injuries were still visible, Jose Diaz instructed Kate Cavanaugh not to take pictures of him.

Several days later, Kate Cavanaugh and Jose Diaz visited a Bob's Furniture store in Connecticut near Springfield. While in Jose Diaz's truck, Jose Diaz received a phone call that Kate Cavanaugh heard because it was on speaker. Jose Canini, a fellow Springfield officer and one of Jose Diaz's few friends, had called to tell Jose Diaz that he was "all set" because they had erased the bank tapes. Jose.Canini also said to Jose Diaz words to the effect that, "[d]ude, you pulled your gun out, you could have been fired." Jose Diaz picked the phone up, shut the

speaker off, and said into the phone words to the effect of, "[i]t's just Kate, no she didn't hear it, no she won't say anything." Phone logs for Jose Canini's mobile phone showed that he had contact with Officer Christopher Collins just before 8 p.m. on April 12, 2015, and that he called Jose Diaz's number about 10 minutes later.

During additional conversations with Kate Cavanaugh, Jose Diaz admitted that he had pulled out his gun and discussed the consequences of that in light of what else he had told Kate Cavanaugh about the incident. Kate Cavanaugh told him that she did not understand why Jose Diaz would be in trouble if he had pulled out his gun in response to being attacked. Jose Diaz also stated he had not been able to call in sick after the fight because a record of doing so would be generated and he commented that another officer was stupid to have done so. Following her breakup with Jose Diaz, Kate Cavanaugh used an assumed name to post comments about Jose Diaz's role in the fight and the destruction of surveillance tapes beneath MassLive articles about the Nathan Bill's incident.

Also in the aftermath of the attack, Jose Diaz had a series of conversations with Joe Sullivan and John Sullivan attempting to cover up his involvement in the events at Nathan Bill's. In early 2017, Joe Sullivan saw Jose Diaz at another establishment, O'Brien's Bar. Jose Diaz ordered a beer for Joe Sullivan and told him that he believed his ex-girlfriend was posting comments about him on MassLive. Joe Sullivan bought Jose Diaz a drink in response and told him he did not wish to speak to him.

In an interview with the FBI on March 28, 2017, John Sullivan initially denied recognizing a photograph of Jose Diaz. Under further questioning, John Sullivan admitted that he knew Jose Diaz well and that Jose Diaz was a regular at Nathan Bill's who came in frequently around closing. John Sullivan first told the FBI that he wasn't sure whether Jose

Diaz was at the bar on the night of the assault but then admitted that Jose Diaz, in fact, had been there. He told the FBI that he did not remember how late Jose Diaz had stayed at the bar that night and did not know if Jose Diaz was with the group of off-duty officers at Nathan Bill's that night, omitting that Jose Diaz had been involved in the fight and that he had helped Jose Diaz search for his keys after the fight. John Sullivan also initially denied having spoken to Jose Diaz about the fight. Later, however, he admitted that Jose Diaz had come into Nathan Bill's a few nights after the attack and told him he was worried about being identified as someone who had been involved. John Sullivan told the FBI that Jose Diaz had told him that if anyone asked him, John Sullivan should say Jose Diaz was not present at the bar the night of the attack. John Sullivan stated that Jose Diaz came in regularly after that to discuss how nervous he was and his hope that he not be identified. He added that Jose Diaz was so persistent in this regard that he, John Sullivan, began to hide in the back of the bar when Jose Diaz came in and instructed staff to deal with him instead.

Anthony DiSantis recalled discussing the fight after the fact with John Sullivan and that they expressed surprise that the incident was being investigated and was a bigger deal than they expected it to be. Anthony DiSantis also recalled briefly speaking to Daniel Billingsley about the fight after details were reported in the local press and that Daniel Billingsley had told Anthony DiSantis that the accounts were one-sided and that he had been injured. Daniel Billingsley claimed that he had gone to the hospital and had surgery on his jaw as a result of being struck in the head. In addition, Daniel Billingsley claimed to authorities that he had memorialized his injuries from the fight outside Murphy's and produced undated photographs of bruises to his face, as well as one photograph of a scar with apparent sutures behind his ear.

DISCUSSION

A. Probable Cause

In order to issue a valid indictment, the grand jury must "hear sufficient evidence to establish the identity of the accused and probable cause to arrest." *Commonwealth* v. *McCarthy*, 385 Mass. 160, 163 (1982), citations omitted. "'Probable cause requires sufficient facts to warrant a person of reasonable caution in believing that an offense has been committed ...; this standard requires considerably less than that which is required to warrant a finding of guilt.'" *Commonwealth* v. *Carter*, 474 Mass. 624, 630 (2016), quoting *Commonwealth* v. *Levesque*, 436 Mass. 443, 447 (2002). An invalid indictment is subject to dismissal. *McCarthy*, 385 Mass. at 163.

The grand jury heard testimony sufficient to establish probable cause to indict Jameson Williams on all indictments brought against him. See *Commonwealth* v. *Arroyo*, 442 Mass. 135, 142 (2004) (indictments adequately supported when grand jury hears sufficient evidence to establish identity of accused and probable cause to arrest him for crimes charged); *Commonwealth* v. *Goldstein*, 54 Mass. App. Ct. 863, 866 (2002) ("The standard of sufficiency has been defined as whether the grand jury heard reasonably trustworthy information sufficient to warrant a prudent man in believing that the defendant had committed or was committing an offense").

B. Joint Venture

Where, as here, the liability of a joint venturer is at issue, "the Commonwealth must present the grand jury with evidence that the defendant both participated in, and shared the requisite mental state for, each crime charged." *Commonwealth* v. *Hanright,* 466 Mass. 303, 312 (2013), abrogated on other grounds by *Commonwealth* v. *Brown*, 477 Mass. 805 (2017).

The Commonwealth has met its burden relative to Jose Diaz. When viewed in the light most favorable to the Commonwealth, the grand jury properly relied upon circumstantial evidence in the issuance of the indictments against Jose Diaz. See *Commonwealth* v. *Rodriguez*, 75 Mass. App. Ct. 235, 238 (2009), citation omitted. See also *Commonwealth* v. *Barbosa*, 477 Mass. 658, 675 (2017). Circumstantial evidence, which "is competent to establish guilt beyond a reasonable doubt," *Commonwealth* v. *Gilbert*, 423 Mass. 863, 868 (1996), may certainly establish probable cause to indict. See *Commonwealth* v. *Torres*, 442 Mass. 554, 563 (2004) ("The evidence, although entirely circumstantial, was sufficient to support" the conviction); *Commonwealth* v. *Guerrero*, 32 Mass. App. Ct. 263, 266 (1992) ("web of circumstantial evidence" supported conviction).

The grand jury heard sufficient evidence to establish probable cause that Jose Diaz was part of a joint venture in the assault and battery on the four named victims. See *Commonwealth* v. *Tavares*, 61 Mass. App. Ct. 385, 389 (2004), citing *Commonwealth* v. *Netto*, 438 Mass. 686, 700-01 (2003) ("In order to succeed on a joint venture theory, the Commonwealth is not required to prove the identity of the actual perpetrator"). The testimony of percipient witnesses permits the reasonable inference that Jose Diaz actively participated in the brawl.

Notably, the grand jury heard evidence that on April 7, 2015, Jose Diaz went drinking with fellow officers Aaron Butler and Jose Canini at Sophia's Sports Bar prior to his arrival at Nathan Bill's. Jose Diaz joined Daniel Billingsley, Christian Cicero, and Jeffrey Bienvenue as they left on foot in the direction of Murphy's, past the cameras at Bank of America. Jose Diaz was in the lead, and he was armed on his right side. Daniel Billingsley, Christian Cicero, and Jeffrey Bienvenue were captured on camera behind Jose Diaz. During the fight, Jose Diaz pulled an object out from under his clothing and said, "I'm going to get these motherfuckers."

Daniel Billingsley told Jose Diaz, "Not now." Jose Diaz admitted to his then girlfriend, Kate Cavanaugh that he had observed the initial verbal altercation between the Billingsley group and the named victims. Anthony DiSantis specifically recognized Daniel Billingsley, Jose Diaz, and John Sullivan engaged in the fight. Jose Diaz admitted to Ms. Cavanaugh that, in response, he became angry, yelled at them, and called them "niggers." Jose Diaz admitted to John Sullivan and Derrick Gentry-Mitchell that he had been in the fight that took place south of Nathan Bill's toward Murphy's. In a telephone conversation which Kate Cavanaugh overheard, Springfield Police Officer Jose Canini told Jose Diaz that he was "all set" because the bank tapes of the incident had been erased, and that he had drawn his firearm and could have been fired.

The injuries Paul Cumby sustained from the parking lot beating delivered by Jose Diaz and/or his co-defendants were undeniably serious. Jose Diaz and/or his co-defendants broke Paul Cumby's leg, tore ligaments in his ankle and dislocated it, knocked some of his teeth so severely loose that they required replacement with false teeth, fractured his skull and subsequently caused a concussion. The grand jury head sufficient evidence to establish that Jose Diaz participated in an assault that caused Paul Cumby extremely serious bodily injury.

The evidence presented to the grand jury was sufficient to establish that Jose Diaz and his companions left the bar in agreement, explicit or implicit, and with the intention to confront the named victims. The group, with Daniel Billingsley in the lead and joined by Jameson Williams, Igor Basovskiy, Anthony Cicero, Jeffrey Bienvenue, Christian Cicero, and Jose Diaz, was captured by the Bank of America cameras approaching Murphy's together on foot.

A court does not "examine the sufficiency of the evidence separately as to principal and joint venture liability" but instead determines "whether the evidence [establishes probable

cause] that the defendant knowingly participated in the crime charged, with the intent required to commit the crime." *Commonwealth* v. *McCray*, 93 Mass. App. Ct. 835, 843 (2018), citing *Commonwealth* v. *Zanetti*, 454 Mass. 449, 468 (2009).

Here, Jose Diaz' actions, in concert with his joint venturers immediately prior to striking the first blows on the named victims demonstrate their shared intent. See *Commonwealth* v. *Semedo*, 422 Mass. 716, 719 (1996) (defendant "followed Villaroel into the restaurant and actively participated with others in the brutal beating of Sarjeant. From this, the jury could infer agreement among the joint venturers"); *Commonwealth* v. *Longo*, 402 Mass. 482, 488 (1988) (conduct of group of men converging on victim and administering beating permitted jury to infer shared intent). See also *McCray*, *supra,* at 843, quoting *Commonwealth* v. *Sexton*, 425 Mass. 146, 152 (1997) (joint venturers who "approached [victim] together and attacked him in coordinated fashion" and who "then fled together" were both knowing participants acting with shared intent; "'[T]here is no need to prove an anticipatory compact between the parties to establish joint venture . . . if, at the climactic moment the parties consciously acted together in carrying out the criminal endeavor'").

With regard to the assault and battery by means of a dangerous weapon charges, the jury could infer that Jose Diaz knew his joint venturers were wearing shoes, which inference was sufficient, coupled with the evidence of concerted action noted above, to satisfy the intent element of that charge. See *Commonwealth* v. *Johnson*, 92 Mass. App. Ct. 538, 544-545 (2017), quoting *Sexton*, 425 Mass. at 152 (reversing allowance of joint venturers' *McCarthy* motion on assault and battery by means of a dangerous weapon charges in connection with bar fight where grand jury could infer from fact that defendants were drinking from glasses prior to attack on victim that two other defendants knew first defendant was "armed" with glass; noting

that defendant's prior knowledge that joint venturer intended to use weapon not necessary where "'at the climactic moment the parties consciously acted together in carrying out the criminal endeavor'").

C. Consciousness of Guilt

Bienvenue, Williams, Anthony Cicero, Christian Cicero, Billingsley, John Sullivan, and others were captured on the Bank of America ATM video returning on foot from the area of the assault approximately 10 minutes after the group had left in the direction of Murphy's, followed moments later by Jose Diaz. In light of all the evidence before the grand jury, they were permitted to infer that the group fled together back to Nathan Bill's following the assault. That evidence, in turn, permits a strong inference of consciousness of guilt.

"A joint venturer may share with a principal a willingness to perpetrate other crimes, whether in the actual commission of the underlying joint venture or getting away after the crime was committed." *Hanright*, 466 Mass. at 312, quotation omitted. "There must be proof that the defendant somehow participated in committing the offense, by counseling, hiring or otherwise procuring the principal, by agreeing to stand by, at, or near the scene to render aid, assistance or encouragement if it became necessary, or to assist the perpetrator in making an escape from the scene." *Commonwealth* v. *Montalvo*, 76 Mass. App. Ct. 319, 331 (2010), quotations omitted.

The grand jury could well have concluded that Jose Diaz's flight from the scene was evidence of his consciousness of his criminal actions. See, e.g., *Commonwealth* v. *Daye*, 435 Mass. 463, 473 (2001), quoting *Commonwealth* v. *Cardarelli*, 433 Mass. 427, 436 (2001) ("A jury may consider evidence of a defendant's flight from prosecution as circumstantial evidence of his consciousness of guilt"). "It is well established that flight constitutes classic evidence of

consciousness of guilt." *Commonwealth* v. *Vick*, 454 Mass. 418, 426 (2009), citations omitted. "Evidence that a person flees from the scene of a crime . . . may be probative of a consciousness of guilt regardless of whether he has actual knowledge that he is being sought by the police." *Commonwealth* v. *Toney*, 385 Mass. 575, 583 (1982), ellipses supplied.

The grand jury was within its discretion in perceiving Jose Diaz's statements to the police as deceptive and indicative of consciousness of guilt. *Commonwealth v. Webster*, 480 Mass. 161, 166 (2018) (defendant's false statements to investigators were probative of consciousness of guilt and part of set of evidence tending to show his knowing participation as part of joint venture). For example, the grand jury properly considered evidence of John Sullivan's statements to the FBI on March 28, 2017, admitting that Jose Diaz had come into Nathan Bill's a few nights after the attack, telling him he was worried about being identified as someone who had been involved, and requesting that, if John Sullivan were asked, that he deny that Jose Diaz was present that night. The grand jury further properly considered as evidence of consciousness of guilt that, on September 8, 2015, Jose Diaz stated to IIU Sgt. William Andrew that he had arrived at Nathan Bill's at 1:50 a.m. to speak with John Sullivan and to help out around the bar. Jose Diaz stated to IIU Sgt. William Andrew that he did not recall if he had seen any officers present at the bar or while standing outside with John Sullivan, and that he had not been present at the scene of the fight.

Together with the identification evidence and Jose Diaz's admissions, consciousness of guilt evidence supported the grand jury's indictments against Jose Diaz for the assault on the named victims.

D. Conspiracy to Commit Assault and Battery

"The elements of conspiracy are 'a combination of two or more persons, by some

concerted action, to accomplish some criminal or unlawful purpose.'" *Commonwealth* v. *Nee*, 458 Mass. 174, 180 (2010), quoting *Commonwealth* v. *Benson*, 389 Mass. 473, 479 (1983). "To prove a conspiracy, the Commonwealth 'must prove that the defendant combined with another with the intention' to 'commit the object crime.'" *Id.* at 180-81, quoting *Commonwealth* v. *Frazier*, 410 Mass. 235, 245 (1991). Moreover, "the line that separates mere knowledge of unlawful conduct and participation in it, is often vague and uncertain. It is within the province of the fact finder to determine from the evidence whether a particular defendant had crossed that line." *Id.* at 181, quotations omitted. "[C]onspiracy may, and typically is, proved by circumstantial evidence, because often there is no direct evidence that an 'agreement' was reached." *Nee*, 458 Mass. at 181.

Just as the grand jury could find that Jose Diaz participated in the parking lot beating as a joint venturer, the grand jury could also reasonably find that Jose Diaz conspired with Daniel Billingsley and his other co-defendants to assault and batter Paul Cumby, Michael Cintron, and Jackie and Jozelle Ligon. See *Nee*, 458 Mass. at 181, quoting *Commonwealth* v. *Beneficial Fin. Co.*, 360 Mass. 188, 251 (1971) ("The acts of different persons who are shown to have known each other, or to have been in communication with each other, directed towards the accomplishment of the same object, especially if by the same means or in the same manner, may be satisfactory proof of a conspiracy").

The Commonwealth provided the grand jury with sufficient evidence to establish probable cause as to each of the elements of conspiracy. Jose Diaz was present at Nathan Bill's when the whistle that set the whole attack in motion occurred. When Daniel Billingsley was informed that the group was still around and left the bar to confront them, Jameson Williams – along with the Cicero brothers, Jose Diaz, and Igor Basovskiy – went with him. The grand jury

could reasonably infer that their purpose in seeking out the named victims was to resolve with violence the disagreement from earlier in the night.

ORDER

For the reasons set forth above, Defendant's Motion to Dismiss is **DENIED**.

DATE: December 17, 2019

MARK D MASON
Justice of the Superior Court

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PRESS RELEASE

Fourteen Springfield Police Officers Charged in Connection With Assault Near Bar and Cover up Afterwards

Officers Indicted on Various Charges Including Assault, Perjury, Misleading, and Conspiracy; Bar Owner and Bar Manager also Charged

FOR IMMEDIATE RELEASE:

3/27/2019

Office of Attorney General Maura Healey

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WORCESTER — Thirteen Springfield Police Department officers and one former officer have been indicted on various charges in connection with an assault on four victims and an attempt to cover up the details of the

assault afterwards, Attorney General Maura Healey and FBI Boston Division Special Agent in Charge Joseph R. Bonavolonta announced today.

A specially-designated Statewide Grand Jury sitting in Worcester returned indictments against the following individuals today, in connection with the assault on the four alleged victims:

- Springfield Police Officer Daniel Billingsley, age 30, of Springfield
- Springfield Police Officer Anthony Cicero, age 29, of Hampden
- Springfield Police Officer Christian Cicero, age 28, of Longmeadow
- Springfield Police Officer Igor Basovskiy, age 34, of Springfield
- Springfield Police Officer Jameson Williams, age 33, of East Longmeadow
- Springfield Police Officer Jose Diaz, 54, of Springfield
- Nathan Bills Bar & Restaurant Owner John Sullivan, age 34, of Springfield

The above defendants are charged with Assault and Battery with a Dangerous Weapon, Shod Foot (4 counts each), Assault and Battery - Serious Bodily Injury (1 count each), Assault and Battery (3 counts each), and Conspiracy (1 count each).

The Statewide Grand Jury also returned indictments against the following individuals today, in connection with attempting to cover up details of the assault afterwards:

John Sullivan
Misleading a Federal Agent/Investigator

Springfield Police Officer Jose Diaz
Misleading a Police Officer/Investigator

Springfield Police Officer Darren Nguyen, age 40, of Holland
Perjury
Misleading a Police Officer/Investigator
Filing a False Police Report

Springfield Police Officer Shavonne Lewis, age 29, of Springfield
Perjury
Misleading a Police Officer/Investigator
Filing a False Police Report

Springfield Police Sergeant Louis Bortolussi, age 57, of East Longmeadow
Perjury
Misleading a Police Officer/Investigator
Filing a False Police Report

Springfield Police Officer Derrick Gentry-Mitchell, age 29, of Springfield
Perjury

Misleading a Police Officer/Investigator/Grand Jury
Filing a False Police Report

Springfield Police Officer James D'Amour, age 42, of Hampden
Perjury
Misleading a Police Officer/Investigator
Filing a False Police Report

Springfield Police Officer John Wajdula, age 34, of Springfield
Perjury
Misleading a Police Officer/Investigator/Federal Agent
Filing a False Police Report

Former Springfield Police Officer Nathanael Perez, age 27, of West Springfield
Perjury
Misleading a Police Officer/Investigator
Filing a False Police Report

Springfield Police Officer Melissa Rodriguez, age 32, of Springfield
Perjury

Bar Manager Joseph Sullivan, age 42, of Hampden
Perjury
Misleading a Police Officer/Federal Agent/Investigator/Grand Jury

All defendants will be arraigned in Hampden and/or Worcester Superior Courts at later dates.

These criminal charges are the result of a joint ongoing investigation by the Massachusetts Attorney General's Office and the Federal Bureau of Investigation Boston Division. The AG's Office alleges that on April 8, 2015, off-duty Springfield Police Department officers Billingsley, Anthony and Christian Cicero, Basovskiy, Williams, and Diaz and bar owner John Sullivan, physically assaulted four victims after a confrontation at Nathan Bills Bar & Restaurant in Springfield. The victims had already left the bar when the defendants allegedly located them down the street and assaulted them. The victims were allegedly beaten and kicked, and sustained significant injuries as a result of the assault, some permanent. The AG's Office and the FBI collected statements from victims and witnesses, phone records, and video evidence that led to the identification of the defendants and these charges.

The AG's Office also alleges that after the assault, nine Springfield Police officers as well as John Sullivan and Joseph Sullivan (no relation) were a part of a long-standing and ongoing cover up of the assault. John Sullivan allegedly misled the FBI during the course of the investigation, and Diaz gave misleading statements in an interview with the Internal Investigations Unit of the Springfield Police Department. Nguyen, Lewis, Bortolussi, Gentry-Mitchell, D'Amour, Wajdula, Perez, Rodriguez, and Joseph Sullivan all allegedly committed perjury by lying when testifying in front of the Statewide Grand Jury, and many of these defendants also misled authorities and/or filed false police reports during the investigation.

These charges are allegations, and all defendants are presumed innocent until proven guilty.

This matter is being prosecuted by Assistant Attorney General Stephen Carley and Senior Trial Counsel Dean Mazzone, both of AG Healey's Criminal Bureau, with assistance from the FBI Boston Division, Massachusetts State Police assigned to the AG's Office, and Victim Witness Advocate Ellen Davis of the AG's Office.

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Office of Attorney General Maura Healey (/orgs/office-of-attorney-general-maura-healey)

Attorney General Maura Healey is the chief lawyer and law enforcement officer of the Commonwealth of Massachusetts.

More (/orgs/office-of-attorney-general-maura-healey)

CPHB YTD DETAIL REPORT: 2016
QUARTER 4
January 01 **To** December 31

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
SO-16-218	11/19/2016	12/21/2016	2/2/2017		73 Achushnett Ave	16-106	Female	White	Search & Seizure	Sustained	Pending	Pastor Gail Hill Paul A. Phaneuf	Officers kicked her door down as they were chasing a drug suspect. Officers kicked the wrong door
									Search & Seizure	Sustained	Pending		
									Search & Seizure	Sustained	Pending		
									Search & Seizure	Sustained	Pending		
									Search & Seizure	Sustained	Pending		
									Search & Seizure	Sustained	Pending		
SO-16-217	12/6/2016	12/6/2016	1/26/2017		91 Taylor St	Admin	Female	White	Physical/Hands	Sustained	Pending	Gary Berte Robert C. Jackson	Officers involved in an off duty fight with a known gan member.
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
SO-16-221	11/19/2016	12/6/2016	2/2/2017		91 Taylor St	Admin	Male	White	Physical/Equipment	Not Sustained	Pending	Pastor Gail Hill Paul A. Phaneuf	internal investigation after cpt reviewed photos and injury reports. Arrestee suffered facial injuries.
									Physical/Equipment	Not Sustained	Pending		

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
SO-16-198	2/27/2016	11/28/2016	1/13/2017	1/31/2017	130 Pearl St	Admin	Male	White	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese	Officers drank in office while on duty
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
SO-16-223	10/14/2016	11/27/2016	1/26/2017		22 Hudson St	16-107	Female	White	Discourtesy	Sustained	Pending	Gary Berte	Officers didn't make arrest or make report. Also falsified rpeort
									Rules/Regulations	Sustained	Pending	Robert C. Jackson	
									Discourtesy	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
									Discourtesy	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
SO-16-211	11/23/2016	11/23/2016	1/13/2017		Allen/Plumtree	16-103	Male	Black	Physical/Equipment	Sustained	Pending	Albert Trangese	Officers punched complaintaint
									Rules/Regulations	Sustained	Pending		
									Physical/Equipment	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
SO-16-186	9/16/2016	11/21/2016	11/25/2016		Liberty St	Admin	Female	White	Discourtesy	Sustained	Pending	Albert Trangese	Complainant stated that officer yelled at her and was rude at construction site.
												Paul A. Phaneuf	

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
PI-16-103	11/12/2016	11/16/2016	12/29/2016		50 Foster	16-101	Male	Other	Rules/Regulations	Not Sustained	Pending	Linda Caron Paul A. Phaneuf	Complainant stated that officer did not take a report
SO-16-206	11/15/2016	11/15/2016	12/29/2016	1/31/2017	691 State St	Admin	Female	White	Physical/Hands	Not Sustained	Pending	Linda Caron Paul A. Phaneuf	Officers K-9 bit 2 yr old on leg
									Rules/Regulations	Not Sustained	Pending		
PI-16-102	11/12/2016	11/13/2016	12/29/2016		82 Mattoon	16-100	Male	Unknown	Discourtesy	Sustained	Pending	Linda Caron Paul A. Phaneuf	Complainant stated that officer was rude.
									Discourtesy	Not Sustained	Pending		
PI-16-101	10/2/2016	11/11/2016	1/13/2017		514 Belmont Av	16-098	Male	Unknown	Discourtesy	Not Sustained	Pending	Albert Trangese	Complainant stated that officer was harrassing her son
									Rules/Regulations	Not Sustained	Pending		
PI-16-097	10/17/2016	11/1/2016	11/25/2016		130 Pearl St	Admin	Unknow	Unknown	Rules/Regulations	Sustained	Pending	Albert Trangese Paul A. Phaneuf	Complainant stated that did not take a report and told him to go back to scene of the crime and call police.
SO-16-216	11/1/2016	11/1/2016	1/13/2017	1/31/2017	Main / Boland Way	Admin	Male	White	Physical/Equipment	Not Sustained	Sustained	Albert Trangese	Officers involved shooting
									Rules/Regulations	Not Sustained	Sustained		
									Physical/Hands	Not Sustained	Sustained		
									Rules/Regulations	Not Sustained	Sustained		
									Physical/Equipment	Not Sustained	Sustained		
									Rules/Regulations	Not Sustained	Sustained		
PI-16-096	10/22/2016	10/22/2016	1/13/2017		45 Eddy St	16-094	Female	White	Discourtesy	Not Sustained	Pending	Albert Trangese	Complainant stated that officer came into house without permission
									Rules/Regulations	Not Sustained	Pending		
PI-16-093	10/7/2016	10/18/2016	12/29/2016	1/31/2017	146 Longhil Rd	Admin	Female	Black	Rules/Regulations	Not Sustained	Not Sustained	Linda Caron Paul A. Phaneuf	Complainant stated that officer was slow to respond to her b and e investigation.

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
SO-16-182	10/2/2016	10/4/2016	11/25/2016		130 Pearl St	Admin	Male	Black	Physical/Hands	Not Sustained	Pending	Albert Trangese Paul A. Phaneuf	Complainant stated that officer punched him the the face while he was in his cell.
									Rules/Regulations	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
SO-16-143	7/23/2016	9/29/2016	9/30/2016		Sterns Square	16-059	Female	White	Discourtesy	Not Sustained	Pending	Pastor Gail Hill Paul A. Phaneuf	Complainant stated that he was pepper sprayed for nop reason.
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
									Discourtesy	Not Sustained	Pending		
									Physical/Equipment	Not Sustained	Pending		
									Physical/Hands	Not Sustained	Pending		
									Rules/Regulations	Not Sustained	Pending		
SO-16-158	8/27/2016	9/29/2016	10/18/2016		Guacher/State St	16-077	Male	White	Discourtesy	Not Sustained	Pending	Richard Muise	Improper use of non-contract towing company.
									Rules/Regulations	Not Sustained	Pending	Robert C. Jackson	
PI-16-088	9/17/2016	9/24/2016	11/27/2016	11/8/2016	16 Newland	16-085	Female	White	Discourtesy	Not Sustained	Not Sustained	Pastor Gail Hill	Officer was harrassing Complainant.
									Discourtesy	Not Sustained	Not Sustained	Paul A. Phaneuf	
PI-16-090	9/3/2016	9/24/2016	11/4/2016	11/8/2016	Nassau Dr	16-089	Male	White	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Complainant stated that officers spoken to him like he was a criminal.
												Linda Caron	
PI-16-087	8/26/2016	9/15/2016	11/27/2016		Birnie Ave	16-084	Female	White	Discourtesy	Sustained	Pending	Pastor Gail Hill	Officer was rude to Complaintant.
												Paul A. Phaneuf	
SO-16-169	9/9/2016	9/13/2016	11/27/2016	12/8/2016	140 Chestnut St	Admin	Female	White	Rules/Regulations	Sustained	Sustained	Pastor Gail Hill	Officers didn't take a report..
									Rules/Regulations	Sustained	Sustained	Paul A. Phaneuf	

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
PI-16-085	9/9/2016	9/9/2016	1/13/2017		83 Federal St	16-082	Female	White	Discourtesy	Not Sustained	Pending	Albert Trangese	Complainant stated that officer rough with son
									Rules/Regulations	Not Sustained	Pending		
PI-16-086	9/7/2016	9/9/2016	11/4/2016	11/7/2016	58 Albemarle St	16-083	Male	White	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese	Complainant stated that officers entered his house w/o casue.
									Search & Seizure	Not Sustained	Not Sustained	Linda Caron	
PI-16-080	9/3/2016	9/6/2016	11/4/2016	11/8/2016	20 Worthington	16-078	Unknow	Unknown	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Complainant stated that officers did nothing after they were assaulted.
												Linda Caron	
SO-16-170	9/1/2016	9/1/2016	11/25/2016		798 Carew St	Admin	Unknow	Unknown	Rules/Regulations	Not Sustained	Pending	Albert Trangese	Complainant stated inaction from the police.
												Paul A. Phaneuf	
PI-16-078	8/29/2016	8/30/2016	10/18/2016	12/6/2016	50 State St	Admin	Unknow	Unknown	Rules/Regulations	Sustained	Sustained	Richard Muise	Abuse of sick time
												Robert C. Jackson	
PI-16-084	9/8/2016	8/30/2016	9/8/2016		1060 Main St	16-081	Female	White	Discourtesy	Sustained	Pending	Pastor Gail Hill	Officer was rude to Complaintant.
												Paul A. Phaneuf	
SO-16-130	7/20/2016	8/29/2016	8/31/2016		2 Emerson St	16-048	Male	White	Physical/Hands	Sustained	Pending	Pastor Gail Hill	Complaintant stated that officer told him that he would be "watching him" after a motor vehicle stop in which the officer held a stun gun to his body.
									Rules/Regulations	Sustained	Pending	Paul A. Phaneuf	
PI-16-076	5/28/2016	8/27/2016	11/25/2016		State St	16-076	Female	White	Discourtesy	Not Sustained	Pending	Albert Trangese	Complainant stated that she supspected profiling by officers during vehicle stop.
									Discourtesy	Not Sustained	Pending	Paul A. Phaneuf	
PI-16-074	8/23/2016	8/25/2016	10/18/2016		200 Union St	16-074	Unknow	Unknown	Discourtesy	Not Sustained	Pending	Richard Muise	Officer was rude, scared his 10 year old sond during traffic stop
												Robert C. Jackson	
SO-16-160	1/30/2016	8/25/2016	11/14/2016		91 Taylor St	16-079	Female	White	Rules/Regulations	Sustained	Pending	Pastor Gail Hill	Complainant stated that officers arrested them in retaliation at the Mardi Gras.
						16-080			Rules/Regulations	Sustained	Pending	Paul A. Phaneuf	

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PI-16-072	7/16/2016	8/24/2016	9/30/2016	10/4/2016	867 Boston Rd	16-072	Male	Black	Rules/Regulations	Not Sustained	Not Sustained	Pastor Gail Hill Paul A. Phaneuf	Complainant stated that officer improperly put an abandoned sticker on car.
PI-16-073	8/23/2016	8/24/2016	10/18/2016	10/25/2016	104 Bevier	16-073	Female	Unknown	Rules/Regulations Rules/Regulations	Not Sustained Not Sustained	Not Sustained Not Sustained	Richard Muise Robert C. Jackson	Officers mishandled a situation in which a woman was threatening her.
SO-16-153	8/12/2016	8/21/2016	11/4/2016	11/10/2016	364 Belmont Ave	16-062	Male	White	Rules/Regulations	Sustained	Sustained	Albert Trangese Linda Caron	Complainant stated that officers allowed her drunk boyfriend to drive.
PI-16-071	8/8/2016	8/18/2016	9/26/2016	10/25/2016	74 Michigan St	16-071	Male	White	Discourtesy	Not Sustained	Not Sustained	Richard Muise Robert C. Jackson	Complaintant stated that officer was rude.
PI-16-070	8/17/2016	8/17/2016	11/14/2016	9/30/2016	130 Pearl St	16-065	Unknow	Unknown	Search & Seizure	Not Sustained	Not Sustained	Pastor Gail Hill Robert C. Jackson	Complainant stated that he didn't have his keys returned.
PI-16-069	8/16/2016	8/16/2016	9/26/2016	9/27/2016	20 Emiline Ct	16-064	Male	White	Discourtesy	Not Sustained	Not Sustained	Richard Muise Robert C. Jackson	Complaintant stated that officer directing traffic was rude as he directed traffic.
PI-16-067	8/10/2016	8/10/2016	10/18/2016	10/25/2016	10 Bloomfield	16-061	Male	White	Rules/Regulations Rules/Regulations	Not Sustained Not Sustained	Not Sustained Not Sustained	Richard Muise Robert C. Jackson	Officers wouldn't allow complaintant to tow vehicle to \a tow yard of her choice. Felt it was a racists decision.
SO-16-138	8/2/2016	8/2/2016	9/30/2016	10/31/2016	291 W / Exit 5	16-057	Male	Unknown	Criminal Discourtesy Rules/Regulations	Not Sustained Not Sustained Not Sustained	Not Sustained Not Sustained Not Sustained	Pastor Gail Hill Paul A. Phaneuf	Complainant stated that off duty officer hit his vehicle and left scene and officer was discourteous to him.
PI-16-063	7/19/2016	7/28/2016	8/25/2016	8/25/2016	306 Sumner Ave	16-055	Female	Unknown	Rules/Regulations	Sustained	Sustained	Richard Muise Robert C. Jackson	complaintant stated officer in forest park pool was smoking a cigarette.

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SO-16-131	6/6/2016	7/26/2016	9/26/2016	10/11/2016	130 Pearl St	16-049	Female	White	Rules/Regulations	Not Sustained	Not Sustained	Richard Muise Robert C. Jackson	Complaintant stated that traffic officer did poor job investigating her hit and run accident.
PI-16-059	7/13/2016	7/25/2016	8/25/2016		644 State St	16-051	Unknow	Unknown	Rules/Regulations Rules/Regulations	Not Sustained Not Sustained	Pending Pending	Richard Muise Robert C. Jackson	complaintant stated officers were slow in writing accident report
PI-16-061	7/21/2016	7/22/2016	9/30/2016	10/4/2016	Walnut / Pine	16-053	Female	White	Rules/Regulations Rules/Regulations	Not Sustained Not Sustained	Not Sustained Not Sustained	Pastor Gail Hill Paul A. Phaneuf	Complainant stated that officer did not control violent woment who hit her car at accident scene.
PI-16-058	6/29/2016	7/21/2016	8/16/2016	8/29/2016	350 Pasco Rd	16-050	Female	Black	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated Officer put her plate inside of her car after it was in an accident then when she went to pick up the car from the tow yard the plate was missing.
PI-16-060	7/2/2016	7/20/2016	8/16/2016	8/29/2016	27 Lancaster St	16-052	Female	White	Rules/Regulations	Not Sustained	Sustained	Albert Trangese	Complaintant stated Officer did a poor job checking her house for a breaking and entering alarm call.
PI-16-056	7/15/2016	7/19/2016	8/25/2016	9/21/2016	10 Boland Way	16-045	Female	Unknown	Rules/Regulations	Sustained	Sustained	Richard Muise Robert C. Jackson	complaintant stated officer on motorcylce almost hit them in a crosswalk.
SO-16-125	7/5/2016	7/19/2016	8/31/2016	9/19/2016	2 Itendale St	Admin	Male	Black	Discourtesy Discourtesy	Not Sustained Not Sustained	Not Sustained Not Sustained	Pastor Gail Hill Paul A. Phaneuf	Complaintant stated that officer threatened to "fuck him up."

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
SO-16-129	6/28/2016	7/18/2016	10/10/2016	12/22/2016	130 Pearl St	16-047	Male	White	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Complainant stated that he had jewelry missing upon his release from police custody.
									Rules/Regulations	Not Sustained	Not Sustained	Linda Caron	
									Discourtesy	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Discourtesy	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Discourtesy	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
SO-16-102	6/4/2016	7/14/2016	8/5/2016	10/5/2016	360 Cooley St	16-035	Male	White	Physical/Hands	Sustained	Not Sustained	Linda Caron	Complainant stated that two off duty officers and a friend of the officers assulted him in parking lot of Christophers Sprots Bar, possible used a hockey stick.
									Physical/Hands	Sustained	Not Sustained		
PI-16-055	7/2/2016	7/13/2016	8/16/2016	8/29/2016	21 Nathaniel St	16-043	Female	White	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated Officer failed to take a report.
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
PI-16-054	7/5/2016	7/6/2016	8/16/2016	8/29/2016	39 Wilbraham St	16-041	Male	Black	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated Officers harrassed him.
									Discourtesy	Not Sustained	Not Sustained		
SO-16-119	6/16/2016	6/30/2016	8/31/2016	9/16/2016	43 School St	16-042	Female	Black	Physical/Hands	Not Sustained	Not Sustained	Pastor Gail Hill	Complaintant stated that officer pushed her into bushes during arrest and said he would say that she had a case of beer on her when she didn't..
									Physical/Hands	Not Sustained	Not Sustained	Paul A. Phaneuf	

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SO-16-112	6/26/2016	6/25/2016	9/19/2016	9/24/2016	237 Bay Street	16-039	Female	White	Criminal	Not Sustained	Not Sustained	Linda Caron	Complaintant stated that officer punched her boyfriend and she discovered 200.00 was missing from her purse after she returned home from being bailed out..
									Physical/Hands	Not Sustained	Not Sustained	Richard Muise	
									Rules/Regulations	Not Sustained	Not Sustained		
									Criminal	Not Sustained	Not Sustained		
									Physical/Hands	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
SO-16-081	5/10/2016	6/16/2016	6/20/2016	7/5/2016	91 Taylor St	16-013	Female	White	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Officers were rude and didn't listen to her side of the story.
									Discourtesy	Not Sustained	Not Sustained	Linda Caron	
PI-16-042	6/4/2016	6/14/2016	8/16/2016	8/29/2016	1251 St James Ave	16-037	Female	White	Rules/Regulations	Not Sustained	Sustained	Albert Trangese	Complaintant stated Officer improperly gave her a parking ticket.
PI-16-049	6/12/2016	6/12/2016	8/5/2016	8/29/2016	98 Wellington St	16-040	Female	Black	Rules/Regulations	Not Sustained	Not Sustained	Linda Caron	Complainant stated that officer handled case wrong.
PI-16-041	6/7/2016	6/10/2016	8/25/2016	8/30/2016	18 Berkshire Ave	16-036	Male	White	Rules/Regulations	Not Sustained	Sustained	Richard Muise	complaintant stated officers failed to enforce a visitation order.
									Rules/Regulations	Not Sustained	Sustained	Robert C. Jackson	
SO-16-098	6/2/2016	6/2/2016	7/15/2016	7/15/2016	1300 State St	Admin	Female	Black	Physical/Hands	Not Sustained	Not Sustained	Pastor Gail Hill	
									Rules/Regulations	Not Sustained	Not Sustained	Robert C. Jackson	
PI-16-036	6/1/2016	6/1/2016	8/5/2016		755 Worthington St	16-029	Female	Black	Rules/Regulations	Not Sustained	Pending	Linda Caron	Complainant stated that officer did not properly investigate her report.
PI-16-040	5/25/2016	6/1/2016	8/5/2016	8/29/2016	15 Girard Ave	16-033	Male	White	Discourtesy	Not Sustained	Not Sustained	Linda Caron	Complainant stated that officer handled case wrong.

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SO-16-095	4/20/2016	5/26/2016	8/5/2016	8/29/2016	18 Windsor St	16-034	Female	Black	Rules/Regulations	Not Sustained	Not Sustained	Linda Caron	Complainant stated that officers towed his car illegally and subsequently tools were stolen from the trunk.
									Rules/Regulations	Not Sustained	Not Sustained		
PI-16-039	5/25/2016	5/25/2016	8/5/2016		15 Girard Ave	16-032	Male	White	Discourtesy	Not Sustained	Pending	Linda Caron	Complainant stated that officer trespassed him improperly.
PI-16-035	5/18/2016	5/23/2016	6/27/2016	8/11/2016	19 Warner St	16-028	Female	White	Discourtesy	Not Sustained	Not Sustained	Paul A. Phaneuf	Complaintant did not like how officers treated her.
									Discourtesy	Not Sustained	Not Sustained	Robert C. Jackson	
PI-16-028	12/16/2015	5/19/2016	8/25/2016	6/6/2016	1277 Liberty St	16-021	Male	Asian	Rules/Regulations	Not Sustained	Not Sustained	Richard Muise	complaintant stated officer improperly issued him an ordinance violation.
												Robert C. Jackson	
PI-16-034	5/18/2016	5/18/2016	8/16/2016	8/30/2016	15 Girard Ave	16-026	Female	White	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese	Complaintant felt she was improperly trespassed from 15 Girard ave.
									Rules/Regulations	Not Sustained	Not Sustained		
PI-16-037	5/7/2016	5/16/2016	6/27/2016	6/27/2016	59 Federal St	16-030	Male	White	Discourtesy	Not Sustained	Not Sustained	Paul A. Phaneuf	Complaintant felt he was improperly cited.
									Discourtesy	Not Sustained	Not Sustained	Robert C. Jackson	
PI-16-038	5/15/2016	5/15/2016	8/5/2016		271 Carew St	16-031	Female	White	Rules/Regulations	Sustained	Pending	Linda Caron	Complainant stated that officer did not respond accordingly.
PI-16-032	5/12/2016	5/13/2016	7/15/2016	7/15/2016	15 Girard	16-025	Male	White	Discourtesy	Not Sustained	Not Sustained	Pastor Gail Hill	Complainant states that officer harasses the residence about sitting in front of their apartment building.
												Paul A. Phaneuf	
SO-16-084		5/13/2016	7/15/2016	7/15/2016	130 Pearl St	Admin	Unknow	Unknown	Rules/Regulations	Sustained	Sustained	Pastor Gail Hill	Eversource request that this officer no longer work for them. Suspended from working OT for 7 days
									Rules/Regulations	Sustained	Sustained	Paul A. Phaneuf	

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SO-16-083	5/1/2016	5/12/2016	7/15/2016	8/3/2016	232 Worthington st	16-014	Female	Black	Physical/Hands	Not Sustained	Not Sustained	Pastor Gail Hill	Complainant stated that officer slapped her in her face/marijuana evidence unaccounted for.
									Rules/Regulations	Sustained	Sustained	Paul A. Phaneuf	
PI-16-027	3/25/2016	5/9/2016	8/5/2016		130 Pearl St	16-020	Male	White	Rules/Regulations	Not Sustained	Pending	Linda Caron	Complainant stated that officer handled case wrong.
PI-16-023	4/15/2016	4/22/2016	5/27/2016	6/9/2016	156 Knowlwood St	16-017	Female	White	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated officer's attitude was demeaning.
												Linda Caron	
PI-16-016	3/27/2016	4/19/2016	5/27/2016	6/9/2016	95 Leatherlead Dr	16-011	Female	White	Search & Seizure	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated officer's improperly towed her vehicle.
									Search & Seizure	Not Sustained	Not Sustained	Linda Caron	
PI-16-021	12/5/2015	4/19/2016	8/25/2016		350 Pasco Rd	16-014	Female	Black	Search & Seizure	Not Sustained	Pending	Richard Muise	complaintant stated her car was towed and a police hold was applied, wasn't notified that hold was removed
												Robert C. Jackson	
PI-16-022	4/19/2016	4/19/2016	5/27/2016	6/9/2016	10 Eagle St	16-015	Female	Asian	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated officer's cited her and arrested her for no reason.
									Rules/Regulations	Not Sustained	Not Sustained	Linda Caron	
SO-16-066	2/27/2016	4/6/2016	6/27/2016	7/26/2016	140 Chestnut St	16-012	Female	White	Discourtesy	Not Sustained	Not Sustained	Paul A. Phaneuf	Officer roughly handled a homeless man.
									Physical/Hands	Not Sustained	Not Sustained	Robert C. Jackson	
									Rules/Regulations	Not Sustained	Sustained		
									Discourtesy	Not Sustained	Not Sustained		
									Physical/Hands	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Sustained		
SO-16-053	3/21/2016	4/4/2016	5/27/2016	6/9/2016	30 Washington	16-010	Female	White	Physical/Hands	Not Sustained	Not Sustained	Albert Trangese	Complaintant stated officer broke her ten year old son's wrist.
												Linda Caron	

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PI-16-007	1/28/2016	3/30/2016	4/14/2016	5/2/2016	59 Carew Ter	16-067	Male	Black	Discourtesy	Not Sustained	Not Sustained	Linda Caron Paul A. Phaneuf	Complainant stated other party used racial slurs against him not witnesed by officer.complaintant stated the officer ignored the landord's construction crew calling them names.
SO-16-049	3/24/2016	3/25/2016	5/27/2016	6/9/2016	78 Lincoln St	16-008	Male	White	Physical/Hands	Not Sustained	Not Sustained	Albert Trangese Linda Caron	Complaintant stated officer never notified him that his car was released from a hold at tow yard.
									Physical/Hands	Not Sustained	Not Sustained		
									Physical/Hands	Not Sustained	Not Sustained		
									Physical/Hands	Not Sustained	Not Sustained		
PI-16-015	3/16/2016	3/24/2016	4/25/2016	5/27/2016	101 Mulberry st	16-070	Male	White	Discourtesy	Not Sustained	Not Sustained	Paul A. Phaneuf	officers responded to noise complaint an complainant said he cancelled it and officers should not have come
									Discourtesy	Not Sustained	Not Sustained		
SO-16-041	3/29/2016	3/21/2016	5/27/2016	6/9/2016	350 Pasco rd	16-005	Male	Black	Rules/Regulations	Not Sustained	Not Sustained	Albert Trangese Linda Caron	Complaintant stated officer never notified him that his car was released from a hold at tow yard.
SO-16-042	2/25/2016	3/18/2016	5/27/2016	6/9/2016	1356 Boston rd	16-007	Female	White	Physical/Hands	Not Sustained	Not Sustained	Albert Trangese Linda Caron	Complaintant stated officer pushed her and threatened her.
									Rules/Regulations	Not Sustained	Not Sustained		
									Physical/Hands	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
PI-16-008	2/23/2016	3/14/2016	4/14/2016	5/2/2016	77 School St	16-006	Male	Unknown	Discourtesy	Not Sustained	Not Sustained	Linda Caron Paul A. Phaneuf	Complainant felt officer did not handle situation correctly RE" Security guard reporting that a woman deficated in the hallway.
									Discourtesy	Not Sustained	Not Sustained		

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PI-16-010	3/3/2016	3/14/2016	4/14/2016	5/2/2016	224 School St	16-068	Male	White	Search & Seizure	Not Sustained	Not Sustained	Linda Caron	Complainant felt he was harassed by officer for no reason as he was yelling and screaming. complaintant stated the officers haarrasses him and searched him illegally
									Search & Seizure	Not Sustained	Not Sustained	Paul A. Phaneuf	
PI-16-012	3/9/2016	3/10/2016	4/14/2016	4/27/2016	291 W	16-069	Male	White	Rules/Regulations	Not Sustained	Not Sustained	Linda Caron	Complainant refused to give lic and reg when stopped. He feels off used excessive force
									Rules/Regulations	Not Sustained	Not Sustained	Paul A. Phaneuf	
PI-16-011	3/2/2016	3/9/2016	4/14/2016	4/27/2016	130 Pearl st	Admin	Male	White	Rules/Regulations	Sustained	Sustained	Linda Caron	abuse sick ntime
												Paul A. Phaneuf	
PI-16-003	1/12/2016	3/8/2016	2/25/2016	5/23/2016	352 Allen Park Rd	16-027	Female	White	Rules/Regulations	Not Sustained	Not Sustained	Linda Caron	Police broke into her home wo warrant
									Search & Seizure	Not Sustained	Not Sustained	Richard Muise	

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SO-16-035	2/27/2016	2/27/2016	6/20/2016	8/12/2016	824 Worthington St	Admin	Male	White	Criminal	Sustained	Not Sustained	Albert Trangese	officers left cruiser unlocked and it was stolen
									Physical/Hands	Sustained	Not Sustained	Linda Caron	A Wilbraham PD officer witnessed a Springfield PD officer kick a juvenile arrestee after the pursuit of a stolen Springfield PD undercover vehicle into Palmer MA.
									Rules/Regulations	Sustained	Sustained		
									Criminal	Sustained	Sustained		
									Physical/Hands	Sustained	Sustained		
									Rules/Regulations	Sustained	Sustained		
									Criminal	Sustained	Not Sustained		
									Physical/Hands	Sustained	Not Sustained		
									Rules/Regulations	Sustained	Not Sustained		
									Criminal	Sustained	Not Sustained		
									Physical/Hands	Sustained	Not Sustained		
									Rules/Regulations	Sustained	Sustained		
									Criminal	Sustained	Not Sustained		
									Physical/Hands	Sustained	Not Sustained		
									Rules/Regulations	Sustained	Not Sustained		
									Criminal	Sustained	Not Sustained		
									Physical/Hands	Sustained	Not Sustained		
									Rules/Regulations	Sustained	Not Sustained		
PI-16-006	2/12/2016	2/17/2016	4/25/2016	6/27/2016	303 Maple St	16-004	Male	White	Discourtesy	Sustained	Sustained	Paul A. Phaneuf	complaintant stated officer questioned that he was disabled.

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PI-16-025	2/17/2016	2/17/2016	5/27/2016	6/9/2016	143 Magazine St	16-018	Male	Black	Discourtesy	Not Sustained	Not Sustained	Albert Trangese Linda Caron	Complaintant stated officer pushed her and threatened her.
SO-16-019	5/3/2016	2/11/2016	5/4/2016	6/9/2016	31 Tracy St	16-003	Female	White	Rules/Regulations	Not Sustained	Sustained	Paul A. Phaneuf	Complaintant stated officers allowed former tenants to remove items.
									Rules/Regulations	Not Sustained	Sustained		
									Rules/Regulations	Not Sustained	Sustained		
									Rules/Regulations	Not Sustained	Sustained		
PI-16-001	11/23/2015	2/8/2016	4/14/2016	5/2/2016	71 Victoria St	16-066	Female	Unknown	Discourtesy	Not Sustained	Not Sustained	Linda Caron Paul A. Phaneuf	Off went to complainants home to follow up on b and e. he suspected she may have had a stroke and called for an ambulance. Her gun was removed from the home and she was admitted to hospital and assessed by BHN crisis service.
SO-16-016	12/19/2015	2/3/2016	4/25/2016	5/27/2016	662 Cottage St	16-002	Female	White	Physical/Hands	Not Sustained	Not Sustained	Paul A. Phaneuf	Complaintant stated that officer was rude to her durring trafic stop.
PI-16-004	1/31/2016	1/31/2016	4/25/2016	5/27/2016	80 Driftwood Rd	Admin	Female	Black	Rules/Regulations	Not Sustained	Not Sustained	Paul A. Phaneuf	allegations of infidelity
SO-16-006	11/6/2015	1/13/2016	3/15/2016		1000 Bay St	Admin	Female	White	Physical/Hands	Sustained	Pending	Linda Caron	Inappropriate conduct toward a female EMT and witness intimidation on facebook

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SO-16-007	1/9/2016	1/13/2016	2/12/2016	3/7/2016	100 Wilbraham Rd	16-001	Female	Black	Physical/Equipment	Not Sustained	Not Sustained	Paul A. Phaneuf	Complainant was driving her brothers vehicle who is wanted for assault w intent to murder.Officer did not properly respond to a medical call.
									Rules/Regulations	Not Sustained	Not Sustained		
									Search & Seizure	Not Sustained	Not Sustained		
									Physical/Equipment	Not Sustained	Not Sustained		
									Rules/Regulations	Not Sustained	Not Sustained		
									Search & Seizure	Not Sustained	Not Sustained		
PI-15-062	1/2/2016	12/15/2015	2/5/2016	3/6/2016	58 Dearborn St	15-043	Female	White	Discourtesy	Not Sustained	Not Sustained	Richard Muise	Complainant did not think officer did a good investigation complaintant stated he wanted the stoppage of discrimination and investigation of several incident reports.
SO-15-227	10/17/2015	12/14/2015	2/5/2016	3/7/2016	6 Metzgor Pl	15-031	Female	White	Physical/Hands	Not Sustained	Not Sustained	Richard Muise	Comp states officer threw her to the ground causing a back injury Officer forcefully pulled her from her vehicle and slammed her on the ground.
									Rules/Regulations	Not Sustained	Not Sustained		
SO-15-226	10/12/2015	12/12/2015	2/5/2016	3/8/2016	18 King st	15-030	Female	White	Rules/Regulations	Sustained	Sustained	Richard Muise	Complainant states officer was living in her rental apt w/o permission
SO-15-223	11/10/2015	12/8/2015	2/25/2016	2/25/2016	25 Genessee St	15-029	Female	White	Rules/Regulations	Not Sustained	Not Sustained	Linda Caron Richard Muise	Former boyfriend tried to take a car he purchased for her back and improperly displayed his firearm.
SO-15-224	10/27/2015	12/8/2015	2/12/2016		769 Worthington St	Admin	Female	Black	Rules/Regulations	Sustained	Pending	Paul A. Phaneuf	Email from Friends of Homeless requesting that Officer not be given anymore details there.

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SO-15-228	10/13/2015	12/8/2015	2/25/2016	3/8/2016	130 Pearl St	15-032	Female	Black	Physical/Hands	Not Sustained	Not Sustained	Linda Caron	Complainant reports sgt of attakcing her at pearl st and at court
									Rules/Regulations	Not Sustained	Not Sustained	Richard Muise	
SO-15-219	12/1/2015	12/1/2015	2/5/2016	3/7/2016	759 Chestnut St	Admin	Male	White	Discourtesy	Not Sustained	Not Sustained	Richard Muise	Officer was much more informed abt the girls conduct than the doctor.Dr. at emergency room stated that officer interfered with his care of his patient.
SO-15-211	11/14/2015	11/16/2015	2/5/2016	5/23/2016	20 Church St	15-028	Female	White	Physical/Equipment	Sustained	Not Sustained	Richard Muise	Comp stated her husband is schizophrenic and was ploding in the middle of the road waiting for an ambulance when police maced him
									Physical/Equipment	Sustained	Not Sustained		
SO-15-202		11/2/2015	2/19/2016	3/3/2016		15-026	Female	White	Discourtesy	Not Sustained	Not Sustained	Albert Trangese	Atty. Lan filed a complaint of harasment to a handicapped man (on-going)
												Linda Caron	
												Pastor Gail Hill	
												Paul A. Phaneuf	
												Richard Muise	
												Robert C. Jackson	
SO-15-189	10/12/2015	10/15/2015	1/4/2016	3/3/2016	124 Northampton Ave	Admin	Male	Black	Physical/Equipment	Sustained	Not Sustained	Pastor Gail Hill	Complainat reports being sprayed with oc
									Physical/Equipment	Sustained	Not Sustained		
									Physical/Equipment	Sustained	Not Sustained		
									Physical/Equipment	Sustained	Not Sustained		
									Physical/Equipment	Sustained	Not Sustained		
									Physical/Equipment	Sustained	Not Sustained		

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
SO-15-188	10/12/2015	10/14/2015	1/4/2016	3/3/2016	28 Florence St	15-024	Female	Black	Discourtesy	Not Sustained	Not Sustained	Pastor Gail Hill	Officers didn't take her seriously or take a report or arrest her boyfriend after she said he beat her
									Discourtesy	Not Sustained	Not Sustained		
									Discourtesy	Not Sustained	Not Sustained		
									Discourtesy	Not Sustained	Not Sustained		
									Discourtesy	Not Sustained	Not Sustained		

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SO-15-083	4/8/2015	5/7/2015	1/22/2016		110 Island Pond Rd	15-008	Male	Black	Physical/Hands	Sustained	Pending	Albert Trangese	Comp jumped by "10 dudes," possibly offduty Pos. Responding Pos unsympathetic.
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
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									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		

Complaint Number	Incident Date	Complaint Date	Review Date	Final Date	Address	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Final Disposition	Board Member	Summary
									Physical/Hands	Sustained	Pending		
									Rules/Regulations	Sustained	Pending		

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Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
SO-17-233	128 Elijah St	11/6/2017	1/26/2018	N/A	Admin			Rules/Regulations	Not Sustained	N/A		Linda Caron Paul A. Phaneuf	Investigation into Police Response at 128 Elijah St
SO-17-268	Walnut St	12/7/2017	1/26/2018	N/A	17-079	Female	Black	Rules/Regulations	Not Sustained	N/A		Linda Caron Paul A. Phaneuf	Complainant states when in the cruiser the officer slammed on the breaks and she hurt her neck and right side, had to go the hospital
SO-17-270	91 Park St East	12/9/2017	1/26/2018	N/A	17-080	Female	Other	Physical/Hands Physical/Hands Physical/Hands Physical/Hands	Not Sustained Not Sustained Not Sustained Not Sustained	N/A N/A N/A N/A		Linda Caron Paul A. Phaneuf	Complainant states he was arrested for the way he looks and where he lives they think he is a drug dealer. Pushed him to the ground upon arrest
PI-17-045	136 Sanderson St	11/6/2017	1/12/2018	N/A	70-071	Female	Other	Rules/Regulations Rules/Regulations	Not Sustained Not Sustained	N/A N/A	None None	Linda Caron Paul A. Phaneuf	Complainants feel that officer was not compassionate and left out details from report
SO-17-231	189 Morton St	11/1/2017	1/12/2018	N/A	Admin			Physical/Hands	Not Sustained	N/A	None	Linda Caron Paul A. Phaneuf	Investigation into report authored by Sgt John Wadlegger
SO-17-234	Dearborn St	11/3/2017	1/12/2018	N/A	17-065	Female	Other	Physical/Hands Physical/Hands	Hearing Hearing	N/A N/A		Linda Caron Paul A. Phaneuf	Complainant states officer hit her two times in the chest and pepper sprayed her
SO-17-244	Berkshire Ave	11/14/2017	1/12/2018	N/A	17-069	Male	Black	Rules/Regulations	Hearing	N/A		Linda Caron Paul A. Phaneuf	Complainant believes he was wrongfully pulled over
SO-17-258	Princeton St	11/29/2017	1/12/2018	N/A	17-076	Male	Black	Physical/Hands	Not Sustained	N/A	None	Linda Caron Paul A. Phaneuf	Complainant states officer used excessive foul language and shoved him

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SO-17-266	Kibbe Ave @ Taylor St	12/11/2017	1/12/2018	N/A	Admin	Female	Black	Physical/Equipment	Hearing	N/A		Linda Caron Paul A. Phaneuf	Traffic stop by officer Basovskiy #17-4888-AC
PI-17-042	21 Mooreland St	11/7/2017	1/2/2018	N/A	17-066	Female	Other	Discourtesy	Not Sustained	N/A	None	Linda Caron Paul A. Phaneuf	Complainant states officer said to her son that he was going to shoot his dog
PI-17-043	798 Carew St	11/8/2017	12/18/2017	N/A	17-067	Male	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant states officer told him to shut up and called him a loser
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-044	Rte 291	10/24/2017	12/18/2017	N/A	17-068	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant feels the officers were very aggressive upon pulling her over
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-046	Ashmun at Central St	10/16/2017	12/18/2017	N/A	17-072	Female	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron Paul A. Phaneuf	Complainant states officer was very verbally aggressive and disrespectful
SO-17-219	44 Byers St	3/25/2017	12/18/2017	N/A	17-059	Male	White	Physical/Hands	Not Sustained	N/A	None	Linda Caron Paul A. Phaneuf	Complainant states officers violently hurled him into cruiser and he suffered injuries when he was in an altered state
SO-17-229	86 Rittenhouse Ter	10/26/2017	12/18/2017	N/A	17-063	Male		Physical/Equipment	Not Sustained	N/A	None	Linda Caron Paul A. Phaneuf	Complainant states officer charged him with billy club and shoved him down
PI-17-039	Boston Rd	10/7/2017	12/7/2017	N/A	17-060	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte Paul A. Phaneuf	Complainant states officer over used his authority upon given her a m/v violation ticket
PI-17-040	Woodmont at Denton	10/6/2017	12/7/2017	N/A	17-061	Female	White	Rules/Regulations	Not Sustained	N/A	None	Gary Berte Paul A. Phaneuf	Complainant states still waiting for report of MVA
PI-17-041	99 Savoy Ave	11/6/2017	12/7/2017	N/A	17-064	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Gary Berte Paul A. Phaneuf	Complainant states officer has it out for her, lives on her street
PI-17-047	377 Stapleton Rd	10/30/2017	12/7/2017	N/A	17-073	Female	White	Rules/Regulations	Not Sustained	N/A	None	Gary Berte Paul A. Phaneuf	Complainant feels the officer is doing nothing about her residential and noise complaint

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SO-17-226	59 Fort Pleasant Ave	9/20/2017	12/7/2017	N/A	17-062	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states they are charging him with drug possession
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-17-247	Magazine Park	9/12/2017	12/7/2017	N/A	17-074	Male	Other	Physical/Hands	Hearing	N/A		Gary Berte	Complainant states officers assulted him
								Physical/Hands	Hearing	N/A		Paul A. Phaneuf	
SO-17-185	252 Hillside Rd	9/9/2017	11/20/2017	N/A	17-052	Female	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant reported domestic issues involving officer
												Paul A. Phaneuf	
SO-17-212	Allen St @Plumtree Rd	10/4/2017	11/20/2017	N/A	Admin			Rules/Regulations	Hearing	N/A		Linda Caron	
								Rules/Regulations	Hearing	N/A		Paul A. Phaneuf	
PI-17-029	80 East St	7/6/2017	11/8/2017	N/A	17-048	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officer wouldn't take her statement of a car accident
												Paul A. Phaneuf	
PI-17-032	Prentice and Jenness Sts	9/16/2017	11/8/2017	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Investigation into email from Bill Baker(City Hall) regarding Prentice and Jenness Streets
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-033	Oak St (I.O.)	9/18/2017	11/8/2017	N/A	17-053	Female	Other	Discourtesy	Hearing	N/A	Retraining	Pastor Gail Hill	Complainant states officer was swearing when they were pulled over
												Paul A. Phaneuf	
PI-17-034	91 Ames Rd	9/2/2017	11/8/2017	N/A	17-054	Male		Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states he is being targeted by police since Sam's incident
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-036	FaceBook Post	9/25/2017	11/8/2017	1/24/2017	17-055	Female		Discourtesy	Hearing	N/A		Pastor Gail Hill	Complainant states officer made slanderous comments on Facebook
												Paul A. Phaneuf	
PI-17-037	Union St near Williams St	9/28/2017	11/8/2017	N/A	17-056	Female	Other	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Complainant feels the officer was disrespectful

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												Paul A. Phaneuf	
PI-17-038	70 Pinevale St	10/3/2017	11/8/2017	N/A	17-058	Male	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Complainant feels officers is inconsistant with parking on treebelt
SO-17-213	271 Carew St	9/8/2017	11/8/2017	N/A	17-057	Female		Rules/Regulations	Not Sustained	N/A	Written Reprimand	Pastor Gail Hill Paul A. Phaneuf	Head of security at MMC requesting officer not be assigned to extra detail at hospital due to an employee be uncomfortable working near officer
SO-17-166	1655 Boston Rd	8/20/2017	10/24/2017	N/A	Admin			Criminal	Hearing	N/A		Gary Berte Paul A. Phaneuf	Invst report by Sgt Butler regarding possible impersonation of Police Officer at Eastfield Mall
PI-17-025	1277 Liberty St	8/10/2017	10/13/2017	N/A	17-042	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer was aggressive on his approach of him
PI-17-031	Hancock at King St	9/11/2017	10/13/2017	N/A	17-051	Male	Other	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer harasses him
SO-17-162	Oak Grove Ave	7/17/2017	10/13/2017	N/A	17-048	Female	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	complainant states officer pushed her to the ground for no reason
SO-17-157	668 Liberty St	8/2/2017	10/3/2017	N/A	17-043	Male	Other	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	States that officer struck him in the face because he did not like the way complainant was driving.
PI-17-026	Boston Rd	8/8/2017	9/28/2017	N/A	17-046	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant says officer gave her a citation for speeding when she was not and searched her car
PI-17-027	11 Merwin St	8/14/2017	9/28/2017	N/A	17-047	Female	Other	Rules/Regulations Rules/Regulations Rules/Regulations	Not Sustained Not Sustained Not Sustained	N/A N/A N/A	None None None	Albert Trangese Linda Caron	Complainant states officers pushed their way into her house looking for a person
SO-17-156	1666 Main St	8/1/2017	9/28/2017	N/A	17-042	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	Officer harrasses him, grabbed him roughly and squeezed handcuffs tightly

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
SO-17-161	130 Pearl St	8/15/2017	9/28/2017	N/A	Admin	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant wanted the Police Department to look into an inappropriate comment mede on Facebook by Sergeant McBride
SO-17-168	23 Delaware Ave	6/1/2017	9/28/2017	N/A	17-049	Male	White	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant states he was beat on arrest
								Physical/Hands	Not Sustained	N/A	None	Linda Caron	
SO-17-140	130 Pearl St	6/29/2017	9/22/2017	1/16/2018	Admin			Physical/Hands	Hearing	Not Sustained	None	Albert Trangese	Invest report by Cpt Kent made by [redacted] on 6/29/17 Re: missing money and officers causing injury to his wrist and being rude
								Physical/Hands	Hearing	Not Sustained	None	Gary Berte	
								Physical/Hands	Hearing	Not Sustained	None	Linda Caron	
								Physical/Hands	Hearing	Not Sustained	None	Paul A. Phaneuf	
								Physical/Hands	Hearing	Not Sustained	None	Robert C. Jackson	
								Physical/Hands	Hearing	Not Sustained	None		
SO-17-159	FaceBook Post	8/12/2017	9/22/2017	11/21/2017	17-044	Male	Unknown	Rules/Regulations	Hearing	Sustained	Terminated	Albert Trangese	Officer posted disturbing comment on Facebook
												Gary Berte	
												Linda Caron	
												Paul A. Phaneuf	
												Robert C. Jackson	
SO-17-128	130 Pearl St	7/1/2017	9/15/2017	N/A	17-038	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officer never took her report to help her retrieve her child
												Paul A. Phaneuf	
SO-17-139	Dwight St / Calhoun	7/15/2017	9/15/2017	N/A	17-040	Male	White	Physical/Hands	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officers assulted him.
								Physical/Hands	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-17-175	29 Foster St	9/5/2017	8/29/2017	N/A	17-050	Male	Black		Not Sustained	N/A	None	Linda Caron	Complainant states no reason why he was arrested
								Rules/Regulations		N/A		Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A			
								Rules/Regulations	Not Sustained	N/A	None		

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PI-17-022	44 Bruce St	7/11/2017	8/28/2017	N/A	17-040	Male	Other	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer only comes to her home about cars in driveway
SO-17-123	127 Catharine St	5/29/2017	8/28/2017	N/A	17-037	Female	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Complainant feels no officers followed up with her and did not inform her of why pictures were being taken in her home
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-129	98 Wellington St	4/5/2017	8/28/2017	N/A	17-039	Female	Black	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant feels officer was inappropriate and unprofessional to her circumstances
SO-17-134	1000 Hall of Fame Ave	7/2/2017	8/28/2017	N/A	Admin	Male	Unknown	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Investigation into Firearm arrest by off duty officer 17-2410-AR
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
SO-17-120	Redfern Dr	5/21/2017	8/2/2017	10/17/2017	17-034	Male	White	Rules/Regulations	Hearing	Sustained	Retraining	Gary Berte Linda Caron Pastor Gail Hill Paul A. Phaneuf	
SO-17-121	52 Wait St	6/17/2017	8/2/2017	N/A	17-035	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states the officers used excessive force when arresting him and failed to provide timely medical care
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-122	1374 Allen St	6/21/2017	8/2/2017	N/A	17-036	Male	Other	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Invst email to the Mayors office regarding robbery of Turkish restaurant
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	

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SO-17-133	37 Longhill St	7/2/2017	8/2/2017	N/A	Admin	Female		Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Investigation into a domestic report #17-7611
												Paul A. Phaneuf	
SO-17-097	480 Canon Cir	4/13/2017	7/14/2017	N/A	17-030	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant states he was punched in the head, pushed to the ground and put in a headlock which resulted in a fractured arm
								Physical/Hands	Not Sustained	N/A	None	Linda Caron	
PI-17-018	Burr St	5/18/2017	6/30/2017	N/A	17-031	Female	Other	Discourtesy	Not Sustained	N/A	None	Gary Berte	Complainant states officer was rude and used foul language towards her son
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
PI-17-019	224 Centre St	6/5/2017	6/30/2017	N/A	17-032	Female	Unknown	Discourtesy	Not Sustained	N/A	None	Gary Berte	Complainant states officers were rude while looking for a man in her home
								Discourtesy	Not Sustained	N/A	None	Linda Caron	
PI-17-020	130 Pearl St	6/6/2017	6/30/2017	N/A	17-033	Male	White	Discourtesy	Not Sustained	N/A	None	Gary Berte	Complainant feels employee was disrespectful and rude
												Linda Caron	
SO-17-085	State St/Oak St	4/14/2017	6/30/2017	N/A	17-028	Male	Black	Discourtesy	Not Sustained	N/A	None	Gary Berte	Complainant states officer didn't have a reason to pull him over and racial profiled him
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-086	132 Grover St	5/3/2017	6/30/2017	N/A	17-029	Female	Unknown	Discourtesy	Not Sustained	N/A	None	Gary Berte	Complainant feels officer is putting fear into her and her children. Various Date
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
PI-17-017	125 Alderman St	4/5/2017	6/13/2017	N/A	17-023	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant doesn't feel officers helped with the situation with her daughter
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-063	23 Greene St	3/15/2017	6/13/2017	N/A	Admin			Physical/Hands	Hearing	N/A		Gary Berte	States that the 2 officers had nonconsensual sex upon leaving with her from a bar
								Physical/Hands	Sustained	N/A		Robert C. Jackson	
SO-17-049	Oakland St/Belmont	3/5/2017	5/26/2017	N/A	17-018	Female	Black	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant says they were racially profiled, stopped based on an officer believing they were suspicious
												Linda Caron	

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SO-17-054	134 Wachusett	3/8/2017	5/26/2017	N/A	17-020	Male	White	Criminal	Hearing	N/A		Albert Trangese Linda Caron	Complainant states Officer Goffe physically disciplined his 2 children when they were with his ex wife.
SO-17-080	Fremont St	2/18/2017	5/26/2017	N/A	17-025	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Complainant states officers damaged his car during search.
								Search & Seizure	Not Sustained	N/A	None	Linda Caron	
								Rules/Regulations	Not Sustained	N/A	None		
								Search & Seizure	Not Sustained	N/A	None		
SO-17-082	108 School St	4/15/2017	5/26/2017	N/A	17-027	Male	Black	Bias/Race	Not Sustained	N/A	None	Albert Trangese	Officers accused complainant of buying drugs
								Bias/Race	Not Sustained	N/A	None	Linda Caron	
PI-17-016	104 Greene St	3/15/2017	5/5/2017	N/A	17-021	Female	Other	Discourtesy	Not Sustained	N/A	Retraining	Albert Trangese Linda Caron	Officer walked into home without knocking
SO-17-048	59 Lakevilla Ave	12/13/2016	5/5/2017	N/A	17-017	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Officer towed his car from his driveway, cited him improperly.
SO-17-058	51 Reed St	2/16/2017	5/5/2017	N/A	17-022	Male	Black	Discourtesy	Not Sustained	N/A	None	Albert Trangese	[redacted] states that his rights were violated during his arrest
								Physical/Hands	Not Sustained	N/A	None	Linda Caron	
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		

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								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-074	35 Pulaski St	12/31/2016	5/5/2017	N/A	17-024	Female	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant believes officer queried her info w/o cause
SO-17-081	10 Chestnut St	4/18/2017	5/5/2017	N/A	17-026	Female	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Was assaulted by neighbor. Officer did not take report or action.
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-015	Main St/Howard St	3/1/2017	4/26/2017	N/A	17-019	Male	White	Discourtesy	Not Sustained	N/A	None	Gary Berte Robert C. Jackson	Complainant believes he was treated unfairly by the officer working the street detail
SO-17-032	271 Carew St	1/29/2017	4/26/2017	N/A	Admin	Female	White	Physical/Hands	Not Sustained	N/A	None	Gary Berte Robert C. Jackson	Complainant states that while at Mercy Hospital with her daughter several police officers sexually assulted her.
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-025	52 Wait St	1/16/2017	4/17/2017	N/A	17-008	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	Officers hit and pushed him.
								Rules/Regulations	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-007	Nathaniel St	11/3/2016	4/10/2017	N/A	17-011	Male	Black	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Off. Did not return papers that were evidence for the complaintant.

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PI-17-008	Pearl St	11/3/2016	4/10/2017	N/A	17-012	Female	Unknown	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Off. Did not make arrests and filed incomplete reports
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-009	1020 Boston Rd	1/29/2017	4/10/2017	N/A	17-013	Male	White	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	complained that the fire department didn't launch their boat where he suggested and the officer refused to give him names of officers or use of a pen.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-010	1170 Carew St	11/3/2016	4/10/2017	N/A	17-014	Female	Black	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Off. Threatened to arrest her and refused to give badge.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-012	98 Wellington St	11/3/2016	4/10/2017	N/A	17-016	Female	Unknown	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Off. Did not take a report.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-17-014	1395 Allen St	11/22/2016	3/31/2017	N/A	17-004	Male	White	Physical/Hands	Not Sustained	N/A	None	Gary Berte	[redacted] entered the Talmadge School and walker to her son's classroom withour the school staffs permission. Officers responded and placed [redacted] into custody.
								Physical/Hands	Not Sustained	N/A	None	Robert C. Jackson	
								Physical/Hands	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
SO-17-030	28 Drexel St	4/26/2014	3/31/2017	N/A	17-010	Male	White	Physical/Equipment	Not Sustained	N/A	None	Gary Berte	Compl states that Officer struck him in the head for no reason with his baton casing severe injury.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-029	1500 Main St	5/4/2016	3/22/2017	N/A	16-022	Male	Unknown	Discourtesy	Not Sustained	N/A	Pending	Albert Trangese	Off. Scared him while questioning him while he was riding his bicycle on the sidewalk.
												Paul A. Phaneuf	
PI-16-030	428 Berkshire St	4/19/2016	3/22/2017	N/A	16-023	Male	White	Discourtesy	Not Sustained	N/A	Pending	Albert Trangese	Off. Yelled at him ant took a report from another subject regarding complaintant when it was not necessary.
												Paul A. Phaneuf	

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PI-17-011	Tavistock and Boston Rd	11/18/2016	3/22/2017	N/A	17-017	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Compl. Felt he was discriminated against because he has multiple sclerosis, officers made false crash report and had his lic taken away.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-006	162 Maple St	1/19/2017	3/9/2017	N/A	17-009	Male	Black	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Officers illegally searched him and his car for weapons
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Search & Seizure	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Search & Seizure	Not Sustained	N/A	None		
SO-16-233	928 Berkshire Ave	11/14/2016	3/9/2017	N/A	16-109	Female	Unknown	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Comp stated that her neighbor violated harr prevention order and the officers did not enforce it.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-17-009	650 Union St	5/16/2016	3/3/2017	N/A	17-003	Male	White	Discourtesy	Not Sustained	N/A	None	Gary Berte	Comp stated that Officer was rude to him and used profanities.
												Robert C. Jackson	
SO-17-010	140 Bellevue Ave	12/14/2016	3/3/2017	N/A	Admin	Male	White	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	No complaint against the Springfield police department. Off duty firemen came to hios home to complain about the American flag being flown upside down. US attorneys office contacted Comm.
												Robert C. Jackson	
SO-17-011	54 Blither St	1/9/2017	3/3/2017	N/A	Admin	Male	White	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Restraining order issued against Officer
												Robert C. Jackson	
PI-16-095	25 Laurelwood La	1/18/2017	2/24/2017	N/A	16-093	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Off. Stopped his m/v issued him a citation and serched his vehicle.
								Search & Seizure	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-003	66 Crystal Ave	1/18/2017	2/24/2017	N/A	17-005	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Compl feels Officer has it out for her dog.
												Paul A. Phaneuf	

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PI-17-004	122 Chestnut St	1/20/2017	2/24/2017	N/A	17-006	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Officer did not make arrest.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-005	32 Fort Pleasant St	1/20/2017	2/24/2017	N/A	17-007	Female	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Officer stopped her and searched her car w/out telling her why.
												Paul A. Phaneuf	
SO-16-215	32 Fort Pleasant St	6/9/2016	2/24/2017	N/A	Admin	Unknown	Unknown	Physical/Hands	Hearing	Pending	Pending	Albert Trangese	Stephanie Barry, reporter for masslive, authored an email to Comm. Barbieri detailing videoes that showed the arrest of [redacted] that do not match arrest report.
								Rules/Regulations	Hearing	Pending	Pending	Paul A. Phaneuf	
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		

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								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		

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								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	Pending		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
SO-16-230	487 E. Columbus	12/14/2016	2/24/2017	N/A	Admin	Unknown	Unknown	Discourtesy	Hearing	Pending	Pending	Albert Trangese	Admin complaint of use force on [redacted].
								Physical/Equipment	Hearing	Pending	Pending	Paul A. Phaneuf	
								Rules/Regulations	Hearing	Pending	Pending		
SO-17-001	Riverview	12/27/2016	2/24/2017	N/A	17-001	Male	Black	Discourtesy	Hearing	Not Sustained	None	Albert Trangese	Comp. states he was held at gunpoint over stolen plates, his phone was taken by police, officer assualted him, were rude, used profanities.
								Physical/Equipment	Hearing	Not Sustained	None	Paul A. Phaneuf	
								Rules/Regulations	Hearing	Not Sustained	None		
								Physical/Equipment	Hearing	Not Sustained	None		

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SO-17-007	17 Kenyon	1/1/2017	2/24/2017	N/A	17-002	Female	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Officers threw here down during arrest causing her to hit her head.
								Physical/Hands	Not Sustained	N/A	None	Paul A. Phaneuf	
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
SO-16-218	73 Achushnett Ave	11/19/2016	2/2/2017	N/A	16-106	Female	White	Search & Seizure	Sustained	N/A	Retraining	Pastor Gail Hill	Officers kicked her door down as they were chasing a drug suspect. Officers kicked the wrong door
								Search & Seizure	Sustained	N/A	Retraining	Paul A. Phaneuf	
								Search & Seizure	Sustained	N/A	Retraining		
SO-16-221	91 Taylor St	11/19/2016	2/2/2017	N/A	Admin	Male	White	Physical/Equipment	Not Sustained	N/A	None	Pastor Gail Hill	internal investigation after cpt reviewed photos and injury reports. Arrestee suffered facial injuries.
								Physical/Equipment	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-16-210	91 Taylor St	1/25/2017	1/26/2017	N/A	Admin	Female	White	Rules/Regulations	Not Sustained	Pending	Pending	Gary Berte	Complainant stated officers were drinking on duty
								Rules/Regulations	Not Sustained	Pending	Pending	Robert C. Jackson	
SO-16-217	91 Taylor St	12/6/2016	1/26/2017	N/A	Admin	Female	White	Physical/Hands	Hearing	Sustained	Retraining	Gary Berte	Officers involved in an off duty fight with a known gan member.
								Rules/Regulations	Hearing	Sustained	Retraining	Robert C. Jackson	
								Physical/Hands	Hearing	Sustained	Retraining		
								Rules/Regulations	Hearing	Sustained	Retraining		
								Physical/Hands	Hearing	Sustained	Retraining		
								Rules/Regulations	Hearing	Sustained	Retraining		
								Physical/Hands	Hearing	Sustained	Retraining		

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
								Rules/Regulations	Hearing	Sustained	Retraining		
SO-16-223	22 Hudson St	10/14/2016	1/26/2017	11/16/2017	16-107	Female	White	Discourtesy	Hearing	Sustained	Retraining	Gary Berte	Officers didn't make arrest or make report. Also falsified report
								Rules/Regulations	Hearing	Not Sustained	None	Robert C. Jackson	
								Discourtesy	Hearing	Sustained	Retraining		
								Rules/Regulations	Hearing	Not Sustained	None		
								Discourtesy	Hearing	Not Sustained	None		
								Rules/Regulations	Hearing	Not Sustained	None		
PI-16-085	83 Federal St	9/9/2016	1/13/2017	N/A	16-082	Female	White	Discourtesy	Not Sustained	Not Sustained	None	Albert Trangese	Complainant stated that officer rough with son
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-096	45 Eddy St	10/22/2016	1/13/2017	N/A	16-094	Female	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officer came into house without permission
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-101	514 Belmont Av	10/2/2016	1/13/2017	N/A	16-098	Male	Unknown	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officer was harrassing her son
								Rules/Regulations	Not Sustained	N/A	None		
SO-16-198	130 Pearl St	2/27/2016	1/13/2017	N/A	Admin	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Officers drank in office while on duty
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
SO-16-211	Allen/Plumtree	11/23/2016	1/13/2017	8/1/2017	16-103	Male	Black	Physical/Equipment	Sustained	Not Sustained	None	Albert Trangese	Officers punched complaintaint

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
								Rules/Regulations	Sustained	Not Sustained	None		
								Physical/Equipment	Sustained	Not Sustained	None		
								Rules/Regulations	Sustained	Not Sustained	None		
								Physical/Equipment	Sustained	Not Sustained	None		
								Physical/Equipment	Sustained	Not Sustained	None		
SO-16-216	Main / Boland Way	11/1/2016	1/13/2017	N/A	Admin	Male	White	Physical/Hands	Not Sustained	N/A	Retraining	Albert Trangese	Officers involved shooting
								Rules/Regulations	Not Sustained	N/A	Retraining		
								Physical/Equipment	Not Sustained	N/A	Retraining		
								Rules/Regulations	Not Sustained	N/A	Retraining		
								Physical/Equipment	Not Sustained	N/A	Retraining		
								Rules/Regulations	Not Sustained	N/A	Retraining		
PI-16-093	146 Longhil Rd	10/7/2016	12/29/2016	N/A	Admin	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant stated that officer was slow to respond to her b and e investigation.
												Paul A. Phaneuf	
PI-16-102	82 Mattoon	11/12/2016	12/29/2016	N/A	16-100	Male	Unknown	Discourtesy	Sustained	N/A	Retraining	Linda Caron	Complainant stated that officer was rude.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-16-103	50 Foster	11/12/2016	12/29/2016	N/A	16-101	Male	Other	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant stated that officer did not take a report
												Paul A. Phaneuf	
PI-16-105	143 Main St	12/12/2016	12/29/2016	N/A	16-104	Female	White	Discourtesy	Not Sustained	N/A	None	Linda Caron	Complainant stated that officer harrassed her while walking to rehab
												Paul A. Phaneuf	
SO-16-206	691 State St	11/15/2016	12/29/2016	N/A	Admin	Female	White	Physical/Hands	Not Sustained	N/A	None	Linda Caron	Officers K-9 bit 2 yr old on leg
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-16-088	16 Newland	9/17/2016	11/27/2016	N/A	16-085	Female	White	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Officer was harrassing Complainant.
												Paul A. Phaneuf	

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
								Discourtesy	Not Sustained	N/A	None		
PI-16-076	State St	5/28/2016	11/25/2016	N/A	16-076	Female	White	Bias/Race	Not Sustained	N/A	None	Albert Trangese	Complainant stated that she supspected profiling by officers during vehicle stop.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Bias/Race	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-097	130 Pearl St	10/17/2016	11/25/2016	12/9/2016	Admin	Unknown	Unknown	Rules/Regulations	Hearing	Sustained	Written Reprimand	Albert Trangese	Complainant stated that did not take a report and told him to go back to scene of the crime and call police.
												Paul A. Phaneuf	
SO-16-182	130 Pearl St	10/2/2016	11/25/2016	N/A	Admin	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officer punched him the the face while he was in his cell.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-080	20 Worthington	9/3/2016	11/4/2016	N/A	16-078	Unknown	Unknown	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers did nothing after they were assaulted.
												Linda Caron	
PI-16-086	58 Albemarle St	9/7/2016	11/4/2016	N/A	16-083	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers entered his house w/o casue.
								Search & Seizure	Not Sustained	N/A	None	Linda Caron	
PI-16-090	Nassau Dr	9/3/2016	11/4/2016	N/A	16-089	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers spoken to him like he was a criminal.
												Linda Caron	
SO-16-153	364 Belmont Ave	8/12/2016	11/4/2016	N/A	16-062	Male	White	Rules/Regulations	Sustained	N/A	Retraining	Albert Trangese	Complainant stated that officers allowed her drunk boyfriend to drive.

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												Linda Caron	
PI-16-067	10 Bloomfield	8/10/2016	10/18/2016	N/A	16-061	Male	White	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Officers wouldn't allow complaintant to tow vehicle to \a tow yard of her choice. Felt it was a racists decision.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-073	104 Bevier	8/23/2016	10/18/2016	N/A	16-073	Female	Unknown	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Officers mishandled a situation in which a woman was threatening her.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-074	200 Union St	8/23/2016	10/18/2016	N/A	16-074	Unknown	Unknown	Discourtesy	Not Sustained	N/A	None	Richard Muise	Officer was rude, scared his 10 year old sond during traffic stop
												Robert C. Jackson	
SO-16-158	Guacher/State St	8/27/2016	10/18/2016	N/A	16-077	Male	White	Discourtesy	Not Sustained	N/A	Retraining	Richard Muise	Improper use of non-contract towing company.
								Rules/Regulations	Not Sustained	N/A	Retraining	Robert C. Jackson	
SO-16-129	130 Pearl St	6/28/2016	10/10/2016	N/A	16-047	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that he had jewelry missing upon his release from police custody.
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-061	Walnut / Pine	7/21/2016	9/30/2016	N/A	16-053	Female	White	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that officer did not control violent woment who hit her car at accident scene.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-16-072	867 Boston Rd	7/16/2016	9/30/2016	N/A	16-072	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that officer improperly put an abandoned sticker on car.
												Paul A. Phaneuf	
SO-16-138	291 W / Exit 5	8/2/2016	9/30/2016	N/A	16-057	Male	Unknown	Criminal	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that off duty officer hit his vehicle and left scene and officer was discourteous to him.

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								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-071	74 Michigan St	8/8/2016	9/26/2016	N/A	16-071	Male	White	Discourtesy	Not Sustained	N/A	None	Richard Muise	Complaintant stated that officer was rude.
												Robert C. Jackson	
SO-16-131	130 Pearl St	6/6/2016	9/26/2016	N/A	16-049	Female	White	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Complaintant stated that traffic officer did poor job investigating her hit and run accident.
												Robert C. Jackson	
SO-16-102	360 Cooley St	6/4/2016	8/5/2016	10/5/2016	16-035	Male	White	Physical/Hands	Hearing	Not Sustained	None	Linda Caron	Complainant stated that two off duty officers and a friend of the officers assulted him in parking lot of Christophers Sprots Bar, possible used a hockey stick.
								Physical/Hands	Hearing	Not Sustained	None		

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PI-18-057	Union and School Sts	12/10/2018	1/23/2019	N/A	18-058	Female		Rules/Regulations		N/A		Gary Berte Linda Caron	Complainant states officer was rude and unprofessional
PI-18-059	Monroe St @ Eastern Ave	12/11/2018	1/23/2019	N/A	18-060	Female		Rules/Regulations Rules/Regulations Rules/Regulations		N/A N/A N/A		Gary Berte Linda Caron	Complainant feels that the officer had no reason to pull her over and would not give his name or badge number
PI-18-056	One MGM Way	9/14/2018	1/17/2019	N/A	18-057	Female		Rules/Regulations	Not Sustained	N/A		Albert Tranghese Linda Caron	Complainant states she was wrongfully arrested
SO-18-243	130 Pearl St	11/1/2018	1/17/2019	N/A	Admin			Physical/Hands Physical/Hands Rules/Regulations	 Not Sustained Not Sustained	N/A N/A N/A		Albert Tranghese Linda Caron	Investigation into the prisoner injury report relating to arrest report #18-3867-AR[redacted] [redacted]
PI-18-049	61 Dartmouth St	10/21/2018	1/4/2019	N/A	18-053	Male	White	Rules/Regulations	Hearing	N/A		Gary Berte Paul A. Phaneuf	Complainant feels officer was rude and didn't not understanding of the situation
PI-18-055	19 Palmer Ave		1/4/2019	N/A	18-056	Female		Rules/Regulations	Not Sustained	N/A	None	Gary Berte Paul A. Phaneuf	Complaint feels officer only writes her tickets and is harrassing her
SO-18-233	Various		1/4/2019	N/A	18-052	Male	Black	Rules/Regulations Rules/Regulations Rules/Regulations Rules/Regulations Rules/Regulations Rules/Regulations	 Hearing Hearing Hearing Hearing Hearing	N/A N/A N/A N/A N/A N/A		Gary Berte Paul A. Phaneuf	Complaint states continous unnecessary harassment

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
PI-18-048	90 Taylor St	10/5/2018	12/27/2018	N/A	18-051	Male	White	Rules/Regulations		N/A		Gary Berte	Complainant states the officer was rude and would not take a proper accident report
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-18-228	Mohegan Sun	10/6/2018	12/27/2018	N/A	Admin			Physical/Hands		N/A		Gary Berte	Investigation into report authored by Lt Thomas Zarelli Complaint from Officer Nicholas Leary of Mohegan Sun Tribal Police Department
								Physical/Hands	Not Sustained	N/A		Paul A. Phaneuf	
SO-18-218	415 Wilbraham Rd	9/18/2018	12/13/2018	N/A	18-048	Female	Black	Physical/Equipment		N/A		Albert Tranghese	complainant feels officers had inappropriate behavior and neglectful response
								Rules/Regulations		N/A		Linda Caron	
								Physical/Equipment	Not Sustained	N/A	None		
								Physical/Equipment	Not Sustained	N/A	None		
SO-18-221	Facebook Post	9/20/2018	12/13/2018	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Albert Tranghese	Investigation into report authored by Lt S Wyszynski (Steven M Rivera)
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
SO-18-227	1 MGM Way	9/25/2018	12/13/2018	N/A	18-050	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Tranghese	Complainant states he was punched, kicked, hair pulled and chipped tooth
												Linda Caron	
SO-18-261	130 Pearl St	9/29/2018	12/13/2018	N/A	Admin			Rules/Regulations		N/A		Albert Tranghese	Investigation into the report authored by Sgt A Witkowsky
								Rules/Regulations	Hearing	N/A		Linda Caron	
PI-18-051	818 Carew St	8/3/2018	12/4/2018	N/A	18-054	Male		Rules/Regulations	Not Sustained	N/A	Retraining	Pastor Gail Hill	Complainant states officer would not take a report as he was requesting
								Rules/Regulations	Not Sustained	N/A	Retraining	Paul A. Phaneuf	
SO-18-217	91 Newhall St	8/22/2018	12/4/2018	N/A	18-047	Female		Rules/Regulations		N/A		Pastor Gail Hill	complainant states officers wouldn't listen to her and made her children afraid
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
SO-18-220	130 Pearl St	9/21/2018	12/4/2018	N/A	Admin			Physical/Equipment		N/A		Pastor Gail Hill	Investigation into the prisoner injury report relating to arrest report #18-3282-AR[redacted]
								Rules/Regulations	Not Sustained	N/A	Retraining	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	Retraining		

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SO-18-223	11 Garland St	8/8/2018	12/4/2018	N/A	18-049	Female	White	Rules/Regulations		N/A		Pastor Gail Hill	Complainant feels officer falsified reports
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	Retraining		
SO-18-197	388 Page Blvd	8/11/2018	11/14/2018	N/A	18-044	Male	Black	Rules/Regulations		N/A		Pastor Gail Hill	Complainant feels he had unfair treatment by the police
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-18-043	85 Orchard St	8/26/2018	10/22/2018	N/A	18-046	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant feels the Sergeant humiliated her in front of her neighbors
												Paul A. Phaneuf	
SO-18-191	36 Summit St	5/26/2018	10/22/2018	N/A	18-043	Male	Other	Physical/Hands		N/A		Pastor Gail Hill	Complainant states officers slammed him to the pavement and pepper sprayed him
								Physical/Hands	Not Sustained	N/A	None	Paul A. Phaneuf	
								Physical/Hands	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
SO-18-195	Plainfield St	8/11/2018	10/22/2018	N/A	Admin	Female	White	Physical/Hands		N/A		Pastor Gail Hill	Investigation into the Prisoner Injury Report relating to arrest report #18-2710-AR[redacted]
								Physical/Hands	Not Sustained	N/A	None	Paul A. Phaneuf	[redacted]
PI-18-040	400 Canon Cir	7/5/2018	10/1/2018	N/A	18-041	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officer took her to the hospital against her
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-18-164	77Worthington St	7/8/2018	9/4/2018	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Investigation into report authored by Sgt Chris Collins
												Linda Caron	
PI-17-043	798 Carew St	11/8/2017	12/18/2017	N/A	17-067	Male	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant states officer told him to shut up and called him a loser
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	

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PI-17-044	Rte 291	10/24/2017	12/18/2017	N/A	17-068	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant feels the officers were very aggressive upon pulling her over
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-046	Ashmun at Central St	10/16/2017	12/18/2017	N/A	17-072	Female	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant states officer was very verbally aggressive and disrespectful
												Paul A. Phaneuf	
SO-17-219	44 Byers St	3/25/2017	12/18/2017	N/A	17-059	Male	White	Physical/Hands	Not Sustained	N/A	None	Linda Caron	Complainant states officers violently hurled him into cruiser and he suffered injuries when he was in an altered state
												Paul A. Phaneuf	
SO-17-229	86 Rittenhouse Ter	10/26/2017	12/18/2017	N/A	17-063	Male		Physical/Equipment	Not Sustained	N/A	None	Linda Caron	Complainant states officer charged him with billy club and shoved him down
												Paul A. Phaneuf	
PI-17-039	Boston Rd	10/7/2017	12/7/2017	N/A	17-060	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states officer over used his authority upon given her a m/v violation ticket
												Paul A. Phaneuf	
PI-17-041	99 Savoy Ave	11/6/2017	12/7/2017	N/A	17-064	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states officer has it out for her, lives on her street
												Paul A. Phaneuf	
SO-17-226	59 Fort Pleasant Ave	9/20/2017	12/7/2017	N/A	17-062	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states they are charging him with drug possession
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-17-185	252 Hillside Rd	9/9/2017	11/20/2017	N/A	17-052	Female	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant reported domestic issues involving officer
												Paul A. Phaneuf	
PI-17-029	80 East St	7/6/2017	11/8/2017	N/A	17-048	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officer wouldn't take her statement of a car accident
												Paul A. Phaneuf	
PI-17-032	Prentice and Jenness Sts	9/16/2017	11/8/2017	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Investigation into email from Bill Baker(City Hall) regarding Prentice and Jenness Streets
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-034	91 Ames Rd	9/2/2017	11/8/2017	N/A	17-054	Male		Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states he is being targeted by police since Sam's incident

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								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-037	Union St near Williams St	9/28/2017	11/8/2017	N/A	17-056	Female	Other	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Complainant feels the officer was disrespectful
PI-17-038	70 Pinevale St	10/3/2017	11/8/2017	N/A	17-058	Male	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Complainant feels officers is inconsistant with parking on treebelt
SO-17-213	271 Carew St	9/8/2017	11/8/2017	N/A	17-057	Female		Rules/Regulations	Not Sustained	N/A	Written Reprimand	Pastor Gail Hill Paul A. Phaneuf	Head of security at MMC requesting officer not be assigned to extra detail at hospital due to an employee be uncomfortable working near officer
PI-17-025	1277 Liberty St	8/10/2017	10/13/2017	N/A	17-042	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer was aggressive on his approach of him
PI-17-031	Hancock at King St	9/11/2017	10/13/2017	N/A	17-051	Male	Other	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer harasses him
SO-17-162	Oak Grove Ave	7/17/2017	10/13/2017	N/A	17-048	Female	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	complainant states officer pushed her to the ground for no reason
SO-17-157	668 Liberty St	8/2/2017	10/3/2017	N/A	17-043	Male	Other	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	States that officer struck him in the face because he did not like the way complainant was driving.
PI-17-026	Boston Rd	8/8/2017	9/28/2017	N/A	17-046	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant says officer gave her a citation for speeding when she was not and searched her car
PI-17-027	11 Merwin St	8/14/2017	9/28/2017	N/A	17-047	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officers pushed their way into her house looking for a person
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
SO-17-156	1666 Main St	8/1/2017	9/28/2017	N/A	17-042	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	Officer harrasses him, grabbed him roughly and squeezed handcuffs tightly
SO-17-161	130 Pearl St	8/15/2017	9/28/2017	N/A	Admin	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant wanted the Police Department to look into an inappropriate comment mede on Facebook by Sergeant McBride
SO-17-168	23 Delaware Ave	6/1/2017	9/28/2017	N/A	17-049	Male	White	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant states he was beat on arrest
								Physical/Hands	Not Sustained	N/A	None	Linda Caron	
SO-17-159	FaceBook Post	8/12/2017	9/22/2017	11/21/2017	17-044	Male	Unknown	Rules/Regulations	Hearing	Sustained	Terminated	Albert Trangese Gary Berte Linda Caron Paul A. Phaneuf Robert C. Jackson	Officer posted disturbing comment on Facebook
SO-17-175	29 Foster St	9/5/2017	8/29/2017	N/A	17-050	Male	Black		Not Sustained	N/A	None	Linda Caron	Complainant states no reason why he was arrested
								Rules/Regulations		N/A		Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A			
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-120	Redfern Dr	5/21/2017	8/2/2017	10/17/2017	17-034	Male	White	Rules/Regulations	Hearing	Sustained	Retraining	Gary Berte Linda Caron Pastor Gail Hill Paul A. Phaneuf	
SO-16-223	22 Hudson St	10/14/2016	1/26/2017	11/16/2017	16-107	Female	White	Discourtesy	Hearing	Sustained	Retraining	Gary Berte	Officers didn t make arrest or make report. Also falsified report
								Rules/Regulations	Hearing	Not Sustained	None	Robert C. Jackson	
								Discourtesy	Hearing	Sustained	Retraining		
								Rules/Regulations	Hearing	Not Sustained	None		

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								Discourtesy	Hearing	Not Sustained	None		
								Rules/Regulations	Hearing	Not Sustained	None		
PI-16-088	16 Newland	9/17/2016	11/27/2016	N/A	16-085	Female	White	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Officer was harrassing Complainant.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-16-076	State St	5/28/2016	11/25/2016	N/A	16-076	Female	White	Bias/Race	Not Sustained	N/A	None	Albert Trangese	Complainant stated that she supspected profiling by officers during vehicle stop.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Bias/Race	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-097	130 Pearl St	10/17/2016	11/25/2016	12/9/2016	Admin	Unknown	Unknown	Rules/Regulations	Hearing	Sustained	Written Reprimand	Albert Trangese	Complainant stated that did not take a report and told him to go back to scene of the crime and call police.
												Paul A. Phaneuf	
SO-16-182	130 Pearl St	10/2/2016	11/25/2016	N/A	Admin	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officer punched him the the face while he was in his cell.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-080	20 Worthington	9/3/2016	11/4/2016	N/A	16-078	Unknown	Unknown	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers did nothing after they were assaulted.
												Linda Caron	
PI-16-086	58 Albemarle St	9/7/2016	11/4/2016	N/A	16-083	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers entered his house w/o casue.
								Search & Seizure	Not Sustained	N/A	None	Linda Caron	

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PI-16-090	Nassau Dr	9/3/2016	11/4/2016	N/A	16-089	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant stated that officers spoken to him like he was a criminal.
SO-16-153	364 Belmont Ave	8/12/2016	11/4/2016	N/A	16-062	Male	White	Rules/Regulations	Sustained	N/A	Retraining	Albert Trangese Linda Caron	Complainant stated that officers allowed her drunk boyfriend to drive.
PI-16-067	10 Bloomfield	8/10/2016	10/18/2016	N/A	16-061	Male	White	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Officers wouldn t allow complaintant to tow vehicle to \a tow yard of her choice. Felt it was a racists decision.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-073	104 Bevier	8/23/2016	10/18/2016	N/A	16-073	Female	Unknown	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Officers mishandled a situation in which a woman was threatening her.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-074	200 Union St	8/23/2016	10/18/2016	N/A	16-074	Unknown	Unknown	Discourtesy	Not Sustained	N/A	None	Richard Muise Robert C. Jackson	Officer was rude, scared his 10 year old sond during traffic stop
SO-16-158	Guacher/State St	8/27/2016	10/18/2016	N/A	16-077	Male	White	Discourtesy	Not Sustained	N/A	Retraining	Richard Muise	Improper use of non-contract towing company.
								Rules/Regulations	Not Sustained	N/A	Retraining	Robert C. Jackson	
SO-16-129	130 Pearl St	6/28/2016	10/10/2016	N/A	16-047	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant stated that he had jewelry missing upon his release from police custody.
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-061	Walnut / Pine	7/21/2016	9/30/2016	N/A	16-053	Female	White	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that officer did not control violent woment who hit her car at accident scene.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	

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PI-16-072	867 Boston Rd	7/16/2016	9/30/2016	N/A	16-072	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Complainant stated that officer improperly put an abandoned sticker on car.
SO-16-138	291 W / Exit 5	8/2/2016	9/30/2016	N/A	16-057	Male	Unknown	Criminal	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that off duty officer hit his vehicle and left scene and officer was discourteous to him.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-071	74 Michigan St	8/8/2016	9/26/2016	N/A	16-071	Male	White	Discourtesy	Not Sustained	N/A	None	Richard Muise Robert C. Jackson	Complaintant stated that officer was rude.
SO-16-131	130 Pearl St	6/6/2016	9/26/2016	N/A	16-049	Female	White	Rules/Regulations	Not Sustained	N/A	None	Richard Muise Robert C. Jackson	Complaintant stated that traffic officer did poor job investigating her hit and run accident.
SO-16-102	360 Cooley St	6/4/2016	8/5/2016	10/5/2016	16-035	Male	White	Physical/Hands	Hearing	Not Sustained	None	Linda Caron	Complainant stated that two off duty officers and a friend of the officers assulted him in parking lot of Christophers Sprots Bar, possible used a hockey stick.
								Physical/Hands	Hearing	Not Sustained	None		

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PI-19-044	535 State Street	10/18/2019	1/3/2020	N/A	19-050	Male	Black	Rules/Regulations		N/A		Albert Tranghese	Complainant feels his rights were violated by the officers
								Rules/Regulations		N/A		Joe Griffin	
								Rules/Regulations		N/A		Linda Caron	
PI-19-045	1268 Sumner Ave	10/31/2019	1/3/2020	N/A	19-053	Female		Rules/Regulations		N/A		Albert Tranghese	Complainant states officer treated her with disrespect
												Joe Griffin	
												Linda Caron	
SO-19-198	14 Napier St	10/9/2019	12/13/2019	N/A	Admin			Rules/Regulations	Hearing	N/A		Albert Tranghese	Investigation into CFS #19-205455
												Gary Berte	
												Joe Griffin	
												Paul A. Phaneuf	
SO-19-211		10/25/2019	12/13/2019	N/A	Admin			Physical/Equipment		N/A		Albert Tranghese	Investigation into officer involved shooting and arrest #19-3599-AR and #19-3602-AR
								Physical/Equipment	Not Sustained	N/A	None	Gary Berte	
								Physical/Hands	Not Sustained	N/A	None	Joe Griffin	
												Paul A. Phaneuf	
SO-19-213	Union St	10/24/2019	12/13/2019	N/A	19-051	Male	White	Physical/Equipment	Not Sustained	N/A	None	Albert Tranghese	Complainant states officer harressed him, showed a gun and mailed him a citation
												Gary Berte	
												Joe Griffin	
												Paul A. Phaneuf	
SO-19-192	154 Cedar St	9/23/2019	12/3/2019	N/A	19-047	Male	White	Rules/Regulations		N/A		Albert Tranghese	Complainant states officers did not search property on a B&E
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	

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								Rules/Regulations	Not Sustained	N/A	None		
SO-19-185	130 Pearl St	9/16/2019	11/20/2019	N/A	Admin			Rules/Regulations	Hearing	N/A		Pastor Gail Hill	Investigation into report authored by Sgt M McCoy
												Paul A. Phaneuf	
PI-19-041	130 Pearl St	8/9/2019	10/30/2019	N/A	19-046	Female	Other	Rules/Regulations		N/A		Pastor Gail Hill	Complainant feels she was disrepected and foul mouth attitude used towards her when picking up paperwork at front window
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-19-043	759 Chestnut St	9/24/2019	10/30/2019	N/A	19-048	Female		Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant feels officer was rude and unprofessional
												Paul A. Phaneuf	
SO-19-167			10/30/2019	N/A	Admin			Physical/Hands	Hearing	N/A		Pastor Gail Hill	Investigation into Incident Report #19-9470-OF
												Paul A. Phaneuf	
SO-19-178	130 Pearl St	8/12/2019	10/30/2019	N/A	Admin			Rules/Regulations	Hearing	N/A		Pastor Gail Hill	Investigation into Officer Anthony DiSantis Springfield District Court Testimony
												Paul A. Phaneuf	
SO-19-180	130 Pearl St	8/12/2019	10/30/2019	N/A	Admin			Rules/Regulations	Hearing	N/A		Pastor Gail Hill	Investigation into Off Jeremy Rivas' Springfield District Court Testimony
												Paul A. Phaneuf	
PI-19-040	111 Dartmouth Ter	10/8/2018	10/25/2019	N/A	19-044	Male	Other	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant feels Detective did not do her job and didn't follow up
												Robert C. Jackson	
PI-19-038	39 Porter St	7/13/2019	10/4/2019	N/A	19-042	Female	Black	Rules/Regulations		N/A		Gary Berte	Complainant feels officer was rude in the way he was questioning the gathering that she was having at her residence
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
								Rules/Regulations	Not Sustained	N/A	None		
PI-19-042	Walnut St	9/10/2019	10/4/2019	N/A	Admin			Rules/Regulations		N/A		Gary Berte	Investigation into report authored by Sgt Derek Cook. Person states he was by a cruiser
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
								Rules/Regulations	Not Sustained	N/A	None		

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SO-19-156			10/4/2019	N/A	19-039	Male	Black	Physical	Not Sustained	N/A	None	Gary Berte Robert C. Jackson	Complainant is stating that the Officer is abusive to his wife in front of the complaints child
SO-19-117	West Springfield, MA		6/28/2019	10/29/2019	Admin			Rules/Regulations		N/A		Pastor Gail Hill	Investigation into the West Springfield Police Report #19-6920-AR
								Rules/Regulations	Hearing	N/A	Terminated	Paul A. Phaneuf	
PI-18-055	19 Palmer Ave		1/4/2019	N/A	18-056	Female		Rules/Regulations	Not Sustained	N/A	None	Gary Berte Paul A. Phaneuf	Complaint feels officer only writes her tickets and is harrassing her
SO-18-218	415 Wilbraham Rd	9/18/2018	12/13/2018	N/A	18-048	Female	Black	Physical/Equipment		N/A		Albert Tranghese	complainant feels officers had inappropriate behavior and neglectful response
								Rules/Regulations		N/A		Linda Caron	
								Physical/Equipment	Not Sustained	N/A	None		
								Physical/Equipment	Not Sustained	N/A	None		
SO-18-221	Facebook Post	9/20/2018	12/13/2018	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Albert Tranghese	Investigation into report authored by Lt S Wyszynski (Steven M Rivera)
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
SO-18-227	1 MGM Way	9/25/2018	12/13/2018	N/A	18-050	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Tranghese Linda Caron	Complainant states he was punched, kicked, hair pulled and chipped tooth
PI-18-051	818 Carew St	8/3/2018	12/4/2018	N/A	18-054	Male		Rules/Regulations	Not Sustained	N/A	Retraining	Pastor Gail Hill	Complainant states officer would not take a report as he was requesting
								Rules/Regulations	Not Sustained	N/A	Retraining	Paul A. Phaneuf	
SO-18-217	91 Newhall St	8/22/2018	12/4/2018	N/A	18-047	Female		Rules/Regulations		N/A		Pastor Gail Hill	complainant states officers wouldn't listen to her and made her children afraid
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
SO-18-220	130 Pearl St	9/21/2018	12/4/2018	N/A	Admin			Physical/Equipment		N/A		Pastor Gail Hill	Investigation into the prisoner injury report relating to arrest report #18-3282-AR ([redacted])
								Rules/Regulations	Not Sustained	N/A	Retraining	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	Retraining		

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SO-18-223	11 Garland St	8/8/2018	12/4/2018	N/A	18-049	Female	White	Rules/Regulations		N/A		Pastor Gail Hill	Complainant feels officer falsified reports
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	Retraining		
SO-18-197	388 Page Blvd	8/11/2018	11/14/2018	N/A	18-044	Male	Black	Rules/Regulations		N/A		Pastor Gail Hill	Complainant feels he had unfair treatment by the police
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-18-043	85 Orchard St	8/26/2018	10/22/2018	N/A	18-046	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant feels the Sergeant humiliated her in front of her neighbors
												Paul A. Phaneuf	
SO-18-191	36 Summit St	5/26/2018	10/22/2018	N/A	18-043	Male	Other	Physical/Hands		N/A		Pastor Gail Hill	Complainant states officers slammed him to the pavement and pepper sprayed him
								Physical/Hands	Not Sustained	N/A	None	Paul A. Phaneuf	
								Physical/Hands	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
SO-18-195	Plainfield St	8/11/2018	10/22/2018	N/A	Admin	Female	White	Physical/Hands		N/A		Pastor Gail Hill	Investigation into the Prisoner Injury Report relating to arrest report #18-2710-AR[redacted]
								Physical/Hands	Not Sustained	N/A	None	Paul A. Phaneuf	[redacted]
PI-18-040	400 Canon Cir	7/5/2018	10/1/2018	N/A	18-041	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officer took her to the hospital against her
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-18-164	77Worthington St	7/8/2018	9/4/2018	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Investigation into report authored by Sgt Chris Collins
												Linda Caron	
PI-17-043	798 Carew St	11/8/2017	12/18/2017	N/A	17-067	Male	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant states officer told him to shut up and called him a loser
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	

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PI-17-044	Rte 291	10/24/2017	12/18/2017	N/A	17-068	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant feels the officers were very aggressive upon pulling her over
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-17-046	Ashmun at Central St	10/16/2017	12/18/2017	N/A	17-072	Female	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant states officer was very verbally aggressive and disrespectful
												Paul A. Phaneuf	
SO-17-219	44 Byers St	3/25/2017	12/18/2017	N/A	17-059	Male	White	Physical/Hands	Not Sustained	N/A	None	Linda Caron	Complainant states officers violently hurled him into cruiser and he suffered injuries when he was in an altered state
												Paul A. Phaneuf	
SO-17-229	86 Rittenhouse Ter	10/26/2017	12/18/2017	N/A	17-063	Male		Physical/Equipment	Not Sustained	N/A	None	Linda Caron	Complainant states officer charged him with billy club and shoved him down
												Paul A. Phaneuf	
PI-17-039	Boston Rd	10/7/2017	12/7/2017	N/A	17-060	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states officer over used his authority upon given her a m/v violation ticket
												Paul A. Phaneuf	
PI-17-041	99 Savoy Ave	11/6/2017	12/7/2017	N/A	17-064	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states officer has it out for her, lives on her street
												Paul A. Phaneuf	
SO-17-226	59 Fort Pleasant Ave	9/20/2017	12/7/2017	N/A	17-062	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Gary Berte	Complainant states they are charging him with drug possession
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
SO-17-185	252 Hillside Rd	9/9/2017	11/20/2017	N/A	17-052	Female	White	Rules/Regulations	Not Sustained	N/A	None	Linda Caron	Complainant reported domestic issues involving officer
												Paul A. Phaneuf	
PI-17-029	80 East St	7/6/2017	11/8/2017	N/A	17-048	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states officer wouldn't take her statement of a car accident
												Paul A. Phaneuf	
PI-17-032	Prentice and Jenness Sts	9/16/2017	11/8/2017	N/A	Admin			Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Investigation into email from Bill Baker(City Hall) regarding Prentice and Jenness Streets
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-034	91 Ames Rd	9/2/2017	11/8/2017	N/A	17-054	Male		Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant states he is being targeted by police since Sam's incident

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								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-17-037	Union St near Williams St	9/28/2017	11/8/2017	N/A	17-056	Female	Other	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Complainant feels the officer was disrespectful
PI-17-038	70 Pinevale St	10/3/2017	11/8/2017	N/A	17-058	Male	Other	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill Paul A. Phaneuf	Complainant feels officers is inconsistant with parking on treebelt
SO-17-213	271 Carew St	9/8/2017	11/8/2017	N/A	17-057	Female		Rules/Regulations	Not Sustained	N/A	Written Reprimand	Pastor Gail Hill Paul A. Phaneuf	Head of security at MMC requesting officer not be assigned to extra detail at hospital due to an employee be uncomfortable working near officer
PI-17-025	1277 Liberty St	8/10/2017	10/13/2017	N/A	17-042	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer was aggressive on his approach of him
PI-17-031	Hancock at King St	9/11/2017	10/13/2017	N/A	17-051	Male	Other	Discourtesy	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant states officer harasses him
SO-17-162	Oak Grove Ave	7/17/2017	10/13/2017	N/A	17-048	Female	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	complainant states officer pushed her to the ground for no reason
SO-17-157	668 Liberty St	8/2/2017	10/3/2017	N/A	17-043	Male	Other	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	States that officer struck him in the face because he did not like the way complainant was driving.
PI-17-026	Boston Rd	8/8/2017	9/28/2017	N/A	17-046	Female	Black	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant says officer gave her a citation for speeding when she was not and searched her car
PI-17-027	11 Merwin St	8/14/2017	9/28/2017	N/A	17-047	Female	Other	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Complainant states officers pushed their way into her house looking for a person
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Rules/Regulations	Not Sustained	N/A	None		

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
SO-17-156	1666 Main St	8/1/2017	9/28/2017	N/A	17-042	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese Linda Caron	Officer harrasses him, grabbed him roughly and squeezed handcuffs tightly
SO-17-161	130 Pearl St	8/15/2017	9/28/2017	N/A	Admin	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese Linda Caron	Complainant wanted the Police Department to look into an inappropriate comment mede on Facebook by Sergeant McBride
SO-17-168	23 Delaware Ave	6/1/2017	9/28/2017	N/A	17-049	Male	White	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant states he was beat on arrest
								Physical/Hands	Not Sustained	N/A	None	Linda Caron	
SO-17-159	FaceBook Post	8/12/2017	9/22/2017	11/21/2017	17-044	Male	Unknown	Rules/Regulations	Hearing	Sustained	Terminated	Albert Trangese Gary Berte Linda Caron Paul A. Phaneuf Robert C. Jackson	Officer posted disturbing comment on Facebook
SO-17-175	29 Foster St	9/5/2017	8/29/2017	N/A	17-050	Male	Black		Not Sustained	N/A	None	Linda Caron	Complainant states no reason why he was arrested
								Rules/Regulations		N/A		Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A			
								Rules/Regulations	Not Sustained	N/A	None		
SO-17-120	Redfern Dr	5/21/2017	8/2/2017	10/17/2017	17-034	Male	White	Rules/Regulations	Hearing	Sustained	Retraining	Gary Berte Linda Caron Pastor Gail Hill Paul A. Phaneuf	
SO-16-215	32 Fort Pleasant St	6/9/2016	2/24/2017	N/A	Admin	Unknown	Unknown	Physical/Hands	Hearing	Pending	None	Albert Trangese	Stephanie Barry, reporter for masslive, authored an email to Comm. Barbieri detailing videoes that showed the arrest of [redacted] that do not match arrest report.
								Rules/Regulations	Hearing	Pending	Pending	Paul A. Phaneuf	
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
								Physical/Hands	Hearing	Pending	None		
								Rules/Regulations	Hearing	Pending	Pending		
								Search & Seizure	Hearing	Pending	Pending		
SO-16-223	22 Hudson St	10/14/2016	1/26/2017	11/16/2017	16-107	Female	White	Discourtesy	Hearing	Sustained	Retraining	Gary Berte	Officers didn't make arrest or make report. Also falsified report
								Rules/Regulations	Hearing	Not Sustained	None	Robert C. Jackson	
								Discourtesy	Hearing	Sustained	Retraining		
								Rules/Regulations	Hearing	Not Sustained	None		
								Discourtesy	Hearing	Not Sustained	None		
								Rules/Regulations	Hearing	Not Sustained	None		
PI-16-088	16 Newland	9/17/2016	11/27/2016	N/A	16-085	Female	White	Discourtesy	Not Sustained	N/A	None	Pastor Gail Hill	Officer was harrassing Complainant.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-16-076	State St	5/28/2016	11/25/2016	N/A	16-076	Female	White	Bias/Race	Not Sustained	N/A	None	Albert Trangese	Complainant stated that she supspected profiling by officers during vehicle stop.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
								Bias/Race	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-097	130 Pearl St	10/17/2016	11/25/2016	12/9/2016	Admin	Unknown	Unknown	Rules/Regulations	Hearing	Sustained	Written Reprimand	Albert Trangese	Complainant stated that did not take a report and told him to go back to scene of the crime and call police.
												Paul A. Phaneuf	

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
SO-16-182	130 Pearl St	10/2/2016	11/25/2016	N/A	Admin	Male	Black	Physical/Hands	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officer punched him the the face while he was in his cell.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Physical/Hands	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-080	20 Worthington	9/3/2016	11/4/2016	N/A	16-078	Unknown	Unknown	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers did nothing after they were assaulted.
												Linda Caron	
PI-16-086	58 Albemarle St	9/7/2016	11/4/2016	N/A	16-083	Male	White	Rules/Regulations	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers entered his house w/o casue.
								Search & Seizure	Not Sustained	N/A	None	Linda Caron	
PI-16-090	Nassau Dr	9/3/2016	11/4/2016	N/A	16-089	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that officers spoken to him like he was a criminal.
												Linda Caron	
SO-16-153	364 Belmont Ave	8/12/2016	11/4/2016	N/A	16-062	Male	White	Rules/Regulations	Sustained	N/A	Retraining	Albert Trangese	Complainant stated that officers allowed her drunk boyfriend to drive.
												Linda Caron	
PI-16-067	10 Bloomfield	8/10/2016	10/18/2016	N/A	16-061	Male	White	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Officers wouldn't allow complaintant to tow vehicle to \a tow yard of her choice. Felt it was a racists decision.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-073	104 Bevier	8/23/2016	10/18/2016	N/A	16-073	Female	Unknown	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Officers mishandled a situation in which a woman was threatening her.
								Rules/Regulations	Not Sustained	N/A	None	Robert C. Jackson	
PI-16-074	200 Union St	8/23/2016	10/18/2016	N/A	16-074	Unknown	Unknown	Discourtesy	Not Sustained	N/A	None	Richard Muise	Officer was rude, scared his 10 year old sond during traffic stop
												Robert C. Jackson	
SO-16-158	Guacher/State St	8/27/2016	10/18/2016	N/A	16-077	Male	White	Discourtesy	Not Sustained	N/A	Retraining	Richard Muise	Improper use of non-contract towing company.
								Rules/Regulations	Not Sustained	N/A	Retraining	Robert C. Jackson	

Complaint Number	Address	Incident Date	Review Date	Hearing Date	Citizen or Internal	Gender	Race	Nature of Complaint	Review Disposition	Hearing Disposition	Final Action	Board Member	Summary
SO-16-129	130 Pearl St	6/28/2016	10/10/2016	N/A	16-047	Male	White	Discourtesy	Not Sustained	N/A	None	Albert Trangese	Complainant stated that he had jewelry missing upon his release from police custody.
								Rules/Regulations	Not Sustained	N/A	None	Linda Caron	
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
								Discourtesy	Not Sustained	N/A	None		
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-061	Walnut / Pine	7/21/2016	9/30/2016	N/A	16-053	Female	White	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that officer did not control violent woment who hit her car at accident scene.
								Rules/Regulations	Not Sustained	N/A	None	Paul A. Phaneuf	
PI-16-072	867 Boston Rd	7/16/2016	9/30/2016	N/A	16-072	Male	Black	Rules/Regulations	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that officer improperly put an abandoned sticker on car.
												Paul A. Phaneuf	
SO-16-138	291 W / Exit 5	8/2/2016	9/30/2016	N/A	16-057	Male	Unknown	Criminal	Not Sustained	N/A	None	Pastor Gail Hill	Complainant stated that off duty officer hit his vehicle and left scene and officer was discourteous to him.
								Discourtesy	Not Sustained	N/A	None	Paul A. Phaneuf	
								Rules/Regulations	Not Sustained	N/A	None		
PI-16-071	74 Michigan St	8/8/2016	9/26/2016	N/A	16-071	Male	White	Discourtesy	Not Sustained	N/A	None	Richard Muise	Complaintant stated that officer was rude.
												Robert C. Jackson	
SO-16-131	130 Pearl St	6/6/2016	9/26/2016	N/A	16-049	Female	White	Rules/Regulations	Not Sustained	N/A	None	Richard Muise	Complaintant stated that traffic officer did poor job investigating her hit and run accident.
												Robert C. Jackson	
SO-16-102	360 Cooley St	6/4/2016	8/5/2016	10/5/2016	16-035	Male	White	Physical/Hands	Hearing	Not Sustained	None	Linda Caron	Complainant stated that two off duty officers and a friend of the officers assulted him in parking lot of Christophers Sprots Bar, possible used a hockey stick.
								Physical/Hands	Hearing	Not Sustained	None		

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above-captioned petition for relief pursuant to G. L. c. 211, § 3, I, Jamie Druzinsky, Esq., hereby depose and state:

1. I am a trial attorney in the Springfield office of CPCS's Public Defender Division. I have been in this position since September 2017.
2. I am a member of the bar in good standing in the Commonwealth of Massachusetts.

Mr. Cooper-Griffith

3. In January 2019, I was appointed counsel in Commonwealth v. Faraah Cooper-Griffith, 1823CR006541. Mr. Cooper-Griffith was charged with resisting arrest, disorderly conduct, and assault and battery on a police officer.
4. The basis of the assault and battery charge was a claim, made in Officer Christian Cicero's written report, that Mr. Cooper-Griffith spit on him at the booking desk of the Springfield Police Department. See Ex. 1 – Police Report.
5. I filed a motion for discovery pursuant to Rule 14, which was allowed, and was able to obtain video footage from the Springfield Police Department that showed Mr. Cooper-Griffith while he was being processed at the booking desk. At no point did Mr. Cooper-Griffith spit, much less spit on or at an officer. See Ex. 2 - Video.
6. After this video was shown to the Hampden County Assistant District Attorney (ADA) on this case, on February 15, 2019, the Commonwealth filed a nolle prosequi on the count charging assault and battery on a police officer.
7. On that same date, Mr. Cooper-Griffith admitted to sufficient facts for an agreed upon disposition of a Continuation without a Finding on the remaining counts of resisting arrest and disorderly conduct.
8. Oleoresin Capsicum Spray, as well as additional force, was used to effectuate the arrest of Mr. Cooper-Griffith.

9. To my knowledge, no investigation of the false report was ever undertaken by the Hampden County District Attorney's Office (HCDAO).
10. I know of no subsequent case in which this misconduct was disclosed as *Brady* material, either to me or any other attorney in the CPCS Springfield office.
11. On February 13, 2019, two days prior to the plea, Officer Cicero was arrested and arraigned in the Springfield District Court on docket number 1923CR000924. The allegations against Officer Cicero included assaulting persons of color, conduct relevant to Mr. Cooper-Griffith's case as well. See Ex. 3 – Docket Entries for 1923CR000924.
12. Officer Cicero's alleged misconduct predates the charges in Mr. Cooper-Griffith's case by three years. See Ex. 4 – Indictments of Christian Cicero.
13. I later learned from MassLive.com that the HCDAO had previously investigated these allegations more than two years prior to Mr. Cooper-Griffith's case. See Ex. 5 – MassLive article, Springfield police indictments: Video evidence missed by local investigators was obtained by attorney general, available at https://www.masslive.com/news/2019/03/springfield-police-indictments-video-evidence-missed-by-local-investigators-was-obtained-by-attorney-general.html.
14. In a memo entitled Findings and Determinations Relative to Criminal Charges April 8, 2015, Island Pond Road Assault, attached as Ex. 6, the victim "describes the man who punched him, who the Internal Investigations Unit report identified as Christian Cicero." *Id.* at 7.
15. At no time during the pendency of Mr. Cooper-Griffith's case did the HCDAO disclose this memorandum or any other evidence of Officer Cicero's misconduct in the Nathan Bills Bar incident as exculpatory information.

Mr. Williams

16. In December 2018, I was appointed counsel in *Commonwealth* v. *Erik Williams*. Officer Basovskiy assaulted Mr. Williams, dragging him out of the vehicle in which he was a passenger. Officer Basovskiy claimed that an anonymous 911 caller, who explicitly refused to give their identity, alleged that someone in the vehicle Mr. Williams' was a passenger in, possessed weapons. After Officer Basovskiy assaulted my client, the Springfield Police Department officers searched him, but did not find any weapons or other contraband on his person or in the vehicle
17. To my knowledge, no investigation of the assault on my client was ever undertaken by the HCDAO.

18. I knew from high-profile news reports and conversations with my colleagues that Igor Basovskiy had previously been indicted for his role in the "Nathan Bill's Bar incident."
19. At no time did the HCDAO disclose Officer Basovskiy's misconduct or the fact of the indictment as exculpatory information.
20. After Officer Basovskiy was indicted, during a conversation with the assigned ADA, I requested any and all *Brady* material related to Officer Basovskiy. The ADA told me that they were not required to provide any material on this matter, as Officer Basovskiy was a non-essential witness. The ADA argued that because the HCDAO did not need to call Officer Basovskiy to prove the case against Mr. Williams, the allegations were irrelevant.
21. I repeated my request for this information, at which point the supervising ADA took over the negotiations. The supervising ADA reiterated what the other assigned ADA stated, and told me that this information would not be provided.
22. I then followed up via email with the supervising ADA, again requesting any *Brady* material related to Officer Basovskiy. This email was not replied to at any time.
23. I then filed a motion under Mass. R. Crim. P. Rule 14 seeking this information as mandatory exculpatory information.
24. The HCDAO filed a nolle prosequi on this matter prior to the hearing on the Rule 14 Motion, after over a year of requesting this material.
25. In February 2021, I was appointed counsel in another case in which Officer Basovskiy was a key witness. The defendant, who works for the Springfield Police Department, accused officer Basovskiy of attempting to falsify material evidence in the case.

Signed under the pains and penalties of perjury, this 8th day of March, 2021.

/s/ Jamie Druzinsky
Jamie Druzinsky

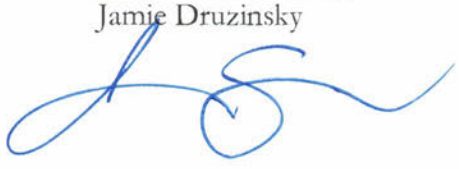


EXHIBIT 1

CRIMINAL COMPLAINT PROSECUTOR COPY	DOCKET NUMBER 1823CR006541	NO. OF COUNTS 3	Trial Court of Massachusetts District Court Department

DEFENDANT NAME & ADDRESS	COURT NAME & ADDRESS
Faraah T Cooper-Griffith [redacted]	Springfield District Court 50 State Street PO Box 2421 Springfield, MA 01101 (413)748-8600

DEFENDANT DOB	COMPLAINT ISSUED	DATE OF OFFENSE	ARREST DATE
[redacted]	09/24/2018	09/21/2018	09/21/2018

OFFENSE CITY / TOWN	OFFENSE ADDRESS	NEXT EVENT DATE & TIME
Springfield		09/24/2018 09:00 AM

POLICE DEPARTMENT	POLICE INCIDENT NUMBER	NEXT SCHEDULED EVENT
Springfield PD		Arraignment

OBTN	PCF NUMBER	DEFENDANT XREF ID	ROOM / SESSION
TSPR201803280	3194241	[redacted]	Courtroom 1

The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the date(s) indicated below the defendant committed the offense(s) listed below and on any attached pages.

COUNT	CODE	DESCRIPTION
1	272/53/F	DISORDERLY CONDUCT c272 §53

On 09/21/2018 was a disorderly person, in that he or she did, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, engage in fighting or threatening, or in violent or tumultuous behavior, or did create a hazardous or physically offensive condition by an act that served no legitimate purpose of the defendant, in violation of the common law and G.L. c.272, §53.

PENALTY: not more than $150 fine. *An elementary or secondary student SHALL NOT be adjudged a delinquent child for an alleged violation of this offense for such conduct within school buildings or on school grounds or in the course of school-related events.*

2	268/32B	RESIST ARREST c268 §32B

On 09/21/2018 did knowingly prevent or attempt to prevent a police officer, as defined in G.L. c. 268, §32B(c), who was acting under color of his or her official authority, from effecting an arrest, by: (1) using or threatening to use physical force or violence against the police officer or another; or (2) using some other means which created a substantial risk of causing bodily injury to such police officer or another, in violation of G.L. c. 268, §32B.

PENALTY: jail or house of correction for not more than 2½ years; or not more than $500; or both.

3	265/13D/A	A&B ON POLICE OFFICER c265 §13D

On 09/21/2018 did assault and beat christian cicero, a police officer who was then engaged in the performance of his or her duties, in violation of G.L. c.265, §13D.

PENALTY: house of correction not less than 90 days, not more than 2½ years; or not less than $500, not more than $5000.

SIGNATURE OF COMPLAINANT	SWORN TO BEFORE CLERK-MAGISTRATE/ASST.CLERK/DEP. ASST. CLERK	DATE
X	X	
NAME OF COMPLAINANT	CLERK-MAGISTRATE/ ASST. CLERK	DATE
	A TRUE COPY ATTEST X	

Notice to Defendant: *42 U.S.C. § 3796gg-4(e) requires this notice: If you are convicted of a misdemeanor crime of domestic violence you may be prohibited permanently from purchasing and/or possessing a firearm and/or ammunition pursuant to 18 U.S.C. § 922 (g) (9) and other applicable related Federal, State, or local laws.*

NARRATIVE FOR OFFICER CHRISTIAN C CICERO

Ref: 18-3280-AR

Entered: 09/21/2018 @ 2324 Entry ID: 100652
Modified: 09/22/2018 @ 0026 Modified ID: 100652
Approved: 09/22/2018 @ 1616 Approval ID: 8650

On 09/21/2018 at approximately 2310hrs Officers P. Denault, J. Levesque, J. Rivas, L. Carrasquillo, C. Russell Sgt Zollo, and I, Officer C. Cicero, arrested **Farrah Cooper-Griffith DOB-** [redacted] SSN- [redacted] of [redacted] St. for the following offenses:

1. Disorderly Conduct
2. Resist Arrest
3. A&B on Police Officer

On 09/21/2018 at approximately 2300hrs officers were dispatched to the area of 93 Central St. for the report of a male with a gun. Officers were given a description of a male wearing a white and red shirt that was in possession of a firearm. As officers played the surrounding area, Sgt. Zollo observed a disturbance in front of 56 James St. Sgt. Zollo notified other officers in the area that there was a disturbance at this address and the above listed officers converged on the area. As I approached the disturbance, a male with no shirt, later identified as Mr. Cooper-Griffith began to approach me in the middle of James St. while screaming very loudly "fuck you mean you bitch ass nigga whats good?" I then ordered Mr. Cooper-Griffith to cease his actions. Mr. Cooper-Griffith continued to approach me and took an aggressive fighting stance while balling his fists and swinging them back and forth while stating "lets get it nigga fuck you mean?" This caused a large crowd to form around Mr. Cooper-Griffith in the middle of James St. to observe his actions. Fearing that Mr. Cooper-Griffith may attempt to physically assault me and officers in my immediate area, I removed my department issued OC spray and deployed a one second burst to Mr. Cooper-Griffith's facial area. Mr. Cooper-Griffith then turned his body away from officers. I advised Mr. Cooper-Griffith that he was under arrest and ordered him to get on the ground. Mr. Cooper-Griffith refused to get on the ground and turned back toward me while continuing to flex his body and yell at officers. At this time Officer J. Rivas approached Mr. Cooper-Griffith from behind and was able to take him to the ground in order to safely affect the arrest. Mr. Cooper-Griffith began to pull his arms under his body and refused several orders from officers to stop resisting and place his hands behind his back. Officers were eventually able to overpower Mr. Cooper-Griffith and place him in to handcuffs. Officers Russell and Carrasquillo then transported Mr. Cooper-Griffith to 130 Pearl St. for booking procedures. When they arrived at 130 Pearl St. officers thoroughly rinsed Mr. Cooper-Griffith's eyes and facial area with water in order to reduce the effects of the OC spray.

While on the booking dock Mr. Cooper-Griffith continued to scream at officers and spit on the ground in front of him. At one point, Mr. Cooper-Griffith turned his head towards me and spit at me while calling me a "little bitch ass paul walker ass nigga". Mr. Cooper-Griffith's spit struck me in my left leg and boot.

OC form submitted.
Squad Commander notified.

Respectfully Submitted,
Officer Christian Cicero
100652 / #291

EXHIBIT 2

Booking video – filed separately

EXHIBIT 3

1923CR000924 Commonwealth vs. Cicero, Christian

- Case Type:
- Criminal
- Case Status:
- Closed
- File Date
- 02/13/2019
- DCM Track:
-
- Initiating Action:
- A&B WITH DANGEROUS WEAPON c265 §15A(b)
- Status Date:
- 05/01/2019
- Case Judge:
-
- Next Event:
-

All Information | Party | Charge | Event | Docket | Disposition

Party Information

Cicero, Christian
- Defendant

Alias

Party Attorney
- Attorney
- Rooke, Esq., Thomas John
- Bar Code
- 549087
- Address
- Thomas John Rooke, Esq.
  73 Chestnut St
  Springfield, MA 01103
- Phone Number
- (413)731-9000

More Party Information

Party Charge Information

- **Cicero, Christian**
- - Defendant

Charge # 1:
265/15A/A-1 - Felony A&B WITH DANGEROUS WEAPON c265 §15A(b)

- Original Charge
  - 265/15A/A-1 A&B WITH DANGEROUS WEAPON c265 §15A(b) (Felony)
  - Amended Charge
  -

Charge Disposition

Disposition Date	Disposition
05/01/2019	Nolle Prosequi

- **Cicero, Christian**
- - Defendant

Charge # 2:
265/13A/D-1 - Felony A&B, SERIOUS BODILY INJURY c265 §13A(b)

- Original Charge
  - 265/13A/D-1 A&B, SERIOUS BODILY INJURY c265 §13A(b) (Felony)
  - Amended Charge

R.A.00181

Charge Disposition
Disposition Date
Disposition
05/01/2019
Nolle Prosequi

- **Cicero, Christian**
- - Defendant
  Charge # 3:
  265/15A/A-1 - Felony A&B WITH DANGEROUS WEAPON c265 §15A(b)

- Original Charge
  - 265/15A/A-1 A&B WITH DANGEROUS WEAPON c265 §15A(b) (Felony)
  - Amended Charge

Charge Disposition
Disposition Date
Disposition
05/01/2019
Nolle Prosequi

- **Cicero, Christian**
- - Defendant
  Charge # 4:
  265/15A/A-1 - Felony A&B WITH DANGEROUS WEAPON c265 §15A(b)

- Original Charge
  - 265/15A/A-1 A&B WITH DANGEROUS WEAPON c265 §15A(b) (Felony)
  - Amended Charge

Charge Disposition
Disposition Date
Disposition
05/01/2019
Nolle Prosequi

- **Cicero, Christian**
- - Defendant
  Charge # 5:
  265/15A/A-1 - Felony A&B WITH DANGEROUS WEAPON c265 §15A(b)

- Original Charge
  - 265/15A/A-1 A&B WITH DANGEROUS WEAPON c265 §15A(b) (Felony)
  - Amended Charge

Charge Disposition
Disposition Date
Disposition
05/01/2019
Nolle Prosequi

Load Party Charges 6 through 9 Load All 9 Party Charges

Events

Date	Session	Location	Type	Result
02/13/2019 09:00 AM	Courtroom 1		Arraignment	Held - Personal Recog. Release
03/15/2019 09:00 AM	Courtroom 2		Pretrial Hearing	Reschedule of Hearing
04/01/2019 09:00 AM	Courtroom 2		Motion Hearing (CR)	Held - under advisement
05/01/2019 09:00 AM	Courtroom 2		Pretrial Hearing	Not Held

Docket Information

Docket Date	*Docket Text*	*Image Avail.*

Docket Date	Docket Text	Image Avail.
02/13/2019	Complaint issued upon new arrest.	
02/13/2019	Event Resulted: Arraignment scheduled on: 02/13/2019 09:00 AM Has been: Held - Personal Recog. Release Hon. Michele Ouimet-Rooke, Presiding Appeared: Staff:	
02/13/2019	Defendant arraigned before Court, advised of right to counsel. Judge: Ouimet-Rooke, Hon. Michele	
02/13/2019	At arraignment, defendant reports that s/he will retain private counsel. Judge: Ouimet-Rooke, Hon. Michele	
02/13/2019	Defendant waives reading of charges. Judge: Ouimet-Rooke, Hon. Michele	
02/13/2019	Plea of Not Guilty entered on all charges. Judge: Ouimet-Rooke, Hon. Michele	
02/13/2019	Order of pretrial conditions of release under G.L. c. 276 § 58 filed.	Image
02/13/2019	Bail revocation warning (276/58) given to the defendant Judge: Ouimet-Rooke, Hon. Michele	
02/13/2019	Released on Personal Recognizance Judge: Ouimet-Rooke, Hon. Michele	
02/13/2019	Appearance filed On this date Thomas John Rooke, Esq. added as Private Counsel for Defendant Christian Cicero	
03/15/2019	Event Resulted: Pretrial Hearing scheduled on: 03/15/2019 09:00 AM Has been: Reschedule of Hearing For the following reason: Both Parties Request Hon. Charles W. Groce, III, Presiding Appeared: Staff:	
03/15/2019	Pretrial conference report filed. Judge: Groce, III, Hon. Charles W.	Image
03/15/2019	Defendant's motion or joinder or consolidation 1923cr926 filed with the following, if any, supporting documents: affidavit in support of motion	Image
04/01/2019	Event Resulted: Motion Hearing (CR) scheduled on: 04/01/2019 09:00 AM Has been: Held - under advisement Hon. Bruce S Melikian, Presiding Appeared: Staff:	
04/01/2019	Taken under advisement Hon. Bruce S Melikian	
05/01/2019	Event Resulted: Pretrial Hearing scheduled on: 05/01/2019 09:00 AM Has been: Not Held Hon. Matthew J. Shea, Presiding	
05/01/2019	Docket report of court proceedings to date Judge: Shea, Hon. Matthew J.	Image
05/10/2019	Charges Disposed:: Charge #1 A&B WITH DANGEROUS WEAPON c265 §15A(b) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi Charge #2 A&B, SERIOUS BODILY INJURY c265 §13A(b) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi Charge #3 A&B WITH DANGEROUS WEAPON c265 §15A(b)	

Docket Date	Docket Text	Image Avail.
	On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	
	Charge #4 A&B WITH DANGEROUS WEAPON c265 §15A(b) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	
	Charge #5 A&B WITH DANGEROUS WEAPON c265 §15A(b) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	
	Charge #6 A&B c265 §13A(a) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	
	Charge #7 A&B c265 §13A(a) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	
	Charge #8 A&B c265 §13A(a) On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	
	Charge #9 CONSPIRACY c274 §7 On: 05/01/2019 Judge: Hon. Matthew J. Shea By: Nolle Prosequi Nolle Prosequi	

Case Disposition

Disposition	Date
Disposed by Nolle Prosequi	05/01/2019

EXHIBIT 4

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-1

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY CAUSING SERIOUS BODILY INJURY

G.L. c. 265, § 13A(b)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Herman Cumby, and by such assault and battery caused Herman Cumby serious bodily injury.**

A TRUE BILL

Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3.27.19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-2

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY BY MEANS OF A DANGEROUS WEAPON

G.L. c. 265, § 15A(b)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Herman Cumby by means of a dangerous weapon, to wit: shod foot.**

A TRUE BILL

Dale N Davies
Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3-27-19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-3

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY BY MEANS OF A DANGEROUS WEAPON

G.L. c. 265, § 15A(b)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Jackie Ligon by means of a dangerous weapon, to wit: shod foot.**

A TRUE BILL

Dale N Davies
Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3.27.19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-4

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY BY MEANS OF A DANGEROUS WEAPON

G.L. c. 265, § 15A(b)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Jozelle Ligon by means of a dangerous weapon, to wit: shod foot.**

A TRUE BILL

Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3.27.19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-5

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY BY MEANS OF A DANGEROUS WEAPON

G.L. c. 265, § 15A(b)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Michael Cintron by means of a dangerous weapon, to wit: shod foot**.

A TRUE BILL

Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3.27.19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-6

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

CONSPIRACY

G.L. c. 274, § 7

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, unlawfully conspire with others to commit **assault and battery and assault and battery by means of a dangerous weapon, to wit: shod foot**.

A TRUE BILL

Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3-27-19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-7

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY

G.L. c. 265, § 13A(a)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Jackie Ligon.**

A TRUE BILL

Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3-27-19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO. 19 158-8

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY

G.L. c. 265, § 13A(a)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Jozelle Ligon.**

A TRUE BILL

Dale N Davies
Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3.27.19

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
INDICTMENT NO.
19 158-9

COMMONWEALTH

v.

CHRISTIAN CICERO

INDICTMENT

ASSAULT AND BATTERY

G.L. c. 265, § 13A(a)

At the Superior Court, begun and holden at Worcester, within and for the COUNTY of Worcester, on the first Monday of March 2019, the STATEWIDE GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

CHRISTIAN CICERO

defendant herein, of Longmeadow, in the County of HAMPDEN, on or about April 8, 2015, at Springfield, in the county of HAMPDEN, did, **assault and batter Michael Cintron.**

A TRUE BILL

Foreperson of the Grand Jury

Assistant Attorney General

RETURN

HAMPDEN, ss. On this day of , 2019, this indictment was returned and presented to said Superior Court by the Statewide Grand Jury, and ordered to be filed.

ATTEST:

3-27-19

Assistant Clerk

EXHIBIT 5

Springfield police indictments: Video evidence missed by local investigators was obtained by attorney general

Updated Mar 28, 2019; Posted Mar 28, 2019

Springfield police officers indicted in alleged off-duty beating of civilians after barroom argument

By Dan Glaun | dglaun@masslive.com

Wednesday's indictment of 14 current and former Springfield Police officers in connection with the alleged 2015 beating of four men near Nathan Bill's Bar and Restaurant left many questions unanswered.

Among the most pressing: How did the Office of Attorney General Maura Healey secure those indictments nearly four years after the incident, when local investigations had not produced any criminal charges?

The exact evidence collected by the AG's Office remains unknown, shrouded by the secrecy of its year-long grand jury and obscured by the vague criminal complaints the office has used to charge several officers with assault and conspiracy.

But in a statement responding to criticism from Springfield City Council President Justin Hurst, the Office of Hampden District Attorney Anthony Gulluni said it had deliberately referred the case to state and federal investigators in October of 2016.

"The District Attorney found the victims to be credible and to have suffered serious injury. The facts known at the time as relayed by the victims themselves did not offer clarity as to who perpetrated the attacks and therefore charges could not be brought," spokesman James Leydon said of Gulluni's decision not to bring charges in February of 2017.

"This office then referred the case to both the U.S. Attorney's Office and the Massachusetts Attorney General's Office in October of 2016 for a review of the larger circumstances of the incident," Leydon continued. "These agencies have the scope and available resources to investigate a matter of this kind and, in fact, subsequently discovered evidence with which the Hampden District Attorney's Office was not furnished and now forms the basis of the indictments issued yesterday."

And that "subsequently discovered evidence" includes video footage from a Bank of America near the bar that was not obtained by the Springfield Police investigators or the DA's Office during the initial investigation, MassLive has learned.



Fourteen Springfield police officers indicted in alleged off-duty beating of civilians after 2015 barroom argument

The officers are accused of participating in or covering up an attack on four Springfield men following a dispute at Nathan Bill's Bar and Restaurant.

After one of the alleged victims filed a civilian complaint, the department launched both internal and criminal investigations of the incident. Internal Investigations Unit Sgt. William Andrew was the first investigator to canvass the area for video footage, from the strip mall that houses Nathan Bill's to the nearby parking lot where the fight took place, he told MassLive in an interview.

He found that a Bank of America adjacent to the bar had a camera pointed at the parking lot and requested a copy of relevant footage from the bank, he said. He received one angle of video from the bank's ATM, which would become the sole video evidence relied on by IIU, the department's Major Crimes Unit and the DA's Office during its review of whether to press charges.

Andrew, who is now retired, said he could not remember whether he asked for all video possessed by the bank, or just from the one camera he noticed, he told MassLive.

"The only video I got was from the ATM machine," he said.

In his IIU report, Andrew noted a timeline of the video, writing that while it showed people leaving the bar shortly before the fight the footage was too fuzzy to make out any faces.

A source familiar with the department's criminal investigation told MassLive that the Major Crimes Unit got its copy of the video from Andrew and did not send an additional request to Bank of America, believing the bank had already provided all the footage it had. Major Crimes

Unit investigators sent the video to the FBI to see if it could be enhanced to aid identifications but did not get results, the source said.

It was not until late 2017 that Andrew was called in for an interview with the FBI, he said -- and learned that there were other angles of video from the bank's drive-thru lanes that he had not obtained during his investigation. An agent asked him why he had not obtained the other videos, which he did not know existed at the time, he told MassLive.

From the location of the Bank of America, even the additional footage would not show footage of the fight itself. But it could show clearer images of who walked toward the group of civilians in the moments before the altercation.

The decision to refer the case came in October 2016, around the same time that the public first learned about the Nathan Bill's case and the abusive interrogation by Springfield Police Det. Gregg Bigda, who has since been federally indicted in a separate case. The DA's Office said the referral stemmed from internal discussions about the Bigda and Nathan Bill's cases and was not a response to media coverage.

In an interview in February 2017, when Gulluni announced that he would not bring charges in the case, he told MassLive that while his office had interviewed the alleged victims it had not conducted its own fact-finding investigation. Rather, it relied on the investigation and evidence provided by Springfield police -- including the ATM video -- which did not provide clear enough identifications to support charges, he said at the time.

In April of 2017, FBI agents spoke to the alleged victims and showed them video footage of the Nathan Bill's parking lot, said Jackie Ligon, one of the men allegedly beaten in the 2015 fight.

In addition to Wednesday's indictments, six officers and Nathan Bill's co-owner John Sullivan have already been charged with assault and battery with a dangerous weapon and conspiracy in Springfield District Court.

In those criminal complaints, the AG's Office has said the evidence against them includes "victim statements, witness statements, cellular records and video tape evidence."

All the officers charged so far have pleaded not guilty, with the attorney for Officer Daniel Billingsley saying that the alleged victims were actually the aggressors in the attack.

And after Sullivan's district court arraignment last month, Sullivan's attorney questioned the length of time it has taken for the case to result in charges.

"This incident was investigated by multiple agencies – including the U.S. Department of Justice, the Federal Bureau of Investigation, and the Hampden County District Attorney – and each one declined to prosecute," attorney Jared Olanoff said. "To think that after four years the state attorney general has some better knowledge or understanding of the facts of this case than the DOJ or FBI is unrealistic."

EXHIBIT 6

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE DISTRICT ATTORNEY
HAMPDEN DISTRICT

HALL OF JUSTICE
50 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01102-0559

SUPERIOR COURT
TEL: 413-747-1000
FAX: 413-781-4745

SPRINGFIELD DISTRICT COURT
TEL: 413-747-1001
FAX: 413-747-5628

Findings and Determinations Relative to Criminal Charges
April 8, 2015, Island Pond Road Assault

Facts

In the early morning hours of April 8, 2015, police responded to a 911 call reporting a disturbance in the vicinity of 70 Island Pond Road, Springfield. The caller stated that a man was down but she couldn't see what had happened. The call came in at 2:04 a.m. and units were immediately dispatched.

Upon arrival, officers found four men in the area behind 50 Island Pond Road. One man was on the ground and being helped up by the others. All appeared to have cuts, bruises and some torn or disheveled clothing. The four men told the responding officers that they were beaten and struck by assailants who used fists and unidentified items that rendered one of the men unable to move his legs. When the men fell to the ground, they were kicked and punched about their bodies and head. They attempted to defend themselves, but were overwhelmed by the larger group. Paramedics who arrived simultaneous with the police observed the injured men and briefly treated two. None of the injured parties wanted to be transported to the hospital, according to statements given by the responding paramedics.

Officers at the scene attempted to obtain details of the assault from the four men. The men described their attackers as white males between the ages of 25 and 45 of varying heights. The four men believed their assailants to be "off duty" police officers who had been inside Nathan Bills earlier in the evening and had engaged in a verbal altercation with one of the four men. Officers were told the assailants had left the scene running north on Island Pond Road. Two officers drove in the direction that the assailants were reported to have gone, but they saw no one and returned a short time later. The officers who remained with the victims obtained their identification and spoke with each of the men individually. One of the men was considered to be disorderly and was placed in a cruiser, but never arrested. The other three men said that they did not wish to go to the hospital and were brought to their vehicle and allowed to leave.

On May 7, 2015, Mr. Herman Cumby came to the Springfield Police Department to file a formal complaint against the department's responding officers and report his belief that the assailants that night were off-duty police officers. Police Commissioner John Barbieri assigned Mr. Cumby's complaint to Captain Trent Duda of the Major Crimes Unit for further investigation.

On July 9, 2015, after multiple attempts to reach Mr. Cumby by letter and phone call, Captain Duda met with Mr. Cumby and his attorney. This meeting resulted in Captain Duda amending his investigation to include possible charges of assault and battery causing serious bodily injury and assault and battery, based on the knowledge of Mr. Cumby's injuries from the incident in question.

On August 14, 2015, Captain Duda filed his completed report on the investigation to Commissioner Barbieri and reported his findings shortly thereafter to Hampden District Attorney Anthony D. Gulluni. The District Attorney accepted the matter for review and began a separate inquiry into possible criminal charges against members of the Springfield Police Department who were suspected of being involved in the assault of Mr. Cumby and his friends. The District Attorney's review included information provided by Captain Larry Brown of the Internal Investigation Unit of the Springfield Police Department. Captain Brown and the Internal Investigation Unit conducted a separate investigation from the Major Crimes Unit and their completed report was provided to the District Attorney on July 26, 2016 by the City of Springfield Law Department.

In order to complete the investigation into the allegations, the District Attorney's review included the following: Special Report to the Commissioner by the Major Crime Unit, Special Report to the Commissioner from the Internal Investigations Unit, Bank of America surveillance video, Springfield Police recorded dispatch line audio, Springfield Police department roll call and dispatch logs, video statements by three of the victims, statements of a cab driver and bar manager, victims' medical records, AMR pre-hospital care reports and dispatch logs, and various photographs.

Three of the four victims were also interviewed separately by the First Assistant District Attorney and investigator of the Hampden District Attorney's Office.

Legal Issues

Whether the Commonwealth is able to meet its burden of proof and charge one or more individuals with the commission of an assault and battery causing serious bodily injury to Mr. Herman Cumby.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery against Mr. Herman Cumby, Mr. Jozelle Ligon, Mr. Jackie Ligon, and/or Mr. Michael Cintron.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (baton) against Mr. Herman Cumby.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (Taser) against Mr. Jackie Ligon.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (shod foot) against Mr. Herman Cumby, Mr. Jozelle Ligon, Mr. Jackie Ligon, and/or Mr. Michael Cintron.

Analysis

The victims in this matter all reported being assaulted in a parking lot in the area of Island Pond Road and Warehouse Street in Springfield. Mr. Herman Cumby suffered serious injuries from the assault, including a fractured/dislocated ankle and four damaged front teeth. He also suffered numerous cuts and bruises. After a medical assessment by paramedics at the scene, Mr. Cumby declined transport to a hospital. He did receive treatment at Baystate Medical Center on April 8, 2015. He continues to need medical treatment for the injury to his ankle as well as additional dental work. Mr. Jackie Ligon suffered temporary immobility as a result of being struck with something cold and sharp, according to his description. He was hit and kicked in his torso, head, and face while immobile on the ground. He also suffered numerous cuts and bruises. After a medical assessment from paramedics, Mr. Jackie Ligon declined transport to a hospital that night. Mr. Jozelle Ligon and Michael Cintron had visible cuts and bruising but did not seek medical assistance at the scene. Mr. Jozelle Ligon sought medical treatment on April 8, 2015 at Baystate Wing Hospital in Palmer for injuries that he described as coming from being struck by an "unknown object".

An assault and battery is the intentional and unjustified use of force upon the person of another, however slight, or the intentional doing of a wanton or grossly negligent act causing personal

injury to another. Commonwealth v. Bianco, 390 Mass. 254, 263 (1983). The injuries suffered by all three of the victims are clear. The physical assaults committed by several members of the large crowd were intentional and unjustified. The victims describe being pushed, struck with fists, and kicked by their assailants. Although questioning by the investigating officers did not focus on the type of footwear worn by the attackers, the testimony of the victims and their confirmed injuries would sufficiently sustain our burden on the charge of assault and battery with a dangerous weapon, shod foot.

A review of the evidence gathered by the Major Crimes Unit and Internal Investigation Unit of the Springfield Police Department reveals that identifying the assailants was problematic for the victims. Several members of the Springfield Police Department spoke to the victims on the night of the incident. According to each officer at the scene, the victims were consistent in their description of the incident and their attackers. The description of the assailants given by the victims that night was "white males between the ages of 25-45" who were believed to be "off duty or rookie police officers". The knowledge that they were off duty officers came from a comment made to the victims by a bar employee during a verbal altercation inside the bar earlier in the evening. On-duty patrol officers who responded to the earlier incident confirmed the presence of off-duty officers Daniel Billingsley, Melissa Rodriguez, Anthony Cicero, and Christian Cicero at Nathan Bill's at around 1:15 a.m. These four identified off-duty officers were not seen by any of the responding officers when they arrived at the scene approximately 50 minutes later. Responding officers were told that the assailants had fled the scene in a northerly direction down Island Pond Road, which resulted in two of the patrol officers driving in search of the described assailants. No suspects were located.

After Mr. Cumby's May 7, 2015 complaint to the Springfield Police Department in which he alleged that the assailants in his attack were off-duty police officers, detectives from both the Internal Investigations Unit and the Major Crimes Unit made numerous attempts to contact Mr. Cumby by phone call, certified letters, and direct contact at his home and other known addresses. On June 23, 2015, Mr. Cumby responds to a telephone call from Sgt. Jeffrey Martucci. On July 9, 2015, Mr. Cumby and his attorney come to the Springfield Police Department where Mr. Cumby is interviewed in the presence of his attorney. The interview is videotaped. Mr. Cumby described the initial incident inside Nathan Bill's and the events that led to his group being asked to leave the bar. He described the attack as beginning near Rocky's and that it involved 12-15 people, all white, all young, and all male. He is shown 1,985 pictures of white males between the ages of 21 and 30. Included in these 1,985 photographs are pictures of Springfield Police officers who fit the description given by Mr. Cumby. Mr. Cumby is unable to identify anyone. He is then shown 658 pictures of only Springfield Police officers. Included in the 658 photographs are pictures of the off-duty officers identified as being present at Nathan Bill's on the night of the incident. Mr. Cumby is unable to identify anyone from that set of photographs. He identifies an officer who "looks familiar" and who is later discovered to have been working but assigned elsewhere and was not at Nathan Bill's at any time on April 7th-April 8th. During

the videotaped interview, Mr. Cumby acknowledges being hit from behind and being immediately rendered unconscious. He stated that he never saw anyone or any weapons. Mr. Cumby also acknowledges having consumed a couple of alcoholic drinks and being concerned about operating his vehicle.

Mr. Cumby was subsequently interviewed by police officers assigned to the Internal Investigations Unit on three occasions: May 25, 2015, July 30, 2015, and September 17, 2015. None of these interviews are videotaped. On May 25, Mr. Cumby gives a detailed verbal statement to Sgt. William Andrew. Sgt. Andrew summarizes the statement in his report. There is no signed statement by Mr. Cumby or an acknowledgment that he reviewed and approved of the officer's report. In Sgt. Andrew's report, Mr. Cumby describes the evening leading up to the assault and the assault itself. He describes people he believes were involved or who were present. Based on Mr. Cumby's descriptions, he is asked to view 264 photographs of police officers. He admits to having a hard time picking anyone and says he is "not good with faces". On July 30, he was shown 18 photographs of male police officers and he identified seven as being present at Nathan Bill's, or in the parking lot, or both. Of the seven men identified, five had confirmed alibis. Of the remaining two, one was Officer Daniel Billingsley, who was also identified by on-duty officers who responded to the scene at 1:15 a.m. Mr. Cumby did not identify Officer Billingsley as an assailant, only and specifically as just present. The last officer identified by Mr. Cumby was never seen by on-duty officers at the scene and was also not identified by Mr. Cumby as an assailant. On September 17, Mr. Cumby viewed a third photographic array consisting of six male police officers and was unable to identify any of the officers as being present that night.

On July 17, 2015 Mr. Cumby brought his two cousins, Jackie and Jozelle Ligon, to the Springfield Police Department to be interviewed regarding the incident at Nathan Bill's and the later assault. Detectives assigned to the Major Crimes Unit interviewed the two men separately. The facts detailing what leads up to the men being asked to leave the bar is mostly consistent with Mr. Cumby's earlier statement. They all describe their attackers as males, mostly white males, and that the group surrounding them was approximately 8-12 in number. Both men were asked to view photographs in order to identify the assailants.

On July 17, 2015, after viewing 1,188 pictures, Jackie Ligon identified Officer Daniel Billingsley with an 80%-90% certainty as being present in the parking lot during the altercation and as being the person with whom he had a verbal altercation inside of the bar. Jackie Ligon also described an individual who was a Latino, white, or Italian male with a heavy moustache who appeared to be in his late-forties who had a weapon in his coat. Therefore, he viewed 1,981 photographs of Latino males and identified one of those with a 40%-50% certainty as this individual. This person was not a police officer and was not at Nathan Bills on April 8th. When shown photographs of only Springfield Police officers, which included the off-duty officers identified as present at Nathan Bill's, Jackie Ligon could only identify two officers who he

described as responding officers and not assailants. Of those two officers, one was in fact on-duty and responded to the scene, the other officer worked a different shift and did not respond to the scene on the night in question.

Sgt. Andrew of the Internal Investigations Unit interviewed Jackie Ligon on three separate occasions: June 4, 2015, August 1, 2015 and September 17, 2015. Jackie Ligon's initial statement to Sgt. Andrew described in detail the events of the evening in question. There are differences between his statement to the Internal Investigations detectives and his statement to Major Crimes Unit detectives. His statement to the Major Crimes Unit is videotaped and his statement to the Internal Investigations Unit is not. His statement to the Internal Investigations Unit is a summary from Sgt. Andrew and is not signed or reviewed by Jackie Ligon.

In his statement to detectives in the Major Crimes Unit on July 17, 2015, Jackie Ligon cannot identify any assailants despite reviewing thousands of photographs. He identifies Officer Daniel Billingsley with an 80-90% certainty as the person with whom he had a verbal altercation, but not as an assailant. He also cannot positively identify any weapons (other than footwear) as being used by the assailants. He states that he hears a "click", which sounded like an expandable baton, and he saw an older Latino male put something inside his jacket but could only see a "handle". However, when questioned by Sgt. Andrew of the Internal Investigations Unit on June 4, 2015, Jackie Ligon describes certain individuals as having weapons, and seeing the weapons used. He tells Sgt. Andrew he saw one assailant with an "expandable baton" and another with a "Taser or stun gun". He also names a particular officer as being the one who punches his brother Jozelle and describes a 6'5" or 6'4" male as pushing Jozelle. On this same date, Jackie Ligon views 264 pictures of Springfield Police officers and identifies five individuals, but never indicates how he knows them or how they are involved in this matter.

During his second interview with Internal Investigations on August 1, 2015, which is also unrecorded, Mr. Jackie Ligon is asked to view another array of 18 photographs of male police officers that was assembled by Sgt. Andrew in an attempt to identify involved parties. At this meeting, Jackie Ligon identifies Officer Daniel Billingsley as the individual who punched his brother. This identification contradicts his videotaped statement to Major Crimes detectives and his earlier verbal statement to Internal Investigations detectives. Jackie Ligon also identifies officers as being present at the scene who have confirmed alibis and could not have been at Nathan Bill's or Murphy's on the night in question.

At his third interview with Internal Investigations on September 17, 2015, also unrecorded, Jackie Ligon is asked to identify the officer he believed possessed the stun gun or taser. He is shown an array consisting of six police officers and he is unable to provide a positive identification. He chooses two photographs of two different officers and tells Sgt. Andrew that it is "definitely one of these two", but he cannot state which one with any degree of certainty.

Of the two remaining victims, Mr. Jozelle Ligon meets with detectives assigned to the Major Crimes Unit and provides a videotaped statement on July 17, 2015. He details an incident occurring inside the bar earlier in the night that is generally consistent with the statements of Mr. Cumby and Jackie Ligon. Of concern is Jozelle Ligon's belief that the assault happened approximately ten minutes after they had been asked to leave the bar, which would make the time of the assault closer to midnight than 2:00 a.m., as documented by surveillance video and the statements of all other witnesses. Jozelle Ligon describes an initial verbal aggressor as a "short, bald, off-duty cop" and then he is attacked by numerous people so he covered up to protect his face. Jozelle Ligon admits that he had been drinking prior to entering the bar and was "probably a little drunker than drunk" but he believed he could identify his assailant. After viewing 5,220 photographs, Jozelle Ligon identified one individual with a 50% certainty as his assailant. The individual was an unknown subject who, based on reasonable evidence, has not resided or been seen in the area since 2006. Attempts to reach this individual were unsuccessful. Jozelle Ligon also viewed photographs consisting of only Springfield Police officers and he was unable to identify anyone as being present on the night in question.

On August 1, 2015, Sgt. Andrew of the Internal Investigations Unit interviewed Jozelle Ligon for the first time. This interview is not recorded and the witness does not give a signed statement of fact or an acknowledgement the report was reviewed and approved by the witness for accuracy. During this interview, Jozelle Ligon gives descriptions of individuals with whom he interacted and individuals who pushed his brother. Jozelle Ligon also describes the man who punched him, who the Internal Investigations Unit report identifies as Christian Cicero. This identification contradicts Jackie Ligon's identification of Daniel Billingsley as responsible for the same behavior, the punching of Jozelle Ligon, and also contradicts Jozelle Ligon's previous videotaped interview with Major Crimes. No photographic array is shown to Jozelle Ligon on August 1, 2015 and no identification process is described in the Internal Investigations Unit report.

Michael Cintron was the last victim to be interviewed. The interview was conducted by the Internal Investigation Unit on April 1, 2016. Mr. Cintron was never interviewed by Major Crimes Unit detectives.

Mr. Cintron provided his own hand written statement to the officer that detailed the events of the evening including physical descriptions of assailants and weapons. Sgt. Andrew compiled an array of thirty-three Springfield Police officers that included the officers identified through the Major Crimes Unit investigation. Mr. Cintron failed to identify an assailant, but did identify Officer Daniel Billingsley as being a bar employee who kicked them out of the bar and was present at the time of the assault. No other officers were identified.

Conclusion

This investigation and any criminal charges that could result from this investigation depend almost exclusively on a positive identification of the assailant(s). To date, no such identification has been made by any of the victims or any eyewitnesses.

In order to indict a person for a crime, the prosecution must present sufficient evidence to establish the identity of the accused and probable cause to arrest him. Commonwealth v. O'Dell, 392 Mass. 445, 450 (1984). That is, the prosecution must have sufficient evidence that the defendant is the person who committed the crime.

Because people have been wrongfully convicted based, in some cases, on mistaken identifications, courts throughout the country have revamped the rules allowing eyewitness identifications at trial. The Supreme Judicial Court of Massachusetts has made several recent rules that limit identification evidence at trial.

If a person who witnessed a crime has made a less than unequivocal, positive identification of the defendant before trial, the witness will be permitted to identify the defendant at trial *only* if there is *good reason* for the judge to allow the in-court identification. Commonwealth v. Collins, 470 Mass. 255, 261-62 (2014). Good reason is limited to cases in which the witness's ability to identify the defendant is not based only on her having witnessed the defendant during the commission of the crime. Trial judges have been instructed to require a high degree of certainty by the eyewitness for identification to be considered "unequivocal" and "positive".

Despite varying accounts of what occurred prior to the assault, who was present before and after the assault, and who committed the various assaults, it is undeniable that Mr. Herman Cumby, Mr. Jackie Ligon, Mr. Jozelle Ligon, and Mr. Michael Cintron were assaulted and beaten by several individuals on April 8, 2015. The men were beaten about their body and face by fists, shod feet, and quite possibly dangerous weapons. As a result, all of the men suffered visible injuries and Mr. Cumby suffered serious injury, as well.

However, it is also undeniable that the victims' admitted lack of recollection of the events and the assailants, inconsistent versions of the incident, their admitted alcohol consumption, and ultimately and most significantly, their lack of legally sound and positive identifications of those who committed a criminal offense, hamstrings the Commonwealth from initiating a criminal complaint or indictment. The Massachusetts Supreme Judicial Court Rules of Professional Conduct, Rule 3.8, states that a "prosecutor in a criminal case shall refrain from prosecuting where the prosecutor lacks a good faith belief that probable cause to support the charge exists." While the victims' credibility and earnestness are not in question, the fact that their accounts and attempted identifications chart a tortuous course is inarguable. With this unavoidable reality, the standard of probable cause is not met. Moreover, should we look beyond the initial, modest

standards of probable cause, the estimable burdens of proof required to convict, which are designed to protect the principle that a person is innocent until proven guilty, would firmly stand in the way of a successful prosecution in this case. Therefore, with the evidence presently in the possession of this office, there is no probable cause to charge any person(s) with criminal offense(s) from the events on April 8, 2015. The criminal investigation as conducted by the Hampden District Attorney is, therefore, presently closed.

Submitted: February 2, 2017



Anthony D. Gulluni
Hampden District Attorney

Cc:
Commissioner John Barbieri
Springfield Police Department
130 Pearl Street
Springfield, MA 01105

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS
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December 2, 2020

Commissioner Cheryl Clapprood
Springfield Police Department
130 Pearl Street
Springfield, Massachusetts 01105

RE: ***Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau,*** **Department of Justice Report, dated July 8, 2020**

Dear Commissioner Clapprood:

By letters, dated August 19, 2020 and September 9, 2020, I made demand, pursuant to 5 U.S.C. § 301, and the prescribed Department of Justice *Touhy*-regulations found at 28 C.F.R. § 16.21 et. seq., for the production or disclosure of "false" or "falsified" Springfield Police Department reports and attendant photographs or video/digital images generally categorized in the publicly released Department of Justice Report, dated July 8, 2020, entitled *Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau* ("Report"), co-authored by the United States Department of Justice's Civil Rights Division and the United States Attorney's Office for the District of Massachusetts. I sought disclosure of any responsive records or papers to assist me in the exercise of my constitutional, statutory, and ethical obligations to the citizens of Hampden County, including charged individuals in pending and post-conviction criminal matters in the courts of the Commonwealth.

On October 29, 2020, the Department of Justice, through the United States Attorney for the District of Massachusetts, Andrew E. Lelling, declined to disclose any documents to my office. United States Attorney Lelling's letter stated that the requested information "belong[ed] to and originate[d] with the Springfield Police Department (SPD). SPD produced these documents to the USAO pursuant to a confidentiality agreement as part of our civil pattern or practice investigation. Because these documents are available from SPD – a department with which your office likely works daily – they should not be sought from the USAO".

As you know, as district attorney, I am sworn to uphold the state and federal constitutions, and I am required to disclose material, exculpatory evidence in my custody or control, to a defendant, even without a request from the defendant. *Committee for Pub. Counsel Servs. v. Attorney Gen.*, 480 Mass. 700, 731 (2018); *Brady v. Maryland*, 373 U.S. 83, 87 (1963), *Commonwealth v. Ayala*, 481 Mass. 46, 56 (2018). See *Commonwealth v.*

Bing Sial Liang, 434 Mass. at 134-135, citing *United States v. Agurs*, 427 U.S. 97, 106-108 (1976) (prosecutors' duty to disclose exculpatory evidence not limited to cases where there is a request for such evidence); *Commonwealth v. Beal*, 429 Mass. 530, 531 (1999) (prosecutors' duty to disclose extends to information in their possession or in possession of persons subject to their control).See also Mass. R. Crim. P. 14, as appearing in 442 Mass. 1518 (2016). In addition, ethical obligations "may require a prosecutor to undertake some procedural and remedial measures as a matter of obligation," in the exercise of his discovery obligations. Mass. R. Prof. C. 3.8, Special Responsibilities of a Prosecutor, 3.8 (d), (g), (i), and (j) and Comment 1.

The Executive Summary of the July 8, 2020 Report of the *Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau,* Report at 3, states that investigators jointly from the Department of Justice's Special Litigation Section of the Civil Rights Division and the United States Attorney's Office for the District of Massachusetts, conducted a comprehensive review of 114,000 pages of Springfield Police Department documents, including an unspecified number of "incident reports" and "investigative reports". Notably, Report at 9, the Report states that investigators sought and received 1,700 prisoner injury files, 26,000 arrest reports and over 700 use-of-force-reports created from 2013 through 2019. More specifically, Report at 9, the Report states that investigators reviewed 5,500 arrest reports and 10 use-of-force reports from the Springfield Police Department's Narcotics Bureau from 2013-2018. Found by investigators, Report at 2, were "examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force[;]" and Report at 16, "...a pattern or practice ... [where] officers made false reports that were inconsistent with other available evidence, including video and photographs..." This information is deemed to have contributed to the investigators' conclusion, Report at 2, that "there is reasonable cause to believe that Narcotics Bureau officers engage in a pattern or practice of excessive force in violation of the Fourth Amendment of the United States Constitution."[1]

My office did not conduct or participate in the investigation with the Department of Justice's Specialized Litigation Unit of the Civil Rights Division or the United States Attorney for the District of Massachusetts, and therefore, does not have knowing custody or control of the Springfield Police Department officers' reports deemed false or falsified. The Report's investigation spanned twenty-seven months from its initiation to the release of its findings. The SPD's production or disclosure of "false" or "falsified" Springfield Police Department reports and attendant photographs or video/digital images originating are necessary to meet the constitutional, statutory, and ethical obligations of my office.

Thus, I request from you, the following:

(1) A copy of all Springfield Police Department reports, including incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a

[1] While I recognize that the authors of the Report note that investigators did not serve "as a tribunal to make factual findings and legal conclusions binding on, or admissible in, any court" see Report at 2, n.2, the reported findings of unconstitutional law enforcement conduct, as described in the twenty-eight page Report, suggest the documents supporting these findings may contain potentially exculpatory material as that term is legally understood, and is subject to my mandatory review to effectively meet the constitutional, statutory, and ethical obligations of my office.

"prisoner injury file" (as described in the Report, at 7), where Narcotics Bureau officers "falsified reports to disguise or hide their use of force";

(2) A copy of all Springfield Police Department reports, including incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7), "...[where] officers made false reports that were inconsistent with other available evidence, including video and photographs...", and;

(3) A copy of all photographs, or video/digital material that is inconsistent with any Springfield Police Department officers' reports, including incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7).

My request for these documents "reflects...the need for prosecutors to learn of potential impeachment information regarding all the investigating agents and employees participating in the cases they prosecute, so that they may consider whether the information should be disclosed to defense counsel under the *Brady* and *Giglio* line of cases." *In the Matter of a Grand Jury Proceeding*, 485 Mass. 641, 660 (2020). If possible, I respectfully request production of the "false" or "falsified" reports as described above as soon as possible or by December 22, 2020.

There is no other reasonable means available to my office to obtain the production or disclosure of the "false" or "falsified" Springfield Police Department reports and attendant photographs or video/digital images, as cited in the July 8th Report. Should you not be able to fulfill my request, please notify me immediately.

Sincerely,

Anthony D. Gulluni
District Attorney
Hampden District

cc: Edward Pikula, City Solicitor

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THE CITY OF SPRINGFIELD, MASSACHUSETTS

December 10, 2020

Anthony D. Gulluni
District Attorney
Hampden District
50 Court Street
Springfield, MA 01102

RE: *Letter Request for Documents relating to July 8. 2020 DOJ Report on Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau*

Dear District Attorney Gulluni:

This office represents the City of Springfield, its Police Department, and Police Officials in their official capacity. This letter is in response to your letter addressed to Commissioner Cheryl Clapprood dated December 2, 2020 and received by the Law Department on December 7, 2020.

In that letter, you reference the prosecutorial obligations to provide exculpatory information under state and federal laws and constitutional provisions as described in case law including *Brady v. Maryland*, 373 U.S. 83, 87 (1963). In furtherance of your stated purpose regarding your office's efforts to meet its *Brady* obligations, you requested the Police Commissioner produce the following documents relating to the July 8, 2020 Report of the *Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau* (hereafter, the "Report"):

(1) A copy of all Springfield Police Department reports, including incident reports, investigative reports, arrest reports, use-of-force repo1ts, or contents of a "prisoner injury file" (as described in the Report, at 7), where Narcotics Bureau officers "falsified reports to disguise or hide their use of force";

(2) A copy of all Springfield Police Department reports, including incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7), "... [where] officers made false reports that were inconsistent with other available evidence, including video and photographs...", and;

(3) A copy of all photographs, or video/digital material that is inconsistent with any Springfield Police Department officers' reports, including incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7).

As you note in your letter, the Report was based, in part, on the full cooperation by the City of Springfield and its Police Department in supplying voluminous documents to the Department of Justice. The production to the Department of Justice included 114,000 pages of Springfield Police Department documents, including an unspecified number of "incident reports" and "investigative reports"; 1,700 prisoner injury files, 26,000 arrest reports and over 700 use-of-force- reports created from 2013 through 2019. The Report states that investigators reviewed 5,500 arrest reports and 10 use-of-force reports from the Springfield Police Department's Narcotics Bureau from 2013-2018.

The Springfield Police Department will continue to comply with all of its obligations under State and Federal law to assure evidence that is "material," for *Brady* purposes in possession of the Police Department will always be disclosed to the prosecutors handling criminal proceedings where a Springfield Police Officer is involved as a witness.

Towards that end, as stated in the Report, the Department of Justice does not serve as a tribunal authorized to make factual findings and legal conclusions binding on, or admissible in, any court and nothing in the Report should be construed as such. Accordingly, the Department of Justice stated that this Report is not intended to be admissible evidence and does not create any legal rights or obligations.

Further, the City of Springfield has not been provided any information from the Department of Justice specifying any identifying information as to the case numbers, names of specific officers, or names of specific individual criminal defendants described in the Report.

As I am sure you are aware, shortly after receipt of the Report, the Police Commissioner assigned personnel to review the incidents described in the Report in an effort to identify the specific dates of incidents, police officers that could be identified, as well as individuals who are referenced in the Report. While some descriptions make rather obvious reference to known cases widely reported in the media involving case information previously disclosed to your office, for example, references to an incident relating to juveniles arrested in Palmer, or an incident occurring near the Nathan Bills Restaurant. Some incidents described in the Report the Police Department believe it has been able to identify with a reasonable degree of certainty. However, there remain a number of matters referenced which could not be fully identified with certainty and the effort to do so is ongoing.

Moreover, the Police Department review revealed a number of statements contained in the Report which the Police Commissioner believes are not accurate. However, while the Police Commissioner disagrees or disputes some of the statements and findings contained in the Report, she has repeatedly stated that she acknowledges the need for reforms in the Department and, with the full support of Mayor Sarno, she has initiated efforts to make changes based on the recommendations set forth in the Report and is committed to implement reforms within the entire Springfield Police Department. The Police Department, with the assistance of former SJC Chief Justice Roderick Ireland, Mayor Sarno, and the Law

Department, continues to cooperate with the Department of Justice in efforts to implement recommendations for reform. I am informed that, since receipt of the Report in July and changes implemented to date, the Police Department has not received any citizen complaints alleging excessive force by the Narcotics Unit.

All of the materials supplied to the Department of Justice are available for review by your office in a reasonable format and on a reasonable schedule in a phased production, similar to the process followed with the Department of Justice. As you know, ultimately, the determination of whether information is exculpatory, or possibly exculpatory, deals with an inevitably imprecise standard, and because the significance of an item of evidence can seldom be predicted accurately until the entire record is complete, we will arrange to provide you all of the information provided to the Department of Justice. I believe it may be most productive for members of the Police Department to meet with prosecutors from your office to review specific materials referenced in the Report that we have been able to identify in the ongoing efforts to review each of the specific incidents described in the Report rather than a wholesale provision of voluminous materials as previously described categorized under each of the numbered requests in your letter.

Please provide me with the name and contact information of a representative of your office so that arrangements can be made with the Police Department to discuss and identify the most efficient means of reviewing and producing any of the documents the Police Department previously supplied to the Department of Justice in order to assure compliance with *Brady* obligations. In the meantime please feel free to contact me at 413-787-6085 to discuss in more detail.

Very truly yours,



Edward M. Pikula, City Solicitor.

EMP:sal

Enclosure

ANTHONY D. GULLUNI
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March 11, 2021

Edward M. Pikula, Esq.
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36 Court Street, Room 210
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Via e-mail: epikula@springfieldcityhall.com

RE: Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau, Department of Justice Report, dated July 8, 2020

Dear Attorney Pikula:

Thank you for your response to my letter of December 2nd. As you know, I sought disclosure of specific documents identified in the Department of Justice Report ("Report") as "false" or "falsified" to assist me in the exercise of my constitutional, statutory, and ethical obligations to the citizens of Hampden County, including charged individuals in pending and post-conviction criminal matters in the courts of the Commonwealth. That duty is ongoing, and remains a priority for me and the assistant district attorneys in my office who prosecute those arrested by members of the Springfield Police Department ("SPD").

I requested these "false" or "falsified" documents from the Department of Justice ("DOJ") on multiple occasions but their refusal to produce them is, in part, based on the fact that the DOJ claims the documents are in the possession of the SPD. Your letter stated, "the City of Springfield has not been provided any information from the Department of Justice specifying any identifying information as to the case numbers, names of specific officers, or names of specific individual criminal defendants described in the Report." With this apparent contradiction, I am left only to conclude that the SPD is not in *knowing* possession, custody, or control of any specific information related to my December 2nd request for documents. As the City of Springfield continues to work with the DOJ to rectify the issues highlighted in the Report, please immediately provide any materials to my office that are received or determined to be responsive to my December 2nd request. I, too, will continue to seek these materials through separate administrative or court alternatives available to me.

Your letter also stated that after receipt of the Report, the SPD assigned personnel to review the incidents described in the Report in an effort to identify the specific dates of incidents and involved police officers referenced in the Report. Therefore, I request copies of any specific materials referenced in the Report as "false" or "falsified" that the SPD has been able to identify with a reasonable degree of certainty. I request the production of these materials to ensure complete compliance, notwithstanding whether any one of these documents relates to case

information previously provided to my office in what you reference as "known cases widely reported in the media".

As District Attorney and chief law enforcement officer for Hampden County, my primary obligation is to pursue the ends of justice with wide discretion in determining whether to prosecute an individual, *Commonwealth v. Ware*, 482 Mass. 717, 730 (2019), and "with due regard to the constitutional and other rights of the defendant." *Smith v. Commonwealth*, 331 Mass. 585, 591 (1954), citing *Berger v. United States*, 295 U.S. 78, 88-89 (1935). This obligation, however, does not direct or allow me, or any other district attorney for that matter, to recreate a civil investigation that was conducted by another law enforcement agency through the authority of specific federal law. Accordingly, the purpose, scope, and timing of the DOJ investigation, which was conducted by and through a federal statutory mandate, cannot, legally or practically, be replicated by my office.

As you are unable to provide me with the specific SPD materials determined to be "false" or "falsified" by the DOJ, I accept your offer to meet with SPD officials in order to review the material provided to the DOJ by the SPD. I am aware that these materials amount to tens of thousands of pages of SPD documents that span six years. But I believe it is important that I assign members of my office to review these materials through a non-investigatory, prosecutorial lens of *Brady* and *Giglio,* see *In the Matter of a Grand Jury Proceeding,* 485 Mass. 641, 647 (2020), to meet our constitutional, statutory, and ethical obligations while we continue to seek from the DOJ those materials they identified as "false" or "falsified".

I have designated First Assistant District Attorney Jennifer N. Fitzgerald as my office's contact to coordinate the procedural logistics of our efforts going forward. Thank you for your continued cooperation in this matter.

Sincerely,

Anthony D. Gulluni
Hampden District Attorney

ACLU Massachusetts

August 6, 2020

Via Email and First Class Mail

District Attorney Anthony D. Gulluni
Hampden County District Attorney's Office
50 State Street
Springfield, MA 01103
agulluni@massmail.state.ma.us

Re: HCDAO's policies and practices in light of reports revealing evidence of systemic misconduct in the Springfield Police Department

Dear District Attorney Gulluni:

We send this letter to inquire regarding your office's knowledge of, investigation of, and response to the apparently routine misconduct within the Springfield Police Department ("SPD"), including without limitation its Narcotics Bureau's use of excessive force and falsification of official records as detailed in U.S. Department of Justice's Investigation Report dated July 8, 2020.

Due to longstanding concerns about, and reports of, pervasive misconduct among SPD officers, the American Civil Liberties Union of Massachusetts, Inc. ("ACLUM") sent your office separate public records requests on September 11, October 25, and December 20, 2019. These three requests sought, among other things, records related to how your office fulfills its obligations to disclose exculpatory or impeachment information about SPD officers to criminal defendants. In response to the September and October requests, your office revealed that you maintain no list of officers known or suspected to have committed an offense whose disclosure may be required under *Brady v. Maryland*, 373 U.S. 83 (1963) or Mass. R. Crim. P. 14; your office has no formal policies, procedures, or analyses concerning its attorneys' obligations under *Brady*, Rule 14, S.J.C. Rule 3:07, or Mass. R. Prof. Conduct 3.8(d); and your office has no written systems in place to track whether *Brady* disclosures are made in the appropriate cases.[1]

In addition to these responses, your office produced records showing that, between 2014 and 2019, your office investigated six complaints involving alleged misconduct by an SPD officer, and in each case, your office found no probable cause to bring charges. Notably, one of those investigations involved the alleged assault of private citizens at Nathan Bill's Bar which later resulted

[1] We acknowledge that your office sent ACLUM a letter on July 31 summarizing a training program for new ADAs that was started in the summer and fall of last year and that ACLUM sent a follow-up on August 4 requesting the actual records of the trainings and related materials. Your office responded that it does not have records of the trainings. Notably, the summary did not mention any training related to your prosecutors' obligations in light of police misconduct (especially as such misconduct was well-known at the time the program began).

in 14 indictments against SPD officers secured by the Massachusetts Attorney General and in the City paying $885,000 to the victims. Outside of these six investigations, your office revealed that no other credibility assessments of SPD officers has been conducted by your office since 2014 and your office is not otherwise in possession of any such assessments.[2]

And following the December 2019 request—which among other things requested records pertaining to post-conviction review of cases, prosecutorial or police misconduct, police-involved shootings, and allegations of excessive force—your office disclosed on July 31 that it neither tracks nor maintain documents in the categories requested, including the following:

- officers or prosecutors accused of misconduct;
- cases in which evidence was suppressed due to police and/or prosecutorial misconduct;
- cases in which verdicts were overturned due to police and/or prosecutorial misconduct;
- written complaints made to HCDAO regarding police or prosecutorial misconduct;
- indictments or criminal investigations related to allegations of police or prosecutorial misconduct; and
- any protocol, list, or document relating to police officers (and their departments) that have been or must be the subject of discovery notices as required to comply with your office's constitutional duties.

Recently, on July 8, 2020, after a two-year investigation, the U.S. Department of Justice released conclusions concerning civil rights violations by SPD officers in the Narcotics Bureau and various related deficiencies. The DOJ reported that "there is reasonable cause to believe that Narcotics Bureau officers engage in a pattern and practice of excessive force in violation of the Fourth Amendment of the United States Constitution." U.S. DOJ, Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau (Jul. 8, 2020), 2. It noted that the pattern and practice "is directly attributable to systemic deficiencies in policies, accountability systems, and training."[3] *Id.* at 24. It found that officers routinely submit vague, misleading, and false police reports. *Id.* at 2, 16, 17. Specifically, the report states that the DOJ "identified *substantial* evidence that, over the last six years . . . officers made false reports that were inconsistent with other available evidence, including video and photographs." *Id.* at 16. (emphasis added).

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[2] We are aware that HCDAO brought assault charges against SPD Officer Jefferson Petrie after videos surfaced showing him grabbing a private citizen by his throat and forcing him to leave SPD headquarters. Stephanie Barry, *Springfield police officer admits to assault charge; federal lawsuit filed by man he grabbed by the throat during parking ticket dispute*, MassLive.com (July 23, 2020). However, although HCDAO dropped the resisting arrest and assault and battery on a police officer charges filed against Mr. Petrie's victim after the videos contradicted Mr. Petrie's account of what occurred, it is unclear what additional steps, if any, HCDAO took in light of the falsified report. *See id.* In addition, we acknowledge that, on July 31, you wrote to ACLUM that HCDAO is currently investigating a police-involved shooting.

[3] Similarly, the Police Executive Research Forum, with whom Springfield contracted in 2018 to conduct a review of SPD's internal investigations processes and related matters, concluded that "officers have no clear rules governing their conduct." Police Executive Research Forum, *Assessment of the Springfield, Massachusetts Police Department: Executive Summary* (April 2019), at 8.

Misconduct at the SPD does not appear to be limited to the Narcotics Bureau, but instead appears to be systemic. Numerous current or former SPD officers have faced allegations of serious misconduct, ranging from civil rights complaints filed against them by residents to criminal charges filed against them by state and federal prosecutors.[4]

The remarkable responses we have received from your office in connection with ACLUM's public records requests raise serious questions about whether your office's response to this situation is adequate as a matter of law. For example, particularly given that your office presumably has ready access to the same information made available to the DOJ, we are concerned about whether your office or the Commonwealth has ever itself investigated or is investigating the misconduct within SPD's Narcotics Bureau and within SPD more broadly. And we are concerned about whether the Commonwealth, and your office in particular, is taking other steps to ensure that it is meeting its obligations with respect to misconduct within the SPD.

To begin with, the Commonwealth has obligations to the people of this state. As every prosecutor is duty-bound to know, prosecutors have a constitutional and ethical duty to automatically disclose impeachment and exculpatory evidence known to members of the "prosecution team," including investigating or testifying police officers' knowledge of their own misconduct. *Kyles v. Whitley*, 514 U.S. 419, 421 (1995); *Giglio v. U.S.*, 405 U.S. 150, 154 (1972).

And your office's practices with respect to this constitutionally-mandated obligation, as reflected in its responses to ACLUM's public records requests, appear to be atypical. *Accord. U.S. v. Osorio*, 929 F.2d 753, 761 (1st Cir. 1991) ("No properly prepared trial lawyer should permit himself to be surprised by the vulnerability of his witness, particularly when that vulnerability is well known by his colleagues. . . . [I]t is not merely sloppy personal practice; it implicates the procedures of the entire office for responding to discovery ordered by the court."). In recognition of their obligations, district attorneys' offices commonly maintain *Brady* lists (*i.e.*, a list of police officers who are under investigation or have engaged in misconduct) and routinely make broad disclosures to criminal defendants.[5] *C.f. Commonwealth v. St. Germain*, 381 Mass. 256, 262 n.10 (1980) ("prosecuting attorneys (should) become accustomed to disclosing all material which is even possibly exculpatory").[6]

Further, beyond your office's duty to disclose exculpatory evidence already in its possession, the Commonwealth also has a duty under Massachusetts law to *investigate* misconduct and *gather* additional exculpatory evidence that should then be disclosed to defendants. The Supreme Judicial Court has recognized "a prosecutor's duty to *learn of and disclose* to a defendant any exculpatory

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[4] *See, e.g.*, *14 Officers Indicted on Assault or Cover-Up Charges in Beating of Black Men*, The New York Times (Mar. 28, 2019); Dan Glaun, *Springfield officer in video of controversial High School of Commerce arrest said he did not mean to file false report*, MassLive.com (March 15, 2019); Springfield Community Police Hearing Board (CPHB), Report for 2018, Appendix 2 (Apr. 3, 2019); Laura Crimaldi and Shelley Murphy, *'I could crush your [expletive] skull and [expletive] get away with it.' A deep look at the Springfield police*, Boston Globe (Sept. 1, 2018).

[5] ACLUM has received reports that your office does not routinely make *Brady* disclosures about officers suspected of misconduct.

[6] Several DAs' offices here in the Commonwealth, in fact, provided to ACLUM their offices' *Brady* list and policies in response to ACLUM's December public records request.

evidence that is held by agents of the prosecution team." *Commonwealth v. Cotto*, 471 Mass. 97, 112 (2015) (internal quotation marks omitted; emphasis added); *see also Committee for Pub. Counsel Servs. v. Attorney Gen.*, 480 Mass. 700 (2018) (vacating and dismissing the drug convictions of all "Farak defendants" and discussing the Commonwealth's duty to investigate Farak's misconduct).

Here, officers of the Springfield Police Department, including its Narcotics Bureau, are members of the prosecution team in numerous cases brought by your office. Particularly given that your office and others are presumably aware of the DOJ Report and other allegations of misconduct involving SPD officers, the Commonwealth is duty-bound to investigate that misconduct, including the extent of the misconduct, and disclose it to defendants in both pending and closed cases. "[W]here there is egregious misconduct attributable to the government in the investigation or prosecution of a criminal case, the government bears the burden of taking reasonable steps to remedy that misconduct." *Bridgeman v. District Attorney for the Suffolk Dist.*, 476 Mass. 298, 315 (2017). This principle is not, in our view, limited to egregious government misconduct that is committed by a chemist.

The public is entitled to know what actions, if any, the Commonwealth, and particularly HCDAO, has taken in light of SPD's pervasive misconduct, especially after the release of the July 8 DOJ report. We ask that you provide answers to the following questions:

1. Is any entity in the Commonwealth, your office included, investigating the allegations of misconduct in SPD?

2. What actions has your office taken in response to the DOJ report?

3. Has your office determined, by inquiring with DOJ or otherwise, which specific cases were implicated by the DOJ report as having involved misconduct by SPD officers? If so, which are they?

4. Has your office determined, by inquiring with DOJ or otherwise, which specific officers are implicated by the DOJ report in committing or condoning misconduct? If so, who are they?

5. For any officers implicated, has your office engaged in a review to identify the cases in which any of those officers participated or is participating as an investigator, witness, or other member of the prosecution team? If so, which are they?

6. For cases identified in Questions 3 and 5, above, what remedial actions, if any, has your office taken? For example, has your office sent disclosures in any cases, filed motions to dismiss, or consented to motions to set aside a judgment and/or for a new trial? Is your office preparing to send disclosures in any impacted case whether open or closed?

7. How are you ensuring that prosecutors automatically disclose to the defense information about police witnesses who have engaged in misconduct, whether charged or not? And in what cases has your office made such disclosures in the past two years?

We look forward to hearing from you and ask that you please respond by August 20. We would be happy to speak with you about any questions. Please feel free to reach out to Sam Dinning, sdinning@andersonkreiger.com, or Jessica Lewis, jlewis@aclum.org.

Sincerely,

/s/ Rebecca Jacobstein
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ANTHONY D. GULLUNI
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OFFICE OF THE DISTRICT ATTORNEY
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August 12, 2020

Attorney David Hoose
Hampden County Lawyers for Justice
50 State Street
Springfield, Massachusetts 01103

Re: Department of Justice Report, dated July 8, 2020, Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau

Dear Attorney Hoose:

The Hampden District Attorney's Office has received notice of a report issued by the Department of Justice, dated July 8, 2020, entitled *Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau.* Notwithstanding additional information that may be forthcoming, I provide you with the enclosed report regarding the results of a joint investigation conducted by the United States Attorney's Office for the District of Massachusetts and the Special Litigation Section of the Civil Rights Division of the Department of Justice. This investigation, stated to be pursuant to 34 U.S.C. § 12601, concerned activities of unnamed members of the Springfield Police Department between 2013 and 2018. I would appreciate your sharing this report with members of your organization who provided legal services to clients subject to investigation or prosecution in which any officer of the Springfield Police Department was involved in the investigation or prosecution of the crime(s) investigated or charged, or was a witness for either the defendant or the Commonwealth in any legal proceeding related to such investigation or prosecution.

Thank you, in advance, for your anticipated cooperation in this matter.

Very truly yours,

Jennifer N. Fitzgerald
First Assistant District Attorney
Hampden County

R.A.00223-R.A.00233

INTENTIONALLY OMITTED

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF THOMAS D. O'CONNOR, JR. IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above captioned petition for relief pursuant to G. L. c. 211, § 3, I, Thomas D. O'Connor, Jr., do hereby swear and affirm that:

1. I am an attorney licensed to practice in the Commonwealth of Massachusetts, in the State of Connecticut and in the District of Massachusetts Federal Courts.
2. Since 2003, I have represented criminal defendants in the Springfield and Palmer District and Juvenile Courts both in my capacity as a private attorney and as a court appointed attorney.
3. In my cases, I have found that the Hampden County District Attorney's office regularly fails to automatically disclose exculpatory evidence relevant to my clients' defense about Springfield police officers.
4. For example, I currently represent an individual charged with assault and battery on a police officer, resisting arrest, and disorderly conduct.
5. This individual's case, I believe, was flagged by the U.S. Department of Justice in its July 2020 report as a case where Springfield Police Department Narcotics Bureau officers used and concealed excessive force by submitting false and misleading police reports. The facts of my client's case match almost exactly the facts as described in the report (only the pseudonym initials do not match).

a. To date, however, no exculpatory evidence has been turned over in my case regarding the officers, and the district attorney's office has made no indication that it intends to drop the charges.

b. The case remains ongoing.

6. Upon information and belief, the findings in the DOJ Report were not unknown. During the course of one of my cases, I was informed that one of the officers involved was a known liar due to the fact that he was found to have lied in another case. This statement was made by an assistant district attorney off the record. No exculpatory evidence was turned over to me during that case about the officer's past false statements.

Signed under the pains and penalties of perjury on March 12, 2021.

/s/*Thomas D. O'Connor, Jr.*

_____

Thomas D. O'Connor, Jr.

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

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OFFICE OF THE DISTRICT ATTORNEY
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August 19, 2020

Eric S. Dreiband
Assistant Attorney General
United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

RE: ***Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau,*** **Department of Justice Report, dated July 8, 2020**

Dear Assistant Attorney General Dreiband:

I serve as Hampden District Attorney for the Commonwealth of Massachusetts. In that capacity, I am requesting the production of documents, pursuant to 5 U.S.C. *§ 301* and the prescribed regulations applicable to this request found at *28 C.F.R. § 16.21 et. seq.*, of certain Springfield Police Department reports [more specifically identified below] as named in the publicly released Department of Justice Report, dated July 8, 2020, entitled *Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau* ["Report"], co-authored by the United States Department of Justice's Civil Rights Division and the United States Attorney's Office for the District of Massachusetts. It is asserted that any responsive records or papers are necessary for production to my office FORTHWITH to assist me in the exercise of my constitutional, statutory, and ethical obligations to the citizens of Hampden County, including, but not limited to, charged individuals in pending and post-conviction criminal matters in the courts of the Commonwealth.

"Ensuring the public's safety is of the first order of government, a duty underlying all government action." *Lavallee v. Justices in Hampden Superior Court*, 442 Mass. 228, 245 (2004). In the Commonwealth of Massachusetts, the District Attorney, by statute, is the governmental official who serves as chief law enforcement officer for his/her respective district. M.G.L., c. 12, §12. See *Commonwealth v. Bing Sial Ling*, 434 Mass. 131, 133 (2001), citing *District Attorney for the Norfolk Dist. v. Flatley*, 419 Mass. 507. 509 n.3 (1995) (recognizing district attorney's position as an elected official and chief law enforcement officer in his district by providing him extraordinary review of legal issues). The district attorney, as a prosecutor, is sworn to uphold the state and federal constitutions, and is required to disclose material, exculpatory evidence in his/her custody or control, to a defendant, *Committee for Pub. Counsel Servs. v. Attorney Gen.*, 480.

Mass. 700, 731 (2018); *Brady v. Maryland*,373 U.S. 83, 87 (1963), even without a request from the defendant. *Commonwealth v. Ayala*, 481 Mass. 46, 56 (2018). See *Commonwealth v. Bing Sial Ling*, 434 Mass. at 134-135, citing *United States v. Agurs*, 427 U.S. 97, 106-108 (1976) (prosecutors' duty to disclose exculpatory evidence not limited to cases where there is a request for such evidence); *Commonwealth v. Beal*, 429 Mass. 530, 531 (1999) (prosecutors' duty to disclose extends to information in their possession or in possession of persons subject to their control). See also Mass. R. Crim. P. 14, as appearing in 442 Mass. 1518 (2004). "...[I]ssues of Federal and State sovereignty have the potential to prejudice a defendant being prosecuted in State court by stymying his or her ability to obtain exculpatory information held by Federal authorities." *Commonwealth v. Ayala*, 481 Mass. at 56, citing *Commonwealth v. Donahue*, 396 Mass. 590, 596 (1986). In addition, ethical obligations "may require a prosecutor to undertake some procedural and remedial measures as a matter of obligation," in the exercise of his discovery obligations. Mass. R. Prof. C. 3.8, Special Responsibilities of a Prosecutor, 3.8 (d), (g), (i), and (j) and Comment 1.

The Springfield Police Department is a law enforcement agency within Hampden County. Officers of the Springfield Police Department are required by statute and rule to provide arrest, inciden, and investigatory reports to satisfy probable cause determinations before a magistrate or court. These reports are then provided to Hampden County prosecutors to fulfill discovery obligations. In addition, officers of the Springfield Police Department testify to the documents' content, under oath, in grand jury proceedings and pretrial and post-conviction evidentiary hearings of criminally charged individuals in Hampden Superior Court, Springfield District Court, and Springfield Juvenile Court.

The Executive Summary of the July 8, 2020 Report of the *Investigation of the Springfield, Massachusetts Police Department's Narcotics Bureau,* Report at 3, states that investigators jointly from the Department of Justice's Special Litigation Section of the Civil Rights Division and the United States Attorney's Office for the District of Massachusetts, conducted a comprehensive review of 114,000 pages of Springfield Police Department documents, including an unspecified number of "incident reports" and "investigative reports". Notably, Report at 9, the Report states that investigators sought and received 1,700 prisoner injury files, 26,000 arrest reports and over 700 use-of-force-reports created from 2013 through 2019. More specifically, Report at 9, the Report states that investigators reviewed 5,500 arrest reports and 10 use-of-force reports from the Springfield Police Department's Narcotics Bureau from 2013-2018. Found by investigators, Report at 2, were **"examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force[;]"** and Report at 16, **"...a pattern or practice ... [where] officers made false reports that were inconsistent with other available evidence, including video and photographs...."** This information is deemed to have contributed to the investigators conclusion, Report at 2, that "there is reasonable cause to believe that Narcotics Bureau officers engage in a pattern or practice of

excessive force in violation of the Fourth Amendment of the United States Constitution."[1]

After the Report was made public, a First Assistant District Attorney with my office received a telephone call from an AUSA with the Civil Rights Division of the United States Attorney's Office for the District of Massachusetts who had been involved in the investigation and issuance of the Report. The AUSA's stated purpose of the telephone call was to inquire if the Hampden District Attorney had "any questions" about the Report. The parties agreed to speak after my office had an adequate time to review the contents of the Report. On July 20, 2020, that First Assistant District Attorney from my office spoke with the AUSA, by telephone, and orally requested that the Hampden District Attorney be provided with the Springfield Police Department reports that investigators referenced in the Report where "officers falsified reports" or "officers made false reports". The First Assistant District Attorney told the AUSA that the assistant district attorneys in the Hampden District Attorney's Office needed to identify the false or falsified reports and review them to determine his/her discovery obligations, pursuant to *Brady* and the Massachusetts Rules of Criminal Procedure. The parties agreed to speak after the AUSA had sufficient time to consider the First Assistant District Attorney's request.

On July 28, 2020, the First Assistant District Attorney left a voice message for the AUSA concerning the status of the July 20th request for the Springfield Police Department officers' false or falsified reports. Later in the day, the First Assistant District Attorney received an email from the AUSA stating that the request for the Springfield Police Department officers' false or falsified reports was still under consideration. Thereafter, on August 6, 2020, the First Assistant District Attorney, the AUSA and another AUSA (who participated in the investigation and issuance of the Report) spoke by telephone. In that telephone conversation, the First Assistant District Attorney's oral request for the production of the Springfield Police Department officers' false or falsified reports was denied. After discussion with members of the Department of Justice's Professional Responsibility Unit and the Civil Rights Division, the Department of Justice concluded it would withhold the Springfield Police Department's false or falsified reports from the Hampden District Attorney. The grounds stated were that the requested false or falsified reports were confidential, the calculus for exculpatory information was different for the Department of Justice, and rules for *Brady* material do not extend to the Department of Justice's civil rights investigations. The First Assistant

[1] While I recognize that the authors of the Report note that investigators did not serve "as a tribunal to make factual findings and legal conclusions binding on, or admissible in, any court" see Report at 2, n.2, the reported findings of unconstitutional law enforcement conduct, as described in the twenty-eight page Report, suggest the documents supporting these findings may contain potentially exculpatory material as that term is legally understood, and is subject to my mandatory review to effectively meet the constitutional, statutory and ethical obligations of my office.

District Attorney again emphasized to each AUSA that the Hampden District Attorney was only seeking the production of Springfield Police Department officers' false or falsified reports, not any confidential, privileged, or investigatory material. The First Assistant District Attorney was told to request the reports from the Springfield Police Department. The First Assistant District Attorney was also informed by the AUSA that the Springfield Police Department did not know which of the thousands of reports it had provided to federal investigators during the investigation were false or falsified, as stated in the Report.

I understand that, in the first instance, due to the federal regulations cited above and relevant case law, see *U.S. ex. rel. Touhy v. Ragen*, 340 U.S. 462 (1951), a District Attorney's subpoena to produce documents, information or objects, pursuant to G.L. c. 277, § 68, or a state court summons to produce documents, information or objects, pursuant to Mass. R. Crim. P. 17 (a)(2), 378 Mass. 885 (1979), even if properly served, is legally insufficient to compel the production of the requested Springfield Police Department officers' reports, or attendant photographs or video/digital images, notwithstanding the language of the subpoena or summons, without prior administrative relief being sought.

My office did not conduct or participate in the investigation with the Department of Justice's Specialized Litigation Unit of the Civil Rights Division or the United States Attorney for the District of Massachusetts and therefore, does not have knowing custody or control of the Springfield Police Department officers' reports deemed false or falsified. Although statutorily serving as the chief law enforcement officer for Hampden County, and thus the chief law enforcement officer within the Springfield Police Department's jurisdiction, the Hampden District Attorney was not served with a copy of the Report from the investigating agencies, and has not been enlisted to assist in developing necessary remedial measures for the constitutional violations found. The Report's investigation spanned twenty-seven months from its initiation to the release of its findings. The scope and timing of the investigation cannot be replicated by my office in any meaningful way so as to meet my constitutional, statutory, and ethical obligations in a timely manner.

Therefore, I make this written request, pursuant to *28 C.F.R. § 16.21 et. seq.*, for:

(1) A copy of all Springfield Police Department reports, including, but not limited to incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7), determined as examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force[;]";

(2) A copy of all Springfield Police Department reports, including, but not limited to incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7), determined as "...a pattern or practice .... [where] officers made false reports that were inconsistent with other available evidence, including video and photographs....", and;

(3) copy of all photographs, or video/digital material determined as inconsistent with any Springfield Police Department officers' reports, including, but not limited to incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7).

I do NOT request any other documents from the investigation, including any contents of IIU files, training materials, or other internal, confidential or privileged documents of the Springfield Police Department provided to investigators, or incident reports, investigative reports, arrest reports, use-of-force reports, or contents of a "prisoner injury file" (as described in the Report, at 7) determined not to contain false or falsified information, or statements, notes or recordings of investigators' interviews with Springfield Police Department officers, City of Springfield officials or community members. I also do not request the disclosure of any information concerning sensitive investigative techniques, current investigations, classified information, informants or security programs such as the Federal Witness Security Program.

Cooperation is sought for a quick resolution of this request, and is necessary for me to meet my constitutional, statutory, and ethical obligations to the people I have been elected to serve. As you know, seeking the truth and the pursuit of justice are the bedrock principles of our work as prosecutors. If you have questions or concerns arising from this office's need for this information, please contact me by telephone at (413) 505-5901.

Very truly yours,

Anthony D. Gulluni
District Attorney
Hampden District

cc: Andrew E. Lelling,
United States Attorney – District of Massachusetts

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

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July 31, 2020

Leah S. Rizkallah, Esq.
Foley Hoag, LLC
155 Seaport Boulevard
Boston, MA 02210

Via e-mail: lrizkallah@folethoag.com

Re: Reply to June 1, 2020 letter

Dear Ms. Rizkallah:

This letter supplements the Hampden District Attorney's prior responses to the original public records request, dated December 20, 2019, filed with this Office by the ACLU of Massachusetts, and specifically responds to the ACLUM's subsequent request, dated June 1, 2020. This letter will summarize each of your recent requests ("6-1-2020 Letter") and reply accordingly. Again, this Office appreciates your patience awaiting this reply.

Request 5 [Prosecution Data and Statistics]

Original 12-20-2019 Request:

"Any and all prosecution statistics made public or provided to other agencies, including but not limited to any responses to previously filed public records requests, any and all reports made to the Executive Office of Public Safety and Security, the Massachusetts Trial Courts, House of Representatives or Senate, office of the Treasurer, or office of the State Auditor."

6-1-2020 Letter:

"Your January 30 Letter does not provide a response to this request. Please confirm whether your Office is in possession of any responses to previously filed public records requests and/or reports made to the Executive Office of Public Safety and Security, the Massachusetts Trial Courts, House of Representatives or Senate, Office of the Treasurer, or Office of the State Auditor. If records responsive to this request exist, please produce them."

Reply: This Office relies upon its prior responses and respectfully claims that it provided any and all prosecution statistics made public or provided to other State agencies in its reply dated January 30, 2020.

Request 9 [Prosecution Data and Statistics]

6-1-2020 Letter:

"Request 9 seeks records related to forensic data. While records related to the Dookhan and Farak drug lab scandals are certainly responsive to this request, Request 9 is not limited to information related to these scandals.

"In an effort to provide clarification and reduce the burden on your Office we are revising and narrowing Request 9 to the following:

> (1) any and all policies or procedures related to forensic inadequacies, forensic misconduct, and/or deviation from industry standards for decertifications of forensic laboratories;
>
> (2) any and all reports by any state office or agency regarding forensic laboratories used by your Office;
>
> (3) any and all lists of cases impacted by issues related to the Farak and Dookan scandal;
>
> (4) any and all policies, procedures, guidelines or proposed orders related to forensic and scientific analysis pursuant to G.L. c. 278A; and
>
> (5) any and all reports, lists, or other compilations of cases impacted by inadequacies and/or misconduct by the Office of Alcohol Testing, including any cases impacted by the Superior Court's 2017 decision in *Commonwealth v. Ananias*."

Reply: This Office is in the process of creating a list of cases affected by the Superior Court's 2017 decision in *Commonwealth v. Ananias*. This list will be provided under separate cover. This Office is not in possession of any documents responsive to the balance of your request.

Request 12 [Policies, Procedures, and Related Documents]

6-1-2020 Letter:

"To provide further clarification and guidance, we are now revising Request 12 to the following: any and all financial records and other reports which your Office regularly reports to the Massachusetts legislature under various statutory reporting requirements, including but not limited to:

(1) State Wiretap Reports, pursuant to G.L. c. 272, § 99;

Reply: Wiretap Reports will be provided under separate cover.

(2) Child Abuse Data Reports, pursuant to G.L. c. 12, § 20D;

(3) Community Based Justice Reports, pursuant to G.L. c. 12, § 32(e);

(4) Prosecution Statistics;

(5) Law Enforcement Trust Fund Reports; pursuant to G.L. c. 94C, § 47(d);

Reply: See attached *Law Enforcement Trust Fund Report 2018.*

(6) Volunteer Attorney Reports;

(7) Asset Forfeiture Reports;

Reply: See attached ***(a) MDAA FY11 DRUG FORF REPORT;***
(b) MDAA FY14 DRUG FORF REPORT;
(c) FY2017 REPORT.

(8) Drug Rehabilitation Expenditure Reports, pursuant to G.L. c. 94C, § 47(d);

Reply: See attached *FY2017 REPORT.*

(9) Victim Witness Program Plan Reports, pursuant to G.L. c. 258B, § 6; and

(10) MGL c. 277, s. 70C Reports."

Additional Reply: For Items numbered 2, 3, 4, 6, 9, and 10 above, this Office respectfully relies upon its prior responses to your original request.

Request 13 [Budget, Training, and Staff Management]

Original 12-20-2019 Request:

"Any and all records, reports, and documents pertaining to the annual office budget of the Hampden County District Attorney's Office, including any budgetary proposals."

6-1-2020 Letter:

"Your January 30 Letter indicates that your Office's budget data is publicly available. In addition to any publicly available information, please confirm whether your Office is in possession of any of the following:

(1) any and all Equitable Sharing Agreements and Certifications; and

(2) internal documents that detail and/or track the Office's annual spending and any annual spending plans."

"If such documents exist, please produce them in response to this request."

Reply: The State website, CTHRU (https://www.macomptroller.org/cthru), has all statewide spending that can be broken down by agency and by year.

Request 14 [Budget, Training, and Staff Management]

6-1-2020 Letter:

"Request 14 seeks any audit reports of the Hampden County District Attorney's Office, including any findings and recommendations. Your January 30 Letter does not provide a clear response to this request."

"Please confirm whether your Office is in possession of any documents responsive to this request. If such records exist, please produce them."

Reply: The State website, CTHRU (https://www.macomptroller.org/cthru), has all State audit reports available for public inspection.

Request 18 [Police and Prosecutorial Accountability]

6-1-2020 Letter:

"(1) Any and all documents concerning any indictments or criminal investigations related to allegations of police or prosecutorial misconduct;

"(2) any and all written complaints made to your Office regarding police or prosecutorial misconduct;

"(3) any compilations or lists of officers or prosecutors accused of misconduct;

"(4) any compilations or lists of cases in which evidence was suppressed due to police and/or prosecutorial misconduct; and

"(5) any compilations or lists of cases in which verdicts were overturned due to police and/or prosecutorial misconduct."

Reply: This office does not track or maintain a list of documents in the categories requested.

Request 19 [Police and Prosecutorial Accountability]

6-1-2020 Letter:

(1) Any and all official memoranda, reports or findings and conclusions pertaining to police-involved shootings or allegations of excessive force; and

(2) any policies and/or procedures pertaining to police-involved shootings or excessive force.

Reply: Since the date of this Office's prior reply, this Office received one report regarding a police-involved shooting that is currently under investigation. Once this matter is closed, copies of all reports and findings will be provided under separate cover.

Request 20 [Police and Prosecutorial Accountability]

6-1-2020 Letter:

(1) Any protocol, list, or document relating to police officers (and their departments) that have been or must be the subject of discovery notices as required to comply with your Office's constitutional duties; and

(2) any reports or records sent to other government agencies or departments pertaining to these discovery notices.

Reply: This Office is not in possession of any documents responsive to this request.

Request 21 [Law Reform & External Outreach]

6-1-2020 Letter:

[1] Any and all press releases or statements concerning the Hampden County District Attorney's Office's efforts to oppose or support criminal law reform;

(2) any and all programs, forms, brochures, literature, including drug diversion program forms and contracts, relating to criminal law reform efforts by the Hampden County District Attorney's Office; and

(3) any and all testimony by the District Attorney or any assistant district attorney before state or federal legislature in their official capacity or as a member of the Massachusetts District Attorney Association.

Reply: See attached (a) ADVISORY 2017 Expungement Form 11-29-2017;
(b) Expungement and Record Sealing Forum Draws Large Crowd to the Holyoke Public Library, 2-27-2020;
(c) Support for an Act Updating Laws Relating to Dangerous Drugs and Witness Intimidation;
(d) Massachusetts District Attorneys Respond to COVID-19 Mass Prisoner Release Petition, 3-30-2019;
(e) MDAA Suspends Participation in Massachusetts Sentencing Commission, 12-5-2019;
(f) Support for an Act Updating Laws Relating to Dangerous Drugs and Witness Intimidation.

Request 24 [Law Reform & External Outreach] – REVISED

Revised Request in 6-1-2020 FH Letter:

(1) Any and all letters, statements or press releases supporting or opposing any state or federal restorative justice legislation;

(2) any and all Juvenile Justice Unit Annual Reports to the Legislature; and

(3) any and all documents concerning the Office's work with Our Restorative Justice, Restorative Justice on The Rise, and/or any not for profit organization advancing restorative justice efforts. Restorative justice is defined by the Massachusetts Legislature as "a voluntary process whereby offenders, victims and members of the community collectively identify and address harms, needs and obligations resulting from an offense, in order to understand the impact of that offense; provided however, that an offender shall accept responsibility for their actions and the process shall support the offender as the offender makes reparation to the victim or to the community in which the harm occurred." MGL c. 276B, § 1.

Reply: This Office is in possession of no documents responsive to this request.

If you have reasonable grounds to challenge this response, you may contact: Supervisor of Records, Office of the Secretary of the Commonwealth, McCormack Building, Room 1719, One Ashburton Place, Boston, Massachusetts 02108, 617-727-2832.

Sincerely,

Joseph A. Pieropan
Records Access Officer

JAP/jap
Enclosures

M E M O R A N D U M

To: All Assistant District Attorneys

From: Kate McMahon, Chief, Appeals Unit

Re: Discovery obligations Concerning Springfield Police Officers Joseph Dunn & Daniel Moynahan

Date: October 9, 2020

In 2018, Daniel Bradley filed a civil lawsuit in federal district court against Springfield police officers Christian Cicero, Joseph Dunn, and Daniel Moynahan. Bradley, who had been arrested by the police officers on August 26, 2015, was charged in Springfield District Court with assault and battery on a police officer and resisting arrest (Complaint No. 1523CR00594). A jury acquitted Bradley of the charges.

The federal civil lawsuit alleged violations of 42 U.S.C. § 1983, G. L. c. 12, §§ 11H & 11I, and common-law violations. The civil case went to trial in February 2020. The jury did not find Cicero liable for any count of the complaint. The jury found Moynahan liable for unreasonable seizure, unlawful arrest, unlawful seizure, false arrest, and false imprisonment. The jury found Dunn liable for unlawful arrest, excessive force, unreasonable seizure, false arrest, false imprisonment, assault and battery, and malicious prosecution.

Attached to this message are the **civil complaint**, **federal district court docket**, **and verdict slips from the civil case.** Also attached to this message are lists generated by this office of cases in which Dunn and Moynahan have testified after August 26, 2015, the date on which they arrested Bradley. The attached civil complaint, federal district court docket, and the verdict slips from the civil case **must** be disclosed to the defense in **all** pending cases, now and going forward, in which Dunn or Moynahan has authored a report or is a potential witness.

Plaintiff Bradley alleged that, on August 26, 2015, the police officers stopped his motor vehicle without reasonable suspicion or probable cause,

removed him forcibly from his motor vehicle by his arm, searched his person, physically assaulted him, and sought a criminal complaint against him. The plaintiff's allegations, regardless of their veracity, constitute alleged "l[ying] to conceal a fellow officer's unlawful use of excessive force or l[ying] about a defendant's conduct and thereby allow[ing] a false or inflated criminal charge to be prosecuted. . . ." *In the Matter of a Grand Jury Investigation*, 485 Mass. 641, 653, 658 (2020)(a decision issued on September 8, 2020). The attached materials from the federal civil case are discoverable for **all** defendants in pending cases in which Dunn or Moynahan is a potential witness or authored a police report.

You should be aware that prosecutors also have an ethical obligation to look back to prior cases. Rule 3.8(i) of the Massachusetts Rules of Professional Conduct states: "When, because of new, credible, and material evidence, a prosecutor knows that there is a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall within a reasonable time . . . disclose that evidence . . . ." Because of that ethical obligation, this office also is in the process of reviewing closed case files in which Dunn or Moynahan testified after August 25, 2015, and the office will provide discovery of the federal civil complaint, docket, and verdict slips to all defendants in such cases.

Disclosure

On September 8, 2020, the Massachusetts Supreme Judicial Court issued *In the Matter of a Grand Jury Investigation*, 485 Mass. 641 (2020), a case in which the Bristol District Attorney's Office learned through a grand jury investigation that two police officers had lied in police reports about a matter in which a third police officer had used excessive force against an arrestee. The office sought permission from a superior court judge to disclose the police officers' falsehoods to defendants in unrelated cases in which the police officers had authored reports or were potential witnesses. The SJC held that the disclosures had to be made, and the prosecutors did not need permission from the superior court before making the required disclosures. The disclosure

obligation is not only constitutional (*Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972)), but also stems from prosecutors' "broad duty" under Mass. R. Crim. P. 14(a)(1)(iii) to disclose "[a]ny facts of an exculpatory nature," as well as the rules of professional conduct. *In the Matter of a Grand Jury Investigation*, 485 Mass. at 647, 649.

The SJC said, "[A] prosecutor who is deciding whether to disclose exculpatory information must look forward in time, to a trial that has yet to occur, where even an experienced prosecutor may be unsure about the defenses that the defendant will offer or that will emerge from the evidence." *Id.* at 650.

Admissibility in evidence and disclosure are separate questions, especially since disclosure that "a potential police witness lied" may impact not only trial tactics, but also how the defendant investigates his or her case. *Id.* at 653. The Court identified the circumstances where the prosecutor's obligation to disclose exculpatory information is **required:** (1) where the "officer lied to conceal the unlawful use of excessive force"; or, (2) where the officer "lied about a defendant's conduct and allowed a false or inflated criminal charge to be prosecuted." *Id.* **Simply put, disclosure is required even where the evidence is unlikely to be admissible at trial.**

Admissibility

"A judge has the discretion to decide whether the credibility of a police officer is a critical issue at trial and whether the officer's false statements in a separate matter might have significant impact on the result of the trial, such that the prior misconduct should be admitted in the interest of justice." *Id.* 651-52 (citing *Commonwealth v. Lopes*, 478 Mass. 593, 606 (2018)). When exercising his or her discretion "in deciding whether to allow a police officer witness in the interest of justice to be impeached with prior misconduct, [the judge] may consider the age of the prior misconduct, the strength of the evidence of the prior misconduct and the simplicity of establishing it, and whether the prior misconduct is probative of how the officer conducts police investigations." *Id.* at 652. The Court specifically declined to adopt a

maxim governing admissibility, and held that, "All we conclude is that the information should be disclosed to unrelated defendants so that the trial judge may rule on its admissibility if the defendant were to seek its admission." *Id.* at 653.

In appropriate cases, you may seek to file a motion in limine to exclude the impeachment of Dunn or Moynahan. Again, admissibility is a separate question from our obligation to disclose. Disclosure is required.

Franks Hearings

In Moynahan's case, the disclosure requirement also applies where he was the affiant in an application for a search warrant. Generally, a motion to suppress evidence seized pursuant to a search warrant is restricted only to the four corners of the search warrant application and affidavit. *Commonwealth v. O'Day*, 440 Mass. 296 (2003). There is an exception to the four corners rule where the defendant challenges the truthfulness of the statements made by the affiant. *Franks v. Delaware*, 438 U.S. 154 (1978). The *Franks* hearing is not prompted by every challenge made by a defendant because in his motion and affidavit requesting such a hearing, the defendant **must** make a substantial preliminary showing that the affiant, either intentionally or recklessly, made a materially false statement in his affidavit. An omission may also satisfy the required showing. For example, the United States Court of Appeals for the Ninth Circuit found that an affiant had recklessly omitted to include the "absolutely critical" fact that an informant had been convicted of falsely reporting a crime. *United States v. Hall*, 113 F.3d 157, 158 (9th Cir. 1997). The statement or omission must be shown to bear materially on whether there is probable cause. *Commonwealth v. Dion*, 31 Mass. App. Ct. 168, 173 (1991).

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above captioned petition for relief pursuant to G. L. c. 211, § 3, I, Ivonne Vidal, Esq., hereby depose and state:

1. I am a supervising attorney in the Springfield office of CPCS's Public Defender Division.
2. I have been in this position since May, 2019, but have been an attorney with the Springfield office since September of 2011.
3. I am a member of the bar in good standing in the Commonwealth of Massachusetts.
4. In January of 2019, I was appointed counsel in a case involving Officer Igor Basovskiy, who both authored a police report and testified under oath for that case.
5. On January 29, 2019, Officer Basovskiy testified at a dangerousness hearing in the Springfield District Court. His testimony included facts that were physically impossible; specifically, the Defendant suffered physical injuries that could not have occurred under the version of facts that the officer described.
6. On February 7, 2019, a judge found that Officer Basovskiy's testimony was "not consistent with the physical evidence," and that there was a "substantial incongruity" between the officer's version of events and the physical evidence. See attached Transcript (redacted) at 2-20. The judge stated that the "incongruity defies the physical evidence and almost belies common sense." *Id.* at 2-21. The judge further emphasized that the Commonwealth, which is charged with the execution of the law, give "thorough and impartial scrutiny" to the conduct and testimony of the officers. *Id.*
7. After Officer Basovskiy refused to answer to summons for a final pre-trial date on this case, the Commonwealth filed a nolle prosequi on June 17, 2019.
8. To my knowledge, no investigation of the conduct or the testimony was ever undertaken by the HCDAO, nor were any criminal charges brought by the HCDAO.

9. I know of no subsequent case in which this misconduct was disclosed as *Brady* material, either to me or any other attorney in the CPCS Springfield office.
10. During the pendency of this case, Officer Basovskiy was under indictment at that point for an unrelated set of facts, yet at no point in the course of this case did the Commonwealth provide exculpatory information about any prior misconduct committed by Officer Basovskiy.

Signed under the pains and penalties of perjury, this 5th day of March, 2021.

/s/ Ivonne Vidal
Ivonne Vidal, Esq.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above-captioned petition for relief pursuant to G. L. c. 211, § 3, I, Lawrence Madden, state the following to the best of my information and belief:

1. I am the Attorney-in-Charge of CPCS's Springfield Public Defender Division office (Springfield PDD). I have worked in this capacity since 2006, and have practiced as a public defender in Hampden County since 1990.

2. In my 30 years of experience practicing in Hampden County, it has always been difficult to obtain discovery, including mandatory discovery pursuant to Mass. R. Crim. P. 14.

3. In the past few years, the Hampden County District Attorney's Office (HCDAO) has sent over the following *Brady* materials:

    a. On December 18, 2018, the HCDAO sent a letter regarding "Notice of Potential Exculpatory Information Pursuant to *Brady*." That letter stated that the HCDAO had come into possession of potentially exculpatory material as to Springfield Police Department (SPD) officers Luke Cournoyer, Edward Kalish, Jose Robles, Lieutenant Alberto Ayala, and Captain Steven Kent. Included with the letter were redacted federal grand jury transcripts of these five officers' testimony regarding an incident in Palmer where SPD Narcotics Bureau Officer Gregg Bigda threatened a juvenile. Ex. 1- Letter from District Attorney Gulluni, dated December 18, 2018.

    b. On January 25, 2019, the HCDAO sent me a non-redacted version of Officer Kalish's federal grand jury minutes to replace the one sent on December 18, 2018. Ex. 2 - Letter from First Assistant District Attorney Jennifer Fitzgerald, dated January 25, 2019.

    c. In April 2019, the HCDAO provided the CPCS Springfield PDD office with letters dated April 11, 2019, that the Attorney General's Office (AGO) sent to the HCDAO. Those letters informed the HCDAO that fifteen officers were indicted with respect to the Nathan Bills Bar incident that took place on April 8, 2015, including Christian Cicero, Daniel Billingsley, and Igor Basovskiy, and listed the charges for which each officer was indicted. The indictments were not included with these letters. Ex. 3 – Letters from the AGO regarding indictments resulting from the Nathan Bills Bar incident.

d. On August 12, the HCDAO sent a letter to me with a copy of the "Investigation into the Springfield, Massachusetts Police Department's Narcotics Bureau," released by the United States Department of Justice and United States Attorney's Office on July 8, 2020 (DOJ Report). Ex. 4 – Letter from First Assistant District Attorney Jennifer Fitzgerald, dated August 12, 2020.

e. On August 20, 2020, the HCDAO sent a letter to me stating that in light of the DOJ Report, it had sent letters to the Department of Justice and the United States Attorney's Office seeking the documents referenced in that report. Ex. 5 - Letter from First Assistant District Attorney Jennifer Fitzgerald, dated August 20, 2020.

f. On October 23, 2020, the HCDAO sent over another "Notice of Potential Exculpatory Information Pursuant to *Brady*," forwarding "information that may be regarded as exculpatory" as to SPD Officers Joseph Dunn and Daniel Moynahan. This letter was addressed to an attorney no longer with our office, so it came to me. Accompanying the letter was a compact disk containing a federal civil complaint filed against those officers, *Bradley v. Cicer*o, the docket sheet, and the verdict slips. Ex. 6 - Letter from First Assistant District Attorney Jennifer Fitzgerald, dated October 23, 2020 with the enclosed civil complaint, docket sheet, and verdict slips.

g. On March 11, 2021, I received a letter regarding "Additional Potential Exculpatory Information Pursuant to Brady" regarding *Bradley v. Cicero*, which included police reports and photographs from Mr. Bradley's arrest.

4. While these disclosures indicate that this exculpatory information is in the care, custody, and control of the Commonwealth, I am aware of subsequent cases involving the above-mentioned officers in which this information was not disclosed by the prosecuting ADA. Providing this information to me as head of the office does not discharge the HCDAO's obligation to provide it in individual cases.

5. Except for the aforementioned materials, neither I nor anyone in my office has received any other exculpatory documents regarding members of the SPD as relates to the misconduct referenced in the Department of Justice report, misconduct related to the Nathan Bills Bar incident, or civil judgments against SPD officers.

6. Thus, neither I nor anyone in my office ever received the February 2, 2017, memorandum signed by Hampden County District Attorney Gulluni explaining why his office was unable to bring any charges pertaining to the assault that occurred outside of Nathan Bills Bar. See Ex. 7 - Findings and Determinations Relative to Criminal Charges, April 8, 2015, Island Pond Road Assault.

7. That memorandum describes and relies upon interviews conducted by Sgt. William Andrew of the Internal Investigations Unit. See *id.* at 2, 4-7.

8. Those interviews are memorialized in a special report to the Commissioner dated August 3, 2015. Ex. 8 – Internal Investigations Unit Special Report to Police Commissioner John R. Barbieri at 34-36, 39-41 (summarizing and discussing seven interviews which are cited and relied upon by DA Gulluni).

9. Neither I nor anyone in my office has ever received a copy of Sgt. Andrew's August 3, 2015, report from the HCDAO. CPCS recently obtained a copy of this report through a public records request.

10. I have reviewed Sgt. Andrew's report and it contains exculpatory material pertaining to a number of Springfield police officers. For example:

    a. According to the report, Officer Christian Cicero appears on surveillance video at the Nathan Bills Bar prior to the assault. *Id.* at 8, 45. He is seen shaking hands with Officer Nathan Perez, one of at least four officers who later confirmed his presence. *Id.* at 8, 62, 64, 66-67, 69. A victim-witness repeatedly picked Officer Cicero out of photo line-ups, describing him as present in the bar, present at the scene of the assault, and as one of the officers who first began throwing punches. *Id.* 9, 39, 41 Approximately four hours after the assault, Officer Cicero called Sgt. Kenneth Turowsky and stated that he would not be reporting to duty due to a broken toe. *Id.* at 9, 51. When questioned about this incident, Officer Cicero repeatedly invoked his 5th amendment rights against self-incrimination. *Id.* at 33, 74.

    b. Sgt. Andrew identifies Officer Daniel Billingsley as a central player in the Nathan Bills incident. Multiple witnesses identify Billingsley as the man in the bar who grew angry when he thought a Black man had whistled at his girlfriend, and then repeatedly escalated the incident towards violence. *Id.* at 6, 37-38, 40-41. Officer Billingsley was identified by at least three of his fellow officers as being present at the bar. *Id.* at 11, 14, 16, 35, 62, 67, 69. Victim-witnesses picked him out of photo line-ups repeatedly, stating he was present at both in the bar and at the assault itself. *Id.* at 3, 21, 36, 39. Like Cicero, he called in sick to work the day after the assault, claiming "severe migraines" *Id.* at 9, 50. When asked for a statement, Officer Billingsley invoked his Fifth Amendment rights against self-incrimination. *Id.* at 18, 73.

    c. On July 30, 2015, a victim-witness picked Igor Basovskiy out of a photo line-up, stating that the was present at bar during the dispute and at the time of the assault. *Id.* at 36. When questioned, Officer Basovskiy invoked his Fifth Amendment right against self-incrimination. *Id.* at 18, 73.

11. For almost four years, the Commonwealth continued to rely on the testimony of the indicted officers, many of whom were charged with willfully making false statements and including Officers C. Cicero Billingsley, and Basovskiy until they were indicted by the Attorney General's Office in March 2019.

12. The HCDAO continues to bring cases relying on Officer Basovskiy's testimony to this day; he is a key witness in a case assigned to an attorney in my office in February 2021.

13. Oftentimes we learn about officer misconduct through the media rather than from the HCDAO. For example, in an article originally posted on September 7, 2018, the judge allowed a motion to suppress stating, "I don't believe what officer [Felix] Aguirre testified to plain and simple." She further stated, "His testimony, plainly stated, was not credible." Ex. 9 - Buffy Spencer, ""This is beyond convoluted': Judge tosses out evidence in drug case, has

harsh words about Springfield police officer," MassLive.com, originally posted September 7, 2018, downloaded March 10, 2021.

14. The finding of a lack of credibility by a judge is exculpatory evidence. The HCDAO has not provided to me or anyone in my office notice of that finding nor, to my knowledge, did the HCDAO conduct an investigation into whether charges should be brought based on that testimony.

15. To this day, the HCDAO continues to rely on Officer Aguirre. Officer Aguirre has authored many search warrants that have resulted in criminal charges against Springfield PDD clients.

16. Not infrequently, Hampden County judges find that law enforcement officers' testimony was not credible, or is inconsistent with the physical evidence.

17. I have never received, and I am not aware that any attorney in my office has ever received, a disclosure by the HCDAO informing us of any court rulings implicating the credibility of a law enforcement officer.

18. I am aware of cases in my office where the HCDAO filed a nolle prosequi to avoid turning over exculpatory evidence about a police officer.

19. I am also aware of cases in my office where the HCDAO has filed a nolle prosequi after law enforcement misconduct has come to light.

20. I am not aware that the HCDAO has ever investigated law enforcement misconduct that resulted in the filing of a nolle prosequi.

21. I have never received, and I am not aware that any attorney in my office has ever received, a disclosure from the HCDAO regarding police misconduct that resulted in the filing of a nolle prosequi by the HCDAO.

Signed under the pains and penalties of perjury, this 15th day of March, 2021.

/s/ Lawrence Madden
Lawrence Madden

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above captioned petition for relief pursuant to G. L. c. 211, § 3, I, Benjamin Farrell, Esq., hereby depose and state:

1. I am a Trial attorney in the Springfield office of CPCS's Public Defender Division. I have been in this position since September 1, 2009.
2. I am a member of the bar in good standing in the Commonwealth of Massachusetts.
3. In 2016, I was appointed counsel in a case involving Detective James Renaudette of the Westfield Police Department. The detective falsely testified to the Grand Jury regarding my client's involvement in a drug distribution scheme. During the course of the investigation, officers recorded interviews with confidential informants after each controlled buy. Detective Renaudette testified to the Grand Jury of statements implicating my client allegedly made by these confidential informants. Upon review of the recordings of the interviews, those statements were never made and were contradictory to the testimony of the Detective. These false statements testified to by Detective Renaudette were the sole evidence that led to my client's indictment.
4. After this conduct was discovered by the Hampden County Assistant District Attorney (ADA) on this case, the Commonwealth filed a nolle prosequi.

Signed under the pains and penalties of perjury, this 12th day of March, 2021.

/s/ *Benjamin Farrell*
Benjamin Farrell, Esq.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above captioned petition for relief pursuant to G. L. c. 211, § 3, I, Matthew Fleischner, Esq., hereby depose and state:

1. I am a trial attorney in the Springfield office of CPCS's Youth Advocacy Division.
2. I was previously employed in the Springfield office of CPCS's Public Defender Division.
3. I am a member of the bar in good standing in the Commonwealth of Massachusetts.
4. I have been employed by CPCS since 2010.
5. In March of 2018, Trooper Daniel Pelletier of the Massachusetts State Police testified for the Commonwealth in a case prosecuted by the Hampden County District Attorney's Office (HCDAO) for which I was appointed counsel. During a hearing on the defendants' motion to suppress, held in Hampden County Superior Court, Trooper Pelletier testified that he initiated a car stop after being unable to read the license plate of a car traveling north bound on Route 91. The Trooper testified the he was unable to read the vehicle's license plate because it was covered with dirt. He made similar statements in the police report he authored regarding the traffic stop and subsequent arrests.
6. At the same hearing the defendants presented photo evidence of the condition of the license plate from hours before the traffic stop. The photos were taken by the Massachusetts Department of Transportation's turnpike cameras. The photographs contradicted the Trooper's testimony that the license plate was unreadable.
7. In his decision on the motion to suppress the Honorable Michael K. Callan held that "Trooper Pelletier did not convince the Court that the plate number and state of origin was obscured or illegible. The plate was plainly legible earlier that day and there was no credible evidence to suggest that its appearance changed at all in the interim period until the stop was initiated later that afternoon."

8. The court went on to find "that the condition and legibility of the license plate was identical to the condition of the plate when it passed through the Massachusetts Transponder system several hours earlier … Although not a model of cleanliness, from his vantage point immediately behind the Chevy Tracker it was legible to Trooper Pelletier in accordance with G. L. c. 90, s.6."
9. On August 23, 2018, the Court issued its decision suppressing the discovery of the narcotics, the paraphernalia, and all statements made by the defendants. Shortly thereafter, the Assistant District Attorney filed a nolle prosequi in the case.
10. To my knowledge, no investigation of the incident was ever undertaken by the HCDAO.
11. I know of no subsequent case in which this misconduct was disclosed as *Brady* material, either to me or any other attorney in the CPCS Springfield office.
12. In preparing this affidavit, I reviewed the written decision of Judge Michael K. Callan (see attached).
13. In preparing this affidavit, I did not have the benefit of a written transcript of the hearing. As such, the information contained herein represents my best recollections of the case and the relevant evidentiary hearing.

Signed under the pains and penalties of perjury, this 4th day of March, 2021.

/s/ *Matthew Fleischner*
Matthew Fleischner, Esq.

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN , ss.

SUPERIOR COURT
CRIMINAL ACTION
No. [redacted]

HAMPDEN COUNTY
SUPERIOR COURT
FILED
APR 19 2018
CLERK OF [redacted]

COMMONWEALTH

vs.

[redacted]

DECISION AND ORDER ON DEFENDANTS' MOTIONS TO SUPPRESS

The defendants, [redacted] were each indicted in Hampden Superior Court with trafficking in cocaine. Mr. [redacted] was additionally charged with unlawful possession of ammunition. The defendants now move to suppress all evidence seized and statements made as a result of a stop of Mr. [redacted] motor vehicle.

FACTS

Based upon the credible evidence introduced at the hearing on March 14, 2018, the Court makes the following Findings and Rulings.

On March 17, 2017, Massachusetts state Trooper Daniel Pelletier was on routine traffic patrol just over the Connecticut border on Route 91 in Longmeadow, Massachusetts, parked in the median between the north and southbound lanes. Northbound traffic, which Trooper Pelletier was facing in his cruiser, was heavy and moving no faster than 5 to 10 mph due to congestion at the bend nearing Springfield. Trooper Pelletier observed a gray Chevy Tracker traveling in the middle lane of the three lane highway northbound. Trooper Pelletier did not convince the Court that the plate number and state of origin was obscured or illegible. The plate was plainly legible

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4-19-18 - Atty Notified - Phone + Email Clerk Courtyard Inn

earlier that day and there is no credible evidence to suggest that its appearance changed at all in the interim period until the stop was initiated later that afternoon.

Trooper Pelletier pulled out into northbound traffic and made his way closer to the Chevy Tracker. Trooper Pelletier activated his blue lights and initiated a successful stop of the Chevy Tracker on the right hand northbound travel lane. There were no evasive maneuvers or furtive movements inside the vehicle undertaken or observed by Trooper Pelletier.

Trooper Pelletier exited his vehicle and approached the Chevy Tracker from the passenger side. Although Trooper Pelletier noticed prior to reaching the vehicle that the front seat passenger reaching toward the glove box, it was non-threatening and did not arouse any particular suspicion in his trained mind. [redacted] was the operator, [redacted] was the front seat passenger, and [redacted] was in the rear passenger seat on the driver's side.

Trooper Pelletier asked Mr. [redacted] for his driver's license. Mr. [redacted] provided him with a copy of the valid registration showing Mr. [redacted] to be the owner of the vehicle. Mr. [redacted] also provided the trooper with a copy of his valid United States passport with a photo ID. Mr. [redacted] also provided the trooper with an electronic version of his State of Maine driver's license which had just been renewed within the last 24 hours.

Trooper Pelletier decided to arrest Mr. [redacted] for driving without a license. Mr. [redacted] was immediately placed in handcuffs and put in the rear of Trooper Pelletier's cruiser. Trooper Pelletier did not check the Maine database to determine if, in fact, Mr. [redacted] was validly licensed even through it would have ben reasonable and entirely appropriate to do so.

Trooper Pelletier returned to Mr. [redacted] vehicle and asked Mr. [redacted] to exit. Trooper Pelletier noticed the clip of a knife on Mr. [redacted] as he was exiting. Trooper Pelletier then

removed the knife. He told Mr. [redacted] and Mr. [redacted] to have a seat on the guardrail next to the car, and they complied. At this time another trooper arrived on the scene.

The troopers then decided that the car would be towed. The troopers conducted an inventory search of the vehicle in accordance with state police written policy. Mr. [redacted] was provided with Miranda warnings but no card was signed. During the course of the inventory search, the troopers discovered a hypodermic needle in a cigarette packet in the driver-side door. They also found a large plastic bag under the passenger seat of the vehicle with a large quantity of glassine baggies containing a heroin looking substance. The Troopers concluded that what they had discovered was packaged illegal narcotics.

Mr. [redacted] and Mr. [redacted] were Mirandized, placed into handcuffs, and arrested once the narcotics and paraphernalia were discovered. The defendants made various statements to the officers both at the scene and later at the station after being properly warned of their rights.

ANALYSIS

Trooper Pelletier did not have reasonable suspicion to stop the vehicle. It is well-settled that, "[a] police officer may stop a vehicle in order to conduct a threshold inquiry if he has a reasonable suspicion that the occupants have committed, are committing, or about to commit a crime." *Commonwealth* v. *Wren*, 391 Mass. 705, 707 (1984). The suspicion must "be based on specific and articulable facts and the specific reasonable inferences which follow from such facts in light of the officer's experience." *Commonwealth* v. *Silva*, 366 Mass. 402, 406 (1974). In the case at bar, Trooper Pelletier's observations were insufficient to justify reasonable suspicion to stop the vehicle.

Under Massachusetts law, every motor vehicle registered in the Commonwealth must "have its register number displayed conspicuously thereon by the number plates furnished by the

registrar . . . and . . . said number plates shall be kept clean with the numbers legible." G. L. c. 90, §6. See also *Commonwealth* v. *Bernard*, 84 Mass. App. Ct. 771, 775-776 (2014), discussing G. L. c. 90, § 6. A violation of this section is punishable by a fine of $35.00 for a first offense, a fine of $75.00 for a second offense, and a fine of $150.00 for a third or subsequent offense. G. L. c. 90, §20. Non-resident vehicles are exempted from the requirements of §6, so long as they are in compliance with the laws relative to motor vehicles and the registration thereof in their home state. G. L. c. 90, §3.

In this case, the Court finds that the condition and legibility of the license plate was identical to the condition of the plate when it passed through the Massachusetts Transponder system several hours earlier as depicted in Exhibit 3. Although not a model of cleanliness, from his vantage point immediately behind the Chevy Tracker it was legible to Trooper Pelletier in accordance with G. L. c. 90, §6. The Court makes no finding relative to whether or not the vehicle was in compliance with Maine regulations and laws as there was no credible evidence offered on that point.

There being no legal basis to stop the vehicle. All that followed must be suppressed including, but not limited to the discovery of the narcotics, the paraphernalia, and all statements made by the defendants. See *Commonwealth* v. *Loughlin*, 385 Mass. 60, 63 (1982) (evidence obtained as result of unconstitutional police conduct must be excluded from use at trial under "fruit of the poisonous tree" doctrine).

The defendants' Motions to Suppress are **ALLOWED**.

MICHAEL K. CALLAN
Justice of the Superior Court

DATE: April 19 2018

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF KELLY L. AUER

I, Kelly L. Auer, hereby swear that the following is true to the best of my knowledge, information, and belief:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts. I represent indigent criminal defendant clients, mostly in the Hampden County District and Superior Courts, usually as an appointed Bar Advocate. I have accepted Bar Advocate appointments since August 2014. Criminal matters in Hampden County are generally prosecuted by the Hampden County District Attorney's Office ("HCDAO").

2. In my experience, the HCDAO has displayed a pattern of failing to identify, investigate, collect and disclose material exculpatory and impeachment evidence known to members of the prosecution team, including to Springfield Police Department ("SPD") officers involved in the prosecution as investigating and/or arresting officers.

3. Among other things, I have observed that the HCDAO fails to adequately investigate and disclose material exculpatory and impeachment information concerning police officers who have used excessive force, made false or misleading statements, and/or otherwise engaged in misconduct such as bringing unwarranted criminal charges.

4. Below is information about two cases that illustrate this problem.

Case 1: Livernois Matter

5. In November 2016, SPD Detective Gregg Bigda and SPD Officer Luke Cournoyer allegedly observed Ryan Livernois purchase a bag of marijuana in Springfield, MA. I was appointed to represent Mr. Livernois in connection with the criminal charges that arose from the ensuing encounter.

6. After Mr. Livernois returned to his car, eight SPD officers approached his car and pulled him out the car door while he was allegedly rolling a joint. As I understand it, one officer, Officer Jose Robles, opened my client's car door, pulled him out of the car, handcuffed him, put him on his knees, and then pushed his face into the dirt as he kneeled on his back. Officer Gregg Bigda then picked up my client by his throat and slammed him against into the cruiser, hitting him in

his face with his fists repeatedly. My client received multiple bruises all over his body, including to his face. The bruises are documented in photographs taken by my client's sister on the same night of his arrest after his release. No police officer intervened to stop the beating. Other officers who arrived at the scene were Officers Cournoyer (Officer Bigda's partner), Steven Vigneault, Juan Rodriguez, Edward Kalish, Edwin Hernandez, and Matthew Rief.

7. The police never actually charged my client with any marijuana or drug offense. Instead, after beating him as described above, the SPD officers charged him with assault and battery of a police officer and resisting arrest. The police report omitted the SPD officers' attack on my client. The police report instead asserted that my client instigated a fight.

8. I became aware from public reporting that the officers involved in my client's case were many of the same officers who had been publicly identified as being involved in misconduct, including filing reports inconsistent with the actual events.

9. For example, in 2018, Officers Bigda and Vignault were indicted for threatening and beating three juvenile suspects in 2016, including threats made by Bigda on video in the Palmer Police Station. Officers Cournoyer and Robles testified before a federal grand jury that they had lied to cover-up drinking at the Springfield Police Station. Vignault had made the claim in 2016 that officers were drinking at the station when the call about the 2016 juvenile incident was occurring**.** And in 2018, a video surfaced from a store clerk showing a different account of an arrest made by Detectives Cournoyer and Robles. Both detectives took part in destroying or hiding video evidence of the arrest.[1]

10. Nevertheless, during the case referenced in paragraph 5 above, the HCDAO did not notify me that the officers were involved the violent misconduct, making false reports, or hiding or destroying evidence. I learned of this information through reporting via public news outlets.

11. During the case referenced in paragraph 5 above, the HCDAO did not provide me with any records of any investigation into the video of Officer Bigda at the Palmer Police Station. In a separate case, attorney Jean Liddy argued in Superior Court for the release of the videos. After four months and several pretrial conference hearings, the court ordered the release of the video (under seal to protect the juveniles) on or around October 31, 2017.

12. The HCDAO did not notify defense attorneys, including me, of an ongoing internal investigation of SPD police officers drinking while at work. Nor did the

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See https://www.masslive.com/coronavirus/2020/05/trial-of-gregg-bigda-in-springfield-police-brutality-case-delayed-by-pandemic.html; https://www.masslive.com/news/2018/12/questions-raised-about-5-springfield-narcotics-officers-could-jeopardize-drug-prosecutions.html; https://www.masslive.com/news/2016/12/videos_muddies_springfield_pol.html.

HCDAO provide me with any copies of the criminal charges, or other information about the outcome of any such investigation. This information was ultimately released by the press via a whistleblower report from Officer Vignault.

13. Transcripts from a federal grand jury, concerning what Springfield Police Officers knew about the 2016 arrest of two juveniles and the investigation of alcohol consumption at the station during that same time period, were released by the HCDAO in June 2019. The grand jury had met in April 2018. The transcript revealed that Officers Robles and Cournoyer testified that they had not told the truth during an investigation of officers drinking at the Springfield Police station. During the pendency of this case referenced the HCDAO did not provide me with any records of any investigation by the HCDAO concerning these matters. As far as I am aware, the HCDAO has not conducted any such investigation**.**

14. In that case, I moved under Rule 14 for information about the police officers, including their histories of internal investigations and any disciplinary history. The HCDAO responded that the DA's office had no such information in its possession and I should file a public records request with the City Solicitor's office. In my experience, this is a typical response of the HCDAO in response to discovery requests involving police officers.

15. I also filed a public records request for Bigda's and Cournoyer's Internal Investigation complaints (IIU) concerning their excessive use of force on November 2016, because I anticipated that my client's defense would include an argument that the charges brought against him were intended to cover up misconduct by SPD officers.

16. In response to my public records request, the City Solicitor took the position that the requested records were personnel records of the officers, and thus were exempt and could not be disclosed. In December 2016, the court ordered the City Solicitor to release the records.

17. In February 2017, I filed a second public records request for internal IIU reports of the other police officers involved in the case. That request met with no success.

18. Accordingly, in May 2017, I filed a rule 17 motion to secure those records, which the court denied. I then moved the Court to make findings, as required by the District Court rules. I also filed a motion for reconsideration.

19. In November 2017, The Motion for Reconsideration was allowed in part and denied in part. The Court ordered that I could receive the IIU records for Officers Gregg Bigda, Juan Rodriguez, Edwin Hernandez, and Jose Robles and ordered the City to comply with my requests. In late November 2017, I filed a motion to compel discovery because the City Solicitor had not complied. All this time the HCDAO's position was that the information was not in its possession. The reports were sent under seal to the court clerk office, and I ultimately received the IIU reports in March 2018.

20. The Springfield District Court is a busy court. Two to three months between court appearances is a norm.

21. The fight in court for the discovery described above went on for 17 months and resulted in my billing CPCS over $7,500 on this case at the bar advocate rate of $53 per hour. Indeed, the amount of time I spent on this case triggered an automatic audit by CPCS, which required at least 8 more hours of my time, not covered by CPCS, in order to respond. (The audit found all was in order with my record keeping and that the time expended was appropriate.)

22. During the course of this litigation, the HCDAO refused to dismiss the assault and battery charge until the case was called before a judge who in open court required the HCDAO to state on the record whether it was going to proceed with the prosecution, and suggested that this matter should be closed in light of the ongoing indictment of Detective Bigda. HCDAO then filed a *nolle prosequi*.

23. This battle for exculpatory evidence limited the number of other criminal cases that I could accept, including because it required numerous court appearances and the time and attention of numerous judges on many different days.

24. Although the time required in the case described above was rather extraordinary, the positions taken by HCDAO in this case are consistent with its arguments in other cases where information about police officer witnesses is requested.

Case 2: Wilkinson Matter

25. In June 2016, Andrew Wilkinson was at a bar eating dinner with his father and girlfriend in Springfield, MA. Mr. Wilkinson was involved in an altercation where an off-duty SPD officer alleged that Mr. Wilkinson, without cause struck him in the face with a closed fist. Mr. Wilkinson was charged with one count of assault and battery. I represented Mr. Wilkinson in that criminal matter.

26. In this case, my client alleged that three individuals jumped in front his truck in the parking lot and threatened to strike his vehicle with a hockey stick. My client identified one person holding the hockey stick as Officer Edward KaIish. As my client got out of his truck to ask what the problem was, one of the individuals went to hit him with the hockey stick, my client struck one of the individuals in self-defense. Immediately afterward he was struck on the side of his head with the hockey stick. This information was not included in the police report. For 12 or 13 months, I went through the same sort of litigation exercise described above to try to secure the records of the officers involved.

27. Again, the time and energy I was forced to spend was enormous. My client had a construction business and was losing money and jobs because of his numerous court appearances. There were at least eight pre-trial conferences, where his presence could not be waived.

28. This client also had filed an Internal Affairs complaint, and he went to the Internal Affairs hearing, which I was allowed to attend but in which I was not allowed to participate. The hearing consisted of the word of the officer against the testimony of my client and his girlfriend, who was present throughout the incident. The

CBHP ruled in favor of the officer. The criminal and related process exhausted my client and his resources, and eventually he gave up. The ADA offered him a six month continuation without a finding, followed by dismissal, which he accepted as the resolution to his case.

29. I later received information that Edward Kalish, the officer who allegedly assaulted my client along with another plain-clothes off-duty officer and one other person, testified before a federal grand jury that, in 2016, he withheld information from the SPD Internal Investigations Unit related to a fellow officer's assault of two juveniles in police custody. At no time during the pendency of my client's case, nor afterwards, were disclosures made to him or me by the Commonwealth about Officer Kalish's misconduct. This matter closed in July 2017.

30. The lengths to which I must go, as a Bar Advocate, to attempt to secure information about Springfield Police Department officers who make allegations against my clients significantly interferes with the quality of representation that I am able to provide to my clients. In my view, it also significantly diminishes the quality of justice in our justice system.

Signed under the pains and penalties of perjury this 2nd day of April, 2021.

Kelly Auer Digitally signed by Kelly Auer Date: 2021.04.02 17:09:15 -04'00'

Kelly L. Auer

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF MEREDITH L. RYAN

I, Meredith L. Ryan, hereby swear that the following is true to the best of my knowledge, information, and belief:

1. I am an attorney and have been licensed to practice law in the Commonwealth of Massachusetts since 2012.

2. I am also a bar advocate with Hampden County Lawyers for Justice, and have been since 2014.

3. My current practice is nearly all bar advocate work on behalf of individuals in my community who qualify for an appointed criminal defense attorney.

4. I am certified to take cases in the District and Superior Courts.

5. I have practiced primarily in Springfield District and Hampden County Superior Courts since becoming a bar advocate. I have represented clients in hundreds of criminal matters in these courts. Criminal cases in these courts are typically prosecuted by the Hampden County District Attorney's Office (the "HCDAO").

6. In my experience, the HCDAO consistently fails to identify, investigate, collect and disclose exculpatory material and impeachment evidence known to members of the prosecution team, including to Springfield Police Department officers.

The HCDAO's Failure to Investigate and to Disclose Exculpatory and Impeachment Evidence

7. I am aware that, in 2019, numerous Springfield Police Department ("SPD") officers were indicted and charged by the Massachusetts Attorney General with offenses relating to an altercation in 2015 between police officers and other customers at Nathan Bill's Bar and Restaurant, as well as to subsequent false statements by SPD officers made for the purpose of concealing the true facts of the incident (collectively, the "Nathan Bill's Incident"). In 2018, the City of Springfield reportedly paid $885,000 to settle multiple civil claims against the City and certain of the officers arising from the incident.

8. In August 2018, I represented a client charged with failure to stop for police, driving without headlights, resisting arrest, conspiracy to violate the drug law and two counts of possession with intent to distribute a Class B drug in Springfield District Court. Officer

Igor Basovskiy authored the police report relating to the charge, and he was allegedly the only police officer with personal knowledge of the alleged crime.

9. Officer Basovskiy had been indicted with four counts of assault and battery with a dangerous weapon, shod foot, three counts of assault and battery and one count of assault and battery with serious bodily injury and one count of conspiracy on March 27, 2019, in connection with the Nathan Bill's Incident.

10. During the case referenced in paragraph 8, above, the HCDAO did not notify me that Officer Basovskiy had been charged in connection with the Nathan Bill's Incident.

11. During the case referenced in paragraph 8, above, the HCDAO did not provide me with any records of any investigation into the Nathan Bill's Incident by the HCDAO, nor did it provide me with any copies of the criminal charges, grand jury testimony, or other information relating to the Nathan Bill's Incident prosecution.

12. During the case referenced in paragraph 8, above, the HCDAO did not provide me with any records of any investigation by the HCDAO into Officer Basovskiy, including any investigation into whether he made false statements or engaged in excessive or unjustified violence in any other cases other than the Nathan Bill's Incident. As far as I am aware, the HCDAO has not conducted any such investigation.

13. During the case referenced in paragraph 8, above, the HCDAO did not provide me with any records of any internal investigation of Officer Basovskiy by the SPD.

14. On or around October 16, 2019, I filed a motion to suppress in the case referenced in paragraph 8, above. The basis for the motion was, in summary, that no reasonable suspicion or probable cause existed to support the seizure and arrest of client.

15. At the motion to suppress hearing on November 12, 2019, the HCDAO entered a nolle prosequi and the case was dismissed. At the time, I believe Officer Basovskiy's case relating to the Nathan Bill's Incident was still open and pending. I understand the charges against him were nol prossed in early 2020.

16. The events described in paragraphs 8 to 14 are, in my experience, typical of a pattern of conduct by the HCDAO over many cases, including a pattern of failing to identify, investigate, collect, and disclose, exculpatory material and impeachment evidence known to members of the prosecution team, including to SPD officers involved in the prosecution as investigating and/or arresting officers.

17. For example, I had one trial in Springfield District Court prosecuted by HCDAO where three law enforcement officers testified (two SPD officers and a Massachusetts State Trooper). They had arrested the client and charged him with resisting arrest and disorderly conduct. All three officers testified, and my client testified. Each of the officers provided sworn testimony that was materially inconsistent with the testimony of the other officers (as well as the client). The client was found not guilty. The HCDAO, as the prosecuting entity, was present for and aware of the conflicting police testimony. To the best of my knowledge, the HCDAO did not investigate to determine whether any or

all of these officers provided false testimony or made false reports in that case or in any other case, nor did it ever disclose these events to defendants in subsequent cases involving the same officers.

18. As another example, I have had many cases in which one of my clients has been charged with assault and battery on a police officer and/or resisting arrest, but where my client asserts that one or more SPD officers in fact attacked the client.

19. In Massachusetts, a defendant may sometimes impeach a witness's credibility by offering evidence of prior false statements. Further, a defendant who uses the affirmative defense of self-defense may present "Adjutant evidence" so named after *Commonwealth v. Adjutant*, 443 Mass. 649, (2005).

20. Accordingly, a defendant may attempt to present evidence of the alleged victim's previous false statements and violent acts.

21. Acts of excessive force in the course of duties by a police officer could be "Adjutant material" and are *Brady* material. Similarly, prior false statements by a police officer may be *Brady* or *Giglio* material.

22. The SPD maintains records of administrative complaints against officers for excessive force, false statements, and other alleged misconduct that could relate to an officer's credibility. The SPD also maintains records of its internal investigations into these complaints and their ultimate disposition.

23. Although the SPD officers involved in any given case are members of the prosecution team and are aware of their own history of administrative complaints and any related discipline, in my experience the HCDAO rarely collects or supplies these records, even when they constitute *Brady* material. Instead, the HCDAO claims that these records are not in the HCDAO's "custody or control."

24. Where the HCDAO fails to collect or supply such records, defense counsel then typically submits a public records request to the City of Springfield Law Department and, in return, receives a summary record listing the administrative complaints against a particular officer. This record usually includes the date of the complaint and a very general description of the category or type of complaint. It does not contain the details of the complainant's allegations. Generally, the name of the complainant and the ultimate disposition are included but redacted. The redacted record therefore does not show whether the complaint was investigated, whether it was substantiated, or whether any discipline was imposed.

25. To learn more, defense counsel typically then files in court a motion for discovery of third party records under Massachusetts Rule of Criminal Procedure 17. The motion typically requests that the SPD be ordered to produce unredacted copies of the records described above, as well the records of the underlying complaint, investigation, and ultimate disposition.

The Impact of the HCDAO's Practices on Defendants and their Counsel

26. The amount of time it takes to litigate these issues is a burden on counsel and the defendant. Counsel must file a records request, get the results, and draft and file a Rule 17 motion, which is usually heard at the next court date, which may be 30 to 60 days later. Then, if the third party records provider does not appear but wishes to, another 30 to 60 days passes. Only then is the motion heard, following months of unnecessary delay and hardship to the client, as well as a very substantial expenditure of attorney time and resources. Further, because these detours unnecessarily prolong the case, they exert very significant pressure on the client to resolve the case with a guilty plea in order to end the court case and continue on with their lives.

27. I have received only very limited disclosures of exclupatory matieral or impeachment evidence from the HCDAO, generally only in situations where the material reflects misconduct so egregious that it has become, or soon will become, the subject of public attention (e.g., news reporting), public civil litigation, or a public criminal prosecution. In the case of Officer Moynahan, the disclosure was made after a public jury verdict adverse to the officer. These disclosures have included:

    a. A video of SPD officers Gregory Bigda and Stephen Vignault at the Palmer Police Department. Both were later charged with federal crimes in connection with that incident.
    b. Copies of federal Grand Jury Minutes for SPD officers who testified about the Bigda/Vigneault incident.
    c. Copies of a federal court docket and jury verdict slips in a federal civil case where SPD officer Daniel Moynahan was found to have violated a defendant's civil rights in the performance of official duties.
    d. A copy of a police report and BWC footage of an SPD officer using excessive force by tasing a pregnant woman. That officer was subsequently charged with state crimes relating to that incident.

28. The steps I must take to attempt to secure information about Springfield Police Department officers who make allegations against my clients require substantial expenditures of time and resources, and significantly interferes with my representation of my clients.

Signed under the penalties of perjury this 3rd day of April 2021.

/s/*Meredith L. Ryan*
Meredith L. Ryan, Esq.
BBO No. 686012
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ANTHONY D. GULLUNI
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE DISTRICT ATTORNEY
HAMPDEN DISTRICT

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SPRINGFIELD DISTRICT COURT
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October 9, 2019

Jessica J. Lewis, Esq.
Staff Attorney
ACLU Foundation of Massachusetts
211 Congress St.
Boston, MA 02110

Re: Public Records Request

Dear Attorney Lewis:

This letter follows my previous letters of September 21 and October 4, 2019 which responded in part to your September 11, 2019 public records request.

Items 2 and 3 of your request asked for copies of documents "revealing" Brady training of ADAs and/or SPD and policies "prepared" concerning the agency's Brady obligations. I previously forwarded to you a copy of a May 13, 2019 memorandum from ADA Velasquez in response to these items. I subsequently searched my previous responses to other requests and produce herewith a copy of my November 19, 2018 public records response (redacted to omit the name and address of the requester) which included the following:

"Brady List":

This agency does not create or maintain such a list, *per se*. In practice, each officer whose testimony is to be given in a criminal proceeding initiated by this agency is vetted by the Assistant District Attorney responsible for the case with a view toward compliance with Brady and Massachusetts caselaw concerning exculpatory evidence. This is done pursuant to this agency's compliance with its obligations concerning disclosure of exculpatory evidence. To assist in this regard, the Massachusetts District Attorneys Association has in the past notified Commonwealth District Attorney's offices of State Police officers who are under suspension as a result of being charged with crimes or being the subject of an open internal affairs investigation. Upon receipt, this information is passed on to Assistant District Attorneys in the

office. The Massachusetts District Attorneys Association may be contacted at: One Bulfinch Place Suite 202, Boston MA 02114 (Tel. 617-305-7039).

Policy:

The following policy regarding a potential law enforcement witness' involvement in a criminal proceeding is in effect in this agency:

In any pending investigation, criminal complaint or indictment in which a charged police officer is a potential witness, the assigned Assistant District Attorney is required to notify her/his supervisor as soon as he/she becomes aware of certified.

Upon notice of the officer's status as a potential witness, the assigned Assistant District Attorney in consultation with his/her supervisor will determine whether disclosure of the IA Report, and its supporting documentation within our possession, custody or control, is necessary pursuant to *Mass.R.Crim.P.* 14, as "relevant" material. Disclosure should be considered on a case-by-case basis.

Mass.R.Crim.P. 14 (a)(1)(A)(111) requires all exculpatory material to be turned over to the defense. The term "exculpatory" includes material which tends to cast doubt on the credibility of a Commonwealth witness. *See* Reporter's Notes. A *Brady v. Maryland,* obligation includes all evidence that challenges the credibility of a key Commonwealth witness. *Commonwealth v. Ellison,* 376 Mass. 1, 22 n.9 (1978);

If, after an evaluation of the evidence, the assigned Assistant District Attorney determines that discovery of any pending criminal complaint or indictment should include the exculpatory material, a Protective Order should be sought, by agreement, with defense counsel according to the provisions of *Mass.R.Crim.P Rule* 14 (a)(6) and limiting the release of information to the defendant's counsel ONLY *prior to* release of any information. If defense counsel will not agree to a protective order, a motion shall be made to the Court seeking the same. In addition, defense counsel should be advised that our office may not have all the information related to this matter.

I produce the letter because, while it is not directly responsive, in a general sense, it may be viewed as a writing which as least refers to this agency's training and policies regarding its Brady obligations, and may therefore be considered generally responsive to items 2 and 3 of your request.

As also indicated in my prior response, my inquiry into paragraph 5 of the request was ongoing. I now have responsive documents to that particular item presented as follows:

1) October 30, 2017 email letter from First Assistant Jennifer Fitzgerald to SPD Captain Trent Duda.

2) April 8, 2019 Findings and Determination Relative to Criminal Charges (unredacted).

3) August 7, 2104 email latter from First Assistant Fitzgerald to SPD Captain Thomas Trites.

4) Findings and Conclusions of Hampden District Attorney James C. Orenstein re: June 26, 2014 Shooting (unredacted).

5) May 15, 2013 investigation memorandum.

6) Undated memorandum from First Assistant Fitzgerald re: allegation of SPD beating.

Except where indicated, I have redacted the names of the targets of the investigations as required by G.L. c. 4, sec. 7(26)(c) (personal privacy).

This concludes this agency's response to your public records request. If you have reasonable grounds to challenge this response, you may contact: Supervisor of Records, Office of the Secretary of the Commonwealth, McCormack Building, Room 1719, One Ashburton Place, Boston, Massachusetts 02108, 617-727-2832.

Sincerely,

Joseph Pessolano
Public Records Officer

Enclosures

November 19, 2018

This letter acknowledges and responds to your November 8, 2018 public records request for a copy of this agency's "Brady List" and its policy/policies in regard to disclosure of law enforcement members charged with crimes.

"Brady List":

This agency does not create or maintain such a list, *per se*. In practice, each officer whose testimony is to be given in a criminal proceeding initiated by this agency is vetted by the Assistant District Attorney responsible for the case with a view toward compliance with Brady and Massachusetts caselaw concerning exculpatory evidence. This is done pursuant to this agency's compliance with its obligations concerning disclosure of exculpatory evidence. To assist in this regard, the Massachusetts District Attorneys Association has in the past notified Commonwealth District Attorney's offices of State Police officers who are under suspension as a result of being charged with crimes or being the subject of an open internal affairs investigation. Upon receipt, this information is passed on to Assistant District Attorneys in the office. The Massachusetts District Attorneys Association may be contacted at: One Bulfinch Place Suite 202, Boston MA 02114 (Tel. 617-305-7039).

Policy:

The following policy regarding a potential law enforcement witness' involvement in a criminal proceeding is in effect in this agency:

> In any pending investigation, criminal complaint or indictment in which a charged police officer is a potential witness, the assigned Assistant District Attorney is required to notify her/his supervisor as soon as he/she becomes aware of the potential witness' status and, in any event, before discovery is certified.
>
> Upon notice of the officer's status as a potential witness, the assigned Assistant District Attorney in consultation with his/her supervisor will determine whether disclosure of the IA Report, and its supporting documentation within our possession, custody or control, is necessary pursuant to *Mass.R.Crim.P.* 14, as "relevant" material. Disclosure should be considered on a case-by-case basis.
>
> *Mass.R.Crim.P.* 14 (a)(1)(A)(111) requires all exculpatory material to be turned over to the defense. The term "exculpatory" includes material which tends to cast doubt on the credibility of a Commonwealth witness. *See* Reporter's Notes. A *Brady v. Maryland,* obligation includes all evidence that challenges the credibility of a key Commonwealth witness. *Commonwealth v. Ellison,* 376 Mass. 1, 22 n.9 (1978);
>
> If, after an evaluation of the evidence, the assigned Assistant District Attorney determines that discovery of any pending criminal complaint or indictment should include the exculpatory material, a Protective Order should be sought, by agreement, with defense counsel according to the provisions of *Mass.R.Crim.P Rule* 14 (a)(6) and limiting the release of information to the defendant's counsel ONLY *prior to* release of any information. If defense counsel will not agree to a protective order, a motion shall be made to the Court seeking the same. In addition, defense counsel should be advised that our office may not have all the information related to this matter.

I trust that this letter adequately addresses your request. If you have reasonable grounds to appeal this response, you may contact the Supervisor of Records, Office of the Secretary of the Commonwealth, McCormack Building, Room 1719, One Ashburton Place, Boston, Massachusetts 02108, (617) 727-2832.

Sincerely,

Joseph P. Pessolano
Records Access Officer

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE DISTRICT ATTORNEY
HAMPDEN DISTRICT

HALL OF JUSTICE
50 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01102

SUPERIOR COURT
TEL: 413-747-1000
FAX: 413-781-4745

SPRINGFIELD DISTRICT COURT
TEL: 413-747-1001
FAX: 413-747-5628

VIA E-MAIL ONLY

October 30, 2017

Captain Trent Duda
Sgt. Monique McCoy
Springfield Police Department

Date of Incident:	Between November 2014 and June 2015
Type:	Alleged Abuse of minor children
Target:	Springfield Police Officer [redacted]
Location of Incident:	Unknown

Dear Captain Duda:

Please be advised after a review of all applicable Massachusetts General Laws and reports provided to us from the Springfield Police Department including; a superior officer's investigation report, statements from the minor children's mother and grandfather, video statement of the minor children's father and conferences with Lt. John Bobianski and Sgt. Monique McCoy of the Springfield Police department as well as a Multi-disciplinary team interview of the minor children, I am recommending that no criminal charges be filed in this matter.

Our review of all the available facts led us to conclude that there was insufficient evidence to establish probable cause that the alleged incidents of abuse had occurred and therefore, there is insufficient evidence for a criminal complaint. The District Attorney declines to prosecute Officer [redacted] for assault and battery, assault and battery with a dangerous weapon, threat to commit a crime (bodily harm) or any other related charges arising out of incidents that are alleged to have occurred between November 2014 and June 2015 between [redacted] and the minor children who are alleged victims in this investigation.

This decision is based upon all information known to us as of this date and as always, if additional facts or information becomes available this office is available to review the newly discovered evidence and potentially reconsider this decision. We would appreciate your conveying this information to Officer [redacted] and his counsel as well as any others in his chain of command who might require notification.

Should you have any questions on this matter please feel free to contact me directly.

Sincerely,

Jennifer N. Fitzgerald
First Assistant
Hampden District Attorney's Office

cc: District Attorney Anthony Gulluni

ANTHONY D. GULLUNI
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE DISTRICT ATTORNEY
HAMPDEN DISTRICT

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Findings and Determinations Relative to Criminal Charges
April 8, 2015 -Island Pond Road Assault-

Facts

In the early morning hours of April 8, 2015, police responded to a 911 call reporting a disturbance in the vicinity of 70 Island Pond Road, Springfield. The caller stated that a man was down but she couldn't see what had happened. The call came in at 2:04 a.m. and units were immediately dispatched.

Upon arrival, officers found four men in the area behind 50 Island Pond Road. One man was on the ground and being helped up by the others. All appeared to have cuts, bruises and some torn or disheveled clothing. The four men told the responding officers that they were beaten and struck by assailants who used fists and unidentified items that rendered one of the men unable to move his legs. When the men fell to the ground, they were kicked and punched about their bodies and head. They attempted to defend themselves, but were overwhelmed by the larger group. Paramedics who arrived simultaneous with the police observed the injured men and briefly treated two. None of the injured parties wanted to be transported to the hospital, according to statements given by the responding paramedics.

Officers at the scene attempted to obtain details of the assault from the four men. The men described their attackers as white males between the ages of 25 and 45 of varying heights. The four men believed their assailants to be "off duty" police officers who had been inside Nathan Bills earlier in the evening and had engaged in a verbal altercation with one of the four men. Officers were told the assailants had left the scene running north on Island Pond Road. Two officers drove in the direction that the assailants were reported to have gone, but they saw no one and returned a short time later. The officers who remained with the victims obtained their identification and spoke with each of the men individually. One of the men was considered to be disorderly and was placed in a cruiser, but never arrested. The other three men said that they did not wish to go to the hospital and were brought to their vehicle and allowed to leave.

On May 7, 2015, Mr. Herman Cumby came to the Springfield Police Department to file a formal complaint against the department's responding officers and report his belief that the assailants that night were off-duty police officers. Police Commissioner John Barbieri assigned Mr. Cumby's complaint to Captain Trent Duda of the Major Crimes Unit for further investigation.

On July 9, 2015, after multiple attempts to reach Mr. Cumby by letter and phone call, Captain Duda met with Mr. Cumby and his attorney. This meeting resulted in Captain Duda amending his investigation to include possible charges of assault and battery causing serious bodily injury and assault and battery, based on the knowledge of Mr. Cumby's injuries from the incident in question.

On August 14, 2015, Captain Duda filed his completed report on the investigation to Commissioner Barbieri and reported his findings shortly thereafter to Hampden District Attorney Anthony D. Gulluni. The District Attorney accepted the matter for review and began a separate inquiry into possible criminal charges against members of the Springfield Police Department who were suspected of being involved in the assault of Mr. Cumby and his friends. The District Attorney's review included information provided by Captain Larry Brown of the Internal Investigation Unit of the Springfield Police Department. Captain Brown and the Internal Investigation Unit conducted a separate investigation from the Major Crimes Unit and their completed report was provided to the District Attorney on July 26, 2016 by the City of Springfield Law Department.

In order to complete the investigation into the allegations, the District Attorney's review included the following: Special Report to the Commissioner by the Major Crime Unit, Special Report to the Commissioner from the Internal Investigations Unit, Bank of America surveillance video, Springfield Police recorded dispatch line audio, Springfield Police department roll call and dispatch logs, video statements by three of the victims, statements of a cab driver and bar manager, victims' medical records, AMR pre-hospital care reports and dispatch logs, and various photographs.

Three of the four victims were also interviewed separately by the First Assistant District Attorney and investigator of the Hampden District Attorney's Office.

Legal Issues

Whether the Commonwealth is able to meet its burden of proof and charge one or more individuals with the commission of an assault and battery causing serious bodily injury to Mr. Herman Cumby.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery against Mr. Herman Cumby, Mr. Jozelle Ligon, Mr. Jackie Ligon, and/or Mr. Michael Cintron.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (baton) against Mr. Herman Cumby.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (Taser) against Mr. Jackie Ligon.

Whether the Commonwealth can meet its burden of proof and charge one or more individuals with the commission of an assault and battery with a dangerous weapon (shod foot) against Mr. Herman Cumby, Mr. Jozelle Ligon, Mr. Jackie Ligon, and/or Mr. Michael Cintron.

Analysis

The victims in this matter all reported being assaulted in a parking lot in the area of Island Pond Road and Warehouse Street in Springfield. Mr. Herman Cumby suffered serious injuries from the assault, including a fractured/dislocated ankle and four damaged front teeth. He also suffered numerous cuts and bruises. After a medical assessment by paramedics at the scene, Mr. Cumby declined transport to a hospital. He did receive treatment at Baystate Medical Center on April 8, 2015. He continues to need medical treatment for the injury to his ankle as well as additional dental work. Mr. Jackie Ligon suffered temporary immobility as a result of being struck with something cold and sharp, according to his description. He was hit and kicked in his torso, head, and face while immobile on the ground. He also suffered numerous cuts and bruises. After a medical assessment from paramedics, Mr. Jackie Ligon declined transport to a hospital that night. Mr. Jozelle Ligon and Michael Cintron had visible cuts and bruising but did not seek medical assistance at the scene. Mr. Jozelle Ligon sought medical treatment on April 8, 2015 at Baystate Wing Hospital in Palmer for injuries that he described as coming from being struck by an "unknown object".

An assault and battery is the intentional and unjustified use of force upon the person of another, however slight, or the intentional doing of a wanton or grossly negligent act causing personal

injury to another. Commonwealth v. Bianco, 390 Mass. 254, 263 (1983). The injuries suffered by all three of the victims are clear. The physical assaults committed by several members of the large crowd were intentional and unjustified. The victims describe being pushed, struck with fists, and kicked by their assailants. Although questioning by the investigating officers did not focus on the type of footwear worn by the attackers, the testimony of the victims and their confirmed injuries would sufficiently sustain our burden on the charge of assault and battery with a dangerous weapon, shod foot.

A review of the evidence gathered by the Major Crimes Unit and Internal Investigation Unit of the Springfield Police Department reveals that identifying the assailants was problematic for the victims. Several members of the Springfield Police Department spoke to the victims on the night of the incident. According to each officer at the scene, the victims were consistent in their description of the incident and their attackers. The description of the assailants given by the victims that night was "white males between the ages of 25-45" who were believed to be "off duty or rookie police officers". The knowledge that they were off duty officers came from a comment made to the victims by a bar employee during a verbal altercation inside the bar earlier in the evening. On-duty patrol officers who responded to the earlier incident confirmed the presence of off-duty officers [redacted] t Nathan Bill's at around 1:15 a.m. These four identified off-duty officers were not seen by any of the responding officers when they arrived at the scene approximately 50 minutes later. Responding officers were told that the assailants had fled the scene in a northerly direction down Island Pond Road, which resulted in two of the patrol officers driving in search of the described assailants. No suspects were located.

After Mr. Cumby's May 7, 2015 complaint to the Springfield Police Department in which he alleged that the assailants in his attack were off-duty police officers, detectives from both the Internal Investigations Unit and the Major Crimes Unit made numerous attempts to contact Mr. Cumby by phone call, certified letters, and direct contact at his home and other known addresses. On June 23, 2015, Mr. Cumby responds to a telephone call from Sgt. Jeffrey Martucci. On July 9, 2015, Mr. Cumby and his attorney come to the Springfield Police Department where Mr. Cumby is interviewed in the presence of his attorney. The interview is videotaped. Mr. Cumby described the initial incident inside Nathan Bill's and the events that led to his group being asked to leave the bar. He described the attack as beginning near Rocky's and that it involved 12-15 people, all white, all young, and all male. He is shown 1,985 pictures of white males between the ages of 21 and 30. Included in these 1,985 photographs are pictures of Springfield Police officers who fit the description given by Mr. Cumby. Mr. Cumby is unable to identify anyone. He is then shown 658 pictures of only Springfield Police officers. Included in the 658 photographs are pictures of the off-duty officers identified as being present at Nathan Bill's on the night of the incident. Mr. Cumby is unable to identify anyone from that set of photographs. He identifies an officer who "looks familiar" and who is later discovered to have been working but assigned elsewhere and was not at Nathan Bill's at any time on April 7th-April 8th. During

the videotaped interview, Mr. Cumby acknowledges being hit from behind and being immediately rendered unconscious. He stated that he never saw anyone or any weapons. Mr. Cumby also acknowledges having consumed a couple of alcoholic drinks and being concerned about operating his vehicle.

Mr. Cumby was subsequently interviewed by police officers assigned to the Internal Investigations Unit on three occasions: May 25, 2015, July 30, 2015, and September 17, 2015. None of these interviews are videotaped. On May 25, Mr. Cumby gives a detailed verbal statement to Sgt. William Andrew. Sgt. Andrew summarizes the statement in his report. There is no signed statement by Mr. Cumby or an acknowledgment that he reviewed and approved of the officer's report. In Sgt. Andrew's report, Mr. Cumby describes the evening leading up to the assault and the assault itself. He describes people he believes were involved or who were present. Based on Mr. Cumby's descriptions, he is asked to view 264 photographs of police officers. He admits to having a hard time picking anyone and says he is "not good with faces". On July 30, he was shown 18 photographs of male police officers and he identified seven as being present at Nathan Bill's, or in the parking lot, or both. Of the seven men identified, five had confirmed alibis. Of the remaining two, one was Officer , who was also identified by on-duty officers who responded to the scene at 1:15 a.m. Mr. Cumby did not identify Officer as an assailant, only and specifically as just present. The last officer identified by Mr. Cumby was never seen by on-duty officers at the scene and was also not identified by Mr. Cumby as an assailant. On September 17, Mr. Cumby viewed a third photographic array consisting of six male police officers and was unable to identify any of the officers as being present that night.

On July 17, 2015 Mr. Cumby brought his two cousins, Jackie and Jozelle Ligon, to the Springfield Police Department to be interviewed regarding the incident at Nathan Bill's and the later assault. Detectives assigned to the Major Crimes Unit interviewed the two men separately. The facts detailing what leads up to the men being asked to leave the bar is mostly consistent with Mr. Cumby's earlier statement. They all describe their attackers as males, mostly white males, and that the group surrounding them was approximately 8-12 in number. Both men were asked to view photographs in order to identify the assailants.

On July 17, 2015, after viewing 1,188 pictures, Jackie Ligon identified Officer with an 80%-90% certainty as being present in the parking lot during the altercation and as being the person with whom he had a verbal altercation inside of the bar. Jackie Ligon also described an individual who was a Latino, white, or Italian male with a heavy moustache who appeared to be in his late-forties who had a weapon in his coat. Therefore, he viewed 1,981 photographs of Latino males and identified one of those with a 40%-50% certainty as this individual. This person was not a police officer and was not at Nathan Bills on April 8th. When shown photographs of only Springfield Police officers, which included the off-duty officers identified as present at Nathan Bill's, Jackie Ligon could only identify two officers who he

described as responding officers and not assailants. Of those two officers, one was in fact on-duty and responded to the scene, the other officer worked a different shift and did not respond to the scene on the night in question.

Sgt. Andrew of the Internal Investigations Unit interviewed Jackie Ligon on three separate occasions: June 4, 2015, August 1, 2015 and September 17, 2015. Jackie Ligon's initial statement to Sgt. Andrew described in detail the events of the evening in question. There are differences between his statement to the Internal Investigations detectives and his statement to Major Crimes Unit detectives. His statement to the Major Crimes Unit is videotaped and his statement to the Internal Investigations Unit is not. His statement to the Internal Investigations Unit is a summary from Sgt. Andrew and is not signed or reviewed by Jackie Ligon.

In his statement to detectives in the Major Crimes Unit on July 17, 2015, Jackie Ligon cannot identify any assailants despite reviewing thousands of photographs. He identifies Officer with an 80-90% certainty as the person with whom he had a verbal altercation, but not as an assailant. He also cannot positively identify any weapons (other than footwear) as being used by the assailants. He states that he hears a "click", which sounded like an expandable baton, and he saw an older Latino male put something inside his jacket but could only see a "handle". However, when questioned by Sgt. Andrew of the Internal Investigations Unit on June 4, 2015, Jackie Ligon describes certain individuals as having weapons, and seeing the weapons used. He tells Sgt. Andrew he saw one assailant with an "expandable baton" and another with a "Taser or stun gun". He also names a particular officer as being the one who punches his brother Jozelle and describes a 6'5" or 6'4" male as pushing Jozelle. On this same date, Jackie Ligon views 264 pictures of Springfield Police officers and identifies five individuals, but never indicates how he knows them or how they are involved in this matter.

During his second interview with Internal Investigations on August 1, 2015, which is also unrecorded, Mr. Jackie Ligon is asked to view another array of 18 photographs of male police officers that was assembled by Sgt. Andrew in an attempt to identify involved parties. At this meeting, Jackie Ligon identifies Officer s the individual who punched his brother. This identification contradicts his videotaped statement to Major Crimes detectives and his earlier verbal statement to Internal Investigations detectives. Jackie Ligon also identifies officers as being present at the scene who have confirmed alibis and could not have been at Nathan Bill's or Murphy's on the night in question.

At his third interview with Internal Investigations on September 17, 2015, also unrecorded, Jackie Ligon is asked to identify the officer he believed possessed the stun gun or taser. He is shown an array consisting of six police officers and he is unable to provide a positive identification. He chooses two photographs of two different officers and tells Sgt. Andrew that it is "definitely one of these two", but he cannot state which one with any degree of certainty.

Conclusion

This investigation and any criminal charges that could result from this investigation depend almost exclusively on a positive identification of the assailant(s). To date, no such identification has been made by any of the victims or any eyewitnesses.

In order to indict a person for a crime, the prosecution must present sufficient evidence to establish the identity of the accused and probable cause to arrest him. Commonwealth v. O'Dell, 392 Mass. 445, 450 (1984). That is, the prosecution must have sufficient evidence that the defendant is the person who committed the crime.

Because people have been wrongfully convicted based, in some cases, on mistaken identifications, courts throughout the country have revamped the rules allowing eyewitness identifications at trial. The Supreme Judicial Court of Massachusetts has made several recent rules that limit identification evidence at trial.

If a person who witnessed a crime has made a less than unequivocal, positive identification of the defendant before trial, the witness will be permitted to identify the defendant at trial *only* if there is *good reason* for the judge to allow the in-court identification. Commonwealth v. Collins, 470 Mass. 255, 261-62 (2014). Good reason is limited to cases in which the witness's ability to identify the defendant is not based only on her having witnessed the defendant during the commission of the crime. Trial judges have been instructed to require a high degree of certainty by the eyewitness for identification to be considered "unequivocal" and "positive".

Despite varying accounts of what occurred prior to the assault, who was present before and after the assault, and who committed the various assaults, it is undeniable that Mr. Herman Cumby, Mr. Jackie Ligon, Mr. Jozelle Ligon, and Mr. Michael Cintron were assaulted and beaten by several individuals on April 8, 2015. The men were beaten about their body and face by fists, shod feet, and quite possibly dangerous weapons. As a result, all of the men suffered visible injuries and Mr. Cumby suffered serious injury, as well.

However, it is also undeniable that the victims' admitted lack of recollection of the events and the assailants, inconsistent versions of the incident, their admitted alcohol consumption, and ultimately and most significantly, their lack of legally sound and positive identifications of those who committed a criminal offense, hamstrings the Commonwealth from initiating a criminal complaint or indictment. The Massachusetts Supreme Judicial Court Rules of Professional Conduct, Rule 3.8, states that a "prosecutor in a criminal case shall refrain from prosecuting where the prosecutor lacks a good faith belief that probable cause to support the charge exists." While the victims' credibility and earnestness are not in question, the fact that their accounts and attempted identifications chart a tortuous course is inarguable. With this unavoidable reality, the standard of probable cause is not met. Moreover, should we look beyond the initial, modest

standards of probable cause, the estimable burdens of proof required to convict, which are designed to protect the principle that a person is innocent until proven guilty, would firmly stand in the way of a successful prosecution in this case. Therefore, with the evidence presently in the possession of this office, there is no probable cause to charge any person(s) with criminal offense(s) from the events on April 8, 2015. The criminal investigation as conducted by the Hampden District Attorney is, therefore, presently closed.

Submitted: February 2, 2017

Anthony D. Gulluni
Hampden District Attorney

Cc:
Commissioner John Barbieri
Springfield Police Department
130 Pearl Street
Springfield, MA 01105

VIA E-MAIL ONLY

August 7, 2014

Captain Thomas Trites
Sgt. Richard Pelchar
Springfield Police Department

Date of Incident:	On or about April 7, 2014
Type:	Police Officer Report of Lost Personal Weapon
Target:	Springfield Police Office
Location of Incident:	Unknown

Dear Captain Trites:

Please be advised after a review of all applicable Massachusetts General Laws and reports provided to us from the Springfield Police Department including; a written statement from the officer involved, a superior officer's investigation report, a police incident report, a special report to Commissioner Fitchet, and telephone conferences with Captain Trites and Sgt. Pelchar of the Springfield Police department I am recommending that no criminal charges be filed in this matter. Our review of all the available facts led us to conclude that there was negligence and behavior worthy of interdepartmental discipline but not negligence or behavior which would give rise to a criminal complaint. Therefore, our office declines to prosecute Officer or Improper Storage of a Firearm or any other related charges arising out of the loss of his weapon sometime on or after April 7, 2014.

This decision is based upon all information known to us as of this date and we would appreciate your conveying this information to Officer nd his counsel as well as any others in his chain of command who might require notification.

Should you have any questions on this matter please feel free to contact me directly.

Sincerely,

Jennifer N. Fitzgerald
First Assistant
Hampden District Attorney's Office

cc: District Attorney James Orenstein

FINDINGS AND CONCLUSIONS of

Hampden District Attorney James C. Orenstein

Regarding June 26, 2014, Police Involved Shooting of David Joseph Kingsbury

Hampden County District Attorney's Office
Hall of Justice, 50 State Street, 3rd Floor, Springfield, MA 01103

Contact: James C. Orenstein
Phone: 413-747-1000
Fax: 413-781-4745

Date: INSERT

FOR IMMEDIATE RELEASE

Hampden District Attorney James C. Orenstein today is releasing his findings and conclusions related to the death of David Joseph Kingsbury of Springfield. Mr. Kingsbury died as a result of a police officer involved shooting on June 26, 2014.

The investigation examined and considered information and documentary materials generated by the Springfield Police Department, including the detective bureau, crime scene unit, and uniform division, the Massachusetts State Police Firearms Identification Section, Crime Laboratory, and Forensic and Technology Center, and the Office of the Medical Examiner. Among the materials reviewed by members of the District Attorney's Office were files and reports prepared by Springfield police officers, tape-recorded 911 calls, statements taken from civilian witnesses and ambulance personnel, scene photographs, and ballistics, laboratory and autopsy sketches and reports, as well as earlier court records and files regarding Mr. Kingsbury. District Attorney Orenstein thanks the investigating officers and forensics experts for providing him with complete access to all investigative files and for responding to all investigative requests

and inquiries made during the process. In releasing these findings and conclusion, District Attorney Orenstein is confident there has been a complete and objective investigation and review of this matter.

FINDINGS OF FACT

At the time of his death on June 26, 2014, David Joseph Kingsbury was 34 years old and lived at 128 Mill Street, Apt. H. A Caucasian male, Kingsbury was medium build and approximately 6' tall and 189 pounds. He had a history of mental illness and had been the subject of three civil restraining orders. In addition, at the time of his death, Kingsbury had a criminal case pending in the Springfield District Court in which he was charged with assault and battery by means of a dangerous weapon (blunt object) on account of conduct in West Springfield in 2013. Kingsbury was scheduled to appear in court in the pending case on June 27, 2014, the day after he died.

On June 23, 2014, at 6:46 p.m., AP, a 26 year old female, called 911 and reported to Springfield Police that she was running away from her boyfriend, David Kingsbury, and heading to the Citgo Station. She said he had punched her in the face, strangled her bruising her neck, and tried to kill her. She declined to stay on the line with the 911 call taker and said her mother was en route. An ambulance was dispatched. The following day, on June 24, 2014, AP spoke with Officer Eugene Rooke and told him that David Kingsbury was her boyfriend, that about four days earlier he had invited her to stay with him at his Mill Street apartment, and that at about 5 p.m. on June 23, 2014, he had kicked her out and struck her with a backhand to the left side of her face.[1] Officer Rooke noted in his report that AP had some minor redness below her left ear and that she had received treatment. AP complained that all of her belongings remained

[1] A neighbor, NC, subsequently gave police a statement indicating other recent episodes of domestic violence between the two.

in Kingsbury's apartment. Officers responded to the apartment but received no response at the door. AP was advised of her 209A rights and to seek a complaint.

On June 25 and 26, 2014, police were dispatched to 128 Mill Street on three occasions in response to 911 calls. At approximately 8:00 p.m. on June 25, JV, a 23 year old female, called 911 and reported that her neighbor, later identified as David Kingsbury, pulled a knife on her and threatened to kill her. She said he pulled a kitchen-style knife from his waist band and said, "I'm going to kill you bitch," and began to chase her. In fear for her life, she ran. Kingsbury chased her and was close to stabbing her, but she was able to get away. Police responded to 128 Mill Street, met with JV, went to Kingsbury's apartment and attempted unsuccessfully to locate him.

In a second 911 call at 8:53 p.m. on June 25, another neighbor, T, reported that her neighbor was breaking all the windows from inside his second floor apartment, Apt. H (Kingsbury's apartment), and that he was throwing things out the window. Another neighbor, NC, heard Kingsbury breaking glass. When NC looked outside, she saw T and her grandchildren by a car in the driveway onto which smashed glass was falling. NC also saw a melted, flaming pot thrown from Kingsbury's windows. Police responded again but again did not locate Kingsbury.

NC and JV saw Kingsbury outside slashing the tires of another neighbor's red car.[2] JV later told police that Kingsbury looked up at them as he slashed the tires and he looked like "he was on something." NC saw Kingsbury walk over to the dumpster and try to set the trash on fire. Another 911 call was received at about 11:50 p.m. on June 25. The caller accepted the call

[2] The neighbor who owned the red car, ER, a 59 year old male, learned from JV and NC that Kingsbury had slashed his tires and that the police had been called. Shortly before police arrived, when he saw Kingsbury outside, ER yelled to him, "Yo why you slash my tires," but Kingsbury just ignored him and went back inside. The police would ultimately learn that the tires of 9 vehicles were slashed in the parking lots at and around 128 Mill Street that night, apparently by Kingsbury.

taker's offer of anonymity, but when she later spoke with detectives, NC said it was she who twice called and reported that Kingsbury was outside slashing the tires of the red car, that he tried to set fire to the dumpster, that he was breaking windows, that he was inside his house breaking things and banging on the walls, that he had a knife, and that police had already been there twice that evening. In the 911 call at about 12:11 a.m. on June 26, she reported that Kingsbury was then breaking windows and had a knife.

Officers Jameson Williams and Matthew Benoit, along with other officers, were dispatched to 128 Mill Street at about 12:13 a.m. on June 26 for the report of a disturbance. Officers Williams and Benoit, who were nearby in the area of Pine and Central Streets when dispatched, arrived at 128 Mill Street in less than a minute. On the way, the officers were informed by dispatch that a "refused caller" said that "their neighbor who lives in Apt. G was outside slashing tires of burgundy Malibu, white male, tall, 200 lbs, black shirt, blue jeans." They were also notified that he was "now breaking windows in the house, to the left of 128 Mill Street," and that he was "armed with a knife."

Upon arriving at 128 Mill Street, Officers Benoit and Williams parked their cruiser and approached the rear parking lot on foot. When the officers reached the rear of the apartment building, they saw that the parking lot was littered with broken glass and that there were several people in the driveway who were, as Officer Williams described, in "a frantic state." People said the male had been breaking things all night and that he "was gonna kill somebody." One woman said he was "going crazy." JV directed the officers to Apt. H (not G), the apartment above hers, and said that "he just ran up to the second floor, he has a knife be careful." Officer

Williams asked if he had threatened her with the knife, and she told him he had chased her into the apartment.[3]

Officers Williams and Benoit went up the second flight of stairs at which time the door to Apt. H slammed shut. The officers announced their presence and ordered the male occupant to open the door or they would have to force it open. They yelled, "Police. Open the door." When he did not answer, they knocked again and announced that they would kick in the door if he did not respond. Officers Benoit and Williams heard what sounded like objects being placed against the door. The officers thereafter heard no other movement inside the apartment.

Officer Benoit attempted to "breech the door" but was unable to do so. After announcing again, Officer Williams kicked the door open to gain entry to Apt. H. When the door opened, Officer Benoit saw no lights on in the apartment, but he saw a board and TV knocked over just inside the doorway. Officer Williams described the apartment as dark and in disarray.

The officers drew their firearms and stepped forward toward the door of the apartment. Officer Williams led the way, but when the officers were less than five feet from the door, a tall white male wearing a black shirt and jeans, later identified as Kingsbury, armed with a large kitchen knife, appeared in the doorway from the left and began moving toward the officers. At this time, both officers attempted to step back in order to create distance between them and Kingsbury Due to the small size of the second floor landing – approximately 3.5 feet wide by 7.5 feet long – Officer Benoit backed into the door to Apt. G, leaving the officers with no room and little time to react to Kingsbury's advance. At the same time as the officers backed up, Officer Williams shouted, "Stay Back. Drop the Knife!" Kingsbury was only about 3 feet from Officer Williams, and he was holding the knife in his left hand, slightly above his shoulder,

[3] In her statement later to police, JV said the officers asked, "Where is he?" and she told them he was already upstairs and that he had threatened to kill her.

with the blade of the knife extending downward as if he intended to thrust the knife with a downward motion. He did not drop or lower the knife as he advanced toward Officer Williams. Unable to retreat, and believing that Kingsbury could have easily penetrated his neck or chest and that he was in imminent danger of death or serious bodily injury, Officer Williams discharged his firearm, firing four rounds, striking Kingsbury. Kingsbury stepped back, dropped to his knees and then collapsed halfway inside the doorway with his torso in the hall and legs inside the apartment. .[4]

Dispatch was notified that shots were fired and an ambulance was needed. The officers assessed Kingsbury's injuries and administered first aid. Assisted by a third officer, they began CPR. American Medical Response personnel arrived, and Kingsbury was moved to the ambulance and transported to Baystate Medical Center where, at 12:40 a.m., he was pronounced dead by Dr. Ronald Gross.

An autopsy was performed by Mindy J. Hull, M.D, of the Office of the Chief Medical Examiner. Dr. Hull determined Kingsbury's cause of death to be "gunshot wounds of torso and lower extremity with hemoperitoneum," that is, the presence of blood in the peritoneal cavity, the space between the inner lining of the abdominal wall and the internal abdominal organs. Kingsbury had two gunshot wounds. One was a penetrating gunshot wound of the torso that entered the left lower chest and traveled backward (front-to-back), downward, and slightly

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[4] In her later statement, JV said she was standing in the driveway and could see the officers through the hallway window. She "saw one officer step back, and another officer step back." She said the officers "broke the door down and there was silence." She "then heard foot steps and banging." She said it sounded like Kingsbury "was fighting with the cops." She said she "saw one of the officers pushing back, like he was trying to retreat. [She] then heard five to six gun shots." She said she "could hear one of the officers say 'stop, stop resisting.'" The officer said this, according to JV, both "before and after the shooting." NC said she "heard the police knocking on the door and then the police struggling with the neighbor." She said she thought "the door broke and [she] heard the police yell 'Stop resisting, get on the ground.'" She said she "could see the officers fighting with him and then [she] heard four gunshots."

rightward (left-to-right), perforating a rib, the omentum, the small intestine, the pylorus of the stomach, the mesentery, the pancreas, and the left renal artery, lodging in the L2/L3 intervertebral disk of the lumbar spine. The other was a perforating gunshot wound of the torso and right lower extremity, with a probable gunshot entrance wound of the suprapubic aspect of the lower abdomen, traveling rightward (left-to-right), backward (front-to-back), and slightly downward, perforating the soft tissues of the groin, the soft tissues of the medial and posterior right thigh, and exiting the outer upper posterior right thigh at the area of the lower right buttock.[5] From the first gunshot wound, Dr. Hull recovered a metal-jacketed gray bullet and two bullet fragments. Postmortem toxicology results show that, at the time of his death, Kingsbury's blood was positive for bupropion (an antidepressant medication typically used to treat major depressive disorder and seasonal affective disorder) as well as ethanol and marijuana metabolites.

The scene of the shooting was documented by Springfield Police Department and Massachusetts State Police officers. Recovered at the scene were four .40 S&W caliber discharged casings. Three casings were located on the small second floor landing outside Apt. H, and the fourth was located on the stairs in between the first and second floors. Also recovered at the scene were three spent projectiles. One was retrieved from the entrance door of Apt. H, having entered the door at an angle, consistent with the door having been about 80% open at the time of the shooting. A second spent projectile was recovered from the floor of Apt. H and a

[5] Dr. Hull "strongly favor[ed]" the suprapubic aspect of the lower abdomen to be the gunshot entrance wound and the area of the right buttock to be the gunshot shored exit wound but she could not entirely exclude the reverse. In addition to the gunshot wounds, Kingsbury had small abrasions, some healing, of his forehead, left elbow, left leg, toes, and upper left arm and contusions of his right forearm and right leg.

third from the wall of the adjacent apartment, Apt. D. As noted above, a fourth spent projectile and fragments were recovered at autopsy.

Officer Williams's firearm, a 40 S&W caliber Smith & Wesson model M&P40 semi-automatic pistol with fifteen round capacity magazine and twelve 40 S&W caliber live cartridges, was secured from him, in his duty belt and holster, at the scene. When secured, there were eleven live cartridges in the magazine from the gun and one in the chamber, confirming that Officer Williams shot four rounds. The firearm (with magazine and ammunition), discharged casings and spent projectiles were submitted to the Massachusetts State Police Firearms Identification Section for examination. The ballistician, Trooper John S. Schrijn, as a result of physical and microscopic examination of the submitted items and test specimens fired from Officer Williams' firearm, has opined that the four spent projectiles were all fired from that firearm.[6]

The paths of travel of the two gunshot wounds found at autopsy, and locations and paths of the rounds recovered at the scene, are consistent with the officers' description of events in the small hallway on the second floor landing outside Kingsbury's apartment.

In addition, the police recovered a large kitchen knife from inside the threshold of Kingsbury's apartment. The knife was submitted to the Massachusetts State Police Crime Laboratory where it was examined by forensic scientist Erica L. Nadeau. The knife is approximately 11 5/8" in overall length. The single edged blade of the knife, which is both smooth and serrated, measures approximately 7 1/7" in length and approximately 7/8" at its widest point. A screening test for the presence of blood was negative on the debris noted on both

[6] Trooper Schrijn's findings with respect to the discharged cartridge casings were inconclusive due to a lack of correspondence of individual markings though all four discharged casings have similar firing pin impressions and some similar individual markings as the test specimens.

sides of the blade near the hilt. A sample was collected from the handle of the knife and submitted for DNA testing. DNA Analyst Jennifer Montgomery concluded that the DNA profile obtained from the swab of the knife handle indicated a mixture of more than one source, and the DNA profile from David Kingsbury was consistent with the major male DNA profile in this mixture. The expected frequency of occurrence of this profile in the Caucasian population is approximately 1 in 2.479 trillion. The DNA results confirm that it was Kingsbury who handled the knife.

CONCLUSION

Based upon these facts, and upon review of controlling law, I have concluded that Officer Williams's discharging his service weapon was in response to the assaultive and life-threatening conduct of David Joseph Kingsbury. At the time Officer Williams fired the shots, he had a justifiable fear that he was about to be seriously injured or killed by Mr. Kingsbury. Mr. Kingsbury was armed with a large kitchen knife. Shortly before the shooting, he had been engaged in dangerous, threatening and rage-filled behavior. He chased a neighbor, threatening to kill her; he broke windows, causing shards of glass to fall near neighbors on the walk and driveway below; he threw a burning pot out the window; he sliced the tires of parked cars; and he tried to light a trash fire in a dumpster. Mr. Kingsbury was non-compliant; he refused to follow the officers' commands that he stop and drop the knife. Instead, he assaulted the officers. He continued to come toward them, with his knife raised and positioned for attack. Two officers were in a small space at the top of a stair case, unable to retreat to a position of safety. Officer Williams, who was in front of Officer Benoit and within Kingsbury's reach, confronted with deadly force, was in imminent danger of death or serious bodily injury when he discharged his firearm, striking Kingsbury twice and fatally wounding him.

Considering all the facts and circumstances, I have concluded that the homicide of David Joseph Kingsbury was legally justified and necessary in order to ensure the safety of Officer Williams. In addition, I have concluded that Officer Williams acted in self-defense in shooting at Kingsbury. Thus, his actions were legally excused.

James C. Orenstein
Hampden District Attorney

On May 15th 2013 at 5:53 a.m. Springfield Police Officers were dispatched to the area of Albermarle St. and Westford St. to investigate a report that a black male wearing a grey hoodie and black pants who was shooting at a black female with a loaded shotgun. The officers were directed to look for the shooter walking down Albemarle St. towards Westford St.

Upon arrival the officers immediately observed a black male fitting the description walking southbound on Albamarle St. They noticed he was carrying a grey sack in his hands and when they attempted to bring their cruiser closer to him, the suspect stopped walking and removed a black shotgun from the sack he was carrying. The officers exited their cruiser and drew their weapons. In response, the suspect raised the shotgun, aimed it at the officers and fired his shotgun directly at them, hitting the front passenger door and nearly hitting Officer in the head. Fearing for their lives and for the lives of any innocent bystanders, the officers immediately returned fire in an attempt to stop the assailant from shooting further.

Both officers fired their weapons multiple times and eventually re-entered their cruiser to create greater distance between themselves and the assailant whose shotgun had a greater range of distance than the officers service weapons. The officers watched as the assailant, carrying his shotgun, began walking toward Braddock St. where other officers had begun to arrive. At this point, the assailant was spotted by Officers and who immediately ordered him to show his hands and put down the weapon. The assailant responded by pointing his shotgun at the officers and firing directly at them. Officers returned fire and the defendant was struck and fell to the ground. An ambulance was immediately called for and CPR measures were taken. The assailant was taken to Baystate Medical Center where he later died and was identified as Louis Squires of 75 Albamarle St., Springfield, MA.

An investigation was conducted by the Springfield Police Departments Major Crime Unit and Internal Investigations Unit. Crime scene evidence and ballistic evidence was gathered, an autopsy of the assailant was performed by the Medical Examiner's Office and statements were taken from police and civilian witnesses.

The autopsy was performed by Dr. Rene Robinson who determined that the cause of death for Louis Squires was multiple gunshot wounds and the manner of death was homicide, shot by police. Louis Squires had three (3) penetrating gunshot wounds to his body, one to his head/neck area, one to his chest and one to his right arm. Toxicology results revealed nothing of concern or relevance. Complete Autopsy reports were available at the writing of this report along with toxicology results and location of bullet wounds.

These findings are based on a review of all available investigative reports as well as statements from civilian witnesses who heard or saw the incidents described in this report, police officers who arrived upon the scene and crime scene evidence. The Springfield Police Department, ballistic evidence, crime scene services and the Medical Examiner's Office all provided assistance and information.

A legal analysis examining the actions of the involved officers in order to determine whether a criminal act occurred is guided by applicable case law and legal precedent on the use of force by law

enforcement. To be lawful an officer's use of deadly force must be objectively reasonable in light of the facts and circumstances confronting the officers. Whether their actions are reasonable must be evaluated from the perspective of a reasonable officer at the scene rather than with the vision of hindsight. The officers involved in this incident each acted out of fear for their own safety, the safety and lives of other responding officers and the safety and lives of the residents of the Springfield neighborhoods where this shooting occurred. "The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation." Graham v. Connor, 49- U.S. 386, 396-397 (1989). The life threatening, assaultive actions by Mr. Squires; his complete disregard for public safety; his illegal use of a dangerous weapon; his refusal to comply with officers commands and his flagrant disobedience of the laws of the Commonwealth legally justified the police officers discharging of their weapons. Our Massachusetts Supreme Judicial Court noted in Commonwealth v. Asher, 471 Mass, 589 (2015) " A police officer has an obligation to protect his fellow officers and the public at large that goes beyond that of an ordinary citizen, such that retreat or escape is not a viable option for an on-duty officer faced with a potential threat of violence."

Based on a review of all of the facts and controlling law, it is our conclusion that the actions of all responding Springfield Police Officers and specifically the actions of Officers [redacted] were appropriate and in response to Louis Squires' criminally assaultive behavior and actions. The actions of the officers were appropriate given the dangerous criminal behavior they encountered which caused each officer to fear for his own life and for the life of his fellow officers as well as for the lives and safety of those living and or present in the immediate area where the shooting occurred. I find that no officer used excessive force at the scene and that their actions were legally justified. Therefore, the homicide of Louis Squires was legally justified as the actions of the officers were taken in self-defense or defense of others. Their decisions to return fire at the shooting suspect under the circumstance they encountered that day constituted a lawful and reasonable exercise of self-defense and defense of others. No criminal charges are warranted.

To: DA Mark Mastroianni

From: Jennifer Fitzgerald

RE: Springfield Police Criminal Investigation- Complaint from

Springfield Police Captain Peter Dillon and Sgt. Thomas Zarelli requested that the District Attorney's office review evidence collected during an internal criminal review process and advise the officers as to whether or not a criminal complaint should issue against two Springfield Police Officers who were the subjects of a criminal complaint from the above named individual,

After reviewing their file which contained statements and police reports, and speaking with Captain Dillon and Sgt. Zarelli it is my recommendation that criminal complaints do not issue.

The complaining witness alleged that two police officers, one being previously known to the complainant, stopped the complainant while he was walking in the area of Main Street in Springfield near Mister D's bar, when he was stopped and forced into the officer's cruiser. The Officers allegedly then drove the complainant to an area near a gravel pit somewhere near Page Boulevard where they proceeded to beat him up; stomping on his hand, kicking him in the back and macing him in the face.

The Complainant's allegations would be difficult to prove in Court for the following reasons:

1. The Complainant claimed he had been with another individual by the name of "Pito" when he was first stopped by the officers. The investigation revealed that "Pito" was in fact an individual named When first interviewed Marin tells multiple versions of events and claims a lack of knowledge but ultimately denies being with the Complainant at the time of the incident and denies he witnessed any interaction between the Complainant and Police.
2. The Complainant tells officers in April that he believes the incident occurred around **1:30 a.m.** and describes a scene which encompasses to my estimation, an approximately 45 minute time frame, maybe an hour.
3. The Complainant calls 911 at **4:13 a.m.** from a phone located at 1100 Page Boulevard, the address of Dimas Mini Mart. He complains that he had been beaten up by two police officers and requests emergency services. He also states that the incident occurred about **ten** minutes **prior to his call.**
4. It is documented by witnesses and police logs that the officers being accused of assaulting the complainant responded to the scene of a motor vehicle accident at State and Maple Street in Springfield at 3:07 a.m. They accompanied the responding ambulance to the hospital and ran a license plate check on the motor vehicle involved at 3:26 a.m. and report back to dispatch at **4:08 a.m.**
5. The Complainant does not tell the emergency response Medical Technician who responds to the scene that he was assaulted by police officers, was sprayed with police issued mace or had been

punched and kicked repeatedly. He simply tells the technician that he "got beat up, something was sprayed in my eyes and my hand is all cut and my side hurts too".

6. The Complainant acknowledged he had been arrested by Officer [redacted] in the past. He also claims he was beat up by Office[redacted] in the past but doesn't remember details because he was always high.
7. The Complainant's medical records from Mercy Hospital on the night of the incident reveal he was treated for pepper spray exposure, back pain, headache, left side chest pain and a laceration to his hand. The Complainant did tell doctors that he had been beaten by police who kicked and punched him, maced him and hit him with a nightstick. The Complainant's toxicology results showed positive results for Benzodiaz, Cocaine and THC. He was discharged with 600 mg of ibuprofen.
8. A hearing on the above complaint was held September 13, 2012 by the Community Police Hearing Board and Officer [redacted] received identical decisions on the Inter-departmental Disciplinary Charges brought against them. The officers were unanimously exonerated on three of the eleven counts and by a vote of 2-1, charges were sustained in eight of the eleven counts.
9. The Police Commissioner is reviewing all reports in order to determine whether there is just cause to support the charges.

Conclusion

Given the inconsistent description of events from the complainant, his prior history with one of the officers and his admitted drug use, the Complainant would be a difficult witness to rehabilitate and for a jury to find credible. There are significant holes in his version of events and there are no independent witnesses. I do not recommend that criminal complaints issue against the officers for the beating of Mr.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF ANNA-MARIE PURYEAR

I, Anna-Marie Puryear, hereby swear that the following is true to the best of my knowledge, information and belief:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts.
2. Between August 2011 and March 2020, I was employed as a Staff Attorney in the Springfield office of the Committee for Public Counsel Services (CPCS). I am now practicing law in Connecticut.
3. I am writing to provide information about my representation of Terrence Gaskins in a Massachusetts criminal case in which the Springfield Police Department (SPD) directed the alteration of evidence, and in which the Hampden County District Attorney's Office (HCDAO) opposed my discovery requests and denied wrongdoing by the SPD.
4. During my representation of Mr. Gaskins, the HCDAO did not provide me with any records of any investigation by the HCDAO into how evidence in Mr. Gaskins's case came to be altered at the apparent direction of the Springfield Police Department.

The Alteration of Evidence in Mr. Gaskins's Case

5. I was assigned to represent Mr. Gaskins as trial counsel in my capacity as an attorney for CPCS. In October 2017, Mr. Gaskins was indicted for unlawful distribution of cocaine in violation of G. L. c. 94C, § 32A(a). He pled not guilty to the charge. *See* Exhibit A (Docket in *Commonwealth v. Gaskins*).

6. The credibility of the SPD officers involved in the case was a central issue because Officer Michael Goggin submitted a police report claiming to have observed Mr. Gaskins conducting drug transactions from the front of his home. However, upon observing the scene, the defense investigator questioned whether Officer Goggin could have made those observations from his reported location as the area was very dark due to two large trees shading nearby light and creating potential obstacles to sight. Thereafter, a question arose regarding whether – with the aid of the low-light binoculars used by Officer Goggin – the scene could be observed as stated in the affidavit and police reports.
7. Because the low-light binoculars could not be reasonably procured in the marketplace, I filed on Mr. Gaskins's behalf, on September 6, 2018, a motion seeking to borrow the binoculars.
8. Over the Commonwealth's objection, the motion was allowed the same day, and the parties were ordered to "agree upon a mutually convenient date and time at which the defendant's investigator may use the binoculars to make observations of the scene in the presence of one or more police officers who are not involved in this case." *See* Exhibit B (Order Endorsing Motion to Borrow Binoculars, dated September 6, 2018).
9. The very next day, September 7, 2018, SPD Sergeant Sean Sullivan both called and sent text messages to City Forester Alexander Sherman directing him to trim the very trees at issue in the case.
10. Sergeant Sullivan's communications to the City Forrester included text messages showing the specific trees that the Police Department sought to have trimmed. They were the trees that my investigator had identified as potentially obstructing Officer Goggin's view of the alleged crime scene.

11. On or about September 13 – before the defense team could observe the scene with the aid of the binoculars as ordered and allowed by the Court – the Parks and Recreation Department did remove and trim the trees identified by Sgt. Sullivan.
12. Upon information and belief, and as testified to at the trial and motion to suppress, those trees could have impacted Officer Goggin's ability to observe the activity he alleged he saw.

The HCDAO's Response to the Alteration of Evidence in the Gaskins Case

13. The HCDAO did not affirmatively disclose to me that, one day after the Superior Court's allowance of my motion to borrow the SPD's binoculars, an SPD officer asked the City Forrester to trim the trees in the exact spot where the defense was going to aim those binoculars.
14. Instead, I discovered the communications between Sgt. Sullivan and the City Forrester on October 10, 2018, because they were disclosed to me by the Parks and Recreation Department in response to a public records request that I had submitted after learning that the trees had been altered.
15. I then moved for sanctions, specifically dismissal of the indictment, on October 16, 2018, based on the Commonwealth's failure to preserve potentially exculpatory evidence. I also filed discovery motions pursuant to Rules 14 and 17.
16. In response to the motion seeking dismissal, the HCDAO did not accept any responsibility for investigating or disclosing evidence concerning Sgt. Sullivan's instructions to the City Forrester. Instead, the HCDAO's written opposition contended that the communications were not "about the defendant or this case," and that they did not involve "any of the investigating officers" in the Gaskins case. The HCDAO also contended that it did not have to disclose evidence from Parks and Recreation Department, notwithstanding the indications that that Department was acting at the behest of the SPD, because "[t]he parks department

is not a law enforcement agency." *See* Exhibit C (Commonwealth's Memorandum of Law in Opposition to Defendant's Motion to Dismiss, dated October 23, 2018).

17. At the subsequent motions hearing in Hampden County Superior Court on February 4, 2019, the HCDAO did not call either Sgt. Sullivan or Officer Goggin to explain Sgt. Sullivan's actions. Nor did it elicit any other evidence to corroborate the Commonwealth's position that the trees were trimmed because of a camera installation, rather than for reasons having to do with Mr. Gaskins's case. *See* Exhibit D (Transcript of Hearing on Motion to Dismiss, dated February 4, 2019).

18. During the hearing, the Superior Court noted the "wild coincidence" that "40 or 50 year old [elm trees were] cut" based on "a request to trim them [that came] a day after the motion to suppress hearing." *See* Exhibit D at 55.

19. The Superior Court declined to dismiss the indictment, based on its view that there was a lack of irremediable harm under *Commonwealth v. Santaliz*, 413 Mass. 238, 242 (1992). However, the Superior Court stated, "There is some level of culpability on the part of the commonwealth for the tree cutting. The trimming was requested by the police department very close in time to a critical evidentiary hearing in the case where the shading provided by the trees was clearly in issue. . . . The highly suspicious timing of the cutting shall be fair game at trial. It will be for a jury to determine whether the testimony of the surveilling and arresting officers is credible in light of the police involvement to later alter/destroy material evidence." *See* Exhibit A.

20. Upon information and belief, the HCDAO neither questioned Sgt. Sullivan or Officer Goggin about the tree removal nor investigated the issue. The HCDAO disclosed no exculpatory information to me about these issues.

Subsequent Proceedings

21. Mr. Gaskins was found guilty on May 21, 2019.

22. I did not represent Mr. Gaskins on appeal, but it is my understanding that the Appeals Court affirmed his conviction on December 14, 2020. With respect to the trees issue, the Appeals Court expressed no view on the propriety of the actions by the SPD and the HCDAO. Instead, it held that the Superior Court's remedy, namely "allowing the defendant to present evidence of the police involvement in the timing of the tree work and crafting jury instructions that addressed the issue, was a reasonable remedy designed to protect the defendant's rights." *See Commonwealth v. Gaskins*, 20-P-52 (Mass. App. Ct. Dec. 14, 2020).

23. Mr. Gaskins's appellate counsel applied for Further Appellate Review, which was denied on February 21, 2021.

24. Upon information and belief, no sanctions were imposed, and no disciplinary actions were taken, against any government actor involved in this case.

Signed under the pains and penalties of perjury this 2nd day of April 2021.

Anna-Marie Puryear

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

In support of the above-captioned petition for relief pursuant to G. L. c. 211, § 3, I, Jaime Rogers, Esq., hereby depose and state:

1. I have been a Trial Attorney with CPCS's Public Defender Division since I was admitted to the bar in 2012. From 2012 until approximately 2016, I worked in the Springfield Office of the CPCS Public Defender Division. Since approximately 2016, I have worked in the Northampton Office of the CPCS Public Defender Division, which covers Hampshire and Franklin Counties.

2. I am a member of the bar in good standing in the Commonwealth of Massachusetts.

3. In my experience, the attorneys and support staff with the Northwestern District Attorney's Office, which prosecutes cases in Hampshire and Franklin Counties, generally provide Rule 14 discovery quickly and without a motion.

4. Attorneys and support staff with the Northwestern District Attorney's Office are prompt and diligent about requesting, obtaining, and providing discovery to me, including 911 recordings, dispatch logs, dash-mounted or body-worn camera footage, and supplemental police reports.

5. In cases where certain items of discovery remain outstanding after a case has begun and all of the initial discovery has been provided to me, my experience has generally been that the attorneys and support staff with the Northwestern District Attorney's Office are responsive to my phone calls and emails, and they are proactive about requesting, obtaining, and providing such discovery to me.

6. This differs greatly from my experience of legal practice in Hampden County, especially in the Springfield District Court. There, the Hampden County Assistant District Attorneys (ADAs) were frequently unwilling to provide discovery beyond the complaint and police report. I routinely had to fight to obtain 911 recordings, dispatch logs, dash-mounted or body-worn camera footage, and supplemental police reports. When I filed discovery motions for Rule 14 discovery, Hampden County ADAs would frequently oppose them. When such motions were allowed and certain discovery was ordered by the Court, the ADAs were frequently untimely in complying with the orders. Thus, I was required to file motions to compel discovery and motions for sanctions because of noncompliance with

discovery orders in Hampden County, especially in Springfield. By contrast, in Hampshire and Franklin Counties, I have only had to file such motions two or three times, and the ADAs were very responsive, so that a hearing on the motion was not required.

7. In addition, I found that the ADAs in Hampden County, especially in Springfield, were often unresponsive to my phone calls and emails in between Court dates.

8. The circumstances in Hampden County, especially in Springfield, as described above made it much more difficult and time-consuming to resolve a case, as compared to my experience in Hampshire and Franklin Counties.

9. One of the reasons that I requested to transfer from the Springfield Office of the CPCS Public Defender Division to the Northampton Office of the CPCS Public Defender Division was because I was of the understanding—which turned out to be correct—that legal practice in Hampshire and Franklin Counties is overall more professional and more efficient.

10. The level of opposition and delay that I frequently experienced because of the discovery practices of the Hampden District Attorney's office was especially problematic in cases where the client was held in custody. Under those circumstances, delays in discovery had a coercive effect. If a plea carried the possibility of a release from custody, clients would frequently opt to tender a plea rather than litigate the case, even if there was a viable defense on the merits and even when there were meritorious pretrial litigation issues.

11. I don't recall ever receiving any sort of Brady disclosure regarding police misconduct from the Hampden County District Attorney's Office when I worked in the Springfield Office of the CPCS Public Defender Division. In contrast, there have been at least two instances where I have received Brady disclosures from the Northwestern District Attorney's Office, including one in writing within the last week.

Signed under the pains and penalties of perjury, this 8th day of March, 2021.

/s/ Jaime Rogers
Jaime Rogers
BBO#684426

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF KATHERINE MURDOCK

I, Katherine Murdock, hereby state upon knowledge, information, and belief:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts.
2. I am employed as a Supervising Attorney in the Springfield office of the Committee for Public Counsel Services.
3. I am writing to provide information about my representation of Jorge Lopez in a Massachusetts criminal case.
4. All officers listed in the police report in Mr. Lopez's case belong to the Narcotics Unit of the Springfield Police Department (SPD), which has been accused of misconduct in a U.S. Department of Justice Report dated July 2020.
5. As described in more detail below, in response to the DOJ Report I have asked that the Hampden County District Attorney's Office be ordered to investigate and disclose any misconduct by the SPD officers involved in Mr. Lopez's case. The credibility of these officers is central to Mr. Lopez's defense.
6. Nevertheless, at present, the Hampden County District Attorney's Office (HCDAO) has not provided me with any records of any investigation by the HCDAO into any of the officers involved in Mr. Lopez's case, including any investigation by the Commonwealth into whether they have made false statements or engaged in violence. As far as I am aware, the HCDAO has not conducted any such investigation on the Commonwealth's behalf.

The Allegations Against Mr. Lopez and the Motion to Suppress

7. I was appointed to represent Mr. Lopez in Hampden Superior Court (Docket 1979-CR-00143) on April 22, 2019, in my capacity as an attorney for CPCS.
8. Mr. Lopez has been indicted for the following: unlawful possession of heroin with intent to distribute; two counts of unlawful distribution of a heroin; firearm violation with two prior violent/drug crimes; unlawful possession of a loaded firearm; and unlawful possession of a firearm while committing a felony. He has pled not guilty to all charges.
9. The credibility of these SPD officers is a central issue in Mr. Lopez's case, and his defense would benefit from the disclosure of exculpatory evidence regarding the involved officers, especially as it relates to prior false statements.
10. Specifically, in an affidavit submitted by SPD Narcotics Bureau Detective Edward Kalish seeking a warrant to search a first floor apartment at 175 Maple Street in Springfield, Det. Kalish swore that, while parked across the street from 175 Maple Street, he observed Mr. Lopez engage in three hand-to-hand drug transactions near the front door of the apartment building in the foyer.
11. However, the front door of 175 Maple Street is metal on the bottom half with glass on the top. The opaque bottom half measured 43 inches tall. Accordingly, Det. Kalish would only have been able to see a person's bicep area and above, and not their hands unless raised. To believe Det. Kalish's statements would be to believe that Mr. Lopez was dealing drugs in a well-lit foyer with his hands raised almost to his shoulder.
12. No contraband was recovered when the police executed the search warrant of the apartment at 175 Maple Street.

13. At the same time that police were executing the search warrant, however, officers stopped and arrested Mr. Lopez while he was at a store. Officers allege to have found contraband on his person.
14. On October 30, 2019, I, on behalf of Mr. Lopez, filed a motion to suppress, which argued that the arrest and attendant search of Mr. Lopez's person were unlawful.
15. During a hearing on that motion on January 15, 2020, the Commonwealth argued that the arrest was lawful under the search warrant issued for 175 Maple Street and that in any case, the sales alleged to have occurred in the foyer supplied constituted probable cause to search Mr. Lopez's person while he was the store later that afternoon.
16. In consequence, my argument at the hearing focused on the credibility of Det. Kalish and whether he could have seen what he said he saw in the warrant affidavit and that he testified to at the hearing.
17. The Court nevertheless denied the Motion on June 24, 2020, noting but not addressing the inconsistency and instead finding that there was enough contained in the search warrant affidavit as well as his testimony to support probable cause.

The DOJ Report and My Request for Further Investigation and Discovery Concerning the SPD

18. On July 8, 2020, the U.S. Department of Justice released its findings that SPD Narcotics Bureau officers regularly submit vague, misleading, or plainly false police reports.
19. At that time, and to this day, the exculpatory evidence I have received from the Hampden County District Attorney's Office (HCDAO) in Mr. Lopez's case concerning SPD officers has been limited to a federal grand jury transcript for Det. Kalish. This federal grand jury hearing was held on June 28, 2018 in the U.S. Courthouse in Springfield, Massachusetts and I received the transcript on May 17, 2019. In this hearing, Det. Kalish is granted immunity,

and proceeds to admit to withholding information in an internal affairs report about officers threatening and using excessive force against two juveniles held in custody.

20. On October 26, 2020, I filed on Mr. Lopez's behalf a motion pursuant to Mass. R. Crim. P. 14 requesting the Court to order the HCDAO to: (1) "make specific inquiries as to all officers involved in this case as to whether they have engaged in" conduct identified in the DOJ Report; (2) "ascertain whether any such officers have awareness of misconduct that they themselves did not participate in so that the Commonwealth can satisfy its obligation to learn of the existence of this information;" and (3) disclose "any information that an adverse finding has been made regarding any such officer's credibility" as outlined by *In the Matter of a Grand Jury Investigation*, 485 Mass. 641, 659-60 (2020).

21. The Court initially allowed the motion on November 18, 2020, but vacated that decision on December 23, 2020, after the HCDAO filed a motion asking the Court to clarify the Commonwealth's obligations. Specifically, the HCDAO asked the court to "define the scope, definition and parameters of the exculpatory information that is to be sought from the investigating officers in the case."

22. It is necessary that I have information about the misconduct of the SPD officers involved in this case so that I may properly discharge my professional and ethical obligations to best advise Mr. Lopez as to his legal options and case strategy. Without an investigation by the Commonwealth into SPD officer misconduct, however, it is not possible to discover this information.

23. On Mr. Lopez's behalf, I filed an "Amended Motion for Exculpatory Information Regarding Relevant Police Witnesses," as well as a supporting memorandum of law, on January 28, 2021. These submissions requested that "the Commonwealth be ordered to disclose any known instance where [officers who are potential witnesses or authored a report in the case

were] found by either the Springfield Police Department or a fact finder in a judicial or administrative proceeding . . . to have made a false report or false statement" in specifically enumerated circumstances. These submissions also requested that the Commonwealth be required to investigate the misconduct identified in the DOJ report, including by "mak[ing] specific inquiries as to all officers involved in [Mr. Lopez's] case as to whether they have engaged in" "[l]ying about the use of force and predicating criminal prosecutions on those lies."

24. The HCDAO opposed the January 28 motion. Among other things, it argued that information residing with the Internal Investigation Unit (IIU) of the Springfield Police Department is not within the possession, custody, or control of the Commonwealth. It also argued that my motion was "no more than a fishing expedition."

25. The Court held a hearing on the Amended Motion on February 9, 2021. During this hearing the Commonwealth stated that it has no obligation to discover and disclose the requested officer misconduct information. Further, the Commonwealth stated that its obligation to turn over misconduct records is limited to the circumstance of when the IIU "through inadvertence" discloses misconduct records to the HCDAO as happened in *Commonwealth v. Eddington* (1979CR00095).

26. Over these objections, the Court allowed the Amended Motion in part and denied it in part. The motion judge allowed the motion insofar as it sought a ruling that the Commonwealth has an obligation to inquire about and disclose records where a finding has been made that an officer, who participated in the investigation or is expected to testify, submitted a false report or statement about any criminal investigation or arrest, about any internal affairs investigation into another officer's or their own conduct, or within reports. The Court also ordered the Commonwealth to make "reasonable inquiry" of the head of the Springfield

Police Department's internal affairs unit as to the existence of certain evidence relevant to the credibility of the officers involved in Mr. Lopez's case. (A. 27).

27. The Court denied the motion insofar as it seeks the production of any records from the police department's internal affair's division.

The HCDAO's Petition under G. L. c. 211, § 3

28. On March 29, 2021, the HCDAO filed a petition under G. L. c. 211, § 3 requesting that the Court overturn the portion of the discovery order requiring their office to make "reasonable inquiry" of the head of the Springfield Police Department's internal affairs unit as to the existence of evidence that would be relevant to the credibility of the officers involved in this case.
29. The HCDAO's petition acknowledges (at p.4) that, on Mr. Lopez's behalf, I have sought "an order requiring the Commonwealth to generally investigate whether exculpatory evidence exist[s] concerning members of the Springfield Police Department's narcotics unit."
30. The HCDAO's petition does not say whether, notwithstanding the DOJ Report, anyone on behalf of the Commonwealth will conduct such an investigation.
31. Mr. Lopez's case remains ongoing. He continues to be held on bail on these charges, and presumed innocent.

Signed under the pains and penalties of perjury on April 2, 2021.

/s/ Katherine Murdock
Katherine Murdock

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF JORGE LOPEZ IN SUPPORT OF PETITION FOR RELIEF PURSUANT TO G. L. c. 211, § 3

I, Jorge Lopez, state as follows:

1. I am a resident of Springfield, Massachusetts.
2. On January 22, 2019, I was arrested and charged with possession with intent to distribute and distribution of a substance alleged to be heroin as well as with various firearm charges. I was indicted on these charges on March 27, 2019. I have pled not guilty to all charges.
3. I have been made aware of the July 2020 investigation report on the Springfield Police Department (SPD) released by the U.S. Department of Justice. I understand that the DOJ found cause to believe that SPD Narcotics Bureau officers engaged in a pattern of misconduct during a period of time that includes when I was arrested in 2019 and that these officers make false reports. It is my understanding that the DOJ report does not identify all of the SPD officers involved in misconduct.
4. Any misconduct by the SPD officers involved in my case, including the Narcotics Bureau officers who are testifying or otherwise providing evidence against me, is relevant to my defense and to their credibility.
5. I would like the opportunity to review, with my attorney, any misconduct evidence that relates to officers involved in my case so that my attorney and I may make an informed decision about how best to proceed with the case against me, including whether to go to trial or plea bargain.

6. My attorney has filed motions with the court in order to try and obtain this officer misconduct evidence. However, it is my understanding that, although I am entitled to this evidence pre-trial, I will likely never obtain it without an investigation and review of the records held by the SPD.
7. I face the risk of going to trial without important evidence that could help my defense.

Signed under the pains and penalties of perjury on March 11, 2021.

/s/ *Jorge Lopez*
Jorge Lopez

Signed with approval by Matthew Horvitz

Matthew Horvitz (BBO #664136)

Certificate of Interpretation

I, Krista Oehlke, hereby certify that I am fluent in the languages of English and Spanish, that the foregoing English declaration was read accurately to declarant in Spanish, and that the declarant confirmed his understanding and agreement with his declaration.

March 11, 2021
Date

/s/ *Krista Oehlke*
Krista Oehlke

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF DAVID P. HOOSE

I, David P. Hoose, state as follows:

1. I am the President of the Hampden County Lawyers for Justice (HCLJ). I have been a member of the Massachusetts Bar since December 1979, and have been in practice since April of 1980 when I began working for the Massachusetts Defenders Committee, the predecessor agency to the Committee for Public Counsel. The majority of my work in the past 40 years has been in the area of criminal defense. HCLJ, which I founded in March 2010, was created to take over the assigned counsel program for Hampden County that had been administered prior to that for many years by the Hampden County Bar Association. HCLJ assigns private counsel in the Hampden County Superior Court; the Juvenile Court for Springfield, Palmer and Holyoke; and the District Courts for Springfield as well as Holyoke, Chicopee, Westfield and Palmer. HCLJ has approximately 150 lawyers who participate in the program. There are approximately 37 lawyers in our program who represent defendants in the Springfield District Court (although this includes some out of county lawyers) and approximately 30 lawyers who represent defendants in the Hampden County Superior Court, located in Springfield.

2. I submit this Affidavit with regard to the need for an investigation regarding misconduct by members of the Springfield Police Department and the necessity for that information to be provided to the lawyers who receive assignments from HCLJ.

3. It is crucial to the work of HCLJ and its panel members that prosecutors fulfill their obligations to defense counsel to provide fair and complete discovery and to be truthful and forthright with defense counsel regarding that discovery. If prosecutors do not fulfill those obligations, then HCLJ panel members cannot know whether they are giving the best possible advice to their clients and in fact are called up to make enormously consequential judgment calls without the needed information.

4. The injury to the organization and its members from the failure to provide this necessary information is palpable. The damage goes to the heart of the service HCLJ provides. We at HCLJ take our mission seriously and pride ourselves on providing the best legal representation possible. It is impossible to provide that representation for many clients in the Hampden County Courts, District and Superior, when our lawyers do not know whether there is significant information regarding the credibility of the police officers who will be the primary witnesses against our clients in those cases.

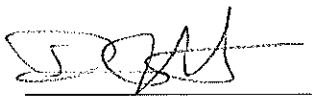
5. All of our panel members have been interviewed and selected for membership by a committee of members of the HCLJ Board of Directors. Once they are accepted, they must attend a two week Zealous Advocacy training program that is put on by CPCS. The Zealous Advocacy program trains our new panel members in all aspects of defending a criminal case, including the obligation to vigorously pursue pretrial discovery.

6. There are real consequences when the District Attorney does not routinely supply exculpatory evidence in the form of material that relates to the credibility of police officers. Without routine disclosure our lawyers must file motions for such materials which consumes time and resources. This is a significant problem for HCLJ as we are constantly trying to keep up with the demands of providing lawyers to the indigent defendants in Hampden County courts. We are

often told by our panel members that they cannot take on new work because of the difficulty of resolving the work that they already have. Upon information and belief this includes the necessity of litigating discovery motions for materials that should be automatically provided. This leads to more court appearances and a greater length of time to resolve cases, which contributes to our difficulties in providing counsel as we are contractually bound to do.

7. It is the overall unwavering goal of HCLJ attorneys to attain the most just result possible for our clients. We rely on the District Attorney to be transparent and forthcoming with regard to witnesses who have impaired credibility to attain that result.

Signed under pains and penalties of perjury this 15 day of March, 2021.



David P. Hoose
President, Hampden County Lawyers for Justice
1145 Main Street
Springfield, MA 01103

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Suffolk, ss. No. SJ-2021-

AFFIDAVIT OF PATRICK NICOLETTI

I, Patrick Nicoletti, hereby swear that the following is true to the best of my knowledge, information, and belief:

1. I am an attorney, duly licensed in the Commonwealth of Massachusetts. The offices for my law firm, Nicoletti & Brown, are located at 1350 Main Street, Suite 1507, Springfield, MA 01103.

2. In 2016, I changed my practice from primarily civil with a focus on landlord-tenant to primarily criminal. About 70 % of my practice is criminal defense.

3. Most of my criminal practice is as a court-appointed Bar Advocate in Hampden County, most often in Springfield.

4. In November of 2017, I was assigned to represent a client who had been charged with carrying an unregistered firearm in violation of G.L. c. 269, section 10(a).

5. After a three-day trial, my client was convicted by a jury in Springfield District Court on February 11, 2020.

6. The charge carries a mandatory minimum sentence of 18 months, which is the sentence that was imposed and that he has been serving since that time.

7. The defense in the case was that my client did not know that there was a gun in the car.

8. The defendant testified to this at his trial.

9. The Commonwealth's case rested on the testimony of two Springfield Police Department officers, Daniel Moynahan and Brian Philips. Both officers claimed that the gun was in plain sight in the car my client was driving.

10. Both officers testified that they did not touch the gun before the photo evidence was taken.

11. The credibility of the officers was a central issue in the case, which was in essence an evaluation of whether the police were telling the truth or whether my client was telling the truth.

12. As of the time of the trial, I had no information or knowledge about those police officers. I had no basis to ask for specific potentially exculpatory information about them, and I received no such discovery from the Hampden County District Attorney's Office ("HCDAO") that in any way reflected on the credibility of the officers.

13. On February 19, 2020, I filed a motion to withdraw from the case and for the appointment of appellate counsel.

14. On or about February 21, 2020, I was browsing masslive.com and read an article reporting that a federal court jury had found Officer Moynahan responsible for false arrest and false imprisonment. The jury reportedly awarded $45,000.

15. Until then, I had no knowledge about that case or any claim against Officer Moynahan.

16. I alerted the Appeals Unit of the Committee for Public Counsel Services (CPCS) to this information so that it could be passed on to my client's appellate counsel.

17. Months after the trial, in or near October 2020, HCDAO sent me a disk that had the federal court jury slip and complaint in the Moynahan case.

18. On or about March 1, 2021 I received the same information again from the HCDAO as well as the docket and discovery in the criminal case which initiated the civil lawsuit.

19. The case in which Officer Moynahan was found responsible was *Bradley v. Cicero*, No. 3:18-CV-30039-MGM (D. Mass.).

20. Based on my review of the docket in the federal case, it is my understanding that the complaint was filed on March 15, 2018, and that Officer Moynahan's deposition was taken in the discovery phase of the case at some point during 2019.

21. While he was a defendant in the civil case that was being litigated against him, Officer Moynahan was a member of the prosecution team in the criminal case against my client.

22. However, during the criminal case, the HCDAO did not inform me that a civil case was filed against Officer Moynahan in 2018, or that Officer Moynahan's deposition had been taken.

23. At no point prior to or during my client's trial did Officer Moynahan, the Springfield Police Department, or the City of Springfield Law Department inform me that Officer Moynahan was the defendant in the federal case.

24. It is my belief that disclosure of this information would have had a substantial impact on our case if it had been timely disclosed to me. But I learned of this information far too late to use it in the defense of my client.

25. The deprivation of this information is particularly disturbing in this case when credibility was so central to the fact-finding process and the determination of guilt or innocence. There was no video.

26. Now that I am aware that the HCDAO will not voluntarily seek out or turn over exculpatory information about their police officer-witnesses, I necessarily have to begin to try to undertake investigations by myself in many cases. This involves seeking discovery from the City or the SPD, which is typically met with great resistance from the City of Springfield Law Department in their defense of Rule 17 discovery motions.

27. The lack of information about police officer-witnesses in this case is consistent with the practice of the HCDAO, which in my experience provides exculpatory information regarding the veracity of police officer-witnesses only after there has been widespread publicity about a given officer that publicly impugns the officer.

28. On information and belief, appellate counsel for my now-former client has filed and argued a Motion for a New Trial pursuant to Rule 30 of the Massachusetts Rules of Criminal Procedure. That Motion has been argued and is under advisement.

29. My former client will have served most or all of his sentence by the time the Rule 30 motion is decided.

Signed under the pains and penalties of perjury this 2nd day of April, 2021.

Patrick Nicoletti

In the Matter of:

Commonwealth of Massachusetts vs

Jorge Lopez

Hearing

February 10, 2021

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COMMONWEALTH OF MASSACHUSETTS

Hampden, ss. Springfield District Court
Department
Of the Trial Court
Civil Action No. 1979CR0143

****
COMMONWEALTH OF MASSACHUSETTS, *
Plaintiff *
*
v. *
*
JORGE LOPEZ, *
Defendant *
****

HEARING HELD ON FEBRUARY 10, 2021
BEFORE THE HONORABLE JUDGE EDWARD McDONOUGH

APPEARANCES:

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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

THE CLERK: In the matter of Jorge Lopez, docket 19-143. It's the motion hearing before Your Honor. Attorneys Bourbeau and Murdock for the record, Your Honor. Mr. Lopez is present before the Court via Zoom. In addition, he'll be assisted by the services of the Spanish interpreter who's also present, Your Honor.

Counsel, if you could please identify yourselves for Judge McDonough and the record, starting with the Commonwealth, please.

MR. BOURBEAU: Good morning, Your Honor, Christopher Bourbeau for the Commonwealth.

THE COURT: Good morning.

MS. MURDOCK: Good morning, Your Honor. Kate Murdock on behalf of Mr. Lopez.

THE COURT: Good morning. Madam Interpreter?

INTERPRETER: Yes, good morning. I have not been sworn in this morning.

MADAME INTERPRETER, SWORN.

THE COURT: Thank you.

INTERPRETER: If you may allow the interpreter to interpret for Mr. Jorge Lopez.

THE COURT: All right. Good morning, Counsel. I believe we're here on the issue of the defendant's renewed motion (indiscernible) exculpatory information regarding relevant police witnesses.

REMAINDER OF TESTIMONY/RESPONSES BY MR. LOPEZ THROUGH INTERPRETER:

THE COURT: All right. And you allowed that I allowed the Commonwealth's motion for reconsideration, and directed the defense Counsel to file any affidavit that would be relevant, which has been done. I have your affidavit, Ms. Murdock, and I have looked it over. I also have received the Commonwealth's memorandum in opposition.

And Ms. Murdock, I just want to make something clear in my own mind. The officers that you identified, are you representing to me that all these officers were involved in this investigation?

MS. MURDOCK: Yes, Your Honor, I am.

THE COURT: All right. All right. I'll hear from you.

Actually, Ms. Murdock, can I interrupt you? I just first want to get clarity from Ms. Bourbeau -- Mr. Bourbeau. Are these officers all witnesses in this case?

MR. BOURBEAU: They are, Your Honor. Some of them in a rather peripheral fashion. But each of the officers' names did have some presence during the course of the investigation or the arrest, Your Honor.

THE COURT: All right. Thanks.

So, I'll hear from you, Ms. Murdock, but I'm going to start with a question.

Do you have any information that any of these officers did anything improper or untoward or unethical as part of this -- as part of your motion?

MS. MURDOCK: Your Honor, I would turn your attention towards Appendix A, which is attached to my memorandum which has both allegations that were raised through the IIU, although I don't have further details about them. As well as civil lawsuits that have been brought forth against -- at least some, if not all, of the officers in this case. And those are firm examples.

Further, Your Honor, my --

THE COURT: Well, what I -- what I was curious about is do you claim that any particular -- whether they be police reports or statements by the investigating officers were false or perjured or falsified?

MS. MURDOCK: Your Honor -- I'm going to let the Spanish interpreter catch up.

Your Honor, the credibility of the officers in this case is very much at issue.

In the winter of last year, I litigated a motion to suppress in which the credibility of Detective Kalish, in particular, was such an issue that the Judge

in fact, went to the scene to take a view. That would be an issue that would continue in this case toward trial, and whether or not the actions of the officer were in fact what they said they were. But I certainly am challenging their credibility. This is not a case where the officers are somewhat incidental to the case itself.

THE COURT: All right. Let me ask you this then. And I read the Commonwealth's opposition, and I'll hear from the Commonwealth, but I want to start with a question.

What do you say about his authorities that basically say you're knocking on the wrong door here, you've got to get these materials from the police department under Rule 17. And that the Comm -- the DA does not have these records. And that -- let me leave it at that.

MS. MURDOCK: Your Honor, with all due respect, the Commonwealth did not read my motion particularly carefully. My motion does not request that the District Attorney get IIU records from the -- from the police department. My motion requests that if they have IIU records or any other documents in their -- in their presence, then they must turn them over if they're already in their possession. And, that they have

furthermore, a duty to inquire -- that they have a duty to inquire about whether there's been any false statements or false reports, and inquire about the issues that I have raised in Appendix A. This is not new case law; it's not even Massachusetts case law. This is pretty basic case law under Kyles v. Whitley, where the Commonwealth's duty to learn of any favorable evidence known to others that are acting on the government's behalf, is evidence that they need to inquire of, and provide to the defense. That's not documentation; that's simply an inquiry that they then need to provide. And this makes sense, how can you know what you're -- what you're supposed to be requesting under a Rule 17 if you've been provided no information under Kyles v. Whitley about what sorts of information may be out there.

THE COURT: Forgive me, but is this a Rule 17 motion that we're hearing right now?

INTERPRETER: I'm sorry, the interpreter cannot --

THE COURT: I'm sorry. I apologize. Madam Interpreter, go ahead.

INTERPRETER: Thank you.

THE COURT: Let me just say I have -- your motion was under Rule 14, correct?

MS. MURDOCK: Yes, Your Honor, that's correct.

THE COURT: Mr. Bourbeau --

MR. BOURBEAU: Thank you.

MS. MURDOCK: Your Honor -- I'm sorry. May I be -- may I be heard? I haven't actually made my argument.

THE COURT: All right. Go ahead.

MS. MURDOCK: Your Honor, in addition to really narrowing this inquiry about documents that are in their possession, which is very clearly under Rule 14 and a duty to inquire, which is very clearly under the Grady, Kyles v. Whitley, Giglio case law, I'm also very concerned by the -- the questions that are raised in the District Attorney's memorandum of law that find my inquiry to be some kind of fishing expedition, or some kind of digging about things that don't exist. And I'm just going to pause for the Spanish interpreter.

Not only do these officers have extensive IIU histories and federal lawsuits as detailed in Appendix A, they also comprise at least a third, and maybe up to a half, of the units that was identified in the Department of Justice report as a rogue unit that lied on police reports and repeatedly told half truths and false truths about their actions.

This isn't -- the Department of Justice report was the only report in the entire country that was investigation ongoing of any police department.

So, when the matter of jury came out just two or three weeks after the report, it's hard to imagine that the Supreme Judicial Court wasn't looking east -- or looking west towards Springfield saying you, District Attorney's office, you have a duty to inquire about what's going on here. So I do -- I find it very disconcerting that the District Attorney's office continues to put their head in the sand, when at some point, the Department of Justice is still going to continue to investigate, and at some point, these convictions are going to be in question. And I just don't think that they want to end up on the wrong side of history. And I do think in a case like this which is squarely a narcotics case, it is squarely about the credibility of the officers, the bare minimum that they can do is make inquiry about what kinds of things might be going on that would be relevant to provide to the defense. Thank you, Your Honor.

THE COURT: Mr. Bourbeau?

MR. BOURBEAU: Thank you, Your Honor. Your Honor, I know that you've received a copy of the Commonwealth's memorandum. I think, Your Honor, and I suspect that the Court will review that memorandum and review the cases that are referenced therein.

I think the state of the case law, Your Honor, is

pretty compelling in this instance, and I'll pause for a moment to give the interpreter a chance to catch up.

Your Honor, as you review the case law, you're going to see that the Supreme Judicial Court has made it rather clear what defense counsel must do in these type of cases. Certainly you'll see nobody suggest that defense counsel can't make inquiry, can't try to garner information that they feel is going to be topical and perhaps useful. But the bottom line is, they have to follow the right procedure, and Your Honor, they have to inquire of the right parties.

And Your Honor, it would seem that the next logical step under the case law and just applying a bit of practicality here, would be for defense counsel to file a Rule 17 motion with the City of Springfield. That motion can be as narrow or as broad as defense counsel thinks could be justified. And those issues will ultimately be resolved between the record holder, and counsel for the defendant, if the defendant can make the appropriate showing.

I suspect, Your Honor, although I don't know, that if defense counsel is successful in garnering those records, then defense counsel can review those records, can make conclusions about what, if anything, the records contain, and can take further action from there.

But that's just the logical first step that needs to happen in this case. And I think that the case law makes that very clear.

And Your Honor, regarding the Appendix A that counsel for the defendant attached to their motion, again, as you look at that appendices, you're going to see plainly, everything is predicated by the word "allegation."

Above and beyond that, Your Honor, some of these items are things referring to misuse of sick time and things of that nature. It's an incredibly broad spectrum. There's simply not been a showing of relevancy. And to be honest with you, Your Honor, I think this kind of goes back to the same point, that defense counsel in some ways is putting the cart before the horse, and would really be better benefitted by doing their due diligence by seeking a Rule 17 motion, if that motion is allowed, reviewing whatever materials are provided in response. And then perhaps, working from there if they deduce, Your Honor, something they feel is relevant and material to work from there. But that's simply not the place we're at yet. And I would suggest, Your Honor, the frankly scattered on approach is -- is not the way to go about this.

So again, Your Honor, I would respectfully request

that this motion be denied. I think the case law is very clear. It leaves an open door, Your Honor, for defense counsel to use what I would suggest had been defined as the appropriate vehicles and go from there.

MS. MURDOCK: Your Honor, may I ask a clarifying question?

THE COURT: One moment -- one moment. I have a couple of questions, Ms. Murdock of Mr. Bourbeau. I'll be right with you.

Mr. Bourbeau, on page five of your memorandum in opposition, that's entitled that the defendant has made no showing of relevancy or materiality.

MR. BOURBEAU: Yes, Your Honor.

THE COURT: Madam Interpreter?

On that same paper, Mr. Bourbeau you state in the second paragraph quote "No rationale as to the relevancy or materiality of these items is offered." What I want is give -- give me an example of what -- hypothetically, what would be a relevancy shown that would get over that hump? What are you talking about? What -- what would you need to see?

MR. BOURBEAU: Sure, Your Honor. And again --

THE COURT: Madam Interpreter --

MR. BOURBEAU: So, Your Honor, the difficulty for me to respond to that is, again, the vaguery involved in

some of these allegations -- and they are just that, allegations. But in terms of what type of showing I would suggest would meet a threshold of materiality, I would suggest for example, Your Honor, if defense counsel were to conceptually seek Rule 17 records, Your Honor, they might come up with, for example, a witness who describes a car being relevant to the case as being blue in color, whereas the police officer recalls the cars being grey in color -- inconsistencies such as that.

But having said that, Your Honor, again, we're not in the place to really ascertain that with the information that's put forward.

THE COURT: Secondly, Mr. Bourbeau, on -- in that same paragraph, you state quote "These items as discussed above are not in the custody or control of the District Attorney's office and are appropriately sought by a Rule 17 motion."

Are you -- I want to make sure I'm not misreading that. Are you representing that the items being sought by this motion in fact are not in the custody or control of the District Attorney's office?

MR. BOURBEAU: So, Your Honor, that's a particular reference to, again, the defendant seeking in the sentence before quote "Reports, interviews, or other

documents relating to any internal investigation or disciplinary review." Again, that goes back to, you know, essentially internal investigation records not being in the control of the Commonwealth in this instance, Your Honor.

THE COURT: Let me turn it around. Are there any items or materials that are sought that you know are in the care, custody, and control of the District Attorney's office?

MR. BOURBEAU: No, Your Honor.

THE COURT: All right. Ms. Murdock, I'll hear again from you.

MS. MURDOCK: Your Honor, it's actually building off the question that you just asked, which is I understand that ADA Bourbeau is indicating that in this file for Mr. Lopez, there's no IIU records or anything like that. But I'm wondering if he's inquired of all of his colleagues to be able to affirm that in fact, the entire District Attorney's office has none of this information. And I say that because in a case I just litigated last week, the judge ordered under Rule 14, that in fact, the DA did have IIU records in their file and was required to turn them over. So, I wanted to make sure that that was an inquiry that was made more broadly of the office, and not simply in this file of

Mr. Lopez's.

THE COURT: Ms. Murdock, I'm happy to consider it as persuasive authority, although not binding any other judge's order.

Do you want to direct me to what order you're talking about?

MS. MURDOCK: Yes, Your Honor. The case is Commonwealth v. Gerald Eddington. The order was issued -- I'm sorry, the Indictment number is 1979CR0095.

THE COURT: All right.

MS. MURDOCK: And the order was issued by Judge Ferrara on January 20, 2021.

THE COURT: E-d-d-i--g-t-o--n?

MS. MURDOCK: That's correct.

THE COURT: All right. Thank you. I'm happy to look at that. Forgive me. Madam Interpreter, go ahead.

Was that a written decision or a margin order?

MS. MURDOCK: Your Honor, it was a written decision. I can provide it to Your Honor if you would like.

THE COURT: All right. And obviously, you'll give Mr. Bourbeau a copy. Thank you.

MR. BOURBEAU: Your Honor --

THE COURT: All right.

MR. BOURBEAU: And Your Honor, just briefly if I

could?

THE COURT: You could. Yeah, you can. Go ahead.

MR. BOURBEAU: Thank you. Two things. I believe Your Honor, that that matter was a situation where through inadvertence, Internal Affairs records were, you know, in error delivered to this office and that was made clear.

More practically, Your Honor, and this is to address more toward Mr. Dolaher (phonetic), I have a matter that's supposed to be pending right now at 10:15 in Judge Callan's session. So I'm wondering if you might text your colleague in Judge Callan's session, and just kindly advise him that I'm engaged here. Thank you.

THE COURT: All right. Anything further, Mr. Bourbeau?

MR. BOURBEAU: No, Your Honor. Thank you.

THE COURT: All right. All right, I've heard from both of you. Thank you very much. Your arguments are helpful. And you'll send me that decision, Ms. Murdock to the clerk please, Mr. Dolaher?

MS. MURDOCK: Yes, Your Honor.

THE COURT: All right. Thank you. It's under advisement.

All right. Before we let you go, where is the

case? Can we schedule another event?

MR. BOURBEAU: I have a status, Your Honor, scheduled for February 22nd, and a pretrial of March 2nd, and trial date of March 9th as of now.

THE COURT: All right. Thank you all.

MR. BOURBEAU: Thank you, Your Honor.

THE COURT: Thank you, Counsel.

You're all set, Mr. Lopez. Thank you.

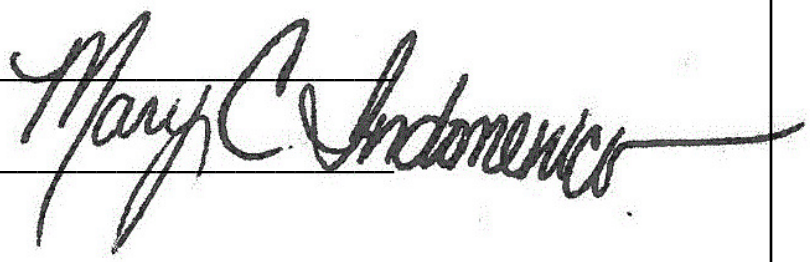
(Court recessed.)

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I, MARY INDOMENICO, FURTHER CERTIFY THAT THE FOREGOING IS IN COMPLIANCE WITH THE ADMINISTRATIVE OFFICE OF THE TRIAL COURT DIRECTIVE ON TRANSCRIPT FORMAT.

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March 5, 2021

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Assessment of the Springfield, Massachusetts Police Department

Executive Summary



April 2019

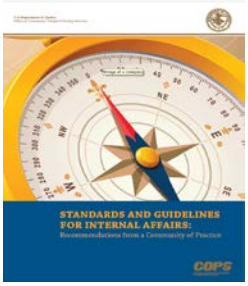
Executive Summary

In April 2018, the city of Springfield contracted with the Police Executive Research Forum (PERF) to conduct a review of the Springfield Police Department's internal investigations processes and several related matters. This review includes the following components:

1. **A review of SPD's Internal Investigations Unit**. Specifically, PERF was asked to compare SPD's standards and practices to a set of national guidelines produced by the U.S. Department of Justice in 2008.[1]
2. **A review of Springfield's Community Police Hearing Board.** This board was created in 2010 in order to increase community input in the Police Department's handling of complaints against officers.
3. **Recommendations for computer software systems to manage Internal Affairs and Early Intervention System cases.** In addition to improving the handling of citizen complaints, automated data collection is essential to development of an Early Intervention System (EIS). Many police departments nationwide have created an EIS, which monitors indicators of potential problems with officers' behavior, such as multiple traffic accidents, excessive use of sick leave, community complaints, etc. The purpose of an EIS is to provide early detection of relatively minor issues with an officer's performance, so supervisors can determine whether there is a need for counseling or retraining of the officer, in order to prevent minor issues from escalating to the level of significant misconduct.
4. **Other findings and recommendations.**

This report presents PERF's findings and recommendations resulting from the study, summarized below:

1. Review of SPD's Internal Investigations Unit



Note: *For this component of PERF's study, PERF was asked to compare SPD's internal affairs standards and practices to national standards.* [2] PERF was not tasked with reviewing case files of internal affairs investigations; rather, PERF was asked to compare SPD's internal affairs policies and practices with a set of model guidelines that were developed by the U.S. Department of Justice, in order to determine whether SPD policies and practices are consistent with national best practices. *The*

[1] "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice." DOJ Office of Community Oriented Policing Services. http://ric-zai-inc.com/Publications/cops-p164-pub.pdf.
[2] Ibid.

numerical references and headings in this report, such as "1.0 Intake" below, refer to the COPS Office recommendations.

This Executive Summary highlights some of the most significant issues and COPS Office guidelines. A more complete analysis is contained in the text of this report.

1.0 Intake

1.1 What a complaint is and who may file one

This COPS guideline states that "every complaint from the public [must] be received and evaluated," adding that "Because complaints can literally be anything from irrational statements to clear reports of criminal corruption, intelligent evaluation of each complaint at intake is crucial."

Findings: In accordance with the COPS guidelines, SPD requires that every complaint from the public be accepted and evaluated. However, PERF's review revealed that SPD does not currently have an agency-wide *policy* governing how complaints are received and investigated.

- **Recommendation:** SPD should create a department-wide policy outlining the process for receiving and investigating complaints, from intake to final disposition. The policy should clearly define the roles and responsibilities of various members of the agency when handling a complaint, including how to receive and process a complaint, who is responsible for investigating the complaint, and the process by which various types of complaints are investigated and adjudicated.

1.2 How a complaint can be transmitted and what forms it can take

This COPS guideline provides that complaints should be accepted orally, in writing, or other means "without unnecessary burden," and states that "the public has a reasonable expectation that an agency presented with a complaint will act in good faith to accept it."

Findings: SPD's process by which a complaint of officer misconduct can be generated is fairly comprehensive. However, these practices are not currently reflected in policy.

- **Recommendation:** SPD should list the various methods by which a complaint can be generated in the Complaint Reception and Investigation policy described in section 1.1 above.

1.4 Availability of complaint forms or other means of filing complaints

The guideline calls on agencies to accept complaints in a variety of formats, such as online or at police facilities, and provides that police "should accommodate all languages spoken by a substantial proportion of residents of the region."

Findings: Consistent with COPS guidelines, complaint forms are readily accessible at all SPD facilities. These instructions are also available on SPD's website, and are provided in both English and Spanish.

- **Recommendation:** SPD should create an electronic version of the complaint form that can be completed and submitted online via the department website.
- **Recommendation:** In addition to providing instructions on the agency website, SPD should also ensure there is signage in both English and Spanish at each patrol station informing community members of how to file a complaint.

1.5 Dissuading complainants

This COPS guideline states that a complaint process "should not discourage, dishearten, or intimidate complainants or give them cause for fear."

Findings: PERF interviews of Springfield police personnel found that first-line supervisors and mid-level managers at SPD could benefit from additional training with regard to accepting complaints.

- **Recommendation:** SPD's Complaint Reception and Investigation policy should specify that agency personnel should not discourage individuals from filing a complaint. The policy should also state that employees who in bad faith attempt to dissuade a complainant from filing a complaint will be subject to discipline.
- **Recommendation:** SPD's Internal Investigations Unit should develop training on the importance of appropriately receiving and documenting complaints.

1.6 Tracking complaints

This guideline states that "every complaint should be tracked through final disposition."

Findings: SPD's current system to document and track complaints consists of a Microsoft Access database maintained by the IIU. SPD is not currently using any software specific to Internal Affairs.

- **Recommendation:** SPD should adopt a case management system designed to track complaints and investigations against personnel, and to provide the agency with automated alerts regarding officers who may be in need of counseling, coaching, or training. An Early Intervention System (EIS) case management software system will allow complaints to be documented by patrol supervisors and tracked throughout the investigation process. Section III of this report (p. 53-65) provides information on developing and implementing an EIS.

1.7 Complaint acknowledgments

This COPS guideline provides that complainants should receive a written acknowledgment of their complaint, with a reference number, a synopsis of the complaint, and the identity and contact information for the investigator or other responsible person.

Findings: Currently, SPD IIU investigators send a confirmation letter to complainants and follow up via phone to acknowledge a complaint. However, PERF learned that community members have sometimes expressed frustration over not being regularly updated about the status of their complaints.

- **Recommendation:** SPD should adopt protocols to provide regular notifications to complainants with updates on the investigation.

1.8 Auditing complaint intake

This guideline states that police agencies "should conduct regular audits to verify that complaints are being taken properly and to ensure that all employees are adhering to agency rules and standards."

Findings: There is currently no mechanism at SPD to conduct regular audits to verify that complaints are being properly handled.

- **Recommendation:** SPD should establish an inspections unit that would be responsible for conducting routine checks of the complaint investigative process. This unit could also be utilized

by the Commissioner to inspect or audit all aspects of the agency. See page 71-72 for recommendations on creating a staff inspections component.

2.0 Classification of Complaints

2.4 Holding administrative complaints in abeyance during criminal proceedings

This guideline states that every police agency "should create a protocol for determining how to proceed with an administrative complaint while a criminal case based on the same facts is pending." Administrative hearings are often held in abeyance in order to avoid interference with a criminal investigation. However, the COPS guidelines notes that "the time delay has a negative impact on the memory and availability of witnesses" for the administrative investigation. "Moreover, a lengthy delay undermines public trust."

Findings: SPD currently has protocols in place to hold administrative investigations in abeyance until the criminal proceedings are complete. This is a good practice and ensures that compelled statements from the administrative investigation do not taint the criminal investigation.

However, waiting for the completion of a criminal investigation can unnecessarily delay the department in discharging an employee in cases where an administrative investigation would likely result in termination. In these cases, SPD should attempt to move the administrative investigation forward even while the criminal investigation is pending.

- **Recommendation:** In cases where a violation is so egregious that it would likely result in termination of the officer, SPD should consider moving forward with the administrative investigation immediately, even while the criminal investigation is in progress.

3.0 Investigation

3.1 "Complete investigation" defined

This COPS guideline details the differences between a preliminary investigation, which determines whether a complaint should be investigated further, and a complete investigation, which "includes all relevant information required to achieve the purpose of the inquiry."

Findings: SPD is in compliance with this guideline. SPD fully understands the requirements of a thorough internal affairs investigation, and any decision not to proceed with a complete investigation is made by the Internal Investigations Unit Lieutenant or another senior department leader.

- **Recommendation:** If a complaint is vague or there is not enough information for a thorough investigation, SPD should conduct an "Administrative Inquiry" to determine whether the case can be investigated as either a Preliminary Investigation of Employee (PIE) for less serious allegations or a Special Order (SO) for more serious complaints. If the Commissioner finds that there is not enough information about the complaint, the case can be referred back to the IIU for follow-up. If it is determined from the administrative inquiry that the case does not need to be investigated further, the case can be closed. However, the results of the administrative inquiry should still be documented in the IIU case management system.

3.5 Cases Internal affairs should relegate

This guideline provides that less serious allegations of misconduct can be investigated at the unit level rather than by an Internal Affairs bureau.

Findings: In the Springfield Police Department, less serious allegations of misconduct are typically classified as a Preliminary Investigation of Employee (PIE) and are investigated by the accused officer's chain of command. This practice is generally consistent with the COPS Office guideline. However, there appeared to be little understanding by supervisors about how to handle a PIE investigation, because there is no standard protocol or consistent training to investigate these complaints.

- **Recommendation:** SPD should develop clear procedures for the investigation of PIEs and should provide training to all officers at the sergeant level and above who handle these investigations. These procedures should also be documented in policy.
- **Recommendation:** Although not all complaints are formally investigated by the IIU, the IIU Lieutenant should be aware of and should provide some oversight of all citizen complaints and internal complaints handled by SPD. Investigations that are designated as PIEs should be reviewed and tracked by the IIU lieutenant to ensure they are being properly handled.

3.8 Electronic recordings of interviews

This COPS Office guideline states that electronic recording of statements by accused employees and witnesses "is the best way to avoid interpretive errors in recounting statements."

Findings: SPD does not currently use any type of audio or electronic recording for its interviews.

- **Recommendation:** SPD should audio-record all administrative interviews with accused and witness officers. If the complaint moves to a formal hearing, the agency can transcribe the interview so the officer's testimony will be available in written form. Investigators should also audio-record interviews of other witnesses if practicable. If interviews are recorded and transcribed, there will be no need for the accused officer to write a departmental report, as the interview notes and transcript can serve as the officer's statement.
    - **Note:** In discussions with SPD regarding this recommendation, staff members expressed a potential concern about whether audio-recording during the interview process would be impacted by Massachusetts' two-party consent laws. However, if SPD policy states that administrative interviews are to be audio-recorded, any refusal by an officer to conduct the interview would be a violation of departmental policy, given that officers are compelled to provide a statement during an administrative investigation. SPD should inform officers that they will be required to participate in an audio-recorded interview, and that they could face additional administrative charges if they refuse to participate. The Massachusetts State Police currently audio-records internal affairs interviews, and SPD can consider contacting Massachusetts State Police Internal Affairs for additional insight on audio-recording interviews.
- **Recommendation:** After reviewing a case and conducting enough of an investigation to interview the accused officer, IIU investigators should send a letter notifying the accused officer of the allegations. The letter should set a time and place for the interview, advise the officer about who they may have present with them for the interview, inform the officer that the interview will be audio-recorded, and outline any other applicable protocols.

3.9 Standards of investigative report quality

This COPS guidelines states that "the documentation of investigations must be thorough, complete, and as comprehensive as reasonably necessary. Using standardized forms or formats helps in quality control…."

Findings: Based on PERF's observations, the reports generated by SPD's IIU investigators appear to be in compliance with the COPS guideline. SPD's IIU uses a standardized format to document Special Order investigations. However, PIE investigative files may not consistently follow that format.

- **Recommendation:** All investigative reports, including those for investigations conducted in the field as PIEs, should be reviewed by the IIU lieutenant to ensure consistency and thoroughness.
- **Recommendation:** The IIU should develop a checklist outlining the components of a high-quality internal affairs report. The checklist should be utilized by sergeants or other supervisors who are conducting PIE investigations.

3.11 Agencies should consider using Compliance Audits

This guideline recommends compliance audits, which are "live tests to determine whether policies are being followed. For example, a Compliance Audit of an agency's policy to document all complaints could be done by having someone call in a complaint, and later see if the complaint was documented."

Findings: SPD does not currently conduct compliance audits of its complaint system.

- **Recommendation:** As discussed in section 1.8, SPD could consider establishing a staff inspections unit that would be responsible for handling audits. In addition to these compliance audits, the unit could conduct quality assurance inspections of all aspects of the agency. See Section IV, p. 71-72 for specific recommendations on establishing a staff inspections unit.

3.12 Response to, and review of, lethal-force investigations

This COPS Office guideline calls for an immediate response to the scene and investigation of all officer-involved shootings, in-custody deaths, and serious uses of force (as defined by the agency). An administrative review, regardless of whether there is any complaint, can help an agency identify changes in policy, procedures, training, or equipment that could improve the agency's response to similar incidents in the future.

Findings: SPD responds to the scene of any critical incident and initiates an investigation by the appropriate unit. Any officer-involved shooting or in-custody death is investigated by both the IIU and the Major Crimes Bureau. The IIU identifies any tactical issues in its report, and it is up to the officer's chain of command to acknowledge and address these issues.

While SPD is following good practices for providing immediate investigative review of critical incidents, SPD does not currently utilize a review board to critically analyze use-of-force incidents.

- **Recommendation:** PERF recommends conducting a formal review of all officer-involved shootings, in-custody deaths, hospitalizations of prisoners, and serious use-of-force incidents (electronic control weapon, baton, OC spray), by establishing a performance review board. The formal review of these incidents, conducted as a matter of course, will provide valuable opportunities to identify lessons for training, gaps in tactics, any need for additional equipment to be provided to officers, or any need for policy changes, regardless of whether the incident involved any misconduct.

(Such review boards function similarly to how the National Transportation Safety Board thoroughly investigates every civil aviation accident in order to identify any changes in practices that could help to prevent future accidents.)

3.13 Lethal-force investigations: interviews and evidence

This COPS Office guidelines states that "the process of investigating an agency member's use of lethal force requires an extraordinary degree of attention to capturing and recording the statements of each participant and witness independently, accurately, and as soon as conditions allow."

Findings: SPD personnel advised PERF that it is current practice to separate witness officers after a lethal-force incident and to prevent them from discussing the incident until conclusion of the investigation. However, this practice is not formalized in policy.

- **Recommendation:** After a lethal-force incident, investigators must ensure that witness officers are separated as soon as possible, and members of SPD should be ordered not to discuss the incident until after all interviews have been concluded. This requirement should be stated in SPD policy.

4.0 Mediation, Adjudication, and Disposition

4.1 The four basic resolution categories

This COPS Office guideline provides that "the findings in completed investigations should result in one of four resolutions: 1. sustained or founded; 2. not sustained or not resolved or unresolved; 3. exonerated; or 4. unfounded."

Findings: SPD utilizes the four resolution categories outlined in the COPS guidelines, and IIU investigators have a good understanding of the various dispositions. However, it appears that SPD's Community Police Hearing Board (CPHB) does not have the same understanding or has not historically used the same terms and categories. Due to a lack of familiarity with these terms, there may also be confusion in areas of SPD other than the IIU about the consistent use of these resolution categories.

- **Recommendation:** These four dispositions and their proper usage should be clearly defined in policy to ensure that everyone in the department, as well as the CPHB, thoroughly understands them. SPD should institute training for all supervisors to ensure there is consistency with regard to how to close a case and how to determine findings based on these four categories. The CPHB should also receive training on these terms and their appropriate usage.

4.3 Proposed reporting relationship of the head of Internal Affairs

This COPS Office guideline states that "the head of Internal Affairs should preferably report directly to the agency head."

Findings: SPD's IIU is currently comprised of three sergeants and one lieutenant. The lieutenant reports to a captain, who in turn reports directly to the Commissioner. There is no deputy chief in the command chain, and no one in IIU has a direct line of access to the Commissioner.

- **Recommendation**: SPD should establish a direct line of communication from the IIU Lieutenant to the Commissioner, and communication should occur on a regular basis. This would provide consistency in how these cases are handled, without the need for an additional level of review.

4.4 Standards for adjudication

This COPS standard provides detailed guidance on minimum standards for adjudicating disciplinary cases, including the following:

1. The burden of proof is on the agency.
2. The standard of proof is a preponderance of the evidence.
3. The standards of evidence are those of administrative law, not criminal law.
4. No presumptions of truth are made regarding facts in dispute.
5. No presumptions are made regarding witness credibility: all persons are equally credible unless an objective, fact-based evaluation of the witness's capacities, testimonial coherence, and other relevant and demonstrable factors justify otherwise.
6. Conclusions are logically deduced from the evidence.

Findings: SPD personnel told PERF that due to a lack of consistent and clear agency policy, adjudication decisions can sometimes be a challenge at SPD. The agency currently has various policies and memos that set forth administrative rules, but officers have no clear rules governing their conduct. In addition, PERF learned that when an accused officer's chain of command receives the investigative file to make a preliminary finding, there are currently no specific charges or policy violations listed, making it difficult to make decisions regarding adjudication.

- **Recommendation**: SPD should review and develop a revised set of policies and procedures for officer conduct and establish a dedicated in-service training program to explain the policies and procedures.[3] The agency should train all personnel in the captain rank and above who are responsible for recommending adjudication of these cases, to ensure there is a clear and consistent understanding of how to make these decisions.
- **Recommendation:** SPD should revamp its process so that when the investigative file is sent to the accused officer's command chain for review, the file describes the potential departmental violations and provides clear definitions of the various disposition categories (sustained, not sustained, unfounded, and exonerated). The applicable charges and violations should be included in a cover memo with the investigative file to assist reviewers with determining the disposition.
    - **SPD Action Taken:** SPD is already in the process of updating this cover memo to ensure that it contains applicable charges and policy violations. This will allow each reviewer (captain, deputy chief, and hearing board) to document their preliminary finding so that the Police Commissioner can review their input on each charge when making a determination regarding case disposition.
- **Recommendation:** The IIU Lieutenant should provide commanding officers with training on what departmental charges would apply in various situations, and an understanding of the potential findings of an investigation.

4.5 Penalty assessment and the use of a penalty matrix

This COPS Office guideline recommends the use of a "penalty matrix" that lists penalties or ranges of discipline for various types of misconduct. A matrix can help ensure that discipline is fair, consistent,

[3] PERF is currently working with SPD to review its policies and procedures to ensure certification with the Massachusetts Police Accreditation Committee (MPAC). As part of this project, PERF will identify other state police practices for SPD to use as a guide when developing policy.

and predictable. The guideline provides that a matrix "should not be applied inflexibly," and the discipline should be based on the totality of the circumstances, including aggravating and mitigating factors.

Findings: In the SPD, the IIU currently provides historical information to the Commissioner regarding prior penalties for specific types of offenses in a given case, and these are considered when determining discipline. SPD is currently examining the use of a matrix system to ensure that disciplinary action is consistent with prior practices.

- **Recommendation**: SPD should develop a matrix system to ensure that disciplinary action is fair and consistent. See Appendices A and B for samples of matrix systems used in Madison, WI, and Austin, TX, Police Departments.

4.6 The advantages of mediation and the conditions of its use

The COPS guideline states that "voluntary mediation conducted by a neutral facilitator, in lieu of investigation and adjudication, permits resolution of minor complaints that are usually not easily resolved through investigation."

Findings: SPD does not currently have a mediation program in place.

- **Recommendation**: SPD should adopt a mediation process to resolve minor complaints and strengthen police-community relations. To be effective, mediation should only be an alternative for less serious complaints, and officers should be limited in the number of complaints eligible for mediation over a specific period. Mediation sessions must be led by a formally trained mediator.[4]

4.9 Keeping investigations confidential

This guideline states that "Internal affairs investigations should be closed to the officer and the public [while they are pending]. Nonetheless, the agency head should be fully informed of the progress of internal investigations and should regularly communicate the status of an investigation to the press and general public to the full extent permitted by law."

Findings: SPD personnel advised PERF that the department currently has no confidentiality requirement for internal affairs investigations. It is important that investigations be kept confidential in order to preserve the rights of the accused officer during the course of an internal affairs investigation.

- **Recommendation**: Witnesses and witness officers interviewed in an internal affairs investigation should be informed that the investigation is confidential in nature, and that they must not discuss the content of the investigation or interview with others.
- **Recommendation**: SPD should institute clear policy and protocols governing confidentiality of internal affairs investigations. The agency should cite this policy during interviews and inform officers that if they do not maintain confidentiality, they may be charged with a departmental violation.

[4] Jack McDevitt and Amy Farrell (2007), *Enhancing Community Review of the Springfield Police Department*

4.10 Guidelines for selecting and retaining Internal Affairs investigators

This guideline provides that "to make certain that Internal Affairs units benefit from high-quality and experienced employees, agencies should consider utilizing promotional policies that recognize service in Internal Affairs as productive and useful for advancing an officer's career…. Tours in Internal Affairs should be limited to fixed terms."

Findings: The individuals in SPD's IIU are handpicked by their commanding officers and approved by the Police Commissioner. In accordance with COPS guidelines, SPD generally selects officers with prior investigative experience, and all of the investigators in the IIU are sergeants. However, SPD does not have any fixed term for how long officers are assigned to the IIU.

- **Recommendation**: SPD should consider imposing a set term that an officer may serve in the IIU. Three to five years could be a general guideline. Implementing such a guideline would ensure that investigators do not develop biases or become emotionally drained after extended assignments. Importantly, assignments to the unit should be staggered to ensure that the unit has experienced investigators at all times.

2. A Review of Springfield's Community Police Hearing Board

Findings: Springfield's Community Police Hearing Board (CPHB) was created in 2010 to provide civilian input into the investigation of citizen complaints by SPD.

After a complaint has been investigated by the IIU or the officer's chain of command, but before any recommendation has been made regarding charges or alleged policy violations, the CPHB reviews the results of the investigation. The CPHB may decide that further investigation is needed, and send the case back to the IIU.

If the CPHB considers the complaint to be legitimate, it may hold a public hearing in which the city's Law Department presents the case against the officer, and the accused officer's lawyer defends the case. Both sides can present evidence and call witnesses. The CPHB then makes its recommendations for sustaining or not sustaining each allegation of misconduct. The Police Commissioner makes the final determination regarding the charges and any discipline to be imposed.

The CPHB is a valuable mechanism to provide accountability regarding the Police Department's handling of complaints. However, it appears that board members could benefit from additional training on fairly judging police conduct. PERF observed that there are no formal protocols for the process followed by the board, and board members do not receive adequate training on how to execute their role.

Furthermore, when the board reviews an investigation for purposes of determining whether it will proceed to a hearing, board members do not have any information detailing the alleged policy violations or an initial assessment by experienced police officials of the conduct in question.

- **Recommendation**: The CPHB should be comprised of nine or ten members, three of whom should be former law enforcement investigators with relevant police experience. The chair of the board should be a retired judge or a respected attorney with trial experience. The board should sit in panels of three designated members, one of whom is a retired law enforcement

officer, to review the investigative file, applicable charges, and command chain preliminary determination and analysis.[5]

- **Recommendation**: The city of Springfield should appoint a Civilian Oversight Coordinator (COC) who would be responsible for the day-to-day administration of the CPHB, such as scheduling board meetings and following up on board requests. The COC would serve as the liaison between the board and other officials, including the Mayor, the Law Department, and representatives from SPD.[6] The Coordinator also would participate in the initial CPHB review.

- **Recommendation**: A three-member panel of board members, as well as the Civilian Oversight Coordinator, should meet every two weeks to review new cases. Each of these panels should have at least one member with prior law enforcement experience.

- **Recommendation**: On a yearly basis, all members of the CPHB should meet to review SPD policy and procedures that may contribute to police misconduct and recommendations for improvement. The CPHB should be empowered to recommend changes in policy or training to reduce officer misconduct.

- **Recommendation**: The city of Springfield should develop a clear mission statement for the board with clear written procedures to follow, and SPD should provide in-depth training for the CPHB on these protocols.

- **Recommendation**: At the completion of the IIU investigation and prior to an initial review by the Community Police Hearing Board, the IIU, in conjunction with attorneys from Labor Relations, should issue a cover memo detailing the applicable charges based on the allegations and the investigation. The applicable charges and the investigative file should then be provided to the accused officer's command chain for review. The officer's chain of command should then make a preliminary determination and provide a written analysis in support of that determination. The investigative file, cover memo, and chain of command preliminary determination and analysis should then be provided to the board for the initial review.

- **Recommendation**: The three-member panel should make a recommendation to the Commissioner regarding a determination for each applicable charge. The CPHB should use the same case dispositions as defined by IIU: sustained, not sustained, exonerated, and unfounded. A formal charge letter should be provided to the accused officer after the Commissioner makes a final determination. If, after the charge letter has been issued to the accused officer, the officer does not dispute the charges, there should be no reason to proceed with the full hearing. If the officer does not dispute the charges, the CPHB should make a recommendation regarding discipline, and then the case should go directly to the Commissioner to make a final decision regarding discipline.

[5] If the board is comprised of nine members, the chair could also serve as a member of one of the three-member panels. If the board is comprised of ten members, the chair would not have to serve on one of the three-member panels.

[6] Jack McDevitt and Amy Farrell (2007), *Enhancing Community Review of the Springfield Police Department*

- **Recommendation**: The CPHB should be required to draft a written opinion following the hearing that clearly details its findings of fact and conclusions based on the relevant legal standards.

Oversight, Accountability, and Citizen Involvement

In the past, the City of Springfield utilized a Board of Police Commissioners to manage and control the police department. In 2005, a state-run financial control board dissolved the Board of Police Commissioners and created the single position of Police Commissioner. The Police Commissioner is appointed by the mayor and has complete authority over the police department.

PERF is aware that the Springfield City Council has voted to establish a new civilian police commission that would have authority over key issues such as hiring, firing, disciplining officers, and policy development.

Advocates of a civilian board of police commissioners argue that a board would provide a higher level of civilian oversight of the police department in Springfield. However, Springfield's Community Police Hearing Board already has the authority to review citizen complaints, make recommendations, and conduct hearings regarding the complaints.

A number of cities across the nation have Boards of Police Commissioners that provide general oversight of police departments. This can be a worthwhile method of providing civilian input into major decisions about a city's approach to controversial issues, such as the role of the police in immigration enforcement. However, under the legislation approved by the Springfield City Council, the Board of Police Commissioners would have far greater authority to run key aspects of the Police Department on a day-to-day basis, including "the appointment, management, and control of the members and employees of the Police Department," as well as "the regulation, government, and discipline of such members and employees," and all "rules and regulations for the government and discipline of the Police Department."

PERF believes that this system would be impractical to the daily running of the department, particularly considering the fact that police chiefs make important decisions about critical incidents on a daily basis, but the legislation approved in Springfield would require only that the Board of Police Commissioners meet "at least once a month."

PERF believes that the current system with a police commissioner appointed by the mayor is preferable to reinstating a Board of Police Commissioners. Unlike a board of civilian commissioners, a police commissioner is directly responsible for the daily work of the Police Department and can be held accountable for actions taken by the Police Department. A five-member board of civilians could result in *less* accountability, because no one person could be held responsible for police operations.

PERF believes that SPD needs two kinds of oversight – citizens providing input, and an executive who has the responsibility and authority to hold members of the Police Department accountable. Citizen input can be provided through Springfield's existing Community Police Hearing Board. And accountability can be provided by a strong Police Commissioner who retains responsibility for hiring, firing, discipline, and policy and procedures.

- **Recommendation:** The City of Springfield should maintain the management system currently in place in the police department, utilizing a sole police commissioner who has the experience, education, skills, and authority necessary to lead and manage a police agency, with civilian input provided by the Community Police Hearing Board.

3. Computer Software Systems to Manage Internal Affairs and Early Intervention System Cases.

The use of Early Intervention Systems (EIS), especially for large and medium-size police agencies, has emerged as a widespread practice in police personnel management. The underlying concept of an EIS is that serious incidents of police officer misconduct often do not erupt unexpectedly. Rather, such significant events are often preceded by a number of minor past incidents or concerning patterns of behavior. An EIS is designed to help agencies detect these potential areas of concern and address them through training, counseling, or other non-punitive measures before more serious misconduct occurs.

SPD currently does not have an Early Intervention System (EIS). However, SPD leaders understand and acknowledge the need for a more comprehensive approach to early intervention.

SPD leaders will need to consider several factors as they develop a comprehensive EIS. An EIS requires computer systems that can automatically track a range of factors that may be indicators of problematic behavior, such as uses of force by an officer, citizen complaints against the officer, any lawsuits citing the officer, excessive use of sick leave, disciplinary actions against the officer, and issues cited in the officer's performance evaluations. An EIS may track as few as a half-dozen indicators or as many as 20 or more indicators.[7]

- **Recommendation**: SPD should continue to research best practices and consult with vendors to learn about different Internal Affairs software programs. Computer systems that track internal affairs cases can also track other factors used in an EIS.

  PERF has provided SPD with information on the benefits of EIS, as well as how to build agency support for EIS, design an EIS, and implement the EIS.

4. Other Findings and Recommendations

PERF identified the following additional areas for improvement:

- **Recommendation:** SPD should develop a Standard Operating Procedures manual specific to the IIU, so that the unit will have a clear understanding of all internal affairs processes and operations. This document should clearly outline the role of the IIU lieutenant, sergeants, and administrative personnel; timelines of how a case should proceed; what forms should be used, and other relevant processes.

[7] *See Civil Rights Investigations of Local Police: Lessons Learned.* Police Executive Research Forum (2013). Pp. 16-18.

- **Recommendation:** SPD should ensure that all newly-assigned IIU investigators are sent to a specialized, reputable internal affairs school or program within their first six months of assignment. SPD could consider contacting the National Internal Affairs Investigators Association[8] for information on training opportunities, including the organization's yearly conferences.

- **Recommendation:** SPD should develop an in-house training program specific to the investigation of officer misconduct that all supervisors responsible for investigating complaints must attend. Sergeants should receive annual refresher training on the complaint investigative process, and new sergeants should receive training on the process upon promotion.

- **Recommendation:** SPD should provide training in connection with any policy changes or updates that are implemented within the agency. These trainings should be done through roll calls, informal briefings, or regularly scheduled in-service training sessions.

- **Recommendation:** SPD should develop policy stating that when an officer is being interviewed during an investigation or at a CPHB hearing, the accused officer should not be carrying a firearm. The accused officer's firearm should be secured during these meetings, and this should be stated in the letter that is sent to the officer, notifying the officer about the complaint.

- **Recommendation:** SPD should establish a staff inspections unit to conduct quality assurance inspections of all aspects of the agency. Administrative inspections of each SPD component should occur at least every three years or as required by the Police Commissioner.

  Inspections would examine areas such as SPD facilities, administration, files, information systems, personnel, operations, and reporting practices. In addition, the staff inspections unit could conduct audits of complaint intake to verify that complaints are being taken properly, or compliance audits to determine whether agency policies regarding documentation of complaints are being properly followed.

  PERF is working with SPD to review its policies and procedures to ensure certification with the Massachusetts Police Accreditation Committee (MPAC). If SPD were to establish a staff inspections unit, this unit could oversee the accreditation process.

[8] https://www.niaia.org/resources

Conclusion

The Springfield Police Department (SPD) is at a critical juncture. In April 2018, the U.S. Department of Justice's Civil Rights Division launched an investigation of whether there is a "pattern or practice" of excessive use of force in the department. In October, federal prosecutors announced indictments against a current officer and a former officer for allegedly violating the civil rights of arrestees in a 2016 incident. In February 2019, the Massachusetts Attorney General's Office charged five officers with assault and other offenses in a 2015 incident. And the Springfield City Council is in the midst of a dispute with the Mayor about whether the council has the legal authority to create a civilian police commission to oversee key functions of the Police Department, including the hiring, firing, and disciplining of officers and the writing of department policies and procedures.

As part of an effort by city leaders to undertake reforms of the Police Department, the Police Executive Research Forum (PERF) in 2018 was asked to conduct a review of the SPD's internal affairs policies and practices. **PERF was not tasked with reviewing case files of internal affairs investigations; rather, PERF was asked to compare SPD's internal affairs policies and practices with a set of model guidelines that were developed by the U.S. Department of Justice, in order to determine whether SPD policies and practices are consistent with national best practices.** Many of these internal affairs policies and practices are about ensuring that the Police Department thoroughly and fairly investigates all complaints from community members about police actions.

PERF also was tasked with reviewing the effectiveness of the current Community Police Hearing Board, which provides a role for the community in reviewing citizen complaints about the police.

In commissioning PERF's review of the Police Department, Springfield city leaders have demonstrated a desire to strengthen community trust in the police and to update the Police Department's policies and practices. The Police Department has already begun to make a number of reforms that are consistent with recommendations in this report, and has expressed an eagerness to receive PERF's report so it can move forward with other recommendations.

Internal affairs policies and practices: As detailed in this report, PERF found that in large measure, SPD's internal affairs *practices* are in compliance with the DOJ best practices guidebook. However, SPD can benefit from establishing clear, written *policies and procedures* governing the complaint investigative process. SPD also should conduct *training* to ensure that all members of the department are adequately prepared to handle complaints in a uniform way.

PERF also identified several opportunities to improve the structure of the Police Department's Internal Investigations Unit (IIU). For example, SPD should establish a direct line of communication from the IIU lieutenant to the Police Commissioner, to ensure the unit has unrestricted and prompt access to the agency head. SPD should also consider imposing a set term that an officer may serve in the IIU. This will prevent investigators from becoming emotionally drained and will allow multiple officers throughout the agency to gain experience in the unit.

Community Police Hearing Board: Regarding the Community Police Hearing Board, PERF found that the Board is a valuable mechanism that provides a role for the community in the investigation of citizen complaints. However, PERF's review revealed that board members could benefit from additional

training on their role and law enforcement operations. PERF recommends that at least three members of the CPHB be former law enforcement investigators, so there will be representatives with police experience present during all phases of the review process. The chair of the board should be a retired judge or respected attorney with trial experience.

PERF also recommends that the City of Springfield develop a clear mission statement for the board, with clear written procedures governing each stage of the process. PERF also recommended certain changes in the "process map" (see page 70) defining how various types of investigations move back and forth between SPD investigators, the CPHB, and the Police Commissioner.

Automated data collection and creating an Early Intervention System: PERF recommends that SPD develop an automated case management system that will document every complaint received by the Police Department and the outcome of the investigation of each complaint. Many police agencies nationwide have such computer systems – not only to track citizen complaints, but also for the broader purpose of creating an Early Intervention System (EIS) that can provide the department with automated alerts about possible problems with an officer's behavior. An EIS is designed to detect issues of concern early, before they can worsen to the level of serious misconduct. EIS systems can track a dozen or more indicators, such as uses of force by an officer, citizen complaints, any lawsuits citing the officer, excessive use of sick leave, disciplinary actions against the officer, traffic accidents involving the officer, etc.

An EIS could help SPD to identify potential areas of concern in officer behavior and address them through training, counseling, or other non-punitive measures before serious misconduct occurs. PERF provided information to SPD on how an EIS works, the benefits of EIS, how to build support for EIS among agency leaders and personnel, as well as how to design and implement an EIS.

Oversight, Accountability, and Citizen Involvement: PERF is aware that the Springfield City Council has voted to establish a new civilian police commission that would have authority over key issues such as hiring, firing, and disciplining of officers and writing policies and procedures for all police operations.

Advocates of a civilian board of police commissioners argue that a board would provide a higher level of civilian oversight of the police department in Springfield. However, Springfield's Community Police Hearing Board already has the authority to review citizen complaints, make recommendations, and conduct hearings regarding the complaints.

A number of cities across the nation have Boards of Police Commissioners that provide general oversight of police departments. This can be a worthwhile method of providing civilian input into major decisions about a city's approach to controversial issues, such as the role of the police in immigration enforcement. However, under the legislation approved by the Springfield City Council, the Board of Police Commissioners would have far greater authority to run key aspects of the Police Department on a day-to-day basis, including "the appointment, management, and control of the members and employees of the Police Department," as well as "the regulation, government, and discipline of such members and employees," and all "rules and regulations for the government and discipline of the Police Department."

PERF is unaware of any Police Department operating under such a system, and believes that this system would be unworkable, particularly considering the fact that police chiefs make important decisions

about critical incidents on a daily basis, but the legislation approved in Springfield would require only that the Board of Police Commissioners meet "at least once a month."

Furthermore, unlike a board of civilian commissioners, a police commissioner is directly responsible for the daily work of the Police Department and can be held accountable for actions taken by the Police Department. **A five-member board of civilians could result in less accountability, because no one person could be held responsible for police operations**.

In any situation in which a critical incident might be handled poorly or result in a bad outcome, it would be unclear who should be held accountable – the chief executive of the Police Department, or one or more of the members of the Board of Police Commissioners. It is impossible to have accountability if no one is designated to have responsibility for decisions.

PERF believes that SPD needs two kinds of oversight – citizens providing input, and an executive who has the responsibility and authority to hold members of the Police Department accountable. Citizen input can be provided through Springfield's existing Community Police Hearing Board. And accountability can be provided by a strong Police Commissioner who retains responsibility for hiring, firing, discipline, and policy and procedures.

Looking forward: The Springfield Police Department is poised to undertake important reforms to improve its internal affairs investigations, to respond more consistently to citizen complaints, and to monitor officers' performance more closely in order to detect problematic behaviors before they rise to the level of serious misconduct. SPD leaders have expressed a commitment to move forward expeditiously with reform measures. This report is intended to provide a roadmap to implementing improvements in several key areas.