

**From:** [REDACTED]  
**Date:** June 27, 2019 at 11:28:28 AM EDT  
**To:** [REDACTED]  
**Subject:** Press Release: Fall River Police Officer Indicted; Likely to be Arraigned Today

Bristol County District Attorney's Office  
Thomas M. Quinn III  
District Attorney

Press Release  
June 27, 2019

A 40-year-old Fall River Police officer was indicted this morning by a Bristol County Grand Jury on various charges related to the abuse of his authority as a law enforcement officer.

Michael Pessoa, a 17-year veteran of the Fall River Police Department, was indicted on the following charges: One count of aggravated assault and battery with a dangerous weapon, one count of assault and battery with a dangerous weapon, two counts of assault and battery, four counts of civil rights violation with bodily injury, three counts of intimidation of a witness (misleading), three counts of filing a false report by a public officer and one count of malicious destruction of property.

The matter was referred to us by the Fall River Police Department in March of this year and has been under investigation by our office since that time. Investigators from the district attorney's office worked together with the Fall River Police Department throughout the investigation.

Officer Pessoa is accused of using excessive and unnecessary force in four separate incidents. The incidents occurred in 2014, 2018 and twice in 2019. He is also accused of violating the civil rights of arrestees and filing false police reports. The victims in at least three of the four cases received injuries that required trips to the hospital.

The investigation has been led and the case will be prosecuted by Deputy District Attorney William McCauley and Assistant District Attorney Michael Cahillane.

As the defendant has yet to be arraigned in open court, no further facts of the case can be disseminated at this time.

The defendant is likely to be arraigned on the indictments early this afternoon in Fall River Superior Court.

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# In the Matter of a Grand Jury Investigation

Supreme Judicial Court of Massachusetts

April 7, 2020, Argued; September 8, 2020, Decided

SJC-12869.

## Reporter

485 Mass. 641 \*; 2020 Mass. LEXIS 515 \*\*

Opinion by: GANTS

## IN THE MATTER OF A GRAND JURY INVESTIGATION.

## Opinion

**Prior History:** [\*\*1] Suffolk. CIVIL ACTION commenced in the Supreme Judicial Court for the county of Suffolk on October 2, 2019.

The case was reported by *Cypher, J.*

**Counsel:** *William T. Harrington (Edward P. Harrington also present)* for the petitioners.

[\*642] *Shoshana E. Stern*, Assistant District Attorney, for the Commonwealth.

*Scott P. Lewis, Samuel B. Dinning, Matthew R. Segal, Jessica J. Lewis, & Daniel L. McFadden*, for American Civil Liberties Union of Massachusetts, Inc., & another, amici curiae, submitted a brief.

**Judges:** Present: GANTS, C.J., LENK, GAZIANO, LOWY, BUDD, CYPHER, & KAFKER, JJ.

**GANTS, C.J.** In 2019, the district attorney learned through immunized grand jury testimony that two police officers, the petitioners in this case, knowingly made false statements in their police reports that concealed the unlawful use of force by a fellow officer against an arrestee and supported a bogus criminal charge of resisting arrest against the arrestee. The district attorney, to his credit, prepared a discovery letter describing the petitioners' misconduct and asked a Superior Court judge to authorize its disclosure to defense counsel as potentially exculpatory [\*\*2] information in unrelated criminal cases where the petitioners might be witnesses. The judge authorized the disclosure. The petitioners appealed, claiming that the information should not be disclosed to defense counsel in unrelated cases because disclosure is not constitutionally required and would reveal information obtained from immunized testimony before a grand jury. We affirm the judge's order of disclosure.<sup>1</sup>

*Background.* We recite the facts of this case based upon the information contained in the G.

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<sup>1</sup>We acknowledge the amicus brief submitted by the American Civil Liberties Union of Massachusetts, Inc., and the Massachusetts Association of Criminal Defense Lawyers, Inc.

L. c. 211, § 3, petition and the parties' agreed-upon statement of facts. The petitioners are Fall River police officers who were present when fellow police officer, Michael Pessoa, used force while arresting an individual (arrestee) on February 12, 2019. Pessoa submitted an arrest report concerning the arrest; the petitioners did not. A few hours after the arrest, the petitioners were ordered by their superiors to each complete the police department's Use of Defensive Tactics Report (use-of-force report) because the arrestee was observed to have a bloody lip while being booked at the police station. The petitioners are not themselves alleged to have used force during this incident.

The use-of-force report [\*\*3] is a preprinted two-page form that a police officer must complete after using force on a suspect or arrestee. The kinds of use-of-force range from the use of a firearm or pepper spray, to the use of certain hands-on force, such as an [643] "arm bar take down." A use-of-force report is not an incident report or an arrest report; rather, it is an internal police department report generated to memorialize an officer's use of force during an encounter with an individual. Each of the petitioners executed a use-of-force report that, in essence, adopted Pessoa's version of events as set forth in his incident report — namely, that the arrestee was noncompliant, threatened to punch the officers, and was then taken to the ground by Pessoa in making the arrest.<sup>2</sup>

After the arrestee was charged with various

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<sup>2</sup>One of the petitioners wrote: "Subject was non-compliant, and threatened to punch Officers. He then refused to comply with verbal commands and was taken to the ground in an effort to effect an arrest." The other petitioner wrote: "Subject was disorderly, non-compliant, and threatened to punch officers in the face. Subject was subsequently taken to the ground via an arm bar take down." Officer Michael Pessoa's incident report is not part of the record on appeal.

offenses, including resisting arrest, his defense attorney provided the district attorney for the Bristol district with a videotape of surveillance footage that showed the arrest and Pessoa's use of force on the arrestee.<sup>3</sup> The footage of the incident was inconsistent with the descriptions the petitioners provided in their use-of-force reports.<sup>4</sup> Specifically, the footage showed that the arrestee was physically [\*\*4] compliant when one of the petitioners removed his handcuffs, and that Pessoa then struck the arrestee on the left side of his head-shoulder area, causing the arrestee, according to the agreed-upon statement of facts, "to be taken to the ground in a violent manner."<sup>5</sup>

Prompted by the videotape, the district attorney initiated a criminal investigation into Pessoa's conduct. This investigation resulted in a grand jury returning fifteen indictments against Pessoa for crimes involving four separate arrestees, including charges for assault and battery by means of a dangerous weapon causing serious bodily injury, assault and battery, civil rights violations, witness intimidation, filing false police reports, and malicious destruction of property.<sup>6</sup>

During the criminal investigation of Pessoa, the district attorney subpoenaed the petitioners to testify before the grand jury. In [644] light of the apparent inconsistencies between their use-of-force reports and the videotape, the petitioners each asserted his privilege against self-incrimination under the Fifth Amendment

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<sup>3</sup>The arrestee was charged with assault and battery by means of a dangerous weapon (a shod foot), disorderly conduct (subsequent offense), disturbing the peace, threatening to commit a crime, assault, and resisting arrest.

<sup>4</sup>The videotape is not part of the record on appeal.

<sup>5</sup>The force used by Pessoa was inconsistent with an arm bar take down.

<sup>6</sup>Following the return of indictments against Pessoa, the district attorney entered a nolle prosequi on the charges against the February 2019 arrestee.

to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights. The district attorney then sought and obtained orders of immunity pursuant to G. L. c. 233, §§ 20C-20G, from a Superior Court judge. The judge found that each petitioner [\*\*5] “did validly refuse to answer questions or produce evidence on the grounds that such testimony or such evidence might tend to incriminate him.” The immunity orders provided that the petitioners

“be granted immunity from prosecution, and not be subjected to any penalty or forfeiture with respect to the transaction, matter or thing concerning which he is compelled to testify or produce evidence, and no testimony concerning said crimes shall be used as evidence against the witness in any Court of the Commonwealth, except in a prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion of this order.”

The grant of immunity compelled the petitioners to “give testimony and produce evidence” before a “jury in these proceedings.” During interviews prior to their grand jury testimony and during their grand jury testimony, the petitioners admitted that their use-of-force reports were false.

On August 13, 2019, the district attorney's office filed two motions in the Superior Court. A Superior Court judge ordered both motions impounded, and they were not served on the petitioners. In the first motion, the district attorney sought authority to disclose [\*\*6] information from a petitioner's grand jury testimony to defense counsel for criminal defendants in cases unrelated to the prosecution of Pessoa where the petitioner was “a potential witness,” asserting that it was obligated to make such disclosures under *Brady v. Maryland*, 373 U.S. 83, 87-88, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963) and *Giglio v. United States*, 405 U.S. 150, 155, 92 S. Ct.

763, 31 L. Ed. 2d 104 (1972) (*Brady* disclosure motion). Attached to the motion was a proposed discovery letter that identified the relevant petitioners and stated that each is a police officer with the Fall River police department who “has been given a grant of immunity as part of the Pessoa grand jury investigation,” and who “admitted to filing a false police report” [\*\*645] as part of that case.<sup>7</sup>

In the second motion, the district attorney sought an order authorizing the disclosure of information concerning the petitioners' grand jury testimony to their municipal employer, the Fall River police department (employer disclosure motion). Attached to the employer disclosure motion was a proposed letter to the Fall River police chief, setting forth the same statements in the proposed *Brady* disclosure letter.

On or about August 16, 2019, counsel for the petitioners learned that the district attorney's office had filed an internal affairs complaint against the petitioners [\*\*7] with the Fall River police department, and learned of the employer disclosure motion. Shortly thereafter,

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<sup>7</sup> The proposed discovery letter stated in relevant part:

“Please be advised of the following potentially exculpatory discovery from an unrelated criminal proceeding:

“1. Michael Pessoa, a Fall River police officer, was indicted on June 27, 2019 with a 15-count indictment, numbered 1973CR00182. The indictment includes allegations that he beat arrestees and that he filed false police reports.

“2. [PETITIONER 1], a Fall River police officer, has been given a grant of immunity as part of the Pessoa grand jury investigation. [PETITIONER 1] admitted to filing a false police report.

“3. [PETITIONER 2], a Fall River police officer, has been given a grant of immunity as part of the Pessoa grand jury investigation. [PETITIONER 2] admitted to filing a false police report.

“... ”

“This disclosure is *not* for public dissemination.”

the petitioners filed a motion in the Superior Court seeking standing to oppose the employer disclosure motion. Petitioners subsequently learned of, and sought to object to, the *Brady* disclosure motion.

The Superior Court judge allowed the petitioners to oppose both motions.<sup>8</sup> After oral argument, the judge allowed the district attorney's motion to make the *Brady* disclosure but denied the employer disclosure motion. In allowing the *Brady* disclosure motion, the judge concluded that the proposed discovery letter "is potentially exculpatory evidence as it may tend to negate the guilt of criminal defendants against whom the officers may be witnesses at trial." The judge ordered the Commonwealth to "notify by means of the proposed discovery letter, all defendants of cases not yet tried and cases now disposed that were tried after the date of the filing of the false police reports, for which the identified officer either prepared a report or is expected to be a witness at [\*646] trial."

In denying the employer disclosure motion, the judge concluded that the Commonwealth had not "shown that the [\*\*8] need for disclosure outweigh[ed] the need for continued secrecy." The judge noted:

"It is apparent from the public nature of the indictments against Michael Pessoa, the public statements of the Fall River [p]olice [c]hief, and the media coverage on the topic, that the department has substantial information on which to commence disciplinary proceedings, and that the proposed statement the Commonwealth seeks to disclose to the department will provide no additional material information."

The petitioners sought and were granted a stay with respect to the allowance of the *Brady*

disclosure motion, enabling them to seek relief from a single justice of this court pursuant to G. L. c. 211, § 3. The Commonwealth did not petition for relief from the denial of the employer disclosure motion. After a hearing, the single justice reserved and reported the case to the full court. The single justice directed the parties to address the following questions: (1) whether there is a *Brady* obligation in these circumstances to disclose information to unrelated defendants; (2) whether, if there is a *Brady* obligation, the Commonwealth may disclose the information even if it was obtained as a result of a judicial order of immunity [\*\*9] or in the course of the petitioners' grand jury testimony; (3) whether, if there is a *Brady* obligation, the Commonwealth must seek prior judicial approval for disclosure; (4) whether the process by which the Commonwealth obtained the petitioners' testimony precludes disclosing information to the petitioners' municipal employer — the police department — concerning the petitioners' invocation of the right against self-incrimination, grant of immunity, and admitted conduct, for purposes of administrative disciplinary proceedings, employee training, or otherwise; and (5) whether, if disclosure to the police department is permissible, the Commonwealth must seek prior judicial approval.

*Discussion.* 1. *Disclosure of Brady information to other defendants.* Under the due process clause of the Fourteenth Amendment to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights, a prosecutor must disclose exculpatory information to a defendant that is material to either guilt or punishment. See *Brady*, 373 U.S. at 87; *Committee for [\*647] Pub. Counsel Servs. v. Attorney Gen.*, 480 Mass. 700, 731, 108 N.E.3d 966 (2018) (CPCS). "When the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility

<sup>8</sup>The judge also ordered impounded all filings related to the two motions, as well as the recording of the argument on the motions.

falls within this general rule.” *Giglio*, 405 U.S. at 154, quoting *Napue v. Illinois*, 360 U.S. 264, 269, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959). See *Commonwealth v. Hill*, 432 Mass. 704, 715, 739 N.E.2d 670 (2000), quoting *Commonwealth v. Collins*, 386 Mass. 1, 8, 434 N.E.2d 964 (1982) (“Evidence tending to impeach the credibility of a key prosecution witness is clearly exculpatory”). **[\*\*10]** Therefore, in the parlance of the criminal justice bar, *Giglio* information is *Brady* information: “[t]he *Brady* obligation comprehends evidence which provides some significant aid to the defendant’s case, whether it furnishes corroboration of the defendant’s story, calls into question a material, although not indispensable, element of the prosecution’s version of the events, or challenges the credibility of a key prosecution witness.” *Commonwealth v. Ellison*, 376 Mass. 1, 22, 379 N.E.2d 560 (1978).

Apart from the constitutional obligations of disclosure, our rules of criminal procedure require a prosecutor, as part of automatic discovery, to disclose to a defendant “[a]ny facts of an exculpatory nature.”<sup>9</sup> Mass. R. Crim. P. 14 (a) (1) (A) (iii), as amended, 444 Mass. 1501 (2005). And our rules of professional conduct require prosecutors to

“make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense.” Mass. R. Prof. C. 3.8 (d), as appearing in 473 Mass. 1301 (2016). See also Mass. R. Prof. C. 3.4 (a), as appearing in 471 Mass. 1425 (2015) (lawyer prohibited from concealing evidence or unlawfully obstructing another party’s access to evidence); Mass. R. Prof. C. 3.8 (g) (prosecutor may not avoid pursuit of evidence that may aid accused); Mass. R. Prof. C. 3.8 (i) **[\*648]** (prosecutor’s obligation to disclose postconviction exculpatory evidence).

The petitioners, in essence, make four arguments in support of their position that the district attorney should be barred from making the requested disclosure to criminal defendants in cases where a petitioner either prepared a report or is expected to be a witness at trial: (1) that the information falls outside the scope of a prosecutor’s *Brady* obligation; (2) that the information would not be admissible at trial and therefore is not exculpatory; (3) that disclosure would violate each petitioner’s immunity order; and (4) that disclosure is barred by the rules governing grand jury secrecy. We address each argument in turn.

*a. Scope of a prosecutor’s Brady obligation.*

The petitioners contend that the information the district attorney seeks to disclose is not *Brady* information because the failure to disclose this information would not require a new trial if the defendant were to be convicted. This argument incorrectly equates a prosecutor’s duty to disclose exculpatory evidence with the standard applied in determining whether the prosecutor’s failure to disclose exculpatory evidence is so prejudicial that it requires a new trial.

Under **[\*\*12]** Federal constitutional law, a prosecutor’s failure to disclose exculpatory

<sup>9</sup>In *Committee [\*\*11] for Pub. Counsel Servs. v. Attorney Gen. (CPCS)*, we noted that while Mass. R. Crim. P. 14 “envisions a broad disclosure requirement for exculpatory facts, the rule explicitly identifies only a few specific categories of potentially exculpatory information that a prosecutor must disclose.” *CPCS*, 480 Mass. 700, 732, 108 N.E.3d 966 (2018), citing Mass. R. Crim. P. 14 (a) (1) (A) (i), (viii), (ix) (“Commonwealth must disclose defendant’s statements, ‘promises, rewards or inducements’ given to prosecution witnesses, and statements made during and about identification procedures”). To provide more detailed guidance to prosecutors, we asked the Supreme Judicial Court’s standing advisory committee on the rules of criminal procedure “to draft a proposed *Brady* checklist to clarify the definition of exculpatory evidence” and establish “a more thorough baseline of the most likely sources and types of exculpatory information for prosecutors to consider.” *Id.* Rule 14 has not yet been amended to include a *Brady* checklist.

information is not a breach of a prosecutor's constitutional duty to disclose unless the "omission is of sufficient significance to result in the denial of the defendant's right to a fair trial." *United States v. Bagley*, 473 U.S. 667, 676, 105 S. Ct. 3375, 87 L. Ed. 2d 481 (1985), quoting *United States v. Agurs*, 427 U.S. 97, 108, 96 S. Ct. 2392, 49 L. Ed. 2d 342 (1976). Under the standard of materiality applied by the Supreme Court, "[t]he evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Bagley*, *supra* at 682. "A 'reasonable probability' is a probability sufficient to undermine confidence in the outcome." *Id.* This materiality standard applies regardless of whether the undisclosed information was requested by the defendant, either generally or specifically. See *id.* at 682-83.

This court declined to adopt the *Bagley* "one size fits all" test as a matter of State constitutional law and instead "adhered to the *Agurs* test for determining the consequences of a prosecution's failure to comply with a specific request for exculpatory evidence," which was the test the Supreme Court had supplanted in *Bagley*. *Commonwealth v. Tucceri*, 412 Mass. 401, 406, 589 N.E.2d 1216 (1992), citing *Commonwealth v. Gallarelli*, 399 Mass. 17, 21 n.5, 502 N.E.2d 516 (1987). Consequently, under our Declaration of Rights, where the de [\*649] -fendant had [\*\*\*13] made a specific request for the information, "a new trial would be required if the undisclosed evidence 'might have affected the outcome of the trial.'" *Tucceri*, *supra* at 405, quoting *Agurs*, 427 U.S. at 104. Where there was no request for the information, or only a general request was made, "a new trial would be required only if the undisclosed evidence 'create[d] a reasonable doubt which did not otherwise exist.'" *Tucceri*, *supra*, quoting *Agurs*, *supra* at 112.

The petitioners contend that a prosecutor should not disclose exculpatory information unless the prosecutor has a constitutional duty to disclose, and that duty is triggered only where the information would create a reasonable doubt which would not otherwise exist. See *Tucceri*, 412 Mass. at 405. This argument fails for two reasons.

First, prosecutors have more than a constitutional duty to disclose exculpatory information; they also have a broad duty under Mass. R. Crim. P. 14 (a) (1) (iii) to disclose "[a]ny facts of an exculpatory nature." This duty is not limited to information so important that its disclosure would create a reasonable doubt that otherwise would not exist; it includes *all* information that would "tend to" indicate that the defendant might not be guilty or "tend to" show that a lesser conviction or sentence would [\*\*\*14] be appropriate. See *CPCS*, 480 Mass. at 731, quoting *Brady*, 373 U.S. at 87 (prosecutor may not withhold evidence that "would tend to exculpate [a defendant] or reduce the penalty"); *Collins*, 470 Mass. at 267 ("The Commonwealth is required to disclose exculpatory evidence to the defendant, including, as is relevant here, evidence that would tend to impeach the credibility of a key prosecution witness"). Therefore, in Massachusetts, when we speak of a prosecutor's *Brady* obligation, we mean not only the constitutional obligation to disclose exculpatory information but also the broad obligation under our rules to disclose any facts that would tend to exculpate the defendant or tend to diminish his or her culpability.

Second, even if prosecutors had only their constitutional obligation to disclose, and not the broad duty under our rules, we would not want prosecutors to withhold exculpatory information if they thought they could do so without crossing the line into a violation of the defendant's right to a fair trial. It is true that the



constitutional duty of a prosecutor to disclose derives from the defendant's due process right to a fair trial. See *Agurs*, 427 U.S. at 108 (“unless the omission deprived the defendant of a fair trial, there was no constitutional violation requiring [\*15] that the verdict be [\*650] set aside; and absent a constitutional violation, there was no breach of the prosecutor's constitutional duty to disclose”). Therefore, a finding regarding a breach of that obligation looks backward in time, at whether the failure to disclose deprived the defendant of a fair trial. But 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. As the Supreme Court declared in *Agurs*, *supra*:

“[T]here is a significant practical difference between the pretrial decision of the prosecutor and the post-trial decision of the judge. Because we are dealing 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, the prudent prosecutor will resolve doubtful questions in favor of disclosure.”

See *Kyles v. Whitley*, 514 U.S. 419, 439, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995) (“a prosecutor anxious about tacking too close to the wind will disclose a favorable piece of evidence... . This is as it should be” [citation omitted]).

A prosecutor should [\*16] not attempt to determine how much exculpatory information can be withheld without violating a defendant's right to a fair trial. Rather, once the information is determined to be exculpatory, it should be disclosed — period. And where a prosecutor is uncertain whether information is exculpatory,

the prosecutor should err on the side of caution and disclose it. See *Commonwealth v. St. Germain*, 381 Mass. 256, 262 n.10, 408 N.E.2d 1358 (1980), quoting Commentary to A.B.A. Standards for Criminal Justice, Standards Relating to Discovery and Procedure Before Trial 2.1(d) (Approved Draft 1970) (“We reiterate[ ] that ‘prosecuting attorneys [should] become accustomed to disclosing all material which is even possibly exculpatory, as a prophylactic against reversible error and in order to save court time arguing about it’”).<sup>10</sup>

b. *Consequence of admissibility of impeachment information on Brady obligation.* The petitioners also argue that prosecutors [\*651] have no obligation to disclose the petitioners' false statements because their prior misconduct would not be admissible in evidence at trial in any unrelated criminal case. We disagree.

The petitioners are correct that, in the absence of a conviction, “[i]n general, specific instances of misconduct showing the witness to be untruthful [\*17] are not admissible for the purpose of attacking or supporting the witness's credibility.” Mass. G. Evid. § 608(b) (2020), citing *Commonwealth v. Bregoli*, 431 Mass. 265, 275, 727 N.E.2d 59 (2000), and *Commonwealth v. LaVelle*, 414 Mass. 146, 151, 605 N.E.2d 852 (1993). See Mass. G. Evid. § 609(a) (2020) (“A party may seek to impeach the credibility of a witness by means of the court record of the witness's prior conviction or a certified copy”). But we have “chiseled a narrow exception” to this general rule, “recognizing that in special circumstances

<sup>10</sup> Where a prosecutor recognizes information to be exculpatory, but is unsure whether it should be disclosed, “due to a concern regarding privilege or work product, or for any other reason, the prosecutor must file a motion for a protective order and must present the information for a judge to review in camera.” *CPCS*, 480 Mass. at 733, citing Mass. R. Crim. P. 14 (a) (6).

the interest of justice forbids strict application of the rule.” *LaVelle, supra*, citing *Commonwealth v. Bohannon*, 376 Mass. 90, 94, 378 N.E.2d 987 (1978), S.C., 385 Mass. 733, 434 N.E.2d 163 (1982).<sup>11</sup>

In *Bohannon*, 376 Mass. at 94, we declared, “[w]hen evidence concerning a critical issue is excluded and when that evidence might have had a significant impact on the result of the trial, the right to present a full defense has been denied.” In that case, a critical issue at trial was the credibility of the complainant, who testified that she did not consent to sexual intercourse with the defendant, and the evidence that might have had a significant impact on the result of the trial were hospital records that revealed that “the complainant had made a number of unsubstantiated, and apparently false, accusations of rape.” *Id.* at 93. We concluded that it was reversible error for the judge to have prevented the defendant from impeaching the victim-witness with this evidence [**\*\*18**] of prior false accusations. See *id.* at 95.

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 prior false statements in a separate matter might have a significant impact on the result of the trial, such that the prior misconduct [**\*652**] should be admitted in the interest of justice. See *Commonwealth v. Lopes*, 478 Mass. 593, 606, 91 N.E.3d 1126 (2018). In *Lopes*, we concluded that the judge did not abuse his

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<sup>11</sup>In *Commonwealth v. Almonte*, 465 Mass. 224, 241, 988 N.E.2d 415 (2013), we noted that “under the Fed. R. Evid. 608(b), a party on cross-examination of a witness may inquire into the details of prior instances of misconduct if probative of the witness's character for veracity.” Because the benefit to the defendant in that case “of an expanded evidentiary rule concerning impeachment on the issue of veracity would be marginal at best,” we left “to another day the question whether we should follow the guide of the Fed. R. Evid. 608(b), and adopt such a rule more generally.” *Id.* at 242. This is not the day, or the case, where we need to address that question.

discretion by preventing the defendant from impeaching a police officer who was one of the Commonwealth's key eyewitnesses in a homicide case “with information that the Boston police department had suspended [the police officer] five years earlier for, among other things, lying in an internal affairs investigation on a personal matter.” *Id.* We noted that the alleged conduct was “not material” to the homicide investigation where it took place five years before the murder, “did not result in a criminal conviction or even a criminal charge,” and was “not related to how [the officer] conducted police investigations.” *Id.*

Our delineation of these factors suggests that a judge, in deciding whether to allow a police officer witness in the interest of justice to be impeached with prior [**\*\*19**] misconduct, 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.<sup>12</sup> As to the age of the misconduct, if it happened so long ago that it would not be admissible for impeachment had it resulted in a criminal conviction, see Mass. G. Evid. § 609, it would not likely be admissible in the absence of a conviction. As to the strength of the evidence of the prior misconduct and the simplicity of establishing it, a judge may consider whether admitting evidence of the misconduct will result in a trial within a trial to resolve whether it happened or how it happened. As to whether the prior misconduct is probative of how the officer conducts police investigations, a judge may

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<sup>12</sup>We also note that our conclusion in *Commonwealth v. Lopes*, 478 Mass. 593, 606, 91 N.E.3d 1126 (2018), that the judge did not abuse his discretion in barring such impeachment, does not mean that it would have been an abuse of discretion for the judge to have admitted such evidence.

consider whether the misconduct reflects a willingness to lie to win a conviction or instead involves matters that, although serious, do not bear on the integrity of police investigations, such as taking unauthorized sick time or inflating overtime hours. Concealing police brutality against an arrestee, whether by the officer or a fellow officer, or making false statements [\*20] that might lead to an unjust conviction are for law enforcement officers the equivalent of high crimes and misdemeanors in this regard. All of these factors suggest that the petitioners' prior false statements might [\*653] be admissible in a case where the credibility of their testimony is a critical issue.

We do not conclude that the exculpatory information at issue will always be or could never be admissible as impeachment evidence in an unrelated criminal case where one of the petitioners is a witness. 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.

Moreover, the ultimate admissibility of the information is not determinative of the prosecutor's *Brady* obligation to disclose it. Where the information, as here, demonstrates that a potential police witness lied to conceal a fellow officer's unlawful use of excessive force or lied about a defendant's conduct and thereby allowed a false or inflated criminal charge to be prosecuted, disclosing such information may cause defense counsel, or his or her investigator, to probe more deeply into the prior statements and [\*21] conduct of the officer to determine whether the officer might again have lied to conceal the misconduct of a fellow police officer or to fabricate or exaggerate the criminal conduct of the accused.

*c. Consequence of order of immunity on Brady obligation.* The petitioners contend that, where

exculpatory information is obtained from a witness's immunized testimony, prosecutors should not disclose the information to defendants in unrelated cases because the orders of immunity protect immunized witnesses from the adverse consequences that might result from such disclosure. This argument misreads the scope of immunity provided by the immunity order.

The Fifth Amendment states in relevant part: "No person ... shall be compelled in any criminal case to be a witness against himself." Article 12 states in part: "No subject shall be held to answer for any crimes or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself." As is apparent from the language of the Fifth Amendment and art. 12, a witness's right to refuse to testify before a tribunal by invoking the privilege against self-incrimination is available only where the [\*\*22] witness's testimony might incriminate the witness with respect to a crime, either by the testimony itself or by evidence derived from that testimony. See *Commonwealth v. Martin*, 423 Mass. 496, 502, 668 N.E.2d 825 (1996), quoting *Commonwealth v. Funches*, 379 Mass. 283, 289, 397 N.E.2d 1097 (1979) ("The privilege afforded not only extends [\*654] to answers that would in themselves support a conviction ... but likewise embraces those which would furnish a link in the chain of evidence needed to prosecute"). A witness may not invoke the privilege simply because the testimony, when it becomes known, will cause the witness to be fired from a job or injure the witness's reputation in the community. See *Pixley v. Commonwealth*, 453 Mass. 827, 832, 906 N.E.2d 320 (2009), citing *Martin*, *supra* at 502-503 (circumstances for invoking privilege "must clearly indicate a possibility of self-incrimination").

An immunity order is sometimes referred to as

a compulsion order because it grants immunity to the witness that is “coextensive with the scope of the privilege against self-incrimination, and therefore is sufficient to compel testimony over a claim of the privilege.” *Kastigar v. United States*, 406 U.S. 441, 453, 92 S. Ct. 1653, 32 L. Ed. 2d 212 (1972). Under the Fifth Amendment, testimony may be compelled through an order granting use immunity that prohibits only the use, in any criminal case, of compelled testimony and the use of any evidence directly or indirectly derived from that compelled testimony. **[\*\*23]** See *id.* However, under the Massachusetts Constitution and the governing statutes, G. L. c. 233, §§ 20C-20G, testimony may be compelled only through an order granting transactional immunity that provides “absolute immunity from subsequent prosecution based upon any transaction, matter, or occurrence about which an immunized witness testified or produced evidence.” *Attorney Gen. v. Colleton*, 387 Mass. 790, 795, 444 N.E.2d 915 (1982). See *Commonwealth v. Austin A.*, 450 Mass. 665, 668, 881 N.E.2d 117 (2008). The scope of transactional immunity is set forth in G. L. c. 233, § 20G:

“A witness who has been granted immunity as provided in [§] 20E shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction matter, or thing concerning which he is so compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal or civil proceeding against him in any court of the commonwealth, except in a prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion, pursuant to [§] 20C or 20E” (emphasis added).<sup>13</sup>

<sup>13</sup> The immunity orders in this case similarly stated that the

**[\*655]** “[I]t would be difficult to imagine an immunity more complete.” *Matter of a John Doe Grand Jury Investigation*, 405 Mass. 125, 130, 539 N.E.2d 56 (1989), quoting *Cabot v. Corcoran*, 332 Mass. 44, 51, 123 N.E.2d 221 (1954).

Under § 20G, a witness with immunity may not be criminally prosecuted for any transaction about which the witness is compelled **[\*\*24]** to testify. Nor may the Commonwealth seek any civil penalty or forfeiture regarding such a transaction. And apart from the prohibition against criminal and civil prosecution regarding matters raised during compelled testimony, the testimony itself may not be “used as evidence in any criminal or civil proceeding against” the witness in a court of law, except where the immunized testimony itself is the subject of a prosecution against the witness for perjury or contempt of court. See G. L. c. 233, § 20G.

If an immunized witness testifies at trial, however, the testimony is as public as the trial itself, and nothing in the order of immunity protects the witness from other adverse consequences that may arise from the content of the witness's testimony. If the witness, in the course of providing immunized testimony, admits that he lied, cheated, or killed, the witness may not be prosecuted for that illegal conduct, criminally or civilly; but nothing in the immunity statute or order protects the witness from being fired by his employer or shunned by his community because of the misconduct he revealed. And with respect to all persons other than the witness, immunized testimony is no different from any other **[\*\*25]** testimony, except that it was compelled.

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petitioners “be granted immunity from prosecution, and not be subjected to any penalty or forfeiture with respect to the transaction, matter or thing concerning which he is compelled to testify or produce evidence against the witness in any Court of the Commonwealth, except in a prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion of this order.”

The petitioners argue that the disclosure of their testimony would “penalize them for invoking their privilege against self-incrimination” in violation of their orders of immunity and the statute. But disclosure is not the penalty from which they are protected by the immunity orders; the petitioners were granted immunity from prosecution, not from publication or disclosure. Therefore, the fact that testimony was compelled is irrelevant to the prosecutor’s *Brady* obligation to provide exculpatory information. An immunized witness, like others who are not immunized, may prefer that the testimony not be disseminated by the prosecutor, especially if it would reveal the witness’s dirty deeds, but that preference does not affect whether the information is [\*656] exculpatory or whether it should be furnished to other defendants. Once disclosed, the immunized testimony may be used to impeach the immunized witness, provided that the testimony is not being used against the witness in a criminal or civil prosecution other than for perjury. In sum, a prosecutor’s obligation to disclose exculpatory information is the same for immunized testimony as for all other [\*\*26] testimony. There is no higher *Brady* standard applied for a prosecutor to disclose immunized testimony.

d. *Consequence of grand jury secrecy on Brady obligation.* Finally, the petitioners argue that, “[g]iven that *Brady* does not compel the disclosure of the information, the Commonwealth should not be permitted to disclose it in light of the rule that grand jury proceedings are to remain secret.” As discussed *supra*, the premise of this argument is incorrect — a prosecutor *is* required to disclose the information at issue to unrelated defendants pursuant to the obligation to disclose exculpatory information. The petitioners, however, present an alternative argument — that the Commonwealth should be required to obtain judicial approval before making such a disclosure. We address the

alternative argument.<sup>14</sup>

It is certainly true that “[t]he requirement that grand jury proceedings remain secret is deeply rooted in the common law of the Commonwealth.” *Globe Newspaper Co. v. Police Comm’r of Boston*, 419 Mass. 852, 865, 648 N.E.2d 419 (1995), quoting *WBZ-TV4 v. District Attorney for the Suffolk Dist.*, 408 Mass. 595, 599, 562 N.E.2d 817 (1990). It is also true that “[s]ecrecy is of fundamental importance to grand jury proceedings.” *Commonwealth v. Holley*, 476 Mass. 114, 118, 64 N.E.3d 1275 (2016).

“[S]everal interests are served by maintaining strict confidentiality, ‘such as protection of the grand jury from outside influence, including [\*\*27] influence by the news media; protection of individuals from notoriety and disgrace; encouragement of free disclosure of information to the grand jury; protection of witnesses from intimidation; and enhancement of free grand jury deliberations.’”

*Globe Newspaper Co.*, *supra* at 865-866, quoting *Matter of a John Doe Grand Jury Investigation*, 415 Mass. 727, 729, 615 N.E.2d 567 (1993).

[\*657] Under Mass. R. Crim. P. 5 (d), as appearing in 442 Mass. 1505 (2004), “[a] person performing an official function in relation to the grand jury may not disclose matters occurring before the grand jury except in the performance of his or her official duties or when specifically directed to do so by the court.” A prosecutor presenting evidence at a grand jury is certainly “performing an official function in relation to the grand jury,” so the

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<sup>14</sup> After the immunity order issued, the petitioners agreed to be interviewed by the prosecutor prior to their grand jury appearance. In view of the conclusions we draw, we need not address whether these interviews are protected by the rules governing grand jury secrecy.

issue presented is whether the disclosure of exculpatory evidence to defense counsel is within the scope of the “the performance of his or her official duties.”

There can be no doubt that the use of inculpatory grand jury testimony to prosecute a defendant in a criminal case is within the scope of the performance of a prosecutor's official duties. The disclosure of exculpatory grand jury testimony to defense counsel is equally within the scope of the performance of a prosecutor's official duties. For a prosecutor, [\*\*28] disclosure of information that may permit a defendant to prove his or her innocence should be equally as important as securing the conviction of a guilty party:

“The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he [or she] is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer.”

*Berger v. United States*, 295 U.S. 78, 88, 55 S. Ct. 629, 79 L. Ed. 1314 (1935). See Jackson, *The Federal Prosecutor*, reprinted in 24 J. Am. Jud. Soc'y 18, 20 (1940) (“A sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his [or her] task with humility”).<sup>15</sup>

<sup>15</sup> United States Attorney General Robert H. Jackson delivered this address at the Second Annual Conference of United States Attorneys in Washington, D.C., on April 1, 1940. See Jackson, *The Federal Prosecutor*, reprinted in 24 J. Am. Jud. Soc'y 18, 18 (1940).

We therefore conclude that the disclosure to defense counsel of exculpatory information arising from a grand jury proceeding is [\*\*658] as much a part of [\*\*29] a prosecutor's official duty as the presentation of inculpatory evidence at trial. Because the disclosure of exculpatory grand jury information is within the performance of a prosecutor's official duties under rule 5 (d), it may be disclosed without an order of a court. A judge would have to review the disclosure to defense counsel only if the prosecutor sought a protective order limiting further dissemination of the information.

Consequently, as to the first three issues identified by the single justice, we conclude, as did the district attorney, that the prosecutors here have a *Brady* obligation to disclose the exculpatory information at issue to unrelated criminal defendants in cases where a petitioner is a potential witness or prepared a report in the criminal investigation. That obligation remains even though that information was obtained in grand jury testimony compelled by an immunity order. And the district attorney may fulfill that obligation without prior judicial approval; a judge's order is needed only for issuance of a protective order limiting the dissemination of grand jury information.

More broadly, we conclude that where a prosecutor determines from information in his or her possession [\*\*30] that a police officer lied to conceal the unlawful use of excessive force, whether by him- or herself or another officer, or lied about a defendant's conduct and thereby allowed a false or inflated criminal charge to be prosecuted, the prosecutor's obligation to disclose exculpatory information requires that the information be disclosed to defense counsel in any criminal case where the officer is a potential witness or prepared a report in the criminal investigation.

We note that the United States Department of

Justice, through its “Policy Regarding the Disclosure to Prosecutors of Potential Impeachment Information Concerning Law Enforcement Agency Witnesses,” known as its “Giglio Policy,” has established a procedure whereby Federal prosecutors obtain potential impeachment information from Federal investigative agencies, such as the Federal Bureau of Investigation, regarding law enforcement agents and employees who may be witnesses in the cases they prosecute. United States Department of Justice, Justice Manual, tit. 9-5.100 (updated Jan. 2020) (Manual), <https://www.justice.gov/jm/jm-9-5000-issues-related-trials-and-other-court-proceedings> [<https://perma.cc/NKL2-YZ2J>]. According to **[\*\*31]** the policy:

“Prosecutors should have a candid conversation with each potential investigative agency witness and/or affiant with **[\*659]** whom they work regarding any on-duty or off-duty potential impeachment information, including information that may be known to the public but that should not in fact be the basis for impeachment in a federal criminal court proceeding, so that prosecuting attorneys can take appropriate action, be it producing the material or taking steps to preclude its improper introduction into evidence.”

*Id.* at tit. 9-5.100(1). In addition, each United States Attorney's office designates a “requesting official” who may ask an investigative agency's official to provide potential impeachment information regarding an agency employee associated with the case or matter being prosecuted. *Id.* at tit. 9-5.100(2)-(4). When a case is initiated within the United States Attorney's office, the prosecutor responsible for the case, to supplement the information obtained directly from the agency employees involved in the case, may ask the office's requesting official to

obtain from the agency's designated official any potential impeachment information regarding those agency employees. *Id.* **[\*\*32]** at tit. 9-5.00(4). Potential impeachment information may include, but is not limited to:

- “i) any finding of misconduct that reflects upon the truthfulness or possible bias of the employee, including a finding of lack of candor during a criminal, civil, or administrative inquiry or proceeding;
- “ii) any past or pending criminal charge brought against the employee;
- “iii) any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;
- “iv) prior findings by a judge that an agency employee has testified untruthfully, made a knowing false statement in writing, engaged in an unlawful search or seizure, illegally obtained a confession, or engaged in other misconduct;
- “v) any misconduct finding or pending misconduct allegation that either casts a substantial doubt upon the accuracy of any evidence — including witness testimony — that the prosecutor intends to rely on to prove an element of any crime charged, or that might have a significant bearing on the admissibility of prosecution evidence ... ;

**[\*660]** “vi) information that may be used to suggest that the agency employee is biased for or against a defendant ... ; and

“vii) information that **[\*\*33]** reflects that the agency employee's ability to perceive and recall truth is impaired.”

*Id.* at tit. 9-5.100(c)(5).

This policy is not intended to grant any rights to defendants and does not have the force of law. *Id.* at tit. 9-5.100 (preface). But it reflects the department's recognition of 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. See *id.* We do not possess the authority to require the Attorney General and every district attorney in this Commonwealth to promulgate a comparable policy, but we strongly recommend that they do.<sup>16</sup>

**[\*661]** 2. *Disclosure of false statements to police department.* As earlier noted, the judge

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<sup>16</sup>WBUR radio recently reported that three of the eleven district attorneys in Massachusetts maintain some form of a list of police officers who were “flagged by prosecutors as either having engaged in or been accused of misconduct that the [district attorney’s] office might legally need to disclose” to defense counsel because the information is relevant to the credibility of the officers. See WBUR News, “Few Mass. DAs Keep Police Watch Lists. Constitutional Questions Exist For Those Who Don’t,” Aug. 18, 2020, <https://www.wbur.org/news/2020/08/18/police-brady-lists-middlesex-district-attorney> [<https://perma.cc/NE45-4444>].

In addition, we note that prosecutive offices in a number of other States have established policies or protocols governing the discovery and disclosure of potential exculpatory impeachment information regarding law enforcement witnesses. See, e.g., Memorandum of the New Jersey Attorney General, Disclosure of Exculpatory and Impeachment Evidence in Criminal Cases, *Brady and Giglio Practical Application, Investigative Employees and Potential Giglio Material*, at 5 (June 18, 2019), <https://www.nj.gov/oag/dcj/policies.html> [<https://perma.cc/YP9W-LY2R>] (noting that “[i]t is imperative that investigative personnel assist with the prosecuting agency’s legal duty to review and, if necessary, disclose evidence that may impact the credibility of potential investigative State witnesses,” and providing examples of *Giglio* material); Memorandum of the New Hampshire Attorney General, The Exculpatory Evidence Protocol and Schedule (Mar. 21, 2017), <https://www.doj.nh.gov/criminal/documents/exculpatory-evidence-20170321.pdf> [<https://perma.cc/GU6X-HUK9>] (creating protocol for an exculpatory evidence schedule); Washington Association of Prosecuting Attorneys, Model Policy, Disclosure of Potential Impeachment Evidence for Recurring Investigative or Professional Witnesses (June 19, 2013), <http://waprosecutors.org/manuals/> [<https://perma.cc/RHE2-L3Q8>] (model guidelines for creation and maintenance of potential impeachment evidence lists for law enforcement witnesses).

denied the district attorney’s motion for an order authorizing the disclosure of information concerning the petitioners’ grand jury testimony to the Fall River police department. The judge concluded that the department already had substantial information to commence disciplinary proceedings and that the information the district **[\*\*34]** attorney sought to disclose would provide the department with “no additional material information.” Although the district attorney does not challenge the judge’s order, the single justice asked the parties to address in their briefs, in essence, whether disclosure to the police chief would have been permissible if the police department did not already know of the petitioners’ false statements, and whether any such disclosure would require prior judicial approval.

We generally are reluctant to address issues that are not the subject of a live dispute, or orders that have not been challenged by any of the parties, but we respect the single justice’s implicit recognition that guidance on these matters is needed. We therefore will provide guidance, albeit limited to the type of false statements at issue in this case. In providing this guidance, we do not evaluate the merits of the judge’s decision in the case. Indeed, we address a factual circumstance quite different from that addressed by the judge — where the police chief, in the absence of the requested disclosure by the district attorney, would not know that immunized grand jury testimony revealed the misconduct of two police officers **[\*\*35]** in the department.

We have already declared, *supra*, that where a prosecutor determines that a potential police witness lied to conceal a police officer’s unlawful use of excessive force, or lied about a defendant’s conduct and thereby allowed a false or inflated criminal charge to be prosecuted, the prosecutor’s obligation to disclose exculpatory information requires that



the information be disclosed to defense counsel in any case where the officer is a potential witness or prepared a report in the criminal investigation. Where this disclosure must be made to defense counsel, it must also be made to the police chief of the department because the consequence of such disclosure is to jeopardize or, at a minimum, complicate the successful prosecution of any criminal case where the police officer played a significant role. It would make no sense for the prosecutor and defense counsel to possess this information, and for the police chief to be deprived of the same information. The police chief needs this information to determine [\*662] whether to fire or otherwise discipline the officer, place the officer on desk duty, or take other steps to ensure the integrity of the department and its criminal [\*\*36] cases. Because the disclosure of this information arises from the prosecutor's *Brady* obligation, no prior judicial approval is required to make this disclosure, even if it arises from immunized grand jury testimony.

If, however, other police misconduct is revealed through a grand jury investigation that does not require the prosecutor under his or her *Brady* obligation to disclose the misconduct to defense counsel in any case where the officer is a potential witness or prepared a report in the criminal investigation, prior judicial approval should be obtained before this grand jury information may be revealed to the officer's police chief. See Mass. R. Crim. P. 6 (d). See also *Petition of Craig v. United States*, 131 F.3d 99, 102-103 (2d Cir. 1997) (holding that Fed. R. Crim. P. 6[e][3] contains permissive, not exhaustive, list of reasons for release of grand jury materials, and affirming nonexhaustive list of factors judges may consider when evaluating "special circumstances" motions to release grand jury materials). In the absence of a live dispute, and the facts that would accompany such a dispute, we do not opine as to the

circumstances when, if at all, such approval should be granted.

*Conclusion.* The case is remanded to the county court for entry of a judgment denying the petition under G. L. c. 211, § 3, thereby [\*\*37] leaving intact the judge's order allowing the district attorney's motion to make the *Brady* disclosure.

*So ordered.*

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End of Document



THOMAS M. QUINN III  
DISTRICT ATTORNEY

*The Commonwealth of Massachusetts*

OFFICE OF THE  
DISTRICT ATTORNEY  
BRISTOL DISTRICT

218 South Main St  
Fall River, MA 02721  
(508) 997-0711  
Fax No: (508) 676-0798

July 12, 2021

[REDACTED]  
[REDACTED]  
[REDACTED]

Bristol County District Attorney's Office  
Disclosure/Production Form---Brady/Giglio Material

Re: [REDACTED]

Dear Attorney [REDACTED]:

Please be advised the Bristol County District Attorney's Office is in possession of material regarding Fall Police Department Officer [REDACTED]. After review it has been determined the material should be disclosed to fulfill the requirements described by the court in the *In the Matter of a Grand Jury Investigation*, 485 Mass. 641 (2020) case. We seek to provide a report of an investigation concerning Officer [REDACTED].

As we discussed, I am seeking to provide this information to you pursuant to a protective order and I am attaching a proposed protective order.

Sincerely,

Assistant District Attorney

**IN THE MATTER OF THE FALL RIVER POLICE DEPARTMENT**

**AND OFFICER JOSHUA ROBILLARD**

**INVESTIGATION**

**DETERMINATION OF JUST CAUSE**

**IN COMPLIANCE WITH G.L. CHAPTER 31**

**AND THE REGULATIONS OF THE FALL RIVER POLICE DEPARTMENT**

**RECOMMENDATIONS**

**REDACTED COPY**

**JUNE 1, 2021**

**IN THE MATTER OF THE FALL RIVER POLICE DEPARTMENT**

**AND OFFICER JOSHUA ROBILLARD ET. AL.<sup>1</sup>**

The following has been prepared in regard to an investigation relative to a complaint that was received by the Fall River Police Department Office of Professional Standards on February 17, 2021. The allegation at that time was that then Detective Joshua Robillard (who has since been transferred and now has the title of "officer")<sup>2</sup> was providing illegal drugs to an informant in exchange for information relating to drug offenders in the City of Fall River.<sup>3</sup>

**BACKGROUND**

On February 17, 2021, Fall River Police Department Captain Jay Huard was the Fall River Police Department's Office of Professional Standards internal investigator, and was, at that time, the sole investigative officer assigned to the Office of Professional Standards. The officer assigned to such duties, most often an officer of higher rank, is "responsible for recording, maintaining, registering and supervising the investigation of complaints against the department or department employees and the agency."<sup>4</sup>

Thus, it is the responsibility as well as the purview of the Office of Professional Standards to receive information that may indicate that an employee or officer of the Fall River Police Department is or was engaged in any activity that might rise to the level of a violation of the Rules, Regulations, Policies or Procedures of the Fall River Police Department (as set forth in the Fall

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<sup>1</sup> Sergeant Brett Kimball, Officer Guy Furtado, Sgt. Luis Duarte.

<sup>2</sup> It should be noted that the appointing authority in Fall River Police Department, the Chief of Police, "appoints" officers to the "title" of "detective," and that the transfer of Robillard from his assignment in the Vice and Intelligence Unit did not involve a reduction in rank, nor was it a demotion.

<sup>3</sup> NOTE THAT THIS IS A **REDACTED COPY** OF THE REPORT – TO PROTECT TWO INDIVIDUAL'S IDENTITY (DUE TO THE FACT THAT THEY HAVE BEEN INFORMANTS FOR THE FALL RIVER POLICE IN THE PAST – THEY ARE REFERRED TO AS "INFORMANT #1" AND "INFORMANT #2") IN THIS REDACTED VERSION OF THE REPORT.

<sup>4</sup> See Fall River Police Department, Administration Manual. SOP ADM.05.8 at paragraph 7.

River Police Department Administrative Manual) as well as any act that may constitute a violation of the General Laws of the Commonwealth of Massachusetts.

Thus, upon receiving information relating to the alleged distribution of illegal narcotics by a detective assigned to the Vice and Intelligence Unit of the Fall River Police Department, (Detective Joshua Robillard), the allegations constituted both a violation of the rules and regulations of the Department as well as a felony and misdemeanor (alleged distribution of a Class "A" controlled substance – heroin, and the alleged distribution of a Class "E" controlled substance – Xanax) pursuant to the General Laws of the Commonwealth of Massachusetts,<sup>5</sup> Captain Huard began a preliminary investigation into these allegations.

The initial contact that Captain Huard received on February 17, 2021 was from an individual who identified as "Informant #1". Huard was told by "Informant #1" that it had information that a detective assigned to the Vice and Intelligence Unit of the Fall River Police Department was "giving drugs to an informant." It identified that individual as Detective Joshua Robillard, (hereinafter "Robillard") and agreed to meet with Captain Huard to discuss the matter and did not wish to discuss the matter further on the phone.<sup>6</sup>

Arrangements were made to meet with "Informant #1" the next day, February 18, 2021 at a specified location and time. "Informant #1" did not show up. On the following morning, "Informant #1" again contacted Captain Huard. It stated that it still wanted to meet with the captain and "reiterated" the allegation. Arrangements were made to meet with "Informant #1" and a meeting did occur. Captain Huard was accompanied by Sergeant Kiel Huard, and the three met on February 19, 2021 at 10:30 AM.<sup>7</sup>

"Informant #1" indicated that it was a drug addict and has been for "a good portion of life, using heroin and crack cocaine." "Informant #1" stated that it was in a relationship with "Informant #2", and that the relationship was "tumultuous." "Informant #1" stated that it had

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<sup>5</sup> See Massachusetts General Law Ch. 94C, s. 32, Possession with Intent to Distribute a Class "A" controlled substance, and G.L. Ch. 94C, s. 32D, Possession with intent to Distribute a Class "E" controlled substance.

<sup>6</sup> Preliminary Report of Captain Jay Huard, Fall River Police Department.

<sup>7</sup> Ibid.

been an informant for members of the Fall River Police Department, to include Sergeant Brett Kimball and now Detective Joshua Robillard.<sup>8</sup>

“Informant #1” stated that it had been “working with” Robillard for a “good amount of time,” and that the detective talks with it and “Informant #2” and “confides in them” as he was going through some issues in his personal life.<sup>9</sup>

“Informant #1” stated that it provides drug information to Robillard, but that “Informant #2” did not know of their working relationship. It further stated that it learns who “Informant #2” is buying drugs from and thereafter provides this information so that the dealers get arrested.<sup>10</sup>

“Informant #1” stated that Robillard was also talking with “Informant #2” and had been making attempts to try to persuade it to provide information to him. “Informant #1” stated that “Informant #2” told it that it had been asking Robillard for money to purchase drugs.<sup>11</sup> “Informant #2” then told “Informant #1” that Robillard stated that he did not have money to give but that he could “do what Kimball used to do.” “Informant #2” was asked to explain that statement and it stated that Sergeant Brett Kimball used to give “Informant #2” drugs years ago. “Informant #1” also stated that “Informant #2” told it that Kimball once gave it a “half a brick of heroin”<sup>12</sup> It stated that this action occurred in the lobby of the Fall River Police Department headquarters. “Informant #1” stated that “Informant #2” no longer interacts with Kimball. (Kimball no longer is involved primarily in drug investigations as he was transferred to the Uniform Division of the Fall River Police Department in 2016. He was temporarily placed in a Gang/Gun Task Force in 2020 for a temporary period of time but now is assigned to the Uniform Division, Nights.<sup>13</sup>)

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid, p. 2.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid. It is not an uncommon practice within the Fall River Police Department for detectives to pay registered informants a sum of money for information that is helpful in developing a drug investigation case. See Fall River Police Department SOP-OPER.06.5, “Vice Drugs and Organized Crime,” at p. 11, “Procedural Safeguards,” “Funds.”

<sup>12</sup> A “brick” of heroin consists of 50 bags of heroin. See *Drug Enforcement Administration, “Heroin 101,”* at [www.butlerhealthsystem.org](http://www.butlerhealthsystem.org).

<sup>13</sup> Interview with Sergeant Brett Kimball, on April 16, 2021, at the Fall River Police Department.

"Informant #1" then stated to Captain Huard and Sgt. Huard that Robillard had recently dropped off drugs to "Informant #2" because it was "dope sick."<sup>14</sup> "Informant #1" stated that Robillard has delivered drugs to "Informant #2" on three separate occasions. "Informant #1" stated that it did *not* see the actual deliveries, but "Informant #2" had mentioned the three separate incidents.<sup>15</sup> "Informant #1" also stated that it had thereafter used these drugs with "Informant #2". It further stated that *it did not witness* the transactions of delivery because Robillard does not trust it with "that type of involvement." "Informant #1" stated that the norm was for "Informant #2" to meet with Robillard and take a brief ride with him and then return with drugs. "Informant #2" and "Informant #1" would then use the drugs together.<sup>16</sup>

### THE ALLEGED DRUG TRANSACTIONS

"Informant #1" stated to Captain Huard that there were three separate drug transactions that had occurred wherein Robillard gave "Informant #2" drugs. "Informant #1" then articulated these three incidents to Captain Huard.

"Informant #1" stated the first "drug delivery" occurred on Monday, February 15, 2021 at approximately 9:30 AM. "Informant #1" stated that "Informant #2" was sick and called Robillard to bring it drugs. "Informant #1" further alleged that "Informant #2" told it that Robillard stated that he was on a day off and would have to go to the station to get the drugs. "Informant #1" further stated that it observed a "gold colored sedan, possibly a Honda" pull up in front of the house at approximately 9:30 AM where it later observed "Informant #2" to get into the car and to be dropped off shortly after a brief ride.<sup>17</sup> After "Informant #2" was dropped off, it then called

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<sup>14</sup> Preliminary report of Captain Jay Huard at p. 2. A term readily known to represent the illness that accompanies withdrawal from drugs and the need for more to help with the symptoms of withdrawal.

<sup>15</sup> *Ibid.* It should be noted here that the Captain's report states "It did see the actual deliveries." However, the remainder of the sentence does not conclude that. Upon conferring with Captain Huard, it was determined that this was an error in his report. "Informant #1" did not see the alleged deliveries of drugs to "Informant #2".

<sup>16</sup> *Ibid.*

<sup>17</sup> It should be noted that "Informant #1" indicated that it lived within a line of sight of "Informant #2", and not with her. Thus, her observations were allegedly made from her home, and not that of "Informant #2".

“Informant #1” to join it in the use of the drugs that it described as heroin package in blue glassine bags. “Informant #1” stated that Robillard provided the drugs and was alone when he did so.<sup>18</sup>

“Informant #1” then described the second delivery. It stated that it occurred on February 16, 2021 at 11:00 AM. “Informant #2”, again “dope sick” called Robillard for more drugs. “Informant #1” said Robillard showed up in a car but it did not recall the description.<sup>19</sup> “Informant #1” stated that “Informant #2” later told it that it entered the vehicle and saw that Robillard was not alone. He was accompanied by another male wearing a “covid” mask and a winter hat. “Informant #2” told “Informant #1” that it informed the male to remove his mask so it could see his face because he saw her. The second male complied with this request and it described him as being of Portuguese or Hispanic descent. “Informant #2” told “Informant #1” that Robillard said, “Don’t worry, he is my partner, he has dirt on me and I have dirt on him.”<sup>20</sup> “Informant #2” told “Informant #1” it received five blue glassine bags of heroin along with some “yellow Xannie bars,” which are otherwise known as Xanax.<sup>21</sup>

The third delivery was said to have occurred on Thursday, February 16, 2021 at 1:45 PM.<sup>22</sup> This was actually on Thursday, February 18, 2021 (the day that “Informant #1” was to meet investigators, see fn. 19 below – it did meet with them the day after). “Informant #1” again stated that “Informant #2” was “dope sick” and that Robillard delivered five bags of heroin and more Xanax.

Captain Huard stressed in his reporting of these alleged drug transactions that “Informant #1” never physically saw Robillard deliver drugs. It was reporting on what it was allegedly told

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<sup>18</sup> Ibid. at paragraph 3.

<sup>19</sup> It should be noted that although “Informant #1” did state that it did not actually witness drug transactions in her earlier statements, it here states that on at least the first two alleged deliveries, it witnessed a vehicle pick up, and later drop off, “Informant #2”.

<sup>20</sup> It was later learned by Captain Huard that this second male could have been Detective Guy Furtado, who on occasion would work with Robillard. Detective Furtado was interviewed for this investigation.

<sup>21</sup> Ibid. Xanax is a Class “E” controlled substance pursuant to Massachusetts General Law. See G.L. Ch. 94C, s. 32D. Possession with the intent to distribute this drug is a misdemeanor.

<sup>22</sup> Note that Thursday was actually February 18<sup>th</sup> and NOT the 16<sup>th</sup>. Captain Huard stated that this was a typographical error. Of note as well, this is the date of the original planned meeting with “Informant #1” and investigators. It did not show up.



by "Informant #2". It did tell Captain Huard that it urged "Informant #2" to stop asking Robillard for drugs, and was told by "Informant #2" to "trust me on this one."<sup>23</sup>

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<sup>23</sup> Preliminary report of Captain Jay Huard, at p. 3.

## THE PRELIMINARY INVESTIGATION

Subsequent to the meeting with "Informant #1" and its allegations relating to the distribution of drugs to "Informant #2", Captain Jay Huard began a preliminary investigation. First, he contacted Sgt. Kevin Medeiros, who is assigned to the Information and Technology Unit of the Fall River Police Department. Sgt. Medeiros has the ability to access information relating to when an employee "pass card" (referred to as a "fob" in the Captain's report) is utilized to ENTER the Fall River Police Department, as well as the identity of the assignee of that card. The information also indicates which point of access is used by the card holder.

The sergeant was able to provide documentary evidence that Joshua Robillard did enter the Fall River Police Department at 9:16:23 on February 15, 2021. This time frame would corroborate the statement that Robillard had indicated that he had to go to the police station to obtain drugs on that date prior to the meeting with "Informant #2" at 9:30 AM. The system does not provide for the exit times of those individuals who have previously gained access.

Captain Huard also was able to confirm that Joshua Robillard was not on a work day on the date of February 15, 2021. That date was a holiday (President's Day) and it is not unusual for detectives to take holidays off from duty. The Captain further confirmed this by accessing the schedule for the Vice and Intelligence Unit and did confirm that Robillard was on a day off. This is not in dispute.

## NOTIFICATION TO THE CHIEF OF POLICE

Captain Huard then made notification to Chief of Police Jeffrey Cardoza of the allegations in this complaint, as well as his corroboration of a part of the allegation as it relates to the date of February 15, 2021 (The allegation that Robillard was not working and had to go to the police station to procure drugs).<sup>24</sup>

Chief Cardoza ordered a halt to the administrative investigation due to the fact that there were allegations that rose to the level of criminal behavior.<sup>25</sup> The Chief thereafter immediately notified the Office of the Bristol County District Attorney to advise of possible criminal conduct occurring with a sworn Fall River police officer. It was then determined after this contact that the District Attorney's Drug Task Force would commence and lead an investigation into the alleged unlawful distribution of drugs by Robillard. It was decided that Lt. David Murphy of the Major Crimes Division of the Fall River Police Department would act as a liaison between the Fall River Police Department and the detectives of the Massachusetts State Police assigned to the aforementioned task force.<sup>26</sup>

Captain Huard and Lieutenant David Murphy then met with "Informant #1" on February 29, 2021 and it was explained that Lt. Murphy would be taking over the matter involving Robillard. Lieutenant Murphy did initiate a criminal investigation along with Massachusetts State Police detectives. The lieutenant did generate a police report relative to this investigation, FRPD report #21-1248-OF.<sup>27</sup> It should be noted that the criminal investigation proved to be futile by the failure of "Informant #1" to cooperate further with the investigators that had been assigned to the conduct the criminal investigation. Thus, due to the failure of the prime and only "witness" to

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<sup>24</sup> See Preliminary Report of Captain Jay Huard, p. 3.

<sup>25</sup> Were the allegations to be proved, they constituted both unlawful possession of a Class "A" and Class "E" controlled substance, as well as unlawful possession with the intent to distribute those drugs. The drugs being heroin and Xanax .

<sup>26</sup> Preliminary report of Captain Jay Huard, p. 3.

<sup>27</sup> That police report indicates that the investigator did meet with the complainant who initially cooperated but thereafter discontinued to do so. It also makes clear that the witness never saw any explicit drug transaction but was relating what it was allegedly told by "Informant #2". That criminal investigation ceased with the failure of continued cooperation of the only witness, "Informant #1".

these allegations, Chief of Police Jeffrey Cardoza chose to advise Captain Huard to conduct an administrative investigation related into the "Informant #1" allegations.<sup>28</sup>

## THE REOPENING OF THE ADMINISTRATIVE INQUIRY

Subsequent to being ordered by the Chief of Police to commence with the administrative investigation, Captain Jay Huard then met with then Vice Commander, Lieutenant Gregory Wiley on February 26, 2001 and informed the lieutenant that he would be conducting an administrative search of the desk and locker of Robillard.<sup>29</sup>

Also, it should be noted that the Captain did notify union officials representing Joshua Robillard and Detective David LaFleur, the Vice-President of the Fall River Police Patrol Officer's Union, who was present at the Vice and Intelligence offices, along with the Division Commander, Lt. Gregory Wiley and Robillard. Captain Huard explained that he was going to conduct a search of the area assigned to Detective Robillard inclusive of his desk, the cubicle wherein his desk was located as well as his department issued locker. Robillard was made aware of the searches but he was not questioned by Captain Huard regarding the investigation. Robillard was also informed that his department issued cell phone would be seized. He complied with the order to turn the phone over to Captain Huard.<sup>30</sup>

The aforementioned searches occurred in February 26, 2021. The desk of Robillard was searched first. Captain Huard found the desk and cubicle area assigned to Robillard to be "very disorderly."

Upon the search of Robillard's desk, the Captain located "approximately 20 pieces of (drug) evidence that were packaged with evidence tags and accompanied with their respective evidence sheets."<sup>31</sup> These drugs with their respective identifying drug slips were properly processed by submission to the department's drug officer.

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<sup>29</sup> See Preliminary Report of Captain Jay Huard at p. 3.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid., at p. 4.

## DRUGS LOCATED IN THE DESK OF DETECTIVE JOSHUA ROBILLARD

In addition to the drugs attached to drug slips, the following drug items were located in the desk of Robillard:

- 3 Acetaminophen 325 mg pills
- 5 Oxycodone 15 mg pills
- 2 Acetaminophen 325 mg pills
- 3 Gabapentin 800 mg pills (not a controlled substance)<sup>32</sup>
- 37 Amphetamine 20 mg pills
- 53 Diazepam 5 mg pills
- 4 Alprazolam 1 mg pills
- 3 Oxycodone 10 mg pills
- 17 Amphetamine 20 mg pills
- 3 Oxycodone 325 mg pills
- 38 Adderal 20 mg pills (not a controlled substance)
- 3 Oxycodone 30 mg pills
- 4 Prednisone pills (not a controlled substance)
- 2 Oxycodone pills 325 mg pills
- 5 small corner bags of crack cocaine (3 grams each)
- 7 small corner bags of fentanyl
- 5 unlabeled pill bottles (empty)<sup>33</sup>

Additionally, there were four safes that were located in the area of Robillard's cubicle. Three of the safes (hereinafter referred to as the "black safe," the "blue safe," and the "white safe") were located near or under the desk/cubicle area assigned to Robillard. The fourth safe (the "black floor safe") was separate and upon further investigation became irrelevant to this investigation as later explained.

The aforementioned safes were seized and secured by Captain Huard and placed in the Office of Professional Standards. It should be noted that they were all locked at the time of the discovery and the seizure. There was a search conducted of the locker assigned to Josh Robillard and there was nothing out of the ordinary located therein.

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<sup>32</sup> It is IMPORTANT to note that Captain Huard has indicated in his preliminary report that some of the drugs that were located both in the desk of Robillard, as well as safes located in his possession were not "controlled substances." The reader should not interpret that as these drugs being legal to possess. It does not mean that possession of said drugs, in most cases, was legal, as these drugs noted by the captain to be "not controlled substances" are illegal to possess without a prescription, and thus, are, in fact "controlled substances." Therefore, in the inventories that follow, where the captain has so indicated, this investigator does not concur with said characterization of these drugs.

<sup>33</sup> Ibid. This is an inventory of the desk of Robillard as found during the unannounced search of February 26, 2021. The possession of these drugs will be discussed in the conclusion of this investigatory report.

Captain Huard informed the Chief of Police Jeffrey Cardoza of his findings as set forth above. The Chief transferred Robillard from his assignment in the Vice and Intelligence Unit to the Staff Services Division of the Fall River Police Department upon receiving this information.<sup>34</sup>

After the aforementioned safes were secured, they were not opened, as they were all locked.

On the weekend following the search and seizure of the drugs from Robillard's desk, as well as the safes, Chief of Police Jeffrey Cardoza was contacted by a Fall River Police Patrol Officer's Union representative, Union Vice-President David Lafleur, who advised the Chief that Robillard had and would provide the keys to three of the safes that were seized from his cubicle area on the Monday after the weekend. On that Monday, March 1, 2021, union official Lafleur and union representative Moses Pereira met with Captain Jay Huard in the Office of Professional Standards. Lafleur stated that Robillard wished to cooperate and was thus providing the keys to the safes in an effort to do so.<sup>35</sup>

Captain Huard opened the three safes by use of the keys provided by Robillard to the union officials. This was done in the presence of the union officials. All three safes contained numerous amounts of drugs. Union representatives viewed the contents. They were not inventoried at that time, but this was done so afterwards.

On March 2, 2021, the two union officials again contacted Captain Huard and went to the Office of Professional Standards. They had secured the key and combination for the "larger" black floor safe that was also seized .... as safe number four. Vice-President of the union, David Lafleur had obtained the key from Officer James Elumba who had been assigned to the Vice and Intelligence Unit in the past and had access to that larger safe that had not been used in some time. Upon opening the safe, Captain Huard found some paperwork relating to Officer Elumba. It should be noted that Elumba had advised the union that would be the case and the union was forthcoming in advising Captain Huard of that fact. Additionally, there was a small amount of pills that had clumped together and had begun to disintegrate as well as a small amount of marijuana that was dry and brittle. Huard believed the condition of these items to be indicative of the fact that they were in the safe for a number of years.<sup>36</sup>

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<sup>34</sup> *ibid.* at p. 4.

<sup>35</sup> *ibid.*, at p. 5. Although not contested during this investigation, I find that the actions of Robillard through his union representation represented a consensual search of the contents of the three safes.

<sup>36</sup> *ibid.* The contents of this larger "floor safe," that I have identified as safe "number four" is thus not relevant to this investigation.

## THE INVENTORIES OF THE SEIZED SAFES

Captain Huard thereafter conducted a thorough inventory of all three relevant safes that were located in the cubicle area of Robillard in the Office of the Vice and Intelligence Unit.

Those inventories follow:

### SAFE NUMBER ONE – THE WHITE SAFE

- 8 pill bottles (empty)
- 10 small nags of marijuana
- 4 small bags of marijuana
- 34 glassine bags of heroin
- 13 Buspirone 15 mg pills (not controlled substance)<sup>37</sup>
- 2 Hydrochloride pills (not controlled substance)
- 31 Gabapentin pills (not controlled substance)
- 11 Suboxone strips
- 19 Chlorthalide (sic) 50 mg pills (not controlled substance)<sup>38</sup>
- 20 Ranitidine pills (not controlled substance)
- 7 Lisinopril pills (not controlled substance)
- 17 Clonazepam 2 mg pills
- 3 vials of testosterone
- 6 Dyclomine pills (not controlled substance)
- 130 Mylan Dyclimine pills (not controlled substance)
- 38 Aspirin 81 mg pills (not controlled substance)
- 9 Levetiracetam 500 mg pills (not controlled substance)
- 3 Fluroxamine pills (not controlled substance)
- 2 vials of resins marijuana extract
- 1 glass jar will small amount of marijuana
- 34 blue glassine bags of suspected heroin
- 4 blue glassine bags of suspected heroin
- 5 small corner bags of cocaine
- 5 corner bags of suspected heroin
- 3 corner bags of suspected crack cocaine

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<sup>37</sup> For all notations marked as "(not a controlled substance)," see supra, note 30.

<sup>38</sup> Chlorthalidone is the correct spelling.



Also located in the first safe that was inventoried, the “white safe,” were drug items that were packaged with evidence tags. Some of the tags attached to the packaged drugs had Robillard’s name on them and some did not. The following is an inventory of those items:

- Packaged controlled buy<sup>39</sup> - 15 blue glassine bags of heroin labeled with suspect name Veronica Reading.
- Packaged controlled buy – 10 blue glassine bags of heroin labeled with suspect name Garrett Arruda.
- Packaged controlled buy – 9 white glassine bags of heroin labeled with suspect name Michael Croteau
- Packaged controlled buy – **3.7 gram corner bag of fentanyl** labeled with suspect name Neftaly
- Packaged controlled buy corner bag of crack cocaine labeled with the suspect name Belooth Malcolm.
- Packaged controlled buy corner bag of crack cocaine labeled with suspect name Jose Molina.
- Packaged controlled buy corner bag of crack cocaine labeled with the suspect name Peter Arpa.
- Packaged controlled buy corner bag of crack cocaine labeled with suspect name Shawn Sanders.
- Corner bag of fentanyl (unknown weight – not listed)
- Packaged controlled buy of 5 white glassine bags of heroin labeled with the suspect name Kristopher Moss.
- Two blue bags suspected fentanyl (neither weighed nor confirmed)
- Packaged controlled buy corner bag of crack cocaine labeled with suspect name of Anne Marie Sullivan.

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<sup>39</sup> A “controlled buy” occurs when a law enforcement agent or detective provides the purchase money as well as the location of the purchase (and often the identity of the seller) to an individual to purchase unlawfully possessed drugs. This is often done by one working with the police – an informant – or other agent of the police. The buyer is under surveillance of the investigators to assure the legitimacy of the “buy.” The drugs are then seized by the police and the transaction is used to establish probable cause for a search warrant that is often secured to search for more illegal drugs,

### **SAFE NUMBER TWO – THE BLACK SAFE**

- 4 small bags of marijuana
- 26 Gabapentin pills (not a controlled substance)
- 10 Oxycodone 325 mg pills
- 10 vials of testosterone
- 17 Atorvastatin pills (not a controlled substance)
- 57 Omeprazole pills (not a controlled substance)
- 45 Clonazepam 1 mg pills
- 124 Citalopram 20 mg pills (not a controlled substance)
- 28 Alprazolam 2 mg pills
- 7 Dexamethasone 5 mg pills (not a controlled substance)
- 19 blue glassine bags of suspected heroin
- 110 white glassine bags of suspected heroin
- 2 suboxone strips
- 1 small corner bag of suspected heroin
- 1 corner bag of suspected crack cocaine
- 6 pill bottles (empty)
- 1 vial of estrogen inhibitor
- 1 syringe

### **SAFE NUMBER THREE – THE BLUE SAFE**

- 4 small bags of marijuana
- 20 Tramadol 50 mg pills
- 1 white small bag of marijuana
- 13 Roxicet 325 mg pills
- 3 small corner bags of suspected cocaine
- 8 Oxycodone 80 mg pills
- 201 Glyburide pills (not a controlled substance)
- 5 Oxycontin 80 mg pills
- 2 Suboxone strips
- 3 Mitrazapine 15 mg pills (not a controlled substance)
- 2 Suboxone pills
- 2 Alprazolam pills
- 9 Amphetamine 10 mg pills
- 11 Oxycodone 5 mg pills
- 4 yellow glassine bags of suspected heroin

- 36 blue glassine bags of suspected heroin
- 7 corner bags of suspected crack cocaine
- 6 corner bags of suspected heroin
- 2 pill bottles (empty)

Also located in the third safe – the blue safe, were six drug items that were packaged with evidence tags. All of the tags had suspect's names and Detective Luis Duarte's name on them.<sup>40</sup>

- Packaged controlled buy of 10 white glassine bags of heroin labeled with suspect name of Ronald Alston
- Packaged controlled buy of 5 blue glassine bags of heroin labeled with suspect name of Antonio Fernandes.
- Packaged controlled buy of 10 blue glassine bags of heroin labeled with suspect name of Charles Belisle.
- Package controlled buy of 8 purple and white glassine bags of heroin labeled with the name of Paul Santana.
- Two glassine bags of heroin labeled with FRPD case # 16-3985 and 16-3986, with suspect names of Kevin Mattos and Gregory McDaniel.<sup>41</sup>
- Packaged controlled buy of 1 corner bag of cocaine labeled with suspect name of Jonathan Farias.

The items listed above having been located in the drawer of Robillard as well as the three safes were inventoried as listed above and deemed as evidence and turned into the evidence vault of the Fall River Police Department.<sup>42</sup>

Captain Huard noted that on March 4, 2021 he had been able to reach "Informant #2" via phone and was able to speak with it briefly. **"Informant #2" declined to cooperate in any way with this investigation.**

On that same day, Captain Huard looked at the department issued cell phone of Josh Robillard and located a "text message chain" between Robillard and a person identified as "'Informant #2" 3." Messages were located back to September 6, 2020.

Captain Huard did note pictures of "Informant #2" and was able to confirm it as the individual who is the "Informant #2" involved in this investigation.

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<sup>40</sup> At the time of this investigation, Det. Luis Duarte had been promoted to the rank of sergeant and transferred to the Uniform Division. Sgt. Duarte was interviewed relative to this investigation. See Interview of Sgt. Luis Duarte, *infra*.

<sup>41</sup> This item did NOT have Duarte's name attached, but rather had Robillard's ID number. Duarte however was the case officer.

<sup>42</sup> Preliminary report of Captain Jay Huard at p. 5.

Further, Captain Huard found messages from "Informant #2" to Robillard:

February 12: "U got dope on deck instead. Swear 2 god ill never tell." There is no response following from Robillard.

February 14: "Hoping that you'll go to work today and surprise me with a gift...Hint hint." Robillard did respond that he was not available on that day.

February 16: "Did you get me my b-day present baby daddy." Robillard did respond "No lol. At the house with the kids."

March 3: "Ima call the station." Robillard's phone had been seized and thus there was no response.

Captain Huard believed that Robillard deleted responses back to "Informant #2", and he further inferred that the conversations taking place were in regard to Robillard delivering drugs to "Informant #2".<sup>43</sup>

The cellphone was submitted for forensic analysis to the Major Crimes Division of the Fall River Police department. The analysis did not provide any further evidence.

Lastly, On March 10, Captain Huard received a message at his office phone from "Informant #1" who stated that it and "Informant #2" had "got out of rehab" and wished to speak to the captain about this investigation. All efforts that were made to contact "Informant #1" thereafter were futile. It, nor "Informant #2", were available for interview in this investigation, and have continued to remain uncooperative.

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<sup>43</sup> Ibid.

## THE INVESTIGATION

On March 14, 2021, the undersigned was engaged by the City of Fall River to investigate the matters set forth above. The engagement was signed by the Corporation Counsel of the City of Fall River and the Chief of Police on March 17, 2021.

A meeting was thereafter held with Chief of Police Jeffrey Cardoza and Captain Jay Huard. At that meeting the allegations of the distribution of controlled substances by a vice detective were discussed as well as the basis and reasoning for going forward with an administrative investigation rather than a criminal investigation. The foregoing preliminary investigation conducted by Captain Jay Huard was reviewed and discussed. It was agreed that the failure of "Informant #1" and particularly "Informant #2" to cooperate with police investigators made a criminal inquiry into the allegations that were stated by "Informant #1" impossible. Without cooperation, and more importantly, the cooperation of "Informant #2", there could be no criminal case established.

Nonetheless, the decision to initiate a continued investigation was agreed upon. The findings of Captain Huard during the steps of his investigation are relevant to this investigator, and further comment upon the initial allegations will be discussed. Also, a determination will be made as to whether just cause<sup>44</sup> exists for any discipline as a result of this investigation and is warranted for any member of the Fall River Police Department.<sup>45</sup>

It should be noted that this investigation has been conducted in accord with Massachusetts G.L. Chapter, s. 41, and the Rule and Regulations of the Fall River Police Department, thus this report will establish whether any allegation made initially by "Informant #1", as well as any evidence discovered subsequent to those allegations resulted in a violation of Massachusetts General Law, and/or the Rules and Regulations of the Fall River Police Department.

Findings will be ruled as follows:

**SUSTAINED** - Where the allegation has been investigated and the facts show that the allegation is true and the action taken was not consistent with department policy.

**NOT SUSTAINED – (INCONCLUSIVE)** – The allegation has been investigated and there is insufficient proof to confirm or refute the allegation because of insufficient evidence.

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<sup>44</sup> The term "just cause" is found in Mass. Gen. Law Ch. 31, s. 41, where it states, in part, "Except for just cause and except in accordance with the provisions of this paragraph, a tenured employee shall not be discharged, removed, suspended for a period of more than five days ..... Before such action is taken, such employee shall be given a full hearing ..."

<sup>45</sup> Although Joshua Robillard was the focus of the primary investigation, the preliminary inquiry resulted in the inclusion of other officers being mentioned as well, or evidence implicating other officers was discovered. All officers were interviewed.

**UNFOUNDED** – The allegation has been investigated and either the allegation is demonstrably false or there is no credible evidence to support it.

**EXONERATED** – The allegation has been investigated and the facts indicate that the action taken was consistent with department policy.<sup>46</sup>

Although the term “just cause” which will be the onus of this investigation and report has not been defined in Section 41 of G.L. Chapter 31, it has been determined that the “legislative purpose” of the just cause standard “is whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing efficiency of the public service.” Murray v. Second District Court of Eastern Middlesex, 389 Mass. 508 (1983). Accordingly, any determination of the existence of just cause will be based upon that standard.

### **THE INTERVIEW OF JOSHUA ROBILLARD**

On April 7, 2021, upon receipt of appropriate notice, Joshua Robillard appeared for questioning at the Office of Professional Standards. He was allowed to have counsel present.

This investigator was accompanied by Captain Jay Huard of the Office of Professional Standards. The interview was audio and videotaped. Robillard was advised that questions would be asked of him that were directly related to the performance of his duties as a Fall River Police Officer. He was also advised that his failure to answer said questions would result in the disciplinary action of termination of his employment as a Fall River Police officer.<sup>47</sup>

Because the answers of questions posed to the officer were compelled, this compulsion triggered “transactional immunity.” It is recognized that this investigator, nor Captain Huard had the requisite authority to grant immunity to the officer. However, the officer was informed that no statements made by him could be used against him criminally, nor could he be prosecuted criminally relating to the internal investigation case by rights granted to him pursuant to law.<sup>48</sup>

Robillard was advised of the above factors – that due to the compulsion of answers to questions that he would be immune from criminal prosecution relative to the topics of questioning.

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<sup>46</sup> See Fall River Police Department SOP-ADM.05.8, Internal Investigations, at p.19, Report of Investigation.

<sup>47</sup> See mandate enunciated in Carney v. City of Springfield, 403 Mass. 604, (1988), where the employee must be advised of “precise repercussions” in the failure to answer. That was done here.

<sup>48</sup> Although immunity can NOT be granted by internal affairs investigators, the mere act of compulsion triggers said immunity. It is the Fifth Amendment that controls the use of compelled statements. Further, Massachusetts requires transactional (as opposed to “use” immunity) where responses are the subject of compulsion. Carney, supra, at p. 610.

Robillard indicated that he understood the above and agreed to be responsive to questioning. He was cooperative and forthcoming in his answers.

Robillard was then informed about the entirety of the allegations made against him to Captain Huard by "Informant #1". He was also advised of the reference made to Sergeant Brett Kimball, as well as the allegation that he was accompanied by another male on one occasion when he allegedly provided drugs to "Informant #2".

The questioning of Robillard was divided into what this investigator has referenced as "Part A" – the allegations that had been made against Robillard in the provision of drugs to "Informant #2", and "Part B" – the discovery of a quantity of drugs in both Robillard's desk as well as in three safes that were in his constructive possession (as they were located under his desk at his cubicle and work space in the Fall River Police Department Vice Unit office.)

#### **"PART A" OF THE INVESTIGATION – THE ALLEGATIONS OF DRUG DISTRIBUTION**

Robillard provided that he has been assigned to the Vice and Intelligence Division of the Fall River Police Department since January 2014 – a period of just over seven years, until his recent transfer. His demeanor was cooperative, as noted, but it was apparent that he characterized himself as a top performing vice detective during his tenure and referenced that characterization several times.

Robillard acknowledged that he knew both "Informant #1" and "Informant #2" and indicated that they were "informants" who were both "registered" with the Fall River Police Department. He stated that "Informant #1" was an active informant that had provided information for Sgt. Brett Kimball in the past and now was "working" with him.<sup>49</sup>

Robillard acknowledged that he also "worked" with "Informant #2", albeit often reluctantly due to a difficult manner. He spoke of his knowledge of the relationship between the two informants and stated that it was his observation that the two were often jealous of each other as well as secretive from each other as to what each was doing, particularly with their purchase of drugs as well as their separate distinct relationships that existed in providing information as informants to Robillard.

"Informant #1" had provided Captain Jay Huard with three separate incidents where it alleged that Robillard had provided drugs to "Informant #2". Again, it should be noted that on each of these three occasions, based solely on "Informant #1"'s reporting to Captain Huard, "Informant #1" **never saw an actual drug transaction occur.** It did state that it observed

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<sup>49</sup> This is later disputed by Kimball, who later states that he never "worked" with "Informant #1" as an informant.

"Informant #2" (at least on the first two occasions) get into a car and drive off and then returned with drugs. On the first alleged delivery "Informant #1" stated that it witnessed a "gold colored sedan, possibly a Honda."<sup>50</sup> (Robillard stated that he does not operate a gold-colored sedan and provided that his department vehicle was a blue Honda Accord, and that his personal vehicles were a white Toyota Camry and a maroon Toyota Sienna.) After the vehicle drove off with "Informant #2" it returned moments later, and "Informant #2" had drugs. Thus, "Informant #1" was, on no occasion, a percipient witness to the provision of drugs from Robillard to "Informant #2". Her information was based solely on what it allegedly was told by "Informant #2"<sup>51</sup>. Robillard was provided with the details of the narrative report prepared by Captain Jay Huard in his preliminary investigation and his recording of what he was told by "Informant #1". This was done by the reported narrative being read to him by this investigator and thereafter he asked about each of these allegations.

The first date that a delivery of drugs was alleged was Monday, February 15, 2021. This was a Monday and the President's Day holiday. Robillard was not scheduled to work. "Informant #1" stated that "Informant #2" contacted Robillard at approximately 9:00 AM (this statement is unsubstantiated relative to whether "Informant #1" witnessed this contact or was allegedly informed about it. Its failure to cooperate and be interviewed leaves this unanswered).

"Informant #1" stated that there was a delivery that was made at "around 9:30 AM." "Informant #1" informed Captain Huard that Robillard had told "Informant #2" that he was on a day off and would have to go to the station to get drugs. In his follow-up to this specific allegation, the Captain was able to confirm that Robillard did in fact enter the police headquarters building via a check of recorded access notations that detect when a personal access card is utilized. Robillard entered the building at 9:16:23 AM. There is no means of determining the time at which Robillard left the building. I find that this evidence corroborates the statement of "Informant #1" relative to the allegation that Robillard had to go to the station as well as the time frame of the alleged initial call and delivery.

Presented with this allegation, Robillard denied that he delivered drugs to "Informant #2". He was asked clearly if he had any knowledge of any Fall River Police officer or detective providing drugs to anyone ... an informant or otherwise. He stated that he had not ever done so himself and had no knowledge of any other officer doing so. He did state that he was in the building at the time indicated and often comes into the building and his office on off days to get some work done. Again, he represented that he works often when not scheduled to do so because he wished to take care of work that needs to be done so that he may spend more time "on the street" doing his job. He also accentuated that the car described did not match any car that he uses... either department issued or personal. Despite the distinction in car description, it is not unreasonable

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<sup>50</sup> Preliminary report of Captain Jay Huard at p. 2.

<sup>51</sup> "Informant #2", who in these allegations is the recipient of the drugs from Robillard, was contacted by Captain Jay Huard during the course of this investigation and refused to cooperate in any manner.



that Robillard could have used or borrowed a gold-colored car, or that “Informant #1” could have been mistaken about the description. Nonetheless, even with the time frame corroboration, **I do not find there to be sufficient evidence to warrant just cause to conclude that Robillard met with “Informant #2” on that date to provide her with drugs.**

The second incident was alleged to have occurred the next day, on February 16, 2021. “Informant #1” alleged that Robillard delivered drugs to “Informant #2” at 11:00 AM after it had called him and was in need of drugs. It was alleged that in this case there was another detective present (that detective was found to be Detective Guy Furtado). Robillard did state that he did meet with “Informant #2” at one time with Detective Furtado in the car as it was alleging that it could provide information relative to a “high level target.” **He denied that he provided “Informant #2” with drugs.** Upon review of this second allegation by “Informant #1”, again it is a hearsay<sup>52</sup> witness, and “Informant #2” refuses to cooperate – and “Informant #1” also failed to continue to cooperate. **Thus, I find that there is no evidence to sufficient to warrant just cause that Robillard provided drugs to “Informant #2” on this occasion.**

The third incident was alleged to have occurred on Thursday, February 18, 2021. “Informant #1” stated that “Informant #2”, as on the other occasions, had called for drugs from Robillard. “Informant #1” stated that Robillard thereafter delivered five bags of heroin and Xanax to “Informant #2”. Again, as in the prior two incidents wherein “Informant #1” alleges that *it was told* that Robillard delivered drugs to her, “Informant #1” does not state that it personally witnessed this alleged transaction. Robillard denied that this ever took place. Based on the scarcity of evidence – with just the word of a hearsay witness who has since failed to continue to cooperate with law enforcement authorities, **I find that there is no evidence sufficient to warrant just cause that Robillard provided drugs to “Informant #2” on this occasion.**

#### **FINDINGS FOR “PART A” OF THE INVESTIGATION – JOSHUA ROBILLARD**

The actions alleged by “Informant #1” to Captain Jay Huard were that Detective Joshua Robillard of the Fall River Police Department Vice and Intelligence Unit did, on three distinct occasions, distribute a Class “A” drug, to wit heroin, as well as a Class “E” drug, to wit Xanax, to “Informant #2”. These incidents were alleged to have occurred over a 4-day period, from February 15, 2021 through February 18, 2021.

The evidence does indicate some corroboration of “Informant #1”’s allegations relative to the first incident, as the time frame of Detective Robillard entering the Fall River Police Department after he allegedly stated that he would have to do so. Notwithstanding that

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<sup>52</sup> “Informant #1” is a “hearsay” witness in all of these allegations. That is, it is providing police with that which it was allegedly told by “Informant #2”, rather than about something it actually witnessed herself.

corroboration, there is no other evidence that supports the allegation that Robillard distributed any drugs to "Informant #2".

Both "Informant #1" and "Informant #2" are known to Robillard as informants – that seem to work independently and almost in competition with each other. Although this investigator did not speak with either of the women, it was clear that they are both drug users and drug dependent individuals. Robillard did mention the fact that the practice of dealing with drug using informants is often challenging due to the fact that their veracity is always in question. His words were that "CI's say a bunch of things," and the truth needs to often be sorted out.

A significant problem in these allegations is that "Informant #1" was allegedly repeating what "Informant #2" told her. Thus, it was a "hearsay" witness and her allegations could only have been verified if "Informant #2" cooperated with this investigation. It did not. Also, "Informant #1" refused to continue to cooperate once the matter of this investigation was underway.

Thus, as to the allegations of Joshua Robillard distributing drugs to "Informant #2" in violation of Massachusetts General Law, Ch. 94C, s. 32, as well as violations of Fall River Police Department Rules, Regulations, Policies and Procedures as they relate to the care and custody of drugs as well as conduct of an officer, I find that these allegations are NOT SUSTAINED relative to "PART A" of this investigation.

#### INTERVIEW OF JOSHUA ROBILLARD REGARDING HIS CELL PHONE

As part of his preliminary investigation, Captain Jay Huard seized the department issued cellular phone of Josh Robillard to review any possible correspondence that he may have had with "Informant #2". This relates to "Part A" of this investigation – the allegation of providing "Informant #2" with drugs. Captain Huard was able to locate a "text message chain" between Robillard and "Informant #2" where over the course of several conversations "Informant #2" did state what could be interpreted as a request for drugs from Robillard. He stated that it would "say outlandish things" and that he never provided anyone with drugs. I find that the words could be interpreted as *asking* for drugs. That cannot be determined without further cooperation. There is no indication that Robillard ever responded that he would provide drugs. The cell phone was submitted for forensic analysis without any further result. I find the texts located on Robillard's cell phone to be of no consequence to "Part A" of this investigation without more context.

## INVESTIGATION – “PART A” – DETECTIVE GUY FURTADO

It had been alleged that on the second distribution of drugs by Robillard to “Informant #2” that there was a second detective present during this incident that was said to have occurred on February 16, 2021 in a vehicle. “Informant #1” stated that “Informant #2” had seen the other detective and that “Informant #2” had required him to remove a mask that he wore at that time. He complied. The identity of this individual was determined by Captain Jay Huard to be Detective Guy Furtado.

Part of the allegation was that Robillard told “Informant #2” that the other detective was his partner and not to worry. It was alleged that Robillard stated, “Don’t worry. He is my partner. He has dirt on me and I have dirt on him.”<sup>53</sup>

Since this individual was implicated in a matter that would rise to the level of a violation of both law and the Fall River Police Department’s Rules and Regulations, he was ordered to appear for an interview by this investigator in regard to this allegation. That interview took place on Friday, April 16, 2021 at the Office of Professional Standards of the Fall River Police Department.

Detective Guy Furtado was accompanied by counsel and a union representative. I found him to be professional and forthcoming in his demeanor. He was preliminarily advised of the nature of the inquiry as well as the fact that the investigation was an administrative investigation being conducted into the allegations of drug distribution by a Fall River Police detective, and was provided the information relative to what had been alleged.

Since Detective Furtado was only named as the individual who was present during the second alleged transaction, questioning was limited to that alleged event. Detective Furtado confirmed that the meeting did take place. He stated that he was approached by Detective Robillard and asked to go meet an informant with him. Furtado explained that his usual partner is Detective Paul McGuire and that he was on vacation, so he was available and agreed to go with Robillard.

Furtado stated that the meeting did occur and that “Informant #2” got into the rear seat of the blue Honda Accord that was assigned to Robillard. He further confirmed that “Informant #2” was not comfortable with him there, as they had not met. He stated that Robillard informed that Furtado was another detective and that he could be trusted. Furtado stated that Robillard never made the statement about either having “dirt” on the other detective.

Furtado explained that the meeting with “Informant #2” occurred because it allegedly had information on a high-level target that Robillard was very interested in and that the entire meeting

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<sup>53</sup> Preliminary report of Captain Jay Huard at p. 2.

lasted approximately five minutes. He stated that he at no time saw an exchange of anything between Robillard and "Informant #2", either any drug item or cash. Furtado was asked if he had any knowledge of any detective ever providing an informant with drugs. He thought for a moment and then clearly stated "*that would be insane.*"

#### **FINDINGS – "PART A" OF THE INVESTIGATION – DET. GUY FURTADO**

My impression of Detective Furtado, who has been a member of the Fall River Police Department since 2012 and a vice detective since July 2019 (he was recently transferred to the Uniform Division) was that he was professional, honest and forthcoming. He was neatly and professionally attired, wearing a suit for this interview. I did detect that he was upset at the fact that he had become a part of this investigation and that he had been transferred (ostensibly due to that fact) from his position in the Vice and Intelligence Unit. My impression of this officer is that he is an asset to the Fall River Police Department and can continue to be so despite his unfortunate involvement in a five-minute meeting that he admitted occurred but was convincing in his statement that no wrongdoing occurred. Nonetheless, he maintained a professional demeanor throughout. Due to the allegation and his limited exposure to that allegation the questioning remained focused on "second incident." I was particularly drawn to Furtado's comment that to provide an informant with drugs "would be insane." I find that comment to have been sincerely stated and that he presented as an honest and truthful person.

Also, upon review of these series of allegations, I do question why Robillard, who allegedly acted alone in presenting drugs to "Informant #2" on two other occasions, would involve Furtado in *this* particular transaction, thus creating a witness to his purported serious wrongdoing. The question that presents itself is... why? Why would Robillard risk another detective witnessing his wrongdoing that could essentially, if true, get him criminally charged with a serious felony and possibly arrested? Thus, based upon my review of the alleged involvement of Guy Furtado in this "second transaction" of delivery of drugs to "Informant #2" by Robillard, I find any allegation of wrongdoing involving Furtado to be **UNFOUNDED.**

## INVESTIGATION "PART A" – SERGEANT BRETT KIMBALL

Part of the statement made to Captain Jay Huard by "Informant #1" implicated Sergeant Brett Kimball when it stated that "Informant #2" told her that Robillard said that he "could do what Kimball used to do with her." It further stated that "Kimball used to give "Informant #2" drugs years ago, and that it was told by "Informant #2" that Kimball gave her a half brick of heroin in the front lobby of the police station."<sup>54</sup> Kimball had previously been assigned to the Special Operations Division and was involved in drug investigations in that regard. He currently is a Uniform Division Sergeant.

Kimball was therefore notified to appear for questioning in this investigation. Upon proper notice, he did so on April 16, 2021. The interview took place at the Office of Professional Standards. He was accompanied by counsel and was interviewed by this investigator with Captain Jay Huard present relative to the allegations that were made. He was provided preliminary information and was advised that the investigation was administrative in nature. Thus, he would be required to answer questioning that was tailored to his duties as a Fall River Police officer or face the disciplinary action of termination. He stated he understood and was cordial and responsive. The interview was audio and video recorded as common practice.

After a review of the work history of Sgt. Kimball to illustrate that he has been assigned to the Special Operations Division and was thus exposed to drug investigations and drug culture, he was informed of the statement that he had provided drugs in the past to "Informant #2" and was alleged to have done so in the lobby of the Fall River Police Department. He sternly denied said accusations and was visibly incensed at the latter allegation.

After learning that Sgt. Kimball was, for a time, a supervisor in the Vice and Intelligence Unit when a "Gang/Gun Task Force was formed in response to increased violent activity in the city I opened up my line of questioning to whether he had any supervisory authority over Detective Joshua Robillard. Kimball's union counsel objected and they were allowed to caucus relative to whether proper notice had been received concerning this line of questioning.

It should be noted that this questioning only occurred when this investigator learned that there was a supervisory nexus between Kimball and Robillard. Counsel and Kimball met and agreed to continue with the line of questioning.

Kimball was thereafter questioned as to his knowledge of the existence of drugs in Robillard's desk drawer as well as in three safes that were in his possession. (Those issue are examined in "Part B" of this investigation, and rather than have Kimball return, once it was learned he was present, and in a supervisory capacity, albeit for only several months, during the time Robillard had these drugs, these questions were relevant to this overall investigation.)

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<sup>54</sup> See Preliminary Report of Captain Jay Huard at p. 2.

Kimball stated that he had supervisory responsibility over Robillard only occasionally and was not aware of the presence of drugs in his desk drawer. Further, he did state that he was unaware of the presence of safes under Robillard's desk or the contents of the safes during his time from July 2020 to the date of the discovery of the presence of the drugs, March 2021. His responses were forthcoming and I deem them to be credible.

He was asked about his relationship with "Informant #1" and "Informant #2" and stated that "Informant #1" was never an informant for him at any time, and that "Informant #2" was only one to provide information on occasion but he would not solicit information from her as an informant. He stated that he knew the family of "Informant #1" and would oftentimes be contacted to intervene in domestic issues that occurred within that family, as they were familiar with him. Lastly, he stated that he had not had contact with either of the woman in five to six years. He did recall that they were always arguing and that they had a difficult relationship with each other.

Kimball did state that he was aware that some detectives chose to have safes on their desks and believed it was for the purpose of securing their personal firearms upon reporting for duty. That statement has merit and is believable, although the same could be done by placing the firearm in one's desk. He did state that he did not have access to the safes of detectives and had no specific knowledge of what was kept in them.

#### **FINDINGS – "PART A" OF THE INVESTIGATION – SGT. BRETT KIMBALL**

Upon review of the interview of Sergeant Kimball, I determined there to be two issues present that need to be addressed in this investigation. First, is there any evidence that Kimball ever provided drugs to an informant, as well as the allegation that he did so (a half brick of heroin) in the lobby of the Fall River Police Department. And secondly, did he know or should he have known that Joshua Robillard was keeping drugs in his desk and at least one safe (the matters discussed below), since he was, albeit briefly, a supervisor of Robillard. I find that there is NO evidence that Kimball provide drugs to an informant. I further find the allegation that he did so in the very lobby of the Fall River Police Department to be outrageous. It is not believable that Kimball ever provided drugs to anyone – the allegation that he did so in the very lobby of the police department is preposterous and without any merit. WHY would any officer or detective, if he or it was to involve themselves in this illegal practice, decide to do it within the lobby of the police department? It is not believable. Thus on the allegation of Kimball providing drugs to "Informant #2", there is no evidence to support that other than the hearsay allegation of "Informant #1". I find Kimball to be **EXONERATED**. As to having any knowledge of the contents of Robillard's desk or the safes under Robillard's possession and control, (discussed below as "Part B" of this investigation), I find Kimball's nexus to and liability for any violation to be **UNFOUNDED**.

## **INVESTIGATION – “PART B” OF THE INVESTIGATION – JOSHUA ROBILLARD**

As noted above, subsequent to the allegations made to Captain Jay Huard on February 17, 2021 relative to Detective Joshua Robillard providing drugs to an informant, the Captain thereafter furthered his investigation by conducting a search of the desk and cubicle of Joshua Robillard in the Vice and Intelligence offices of the Fall River Police Department.

Inventories of what the Captain located are provided above. Drugs were located in the desk of Detective Robillard, as well as in three safes – (a white safe, a black safe, and a blue safe) that were in his possession and his control, that he had and provided keys for in cooperation with this investigation.

Each entity will be discussed separately.

### **INTERVIEW RELATED TO THE SEARCH OF THE DESK OF DETECTIVE JOSHUA ROBILLARD**

As noted above, searches were conducted by Captain Jay Huard in furtherance of his preliminary investigation into the allegations of drug distribution by Detective Joshua Robillard. Upon inspection of the desk of Joshua Robillard, which was done in his presence, the Captain located a quantity of drugs. The inventory of what was located is set forth above at page 9.

Robillard was questioned relative to the inventory of drugs that were located in his desk drawers. He admitted to possessing these drugs and that he had placed them into his desk. Upon inquiry as to where the drugs came from, Robillard stated that “It’s been an accumulation over years.” There were no attachments to any of the drugs that were located in the desk of Robillard to connect them with any defendant or pending case.

Upon review of the inventory of the drugs located in the DESK of Robillard, the possession of the drugs, with no pending case or other explanation for their possession, is troubling. Some, however, are more seriously so. Fentanyl was classified as a Class A drug under Massachusetts law pursuant to the Criminal Justice Reform Act of 2018.<sup>55</sup> SEVEN “corner bags”<sup>56</sup> of this dangerous drug were located in Robillard’s desk. Additionally, a total of 15 grams of crack cocaine were located, as well as SIXTEEN oxycodone pills, varying in strength from 10 mg (3) to 325 mg

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<sup>55</sup> See 7 Key Provisions of the Criminal Justice Bill, April 6, 2018, at [www.wbur.org](http://www.wbur.org). Although this Bill was aimed at significant reform, one provision of the Bill addressed the seriousness of fentanyl due to a marked increase in overdose deaths from that drug. It was thus placed in “Class A” of Chapter 31, among the most addictive and dangerous drugs prone to overdose deaths.

<sup>56</sup> A “corner bag” consists of the bottom corner of a plastic baggie type bag being cut off to hold the drug for ease of illicit distribution.

(5). The other vast inventory included prescription drugs that are also subject to abuse and addiction.

Robillard admitted to the possession of these drugs with inadequate basis or reason. He clearly acknowledged that they were not possessed in relation to any ongoing criminal investigation of any particular individual. Robillard was asked if he was aware of the policy of the Fall River Police Department as it relates to the disposition of seized or found drugs. He stated that he "did know it generally," and that "I don't believe (drugs) are supposed to be stored in a desk, they're supposed to be attached to an evidence form, (and submitted to) an evidence officer or stored in the Vice Commander's safe."

Robillard was asked hypothetically what should happen when drugs are recovered by a member of the Fall River Police Department. He responded, "As far as policy, or as far as what I was taught."<sup>57</sup> This statement clearly represents a situation whereby this officer is indicating that he was taught to perform his duties contrary to policy. The Rules and Regulations of the Fall River Police Department clearly indicate that officers are not to follow improper orders or violations of the rules and regulations and report such through the chain of command to the Chief of Police.<sup>58</sup>

Further, Robillard stated that he was aware of policy that drugs confiscated could be stored temporarily in the office of the Vice Commander where there was a safe for that purpose. In the event that safe or access to it was not available, the policy and procedure dictated that the drugs were to be stored in an evidence locker located at the Identification Unit. Robillard did clearly state that policy ... and that he was aware that drugs should be stored in an evidence locker with an evidence tag attached after retrieving a locker key from the Uniform Division Watch Commander. This was admittedly not done.

### **INTERVIEW OF JOSH ROBILLARD RELATED TO THE DISCOVERY OF THREE SAFES CONTAINING DRUGS**

As indicated above, three safes were located to be in the cubicle area of Josh Robillard by Captain Jay Huard. They were confiscated and thereafter opened upon the keys being presented through the union to the Captain. They were provided to the union officials by Robillard who indicated a desire to cooperate. The fact that the safes were located in the cubicle of Robillard as well as the fact that he was in possession of the keys of each safe is indicative of possession of them as well as the contents of all of them. As indicated earlier, I find that notwithstanding the

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<sup>57</sup> Robillard here indicates clearly that he was trained contrary to policy. I find this to be unacceptable and discussion will be explored later in this report. It is NOT an excuse for policy violation.

<sup>58</sup> See Fall River Police Department Rules and Regulations Sections 8.16 and 8.17.



right of the Captain to open these safes as being utilized by a detective in his official capacity in the performance of his duties, the action of the union presenting the key and acknowledging that Robillard provided the keys to the safes constituted consent to open the safes and review their contents.

### **INTERVIEW OF JOSH ROBILLARD REGARDING THE WHITE SAFE**

Robillard was interviewed regarding each safe independently. The first discussion was relative to a white safe. The inventory of drugs located in that safe is located on page eleven of this report. There was a large quantity of drugs, inclusive of SEVENTY-EIGHT bags of heroin in that inventory that were not accompanied by any drug slip nor related to any ongoing criminal case. Additionally, there were drugs that did have drug slips attached to them with Robillard's name on them from "controlled buys." This constituted an additional THIRTY-EIGHT bags of heroin for a total of ONE HUNDRED SIXTEEN bags of heroin.

Additionally, included in the drugs that did have slips was a quantity of FENTANYL in an amount of at least 3.7 grams.<sup>59</sup> It should be noted that TWO MILLOGRAMS of FENTANYL can be a lethal dose.<sup>60</sup> Therefore, the amount of FENTANYL located in a safe possessed by Robillard was enough to kill nearly two-thousand individuals.

Robillard admitted to having the inventory of drug items in the white safe. He was asked why the drugs without slips were not affiliated with any case. He stated, "I don't know why. Over the years stuff would be confiscated and people would not be charged." He also stated that some of the drugs were the result of controlled buys, and stated that if the buy did not lead to a search warrant that he would not "pull the money" and would throw the drugs in the safe. As to why these drugs did not have drug slips representative of a controlled buy attached to them subsequent to the buy being made, there was no satisfactory explanation provided. Robillard alluded that he would keep the drugs and if further investigation worked out he would then attach a drug slip representative of the controlled buy. If true, this is shoddy police work at best, since the practice of attaching a drug slip immediately after the buy was made would be in accord with best practices and policy<sup>61</sup> as well as appropriate in an investigation to relate the drug to the potential defendant.

Robillard was asked about "pulling the money" and what he meant by that statement. He indicated that he would often use his own money because he was a "company man." If the buy did not turn out to advance his case he would throw the drugs into the safe and take the loss of his own money. I find that statement to be both disingenuous as well as in violation of Fall River Police Department policy.<sup>62</sup> Under no circumstances should a detective be utilizing his or her own

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<sup>59</sup> As reported by Captain Jay Huard, Preliminary Report, at p. 6.

<sup>60</sup> See *Facts about Fentanyl*, from [www.dea.gov](http://www.dea.gov), retrieved on May 31, 2021.

<sup>61</sup> See Fall River Police Department SOP.03.3, Controlled Buys.

<sup>62</sup> *Ibid*.

money for a controlled buy which by their nature are planned in advance with time to secure the money required in accord with policy.

There was no satisfactory explanation for the quantity of drugs contained within the white safe that Robillard acknowledged was his and that he had been the individual to place the drugs in the safe. Merely having the drugs is a policy violation, but the fact that there was no affiliated case is even more problematic.

As to those drugs with drug slips attached (as well as names of defendants), inclusive of the FENTANYL, Robillard indicated that those cases were not able to be developed enough to apply for a search warrant. He was asked if the drugs should, pursuant to policy, have been turned in to the department's drug officer as evidence. He stated that they should have been, but, "as I was taught, I just threw them in the drawer." He further elaborated, and made quite clear, that this is the way it has been done and that there is policy and there was the "way he was taught." Robillard would not attribute said "training" to anyone in particular, just reinforcing that this was done by "everyone affiliated with that unit that had years on prior to me."

Interestingly, Robillard also stated that the policy of utilizing the safe in the Vice Commander's office could not be followed because the safe was not functional for a period of FIVE YEARS, from the time he was assigned to the unit until 2019, when a new commander had it repaired. This was clearly an unacceptable practice and a sign of poor leadership of the unit at the time prior to the new commander being assigned,

Robillard acknowledged that all of the drugs that were located in the white safe should have been processed in a different manner -- in accordance with policy. He relied upon the excuse that it was "just the way it was" in the unit and thus, policy was ignored.

There was significant discussion relative to drug slips that were found that were not dated. It was learned that the Second District Court magistrates prefer a controlled buy to be made "within 72 hours" of the filing of an affidavit in support of a search warrant for the premises from which the buy was made. Robillard explained thoroughly that the dates were not put in because he would wait until he had developed sufficient probable cause and then assure that the date was placed on the drug slip that was in compliance with the 72-hour rule. This gave rise to suspicion that dates were being randomly entered to be in compliance, but after much discussion, this investigator was satisfied that the detective had sound reason for entering the date when probable cause was present and assured that it was within the allotted time frame. The date is "fluid" and does not need be the exact date of the buy, and also entering the exact date of the buy could endanger an informant if the defendant learned of that exact date. The detective stated and assured that he has never misrepresented the date of a controlled buy (within 72 hours). I was satisfied with his explanation and do not find that there was wrongdoing in that regard.

**FINDINGS – POSSESSION OF DRUGS LOCATED IN THE WHITE SAFE**  
**BY JOSH ROBILLARD**

Robillard ADMITTED to the possession, ownership, and responsibility for the contents of the white safe. As set forth above, the safe contained drugs that could not be accounted for, as well as a very dangerous quantity of FENTANYL. I find that there is just cause to warrant that the following violations were committed by Joshua Robillard regarding the investigation of the matter of the white safe. These complaints are **SUSTAINED**.

1. **VIOLATION** of Fall River Police Department SOP-ADM.05.7  
Evidence and Property Control – Drug Evidence  
Narcotics and Controlled Drugs – Drug Records
2. **VIOLATION** of Fall River Police Department SOP-OPER.03.3  
Controlled Buys – Controlled Buy Procedures
3. **VIOLATION** of Fall River Police Department SOP-OPER.06.5  
Vice Drugs and Organized Crime – Procedural Safeguards – Funds
4. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.05 Attention to Duty
5. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.09 Obedience to Laws and Regulations
6. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.16 Obedience to Unjust or Improper Orders
7. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.17 Reports and Appeals of Unlawful, Unjust or Improper Orders

## **INTERVIEW OF JOSH ROBILLARD REGARDING THE BLACK SAFE**

Robillard was then interviewed regarding the black safe that was located beneath his desk. He indicated that the black safe was not his. When he was asked who it belonged to he stated that he did not know and that he did not know of the contents. He was reminded that he had possession of it as well as the key for it and had turned the key over to union officials with the intent of cooperation with this investigation and having the safe opened and inventoried. An inventory of the contents of the black safe appears on page thirteen of this report. Inclusive in that inventory are 129 bags of heroin, as well as 10 oxycodone 325 mg tablets, crack cocaine, 45 clonazepam (Klonopin) pills and other drugs that are illegal to possess without a prescription.<sup>63</sup>

Robillard stated that the black safe, as well as the blue safe (that will be discussed later) were "left at my desk with the keys in them." He stated that they were left at different times in the past and he could not be certain of the date. He stated that he "glanced" into the black safe and he was aware that there were drugs in there. He did not make any inquiry of his vice division colleagues as to the ownership of the safe, and stated that he "didn't want to bother them."

Robillard was asked if he brought the discovery of the black safe to the attention of his supervisor and he stated that he did not do so. He placed it under his desk, and he secured the key in his desk drawer. He stated again that it was "common practice" for drugs to be thrown into safes. Robillard did state that he knew that there were drugs in the safe and did know that this was a violation of department policy. He stated that he KNEW it was a violation to keep drugs that were found. He stated that he never told anyone about the discovery of the black safe, nor did he report it or attempt to comply with department policy. He stated that he could not be sure of the date of the safe being located by him at his desk and that no one asked about it.

## **FINDINGS – POSSESSION OF DRUGS IN THE BLACK SAFE BY JOSH ROBILLARD**

The responses provided by Robillard to his possession of the black safe<sup>64</sup> were incredulous. Robillard stated that at a date uncertain he found a safe with a key in the lock on his desk, opened the safe, observed that it contained drugs, to include 129 bags of heroin, oxycodone, and crack cocaine, yet never made inquiry as to who owned the safe. Further, he never advised his supervisor of the discovery, and just locked the safe and placed it under his desk and secured the key. When

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<sup>63</sup> Again, as stated earlier, Captain Huard categorized some of these as "not controlled substances." They are, in fact, "controlled" if a prescription is required to legally possess them.

<sup>64</sup> Robillard did, in fact, "possess" the safe and contents. Any argument otherwise is easily dismissed as erroneous as constructive possession requires "knowledge coupled with the ability to exercise dominion and control." See Commonwealth v. Tiscione, 482 Mass. 485, 494 (2019), quoting Commonwealth v. Dagraca-Teixeira, 471 Mass. 1002, 1004 (2015). Robillard clearly had control of this safe.

asked the obvious question of WHY he would do this, he stated that he “didn’t want to bother” his colleagues. I find the that behavior to be contrary to human nature. Upon finding such an item on YOUR desk and thereafter seeing it contained drugs, particularly if this was normal practice in spite of violating a number of rules and regulations of the department, the normal reaction would be to make inquiry of the other detectives serving in the unit as to ownership of the safe. Thus, I have difficulty in concluding that the responses to this inquiry were truthful. Nonetheless, although it is a very close case, I do not find that I have the requisite justification for a finding of just cause for “untruthfulness.” I do find just cause to warrant that the following violations were committed by Joshua Robillard regarding the investigation of the matter of the **black safe**. These complaints are **SUSTAINED**.

1. **VIOLATION** of Fall River Police Department SOP-ADM.05.7  
Evidence and Property Control – Drug Evidence  
Narcotics and Controlled Drugs – Drug Records
2. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.05 Attention to Duty
3. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.09 Obedience to Laws and Regulations
4. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.16 Obedience to Unjust or Improper Orders
5. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.17 Reports and Appeals of Unlawful, Unjust or Improper Orders

## **INTERVIEW OF JOSH ROBILLARD REGARDING THE BLUE SAFE**

The inquiry of Robillard regarding the blue safe was similar to his responses relative to that of the black safe. He stated that he located the safe, with the key in the lock, placed on his desk on a date unknown. The safes were not found to be placed there on the same date. He did the same with the blue safe as he did with the black one. He did look inside and he did observe that the safe contained a quantity of drugs.

In this case, however, there were drugs that were packaged with drug slips containing the name of Detective Luis Duarte, who is now working in the Uniform Division as a Sergeant after a promotion that occurred in 2020. Robillard did look into the safe and stated that he did not notify anyone of the discovery of the safe and drugs – not a supervisor and not even the detective who had controlled buy drugs located within the safe.

An inventory of the blue safe, inclusive of the drug slips is included on pages thirteen and fourteen of this report. Inclusive of the drugs that are not related to any defendant are 46 bags of heroin, 26 oxycodone pills, and a quantity of cocaine and crack cocaine. An additional 35 bags of heroin are cases where there are drug slips attached from “controlled buys,” where the drugs were not submitted pursuant to policy nor was a case prosecuted. In one instance there was a case number on a drug slip and upon further review it was determined that although a police report was done, it was never submitted for prosecution.

## **FINDINGS – POSSESSION OF DRUGS IN THE BLUE SAFE BY JOSH ROBILLARD**

As with the black safe, the responses of Robillard were elusive and troubling. This investigator finds that the behavior that Robillard admits to in the discovery of a safe, with key inside, containing drugs, some with the identity of another detective, and would not take steps to determine the ownership of that safe is entirely baffling. It is at best unreasonable and at the worst untruthful. However, I do conclude that again, this admission, although without doubt lacking in all reason, does not provide enough evidence to find just cause for untruthfulness. Regarding responses to his reactions and disposition to both the black and blue safes, I find that Robillard acted unreasonably in not attempting to locate the owner, notifying his supervisor, and assuring that the drugs were disposed of in accordance with department policy. Although his response to locating these safes was without question unreasonable, there is not adequate evidence of being untruthful for a finding of just cause for discipline in that regard.

I do find **just cause** to warrant that the following violations were committed by Joshua Robillard regarding the investigation of the matter of the **blue safe**. These complaints are **SUSTAINED**.

1. **VIOLATION** of Fall River Police Department SOP-ADM.05.7  
Evidence and Property Control -- Drug Evidence  
Narcotics and Controlled Drugs -- Drug Records
2. **VIOLATION** of Fall River Police Department SOP-OPER.03.3  
Controlled Buys -- Controlled Buy Procedures
3. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.05 Attention to Duty
4. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.09 Obedience to Laws and Regulations
5. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.16 Obedience to Unjust or Improper Orders
6. **VIOLATION** of Fall River Police Department Rules and Regulations  
Section 8.17 Reports and Appeals of Unlawful, Unjust or Improper Orders

## INTERVIEW OF SERGEANT LUIS DUARTE REGARDING THE BLUE SAFE

Upon inventorying of the blue safe, Captain Huard located and noted as part of his inventory (depicted on pages thirteen through fourteen of this report) five controlled buys that were packaged with the name of Detective Luis Duarte on the accompanying drug slips. These packaged contained a total of 28 bags of heroin and one corner bag of cocaine.

A sixth controlled buy bag contained the identification number of Detective Robillard. This slip also contained case numbers and it was determined that Detective Duarte did an offense report and stated that he submitted it through the chain of command. It was found that the cases against two defendants were never processed. It is unknown why this occurred, happening in 2016.

Sgt. Duarte was advised of the nature of the administrative investigation as well as the reason why he was ordered to be questioned. He stated that he had no knowledge of the blue safe and was surprised to learn that drugs that were seized as a result of a controlled buy that he admitted were his cases were found to be in the blue safe in the possession of Robillard. He stated two of those cases were prosecuted and he believed that the controlled buy drugs were processed in accordance with policy (turned over to the drug officer).

Duarte stated that it was common practice for drugs to be secured in the detective's desks that were acquired as a result of a controlled buy and that they would remain with the ongoing case until a search warrant was obtained and further drugs were seized. If that were not to happen within the time frame for the use of the controlled buy drugs to be useful, they were then turned in to the drug officer.

Although it is clear that this was common practice at that time (2016), maintaining possession of drugs in one's own desk or safe was contrary to policy. The policy mandated that the drugs be stored in the Vice Commander's safe or stored in a locker secured from the Watch Commander. (SOP-ADM.05.7).

Duarte believed that his controlled buy drugs, both the drugs that were utilized to forward criminal cases as well as the others, were turned over to the drug evidence officer at the time of the case processing or when they became of no use due to the passage of time and were "stale."

Duarte indicated that it was common practice for any detective to bring everyone's drugs to the drug officer at the same time. I find this practice, as well as the holding of drug evidence by detectives to be in violation of policy. The delivery of drugs to the



evidence officer inhibits the chain of custody of the drug evidence as well as fails to note the name of the “submitting officer” on all drugs that are turned in. This practice, clearly described by Sgt. Duarte as “common practice,” represented a systematic failure of supervision in the Vice Unit at that time. Policy was clearly NOT adhered to. Also we learned in this investigation that the Vice Commander’s safe was non-functional for a period of approximately FIVE YEARS. This fact alone led to a violation of policy as detectives were simply storing confiscated drugs in their desks.

Nonetheless, the drugs seized by Sgt. Duarte in the controlled buys that occurred in 2015 and 2016 were his responsibility. However, he sincerely believed that they had been processed by being submitted to the drug officer (clearly by another detective – albeit at a time after they should have been). However the seized drugs should have been stored in a secure safe in the Vice Commander’s office, or stored in a locker adjacent to the evidence room. This was not done, and these drugs ended up being discovered in the blue safe all these years later.

As to the maintaining of drugs in his personal desk, I find that a complaint **SUSTAINED** and that there is **just cause** that Sgt. Duarte was (in 2015 and 2016) in:

**VIOLATION** of Fall River Police Department SOP-ADM.05.7

Evidence and Property Control – Drug Evidence

Narcotics and Controlled Drugs – Drug Records

## CONCLUSION AND RECOMMENDATIONS

The allegations that were set forth initially in this matter regarding a Fall River Police detective providing drugs (heroin and Xanax) to an informant are extremely serious matters that if proven would have resulted in the arrest and prosecution of persons involved.

I find that although there may be some corroborating evidence relating to the allegations, such as the time frame of one alleged delivery as well as questionable text messages, there is no evidence that would support even a minimal finding of just cause that Robillard provided drugs to anyone.

The Captain of the Office of Professional Standards was astute in his action to conduct a search of the desk and cubicle of Robillard subsequent to the allegations.

I find that the presence of the significant quantity of drugs, particularly with no case nexus, to be very troubling. The mere presence of these drugs actually does provide further corroboration of the allegations, but as stated, there is no possibility of sustaining a case of drug distribution with cooperation of the complainant in this matter as well as the alleged receiver of the drugs.

Robillard touted his record as a Vice Detective and represented himself as a “company man” during questioning. However, he also ADMITTED to clear serious violations of the Rules, Regulations, Policies and Procedures of the Fall River Police Department. One cannot be a good officer and dedicated detective while at the same time substantially breaking the rules.

Robillard continuously alleged that despite those rules and policies – developed after significant effort of the Fall River Police Department to become a nationally accredited police agency – he just did what he was “trained” to do by those before him. The excuse of “because it was always done this way” is not an excuse for failure to comply with clear rules, particularly when dealing with dangerous drugs such as fentanyl, heroin, oxycodone and cocaine.

The responses regarding the discovery of both the black and the blue safes simply defy logic. It makes no sense not to try to locate the owner of something that was left on your desk ,,, particularly when you find drugs within in the quantity and kind that was in the discovered safes, and when you see that another detective is named on a quantity of drugs.

Finding just cause for untruthfulness in regard to the disposition of those two safes was indeed a close call, but one that would not have withstood close scrutiny.

In total I have found just cause for EIGHTEEN violations of the Rules, Regulations, Policies and Procedures of the Fall River Police Department.

I would highly recommend transfer from the Vice Unit had it not already occurred.

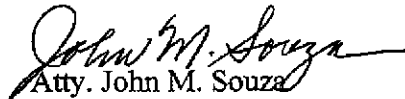
Upon review of the total disregard for the Rules, Regulations and Policies and Procedures of the Fall River Police Department and a finding of just cause, Chief Jeffrey Cardoza, as the appointing authority, has discretion as to the level of discipline to impose. I would recommend a period of no less than 45 days suspension as well as re-training as to the importance of compliance with the rules of an accredited police department.

As concerns Sgt. Luis Duarte, his actions rose to the level of a violation of the policies of the department as well. His actions occurred some 5 years ago. He also, indicated that his failure to properly store seized drugs was in accord with what was the ongoing practice at the time. Again, that is NOT an excuse. However, it did occur some time ago and any discipline should be left to the discretion of the Chief of Police.

Lastly, I find that the culture of the Fall River Police Department Vice and Intelligence Division needs to be closely reviewed. All detectives assigned to that unit should receive compulsory training relative to those rules that apply to their duties as drug enforcement officers. All regulations that apply to that unit should be reissued to each detective and there should be a mandatory training session relative to compliance with the rules.

A police department is only as good as the discipline that exists within to comply with the standards that are set forth to assure that things are done the right way. This must be addressed and enforced going forward, in the Vice Unit and throughout the department. The National Accreditation of the department was and is a significant accomplishment. It must be maintained.

Submitted respectfully,

  
Atty. John M. Souza

June 1, 2021



**Chief of Police**  
**Complaint Notification**

Date of Complaint: 08/09/2021

Date of Incident: 12/--/2020

Complainant's Name: Captain Barden H. Castro

Employee (s) Complained Against: [REDACTED]

Division/Assignment of Employee: Uniform Division

Allegation of Complaint: IIC#2021-040

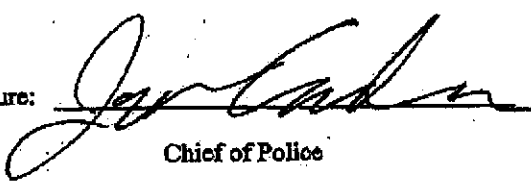
Disposition of Complaint: Violation of SOP - Unfounded

Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature:   
Chief of Police

Date: 08/24/2021



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

DATE: August 24<sup>th</sup>, 2021

TO:



FROM: Captain Barden H. Castro  
Office of Professional Standards

SUBJECT: Administrative Investigation IIC# 2021-040

[REDACTED]

This is to inform you of the disposition of an internal investigation into a rumor that large amounts of narcotics had been stored at your home and improperly destroyed. An investigation was conducted to determine the validity of this rumor and if any violations of department rules, regulations, policy, and procedure took place.

As a result of the investigation, the rumor was found to have no validity, as no credible evidence could be found which supports it. Therefore this complaint been filed in the Office of Professional Standards as:

Unfounded

*The allegation has been investigated and either the allegation is demonstrably false or there is no credible evidence to support it.*

If you have any questions regarding this outcome of this complaint, please feel free to contact the Office of Professional Standards.

Respectfully,

  
Captain Barden H. Castro  
Office of Professional Standards

# Fall River Police Department Officer's Report

To: Chief Jeffrey Cardoza

From: Capt. Paul Gauvin

Re: Evidence Boxes

Date: 8/16/21

Sir,

In February of 2021, I was given one banker's box from the Chief's Office. The box was covered in soot and smelled of mold as it had been stored in a basement for some years. The box was given to me for destruction/shred as the box had been reviewed. The box contained numerous sexual assault investigation folders, some of them obviously containing interview discs. Prior to shredding these items, I had MCD clerk, Christine Matton review all files and/or corresponding discs to ensure proper evidence submissions and investigation documentation.

A review of this box revealed two small properly sealed and tagged bags of cocaine, which were then given to Sgt. Murphy. All remaining files and discs were vetted and subsequently shredded by Matton. Sgt. Murphy then made me aware of the discovery. I then ordered Sgt. Murphy to bring the evidence to [REDACTED] and he was ordered to enter the evidence immediately. I then notified the Chief's Office of said findings and my actions taken.

It should be noted that Sgt. Murphy had brief conversation with [REDACTED] regarding this mistake and orders to rectify the matter. [REDACTED], a 25 plus year veteran at the time, had no discipline to speak of, had served [REDACTED] and had recently been appointed [REDACTED].

Based upon the totality of the facts and circumstances surrounding the matter and [REDACTED]'s good standing, I believe the informal verbal counseling served as proper discipline in this matter. I believe the transparent nature and evident steps taken by all command staff were all lawful and in accordance with the rules/regulations and policies of the Fall River Police Department. They were also in accordance with the orders, direct and implied, given by the Chief of Police.

Respectfully,

*Paul J. Stawie*



**CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT**



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

**To: Chief Cardoza**

**From: Lt. Gregory Wiley**

**Date: July 23, 2021**

Sir,

In March of 2019 I was promoted to Lieutenant and became the Commander of the Vice and Intelligence Unit. I made some immediate changes in the unit, which included transferring several Detectives from the unit. [REDACTED] was one of those Detectives.

At some point after the transfers took place, I came across a few boxes (2; I believe) that contained files and CD's / computer disks. These boxes were found in the closet in the Vice office. I conducted a quick inspection of the contents inside the boxes and learned that the contents belonged to [REDACTED] from when [REDACTED] was assigned to previous assignments.

I later spoke with [REDACTED] and informed [REDACTED] of the boxes and I requested that [REDACTED] remove the boxes and its contents. I informed [REDACTED] that I did not feel comfortable storing the boxes in the Vice office, or disposing of the contents due to the fact that I was unsure of the importance of the contents. [REDACTED] removed the boxes a few weeks later.

At no point did I see any case related evidence contained inside the boxes. Again, I conducted a quick inspection and only remember seeing files, and a few CD's / computer disks.

Respectfully submitted;

Lt. Gregory Wiley



## City of Fall River Police Department Officer's Report

To: Captain Barden Castro  
From: Sergeant Thomas Mauretti  
Date: August 19, 2021  
Re: Investigation of a Rumor

Sir,

After our conversation relative to this investigation I am of the understanding that the scope of this inquiry is to examine the validity of a rumor about an allegation that a large quantity of drugs was in a box that was taken from [REDACTED]'s home. At the request and order of the Chief I have authored the following:

On December 14, 2020 while out with the Chief of Police doing an errand he informed me that we were going to [REDACTED] to retrieve boxes that belonged to [REDACTED].

The Chief and I went into the [REDACTED], exchanged pleasantries and I saw two boxes near the front door. Both boxes were put into the back of the Chief's car and we then drove to the station and brought them to the office. We were at the [REDACTED] for approximately five minutes.

Chief Cardoza informed me to contact [REDACTED] and have [REDACTED] take care of the boxes; there was never any conversation about looking into the matter any further. The boxes were obviously old as there was a musty smell as I browsed the contents. The boxes contained several interview disc's (working copies) and several old case files with paperwork. There was also a small amount of ammunition in a pill container and two prescription bottles. I recognized the files appeared to be from when [REDACTED] was a Detective in Major Crimes. After spending over 10 years in the Major Crimes Division I was aware that Detectives keep "working" case files on their desk that are copies. It was apparent to me that [REDACTED] took the files when [REDACTED] was transferred to another Unit.

While in my office I contacted [REDACTED] who was working. [REDACTED] came to my office and I informed [REDACTED] of the circumstances. [REDACTED] stated that the boxes were old and most likely from when [REDACTED] cleaned out [REDACTED] desk when [REDACTED] was transferred. [REDACTED] stated the files were all copies and reviewed the material in front of me. I had already contacted [REDACTED]'s Watch Commander, Lt. John Martins and [REDACTED] was given ample time alone to look through the material [REDACTED] and decide what if anything was of evidentiary value and to make a determination on what needed to be destroyed. [REDACTED] took the boxes to review and returned with one box of files that would need to be shredded. The boxes were later given to the Major Crimes Division

The next day I independently memorialized my actions. In reference to the inquiry of the rumor, I did not see any large quantities or any illegal drugs in the boxes.

Respectfully,

  
Sergeant Thomas Mauretti

## Fall River Police Department Officer's Report

To: Capt. Paul Gauvin  
From: Lt. David P. Murphy  
Subject: Evidence Review  
Date: July 23, 2021

Sir,

On July 23, 2021, I, Det. Lt. David P. Murphy, was instructed to draft a report regarding found evidence back in February 2021. In February of 2021 I was a Lieutenant in the Major Crimes Division. On February 19, I was made aware that Christine Matton had found suspected drugs in a box of old files. The box was old files from when [REDACTED] was a detective [REDACTED]. The items found were two sealed bags. One was suspected crack cocaine. The second was suspected powder cocaine. The bags were marked as controlled buys. I called [REDACTED] up to my office and instructed [REDACTED] to log the evidence properly per policy.

During an unrelated visit to the evidence room and several months later, I was reviewing the controlled buy policy and observed an evidence form from [REDACTED]. I assumed at the time, this was the evidence form that I had instructed [REDACTED] to complete.

Respectfully Submitted,

*Det. Lt. David P. Murphy*  
Det. Lt. David P. Murphy



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

COMPLAINANT:

Captain Barden H. Castro

ABSTRACT OF ALLEGATION:

A rumor has been circulating the police station that [REDACTED] had boxes of evidence, specifically narcotics, at his residence.

[REDACTED]  
The rumor is that drugs were improperly disposed of in violation of departmental policy.

APPLICABLE RULE(S):

SOP-ADM.05.7 Evidence and Property Control

SUBJECT OF COMPLAINT:

[REDACTED]

DATE/TIME OF INCIDENT:

February 19, 2021

LOCATION OF INCIDENT:

City of Fall River Police Station

DATE COMPLAINT RECEIVED:

August 9<sup>th</sup>, 2021

ASSIGNED INVESTIGATOR:

Captain Barden H. Castro

BACKGROUND

In December of last year (2020) [REDACTED] contacted the Fall River Police Department and reported that [REDACTED]

[REDACTED] It is my understanding that Sergeant Thomas Mauretti and Chief Jeffrey Cardoza retrieved these boxes and the items in the boxes were later examined to determine if there were items of evidentiary value present. The boxes mainly contained copies of reports relative to cases [REDACTED] had worked while assigned to investigative positions within the department. Additionally, found in the boxes mingled with the assorted paperwork were two small plastic baggies of suspected narcotics. These two small baggies of suspected crack cocaine and powdered cocaine were tagged with drug

*NOTE: All definitions, concepts, facts, conclusions and recommendations contained herein are strictly administrative in nature without force of law and have no bearing on any legal body with competent authority. Summary statements have been written to reflect the individual's recollection of the incident. No portions contained therein have been supplemented by the Office of Professional Standards.*

slips and from what I have learned were the result of "controlled buys."

The supervisors at the time addressed the situation outlined above with [REDACTED] and the two small baggies of drugs were submitted to the evidence room pending destruction. I was additionally informed that the rest of the items in the boxes were properly disposed of. The drugs were submitted to the evidence room on February 19, 2021 with Ofc. John Deschenes signing for the items.

On or around February 17, 2021, the Fall River Police Department, Massachusetts State Police, and Bristol County District Attorney's Office began a criminal investigation in to Ofc. Joshua Robillard. Although the criminal investigation was unable to find that any criminal activity had taken place the investigation uncovered that Ofc. Joshua Robillard was storing drug evidence in violation of policy. As the administrative investigation of the Robillard case was concluding a rumor began to circulate around the department relative to the previously described "boxes" removed from [REDACTED]'s former home.

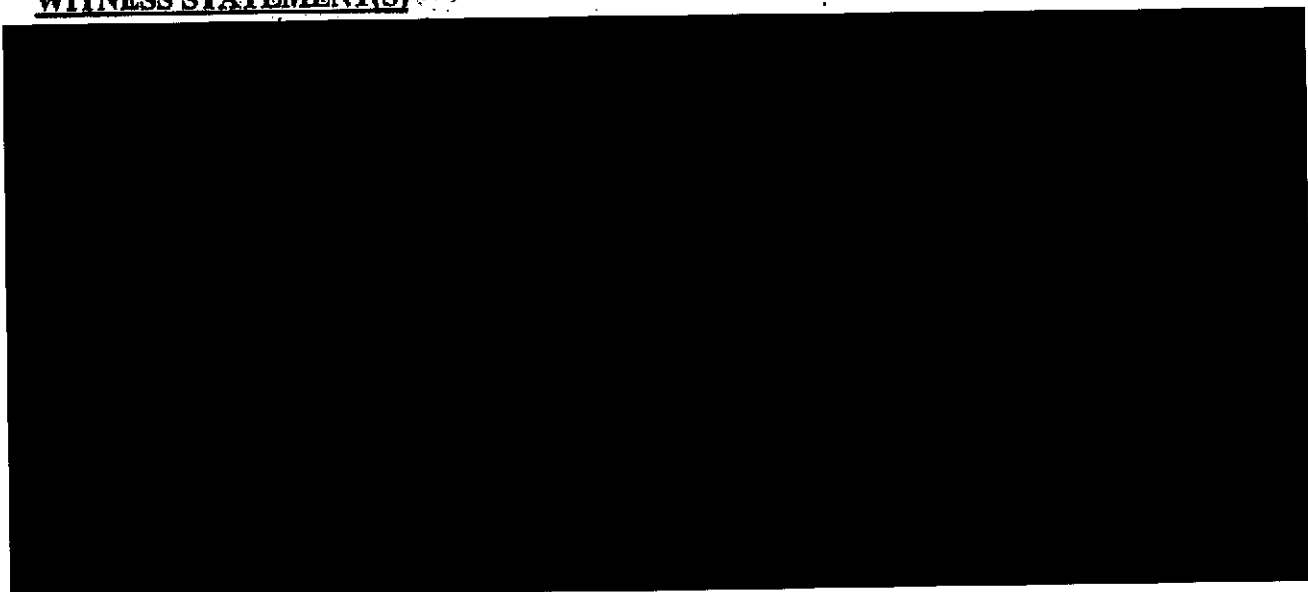
In short the substance of the rumor was that contained within the boxes was trafficking weight in cocaine, needles, heroin, and steroids. The rumor asserted that police supervisors disposed of these items, in effect covering up [REDACTED]'s mishandling of evidence. As time has progressed since the conclusion of Ofc. Robillard's investigation on July 27, 2021 the rumor about these "boxes" has continued to circulate.

On August 9, 2021, at the direction of the Chief of Police, I began an official investigation in to this rumor. This investigation was narrowly defined to determine if the rumor had any validity and if a "cover up" had occurred where large amounts of narcotics were improperly stored or improperly destroyed.

#### COMPLAINANT STATEMENT(S)

Not Applicable

#### WITNESS STATEMENT(S)



[REDACTED]

**SUBJECT STATEMENT(S)**

[REDACTED]: On August 11, 2021, at approximately 4:30pm, [REDACTED] was ordered to appear in the Office of Professional Standards where he was served with notice of this investigation.

Present with [REDACTED] was Fall River Police Association Vice-President Ofc. David Lafleur. [REDACTED] was allowed to conference privately with his union representative. Upon speaking with [REDACTED] and Ofc. Lafleur, after they had the opportunity to speak, [REDACTED] agreed to an on the record interview without legal representation. I did inform [REDACTED] about the limited scope of my inquiry.

At the onset of the interview, introductions were made and the starting time was recorded as 4:50pm. [REDACTED] was presented with an employee rights form, which he signed indicating his desire to speak with me without legal representation. I did state on the record that if [REDACTED] wanted to stop the interview and consult with legal counsel he may do so without repercussion. The interview is summarized below:

[REDACTED] was asked if the two boxes, which came in to the custody of the police department [REDACTED] contained large amounts of narcotics, trafficking weight of cocaine, steroids, heroin, and needles -- where any of those items in those boxes? [REDACTED] responded by saying, "no."

[REDACTED] was asked if any of the previously described items were in those boxes and if someone in the department disposed of them on [REDACTED] behalf or gave them to [REDACTED] to dispose of. [REDACTED] responded by saying, "no."

[REDACTED] when asked, informed me that [REDACTED] had not heard this rumor prior to today, and denied that [REDACTED] has been the one spreading this rumor.

As the rumor came to light during the Ofc. Robillard evidence investigation, [REDACTED] was asked if he had spoken with Ofc. Robillard about this rumor. [REDACTED] said that [REDACTED] had not.

To summarize [REDACTED]'s statements, I reiterated the first question once again asking if there were large amount of drugs, trafficking weight, cocaine, heroin, steroids, needles - no large amounts of drugs in boxes? [REDACTED] stated, "absolutely not." I continued asking that the only items that were in those boxes were addressed by the supervisors at that time and the items were properly disposed of or logged in to evidence. [REDACTED] indicated that this was accurate.

[REDACTED] was asked if he wished to provide any additional information or make a statement to which he declined. Ofc. Lafleur was presented with the same opportunity on behalf of the union and also declined. The interview concluded at 4:53pm.

**DISPUTED FACTS**

- Rumor that large amounts of narcotics were improperly stored and disposed of.

### EVIDENCE

- Copy of DVD containing video interview with [REDACTED]
- Photo's of Evidence Form and drugs submitted to Evidence Custodian
- Employee Rights Form
- Chief Jeffrey Cardoza's written report
- Captain Paul Gauvin's written report
- Lieutenant Gregory Wiley's written report
- Lieutenant David P. Murphy's written report

### OTHER RELEVANT INFORMATION

Not Applicable

### CREDIBILITY

Credibility Assessment - [REDACTED]

[REDACTED] was found to be credible as [REDACTED] statements match information gleaned from the statements of FRPD involved personnel and is plausible. Additionally, as an inquiry has already taken place in to the "boxes" and the matter addressed with [REDACTED] there is no incentive for [REDACTED] not to be truthful in this matter.

Credibility Assessment - [REDACTED]

[REDACTED]

### CONCLUSION

Is the rumor of large amounts of drug evidence being stored in boxes at [REDACTED]'s former residence and then brought to the police department to be improperly disposed of have any validity?

Based on this investigation, I do not believe that the rumor has any validity. It is not plausible

that large quantities of narcotics, as described in the rumor, would have been overlooked by numerous supervisors. It is also unlikely that [REDACTED] would have ignored the obvious amounts of narcotics as described in the rumor. It would also not make sense to have [REDACTED] submit a small amount of narcotics to evidence while failing to address larger amounts in his possession as asserted by the rumor.

**RECOMMENDED FINDINGS**

**Evidence Property and Control**

**SOP-ADM.05.7**

**Unfounded**

The investigation found no evidence that the rumor described in this report is true.

Prepared by:



Captain Barden H. Castro  
Office of Professional Standards



To: Mayor Paul Coogan  
From: Chief Jeffrey Cardoza  
Date August 11, 2021  
Re: Department Rumor

COPY

Sir,

On or about December 14, 2020, I received a telephone call from [REDACTED]

[REDACTED]

I told [REDACTED] that I would come by [REDACTED]. Upon arriving, I was greeted by [REDACTED] Detective Sergeant Mauretti loaded the boxes in the back of the cruiser while I made small talk with [REDACTED]. At a glance the boxes appeared to contain file folders, discs and a pill bottle. During the drive back to the police station, I instructed the Sergeant to have [REDACTED] go through the boxes and determine if there was anything of evidentiary value. At no time did I ever go through or inventory these boxes. As the former Commander of the Major Crimes Division, I am aware that detectives sometimes bring copies of cases home. Therefore, I gave it no more thought. I had not heard or seen anything about these boxes again.

Approximately three weeks ago, a FRPD union official told me of a rumor stating that two high ranking officers went to [REDACTED] house, retrieved boxes that were full of drugs, and then covered it up for [REDACTED]. Flabbergasted, I immediately realized the rumor revolved around the Sergeant and I going to the house. I sternly responded that I had gone to that house and I knew nothing about drugs.

Later, I questioned Detective Sergeant Mauretti about this rumor. He explained that he had [REDACTED] come to his office so he could tell [REDACTED] to audit the boxes. He also contacted [REDACTED]'s Watch Commander to make sure [REDACTED] was allotted time to go through the boxes. At some point, the box was given back to Sergeant Mauretti. Wanting to be sure nothing important was

shredded, Sergeant Mauretti gave the box to Detective Captain Paul Gauvin of the Major Crimes Division for destruction because the files were related to that division.

I was informed that at some point during this process an MCD clerk opened up a file folder from the box and found two small pieces of suspected cocaine. Both pieces were properly marked and packaged from an old control buy. The clerk brought this to the attention of MCD Lieutenant David Murphy. He then brought the packaged pieces to [REDACTED] and directed [REDACTED] to submit these items immediately into evidence. Later, Captain Gauvin confirmed for me these events transpired as described, and added that [REDACTED] had immediately submitted them to evidence.

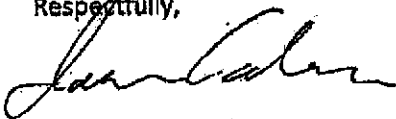
The Captain, Lieutenant and Sergeant had not informed me of this discovery because they saw it as a small oversight by a senior detective, having served in both Major Crimes and the Vice & Intelligence Unit with distinction [REDACTED] has moved from many assignments in the last decade. They saw this as a mistake that occurred during one of [REDACTED] many moves and recognize that [REDACTED] has handled hundred if not thousands pieces of evidence. In hindsight, learning of this following a significant evidence violation case, I wish I had been told. However, I support their decision to handle it at their level because I want command staff to be leaders and make decisions based on their knowledge of the people that work for them. They should not be going to the Chief to make every decision.

Immediately after getting these facts, I notified yourself and Corporation Counsel Alan Rumsey of the situation. I suspect the rumor is a result of individuals in the FRPD who want to discredit my integrity and professionalism. Most of our command staff has worked tirelessly to build transparency and trust within the agency and the community. I don't believe anyone involved in this matter has done anything improper or tried to cover something up.

On August 11, 2021, Captain Barden Castro interviewed [REDACTED] on tape with [REDACTED] union representative present. [REDACTED] said there were no drugs in those boxes and [REDACTED] had no idea how this rumor got started.

When I went to [REDACTED] house I was simply trying to be helpful and didn't give it a second thought. I could not have predicted this false rumor. Although no one has made a complaint, I feel compelled to defend myself and self report this issue to you.

Respectfully,



Chief Jeffrey Cardoza



**CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT**



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

TO: [REDACTED]

FROM: Captain Barden H. Castro  
Office of Professional Standards

DATE: August 11<sup>th</sup>, 2021

SUBJECT: IIC#2021-040  
[REDACTED]

Per Article 12-Section 19 of the Collective Bargaining Agreement you are hereby notified that the Office of Professional Standards is investigating a complaint where you are the subject employee. This investigation is designed to examine a rumor circulating of improper handling of evidence, specifically narcotics, which were stored in several boxes belonging to you.

This complaint was initiated by the Office of Professional Standards and is assigned for investigation. Further correspondence will be sent to you regarding this ongoing matter.

Respectfully Submitted,

  
Captain Barden H. Castro  
Office of Professional Standards  
Fall River Police Department



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Disposition IIC#2021-040

DATE: 08/24/2021

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to: \_\_\_\_\_ at \_\_\_\_\_  AM  PM,

on \_\_\_\_\_ at \_\_\_\_\_  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.

Signed: \_\_\_\_\_  
Officer Being Served Notice

Unit: \_\_\_\_\_

**OFFICER SERVING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

To: Chief Cardoza

From: Lt. Gregory Wiley

Date: July 23, 2021

Sir,

In March of 2019 I was promoted to Lieutenant and became the Commander of the Vice and Intelligence Unit. I made some immediate changes in the unit, which included transferring several Detectives from the unit [REDACTED]

At some point after the transfers took place, I came across a few boxes (2, I believe) that contained files and CD's / computer disks. These boxes were found in the closet in the Vice office. I conducted a quick inspection of the contents inside the boxes and learned that the contents belonged to [REDACTED] from when [REDACTED] was assigned to previous assignments.

I later spoke with [REDACTED] and informed [REDACTED] of the boxes and I requested that [REDACTED] remove the boxes and its contents. I informed [REDACTED] that I did not feel comfortable storing the boxes in the Vice office, or disposing of the contents due to the fact that I was unsure of the importance of the contents. [REDACTED] removed the boxes a few weeks later.

At no point did I see any case related evidence contained inside the boxes. Again, I conducted a quick inspection and only remember seeing files, and a few CD's / computer disks.

Respectfully submitted;

Lt. Gregory Wiley

To be completely filled out on a drug arrest

Fall River Police Dept.

Division JICE Date \_\_\_\_\_

Case# 207410 Officer Billy

C Defendant [REDACTED]

D Date of Birth [REDACTED]

Dm Drug Description and Quantity

Drug 1 Package B... [REDACTED]

Controlled Buy

W 2/19/87

FALL RIVER  
POLICE/PR

To be completely filled out on a drug arrest

Fall River Police Dept

Division VICE Date

1 CONTROLLED

2 Case# Buy Officer

111 Defendant

Date of Birth

Drug Description and Quantity

1 PLASTIC BAG

Case # **Controlled Buy**

**FALL RIVER POLICE DEPARTMENT  
EVIDENCE / PROPERTY CUSTODY DOCUMENT**

Division / Unit: **Vice** Reason Obtained Evidence: **FRPD** Location Found / Seized or Turned In: **FRPD** Date Obtained: **02/19/21**

Person from Whom Obtained: \_\_\_\_\_ Address of Person from Whom Obtained: \_\_\_\_\_ City / State: \_\_\_\_\_ Phone # of Person: \_\_\_\_\_

Department: \_\_\_\_\_ D.O.B.: \_\_\_\_\_ Address: \_\_\_\_\_ City / State: **Fall River / MA**

Item No.	Quantity	Description of Articles (Include Model, Serial Number, Marks or Scratches)	Storage Location
1	1	plastic bag of cocaine	
2	1	plastic bag of crack cocaine	
//////////////////// LAST ITEM //////////////////////////////////////			

**Chain of Custody**

Item No.	Date	Released By	Received By	Purpose
1-2	02/19/21	[Redacted]	[Redacted]	
		Signature	Signature	
		Printed Name	Printed Name	
		Signature	Signature	
		Printed Name	Printed Name	
		Signature	Signature	
		Printed Name	Printed Name	
		Signature	Signature	
		Printed Name	Printed Name	



*SW 2/19/21*

FALL RIVER POLICE DEPARTMENT  
EVIDENCE / PROPERTY CUSTODY DOCUMENT

Location Found - Seized or Turned In  
FRPD Date Obtained  
02/19/21

Obtained From: Whom Obtained City / State Phone # of Person

City / State  
Fall River / MA

To be completely filled out on a drug arrest  
Fall River Police Dept.  
Division VIC Date  
Arrested by [redacted] Office  
Defendant [redacted]  
Date of Birth [redacted]

Include Model, Serial Number, Marks or Scratches Storage Location

Heroin

///LAST ITEM////////////////////////////////////

Drug Description and Quantity  
Drug 1 Plastic Bag GRACE

Chain of Custody

Item No.	Date	Released By	Received By	Purpose
1-2	02/19/21	[redacted]	[redacted]	
		Signature	Signature	
		Printed Name	Printed Name	
		Signature	Signature	
		Printed Name	Printed Name	
		Signature	Signature	
		Printed Name	Printed Name	



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

**EMPLOYEE RIGHTS (NON-CRIMINAL)**

This investigation is administrative in nature. Answers must be responsive to all questions and directives. Your rights will be observed in conformance with pertinent court decisions, which provide in substance that answers given by you in an administrative investigation cannot be used in any criminal proceedings against you or used in the prosecution of any criminal offense related to the subject of this investigation.

My lawyer is present.

I wish to proceed without a lawyer.

Therefore, you understand that the character of this investigation is strictly administrative in nature and not criminal, as such, the answers to the questions asked of you, or any fruits thereof, can never be used against you in any criminal proceeding, that means in effect, that you are required to answer questions specifically, narrowly and directly related to the performance of your conduct on, or while off-duty if said conduct falls within the parameters of the Department censure. Failure on your part to respond to such questioning or failure to answer questions truthfully will result in disciplinary action up to and including termination of your employment.

I have read and fully understand the above.

DATE: \_\_\_\_\_



David V. Takken  
Signature of Union Official

\_\_\_\_\_  
Signature of Lawyer

[Signature]  
Signature of Investigating Officer

Captain  
Rank

PO Standard  
Division Assigned



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Notice of Complaint IIC#2021-040

DATE: 08/11/2021

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to: [REDACTED] at \_\_\_\_\_  AM  PM,

on \_\_\_\_\_ at \_\_\_\_\_  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.

Signed: [REDACTED]

Unit: \_\_\_\_\_

**OFFICER SERVING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

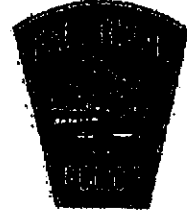
Unit: \_\_\_\_\_

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



**Chief of Police**  
**Complaint Notification**

Date of Complaint: 02/07/21

Date of Incident: 02/07/21

Complainant's Name: Captain Michael Duarte

Employee (s) Complained Against: [REDACTED]

Division/Assignment of Employee: Uniform Division

Allegation of Complaint: IIC # 21-0014 Violation Pursuit Policy

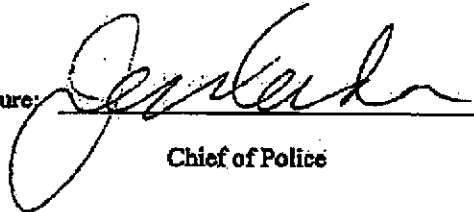
Disposition of Complaint: Sustained- Formal verbal reprimand and retraining of pursuit policy TRF .02.8 Non-evasive pursuit

Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature:   
Chief of Police

Date: 3-4-21



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Jay D. Huard

RECEIPT OF NOTIFICATION FOR:  
Disposition IIC # 21-0014

DATE: 03/04/21

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to  at 0715  AM  PM,

on 3/10/21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.

Signed: 

Unit: UD Days

**OFFICER SERVING NOTICE:**

Signed:  ALPHA#: 571

Unit: UD "B" watch

**OFFICER WITNESSING NOTICE:**

Signed:  ALPHA#: 253

Unit: UD Day watch

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS

FALL RIVER POLICE DEPARTMENT  
OFFICER'S REPORT

NATURE OF INCIDENT 3-2 incident DIVISION [REDACTED]  
LOCATION [REDACTED] DATE [REDACTED]  
COMPLAINANT [REDACTED]  
TO: Lt. Ronald Furtado

SIR:

On Sunday Feb 7th, 2021

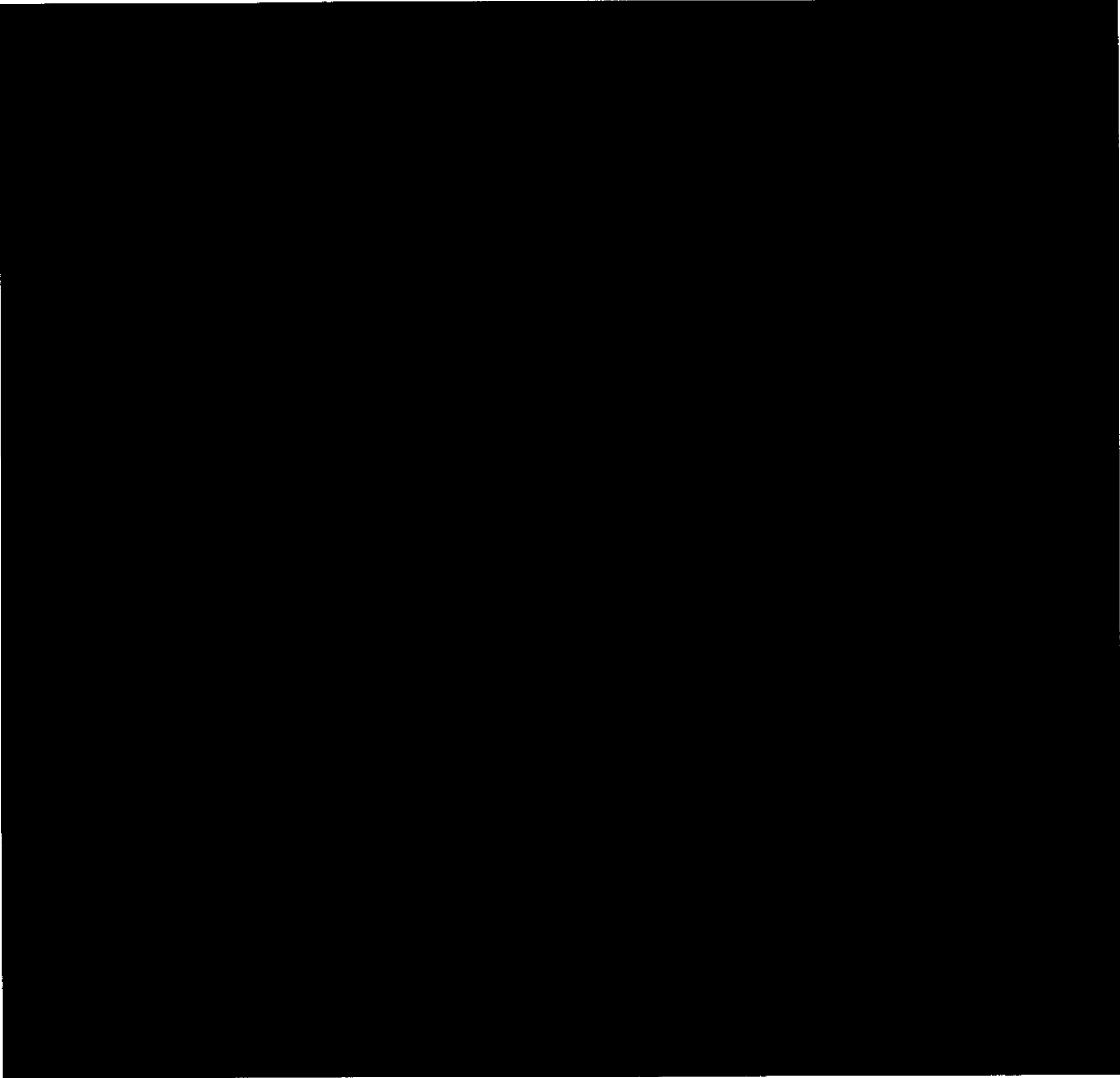
[REDACTED]

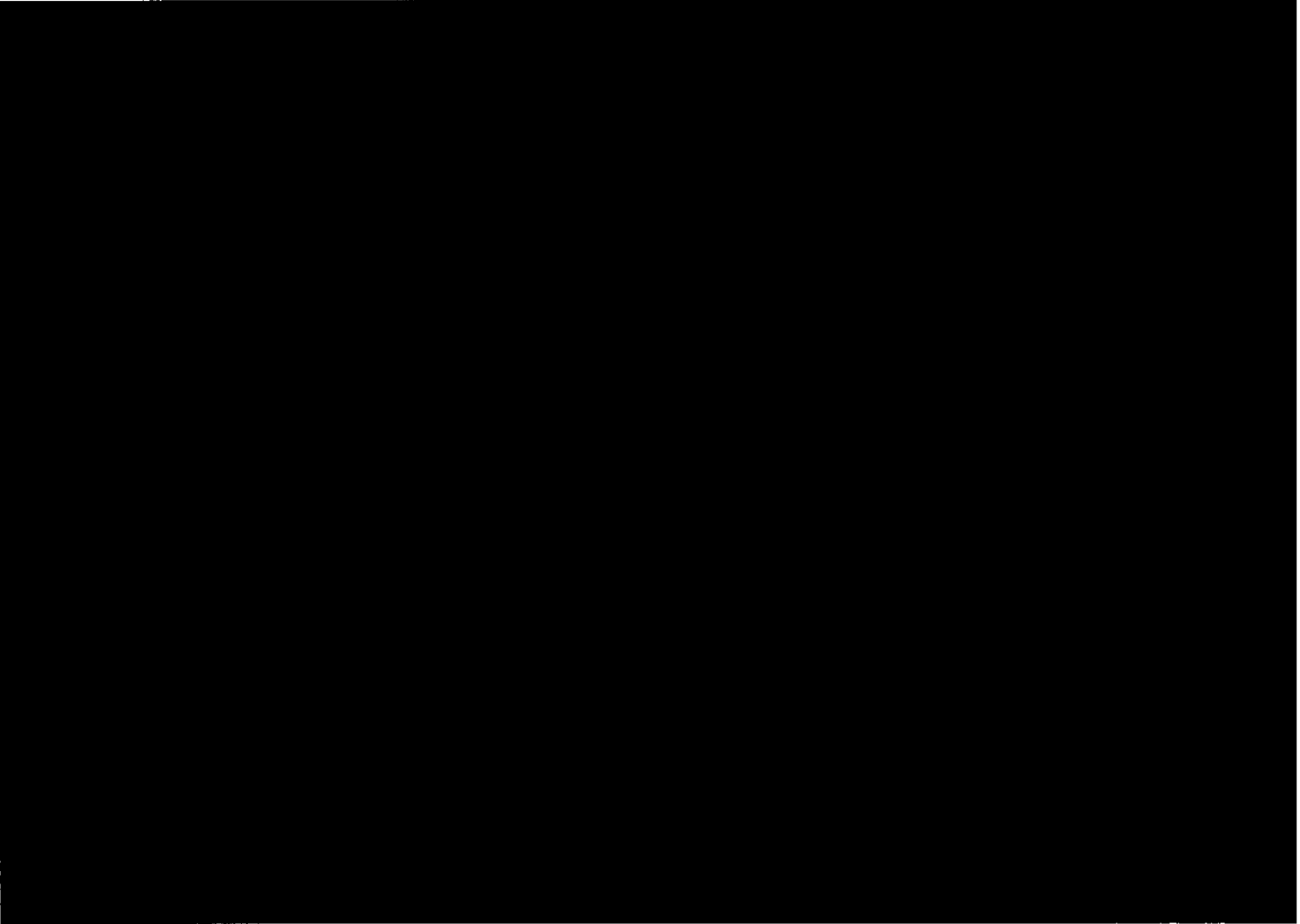
[REDACTED]  
RESPECTFULLY SUBMITTED  
[REDACTED]



Fall River Police Department  
Arrest Report

Page: 1





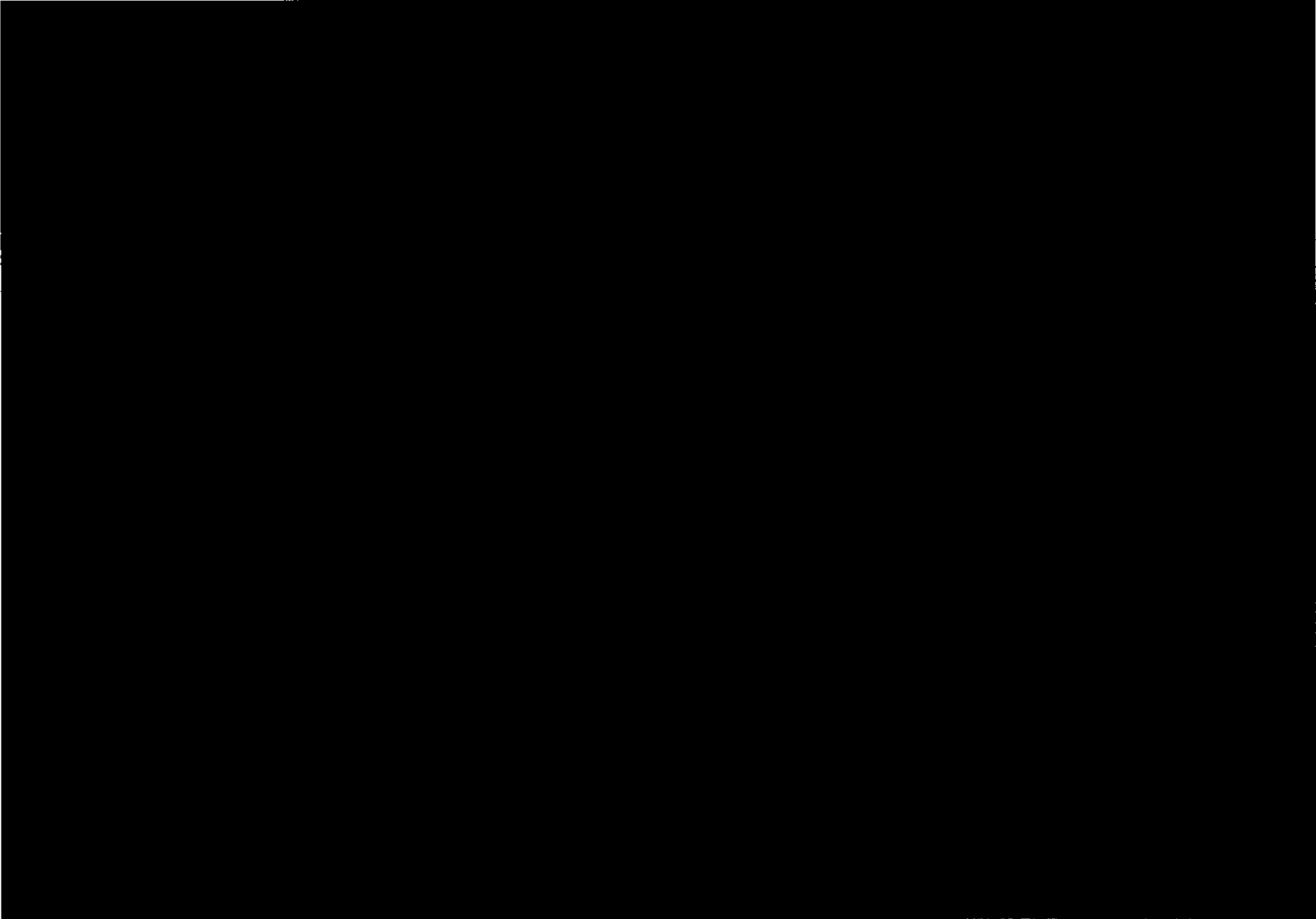
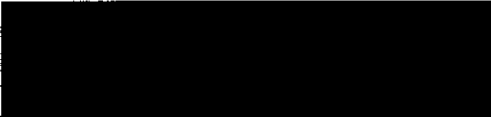
**THIS REPORT SUBMITTED UNDER THE PAINS AND PENALTIES OF PERJURY**





Fall River Police Department  
Arrest Report

Page: 2





# FALL RIVER POLICE DEPARTMENT VEHICLE PURSUIT SUMMARY



Date: \_\_\_\_\_ Case# 21-267-AR 21-243-AC

Initial pursuit offense: Refuse to stop

Pursuit supervisor: \_\_\_\_\_

Watch Commander or equivalent supervisor: Ronald Furtado

Personnel directly involved: \_\_\_\_\_

Initial officer and cruiser number: \_\_\_\_\_

Secondary officer and cruiser number: N/A

Other officers and cruiser number: \_\_\_\_\_

Pursuit Narrative Summary: On the above date, while assigned to sector #6 \_\_\_\_\_ responded to a motor vehicle accident on \_\_\_\_\_

\_\_\_\_\_ After following the vehicle for approximately 4 to 5 minutes, with lights and later without any emergency lights \_\_\_\_\_ was able to observe the vehicle parked in the east lane, of the north bound lanes of \_\_\_\_\_ , just prior to \_\_\_\_\_ was placed under arrest for negligent operation and refusing to stop for police, without incident.

(Continue on back, if necessary)

**Was the need to pursue greater than the danger created by the pursuit?**

Yes  No **Explain:** The operator pushed a parked vehicle approximately 20 to 30 feet from its original space. As the incident and investigation was still fluid, and \_\_\_\_\_ was attempting to determine if there was any impaired driving, the operator fled the scene with heavy front end damage. Fearing that the subject would strike another vehicle/injure someone, \_\_\_\_\_ followed.

**Was there a danger to the public if the suspect was not pursued?**

Yes  No **Explain:** The operator had already struck a parked vehicle. \_\_\_\_\_ had not confirmed if the operator was impaired or needed medical attention, or had fled for another reason.

Pursuit Terminated by:  Initial Officer  Pursuit Supervisor

Watch Commander  Vehicle Accident  Apprehension

If the initial officer or either supervisor terminated the pursuit, explain: \_\_\_\_\_

Was anyone injured?  Yes  No If yes, attach relevant report.

Was there property damage?  Yes  No If yes, attach relevant report.

Was more than one secondary vehicle assigned?  Yes  No If yes, explain \_\_\_\_\_

Were "Forced Stop Methods" used?  Yes  No If yes, explain: \_\_\_\_\_

Was deadly force used?  Yes  No If yes, explain: \_\_\_\_\_

Were emergency lights and siren used on all vehicles in the pursuit?  Yes  No

Were all vehicles in the pursuit authorized?  Yes  No If no, explain: \_\_\_\_\_

Describe the weather/road conditions: A winter storm was in effect. Roads were covered in several inches of snow and it was windy.

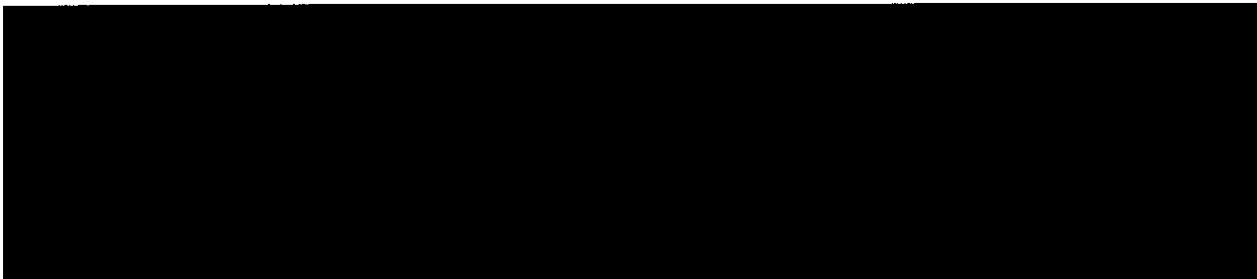
Total pursuit time: 4 minutes approx. Distance: .5 miles approx. Top speed 15 to 20 mph  
Did any equipment malfunction?  Yes  No If yes, explain: \_\_\_\_\_

Are there any training issues that should be addressed?  Yes  No If yes, explain: Review of S.O.P. for Veh. Pursuits (B.I.)  
3-7-21

Did the pursuit enter another agency's jurisdiction?  Yes  No If yes, explain: \_\_\_\_\_

Did any other agencies actively participate in the pursuit?  Yes  No  
Names of other agencies involved: \_\_\_\_\_

**SUSPECT INFORMATION:**



Did all personnel drive in an appropriate manner with due regard for their own safety and the safety and property of others affected by the pursuit?  
 Yes  No If no, explain: \_\_\_\_\_

Did this pursuit comply with the Fall River Police Department Pursuit Policy?  
 Yes  No If no, explain: It was later determined that [redacted] should have called off/terminated the incident earlier.

Additional Narrative: \_\_\_\_\_

Signature of pursuit supervisor: [Signature] Date 02.07.2021  
Comments: \_\_\_\_\_

Watch Commander: [Signature] Date 2-7-21  
Comments: \_\_\_\_\_

Unit or Division Commander: \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_

# Student Records

1 Rows, Generated by James Hoar 4/6/2021 1:35 PM Eastern Standard Time

Username	Last Name	First Name	Course Number	Section Number	Course Name	Start Date	End Date	Earned Hours	Max Hours	Status	Score
			TRN-002	001	Motor Vehicle Pursuit Policy Review	3/10/2021 11:14:54 AM	4/6/2021 1:23:20 PM			Pass	0.00/100 - 0.0%



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Jay D. Huard

March 4, 2021

Re: IIC# 21-0014

**COPY**

This is to inform you that an investigation was conducted regarding the motor vehicle pursuit that you engaged in on February 7, 2021.

I find that the facts surrounding the incident do not meet the criteria of an authorized pursuit per department policy. After a careful review of the above circumstances it has been determined that you are in violation of the following department rules and regulation:

**SOP-TRF .02.8 41.2.2 - Non-Evasive Pursuit**

A pursuit of any motor vehicle operator, who is in conformance with posted speed limits and other traffic laws under any circumstance justifying a lawful motor vehicle stop. In this case the pursued operator may not realize the police are signaling them to stop (e.g. elderly person, intoxicated person). Once the operator intentionally avoids stopping, exceeds the speed limit, or commits traffic law violations, the non-evasive pursuit status automatically changes to a high-speed pursuit.

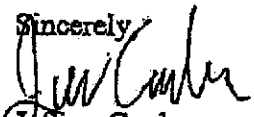
This complaint is filed in the Office of Professional Standards as **SUSTAINED.**

As a result of the sustained finding the following corrective action will be instituted:

- A Formal Verbal Reprimand to kept on file in the Office of Professional Standards
- Retraining of OPER SOP-TRF .02.8 41.2.2- Authorized High Speed Pursuits And Pursuit

It is my sincere hope that the discipline imposed in this matter will be received as instructive and assists you in continuing to be a credit to this organization and the City of Fall River.

Sincerely,

  
Jeffrey Cardoza  
Chief of Police

**City of Fall River Police Department**

**Captain's Report**

**To:** Deputy Chief Albert Dupere

**From:** Captain Michael Duarte

**Date:** February 8, 2021

**Re:** Motor Vehicle Pursuit // 21-243-AC // 21-267-AR

---

I have carefully reviewed Lieutenant Ronald Furtado's recommendation relative to the above-referenced case number and without any reservations I concur with his findings. Lieutenant Furtado conducted a very thorough and competent investigation. His conclusions are well-reasoned, fair and balanced. Thus I recommend that [REDACTED] be disciplined in accordance with our past practices.

*I concur with Capt Duarte*

*(AR)*

*3-2-21*

— Respectfully,

*Captain Michael Duarte*

Captain Michael Duarte  
Uniform Division Commander

To: Captain Michael Duarte

From: Lt. Ronald Furtado

Subject: Pursuit Form for 21-267-AR

Date: February 7, 2021

Sir,

I have reviewed all reports associated with Case # 21-267-AR along with the Fall River Police Department Vehicle Pursuit Summary Form and find the pursuit initiated by [REDACTED] did not conform to Department Standard Operating Procedure SOP-TRF.02.8. A summary of the incident is as follows.

On February 7<sup>th</sup> at 2:00 p.m. [REDACTED] was investigating a crash in front of [REDACTED]

[REDACTED] documented he attempted to locate the vehicle in order to continue the investigation. [REDACTED] additionally stated [REDACTED] traveled at a very low speed due to snowy road conditions and located the vehicle in the area of [REDACTED]. Upon approaching the vehicle with lights activated, the vehicle turned the wrong way onto [REDACTED] and traveled head on toward an approaching vehicle. [REDACTED] documented [REDACTED] thought a crash was imminent and proceeded down the wrong way. The suspect vehicle subsequently avoided a crash and continued to [REDACTED] where it failed to stop for a red light at [REDACTED]. [REDACTED] stated [REDACTED] continued west on [REDACTED] to [REDACTED] and made the observations. In conclusion, [REDACTED] while traveling with lights and siren off, observed the suspect vehicle parked in the area of [REDACTED] where [REDACTED] was ultimately arrested.

After reviewing these facts, I find [REDACTED] did not violate Department Policy while traveling north on [REDACTED] attempting to locate the vehicle. [REDACTED] certainly was still in the process of investigating the crash when [REDACTED] drove off (License check, Warrant check ect.) and if possible, could have located the vehicle, operated the lights and siren, then made a traffic stop in order to continue the investigation, none of which would have amounted to a pursuit. The problem occurred when [REDACTED] located the vehicle at [REDACTED] at which time the vehicle turned west down the wrong way. At this point is where I find [REDACTED]

██████████ violated Department SOP-TRF.02.8 which states in part: Pursuing the wrong way on one-way streets or highways is strictly prohibited. Additionally, ██████████ stated ██████████ thought a crash was imminent and followed onto the wrong way in order to render assistance. This may be accurate but once the crash was avoided and the suspect vehicle continued down the wrong way street, ██████████ should have stopped following the vehicle. I subsequently counseled ██████████ relative to this finding.

While addressing the findings of ██████████ I find ██████████ should have acted quicker to evaluate the incident and terminate the pursuit. I further find this was due to inexperience which I subsequently addressed with ██████████

Respectfully Submitted



Lt. Ronald Furtado



# City of Fall River Police Department

## Officer's Report

To: Captain Michael Duarte

From: [REDACTED]

Re: 21-267-AR and 21-243-AC

Date: February 7 2021

Sir:

On February 7, 2021, I, [REDACTED] was assigned as S-1, for the Uniform Division (A watch), of the Fall River Police Department. *(It is to be noted that on this day, we were responding to emergency calls only due to an active winter snow storm).* On this date, at approximately 2:00 p.m. [REDACTED]

[REDACTED] was dispatched to a motor vehicle accident in the area of [REDACTED]. Once there, [REDACTED] was able to determine that the operator of a [REDACTED] struck a parked vehicle (un-occupied), causing the parked vehicle to be pushed approximately 20 to 30 feet.

Once [REDACTED] retrieved the operator's license and registration, it was agreed that the operator would call for a ride, due to his [REDACTED] being inoperable. Once [REDACTED] was back in his cruiser and attempting to investigate the matter, he observed the [REDACTED] being driven by the [REDACTED] drive past him and head west on [REDACTED]. *(Please refer to [REDACTED]'s arrest report and officer's report for more detailed information).*

Once the vehicle left the scene, I overheard a radio transmission from [REDACTED] that the [REDACTED] had left the scene, with heavy front-end damage, and possibly suspected the operator to be under the influence. [REDACTED] began following the [REDACTED] on [REDACTED] until it took a turn on to [REDACTED] while [REDACTED] lights were activated. Once at [REDACTED], [REDACTED] radioed that the vehicle went down the one way, the wrong way.

I believe at this point, based on the calmness of [REDACTED] on the radio, that [REDACTED] did not follow the [REDACTED] down the one way street. Also, not knowing the full circumstances as to what the operator was wanted for, other than possible "4-7" and the collision (unknown at the time if injures or not etc), I attempted to radio to [REDACTED] for the purpose of gathering information [REDACTED] possessed. I did this with the intention to make a decision as to whether or not to have [REDACTED] continue to follow the pickup or terminate. The other transmission I believe I heard *(many radio transmissions from sector cars were happening simultaneously)*, was [REDACTED] radio that [REDACTED] once again observed the vehicle turn onto [REDACTED] and further observed it not stop for the red light at that intersection. *(It was later revealed that [REDACTED] at this point had shut [REDACTED] emergency lights off and was only calling the [REDACTED]'s location from a distance).*

I believe I was once again able to radio my location to [REDACTED] and dispatch, which was on [REDACTED] several blocks behind [REDACTED] near the fire house. Moments later, I heard [REDACTED] radio [REDACTED] observed the [REDACTED] stopped in the middle of the lanes on [REDACTED] just prior to the intersection of [REDACTED]. The operator was arrested without incident and [REDACTED] informed me it appeared that the operator may have been under some substance, but later determined [REDACTED] was not. The operator was later charged with operating negligently and refusing to stop for police.

After the subject was booked etc., I spoke to [REDACTED] about the incident. In substance, [REDACTED] felt based on [REDACTED] experience, [REDACTED] was not sure why the operator left the scene as [REDACTED] was still actively investigating. During the whole duration of the event [REDACTED] felt [REDACTED] was merely following the [REDACTED] and calling out its location, which was what I felt, based on [REDACTED] demeanor on the radio etc. I was not aware of [REDACTED] travelling down a one way street, which [REDACTED] stated was due to the fact [REDACTED] felt a head on collision may have taken place and [REDACTED] did not want to just drive off. [REDACTED] informed me [REDACTED] had deactivated [REDACTED] lights at this point.

[REDACTED] also informed me [REDACTED] followed the [REDACTED] from a safe distance, and was merely calling out the location of it, even as it failed to stop for a red light, which [REDACTED] stopped at. [REDACTED] also reiterated [REDACTED] travelling down [REDACTED] in the event [REDACTED] had to render aid to someone, in the event an accident occurred.

I also spoke to Lt. Furtado about the incident in its entirety. Based on the limited information I received from the radio transmissions, coupled with the fact that the incident was over in a short period of time, I should have terminated the incident sooner as a Sergeant, when I was not provided with more detailed information as to what the operator was wanted for. Furthermore, I feel that based on the totality of the circumstances, [REDACTED] did not commit any wrongdoings or violate any department policies until the [REDACTED] one-way transmission I overheard, which I feel I should have terminated it then. In addition to my report, I am submitting [REDACTED]'s Officer Report as well.

Submitted by [REDACTED]



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt Gregory Wiley

RECEIPT OF NOTIFICATION FOR:

Disposition IIC# 21-0026

DATE: 07/20/21

I have this day served the foregoing attached notice

- by reading in his/her presence
- by giving the original in hand

to: [REDACTED] at 12:00  AM  PM,

on 7-21-21 at FRPP  
DATE LOCATION

Copies of MGL Chapter 31 Sec. 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: LT Russell Furd ALPHA#: 293

Unit: Uniform A

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley


RECEIPT OF NOTIFICATION FOR:

Disposition IIC# 21-0026

DATE: 07/20/21

I have this day served the foregoing attached notice

- by reading in his/her presence
- by giving the original in hand

to:  at 12:30  AM  PM,

on 7-21-21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: LT R. Furtado ALPHA#: 293

Unit: Uniform A

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Disposition IIC# 21-0026

DATE: 07/20/21

I have this day served the foregoing attached notice

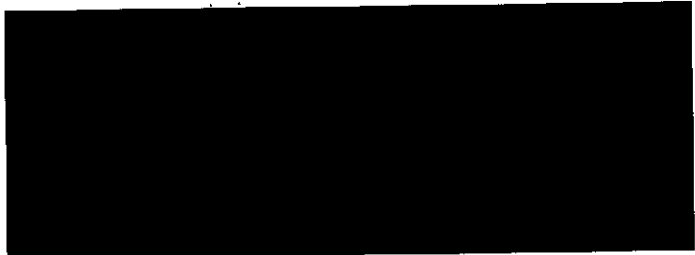
by reading in his/her presence

by giving the original in hand

to: [REDACTED] at 4:25  AM  PM,

on 7-27-21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: 293

Unit: Uniform A

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Notice to appear IIC# 21-0026

DATE: 06/16/21

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to: [REDACTED] at 4:25  AM  PM,

on 7-27-21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: LT Hilliard ALPHA#: 293

Unit: UNIFORM

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS

**FALL RIVER POLICE DEPARTMENT  
COMPLAINT CONTROL FORM (FORM PD252)**

DIVISION: <i>Uniform</i>	COMPLAINT CONTROL # 002004	TYPE OF COMPLAINT: <input type="checkbox"/> PHYSICAL ABUSE <input checked="" type="checkbox"/> VERBAL ABUSE <input type="checkbox"/> OTHER			
DATE OF INCIDENT: 5/20/21	TIME OF INCIDENT: 1858	LOCATION OF INCIDENT: [REDACTED]			
COMPLAINANT NAME: (LAST, FIRST, MI) [REDACTED]		ADDRESS OF COMPLAINANT: (Street, City, State, Zip) [REDACTED]			
TELEPHONE NUMBER: [REDACTED]	SEX: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE: [REDACTED]	DATE OF BIRTH: [REDACTED]	AGE: [REDACTED]	MARITAL STATUS: <input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED
DATE OF COMPLAINT: 5/25/21	TIME OF COMPLAINT: 4:10 PM	METHOD OF RECEIVING COMPLAINT: <input checked="" type="checkbox"/> IN PERSON <input type="checkbox"/> MAIL <input type="checkbox"/> TELEPHONE <input type="checkbox"/> OTHER			

**NARRATIVE OF COMPLAINT**

[REDACTED NARRATIVE]

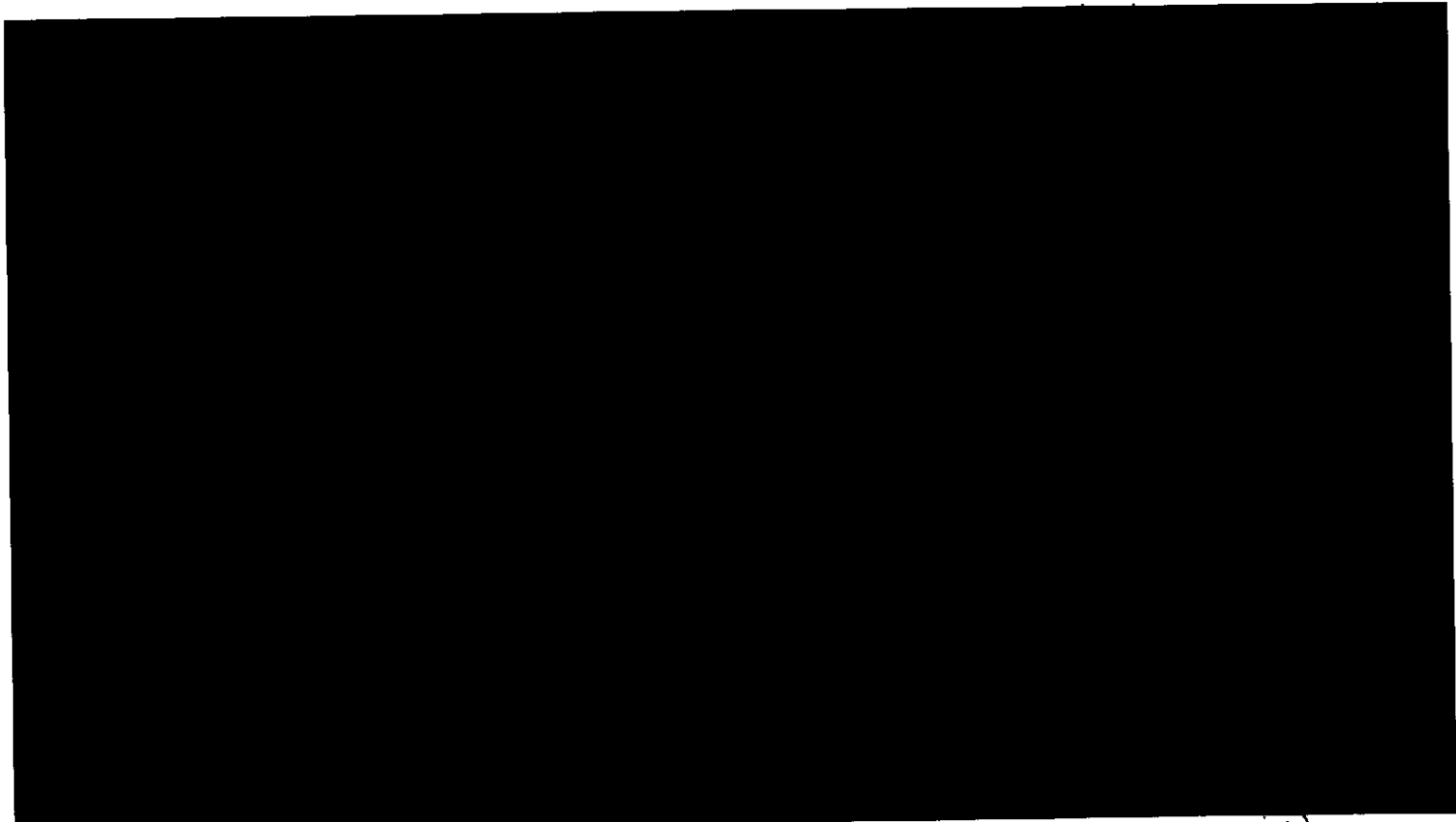
NAME OF EMPLOYEE COMPLAINED AGAINST: [REDACTED]	DIVISION: [REDACTED]	ALPHA # [REDACTED]	ASSIGNMENT/WATCH: [REDACTED]
OTHER EMPLOYEES INVOLVED: [REDACTED]			
NAME OF WITNESS:	Address (Street, City, State, Zip):	Telephone Number:	
NAME OF WITNESS:	Address (Street, City, State, Zip):	Telephone Number:	

**COMPLAINT RESOLUTION**

I affirm that this complaint has been resolved to my satisfaction at this time, and do not wish any further action taken:

[REDACTED Signature] 5/23/21  
Date

Officer Receiving Complaint (Signature) <i>[Signature]</i>	Division <i>Uniform</i>	Assignment <i>Watch Command</i>	Watch: <i>15</i>
Professional Standards Notified: <input type="checkbox"/> YES <input type="checkbox"/> NO	Person Notified:		Time/Date
Filing a false police report is a criminal offense. Whoever knowingly makes a false statement on this form may be criminally charged.			IIC # 21-0026 Date Complaint Received: 5/25/21
Signature of Complainant <i>[Signature]</i>			



10

[The remainder of the page contains extremely faint and illegible text, likely bleed-through from the reverse side of the document.]





**CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT**

*Office of Professional Standards*



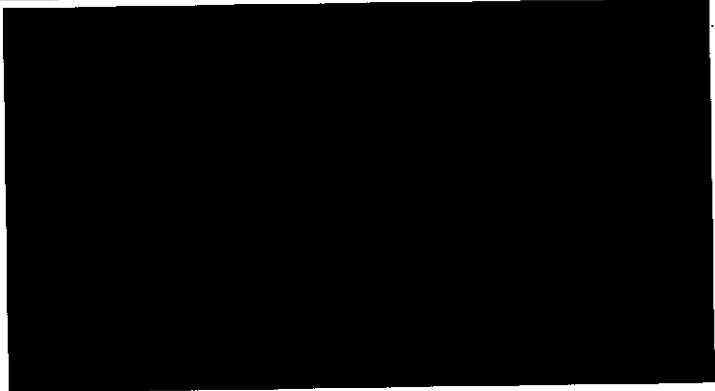
Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

**COMPLAINANT:**



**ABSTRACT OF ALLEGATION:**



**APPLICABLE RULE(S):**

- Section 8.01 Conduct Unbecoming an Officer.
- Section 9.22 Conduct Towards the Public

**SUBJECT OF COMPLAINT:**



**DATE/TIME OF INCIDENT:**

May 22, 2021

**LOCATION OF INCIDENT:**



**DATE COMPLAINT RECEIVED:**

May 25, 2021

**ASSIGNED INVESTIGATOR:**

Lieutenant Gregory Wiley

**BACKGROUND**

On May 22, 2021 at approximately 7:00 pm,

and

responded to the area of

located on



[redacted] juveniles [redacted]

[redacted]

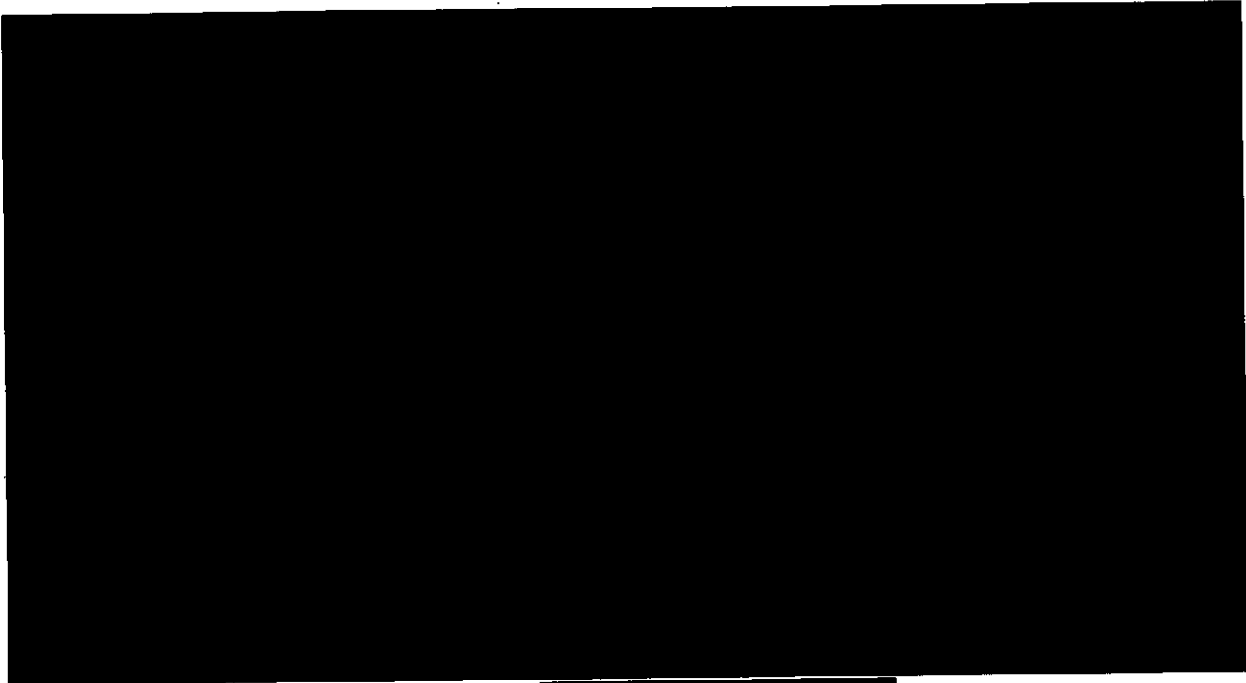
[redacted]

[redacted] juveniles  
juveniles [redacted]  
juveniles [redacted]

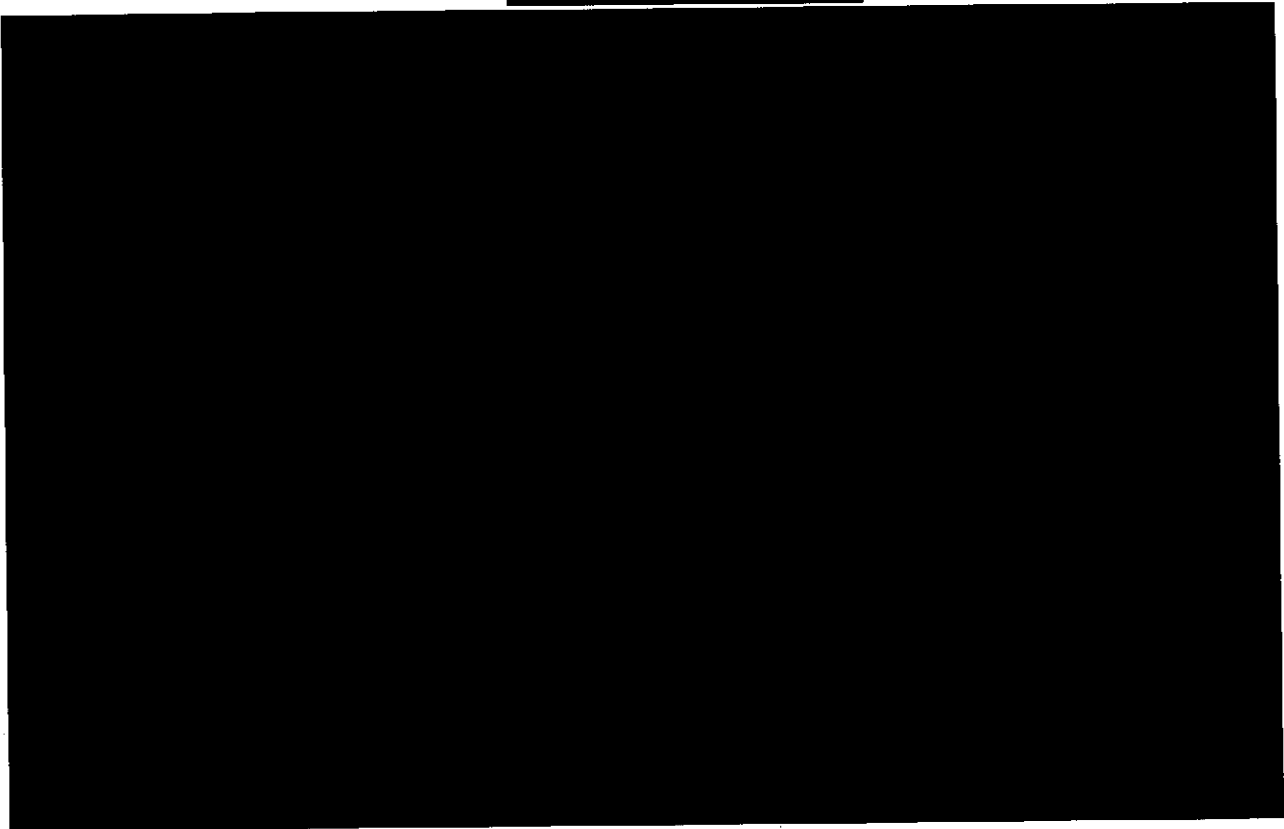
[redacted]

SUMMARY OF INTERVIEW WITH [redacted]

[redacted]



SUMMARY OF INTERVIEW WITH



SUMMARY OF INTERVIEW WITH [REDACTED]

[REDACTED]

SUMMARY OF INTERVIEW WITH [REDACTED]

[REDACTED]

SUMMARY OF INTERVIEW WITH [REDACTED]

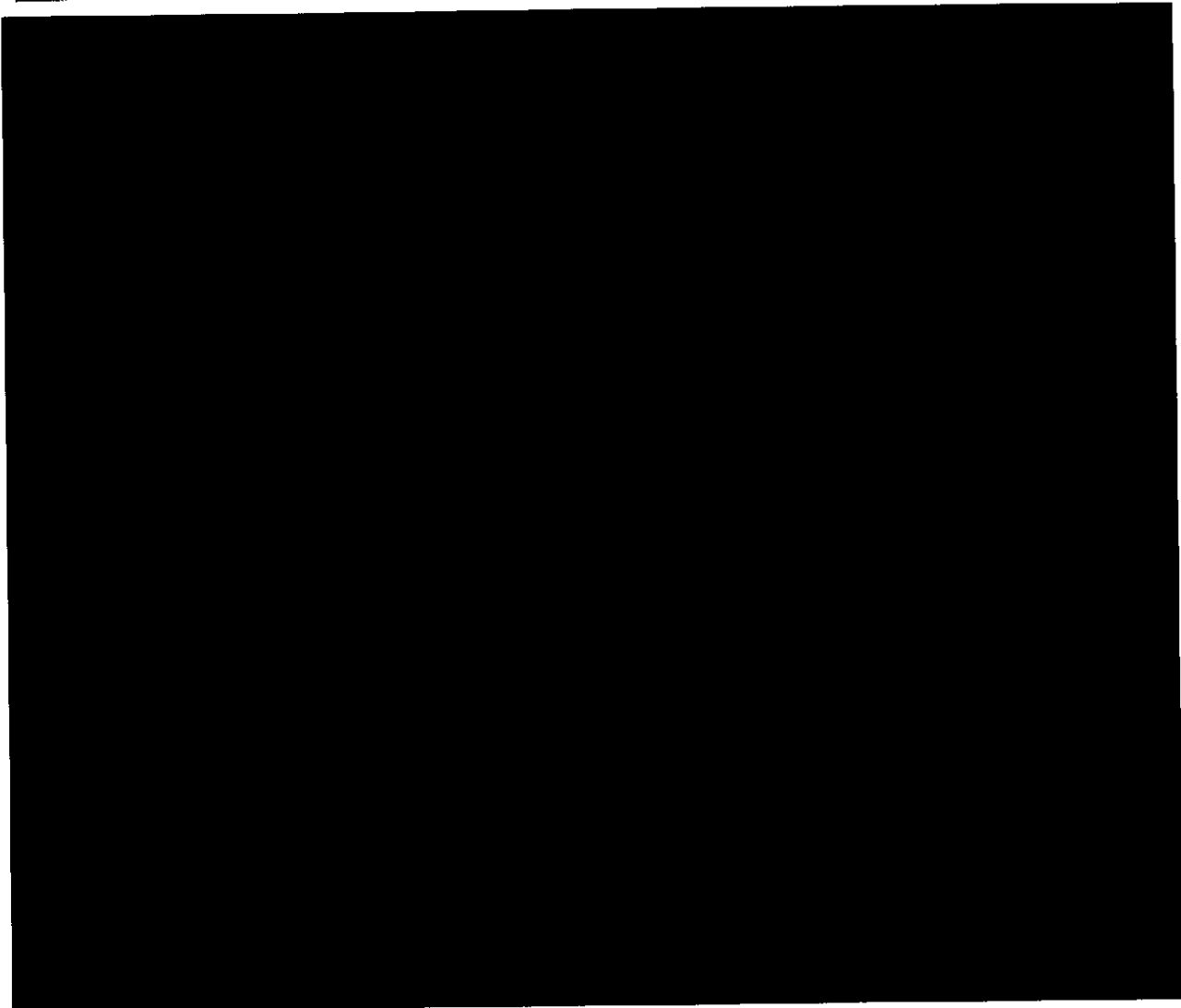
[REDACTED]

SUMMARY OF INTERVIEW WITH [REDACTED]

[REDACTED]



SUMMARY OF INTERVIEW WITH [redacted]



SUMMARY OF INTERVIEW WITH [redacted]



[REDACTED]

**INTERVIEWS WITH POLICE OFFICERS**

Interviews with the [REDACTED] were originally scheduled for June 28, 2021. Due to an unforeseen conflict with [REDACTED] an agreement was made to reschedule the interviews to June 30, 2021. [REDACTED] interview was conducted on July 2, 2021, and [REDACTED] interview was conducted on July 12, 2021.

**SUMMARY OF INTERVIEW WITH [REDACTED]**

[REDACTED] explained that [REDACTED] wasn't dispatched to the scene, but responded due to the nature of the call. [REDACTED] stated he arrived on [REDACTED] where [REDACTED] were. [REDACTED] stated that [REDACTED] arrived shortly after him. [REDACTED] stated he had very minimal interaction with the children and at no point did he call the children derogatory names or hear any other officer call the children names. [REDACTED] also denied [REDACTED] nor did he hear any other officer [REDACTED]

[REDACTED] stated that [REDACTED] thought the [REDACTED] interacted with the children well, and even sang a basketball rap song. [REDACTED] referred back to the complaint [REDACTED]

[REDACTED] stated that the [REDACTED] When questioned if [REDACTED] [REDACTED] stated [REDACTED] did not.

[REDACTED] stated [REDACTED] had very little interaction [REDACTED] stated that [REDACTED] was also speaking with [REDACTED] and was explaining the situation [REDACTED] stated he did not hear [REDACTED] say [REDACTED] [REDACTED] stated that as far as [REDACTED] knows, the conversation with [REDACTED] ended well.

**SUMMARY INTERVIEW WITH [REDACTED]**

[REDACTED] stated in the interview that [REDACTED] had very little interaction with the juveniles. [REDACTED] stated [REDACTED] was on Detroit St. for officer safety reasons due to [REDACTED] not knowing how many juveniles [REDACTED] was speaking with. [REDACTED] stated that the only interaction with the juveniles was [REDACTED]

[REDACTED] stated [REDACTED] did not call any of the juveniles any names, nor did he hear any officer call the

juveniles any names. [redacted] stated [redacted] never heard [redacted] [redacted] stated that when [redacted] arrived on scene, the [redacted] cleared [redacted] from the call and [redacted] responded to another call for service.

SUMMARY INTERVIEW WITH [redacted]

[redacted] explained that [redacted] responded to [redacted] after hearing [redacted] calling out over the radio that [redacted] was out with the juveniles in [redacted]. Once on scene, [redacted] stated [redacted] interacted with one of the juveniles and [redacted] stated [redacted] was trying to build a rapport with the juveniles.

[redacted] stated he did not hear any name calling, but did hear the phrase "nigglet" used. [redacted] stated he overheard [redacted] interact with the juveniles when the phrase was used. [redacted] stated that [redacted] seemed to be mentoring the juveniles when he heard him say something to the effect of "you guys seem like good kids, you can't be out here acting like nigglets". [redacted] stated that [redacted] was not being aggressive or intimidating, and again mentioned how [redacted] seemed to be mentoring them.

[redacted] stated he had a brief interaction with [redacted] who arrived on scene, but never heard [redacted]. Officer Aguiar never heard any other derogatory statements made towards the juveniles.

Capt. Castro questioned [redacted] if [redacted] was shocked after hearing the phrase "nigglet" being used and if [redacted] was concerned about the racial dynamic, which [redacted] stated "yes". [redacted] explained that in [redacted] opinion the interaction between [redacted] was one hundred percent fatherly, and did not come from a mean or hurtful place.

SUMMARY INTERVIEW WITH [redacted]

[redacted] explained how he originally encountered the juveniles on [redacted]. [redacted] explained that [redacted]

[redacted] explained how when [redacted] arrived on scene [redacted] sang a song to try and warm up to the juveniles. [redacted] denied hearing anyone call the juveniles any derogatory names, and did not hear [redacted]

[redacted] stated [redacted] did not have any interaction with [redacted] did not hear anyone say anything derogatory to [redacted]

SUMMARY INTERVIEW WITH [redacted]

[redacted] stated that while on [redacted] the only interaction with the juveniles was



[REDACTED]

[REDACTED] stated [REDACTED] did not call any of the juveniles names, nor did he [REDACTED]  
[REDACTED] stated [REDACTED] did not hear [REDACTED]

[REDACTED] stated that when [REDACTED] [REDACTED] did not hear anyone [REDACTED]

SUMMARY INTERVIEW WITH [REDACTED]

[REDACTED] stated that when [REDACTED] arrived on [REDACTED] [REDACTED] was apprised of the situation. [REDACTED]  
[REDACTED] didn't want to charge any of the juveniles and only wanted to get [REDACTED]  
back. [REDACTED] stated [REDACTED] remembers rapping to one of the juveniles and then explained to  
them that the other juveniles involved also go to [REDACTED]

[REDACTED] explained that when the parents started to show up [REDACTED] explained the situation to  
them and informed them [REDACTED]  
[REDACTED] stated he told [REDACTED] that he didn't want to do that and told [REDACTED] to "take care of  
her kids".

[REDACTED] stated [REDACTED] does not remember calling anyone a "nigglet" and did not hear anyone  
else use that term. [REDACTED] stated that [REDACTED] would "never, ever direct that towards  
someone". [REDACTED] stated that if that word was used, it would be in a teaching moment.  
[REDACTED] stated [REDACTED] could see him doing that, but doesn't remember doing so.

[REDACTED] stated [REDACTED] does not remember telling [REDACTED]  
[REDACTED] stated that [REDACTED]

[REDACTED] stated "whatever I said to get that [REDACTED] back, I said, but I don't remember  
saying that". [REDACTED] stated that in [REDACTED] opinion [REDACTED] believed using that term was one  
hundred percent professional depending how it was used.

[REDACTED] explained that if it was a white Police Officer, or if he was saying that to a white  
child, then it's not ok.

[REDACTED] talked a little about the [REDACTED] that the [REDACTED]

[REDACTED]

[REDACTED] reiterated that [REDACTED] did not remember making that statement and stated [REDACTED] did not see anyone on that call not being professional.

### CONCLUSION

Based on my investigation, I find that the allegation made against [REDACTED] in regards to referring to the juveniles as "little nigglets" to be true. [REDACTED] you have [REDACTED] who also stated [REDACTED] heard [REDACTED] use the phrase.

[REDACTED] stated that [REDACTED] did not remember using the phrase, but if [REDACTED] did say it, it would be in a teaching moment. Just as [REDACTED] explained how it was said by [REDACTED] "you guys seem like good kids, you can't be out here acting like little nigglets"

I also find the comment to [REDACTED] "keep your little nigglet's safe" to be true. Based on [REDACTED] response that [REDACTED] response was [REDACTED] explained that [REDACTED] You also had [REDACTED] state [REDACTED]

I found no evidence that there was any other name calling [REDACTED] by any other officer on scene.

### RECOMMENDED FINDINGS

The investigation disclosed a preponderance of evidence to show that [REDACTED] violated the below Rules and Regulations of the Fall River Police Department. The allegation should be filed in the Office of Professional Standards as **SUSTAINED**. The allegation against the other officers calling the juveniles names should be filed as **EXONERATED**.

- *Section 8.01 Conduct Unbecoming an Officer- Conduct unbecoming an officer shall include conduct that brings the Department into disrepute or reflects discredit upon an officer as a member of this Department. All employees are prohibited from engaging in any conduct, on or off duty, that tends to bring the Department into disrepute or reflects discredit upon the employee as a member of this Department. Any illegal activities shall*

constitute conduct unbecoming an officer. An employee who is found to have committed a criminal act, after investigation administratively, shall be subject to disciplinary action, up to and including discharge, regardless of criminal conviction.

- **Section 9.22 Conduct Towards the Public-** Employees shall be courteous and orderly in their dealings with the public. Upon request, officers must supply their name and badge number in a courteous manner. All other employees shall supply their name in a courteous manner.

Respectfully submitted

  
Lt. Gregory Wiley

I am disappointed that a supervisor would conduct [REDACTED] in such an unprofessional manner. Not only to the public, but in front of officers [REDACTED] is leading. At least temporarily, I have lost confidence in [REDACTED] ability to supervise and I sincerely hope [REDACTED] is able to grow from this discipline/reprimand.

Celia J. Carter

7-20-21



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

Date: July 20, 2021

To: [REDACTED]

Re: Internal Investigation # IIC 2021-026 / Complaint Control # 002004  
[REDACTED]

I am submitting this letter to inform you that an investigation was conducted into the complaint you filed against an employee(s) of this department. Your complaint has been filed in the Office of Professional Standards as **Sustained**.

Meaning of sustained: The allegation has been investigated and the facts show that the allegation is true and the action taken was not consistent with Department policy.

The Fall River Police Department is committed to high standards of professionalism, and personnel misconduct will not be condoned. We appreciate your bringing this matter to our attention so that these standards can be maintained. If you have any questions concerning the investigation or disposition of your complaint, please contact the Office of Professional Standards.

Sincerely,

  
Lt. Gregory Wiley  
Office of Professional Standards



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT

*Office of Professional Standards*



Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

DATE: July 20, 2021

TO: [REDACTED]

FROM: Lt. Gregory Wiley  
Office of Professional Standards

SUBJECT: IIC# 21-026, CC#002004

[REDACTED]

This is to inform you of the disposition of complaint control # 002004 / IIC# 21-026.

An investigation was conducted regarding violations of department rules and regulations.


As a result of the investigation, your involvement in this complaint has been filed in the Office of Professional Standards as:

**EXONERATED**

*Exonerated: The allegation has been investigated and the facts indicate that the action taken was consistent with departmental policy.*

If you have any questions regarding this outcome of this complaint, please feel free to contact the Office of Professional Standards.

Respectfully,

  
Lieutenant Gregory Wiley  
Office of Professional Standards



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

DATE: July 20, 2021

TO:



FROM: Lt. Gregory Wiley  
Office of Professional Standards

SUBJECT: IIC# 21-026, CC#002004



This is to inform you of the disposition of complaint control # 002004 / IIC# 21-026.

An investigation was conducted regarding violations of department rules and regulations.

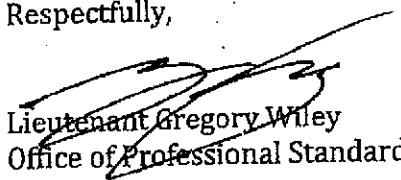
As a result of the investigation, your involvement in this complaint has been filed in the Office of Professional Standards as:

**EXONERATED**

*Exonerated: The allegation has been investigated and the facts indicate that the action taken was consistent with departmental policy.*

If you have any questions regarding this outcome of this complaint, please feel free to contact the Office of Professional Standards.

Respectfully,

  
Lieutenant Gregory Wiley  
Office of Professional Standards



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

DATE: July 20, 2021

TO: [REDACTED]

FROM: Lt. Gregory Wiley  
Office of Professional Standards

SUBJECT: IIC# 21-026, CC#002004

[REDACTED]

This is to inform you of the disposition of complaint control # 002004 / IIC# 21-026.

An investigation was conducted regarding violations of department rules and regulations.

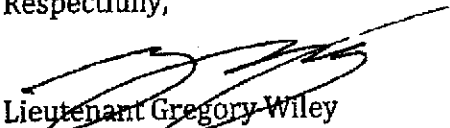
As a result of the investigation, your involvement in this complaint has been filed in the Office of Professional Standards as:

**EXONERATED**

*Exonerated: The allegation has been investigated and the facts indicate that the action taken was consistent with departmental policy.*

If you have any questions regarding this outcome of this complaint, please feel free to contact the Office of Professional Standards.

Respectfully,

  
Lieutenant Gregory Wiley  
Office of Professional Standards



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

DATE: July 20, 2021

TO: [REDACTED]

FROM: Lt. Gregory Wiley  
Office of Professional Standards

SUBJECT: IIC# 21-026, CC#002004

[REDACTED]

This is to inform you of the disposition of complaint control # 002004 / IIC# 21-026.

An investigation was conducted regarding violations of department rules and regulations.

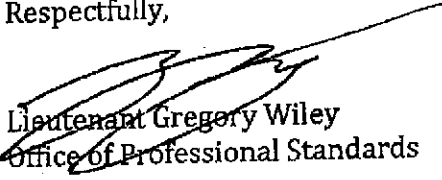
As a result of the investigation, your involvement in this complaint has been filed in the Office of Professional Standards as:

**EXONERATED**

*Exonerated: The allegation has been investigated and the facts indicate that the action taken was consistent with departmental policy.*

If you have any questions regarding this outcome of this complaint, please feel free to contact the Office of Professional Standards.

Respectfully,

  
Lieutenant Gregory Wiley  
Office of Professional Standards





CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

DATE: July 20, 2021

TO: [REDACTED]

FROM: Lt. Gregory Wiley  
Office of Professional Standards

SUBJECT: IIC# 21-026, CC#002004

[REDACTED]

This is to inform you of the disposition of complaint control # 002004 / IIC# 21-026.

An investigation was conducted regarding violations of department rules and regulations.

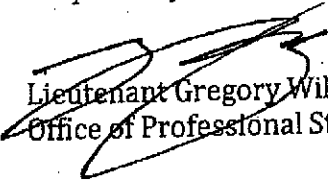
As a result of the investigation, your involvement in this complaint has been filed in the Office of Professional Standards as:

**EXONERATED**

*Exonerated: The allegation has been investigated and the facts indicate that the action taken was consistent with departmental policy.*

If you have any questions regarding this outcome of this complaint, please feel free to contact the Office of Professional Standards.

Respectfully,

  
Lieutenant Gregory Wiley  
Office of Professional Standards



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT

Office of Professional Standards



Jeffrey Cardoza  
Chief of Police

Capt. Barden H. Castro  
Lt. Gregory Wiley

July 20, 2021

[REDACTED]

Re: IIC# 21-026, CC#002004

[REDACTED]

This is to inform you that an investigation was conducted regarding complaint control # 002004, IIC# 21-026.

After a careful review of the circumstances it has been determined that you are in violation of the following department rules and regulations.

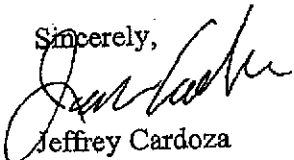
- 1) Section 8.01 Conduct Unbecoming an Officer
- 2) Section 9.22 Conduct Towards the Public

This complaint is filed as SUSTAINED. As a result of the sustained finding the following corrective action will be instituted:

- Formal Written Reprimand that will be filed in the Office of Professional Standards.
- Loss of Provisional Sergeant Position.

It is my sincere hope that the discipline imposed in this matter will be received as instructive and assists you in continuing to be a credit to this organization and the City of Fall River.

Sincerely,

  
Jeffrey Cardoza  
Chief of Police



Chief of Police  
Complaint Notification

Date of Complaint: 05/25/21

Date of Incident: 05/22/21

Complainant's Name: [REDACTED]

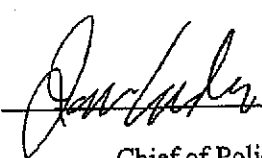
Employee (s) Complained Against: [REDACTED]

Division/Assignment of Employee: [REDACTED]

Allegation of Complaint: Misconduct

Disposition of Complaint: Sustained, Loss of Provisional Sergeant Position and a Written Reprimand.

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:   
Chief of Police

Date: 7-20-21



Chief of Police  
Complaint Notification

Date of Complaint: 5/25/2021

Date of Incident: 5/22/2021

Complainant's Name [REDACTED]

Employee (s) Complained: [REDACTED]

Division Assignment of Employee (s): [REDACTED]

Allegation of Complaint: Misconduct

Disposition of Complaint: Exonerated

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: [Signature]  
Chief of Police

Date: 7-20-21



Fall River Police Department  
Incident Report

Page: 1  
06/24/2021

Incident #: [REDACTED]

Call #: [REDACTED]

Date/Time Reported: [REDACTED]

Report Date/Time: [REDACTED]

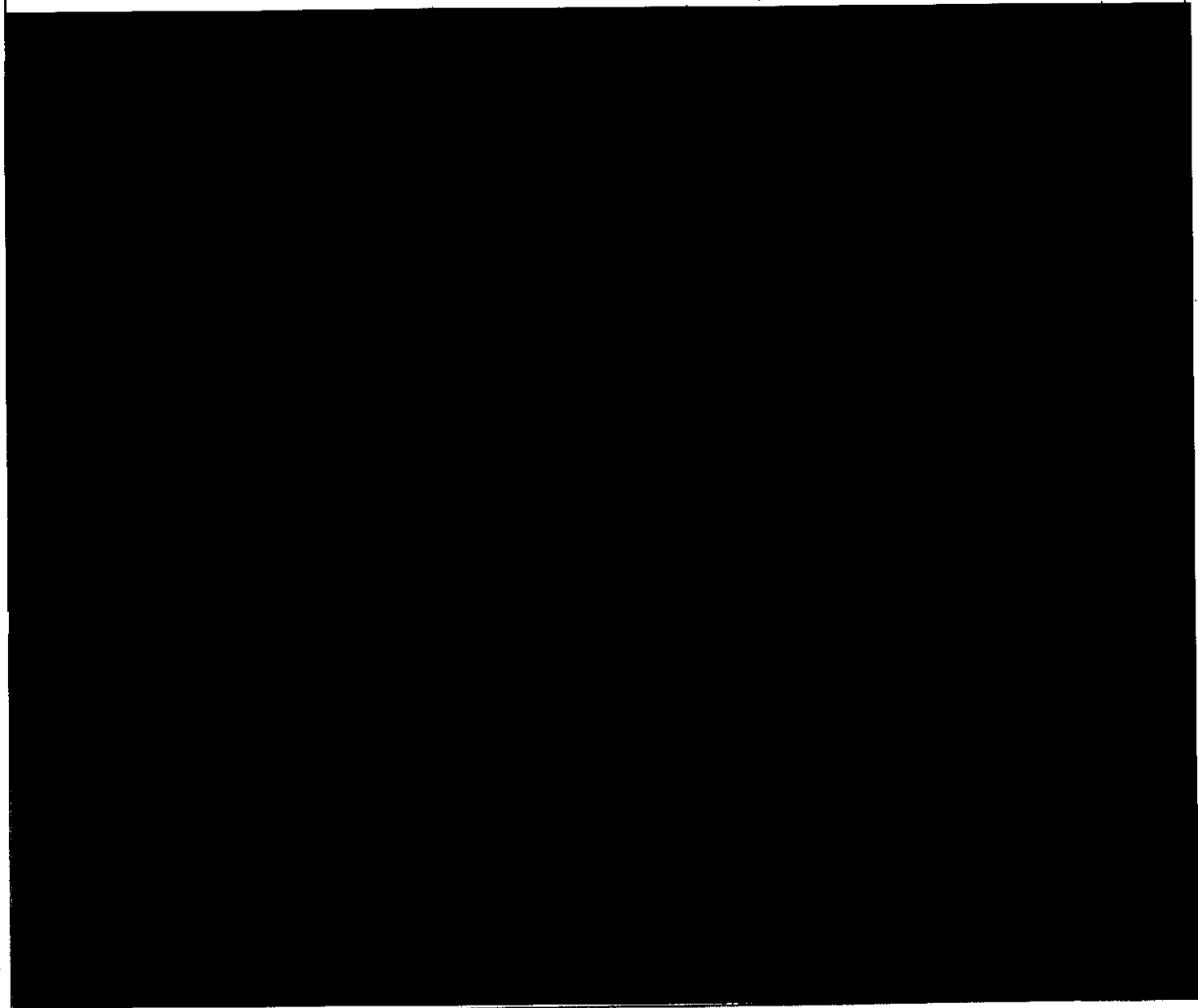
Occurred Between: [REDACTED]

Status: [REDACTED]

Involves: Juveniles

Reporting Officer: [REDACTED]

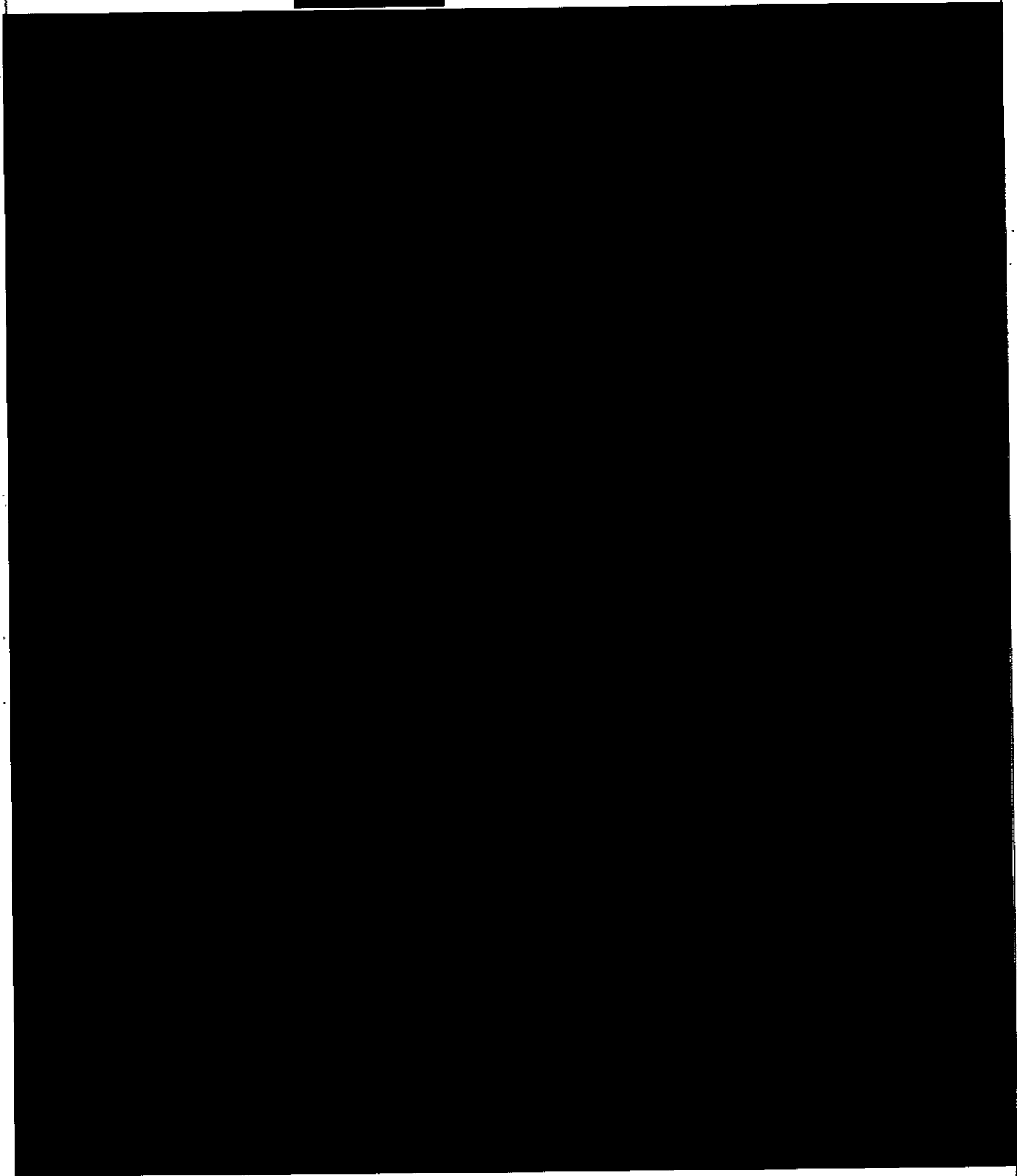
Signature: \_\_\_\_\_



Fall River Police Department  
Incident Report

Page: 2  
06/24/2021

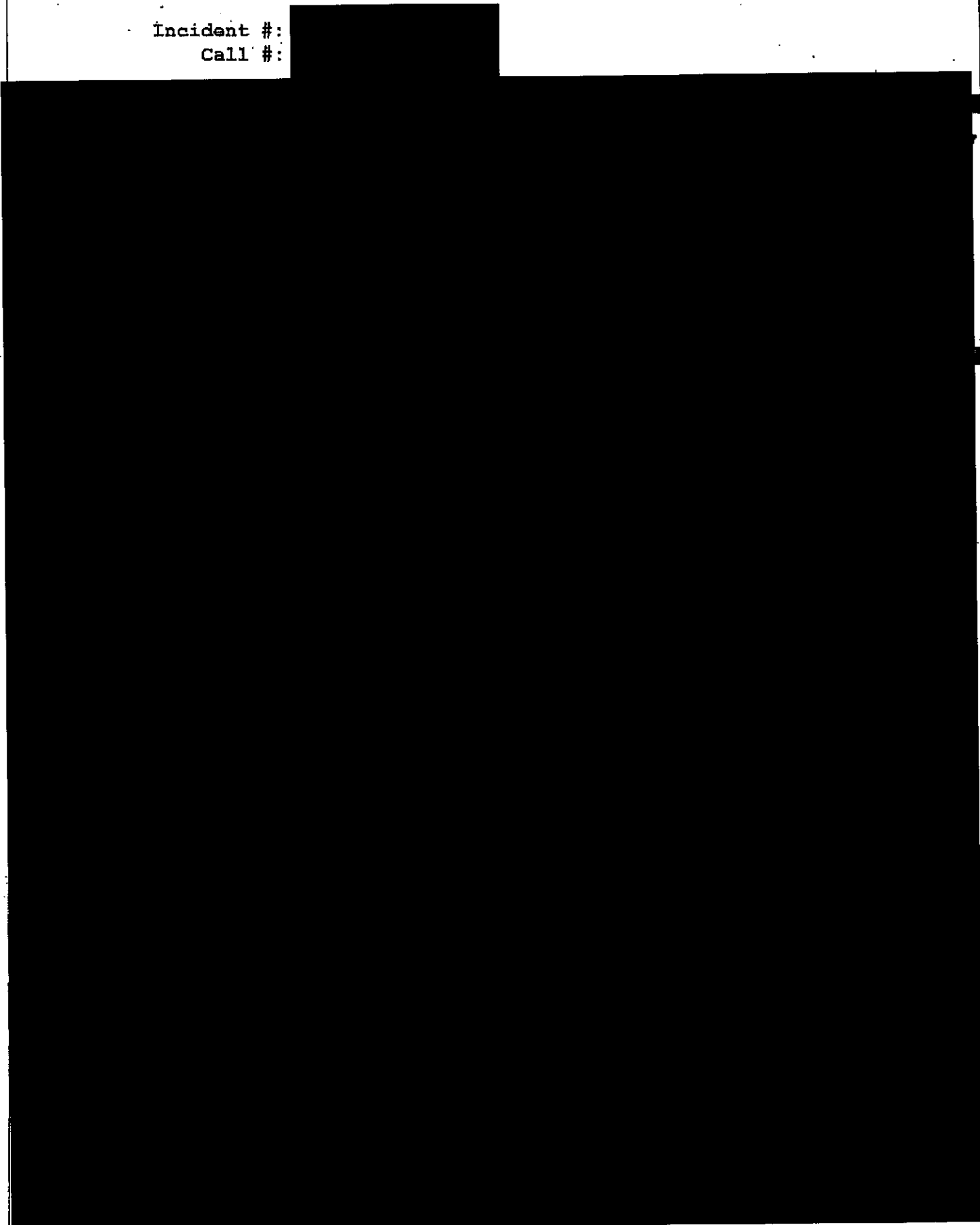
Incident #:  
Call #:



Fall River Police Department  
Incident Report

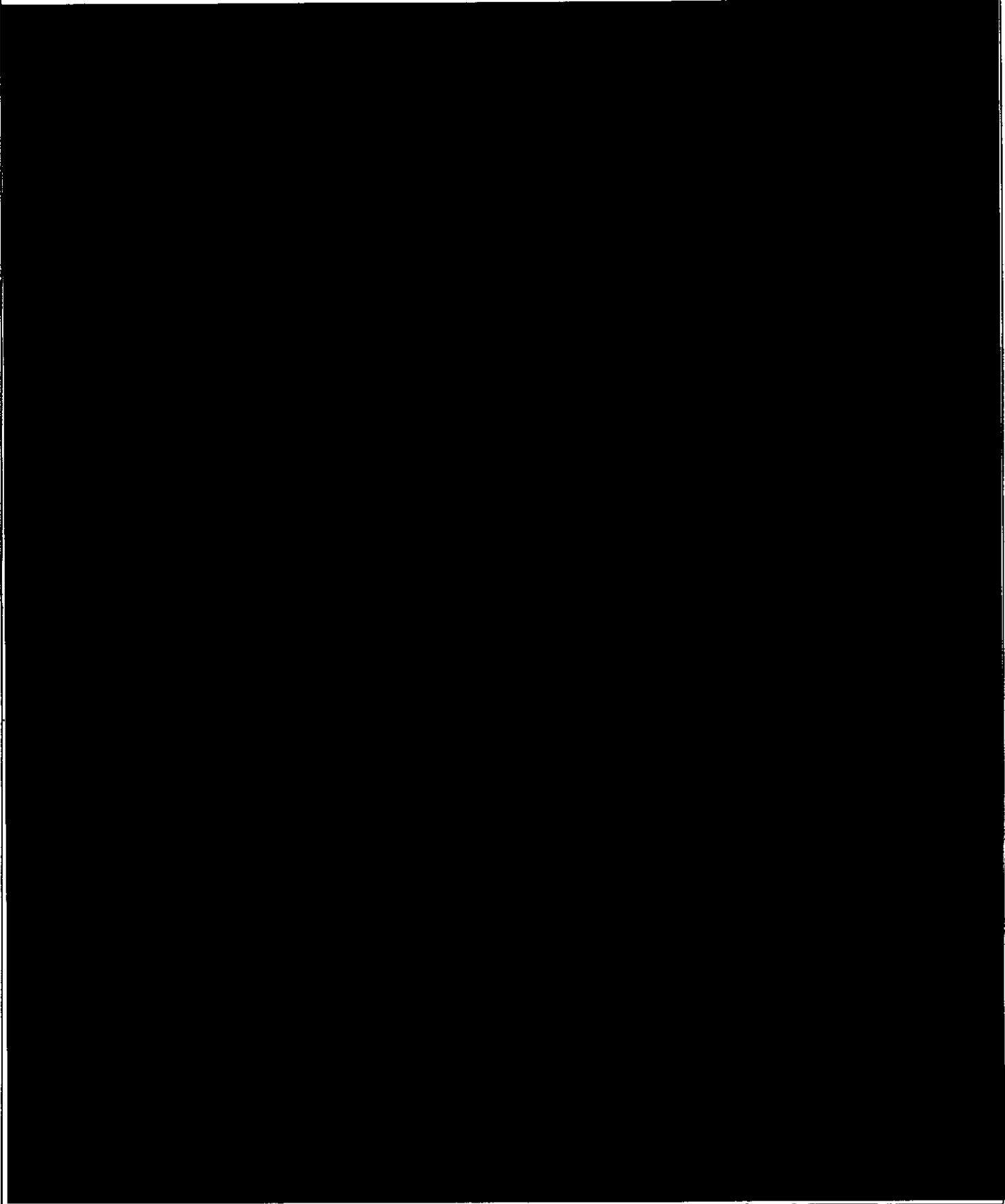
Page: 3  
06/24/2021

Incident #:  
Call #:



NARRATIVE FOR OFFICER DAVID M ST LAURENT

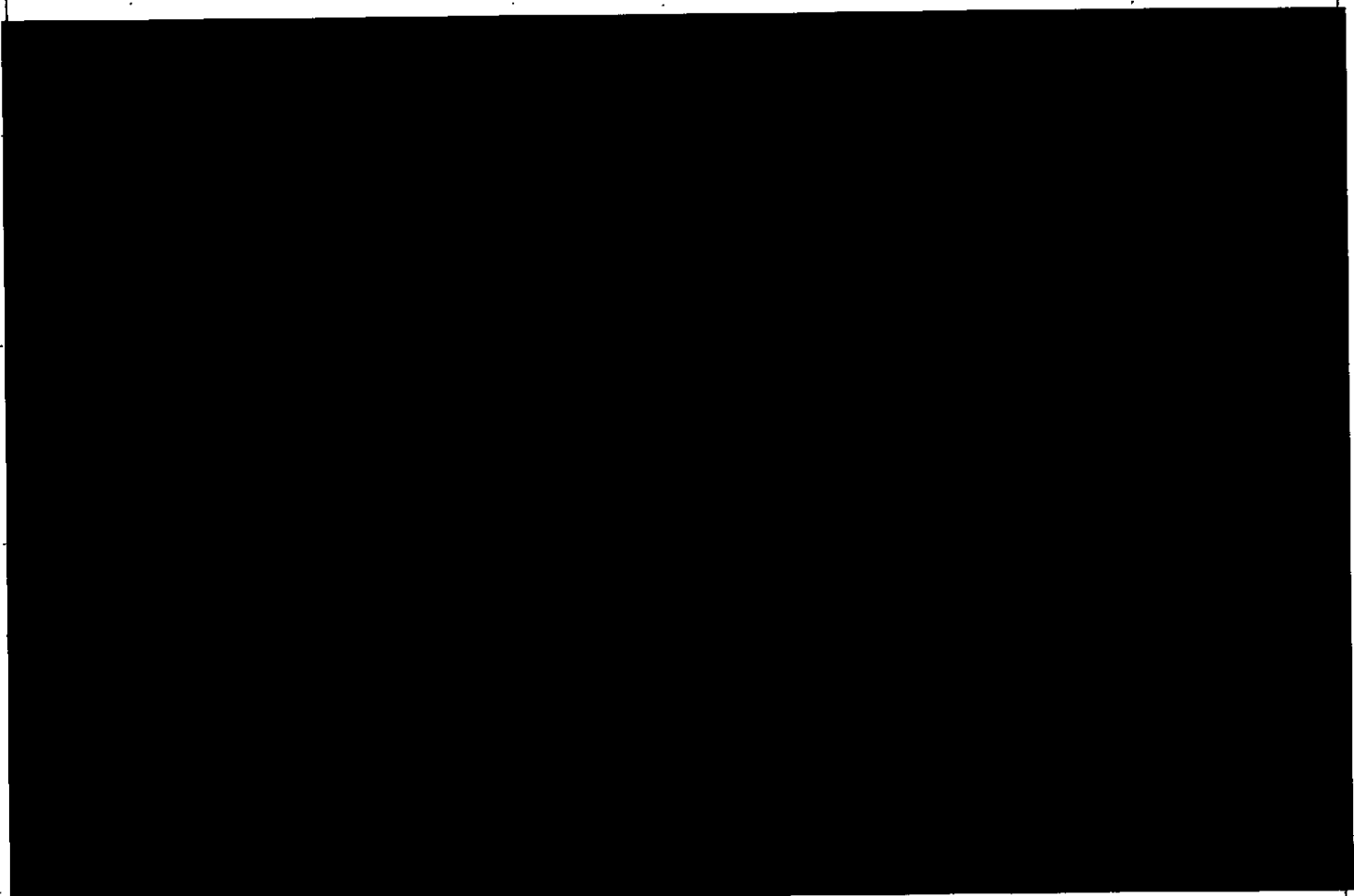
Ref:





NARRATIVE FOR [REDACTED]

Ref: [REDACTED]



or Date: 05/22/2021 - Saturday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>	<u>Priority</u>	<u>Duplicate</u>
1-30716	1858	Cellular - Lethal Weapon	REPORT TAKEN	1	
Call Taker:		A713 - Faunce, Kelsey			
Call Closed By:		A808 - Rosario, Jessica 05/22/2021 1955			
Call Modified By:		A808 - Rosario, Jessica			
Location/Address:		[FAL 4957]			
Party Entered By:		05/22/2021 1901 A713 - Faunce, Kelsey			
Calling Party:		***UNKNOWN***, [REDACTED] ***UNKNOWN*** - FALL RIVER, MA [REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:01 A709 - HALBARDIER, BRANDON	Arvd-19:16:15	Clrd-19:47:31	
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A709 - HALBARDIER, BRANDON			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:01 A709 - HALBARDIER, BRANDON	Arvd-19:02:51	Clrd-19:46:48	
Arrived By:		A808 - Rosario, Jessica			
Cleared By:		A808 - Rosario, Jessica			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:01 A709 - HALBARDIER, BRANDON	Arvd-19:03:05	Clrd-19:16:41	
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		[REDACTED]			
Location Change:		[REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:32 A709 - HALBARDIER, BRANDON	Arvd-19:03:46	Clrd-19:55:26	
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A808 - Rosario, Jessica			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:07:10 A709 - HALBARDIER, BRANDON	Arvd-19:07:12	Clrd-19:47:06	
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A808 - Rosario, Jessica			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Narrative:		05/22/2021 1858 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1900 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1900 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1901 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1901 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1903 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1905 HALBARDIER, BRANDON			
states		[REDACTED]			



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Daniel W. Dube  
Lt. Jay D. Huard

EMPLOYEE RIGHTS (NON-CRIMINAL)

This investigation is administrative in nature. Answers must be responsive to all questions and directives. Your rights will be observed in conformance with pertinent court decisions, which provide in substance that answers given by you in an administrative investigation cannot be used in any criminal proceedings against you or used in the prosecution of any criminal offense related to the subject of this investigation.

My lawyer is present.

I wish to proceed without a lawyer.

Therefore, you understand that the character of this investigation is strictly administrative in nature and not criminal, as such, the answers to the questions asked of you, or any fruits thereof, can never be used against you in any criminal proceeding, that means in effect, that you are required to answers questions specifically, narrowly and directly related to the performance of your conduct on, or while off-duty if said conduct falls within the parameters of the Department censure. Failure on your part to respond to such questioning or failure to answer questions truthfully will result in disciplinary action up to and including termination of your employment.

I have read and fully understand the above.

DATE: 6/30/21



Peter J. Adams A474  
Signature of Union Official

[Signature]  
Signature of Lawyer

[Signature]  
Signature of Investigating Officer

LT  
Rank

PRO STANDARDS  
Division Assigned



CITY OF FALL RIVER MASSACHUSETTS

POLICE DEPARTMENT

Office of Professional Standards



Jeffrey Cardoza  
Chief of Police

Capt. Daniel W. Dube  
Lt. Jay D. Huard

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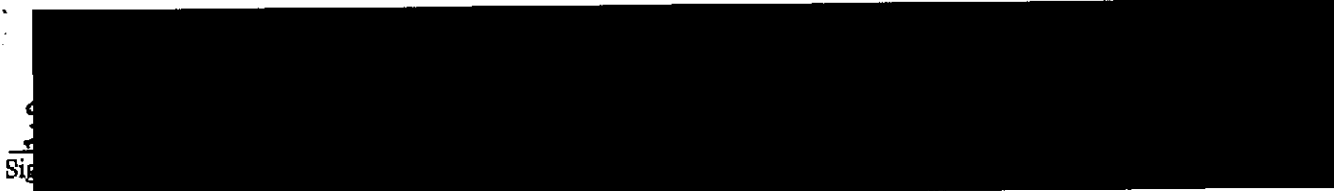
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I wish to proceed without a lawyer.

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DATE: 6/30/21



Signature

Peter Adams A474

Signature of Union Official

[Handwritten Signature]

Signature of Lawyer

[Handwritten Signature]

Signature of Investigating Officer

LT  
Rank

PRO STANDARDS  
Division Assigned



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

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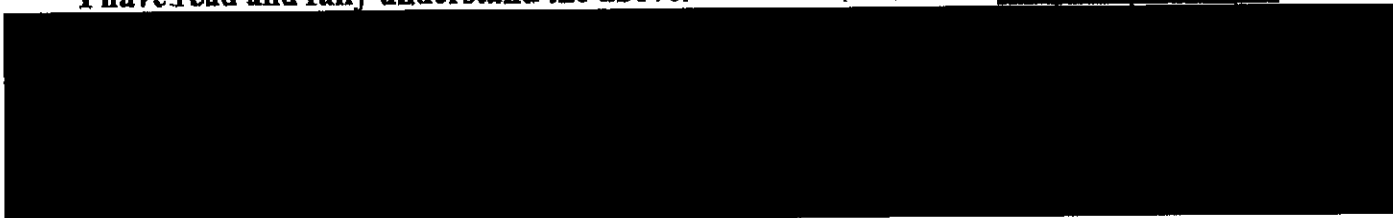
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I wish to proceed without a lawyer.

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DATE: 6/30/21



Peter J. [Signature]  
Signature of Union Official

[Signature]  
Signature of Lawyer

[Signature]  
Signature of Investigating Officer

LT  
Rank

Piw STANDARDS  
Division Assigned



CITY OF FALL RIVER MASSACHUSETTS

POLICE DEPARTMENT

Office of Professional Standards



Jeffrey Cardoza  
Chief of Police

Capt. Daniel W. Dube  
Lt. Jay D. Huard

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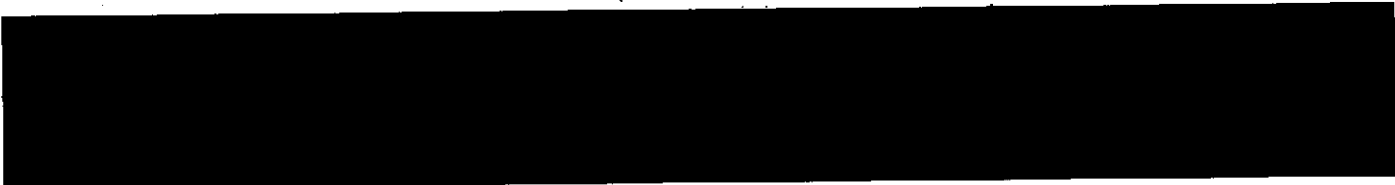
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I wish to proceed without a lawyer.

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I have read and fully understand the above.

DATE: 06/30/2021



Peter J. Adams A474  
Signature of Union Official

[Signature]  
Signature of Lawyer

[Signature]  
Signature of Investigating Officer

LT  
Rank

PRO STANDARDS  
Division Assigned



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H Castro  
Lt. Gregory Wiley

TO:



**COPY**

FROM: Lt. Gregory Wiley  
Office of Professional Standards

DATE: Wednesday, June 16, 2021

SUBJECT: Notice to Appear - IIC#21-0026 - Case 21-3203-OF




Please be advised that the Office of Professional Standards is conducting an administrative investigation relative to IIC#21-0026. This inquiry relates to your actions and interactions in connection to case #21-3203-OF.

Please keep in mind that this inquiry is being conducted in an administrative manner. You will be asked questions of which are specifically, narrowly, and directly related to the investigation. You are hereby ordered to appear in person at the Office of Professional Standards on Monday June 28, 2021 at 11:00AM.

When you appear for questioning, you may bring a Union Representative and/or Attorney with you if you feel that it is necessary.

Failure to comply with this order will result in disciplinary action for insubordination.

Sincerely,

  
Lt. Gregory Wiley  
Office of Professional Standards  
Fall River Police Department



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



*Office of Professional Standards*

Jeffrey Cardoza  
Chief of Police

Capt. Barden H Castro  
Lt. Gregory Wiley

TO: [REDACTED]

FROM: Lt. Gregory Wiley  
Office of Professional Standards

DATE: Wednesday, June 16, 2021

SUBJECT: Notice to Appear - IIC#21-0026 - Case 21-3203-OF  
[REDACTED]

A-10


Please be advised that the Office of Professional Standards is conducting an administrative investigation relative to IIC#21-0026. This inquiry relates to your actions and interactions in connection to case #21-3203-OF.

Please keep in mind that this inquiry is being conducted in an administrative manner. You will be asked questions of which are specifically, narrowly, and directly related to the investigation. You are hereby ordered to appear in person at the Office of Professional Standards on Monday June 28, 2021 at 10:30AM.

When you appear for questioning, you may bring a Union Representative and/or Attorney with you if you feel that it is necessary.

Failure to comply with this order will result in disciplinary action for insubordination.

Sincerely,

  
Lt. Gregory Wiley  
Office of Professional Standards  
Fall River Police Department





CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H Castro  
Lt. Gregory Wiley

TO: [REDACTED]  
FROM: Lt. Gregory Wiley  
Office of Professional Standards  
DATE: Wednesday, June 16, 2021  
SUBJECT: Notice to Appear - IIC#21-0026 - Case 21-3203-OF  
[REDACTED]

**COPY**

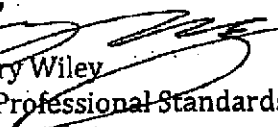
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When you appear for questioning, you may bring a Union Representative and/or Attorney with you if you feel that it is necessary.

Failure to comply with this order will result in disciplinary action for insubordination.

Sincerely,

  
Lt. Gregory Wiley  
Office of Professional Standards  
Fall River Police Department



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H Castro  
Lt. Gregory Wiley

TO: [REDACTED]  
FROM: Lt. Gregory Wiley  
Office of Professional Standards  
DATE: Wednesday, June 16, 2021  
SUBJECT: Notice to Appear - IIC#21-0026 - Case 21-3203-OF  
[REDACTED]

**COPY**

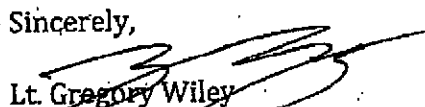
Please be advised that the Office of Professional Standards is conducting an administrative investigation relative to IIC#21-0026. This inquiry relates to your actions and interactions in connection to case #21-3203-OF.

Please keep in mind that this inquiry is being conducted in an administrative manner. You will be asked questions of which are specifically, narrowly, and directly related to the investigation. You are hereby ordered to appear in person at the Office of Professional Standards on Monday June 28, 2021 at 12:00pm.

When you appear for questioning, you may bring a Union Representative and/or Attorney with you if you feel that it is necessary.

Failure to comply with this order will result in disciplinary action for insubordination.

Sincerely,

  
Lt. Gregory Wiley  
Office of Professional Standards  
Fall River Police Department



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden H Castro  
Lt. Gregory Wiley

TO: [REDACTED]

FROM: Lt. Gregory Wiley  
Office of Professional Standards

DATE: Thursday, June 17, 2021

SUBJECT: Notice to Appear - IIC#21-0026 - Case 21-3203-OF  
[REDACTED]

COPY

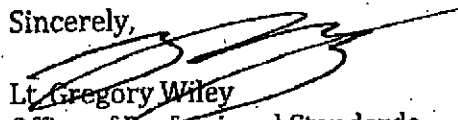
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Please keep in mind that this inquiry is being conducted in an administrative manner. You will be asked questions of which are specifically, narrowly, and directly related to the investigation. You are hereby ordered to appear in person at the Office of Professional Standards on Friday July 2, 2021 at 11:00am.

When you appear for questioning, you may bring a Union Representative and/or Attorney with you if you feel that it is necessary.

Failure to comply with this order will result in disciplinary action for insubordination.

Sincerely,

  
Lt. Gregory Wiley  
Office of Professional Standards  
Fall River Police Department



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Complaint Notification

DATE: 05/26/21

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to [REDACTED] 6-13-21 at 12:25  AM  PM,

on 6-13-21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



OFFICER SERVING NOTICE:

Signed: [Signature] ALPHA#: A243

Unit: A Watch

OFFICER WITNESSING NOTICE:

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Complaint Notification #002004

DATE: 05/26/21

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to  at 11:36  AM  PM,

on 05/27/21 at \_\_\_\_\_  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: Alan C. B. ALPHA#: A552

Unit: \_\_\_\_\_

**OFFICER WITNESSING NOTICE:**

Signed: [Signature] ALPHA#: 287

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt. Gregory Wiley

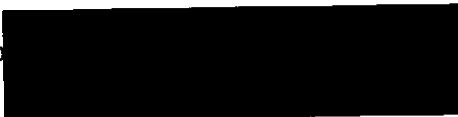
RECEIPT OF NOTIFICATION FOR:  
Complaint Notification #002004

DATE: 05/26/21

I have this day served the foregoing attached notice

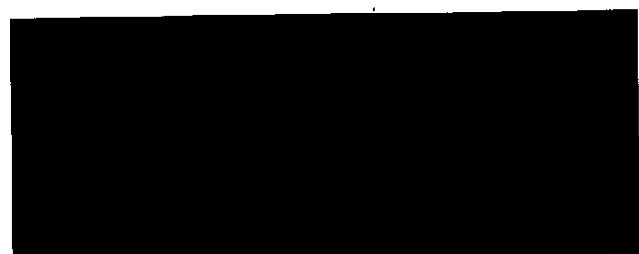
by reading in his/her presence

by giving the original in hand

to  at 2:40  AM  PM,

on 5-26-21 at F.R.P.D  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: LT Ronald Fruits ALPHA#: A293

Unit: A WATCH

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Complaint Notification #002004

DATE: 05/26/21

I have this day served the foregoing attached notice

- by reading in his/her presence
- by giving the original in hand

to: [REDACTED] at 12:30  AM  PM,

on 5/26 at FRPN  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: L. D. A. Z. ALPHA#: A349

Unit: \_\_\_\_\_

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Complaint Notification #002004

DATE: 05/26/21

I have this day served the foregoing attached notice

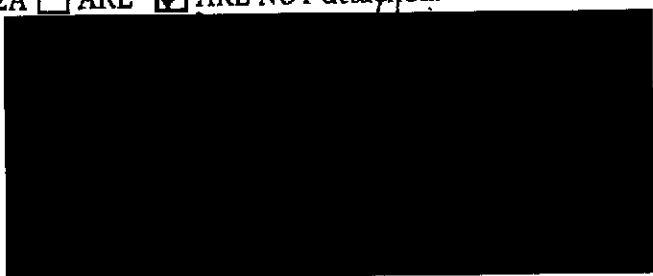
by reading in his/her presence

by giving the original in hand

to: [REDACTED] at 4:30  AM  PM,

on 5-26-21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: LT Broullante ALPHA#: 293

Unit: Uniform A

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS





CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Complaint Notification #002004

DATE: 05/26/21

I have this day served the foregoing attached notice

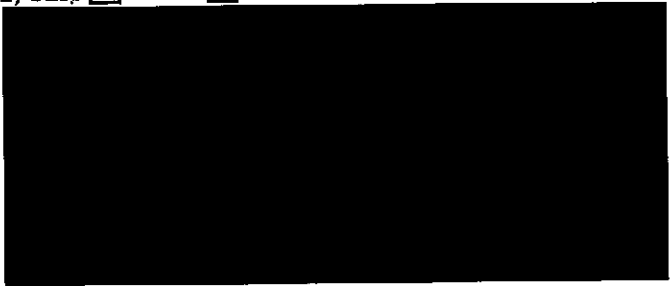
by reading in his/her presence

by giving the original in hand

to [REDACTED] at 4:05  AM  PM,

on 5-28-21 at FR PD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: 293

Unit: UNIFORM

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley


RECEIPT OF NOTIFICATION FOR:  
Notice to appear IIC# 21-0026

DATE: 06/16/21

I have this day served the foregoing attached notice

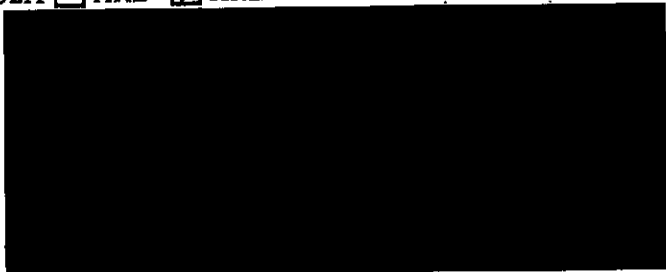
by reading in his/her presence

by giving the original in hand

to:  at 9:28  AM  PM,

on 6/16/21 at FRPD Garage  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: 518

Unit: PRO STANDARDS

**OFFICER WITNESSING NOTICE:**

Signed: \_\_\_\_\_ ALPHA#: \_\_\_\_\_

Unit: \_\_\_\_\_

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

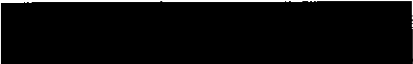
RECEIPT OF NOTIFICATION FOR:  
Notice to appear IIC# 21-0026

DATE: 06/16/21

I have this day served the foregoing attached notice

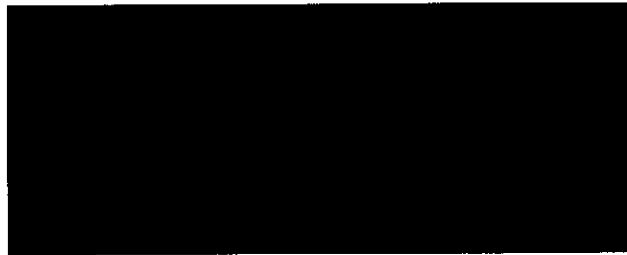
by reading in his/her presence

by giving the original in hand


to:  at \_\_\_\_\_  AM  PM,

on \_\_\_\_\_ at \_\_\_\_\_  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed:  ALPHA#: 552

Unit: A-Watch Sgt

**OFFICER WITNESSING NOTICE:**

Signed:  ALPHA#: 580

Unit: A-Watch Sgt

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Notice to appear IIC# 21-0026

DATE: 06/17/21

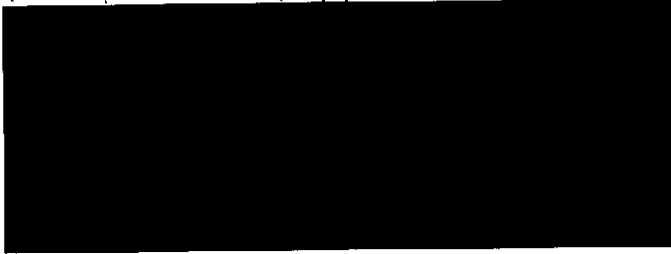
I have this day served the foregoing attached notice

- by reading in his/her presence
- by giving the original in hand

to [REDACTED] at 4:30  AM  PM,

on 6/17/21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: A383  
Unit: UD A-WATCH

**OFFICER WITNESSING NOTICE:**

Signed: [Signature] ALPHA#: 552  
Unit: A-Watch Sgt

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Notice to appear IIC# 21-0026

DATE: 06/16/21

I have this day served the foregoing attached notice

- by reading in his/her presence
- by giving the original in hand

to [REDACTED] at 4:00  AM  PM,

on 6/17/21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: J. A383 ALPHA#: 383

Unit: UD A-WATCH

**OFFICER WITNESSING NOTICE:**

Signed: [Signature] ALPHA#: 4552

Unit: A-Watch Sgt.

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

To: Chief Jeffrey Cardoza

From: Lt. Gregory Wiley

Re: Investigation extension (IIC21-0026)

Date: June 24, 2021

Chief,

Due to the amount of witnesses needed to be interviewed, the scheduling of interviews for the officers involved, myself having a scheduled vacation, and [REDACTED] being out [REDACTED], I will be unable to complete this investigation the 30 day time frame. I respectfully request an extension to complete my investigation into IIC# 21-0026.

Lt. Gregory Wiley

  
Office Of Professional Standards

*Approved, Chris Castro*

*6-23-21*



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:

Disposition IIC# 21-0026

DATE: 07/20/21

I have this day served the foregoing attached notice

by reading in his/her presence

by giving the original in hand

to: [REDACTED] at 3:20  AM  PM,

on 7/20/21 at PRO STANDARD OFFICE  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: 518

Unit: PRO STANDARD

**OFFICER WITNESSING NOTICE:**

Signed: [Signature] ALPHA#: 511

Unit: Pro Standard

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



\*\*\*unknown\*\*\*  
Fall River, MA

Page: 1

Printed: 06/01/2021

Age: Unknown

DOB: 00/00/0000

Sex: 

Race: 

Ethnicity: Unknown

System #: 

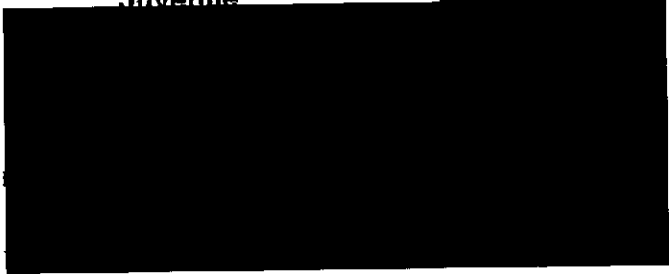
Military Active Duty: N  
Foreign National: N

Report Printed By: Lieutenant Gregory Wiley Fall River Police Department



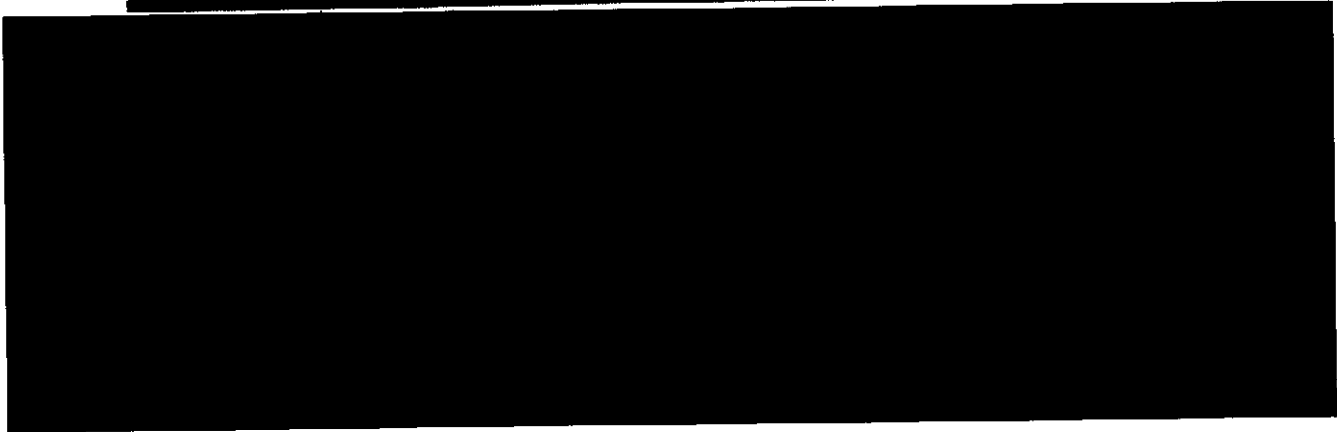


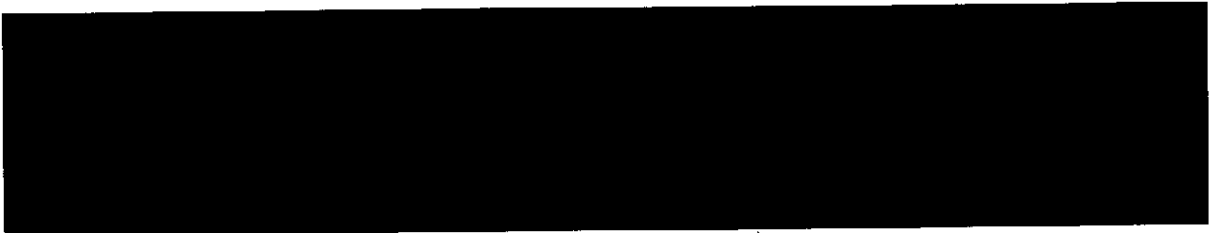
Juvenile



Report Printed By: Lieutenant Gregory Wiley Fall River Police Department.

Contact Information



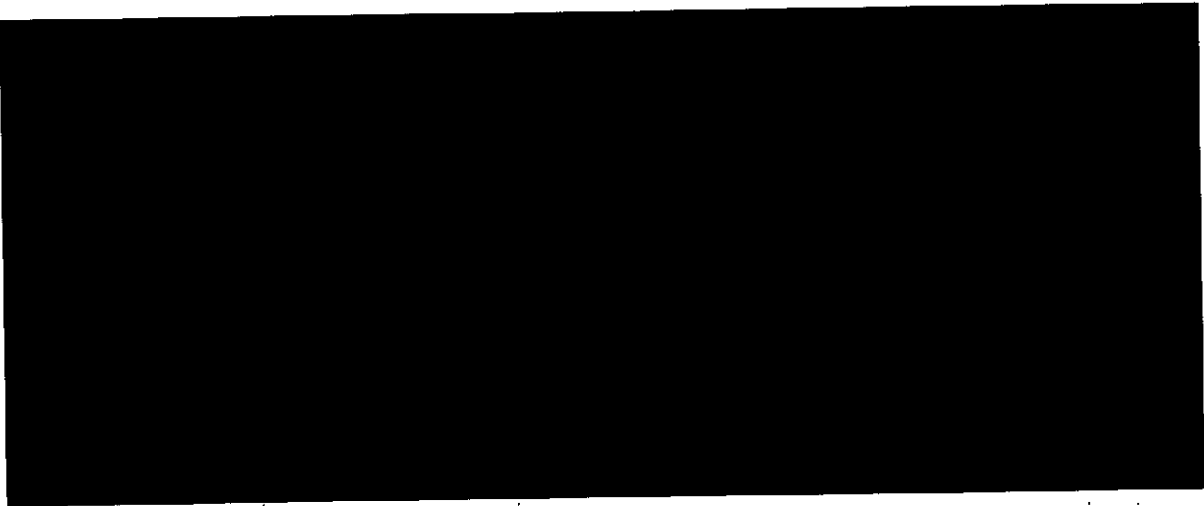


**Juvenile**

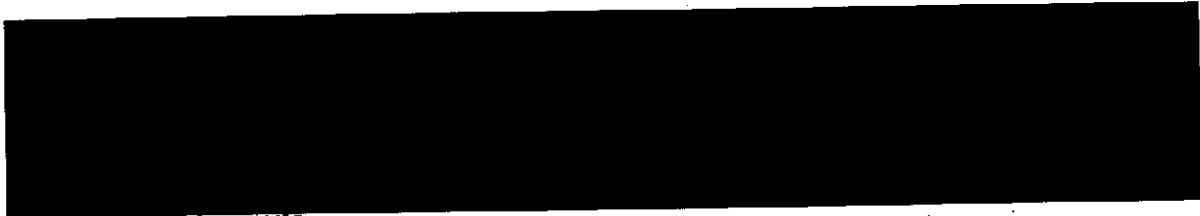


Report Printed By: Lieutenant Gregory Wiley Fall River Police Department

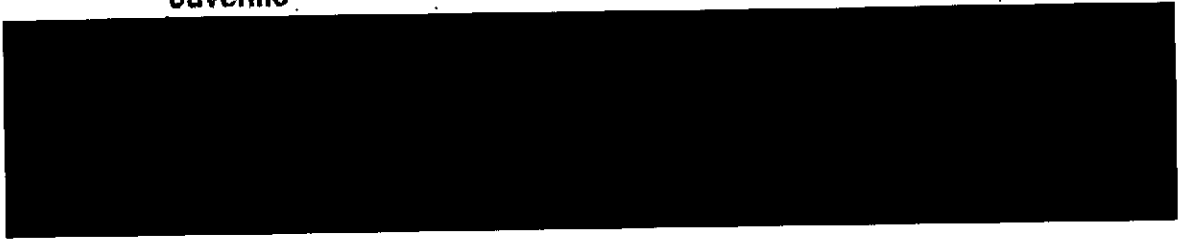




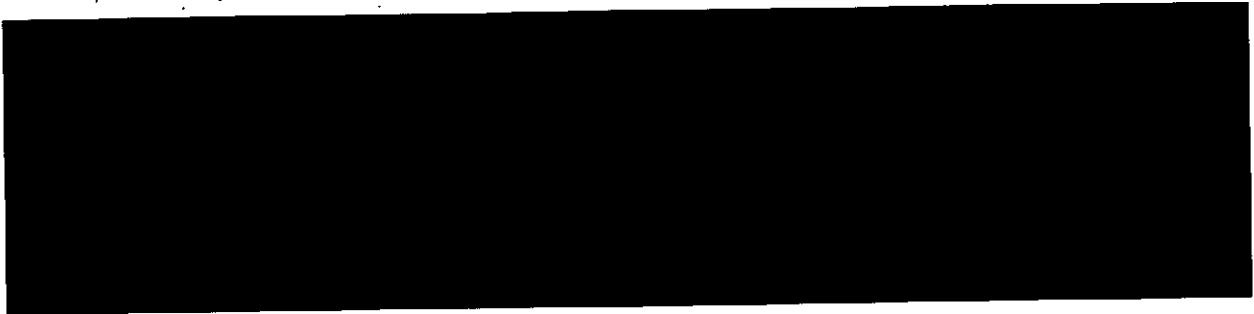
Report Printed By: Lieutenant Gregory Wiley Fall River Police Department



Juvenile



Report Printed By: Lieutenant Gregory Wiley Fall River Police Department



[REDACTED]

Narrative: 05/22/2021 1905 HALBARDIER, BRANDON

[REDACTED]

Narrative: 05/22/2021 1910 HALBARDIER, BRANDON  
                                 juveniles [REDACTED]

Refer To Incident: [REDACTED]

For Date: 05/22/2021 - Saturday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>	<u>Priority</u>	<u>Duplicate</u>
21-30716	1858	Cellular - Lethal Weapon	REPORT TAKEN	1	
Call Taker:		A713 - Faunce, Kelsey			
Call Closed By:		A808 - Rosario, Jessica 05/22/2021 1955			
Call Modified By:		A808 - Rosario, Jessica			
Location/Address:		[EAL 4957] [REDACTED]			
Party Entered By:		05/22/2021 1901 A713 - Faunce, Kelsey			
Calling Party:		***UNKNOWN*** [REDACTED] ***UNKNOWN*** - FALL RIVER, MA [REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:01 Arvd-19:16:15 Clrd-19:47:31			
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A709 - HALBARDIER, BRANDON			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:01 Arvd-19:02:51 Clrd-19:46:48			
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A808 - Rosario, Jessica			
Location Change:		A808 - Rosario, Jessica			
Location Change:		[REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:01 Arvd-19:03:05 Clrd-19:16:41			
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A709 - HALBARDIER, BRANDON			
Location Change:		[REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:01:32 Arvd-19:03:46 Clrd-19:55:26			
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A709 - HALBARDIER, BRANDON			
Location Change:		A808 - Rosario, Jessica			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Location Change:		[REDACTED]			
Post:		[REDACTED]			
Dispatched By:		Disp-19:07:10 Arvd-19:07:12 Clrd-19:47:06			
Arrived By:		A709 - HALBARDIER, BRANDON			
Cleared By:		A709 - HALBARDIER, BRANDON			
Location Change:		A808 - Rosario, Jessica			
Location Change:		[REDACTED]			
Narrative:		05/22/2021 1859 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1900 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1900 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1901 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1901 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1903 Faunce, Kelsey			
states		[REDACTED]			
Narrative:		05/22/2021 1905 HALBARDIER, BRANDON			
states		[REDACTED]			

Fall River Police Department  
Incident Report

Page: 1  
06/01/2021

Incident #: [REDACTED]

Call #: [REDACTED]

Date/Time Reported: [REDACTED]

Report Date/Time: [REDACTED]

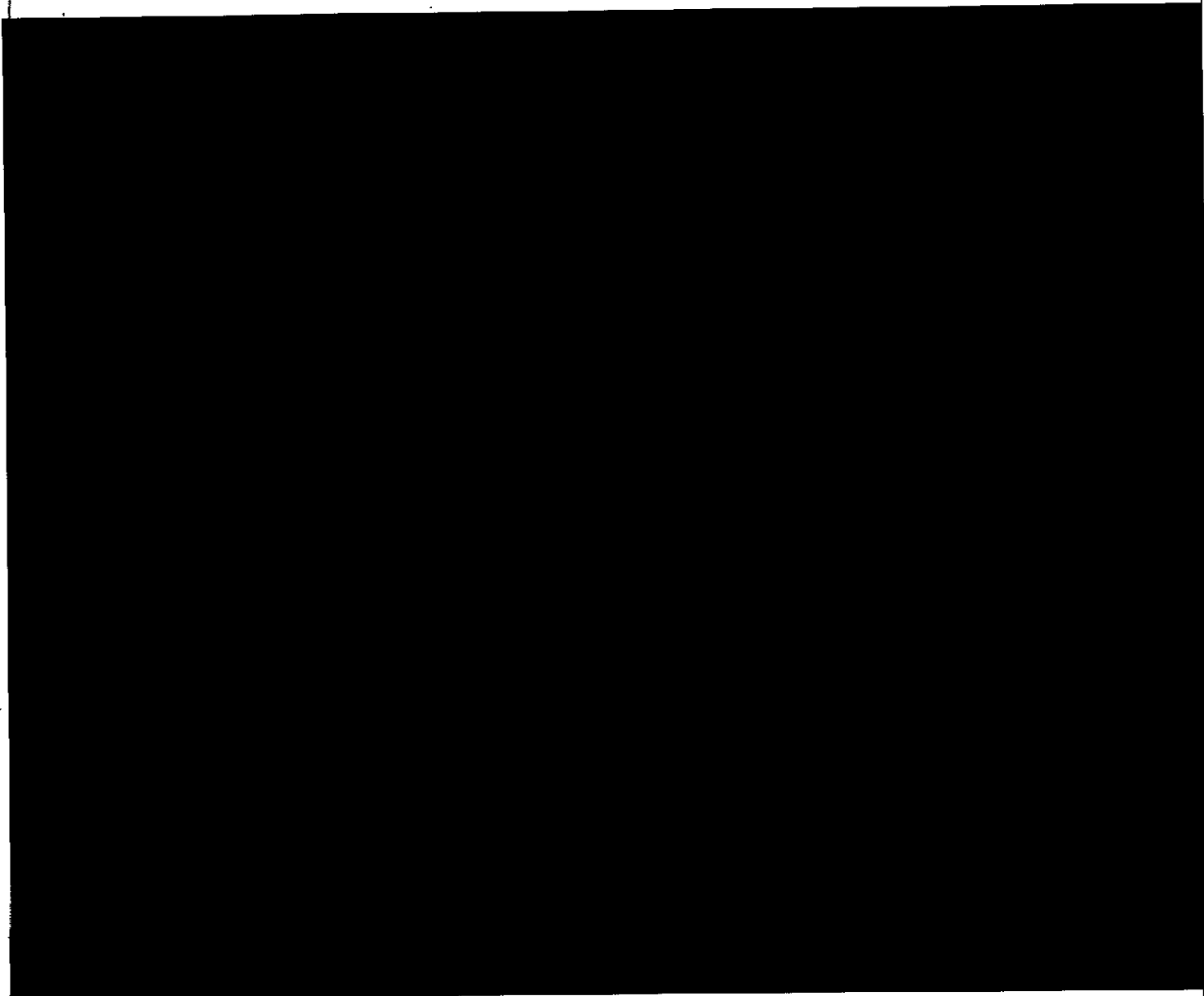
Occurred Between: [REDACTED]

Status: [REDACTED]

Involves: Juveniles

Reporting Officer: [REDACTED]

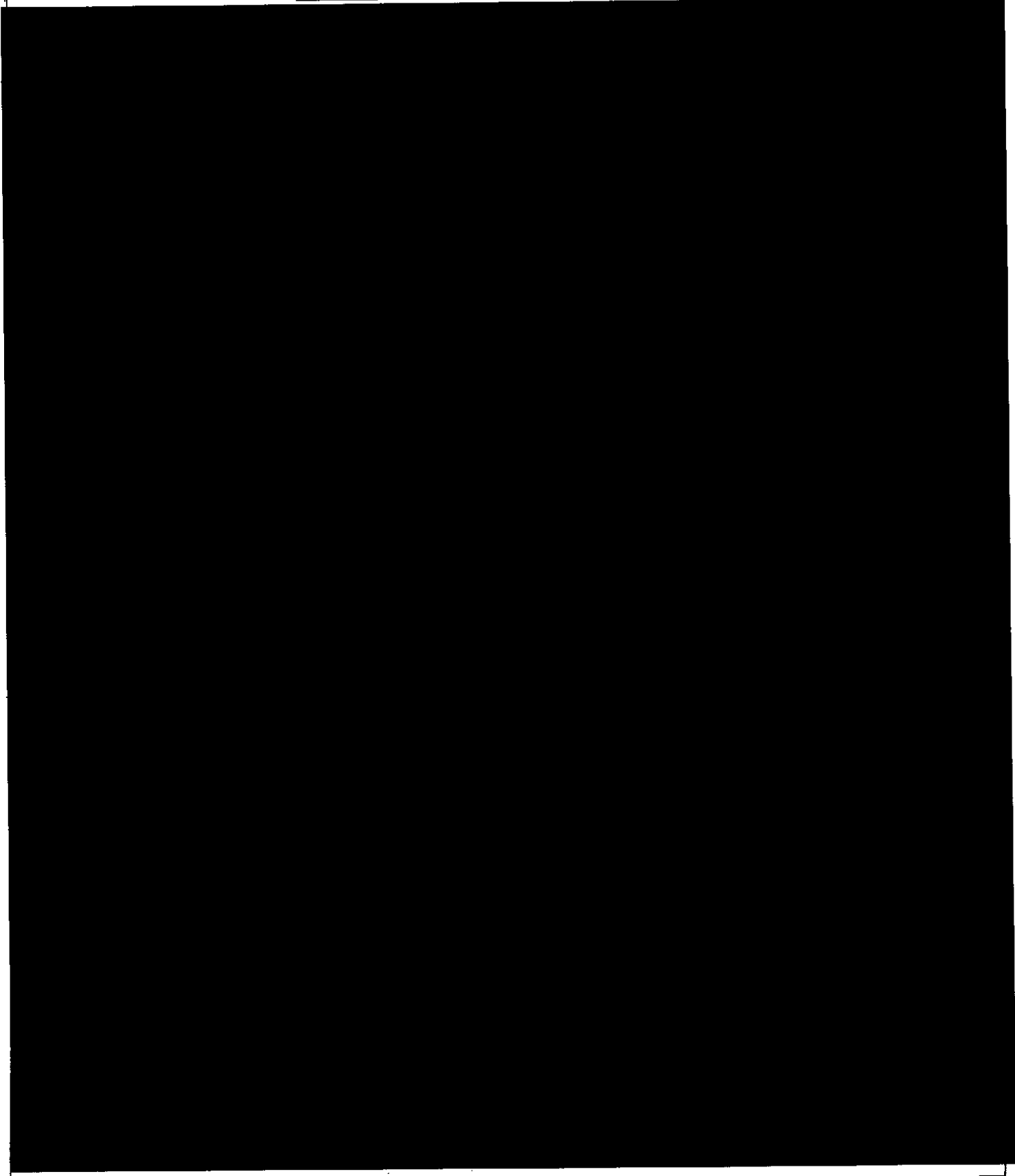
Signature: \_\_\_\_\_



Fall River Police Department  
Incident Report

Page: 2  
06/01/2021

Incident #:  
Call #:






Fall River Police Department  
Incident Report

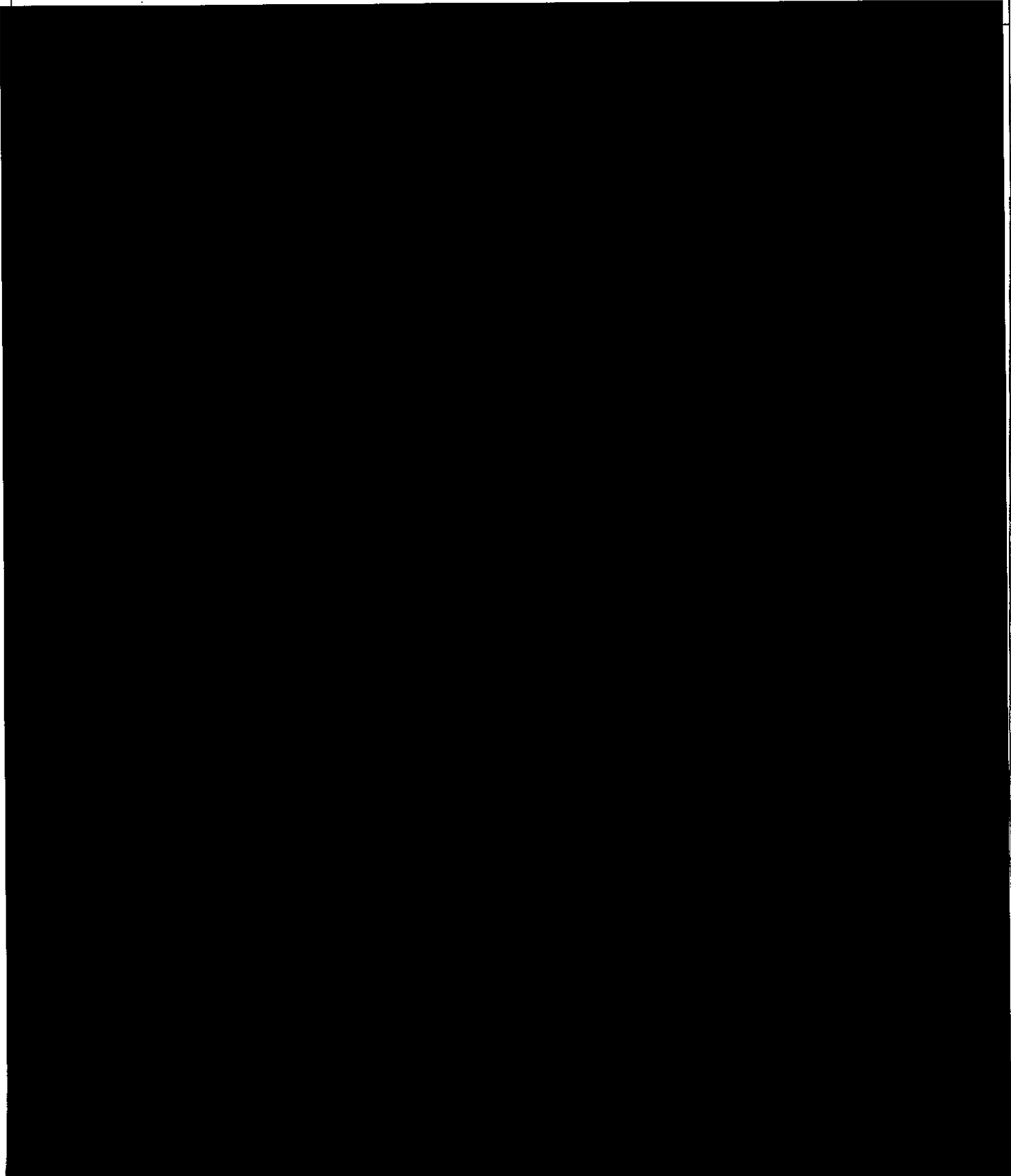
Page: 3  
06/01/2021

Incident #: [REDACTED]  
Call #: [REDACTED]



NARRATIVE FOR OFFICER DAVID M ST LAURENT

Ref:



NARRATIVE FOR

Ref:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:  
Disposition IIC# 21-0026

DATE: 07/20/21

I have this day served the foregoing attached notice

- by reading in his/her presence
- by giving the original in hand

to: [REDACTED] at 12:30  AM  PM,

on 7/31/21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.

Signed: \_\_\_\_\_  
Officer Being Served Notice

Unit: \_\_\_\_\_

**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: 383

Unit: UD - A - WATCH

**OFFICER WITNESSING NOTICE:**

Signed: [Signature] ALPHA#: 572

Unit: UD - A - WATCH

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



CITY OF FALL RIVER MASSACHUSETTS  
POLICE DEPARTMENT



Office of Professional Standards

Jeffrey Cardoza  
Chief of Police

Capt. Barden Castro  
Lt. Gregory Wiley

RECEIPT OF NOTIFICATION FOR:

Disposition IIC# 21-0026

DATE: 07/20/21

I have this day served the foregoing attached notice

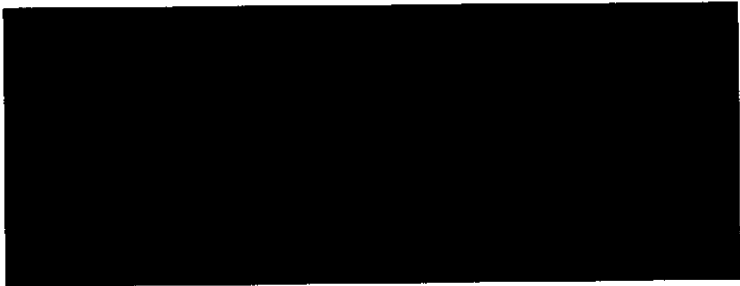
by reading in his/her presence

by giving the original in hand

to: [REDACTED] at 4:30  AM  PM,

on 8/24/21 at FRPD  
DATE LOCATION

Copies of MGL Chapter 31 Sec 41-45 and 62, 62A  ARE  ARE NOT attached.



**OFFICER SERVING NOTICE:**

Signed: [Signature] ALPHA#: 383

Unit: UD - A - WATCH

**OFFICER WITNESSING NOTICE:**

Signed: [Signature] ALPHA#: A491

Unit: UD - A WATCH

RETURN THIS FORM TO:  CHIEF'S OFFICE  PROFESSIONAL STANDARDS



*The Commonwealth of Massachusetts*

OFFICE OF THE  
DISTRICT ATTORNEY  
BRISTOL DISTRICT

THOMAS M. QUINN III  
DISTRICT ATTORNEY

218 South Main Street  
Fall River, MA 02721  
(508)997-0711

December 20, 2019

Chief of Police Joseph C. Cordeiro  
New Bedford Police Department  
871 Rockdale Avenue  
New Bedford, MA 02740

Re: Officer [REDACTED]

Dear Chief Cordeiro,

As you know the District Attorney's Office received a referral from the New Bedford Police Department regarding the conduct and activities of Officer [REDACTED]. As a result, we conducted an extensive investigation that included interviewing over 40 civilian and law enforcement witnesses and collecting and reviewing numerous documents and other evidence. After a thorough review of the matter, we have concluded our investigation is to be closed without any charges to be issued.

Notwithstanding our determination that Officer [REDACTED] will not be prosecuted for a crime, the investigation revealed information about Officer [REDACTED]'s conduct which we are compelled to provide to defendants in criminal cases involving Officer [REDACTED], pursuant to our obligations described in Brady v. Maryland, 373 U.S. 83 (1967) and Giglio v. United States, 405 U.S. 150 (1971). These obligations require the prosecutor to inform defendants of information it possesses which undermines the credibility of a witness.

In sum, our investigation showed that Officer [REDACTED] made a number of contradictory and untruthful statements regarding his warrantless entry into the [REDACTED] and his conduct therein on June 21, 2018. Officer [REDACTED]'s report, in which he attempts to provide legal justification for his actions, is contrary to all of the objective evidence. Because this type of conduct is at the heart of Officer [REDACTED]'s duties as a police officer, his report must be provided to every defendant in whose case he is a potential witness, along with the evidence showing that the warrantless conduct was not justified.

Furthermore, because Officer [REDACTED]'s conduct greatly undermines any prosecution, which relies on his work as a police officer, he is no longer an officer that we can call as a prosecution witness. Consequently, it is our determination that in addition to our obligation to

inform defendants about the existence of potentially exculpatory information, we will no longer proffer Officer [REDACTED] as a witness in any case prosecuted by this office.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

  
PATRICK O. BOMBERG  
FIRST ASSISTANT DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT  
CRIMINAL ACTION  
NO. [REDACTED]

COMMONWEALTH

vs.  
[REDACTED]

MEMORANDUM AND ORDER ON DEFENDANT'S  
MOTION FOR PRODUCTION OF RECORDS

This matter is before the court on the defendant, [REDACTED] motion, under Mass. R. Crim. P. 17(a) (2), for a summons to issue for records held by the New Bedford Police Department ("the Department") concerning [REDACTED]. The defendant requests: "[A]ll personal, division of professional standard and disciplinary action records in regard to New Bedford Police [REDACTED], for the period of time from January 1, 2015 to September 1, 2020." [REDACTED] is expected to testify in the trial of this case as [REDACTED] gave the defendant [REDACTED] *Miranda* warnings, had some conversation with [REDACTED] and was the case evidence officer.

---

<sup>1</sup> Initially, this motion was heard in conjunction with a similar request made by a defendant in an unrelated matter, [REDACTED] Bristol Superior Court Docket # [REDACTED]. The only connection between the two cases was that [REDACTED] was a participant in both investigations, and [REDACTED]'s lawyer shared an internal affairs report that he had received pursuant to a Freedom of Information request with [REDACTED]'s lawyer. While the motion was under advisement, [REDACTED] withdrew his motion because [REDACTED] had reached a plea agreement with the District Attorney's Office.



## BACKGROUND

In May of 2020, [REDACTED] filed a Freedom of Information request seeking a variety of [REDACTED]'s records from the Department. In [REDACTED] request, the defendant asked for the following:

1. All police reports and search warrant affidavits authored and submitted by [REDACTED] [REDACTED] for the years 2019 and 2020;
2. All materials relating to any complaints made regarding [REDACTED] (whether by a civilian, colleague, supervisor, or anyone else);
3. All materials related to any investigation(s) by the Internal Affairs Division or Anti-corruption division involving [REDACTED]

The City of New Bedford ("the City") agreed to turn over certain of the Division of Professional Standards ("DPS") records as the City determined that they were not exempt from disclosure under the Freedom of Information Act. The City turned over to counsel the investigation report issued in connection with Case # 16-1817. The Department has reported to the defendant and to the court that this investigation is the only investigation conducted concerning [REDACTED] during the time that [REDACTED] has been on the force.<sup>2</sup>

However, the City declined to hand over records concerning the disciplinary action taken as a consequence of the investigation conducted by the DPS, determining that any records concerning discipline were exempt from disclosure.<sup>3 4</sup> Based upon the DPS report [REDACTED] received from the City, [REDACTED] filed the motion presently before the court where [REDACTED] requests that the

---

<sup>2</sup> In [REDACTED] motion, the defendant suggests that this assertion is not true, but [REDACTED] offers nothing to support that claim that contradicts the Department's representation to the court during the hearing that no other DPS investigation exists.

<sup>3</sup> See *Worcester Telegram & Gazette Corp. v. Chief of Police of Worcester*, 58 Mass.App.Ct. 1, 10 (2003), review denied, 440 Mass. 1103 (2003), where the Appeals Court found that a police chief's memorandum of discipline to an officer under investigation was exempt personnel file information while documents from the internal affairs investigation such as witness interviews and the internal affairs report itself were not.

<sup>4</sup> As of this time [REDACTED] remains assigned to the Organized Crime and Intelligence Bureau.

court order production of all of [REDACTED]'s "personal, division of professional standard and disciplinary action records ... for the period of time from January 1, 2015 to September 1, 2020."<sup>5</sup>

[REDACTED] attached to the motion a copy of the DPS report that he had received. The report, Case # 16-1817, is dated July 27, 2016 and concerns an investigation into [REDACTED]'s conduct which occurred between March 27, 2016 and April 4, 2016.

The complaint giving rise to the DPS investigation, Case # 16-1817, was filed by then New Bedford Police Chief David Lizotte ("Lizotte"). Lizotte had received a copy of what was represented to be a series of text messages between [REDACTED] and a confidential informant ("CI"). Lizotte had received the text messages from the Bristol County District Attorney's Office. The District Attorney's Office had received the text messages from the Committee for Public Counsel Services. The complaint concerned [REDACTED]'s alleged mishandling of a CI in connection with a case that [REDACTED] investigated three months after being assigned to the Organized Crime and Intelligence Bureau, the unit in the Department that conducts, *inter alia*, narcotics investigations. The DPS investigation was conducted by Detective Captain Dennis Ledo ("Ledo"). Based upon his investigation, Ledo made numerous findings, including several of significance to the instant motion:

1. That [REDACTED] had contacted the clerk magistrate on the night of the CI's arrest and requested that the CI be allowed bail despite the fact that the CI was on parole at the time of the offense and he/she would have most likely been held pending violation if [REDACTED] had not been released on bail.
2. After [REDACTED] secured the release of the CI, that [REDACTED] told the CI to skip his/her arraignment date so he/she wouldn't get violated on his/her parole.

---

<sup>5</sup> The defendant has not requested any of the other documents initially requested in his Freedom of Information request.

3. That [REDACTED] instructed the CI to tell the District Court that the reason why he/she missed the arraignment date was because he/she thought the arraignment date was a different date, and then later instructed the CI to tell the District Court that he/she missed the arraignment date because he/she had been picked up by parole, both of which were not the reason the CI missed court. The CI did not appear for arraignment because [REDACTED] told the CI not to appear so the CI would not get held on the parole violation.
4. That [REDACTED] told the CI to keep buying small quantities of drugs, outside the supervision of a controlled buy.

Ledo ultimately recommended a “sustained” finding against [REDACTED] for violating two of the Department’s rules and regulations: 515.6(1) Improperly performing or neglecting to perform duties assigned; and 515.6(d) Immoral conduct or conduct unbecoming an officer. The report was signed by Ledo and Deputy Chief Paul Oliveira. It was received and approved by Chief Joseph Cordeiro, who also signed the document.

The court conducted a hearing on the defendant’s motion over several days. No witnesses testified; however, the court received four exhibits during the course of the hearing.

The City keeps records pertaining to police officers in various files. The Office of the Chief of Police (“Office of the Chief”) houses and maintains the personnel files of all departmental employees. Typically, personnel files for police officers contain the following types of information:

1. Personal Identification (copies of birth certificates, driver’s licenses, etc.);
2. Names and addresses of family members;
3. CORI Information;
4. Employee Background investigations;
5. School Records;

6. Credit Reports;
7. Discipline awarded;
8. Personnel change notices (address and salary changes).

The DPS investigates complaints made against department employees and forwards its findings to the Office of the Chief. A copy of the file is maintained by the DPS.

### DISCUSSION

To compel pretrial production of records pursuant to Rule 17 (a) (2), the defendant must "establish good cause, satisfied by a showing '(1) that the documents are evidentiary and relevant; (2) that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) that the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; and (4) that the application is made in good faith and is not intended as a general "fishing expedition."'" *Commonwealth v. Sealy*, 467 Mass. 617, 627 (2014), quoting *Commonwealth v. Lampron*, 441 Mass. 265, 269 (2004), and *United States v. Nixon*, 418 U.S. 683, 699-700 (1974).

The seminal case regarding police internal affairs records is *Commonwealth v. Wanis*, 426 Mass. 639 (1998). "A defendant may not obtain information in the possession of an internal affairs division, other than statements of percipient witnesses, without seeking a summons for the production of that information and, if production is opposed, without making a showing to a judge (normally by affidavit) that there is a specific, good faith reason for believing that the information is relevant to a material issue in the criminal proceedings and could be of real benefit

to the defense. Such a standard meets constitutional requirements.” *Id.* at 644-645. See *Commonwealth v. Fuller*, 423 Mass. 216, 226-227 (1996). Personal information about a police officer, his or her previous conduct, and the conclusions of those conducting an internal affairs investigation, for example, should be disclosed only on such a showing. *Wanis*, 426 Mass. at 645.

In recent years, the Supreme Judicial Court approvingly cited *Lampron* and *Wanis* as the mechanism for the defendant in a case seeking production of “[d]ocuments and information concerning whether [the Boston police department] has ever admonished, disciplined, investigated, [or] reprimanded” the police officer who was the subject of a discovery motion, provided that the defendant could meet the applicable legal standard. *Commonwealth v. Cruz*, 481 Mass. 1021, 1022 (2018), affirming the decision of the single justice’s ruling that the trial judge “erred in ordering discovery pursuant to rule 14 of records of the internal affairs division of a police department against a prosecutor who did not have possession, custody, or control of any of the requested information.” *Cruz* at 1021.

Late last year, the SJC made it clear that trial judges, in the exercise of their discretion, may admit evidence of prior misconduct of a police officer witness in a separate matter if the trial judge determines that the credibility of the police officer is a critical issue at trial and the prior misconduct might have a significant impact on the result of the trial, such that it should be admitted in the interest of justice. *Matter of a Grand Jury Investigation*, 485 Mass. 641, 651-652 (2020).

While discussing a previous case, *Commonwealth v. Lopes*, 478 Mass. 593, 606 (2018), the SJC noted that the trial judge did not abuse his discretion by preventing Lopes from impeach-

ing a police officer “with information that the Boston police department had suspended [the police officer] five years earlier for, among other things, lying in an internal affairs investigation on a personal matter.” However, the court also noted that the *Lopes* decision did not hold that the trial judge could not have admitted the evidence. See *Matter of a Grand Jury Investigation*, 485 Mass. at 652. The court listed factors that trial judges should consider in deciding whether to allow a police officer witness to be impeached with prior misconduct: 1) the age of the prior misconduct; 2) the strength of the evidence of the prior misconduct and the simplicity of establishing it; and 3) whether the prior misconduct is probative of how the officer conducts police investigations. *Id.*

Keeping these factors in mind, I find that the witness interviews, investigation report, and disciplinary action taken by the New Bedford police chief might be admissible at the defendant’s trial if [REDACTED]’s credibility is a critical issue. Although the conduct in question is almost five years old, it goes directly to the issue of how [REDACTED] conducts police investigations. The strength of the prior misconduct is strong; it is memorialized in text messages. Consequently, I find that the defendant has established that the documents are potentially relevant. [REDACTED] has received the investigation report and witness interviews via a Freedom of Information Request, however has been unable to secure the records concerning the discipline imposed by the Chief, therefore, I find that [REDACTED] has also demonstrated that [REDACTED] is unable to secure those records in advance of trial by exercise of due diligence.

However, I find that the defendant has failed to adequately demonstrate that [REDACTED] cannot “properly prepare for trial without such production and inspection in advance of trial and that the

failure to obtain such inspection may tend unreasonably to delay the trial.” *Sealy*, 467 Mass. at 627.

Whether [REDACTED]’s credibility is a critical issue and whether the almost five-year-old evidence concerning [REDACTED]’s handling of confidential informants is relevant to a case where [REDACTED] role in the investigation involved speaking to the defendant and acting as the evidence officer is left to the sound discretion of the trial judge. If the case goes to trial, the trial judge may or may not determine that the discipline imposed by the Chief is relevant on the issue of [REDACTED]’s credibility.

The defendant has in his possession the fifty-six-page report detailing the evidence against [REDACTED] and the conclusions drawn by the investigating officer. The text messages, [REDACTED] [REDACTED]’s own statements, the conclusions of the report and acceptance by the Chief that [REDACTED] violated two of the Department’s rules and regulations give the defendant ample opportunity to prepare for cross examination in the event the trial judge permits inquiry into this topic. Upon a timely filed motion in limine, the trial judge will decide the admissibility of the various records, including any discipline imposed. The addition of what is most likely a very brief letter of discipline, while the trial judge might determine it is relevant, will not require extensive additional preparation and will not cause a significant delay in the trial.

Turning to the personal records other than the discipline awarded in connection with Case # 16-1817, I find that the defendant has failed to sustain his burden of demonstrating that the documents, birth certificates, driver’s licenses, names and addresses of family members, CORI Information, Employee Background investigations, School Records, Credit Reports, or address and salary changes, are evidentiary and relevant.

**ORDER**

The defendant's motion for a summons to issue for records held by the New Bedford Police Department is **DENIED** as to all DPS records as the defendant already has them in █████ possession, as to the personnel records except for the records relating to any discipline imposed as not relevant and as to the discipline records as premature.

DATE: February 2, 2021

\_\_\_\_\_  
Renee P. Dupuis  
Justice of the Superior Court





THOMAS M. QUINN III  
DISTRICT ATTORNEY

*The Commonwealth of Massachusetts*

OFFICE OF THE  
DISTRICT ATTORNEY  
BRISTOL DISTRICT

218 South Main St  
Fall River, MA 02721  
(508) 997-0711  
Fax No: (508) 676-0798

July 16, 2020

Westport Police Department  
Attn: Chief Pelletier  
56 Hix Bridge Road  
Westport, MA 02790

Re: [REDACTED]

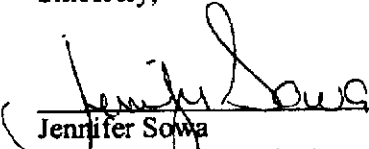
Dear Chief Pelletier,

My office is in possession of potentially exculpatory/impeachable material regarding the above-named officer. After review, the Bristol County District Attorney's Office will provide said material to defense counsel (with a protective order) on any case that [REDACTED] may be called as a witness. Notification will be provided should this decision change in the future.

It is my understanding that [REDACTED] has retired from the Westport Police Department.

Thank you for your attention to this matter.

Sincerely,

  
\_\_\_\_\_  
Jennifer Sowa  
Second Assistant District Attorney  
Bristol County District Attorney's Office



# Department of State Police

## PERSONNEL ORDER

<b>Issue Date:</b> Thursday, July 01, 2021	<b>Number:</b> 21PER414
<b>Subject:</b> DISHONORABLE DISCHARGE	

In accordance with M. G. L. and the Rules and Regulations governing the Massachusetts State Police, the below-named officer is hereby Dishonorably Discharged effective Monday, June 28, 2021:

[REDACTED]

(ID # [REDACTED]) Trooper

**OFFICIAL:**

**CHRISTOPHER S. MASON**  
Colonel/Superintendent