

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Dracut Police Officer Todd Allard**, was the subject of an internal affairs investigation stemming from various shortcomings in his response to a request for mutual aid concerning an intoxicated operator of a motor vehicle on February 12, 2020. The investigation sustained multiple violations of internal rules and regulations of the Dracut Police Department, specifically neglect of duty, attention to duty, conduct unbecoming an officer and multiple findings of untruthfulness during the course of the internal affairs investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and provides the defendant with a 16-page Civil Service Commission Decision dated October 26, 2006, pertaining to a potential witness in this case, **Somerville Police Officer Michael Ameal**.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, SS.

**CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503  
Boston, MA 02108  
(617) 727-2293

MICHAEL AMERAL and  
MICHAEL KIELY,

Appellants

v.

D-03-292 (AMERAL)  
D-03-289 (KIELY)

SOMERVILLE POLICE DEPARTMENT,

Respondent

Appellants' Attorney:

Stephen C. Pfaff, Esq.  
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Respondent's Attorney

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Commissioner:

Christopher C. Bowman

**DECISION**

Pursuant to the provisions of G.L. c. 31, s. 43, the Appellants, Michael Kiely and Michael Ameral, (hereafter, "Kiely", "Ameral" or "Appellants"), are appealing the



decision of the Somerville Police Department (hereafter “City” or “Appointing Authority”) suspending them each for fifteen (15) days for violating various rules of the Somerville Police Department revolving around an incident that occurred on January 18, 2003. Kiely was charged with: a) falsifying records; b) being untruthful; and two charges related to c) not filing a timely and accurate report after using a weapon. Ameral was also charged with: a) falsifying records; and b) being untruthful; in addition to c) leaving an assigned area without permission; and d) neglect of duty. The two cases were consolidated as they relate to the same incident. The appeals regarding these two cases were timely filed. A hearing was held on August 28, 2006 at the offices of the Civil Service Commission. As no written notice was received from either party, the hearing was declared private. Three tapes were made of the hearing.

**FINDINGS OF FACT:**

Based upon the documents entered into evidence (Joint Exhibits 1 & 2; Appointing Authority Exhibits 3-61; and Appellant Exhibits 62-65) and the testimony of:

For the Appointing Authority:

- Somerville Police Captain John O’Connor;

For the Appellant:

- Officer Michael Kiely, Appellant;
- Officer Michael Ameral, Appellant;

I make the following findings of fact:

1. Appellant Michael Kiely was a tenured civil service employee in the position of police officer with the Somerville Police Department on January 18, 2003 and had been employed in that position for eight (8) years. He served as Vice President of the

local police union from 1998 through 2002 and described his relationship with the then-Police Chief as “hostile” as a result of several union-management issues involving budgetary matters. He had no record of discipline prior to January 18, 2003. (Testimony of Appellant Kiely)

2. Appellant Michael Ameral was also a tenured civil service employee in the position of police officer with the Somerville Police Department on January 18, 2003 and had been employed in that position for seventeen (17) years. Ameral had just recently succeeded Kiely as Vice President of the local police union in January 2003 and concurred with Kiely that there was a contentious relationship between the union and management at the time of the incident. Ameral had received a written reprimand one month earlier for being out of his sector without permission. (Testimony of Ameral)
3. Officer Kiely was assigned to a detail duty from 9:00 A.M. to 1:00 P.M. on January 18, 2003 at the East Cambridge Savings Bank on the corner of Highland Avenue and Cedar Street in Somerville, MA. (Testimony of Kiely, Exhibits 1 & 12)
4. Officer Ameral was working a tour of duty in Ward 2 on January 18, 2003 but had been given permission to attend a meeting at City Hall concerning the police department’s budget. At the conclusion of the meeting at City Hall, Ameral, the newly-elected union vice president, drove to the East Cambridge Savings Bank to discuss what happened at the meeting with Kiely, the now-former union vice president, who was on detail duty at the bank. The bank is located in Ward 5,

approximately 3/10 of a mile outside the ward that Ameral was assigned to that day (Ward 2). (Testimony of Ameral, Exhibits 2 & 15)

5. Officer Kiely did not have permission to go outside of Ward 2 at the conclusion of the City Hall meeting. (Exhibit 19)
6. Somerville Police Department General Order 97-7, Section J states, “Officers are not to leave their assigned areas without permission from the Street Supervisor or the Shift Commander.” (Exhibit 56)
7. Exactly how far away Ameral parked his car from the bank that morning when he went to visit Kiely would become an important issue at the Commission hearing in regard to the veracity of the Appellants’ testimony, particularly Ameral’s. The bank is located on the corner of Highland Avenue and Cedar Street and the entrance to the bank faces Highland Avenue. There is no dispute that Ameral, when arriving to see Kiely, parked his car somewhere down on Cedar Street.
8. Captain O’Connor, who testified on behalf of the Appointing Authority at the Commission hearing, measured the distance from the bank’s front entrance on Highland Avenue to the corner of Cedar Street (33 feet) and then measured the nearest location where Ameral’s car could have been parked on Cedar Street (an additional 75 feet). (Testimony of O’Connor and Exhibit 59)
9. Officers Ameral and Kiely conversed in the bank from approximately 11:00 A.M. to 11:38 A.M. Both officers were monitoring their police radios while in the bank. (Testimony of Kiely and Ameral; Exhibits 1, 12 and 19)

10. At approximately 11:35 A.M., the Somerville Police Department received a radio transmission from the Cambridge Police Department indicating that the Cambridge Police were pursuing a gray Honda which was believed to be a stolen vehicle. The Somerville Police dispatch broadcast this information to all units, including Officers Kiely and Ameal, at 11:36:49 A.M. (Exhibit 62)
11. Nine (9) members of the Somerville Police Department (other than the Appellants) were monitoring their police radios at the time and filed written reports with the Somerville Police Department regarding their recollection and/or involvement with the vehicle chase that day. (Exhibits 21-24; 26 & 27; 30, 32 & 33)
12. At least six of the officers who wrote the above-referenced reports explicitly referenced in their reports that they remember hearing on the radio that the stolen vehicle was headed into or toward Union Square in Somerville. While different streets are referenced in the reports as to where the stolen vehicle was at any given time, all of the streets referenced in the reports are in very close proximity to the intersection of Highland Avenue and Cedar Street, the location of the East Cambridge Savings Bank, where both of the Appellants were located. (Exhibits 21-24; 26 & 27; 30, 32 & 33)
13. There is no dispute that at some point, the pursuit of the stolen vehicle was subsequently called off by the Somerville Police Department.
14. Both Officers Ameal and Kiely testified before the Commission that they heard the initial radio transmission regarding the pursuit of the stolen vehicle. (Testimony of Appellants Ameal and Kiely)

15. Key parts of the testimony offered by Officer Ameral at the Commission hearing in regard to what happened *after* they initially heard the radio transmission about the pursuit of the stolen vehicle are inconsistent, not plausible and unsupported by the evidence.
16. Officer Ameral testified before the Commission that he left the bank before Officer Kiely left and walked back to his car parked down on Cedar Street, based on his purported belief that the stolen car was headed *away* from the bank and Union Square. According to Officer Ameral, he was back in his car down on Cedar Street when he heard the sound of gunshots. (Testimony of Ameral)
17. Officer Kiely, who heard the exact same radio transmission, testified that he exited the bank ten to fifteen seconds after Ameral, ordered pedestrians out of the cross walk, looked easterly on Highland Avenue and heard the sound of an accelerating engine. A car started speeding toward Officer Kiely and he put his hand up in an attempt to get the driver of the vehicle to stop. The speeding car started closing in on Officer Kiely and Kiely fired his gun in an attempt to shoot the driver of the car. Some of the bullets fired hit a building across the street. It was the first time Officer Kiely had discharged his weapon in a non-training environment during his tenure as a police officer. Even though Kiely's testimony comes three years after the incident, it was clear from his emotional testimony that this was a harrowing, life-threatening event that he will never forget and for which he has a vivid, detailed recollection. (Testimony of Kiely)

18. On February 5, 2003, less than 30 days after the incident in question, Officer Kiely was interviewed by Captain O'Connor. During that interview, Officer Kiely stated that, "a couple of seconds" after the shooting, he saw Officer Ameral standing on the sidewalk trying to get his attention. During his testimony before the Commission, Kiely confirmed that he saw Ameral standing there about two seconds after the shooting. (Testimony of Appellant Kiely)
19. Kiely's testimony directly contradicts that of Ameral. Ameral testified before the Commission that he was sitting in his car, parked down on Cedar Street, when he heard the sound of gunshots. Absent some super natural abilities, it is simply not possible that Ameral was able to get out of his car and walk, run or otherwise transport himself back to the scene --75 feet away-- in two seconds. What is more likely, based on the evidence and the testimony of Kiely, is that Ameral never went back to his car at all ---and was actually present for the entire incident, including Kiely's attempt to stop the driver of the stolen vehicle by shooting at him.
20. Ameral's credibility was further undermined by his testimony that, after purportedly making it back to the location in front of the bank where he believed shots may have been fired, he simply asked Officer Kiely, "are you alright, need any help?". Upon seeing Officer Kiely waiving him off, Ameral testified that he went back to his car on Cedar Street without asking even one question about the sound of gun shots. In his interview with Captain O'Connor on February 4, 2003, Ameral stated that he thought, "either they shot at him (Kiely) or he shot at them or there was no shot it was just the vehicle striking something." (Testimony of Ameral)

21. Ameral, having fired his weapon in the line of duty for the first time in his career, testified that he was seriously shaken by the incident, was nauseas, and vomited twice at his mother's house shortly after the incident. (Testimony of Ameral and Kiely)
22. Based on a call from Officer Kiely, Lt. Polito of the Somerville Police Department arrived at the scene. Polito's report indicates that upon arriving at the scene, Kiely handed over his gun voluntarily and that Kiely looked, "somewhat disoriented and a bit dazed at what had just happened." (Exhibit 32)
23. While at the scene on the day of the incident on January 18, 2003, Lt. Polito ordered Officer Kiely to "file a station report explaining his actions regarding what had occurred." (Exhibit 32)
24. Captain Matthews of the Somerville Police Department also arrived at the scene of the incident on January 18, 2003, and instructed Kiely "to go home, gather himself, and file a report right away". (Exhibit 49)
25. Lt. Polito spoke again with Officer Kiely the next morning, Sunday, January 19, 2003. According to a statement from Lt. Polito, "I asked him how he was doing and told him I needed his written report regarding what had occurred involving his actions. He (Kiely) informed me that he would be in to file his report this evening". (Exhibit 32)
26. Consistent with standard procedure, Kiely was relieved of duty on the day of the incident, January 18, 2003. He sought medical treatment and was ordered home by his personal physician. January 19, 2003 was Kiely's regular day off and he was scheduled to return to duty at midnight and begin a tour of duty at 12:01 A.M. on

January 21, 2003, but called in sick. He also called in sick on January 22, 2003, but did file his report that day (January 22, 2003). (Testimony of Kiely)

27. Section F, Rule 30 of the Somerville Police Department Rules and Regulations requires all officers to “promptly and accurately complete and submit all reports and forms as required by department procedures.” (Exhibit 55)

28. In his report filed on January 22, 2003, Officer Kiely offered a detailed account of what transpired on January 18, 2003, including references to his detail duty, with one glaring omission: there is not one reference to Officer Ameral being in, near or around the bank that day. Kiely repeatedly uses the pronoun “I” in his written report when describing even the most routine events that morning in which “we” is clearly more accurate, including, “I was standing inside the lobby of the bank”. In fact, it is undisputed that Officer Ameral was standing inside the bank with Officer Kiely. (Exhibit 1)

29. Officer Kiely never mentioned that Officer Ameral was present on January 18, 2003 to any of the numerous officers and superiors who responded to the shooting. (Testimony of Captain O’Connor)

30. During the course of his investigation, Captain O’Connor ordered all personnel who had been on patrol duty during the incident to file reports. On January 25, 2003, three days after Kiely filed his report, Officer Ameral filed a report describing his activities during the time when Officer Kiley fired his weapon on January 18<sup>th</sup>. Officer Ameral indicated in his report that he had been at or near the scene when Officer Kiley fired the shots. This was the first time that Captain O’Connor became aware that Officer



Ameral had been present with Officer Kiley in the bank during the stolen car chase.  
(Exhibit 2, Testimony of Captain O'Connor)

31. In his January 25<sup>th</sup> report, Ameral stated in part “minutes before 11:30 A.M. I departed the East Cambridge Saving bank.” (emphasis added) It is undisputed, however that the original radio transmission regarding the pursuit of the stolen vehicle did not come in until 11:36:49 A.M. and it is undisputed that Officer Kiely did not exit the bank until after 11:36:49 A.M. Since Kiely testified before the Commission that Ameral only left the bank “10 – 15 seconds” before him, Ameral’s statement can not be true. Further, Exhibit 16 is a picture captured by the bank security camera at 11:38:10 A.M. on January 18, 2003 – and Officer Ameral is standing in the bank lobby with Officer Kiely. (Exhibit 2, Exhibit 16)
32. Section F, Rule 34 of the Somerville Police Department Rules and Regulations requires an officer to “truthfully state the facts in all reports as well as when he appears before any judicial, departmental or other official investigation, hearing, trial or proceeding. He shall cooperate fully in all phases of such investigations, hearing, trial and proceedings” (Exhibit 55)
33. Officer Kiely was charged with: a) falsifying records; b) being untruthful; and two charges related to c) not filing a timely and accurate report after using a weapon and was suspended for fifteen (15) days. (Exhibit 3)
34. Officer Ameral was also charged with: a) falsifying records; and b) being untruthful; in addition to c) leaving an assigned area without permission; and d) neglect of duty. (Exhibit 4)

35. Both Appellants filed a timely appeal with the Civil Service Commission and the appeals were consolidated. (Exhibits 64 & 65)

## **CONCLUSION**

The role of the Civil Service Commission is to determine "whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300,304 (1997). *See* Town of Watertown v. Arria, 16 Mass. App. Ct. 331 (1983); McIsaac v. Civil Service Commission, 38 Mass. App. Ct. 473, 477 (1995); Police Department of Boston v. Collins, 48 Mass. App. Ct. 411 (2000); City of Leominster v. Stratton, 58 Mass. App. Ct. 726, 728 (2003). An action is "justified" when it is done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." *Id.* at 304, quoting Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928); Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 211, 214 (1971). The Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." Murray v. Second Dist. Ct. of E. Middlesex, 389 Mass. 508, 514 (1983); School Committee of Brockton v. Civil Service Commission, 43 Mass. App. Ct. 486, 488 (1997). The Appointing Authority's burden of proof is one of a preponderance of the evidence "if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." Tucker v.

Pearlstein, 334 Mass. 33, 35-36 (1956). In reviewing an appeal under G.L. c. 31, §43, if the Commission finds by a preponderance of the evidence that there was just cause for an action taken against an appellant, the Commission shall affirm the action of the appointing authority. Town of Falmouth v. Civil Service Commission, 61 Mass. App. Ct. 796, 800 (2004).

The issue for the commission is "not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision." Watertown v. Arria, 16 Mass. App. Ct. 331, 334 (1983). *See* Commissioners of Civil Serv. v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-728 (2003).

In January 2003, the City of Somerville and the police union had a strained relationship as a result of fiscal problems. The relationship between the local police union and the then-Police Chief was acrimonious, including the relationship between the Police Chief and the two Appellants. Officer Kiely, was the outgoing police union vice president and Officer Ameal was the incoming police union vice president.

On January 18, 2003, Officer Ameal, in his role as union vice president, attended a meeting at City Hall in regard to budget issues. Instead of returning to his assigned sector after the meeting, Ameal went outside of his sector (without permission) to speak with Officer Kiely, who was working a detail assignment at the East Cambridge Savings Bank, located on the corner of Highland Avenue and Cedar Street in Somerville.

Approximately one month prior to the incident which occurred on January 18, 2003, Officer Ameral had been disciplined for going outside his sector without permission.

While the Appellants were conversing inside the East Cambridge Savings Bank on the morning of January 18, 2003, a radio transmission was issued indicating that the Cambridge Police were pursuing a stolen vehicle into Somerville toward Union Square. All streets referenced in the radio transmission were in close proximity to the East Cambridge Savings Bank.

Officer Ameral asks the Commission to believe that, in response to these radio transmissions, he left the East Cambridge Savings Bank and walked back to his car parked over seventy (70) feet down Cedar Street. According to Ameral, once he was back in his car, he heard a sound which he assumed was gunshots. He then purportedly went back to the corner of Highland Avenue and Cedar Street. Officer Ameral then testified incredulously before the Commission that he simply asked Kiely if he was alright and, upon being waived off by Kiely, walked back to his car and drove away – never once asking Kiely about the gunshots, if Kiely himself had been shot at or whether Kiely had fired shots. On its face, this testimony is absurdly incredulous. Further, other evidence presented and the testimony of Officer Kiely confirms that Ameral is simply not telling the truth. In a report filed one week after the incident, Ameral stated that he left the bank minutes before 11:30 A.M. – which would have meant he left well before hearing the radio transmission. Pictures captured by the bank’s security video, submitted as evidence by the Appointing Authority, put both Kiely and Ameral in the bank at least until 11:38:10 A.M., offering irrefutable evidence that Ameral is not telling the truth about what time he walked out of the bank that morning. Further, even Officer Kiely

testified before the Commission that he saw Officer Ameal standing on the sidewalk outside the bank two seconds after he stepped into the road and fired his gun at the speeding vehicle. In order for Ameal's version of events to be remotely true, he (Ameal) would need to have gotten out of his car and walked or run 70 feet up Cedar Street toward Highland Avenue in two seconds.

Cognizant that his fellow officer (Ameal) had been disciplined by management approximately one month earlier for leaving his sector without permission, Officer Kiely waited three days to fill out a report regarding the incident, and once he did, failed to mention even once that Officer Ameal was present that morning at the bank, outside of his assigned sector.

An Appointing Authority is well within its rights to take disciplinary action when a police officer has "a demonstrated willingness to fudge the truth in exigent circumstances" because "[p]olice work frequently calls upon officers to speak the truth when doing so might put into question a search or might embarrass a fellow officer." See Town of Falmouth v. Civil Service Commission, 61 Mass. App. Ct. 796, 801 (2004); citing City of Cambridge, supra at 303.

By a preponderance of the evidence, the Appointing Authority has shown that Officer Kiely sought to conceal the fact that Officer Ameal was at the bank, out of his sector, when the incident in question occurred on January 18, 2003 by failing to indicate that Officer Ameal was present in the written report he submitted to the Somerville Police Department. In doing so, he was not truthful and he violated the rules and regulations regarding truthfulness and filing accurate reports. While there is a strong suspicion that

Kiely deliberately waited four days to file his report in order to coordinate his response with Ameral, which would support the charge related to Kiely not filing a timely report, the Appointing Authority did not prove this. Further, Kiely was clearly shaken by the shooting that day, appropriately sought medical attention and was out sick for two days after the incident, all mitigating factors in determining whether or not the report was filed in a timely manner. The underpinning of this case, however, is not whether or not the report in question was filed in a timely manner. Rather, the underlying question is whether or not the report was accurate, complete and truthful. It was not. As such, the 15-day suspension should not be disturbed solely because the Appointing Authority failed to show that Kiely's report was untimely.

The most troubling aspect of this case, however, is the untruthfulness of Michael Ameral. The irrefutable evidence, and even the testimony of Kiely, show that Ameral's version of events regarding the morning of September 18, 2003 is simply not true. By a preponderance of the evidence, the Appointing Authority has shown that Kiely was untruthful, falsified records, and was out of his sector without permission that day.

For all of the above-reasons, the Appellants' appeals under docket numbers D-03-289 and D-03-292 are hereby *dismissed*.

Civil Service Commission

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Christopher C. Bowman, Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Guerin, Marquis, Taylor, Commissioners) on October 26, 2006.

A true record. Attest:

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Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.  
Notice:

Stephen C. Pfaff, Esq.  
Peter J. Berry, Esq.  
Brian Magner, Esq.

COMMONWEALTH OF MASSACHUSETTS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant about information in the Commonwealth's possession regarding **Trooper John Arone**, who is a potential witness in this case.

The Commonwealth hereby notifies the defendant that Middlesex District Attorney's Office filed a *Nolle Prosequi* on or about January 14, 2014 in the Middlesex Superior Court dismissing indictments for Illegal Possession of a Firearm (second offense) and Ammunition in the case of [REDACTED], due to material discrepancies in the officer's report/testimony regarding the search of the defendant's automobile and the recovery of a loaded firearm from the automobile on February 8, 2013 in Framingham. The Middlesex District Attorney's Office notified the Massachusetts State Police of this development in January 2014. The Commonwealth is presently unaware if the Massachusetts State Police is in possession of any other documents or statements concerning this matter.

The Commonwealth is aware of its continuing discovery obligations and will provide any further discoverable information to the defendant as necessary.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **Massachusetts State Police Trooper Mark Augusta**, was the subject of an internal affairs ("IA") investigation. Specifically, the Commonwealth has learned the following:

On various dates in 2015, 2016 and 2017, Trooper Augusta was found to have violated Massachusetts State Police Procedures by arriving late and/or departing early from an assigned overtime shift; he received compensation for hours of overtime that he did not work without advising the Commonwealth of the overpayment; and he improperly submitted PayStation entries claiming hours of overtime that he did not work. For this, Trooper Augusta was:

- Suspended without pay for a period of two-hundred and seventy (270) days beginning September 1, 2020 through and including May 29, 2021.
- Barred from participating in any selective enforcement overtime assignment coordinated by and/or organized through the Traffic Programs Section for a period of two (2) years from the effective date of the agreed-upon suspension without pay.
- Required to pay restitution pursuant to a repayment agreement with the Division of Administrative Services.

The Commonwealth does not possess any documents regarding the IA.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, Newton Police Officer Lauren Bartinelli was arraigned on March 27, 2012 in Brookline District Court for operating under the influence of intoxicating liquor from an incident that occurred on or about March 24, 2012, in Brookline. On June 12, 2012 she was found guilty and placed on probation for a period of one year. Her probationary period ended on June 12, 2013.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

LOWELL DISTRICT COURT  
DOCKET NO.

COMMONWEALTH

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COMMONWEALTH'S NOTICE  
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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Lowell Police Officer Bernard Belanger**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct while attending the Lowell Police Academy, concluded that Officer Belanger violated several internal rules and regulations of the Lowell Police Department, including a finding that Officer Belanger was untruthful during the course of the investigation. The investigation also sustained a violation of the rules and regulations of the Lowell Police Academy, specifically the rule pertaining to racial harassment. The Commonwealth has learned that, as a result of these findings, Officer Belanger received a suspension, but is unaware of its duration.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

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REGARDING POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Framingham Police Officer Brian Blue** was subject to an internal affairs ("IA") investigation by the Framingham Police Department. More specifically, the Framingham Police Department found that Officer Blue's conduct on April 29, 2010, which related to his response to a civilian call regarding the conduct of another Framingham police officer, violated numerous internal Framingham Police Department policies and rules, including: (1) the Policies on Records and Criminal Investigations; (2) the Rules on Reports and Filing Reports; (3) the Policy on Command Succession and Command Protocol; (4) the Policy on Evidence & Property Control; (5) the Rule on Evidence or Suspected Contraband; (6) the Rule on Neglect of Duty; and (7) the Duties and Responsibilities of a Police Officer (Job Description.) The Commonwealth has been advised that Officer Blue received a written reprimand from the Framingham Police Department for these violations.

In March 2011, Officer Blue testified about his conduct on April 29, 2010 in the matter of

\_\_\_\_\_.

The Commonwealth is in possession of documents, including a Framingham Police Department memorandum and witness statements by officers, relating to the IA investigation of Officer Blue's conduct on April 29, 2010. The Commonwealth is not aware of whether it is in possession of all the Framingham Police Department's records relating to the IA investigation of Officer Blue.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-

established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility.” Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, former **Cambridge Police Officer Neil Bogonovich**, admitted to sufficient facts on November 6, 2015, in Winchendon District Court, Docket No. 1570CR197, to charges of disorderly conduct, resisting arrest, possession of a firearm while intoxicated, and two counts of assault and battery on a police officer. The case was continued without a finding until May 8, 2017, with an order that he comply with specified conditions of probation.

In a connected case, Officer Bogonovich also admitted to sufficient facts on January 29, 2016, in Fitchburg District Court, Docket No. 1516CR1250, to leaving the scene of property damage. The case was continued without a finding until July 29, 2016, with an order that he comply with the same conditions as imposed in the Winchendon case and pay restitution.

Officer Bogonovich remains on administrative leave.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **Natick Police Officer Kyle Boudreau**, was the subject of an internal affairs investigation. The investigation ultimately sustained multiple allegations of untruthfulness, conduct unbecoming an officer, and violations of the Town of Natick workplace violence policy. The Natick Board of Selectman terminated Officer Boudreau's employment on July 8, 2019. On March 13, 2020, an arbitrator reinstated Officer Boudreau's employment.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).



Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Tyngsborough Police Sergeant Mark Bourque**, was arraigned in Lowell District Court (Docket No. 2011CR001777) on October 1, 2020 on one count of conspiracy to violate the Massachusetts drug laws based on conduct occurring between January 2017 and April 2020. The case was subsequently transferred to Woburn District Court (Docket No. 2053CR111777). Sergeant Bourque was placed on paid administrative leave as of May 19, 2020.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Cambridge Police Officer Ryan Callinan**, was arraigned on December 22, 2016, in Somerville District Court, Docket No. 1610CR1905, for negligent operation of a motor vehicle and leaving the scene of a personal injury. The charges arose out of his alleged conduct on February 21, 2016, in Cambridge. On February 24, 2017, Officer Callinan was sentenced under the Valor Act to pre-trial probation for six months, to August 24, 2017, with certain conditions.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **former Framingham Police Officer Duarte Calvao**, was the subject of an internal affairs investigation beginning in June 2016 following allegations of sexual harassment lodged by an employee of the department store where Officer Calvao performed detail work. Officer Calvao was placed on paid administrative leave in June 2016, and subsequently resigned on December 1, 2016 after entering into a settlement agreement with the Framingham Police Department.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Jordan Cannava** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Cannava was suspended for four (4) full work days, removed from the detail list for a period of thirty (30) work days, and required to reimburse the department \$1,012.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, former **Medford Police Officer Mark Cardarelli**, was terminated from the Medford Police Department on August 26, 2014, after an internal affairs investigation which concluded that he had engaged in several instances of conduct unbecoming an officer and violated various other regulations.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Lieutenant Joseph Casey** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer and failure to supervise.

The Commonwealth has been informed that Lieutenant Casey's discipline included suspension for a period of six (6) full work days, a letter of reprimand, removal from the detail list for a period of fourteen (14) days, and reimbursement of the department in the amount of \$276.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Frank Cassarino** violated internal rules and regulations of the Medford Police Department, including neglect of duty and multiple counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Cassarino was suspended for three (3) work days, removed from the detail list for a period of fourteen (14) work days, and required to reimburse the department \$828.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Wakefield Police Officer Russell E. Carman** was arraigned on November 13, 2018, in Lowell District Court (Docket No. 1811CR006075) for operating under the influence of intoxicating liquor based on an incident that occurred on or about November 9, 2018 in Tewksbury. On February 8, 2019, Officer Carman admitted to sufficient facts and was sentenced to nine months probation. The Wakefield Police Department also suspended Officer Carman for a period of nine months.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant regarding one of the potential witnesses in this case, **Malden Police Detective Scott Carroll**. A decision issued on September 24, 2009, in Middlesex Superior Court allowing in part the defendant's motion to suppress in [REDACTED], contains an adverse credibility finding as to Detective Carroll with regard to his reason for seizing evidence during a pat frisk.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Guy Champa** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Champa was suspended for four (4) work days, removed from the detail list for a period of thirty (30) work days, and required to reimburse the department \$966.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Elizabeth Chiribi** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Chiribi's discipline included suspension for a period of twenty (20) full work days, removal from the detail list for a period of one year, and reimbursement of the department in the amount of \$1,794.00. She also entered into an agreement stipulating that any future misconduct would result in termination. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Somerville Police Officer Shaun Clark**, was convicted on March 12, 2020, in Middlesex Superior Court (Docket No. 1981CR00078) of one count of larceny over \$1200 by single scheme for embezzling approximately \$80,000 from the Somerville Police Employees Association. On April 28, 2020, Officer Clark was sentenced to two years of probation. Officer Clark was also the subject of an internal affairs investigation by the Somerville Police Department based on the same conduct, which sustained findings of criminal conduct and conduct unbecoming an officer. Officer Clark was placed on unpaid administrative leave in January 2019, and his employment was terminated on August 20, 2020.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of our discovery obligations pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and in an abundance of caution, hereby notifies the defendant that potential Commonwealth witness **former Holliston Police Officer Edward Connors** was the subject of an internal affairs investigation. Officer Connors resigned from the Holliston Police Department on April 2, 2013, prior to the completion of the internal affairs investigation. The Commonwealth will not call Officer Connors as a witness in the above captioned matter.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Kevin Conway** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Officer Conway received a letter of reprimand, was removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$230.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN

Date:

DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

---

**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **Massachusetts State Police Trooper Martin J. Cooke**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct in conjunction with a September 8, 2018, motor vehicle crash, concluded that Trooper Cooke violated several internal rules and regulations of the Massachusetts State Police; specifically that (1) he exhibited conduct unbecoming a trooper, and (2) was untruthful when questioned regarding the incident.

The Commonwealth is in possession of a redacted copy of the Internal Affairs report, dated March 11, 2019, summarizing the conduct that formed the basis for these violations, as well a second Internal Affairs document memorializing Trooper Cooke's responses to certain inquiries relevant to the investigation.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **Newton Police Officer Steven Cottens**, was arraigned on March 18, 2021, in Waltham District Court (Docket No. 2151CR000266) for operating a motor vehicle under the influence of alcohol, second offense, based on an incident that occurred on March 17, 2021 in Weston. Officer Cottens was placed on paid administrative leave as of the date of the incident.

The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Frank Cugliata** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Officer Cugliata received a letter of reprimand, was removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$276.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

---

**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that a potential witness in this case, **former Medford Police Officer Frank Cugliata**, was the subject of an internal affairs investigation that determined he violated several rules and regulations of the Medford Police Department, specifically that he failed to obey orders and exhibited conduct unbecoming an officer. The finding of conduct unbecoming an officer included a finding that Officer Cugliata was untruthful. Officer Cugliata was placed on paid administrative leave on May 19, 2021, and resigned from the Medford Police Department on May 20, 2021.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Everett Police Officer Edward Cuthbert**, was terminated by the department on September 15, 2017, after an internal affairs investigation determined that he violated the department's policy on alcohol and drug use.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING  
A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law and notifies the defendant that a potential witness in this case, **retired Malden Police Officer Michael Cutillo**, was arraigned on October 14, 2014, in Waltham District Court, Docket No. 1451CR1665, for disorderly conduct, assault and battery on a police officer, and resisting arrest arising out of alleged conduct on or about October 11, 2014, in Waltham. He was convicted of those charges on March 24, 2016.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Sergeant Daniel D'Amico** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Sergeant D'Amico's discipline included suspension for a period of fifteen (15) full work days, removal from the detail list for a period of one year, and reimbursement of the department in the amount of \$1,472.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Everett Police Officer Dino D'Andrea**, was the subject of an internal affairs investigation stemming from off-duty conduct that occurred on February 23, 2020 in Everett. That investigation sustained charges of unacceptable judgment, unacceptable conduct and conduct unbecoming an officer. Former Officer D'Andrea was placed on unpaid administrative leave as of February 23, 2020, and was terminated from the Everett Police Department on June 1, 2020 after a hearing before the town appointing authority. An appeal before the Civil Service Commission remains pending.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that a potential witness in this case, **Cambridge Police Officer Athanasi Darviris**, was the subject of an internal affairs investigation stemming from allegations that he improperly requested pay for union activities he did not perform. The investigation determined that Officer Darviris violated several rules and regulations of the Cambridge Police Department, including that he was untruthful, both in submitting the payment requests and during the course of the investigation, exhibited conduct unbecoming an officer, and committed a larceny by false pretenses. Officer Darviris has been on paid administrative leave since September 14, 2020. The Commonwealth possesses a copy of the internal affairs report associated with this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Barbara DeCristofaro** violated internal rules and regulations of the Medford Police Department, including two counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer DeCristofaro received a letter of reprimand, was removed from the detail list for a period of fourteen (14) work days, and required to reimburse the department \$460.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, former Watertown Police Officer Joseph Deignan, was arraigned on December 7, 2012, in the Marlborough District Court, Docket No. 1221CR1692, on charges of uttering a false prescription in violation of G. L. c. 94C, § 33, forgery in violation of G. L. c. 267, § 1, and obtaining a drug by fraud in violation of G. L. c. 94C, § 33. Former Officer Deignan appeared on March 5, 2013, in the United States District Court, District of Massachusetts, Docket No. 1:13-mj-06004-LTS-1, on a charges of unlawful possession of a controlled substance acquired or obtained by fraud in violation of 21 U.S.C. § 843(a)(3), and fraud in connection with identification documents in violation of 18 U.S.C. § 1028(a)(7), arising out of the same conduct alleged in Marlborough District Court Docket No. 1221CR1692. On March 8, 2013, the Commonwealth filed a nollo prosequi on all charges in the Marlborough District Court.

Respectfully Submitted,  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **Malden Police Officer John Delaney**, was arraigned on May 27, 2021, in Somerville District Court (Docket No. 2110CR000257) on four counts of threatening to commit a crime, based on incidents that occurred in December 2020 and January 2021. Officer Delaney was placed on paid administrative leave on January 29, 2021.

The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witness in this case, **Lowell Police Sergeant Daniel Desmarais**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct in conjunction with a March 7, 2018, drug arrest, concluded that Sergeant Desmarais violated several internal rules and regulations of the Lowell Police Department; specifically that he exhibited unsatisfactory performance and conduct unbecoming an officer.

The Commonwealth is in possession of a redacted copy of the Board of Inquiry report, dated January 28, 2019, summarizing the conduct that formed the basis for these violations.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, former **Somerville Police Officer Henry Diaz**, was terminated from the Somerville Police Department on December 13, 2017, after an internal affairs investigation which concluded that he had been untruthful and had engaged in conduct unbecoming an officer.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and hereby notifies the defendant of potentially exculpatory information. During the course of an investigation into a March 2, 2015 home invasion, the District Attorney's Office learned the following: On February 28, 2015, **Somerville Police Detective Dante DiFronzo** spoke with a confidential informant ("CI"). The CI told Det. DiFronzo that an individual ("the Individual"), whom Detective DiFronzo was searching for in conjunction with an unrelated investigation, had recently stolen marijuana from the CI. Detective DiFronzo knew that the CI had a violent criminal past and that the CI was looking for the Individual. The CI told Det. DiFronzo that he intended to harm the Individual. Detective DiFronzo, with this knowledge, actively assisted the CI in locating the Individual by providing information to the CI regarding the Individual's whereabouts. After receiving this information from Det. DiFronzo, the CI participated in the aforementioned home invasion, in which the Individual was stabbed multiple times with a machete requiring hospitalization and surgeries. The Commonwealth is also aware that Detective DiFronzo knowingly made material omissions in police reports that were submitted in connection with the investigation of the home invasion.

An internal affairs investigation, initiated in May 2017 as a result of this disclosure, found several violations of the internal rules and regulations of the Somerville Police Department, specifically that Detective DiFronzo: did not promptly submit a complete police report, submitted a false or inaccurate police report, withheld evidence and was untruthful, exhibited conduct unbecoming an officer, and engaged in an improper association with a street source. On May 7, 2018, Detective DiFronzo was terminated from the Somerville Police Department. On June 4, 2021, an arbitrator concluded that several of the investigation's findings – specifically that Detective DiFronzo withheld evidence and engaged in improper association – were not supported by a preponderance of the evidence, and overturned Detective DiFronzo's termination. The arbitrator retroactively imposed a

roughly three-year suspension dating from the original date of termination to the date of the arbitrator's decision, and determined that Detective DiFronzo should not receive back pay or benefits for that period. The Commonwealth possesses documents associated with this investigation. Barring extraordinary circumstances, the Commonwealth does not intend to call Detective DiFronzo as a witness in any future case.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that one of the potential witnesses in this case, **Concord Police Officer Charles DiRienzo**, was found to have provided untruthful testimony to arbitrators during hearings in 2015 and 2019 associated with two separate internal affairs investigations of which he was the subject. The Commonwealth has also been advised that Officer DiRienzo has been on paid administrative leave since November 7, 2019 as a result of a separate internal affairs investigation. The District Attorney's Office is not in possession of any documents related to the investigations or arbitrations mentioned above.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **former Medford Police Officer Donald Dimare**, was arraigned in Suffolk Superior Court on February 8, 2019, on one count of attempted extortion by threat or injury. Dimare has retired from the Medford PD.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that former **Medford Police Officer Donald Dimare** violated internal rules and regulations of the Medford Police Department, including neglect of duty and conduct unbecoming an officer.

The Commonwealth has been informed that the Department imposed a suspension of three (3) full work days and a requirement that it be reimbursed \$230.00. Officer Dimare retired before the suspension could be served. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN

Date:

DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Derek Doherty** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Officer Doherty received a letter of reprimand, was removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$276.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:



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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Patrick Doherty** violated internal rules and regulations of the Medford Police Department, including several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Doherty was suspended for four (4) full work days, removed from the detail list for a period of thirty (30) work days, and required to reimburse the department \$920.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN

DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witness in this case, **Lowell Police Officer Nicholas Dokos**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct in conjunction with a March 7, 2018, drug arrest, concluded that Officer Dokos violated several internal rules and regulations of the Lowell Police Department; specifically that (1) he exhibited conduct unbecoming an officer, (2) his performance was unsatisfactory, and (3) he submitted inaccurate information in support of a search warrant. Officer Dokos was placed on paid administrative leave on November 2, 2018. On February 26, 2018, Officer Dokos was reassigned from the Special Investigations Section to patrol.

The Commonwealth is in possession of a redacted copy of the Board of Inquiry report, dated January 28, 2019, summarizing the conduct that formed the basis for these violations.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

\_\_\_\_\_  
Assistant District Attorney

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Middlesex Sheriff's Department Correction Officer Jonathan Doster** was charged in Ayer District Court, Docket 1448CR000057, with operating under the influence of intoxicating liquor and negligent operation arising out of his alleged conduct on or about January 18, 2014, in the Town of Westford. The case was continued without a finding and subsequently dismissed.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that the Middlesex District Attorney's Office is aware that in approximately 2002 or 2003, Sgt. Robert Downer of the Burlington Police Department, a potential witness in this case, was the subject of an internal affairs investigation by the Burlington Police Department. There was an appeal of the result of that internal affairs investigation to the Civil Service Commission. The Commonwealth is in possession of the Civil Service Commission decision, dated November 30, 2006, which focuses in part on Sgt. Downer's truthfulness in the internal affairs investigation surrounding an allegation that Sgt. Downer made racially derogatory comments about a fellow Burlington Police Officer.

In addition, the Commonwealth is aware of the existence of other reports, which it is not in possession of nor has it seen, relating to hearings and investigations into Sgt. Downer's truthfulness concerning comments about the race of a fellow Burlington Police officer, specifically: (1) an investigative report by the Town of Burlington's Human Resource Director under the Anti-Harassment Policy; (2) a decision, subsequent to a hearing, by the Appointing Authority Disciplinary Committee; and (3) a Superior Court

decision dealing with Sgt. Downer's appeal of the Civil Service Commission decision, dated November 30, 2006.

This Civil Service Commission decision, dated November 30, 2006, also discusses a prior and second internal affairs investigation of Sgt. Downer in approximately 2000 or 2001 by the Burlington Police Department. The Civil Service Decision characterizes that the prior internal affairs investigation as involving (a) allegations that Sgt. Downer made disparaging comments about the sexual orientation of three police officers, and (b) Sgt. Downer's subsequent truthfulness about making those comments.

Respectfully Submitted  
For the Commonwealth

MARIAN RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **Reading Police Officer Erik Drauschke**, was indicted on September 23, 2020, by a Middlesex Grand Jury (Indictment No. 2081CR00229) for manslaughter. The indictment was based on conduct while on duty in connection with the February 3, 2018, fatal shooting of Alan Greenough. The Commonwealth has been advised that Officer Drauschke had been on paid administrative leave since February 3, 2018, and has been on unpaid administrative leave since September 23, 2020.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

\_\_\_\_\_  
Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Burlington Police Officer Mark Driscoll**, pleaded guilty on August 5, 2014, in Superior Court Docket No. MICR2013-1209, to 26 indictments: obtaining a drug by fraud, uttering a false prescription, larceny under \$250, presenting a false insurance claim, forgery, obtaining a signature by false pretense, larceny over \$250, and attempting to commit a crime. On August 13, 2014, he was sentenced to two years in the house of correction with one year to serve and the balance suspended for four years on all counts except presenting a false insurance claim. For the false insurance claim convictions, he was sentenced to four years of probation upon release from the house of correction and payment of restitution. Conditions of probation were also imposed.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE CONCERNING DOCUMENTS REGARDING  
FORMER FRAMINGHAM POLICE OFFICER ALAN DUBESHTER

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office is in possession of documents concerning **former Framingham Police evidence Officer Alan Dubeshter**, who pleaded guilty on November 7, 2017, to one count of larceny over \$250 stemming from his theft of money from the Framingham Police Department's evidence room. Former Officer Dubeshter was sentenced to a term of one year in the house of correction, thirty days to serve, with the balance suspended for two years, during which time he will be on probation. He was also ordered to pay \$19,156.00 in restitution.

The Commonwealth possesses hundreds of pages of documents concerning Dubeshter that it received when the Framingham Police Department was ordered to provide them to the defense in [REDACTED]. These documents date from 1989 to 2010 and include citizen complaints; a reprimand; a letter of counseling; documents from an MCAD proceeding; pay history records; police reports; emails; police logs; personal identifying information and RMV information of named individuals; and CJIS documents. Also among these documents is a September 24, 2015 letter to Dubeshter from the Police Chief regarding the criminal investigation into money missing from the evidence room which resulted in his indictment in January 26, 2017, on larceny over \$250 and obtaining an unwarranted privilege; Dubeshter's resignation letter; and an April 25, 2016 letter from the Chief to Dubeshter indicating that his resignation was accepted.

The Commonwealth also possesses over 60,000 pages of documents which it received from the Framingham Police Department and the Attorney General's Office as part of the investigation that resulted in the indictment, including:

- a. Transcripts of testimony elicited and copies of exhibits introduced during the grand jury presentment;

- b. Spreadsheet outlining missing currency amounts and associated cases attributable to Officer Dubeshter, including chain of custody and location history for these cases;
- c. Spreadsheet outlining additional amounts of missing currency and associated cases identified during a comprehensive audit conducted between October 16 and October 28, 2015, including case numbers, dates of offense, defendant names and dates of birth;
- d. Reports outlining exhaustive and “spot” audits of the Framingham evidence room conducted on various dates prior and subsequent to discovery of Officer Dubeshter’s misconduct, including:
  - i. A 2013 audit of all currency in the Framingham evidence room conducted by Officer Christian Miller;
  - ii. An October 2015 audit of currency conducted by Bruce A. MacDougall, Senior Consultant at Municipal Resources, Inc.; and
  - iii. An August 2016 audit of narcotics evidence in the Framingham evidence room conducted by Bruce P. Gordon of Narcotics Audit Solutions;
- e. Police and interview reports relating to the Framingham Police Department’s investigation into Officer Dubeshter’s misconduct;
- f. Search warrants and accompanying affidavits, addenda, applications and returns issued during course of investigation, as well as photographs taken during the execution of various warrants;
- g. Microsoft Outlook data file containing contents of Officer Dubeshter’s work e-mail account;
- h. Documents concerning Dubeshter’s use of town e-mail and technology services;
- i. Documents regarding the chain of command at the Framingham Police Department and position duties and responsibilities, including those of the evidence officer;
- j. Hide-a-key folder containing key assignment lists, reports, e-mails, a Massachusetts State Police investigation report, photographs of the hide-a-key, the 2014 Framingham Police Department Evidence Police, an evidence submission form, and criminalistics report;

- k. Photographs of tampered evidence envelopes attributed to Officer Dubeshter;
- l. 911 and turret tapes from September 18, 2015, the date the investigation began into Officer Dubeshter;
- m. Telephone records documenting Framingham Police Department communications after September 18, 2015;
- n. Police reports in cases under the indictment;
- o. Framingham Evidence Room “fob” report from February 5, 2013 through December 6, 2016;
- p. Inventory list of evidence in Dubeshter’s case;
- q. Dubeshter voicemail message dated September 21, 2015;
- r. Information regarding Dubeshter’s residence and mortgage; and
- s. List of all reports, interviews by officers and digital documents in the Dubeshter investigation.

Based upon a review of the documents from the criminal investigation into Dubeshter, the following appears to be true:

January – November 2013 Audit: An audit of money in the Framingham evidence room conducted by Framingham Police Officer Christian Miller revealed a \$90 discrepancy between the \$349,596.74 in total which was listed on envelopes containing currency in 733 cases and the actual cash in those envelopes.

October 2015 Audit: An audit conducted by Bruce A. MacDougall, Senior Consultant at Municipal Resources, Inc., revealed \$53,485.56 in missing currency associated with 97 cases. This amount is in addition to the \$19,156.00 in missing currency forming the basis for Dubeshter’s indictments. With minor exceptions, the cases from which currency was determined to be missing were resolved via trial, plea, dismissal or nolle prosequi prior to the 2013 audit.

August 2016 Audit: An audit of narcotics evidence in the Framingham evidence room conducted by Bruce P. Gordon of Narcotics Audit Solutions revealed that, of the 6,315 pieces of narcotics evidence examined, only five pieces of evidence were unaccounted for or missing.

The Commonwealth recognizes that it is within this court’s discretion to decide whether the officer’s credibility is a critical issue at trial and whether prior false

statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. “The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness’s] credibility.” Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney  
Middlesex District Attorney’s Office  
15 Commonwealth Avenue  
Woburn, MA 01801  
Tel: (781) 897-6825

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING A  
POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that it is aware that **Dracut Police Officer William Dubois, Jr.**, a potential witness in this case, was the subject of an internal affairs (IA) investigation by the North Eastern Massachusetts Law Enforcement Counsel (NEMLEC) which issued a report on April 19, 2010 containing adverse findings with regard to truthfulness. The Commonwealth possesses this report, which totals 43 pages with 44 pages of exhibits. The report also contains adverse findings with regard to truthfulness of former Dracut Police Officer Leonard Wagner.

At least portions of the report – which concern an allegation of the theft of drug evidence from the Dracut Police Department in 2003 – are publicly available online. The Commonwealth has reviewed documents related to its closed criminal investigation, referenced below, as well as documents that may have been used in connection with NEMLEC's IA investigation into these allegations for potentially relevant and exculpatory information. This office is in possession of the attached two documents relating to NEMLEC's IA investigation of Officer Dubois and former Officer Wagner. One of the documents, which the Commonwealth received from the Dracut Police Department, is a summary of interviews of Dubois and Wagner; portions of that document containing summaries of interviews of two other police officers have been redacted - the Commonwealth was informed that there were no adverse IA findings with respect to those two other officers. The other document is an April 23, 2010 letter from former Dracut Chief of Police Kevin Richardson to the Dracut Town Manager recommending termination of Dubois and Wagner.

No criminal charges arose from the corresponding criminal investigation conducted by the Middlesex District Attorney's Office and concluded in approximately November 11, 2008, because the criminal investigation failed to lead to the development of probable cause sufficient to support criminal charges. See Mass. R. Prof. C. 3.8(a).

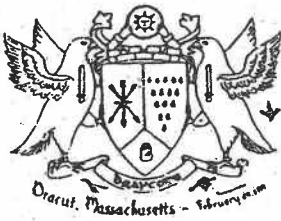
Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



# Dracut Police Department

110 LOON HILL ROAD  
DRACUT, MASSACHUSETTS 01826  
TEL: 978-957-2123 FAX: 978-957-7197

KEVIN M. RICHARDSON  
Chief of Police

Dennis E. Piendak  
Town Manager  
Town of Dracut  
62 Arlington Street  
Dracut, MA. 01826

April 23, 2010

Dear Mr. Piendak,

I have reviewed the final report and supporting documentation submitted by Ret. Chief Alfred Donovan in regards to the investigation of stolen marijuana that occurred in April of 2003, from the Dracut Police station. I believe that Chief Donovan has substantiated the cited violations of the Rules and Regulations of the Dracut Police Department beyond the required "preponderance of the evidence" level of proof needed, to impose discipline in this matter.

Decisions to take disciplinary action are subject to review to determine if such a decision was based on "just cause." If it is determined by a preponderance of the evidence that there was just cause for an action taken against an employee, said action by the Appointing Authority shall be affirmed. An action is justified if it is "done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." Commissioners of Civil Service v. Municipal Ct. of Boston, 359 Mass. 211, 214, 268, N.E.2d 346 (1971). The Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." School Comm. V. Civil Service Comm'n, 43 Mass. App. Ct. 486, 488, 684 N.E. 2d 620, (1997). The Appointing Authority's burden of proof by a preponderance of the evidence is satisfied "if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or the minds of the tribunal notwithstanding (*or in spite of*) any doubts that may still linger there." Tucker v. Pearlstein, 334 Mass. 33, 35-36, 133 N.E.2d 489 (1956).

It is often said that an officer's reputation is his or her most valuable possession. The need for ethics and integrity in policing has never been greater. Police officers who lie damage more than their own reputation. They hurt the department's ability to engender

and maintain the trust and cooperation of the community. The community policing philosophy depends on the integrity of the police department. If the public lacks confidence in the agency's ability and commitment to investigate and prosecute officer misconduct, there is little hope for successful partnerships and problem-solving.

The need for honesty among law enforcement officers is widely recognized by the courts. In fact, an officer that is found guilty and disciplined for dishonesty may be such a liability that discharge is appropriate even in the absence of traditional progressive discipline or rehabilitation efforts. Under a line of cases culminating in the 1995 Supreme Court decision of *Kyles v. Whitley*, a prosecutor has an obligation to personally review department discipline or personnel files and disclose to defense counsel any record of an officer's conviction for dishonesty. This would have the effect of making such an officer "damaged goods." This lack of credibility could also jeopardize other officers in civil or disciplinary cases where they must rely on such an officer for corroboration.

The requirement that prosecutors supply defendants or their counsel with exculpatory information has been clearly established for some time in both federal and state courts. Additional disclosure requirements have been added. Potential impeachment information concerning the prosecutor's witnesses or investigators must now be disclosed as well.

The United States Supreme Court in its 1963 decision in *Brady v. Maryland*, ruled that a prosecutor has a duty to disclose evidence to a criminal defendant that impacts on issues of culpability and/or penalty. A conviction may be reversed even if the prosecutor inadvertently withheld such information from a criminal defendant. In the 1972 U.S. Supreme Court case of *Giglio v. United States*, the court also ruled that information known to any of the government agencies (including the local police) involved in the investigation and/or prosecution of the criminal defendant is known by all the government agents. In order to comply with *Giglio*, prosecutors will have to disclose information about the character, credibility, record and possible bias of police officers that may be called as witnesses, or that assisted in the investigation of the case. This information may include but is not strictly limited to;

- Specific instances of conduct of a witness for the purpose of attacking the witness credibility or character for truthfulness;
- Evidence in the form of opinion or reputation as to a witness character for truthfulness;
- Prior inconsistent statements;



- Any finding of misconduct that reflects upon the truthfulness or possible bias of the employee, including a finding of lack of candor during an administrative inquiry;

As evidenced by the cited case law, an officer who has been determined to have been untruthful is then rendered unviable as a potential witness in a prosecution.

The core of the constitutional right to due process is the right to notice and a meaningful opportunity to be heard. However, "a meaningful opportunity to be heard does not include the right to make false statements with respect to alleged misconduct. The U.S. Supreme Court in *LaChance v. Erickson* (1998), reversed a lower court decision and upheld the termination of employees that lied to their superiors. In *LaChance*, the court noted that public employees must tell the truth during departmental investigations of employee misconduct. Citing *Bryson v. United States*, the Supreme Court stated;

*Our legal system provides methods for challenging the Government's right to ask questions- lying is not one of them.*" A citizen may decline to answer the question, or answer it honestly, but he cannot without impunity knowingly and willfully answer with a falsehood. If answering an agency's inquiry could expose the employee to criminal prosecution, the employee may invoke the Fifth Amendment right to remain silent. It may well be that an agency, in ascertaining the truth or falsity of the charge, would take into consideration the failure of the employee to respond, but there is nothing inherently irrational about such an investigative posture. Traditionally, courts have upheld the termination of police officers that have lied.

Except where their answers may incriminate them in a criminal matter, officers are required to cooperate with internal investigations and respond truthfully to all questions. Public employees may be dismissed for failing to answer questions "specifically, directly, and narrowly relating to the performance of their official duties." The right to invoke a Fifth amendment privilege and not respond to a question that may incriminate that officer, does not entitle the officer to lie. Since it is accepted that a public employee may be dismissed for the failure to answer questions, it would naturally follow that the dismissal of an officer who intentionally lies when answering a question, would be justified.

Chief Donovan has clearly proven that both Ptl. Leonard Wagner and Ptl. William Dubois Jr. have not cooperated with the investigation and have been intentionally

untruthful by lying in their responses to questions relating to the performance of their official duties.

In a free society the public must have confidence in their police officers because of the vast power they can dispatch. Police officers must do more than refrain from indictable conduct. "Police officers are not drafted into public service; rather, they compete for their positions. In accepting employment by the public, they implicitly agree that they will not engage in conduct which calls into question their ability and fitness to perform their official responsibilities." Police Commissioner of Boston v. Civil Service Commission, 22 Mass. App. Ct. 364, 371 (1986). "Police officers must comport themselves in accordance with the laws that they are sworn to enforce *and* behave in a manner that brings honor and respect for rather than public distrust of law enforcement personnel." Because of the nature of a police officer's position and the risk of abuse of power, police officers are held to a high standard of conduct. The public misdeeds of even one police officer casts wide aspersions on all the other professional and responsible police officers, undermining their effectiveness by affecting public confidence and good will. *Id.*

The theft of the marijuana from the Dracut Police Station in April of 2003 has had a devastating effect on not only the Dracut Police Department, but upon the town as a whole. The commission of this crime severely damaged the overall integrity of the department and constitutes an extremely serious breach of the public trust. The very foundation of a police department rests upon the trust of the citizens for which officers are sworn to protect. This crime has impacted each and every member of the department who places that badge upon their chest and strives to dedicate themselves to the citizenry they serve.

Each and every member of the department had a duty and an obligation to cooperate in this investigation and provide all known information in the most honest and upfront manner. When reviewing the totality of the investigation it is clearly evident that this was not done. Officers within the department intentionally lied in response to key material facts of this case. Intentionally misleading the investigators in this case can be rationally seen as a direct causal reason that a criminal prosecution in this matter never came to fruition. Any officer who would engage in such behavior has irreparably damaged the bond of trust that must exist for effective law enforcement within a community.


Police officers must not engage in substantial misconduct that adversely affects the public interest by impairing the efficiency of public service. There was no greater public interest in this case than bringing those responsible to be held accountable and punished to the greatest extent provided by law. The substantial intentional misconduct

directly impaired the efficiency of the investigators attempts to bring this case to a viable resolution.

The citing of specific case law in reference to untruthfulness and the necessity for disclosure of that untruthfulness was to illustrate the serious impact an untruthful officer may have upon the department. These cases make no distinction as to any distinct level of seriousness the untruthfulness must attain before becoming a trigger for justified administrative action. The fact that an officer has been found to be untruthful stands on its own and becomes an insurmountable impediment to not only that specific officer, but to the department as a whole, whenever that officer would attempt to enforce the law.

Through the intentional misconduct of untruthfulness these officers have rendered themselves unfit to perform the essential functions of a police officer. Therefore, I am recommending that Ptl. Leonard Wagner and Ptl. William Dubois Jr. be terminated from their positions of Police Officers for the Town of Dracut.

Respectfully Submitted,

  
Kevin M. Richardson  
Chief of Police

Footnote: Material referenced in this recommendation can be found in *The Chiefs Guide to Internal Affairs*, John M. Collins, Municipal Police Institute, 2001.

# DRACUT POLICE DEPARTMENT

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110 Loon Hill Road  
Dracut, Massachusetts 01826

David J. Chartrand  
Deputy Chief of Police

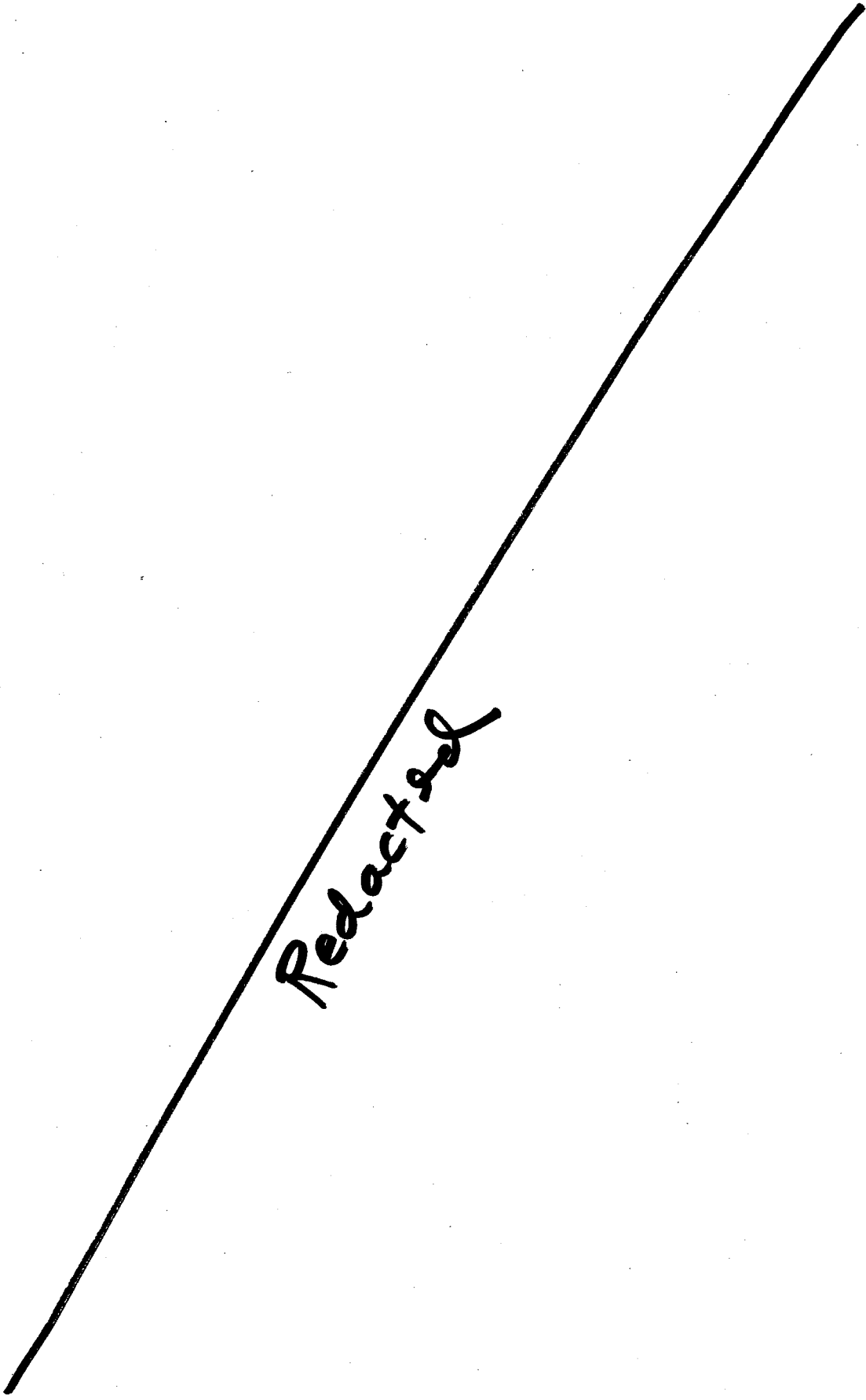
978-957-2123 ext. 122  
Cell [REDACTED]

**TO:** Chief Al Donovan  
**FROM:** Deputy Chief David Chartrand  
**DATE:** November 3, 2008  
**RE:** Review of Interviews

I have reviewed the interviews conducted on 10/29/08 with DPD personnel. After the review I have discovered statements that were made that are either inconsistent with prior statements or just simply not true. I have listed the statements and corresponding relevant information. The inconsistent answers provided could be useful in subsequent interviews.

2

**REDACTED**



*Redacted*

*Redacted*

*Redacted*

~~Redacted~~

**Ptl. Wagner:** Confirms that he has been inside the evidence storage trailer

Confirms that he and Gosselin kept the guns out in the trailer.

Question: Were the drugs out there?

Answer: Nothing that I dealt with, I was aware that there probably was

Question: From what we've been told the smell of marijuana was pretty bad out there

Answer: Wagner answers very quickly, *I didn't smell it.*

As stated earlier there is no way he did not smell it. Why would he not admit the smell but confirm that he was aware that drugs were out there? This may be an attempt to distance himself from the actual items that were stolen. He only admits to a probability that drugs were stored out there, but attempts to minimize knowledge of specific items.

When asked where the key was located Wagner states *it was by Dave Chartrand's desk on a wall.* Why would he attempt to deflect the actual location away from Chaput's location?

Wagner puts himself within the trailer a couple months prior to the theft to retrieve a gun relative to an expired TRO. There is no doubt that at that time the marijuana was within the trailer and clearly visible.

Wagner states he has no idea why the marijuana was moved from the station closet to the trailer. At the time of the move there was much discussion within the detective bureau as to the odor in the hallway, and concern as to the security of the closet.

Wagner confirms that the smell of the marijuana within the station was strong.

When asked if he knew how much marijuana was stolen he states that the paper said \$80,000 worth, then later states that he thinks the paper was guessing. If you had no idea of the actual amount stolen, why would say the paper was guessing?



When asked about the security camera at the time, he confirms his knowledge that it did not cover the trailers.

The next response is the key admission of the entire interview.

Question: Do you recall if the camera was working at that time.

Answer: From what I remember I wasn't working that night, whatever night it was, they had the policemen's ball, as far as I know I didn't know if it was down or up (during response his voice volume rises significantly)

You never mentioned prior to this question that the night of the policemen's ball was a date of interest. Other than those investigating the theft, and CI's who have given information, the date of the policemen's ball had not been public as a target date. Wagner provided this date unsolicited to you without any prior question or reason to do so.

Question: Do you know where the marijuana was stored within the trailer.

Answer: *I have no idea, I don't believe it was out there the last time I was in there.*

How can Gosselin have such a vivid memory to recall the exact location upon the shelves, but Wagner knows nothing. He had been within that trailer as much as Gosselin when dealing with the guns. He already stated he had been out there to retrieve a gun a few months prior.

Based on the interview it is clear that Wagner is making a full effort to disavow any type of knowledge relative to the marijuana. His answers stand in direct contrast to those of Gosselin. Both detectives accessed that trailer on a similar amount of times. Wagner's statement that he didn't believe the marijuana was even inside the trailer the last time he had entered is a direct attempt to form a plausible defense. How could I be involved if I thought the marijuana was no longer in there?

**Dubois:** Confirms that he knew the trailers were used to store evidence.

When asked about the security camera, he becomes extremely nervous.

When asked if the camera reached the trailers, he immediately states *no, no,*

For future use he has now confirmed that he possessed the knowledge that the security camera did not reach the trailers at the time of the theft.

Anyone who would attempt to plan this theft, would have to have that knowledge. If you stood in the parking lot in front of the trailer, the camera had the appearance of being able to cover that location. As stated earlier, this theft was done with specific planning that could have only been done with knowledge from within the police department.

1. The exact location of the marijuana within the trailer. These were the only items within the trailer that were handled in any way during the theft.
2. The capability of the security camera.

3. The suspected date of the theft, basically a skeleton crew.

It is inconceivable that this theft was committed by a random perpetrator who just decided to break in and got lucky.

Dubois states that he discussed the theft with his father, Bill Dubois Sr. [REDACTED]

Dubois displayed a definite negative reaction when asked if he benefited from the theft of marijuana in any way. He stated, *No*, he sounds like he is choking, takes a drink of water and says, *I haven't been feeling very good lately*. He then answers no again unsolicited.

After this incident he begins to answer every question with, *no*, almost before the question is even completed. Based on his reactions to key questions it appears that Dubois would be a key person to subject to a polygraph.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Dracut Police Officer William Dubois**, was the subject of an internal affairs investigation. The investigation, which arose out of allegations that Officer Dubois did not conduct a proper follow-up investigation to a reported assault, sustained several violations of internal rules and regulations of the Dracut Police Department, including: multiple findings of (a) untruthfulness during the course of the investigation, (b) neglect of duty, and (c) incompetence, as well as findings of (d) insubordination and (e) filing an inaccurate police report.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Sergeant Hugh Duffy** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer and failure to supervise.

The Commonwealth has been informed that Sergeant Duffy's discipline included suspension for a period of two (2) full work days, a letter of reprimand, removal from the detail list for a period of seven (7) days, and reimbursement of the department in the amount of \$276.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **former Somerville Police Officer Paul Duffy**, was convicted of one count of assault on December 6, 2019 in Woburn District Court, Docket No. 1853CR2688, based on an incident that occurred on December 21, 2018 in Wilmington. Officer Duffy was placed on probation for a period of one year. The Commonwealth has also learned that the Somerville Police Department conducted an internal affairs investigation into this conduct that resulted in sustained findings of Conduct Unbecoming an Officer and Criminal Conduct. Former Officer Duffy retired from the Somerville Police Department on July 29, 2020.

The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **former Billerica Police Officer Daniel Duggan**, resigned from the department on January 12, 2018. This resignation followed allegations of embezzlement from the New England Police Benevolent Association (NEPBA), Local 5A and 5B, of which former Officer Duggan was the acting president, which arose on December 29, 2017. While the Commonwealth is not aware of the exact sum allegedly embezzled from the NEPBA, on January 12, 2018, former Officer Duggan provided a cashier's check to the NEPBA in the amount of \$36,300.

The Commonwealth has also learned that, on or about November 14, 2017, Billerica Police Deputy Chief Roy Frost commenced an internal affairs investigation into former Officer Duggan regarding inappropriate and harassing text messages he sent to the estranged husband of a woman with whom he was involved in a dating relationship. An investigative report was generated in conjunction with this investigation, although no formal findings issued in light of former Officer Duggan's resignation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **State Police Sergeant Bryan Erickson**, was charged on January 31, 2021, in Rockingham Superior Court, Rockingham County, NH, case no. 218-2021-CR-00119, for domestic violence, assault (felony) (strangulation); three counts of domestic violence, assault (misdemeanor) (physical contact); domestic violence, obstructing a report of crime or injury; criminal trespass; and disobeying an officer, based on an incident that occurred on or about January 31, 2021 in Exeter, NH. Also on January 31, 2021, the alleged victim in the above criminal case obtained an emergency order of protection against Sergeant Erickson. Sergeant Erickson was arraigned on these charges on February 2, 2021, and his next court date is scheduled for March 25, 2021.

On January 31, 2021, Sergeant Erickson was relieved of his duties pending a duty status hearing on February 4, 2021, and the department opened an internal investigation into the above allegations. As a result of the February 4, 2021 duty status hearing, Sergeant Erickson was suspended without pay effective that date.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414

Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that the Middlesex District Attorney's Office is aware that one of the potential witnesses in this case, **former Lasell College Police Sergeant Eric Essigmann**, was the subject of an internal affairs investigation in the context of his former employment with the Framingham Police Department. That investigation concluded with a finding of untruthfulness and Officer Essigmann resigned from the Framingham Police Department, effective June 5, 2016.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Commonwealth is aware that **former Ashland Sergeant Greg Fawkes**, a potential witness in this case, was terminated from the Ashland Police Department on May 24, 2012.

The Commonwealth has been further informed that Sergeant Greg Fawkes was subject to an internal affairs ("IA") investigation by the Ashland Police Department stemming from his conduct in and around June of 2011. This IA investigation resulted in adverse findings made in February of 2012, including but not limited to findings relating to Sergeant Fawkes' truthfulness. The Commonwealth is in possession of some Ashland Police Department documents relating to this IA investigation referenced above. The Commonwealth is not aware of whether the Ashland Police Department has additional documents relating to this IA investigation.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a Lowell Police Department Board of Inquiry found that a potential witness in this case, **Lowell Police Sergeant Thomas Fleming**, had with him an electronic device during the April 29, 2014 promotional examination and was untruthful about it. Sgt. Fleming subsequently retired from the police department.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Mass. State Police Trooper Joseph H. Flynn**, is currently the subject of an internal affairs (IA) investigation. The Commonwealth has learned that the investigation arose out of Trooper Flynn's alleged conduct in conjunction with a May 11, 2016, interjurisdictional police chase and ultimate apprehension of the chase suspect in New Hampshire. The Commonwealth has learned that, as of July 2020, the IA is still open.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING  
A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that on August 5, 2011, one of the potential witnesses in this case, Massachusetts State Police (MSP) Trooper **Aleksandro Fontes**, knowingly recorded inaccurate information on an Implied Consent Form in a case unrelated to the instant case. See Findings of Justice Lynn C. Rooney dated September 19, 2011 (attached) and Implied Consent Form dated December 11, 2010 (also attached). See also attached additional documents referenced in the judge's findings. As of approximately November 14, 2011, the Commonwealth has a copy of a certified transcript of Trooper Fontes' testimony in the case that is referenced in the attachments to this Notice. The transcript is also attached.

The Commonwealth notified the Internal Affairs Unit of the MSP regarding the above-referenced information. The Commonwealth learned that an internal affairs investigation was opened; that investigation was completed on August 15, 2013. The investigation sustained a charge of conduct unbecoming, two charges of conduct violations, and a violation of rules. Trooper Fontes was disciplined as follows: "forfeit 5 vacation days; comply with stipulations: suspended without pay for five days, to be held in abeyance for one year from the date of a signed waiver. If a complaint against Trooper Fontes is made during this one year period, and is subsequently sustained, which leads to final discipline through waiver or Trial Board, then the suspension without pay for five days shall be imposed immediately by the Colonel/Superintendent without a hearing or right to appeal." The Commonwealth learned that this sentence also resolved another, unrelated internal affairs complaint from December 2011, and that no subsequent complaints were indicated.

This Office is not in possession of any internal affairs documents. See Commonwealth v. Wanis, 426 Mass. 639 (1998) (setting out legal procedure for obtaining documents relating to a police department's internal affairs investigation).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_



## COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

LOWELL DISTRICT COURT  
DOCKET [REDACTED]

COMMONWEALTH

v  
[REDACTED]

Based upon the credible evidence presented at a hearing on August 5, 2011 at the Lowell District Court, and the reasonable inferences drawn therefrom, the Court Allows the defendant's motion to suppress. The Court made oral findings on the record at the time of the hearing but has since learned that the tape is inaudible and at the request of the Commonwealth, is issuing the following written findings of fact.

FINDINGS OF FACT

On December 11, 2010, the defendant's vehicle was stopped at a sobriety checkpoint in Lowell authorized by the Massachusetts State Police. Sgt Eric Bernstein, an eighteen and one half year veteran of the Massachusetts State Police was assigned initially as a screener that evening but when the traffic level increased, he was reassigned as a greeter pursuant to the guidelines. At approximately 1:30 am, a black Ford Focus entered the sobriety checkpoint. Sgt Bernstein greeted the operator, later identified as the defendant [REDACTED], informed him that this was a State Police checkpoint and inquired if the defendant had been drinking. After being shown the Division Commander's Order, *Exhibit 2*, which states "If the screener observes articulable signs of possible intoxication, he or she may engage in brief conversation about the consumption of alcohol.", Sgt Bernstein stated that he had observed the defendant's eyes to be red, bloodshot, and glassy and smelled an odor of alcohol prior to asking the defendant if he had been drinking. The defendant did admit that he had been drinking and based on that as well as his observations, Sgt Bernstein directed the defendant into the parking lot for further screening.

Trooper Aleksandro Fontes, a five year veteran of the Massachusetts State Police, was assigned as a screener at the checkpoint that evening. Trooper Fontes had attended the roll call at the Andover barracks earlier in the shift at 8:00 pm and listened to the explanation and review of

TRF-15. Trooper Fontes testified that he is familiar with the requirements of TRF-15 and that there were copies available at the roll call to read but that he neither reviewed nor read any of the documents, including TRF-15. Nevertheless, at the roll call he signed a document which included in part the following language "... I have reviewed the 'written plan' for the sobriety checkpoint, read General Order TRF-15 ...". *Exhibit 1.*

At approximately 1:30 am, the black Ford Focus was sent in to Trooper Fontes. Trooper Fontes spoke with the defendant and asked him for his license and registration. Trooper Fontes noticed that the defendant's speech was slightly slurred and his eyes were glassy and bloodshot. He inquired where the defendant was coming from and whether or not the defendant had been drinking. The defendant responded that he was coming from a friend's house and that he had had 4 - 6 drinks. He also stated that he had stopped drinking shortly before being stopped. Trooper Fontes asked the defendant to exit the motor vehicle and perform some field sobriety tests. Trooper Fontes determined that the defendant failed the field sobriety tests and a portable breath test was administered at 1:45 am. *Exhibit 5.* Following the failure of that test, the defendant was placed under arrest. Trooper Fontes read the defendant his Miranda rights from a card prior to walking him into the BATmobile for the booking process.

Upon entering the BATmobile with the defendant, Trooper Fontes secured his weapon and another trooper, whose identity he could not recall, searched the defendant. Lieutenant Walsh completed the booking process of the defendant and also photographed him prior to the breath test being administered. Trooper Fontes was the breath test operator that evening and indicated that he had been re-certified through an on-line re-certification program. Trooper Fontes was present when the defendant consented to the breath test and stated that the defendant never left his sight from the point of his first interaction with him until he took the breath test. The time on the statutory rights and consent form is 1:50 am. *Exhibit 7.* The time that Trooper Fontes filled in on the Implied Consent Form "first observed" also was 1:50 am. *Exhibit 3.* Trooper Fontes indicated that he was sitting directly in front of the defendant during the booking, within two arms lengths, that nothing went in or out of the defendant's mouth and that nothing obstructed his line of sight. The first breath test was administered at 2:07 am, the 2<sup>nd</sup> at 2:09 am. Trooper Fontes acknowledged that the booking generally takes between 5 and 10 minutes, that the search of the defendant took approximately 4 - 5 minutes, and that the booking on the

BATmobile is fast paced, quicker than a regular booking. When asked what caused him to put the time of 1:50 am on the form, Trooper Fontes stated that it was "just to avoid this type of motion."

RULINGS OF LAW

I find that the sobriety checkpoint was proper but that the guidelines were not strictly followed. Commonwealth v. Murphy, 454 Mass. 318 (2009) The Commonwealth has the burden of demonstrating strict compliance with the guidelines. Sgt Bernstein asked the defendant if he had been drinking prior to making any observations consistent with alcohol use, although he clarified his response after being shown the Division Commander's Order which explicitly states that "articulable signs of possible intoxication" must be observed prior to any questioning about alcohol consumption. Trooper Fontes acknowledged that he signed a document that states in part "...I have reviewed the 'written plan' for the sobriety checkpoint, read General Order TRF-15 ..." when in fact he had done neither. The Commonwealth also has the burden of demonstrating that the breath test was administered pursuant to the Code of Massachusetts Regulations and given Trooper Fontes' acknowledgment that he filled in the time of 1:50 am on the Implied Consent Form to avoid "this type of motion", the Commonwealth has failed to meet this burden as well. Given all of the circumstances surrounding this arrest, the motion to suppress is Allowed.

SO ORDERED

  
\_\_\_\_\_  
Lynn C. Rooney  
Associate Justice

Dated: September 19, 2011

24 #1



MASSACHUSETTS STATE POLICE  
SOBRIETY CHECKPOINT DUTY ASSIGNMENTS

12 / 11 / 2010

RTE 3A, THORNDIKE ST.  
LOWELL, MA.

Officer-In-Charge (CO)

Name: ID# Signature:  
Lt. John Giammarco 1078

OIC of Diversion Area (Lt.)

Lt. Kevin Kiley 1292

Diversion Area Statistics

Sgt. Michael Cook 2146

Officer (NCO)

Initial Diversion/Screening  
Point Officer (NCO)

Sgt. Thomas Minghella 1551

Traffic Monitor/Setup Officer  
MSP Safety Vehicle Officers

Tpr. Michael Currier 0852  
1 Sgt. Richard Hunter 1223  
2

MSP Screeners/Greeters  
(Initial)

Name: ID# Signature:  
1 Sgt. Frank Puopolo 1763  
2 Sgt. John McNeil 2232

MSP Screeners

1 Sgt. Eric Bernstein 2308  
2 Sgt. Richard Huber 1213  
3 Tpr. Paul Burns 2960  
4 Tpr. James Foley 2739  
5 Tpr. Kevin O'Neill 1674  
6 Tpr. Aleksandro Fontes 3434  
7 Tpr. Scott Grimes 2864  
8 Tpr. John Ragosa 3169  
9 Tpr. Dale Jenkins 2871  
10 Tpr. Sean Kelley 3013

State Police Traffic Programs

Name: ID# Signature:  
1 Lt. Stephen Walsh 2040  
2 Sgt. Daniel Griffin 1129  
3 Sgt. William Robertson 1808  
4 Sgt. Daniel Wildegrube 2290  
5 Sgt. Matt Murray 2239  
6 Tpr. Brian Talbot 3361  
7 Tpr. Larry Kiely 2542

I acknowledge by signature that I have reviewed the "written plan" for the sobriety checkpoint, read General Order TRF-15 entitled Sobriety Checkpoints, and read the duty assignment sheet. I have been provided a copy of the general order and duty assignment sheet including my specific duties enumerated therein. I certify that I understand the plan and my duties. Officers may be reassigned between duties as manpower dictates by the officer-in-charge.

09/21/2011 11:11 FAX

Et.  
#3

Department of State Police - Office of Alcohol Testing

Implied Consent Report Form, Alcotest 7110 MKIII-C

BATMOBILE 2 - 1

Model / Lot Number	Serial Number	Certification Valid From	Certification Valid To
Instrument: <u>Alcotest 7110 MKIII-C</u>	<u>ARRL-0013</u>	<u>10/27/2010</u>	<u>10/27/2011</u>
Simulator: <u>CU34</u>	<u>DDTES3-0024</u>	<u>10/27/2010</u>	<u>10/27/2011</u>
Solution: <u>8024</u>	<u>0.155 %BAC</u>		<u>02/25/2011</u>

Test Date: 12/11/2010

Case/Incident #: \_\_\_\_\_

First Observed: 12/11/2010 01:50AM

**Subject**

Last Name: \_\_\_\_\_  
 First Name, MI: \_\_\_\_\_  
 D.O.B.: \_\_\_\_\_

D.L. State & Zip.: \_\_\_\_\_  
 Driver License No.: \_\_\_\_\_  
 Social Security No.: \_\_\_\_\_

**Breath Test Information**

Function	Result %BAC	Time HH:MM	Volume Liters (L)	Duration Seconds (s)	Temperature Simulator (°C)
Air Blank Test	0.00%	02:06AM			
Subject Test 1	0.09%	02:07AM	2.2L	9.7s	
Air Blank Test	0.00%	02:07AM			
Calibration Test	0.15%	02:08AM			34.1°C
Air Blank Test	0.00%	02:08AM			
Subject Test 2	0.09%	02:09AM	2.3L	9.4s	
Air Blank Test	0.00%	02:10AM			

In accordance with Ch. 90 s. 24 the concentration of alcohol in the subject's breath is **0.09%** expressed in grams of ethanol per 100 milliliters of blood. The subject has a right to obtain a comparison blood test by a person or physician at their request and at their expense. Results of the blood test can be used to restore a subject's license at a court hearing.

**Breath Test Operator**

Last Name: FONTES  
 First Name, MI: ALEKSANDRO, R.  
 Cert. Valid From: 11/18/2009

Operator ID Number: SP3434  
 Certification Valid To: 11/18/2012

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

Signature Date: 12/11/2010

I, the undersigned, hereby acknowledge the receipt of this test.

\_\_\_\_\_  
 Signature of person who provided the breath sample.

Subject refused to sign.

EX # 7

STATUTORY RIGHTS AND CONSENT FORM

Defendant: [Redacted] Date: 12/11/10

Case No.: [Redacted] Time: 0150 hours

RIGHT TO A DOCTOR

General Laws, Ch. 263, Sec. 5A: A person held in custody at a police station or other place of detention, charged with operating a motor vehicle while under the influence of intoxicating liquor, shall have the right, at his request and at his expense, to be examined immediately by a physician selected by him. The police official in charge of such station or place of detention, or his designee, shall inform him of such right immediately upon being booked, and shall afford him a reasonable opportunity to exercise it. Such person shall, immediately upon being booked, be given a copy of this section unless such a copy is posted in the police station or other place of detention in a conspicuous place to which such person has access.

RIGHT TO A TELEPHONE

General Laws Ch. 276, Sec. 33A: The police official in charge of the station or other place of detention having a telephone wherein a person is held in custody, shall permit the use of the telephone, at the expense of the arrested person, for the purpose of allowing the arrested person to communicate with his family or friends, or to arrange for release on bail, or to engage the services of an attorney. Any such person shall be informed forthwith upon his arrival at such station or place of detention, of his right to so use the telephone, and such use shall be permitted within one hour thereafter.

REQUEST TO SUBMIT TO A CHEMICAL TEST

Pursuant to General Laws Ch. 90, Sec. 24:

1. I am requesting that you submit to a chemical test to determine your blood alcohol concentration.
2. Drivers Age 21 or OVER: If you refuse this test, your license or right to operate in Massachusetts shall be suspended for at least a period of 180 days or up to life for such refusal. The suspension if you take the test and fail it is 30 days.
3. Drivers UNDER Age 21: If you refuse this test, your license or right to operate in Massachusetts shall be suspended for at least a period of 3 years or up to life for such refusal. The suspension if you take the test and fail it is 30 days. Drivers under age 21 will also face an additional suspension pursuant to General Laws Chapter 90, Section 24P of 180 days to 1 year.
4. If your blood alcohol level is .08 or above, you are in violation of Massachusetts law and may face criminal penalties. Drivers under age 21 have the same legal limit for court purposes, but will face administrative penalties for any blood alcohol concentration of .02 or above.
5. If you decide to take the test and complete it, you will have the right to a comparison blood test within a reasonable period of time at your own expense. The results of this comparison test can be used to restore your license or right to operate at a court hearing within 10 days.
6. It is not your option which type of chemical test to take. Refusal or failure to consent to take the test that I am requesting is a violation of the Implied Consent Law, and will result in your right to operate a motor vehicle being suspended as I have stated to you. Refusing this test, but requesting some other form of test is a refusal under the law.

NOTICE TO PERSONS HOLDING A COMMERCIAL DRIVER'S LICENSE

In addition to the above, Mass. General Laws Ch. 90F, Sec. 11 and 49 CFR Sec. 383.51 provide that a person holding a commercial driver's license who fails to submit to a required test of blood, breath, or urine, shall be disqualified from driving a commercial motor vehicle for a period of one (1) year or up to life. This disqualification applies whether or not the person was operating a CDL vehicle. If the vehicle was transporting 16 or more passengers, including the driver, or hazardous materials required to be placarded, the (TFL) disqualification shall be for three (3) years or up to life.

Do you consent to submit to the chemical test that this officer requested to determine your blood alcohol concentration?

Yes  No

Defendant's Signature: [Redacted Signature] (To be signed, or indicate why not)

Signature of Officer Before Whom the Refusal or Test Was Made: [Handwritten Signature] (Signed)

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has learned of exculpatory information concerning one of the potential witnesses in this case, **Lincoln Police Department Officer Matthew Forance**. An internal affairs investigation concluded that Officer Forance violated internal rules and regulations of the Lincoln Police Department, including conduct unbecoming an officer, lack of truthfulness, untruthful reporting, and biased based policing. Officer Forance has been on paid administrative leave since August 26, 2021, and a discipline hearing with the town of Lincoln Select Board is scheduled for January 18, 2022. The Commonwealth possesses a copy of the internal affairs report.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

DISTRICT COURT DEPARTMENT  
DOCKET NO.:

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE REGARDING  
MSP FORENSIC SCIENTIST BRITTANY FOX**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant of information concerning the credentials of Massachusetts State Police Forensic Scientist Brittany Fox. Attached is a letter from the Executive Office of Public Safety and Security (EOPSS) dated May 12, 2015 along with a referenced attachment detailing the applicable timeline (total of three pages).<sup>1</sup>

The timeline includes information that Ms. Fox did not initially successfully complete an examination for miscellaneous substances (tablets, residues, phenethylamines) but after a period of remediation successfully completed the examination. During the intervening time period, Ms. Fox participated in testing of substances involved in the above-referenced case under the supervision of a trained senior analyst.

The Commonwealth provides this Notice out of an abundance of caution and is aware of its continuing discovery obligations.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN.  
DISTRICT ATTORNEY

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Date:

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<sup>1</sup> The list detailing the cases on which Ms. Fox worked during the intervening time period, received from EOPSS and referenced in its letter, has been omitted to avoid any potential CORI violation. G.L. c. 6, §§ 167-178.





The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security  
One Ashburton Place, Room 2133  
Boston, Massachusetts 02108

Tel: (617) 727-7775  
TTY Tel: (617) 727-6618  
Fax: (617) 727-4764  
[www.mass.gov/eops](http://www.mass.gov/eops)

CHARLES D. BAKER  
Governor

DANIEL BENNETT  
Secretary

KARYN E. POLITO  
Lt. Governor

May 12, 2015

District Attorneys

This follow-up correspondence is in regards to the request for additional information on any other post-Dookhan forensic scientists who may have not have successfully completed examinations in their training program within MSP Forensic Services Group (FSG). The Crime Lab has identified three additional forensic scientists working in the Drug Lab who did not initially complete their first written examination for miscellaneous substances (tablets, residues, phenethylamines): Brittany Fox, Heather Mowatt and James Joseph.

The above three forensic scientists, as provided for in the State Police Crime Laboratory's training program, and consistent with national practices and ASCLD/LAB accreditation standards, subsequently completed the miscellaneous substance examinations successfully without further issue. By doing so, these analysts effectively demonstrated their abilities to independently identify miscellaneous samples and the ability to accurately report conclusions. All three forensic scientists had previously completed their marihuana competencies, demonstrated adherence to chain of custody practices, demonstrated proficiency in the use and operation of drug instrumentation and completed their cocaine/heroin competencies. At no time did any of these forensic scientists perform analysis on casework in which they were not deemed competent.

Attached are the training time lines and lists of miscellaneous substance cases associated with each of these three forensic scientists. These cases were completed under the supervision of a trained senior analyst. These lists represent the cases these forensic scientists participated in the sampling and testing of, up until they successfully completed the miscellaneous substance examinations. The names of the subjects/defendants are included for your review. Fox: 56 cases; Mowatt: 55 cases; Joseph: 57 cases.

Also attached is the list of cases for Justin Kaliszewski with each subject's name included. This list includes 221 cases, down from the originally reported 288, as the Lab removed marihuana cases from the list (Kaliszewski had passed the marihuana competency previously).

Please let me know if you need additional information or documents.

Thank you.

A handwritten signature in black ink, appearing to read 'Dan Bennett', written over a horizontal line.

Daniel Bennett  
Secretary

Brittany Fox

Date	Event	Significance
2/4/13	Analyst begins working in the Drug Unit	Analyst's training in the Drug Unit commences
2/4/13	Analyst begins the introductory readings which includes the general laboratory information; Safety and Security, Drug Unit Quality Control procedures, Quality Assurance Manual, DEA Readings which include general readings on Marihuana, Cocaine, Opiates/Narcotics and Miscellaneous drugs	Analyst familiarizes herself with Forensic Services Group procedures, the Laboratory's accreditation standards (standards by which the laboratory is accredited and operates as per the American Society of Crime Laboratory Directors/Laboratory Accreditation Board - ASCLD/LAB), the Safety and Security procedures in the laboratory.
2/4/13	Marihuana Training commences	Marihuana training Includes literature review, observation of trained analysts performing casework on Marihuana cases, and review of analytical principles related to Marihuana analysis.
2/7/13	Analyst completes practical exercises for Marihuana/Vegetable Matter module	Practical exercises encompass use of microscopes for identification, analytical balances for weighing samples, color tests, and Gas Chromatograph/Mass Spectrometer (GC/MS) for identification (including running of negative and positive controls). <b>Successful completion of the practical exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use of the above instrumentation to conduct tests on casework samples under supervision of a trained analyst.</b>
3/12/13	Analyst completes training in the Evidence Control Unit (ECU); Laboratory Information Management System (LIMS) training	Analyst is trained to utilize the LIMS to record case information, track casework for chain of custody purposes, and evidence handling.
3/25/13	Cocaine/Heroin Training commences	Cocaine/Heroin training includes literature review, observation of trained analysts performing casework on Cocaine/Heroin cases, and review of analytical principles related to the analysis of Cocaine and Heroin.
4/5/13	Analyst completes powder practical exercises on analytical balances, UV/VIS, FTIR, and GC/MS instrumentation	Practical exercises encompass use of analytical balances for weighing samples, color tests, Ultraviolet/Visible Spectrophotometer (UV/VIS), Fourier Transform Infrared Spectrometer (FTIR), and GC/MS for analysis (including running of the negative and positive controls). <b>Successful completion of the practical exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use of the above instrumentation to conduct tests on powder samples under supervision of a trained analyst.</b>
4/17/13	Marihuana exam was administered; analyst was assigned the practicals for Marihuana	Analyst is administered an exam on Marihuana analysis and practicals and report writing on suspected Marihuana samples. <b>Successful completion of the examination and practical demonstrates analyst's ability to independently identify suspected Marihuana samples and her ability to accurately report conclusions.</b>

Brittany Fox

7/16/13	Training on Miscellaneous Substances commences (tablets, residues, phenethylamines, etc.) commences	Miscellaneous substances training includes literature review, observation of trained analysts performing casework on miscellaneous substances, and review of analytical principles related to the analysis of miscellaneous substances. Successful completion of the training exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and conducting tests on casework samples under supervision of a trained analyst.
7/24/13	Cocaine/Heroin exam was administered; analyst was assigned the practicals for powders competency	Analyst was administered an exam on Cocaine/Heroin analysis and practicals on suspected Cocaine/Heroin samples. <b>Successful completion of the examination and practical demonstrates analyst's ability to independently identify suspected Cocaine/Heroin samples and her ability to accurately report conclusions.</b>
10/14/13	Miscellaneous substances exam is administered; analyst is assigned the practicals for miscellaneous substances competency	Analyst is administered an exam and practicals which included a report component. Analyst did not identify all components within the sample in one practical exercise. Supervisor reviewed results with analyst to discuss the inconsistency with the expected result. Analyst is issued another practical.
11/14/13	Subsequent practical exam is administered	<b>Successful completion of the practical demonstrates analyst's ability to independently identify miscellaneous samples and her ability to accurately report conclusions.</b>
1/30/14	Mock Trial	Analyst prepares for mock trial testimony; review of courtroom procedures; a review of testimony is conducted with respect to qualifying, direct and cross examination questions (this training may occur concurrently with other training modules if the analyst has had no prior testimony experience).

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS  
COURT

\_\_\_\_\_ DISTRICT

DOCKET NO.

COMMONWEALTH

v.

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**COMMONWEALTH'S THIRD SUPPLEMENTAL DISCOVERY RESPONSE  
REGARDING OFFICER MARCOS A. FREITAS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that the Middlesex District Attorney's Office has been advised by the Somerville Police Department that effective Tuesday, March 29, 2010, Officer Marcos A. Freitas was terminated by the City of Somerville from his position as a Somerville Police Officer. The Commonwealth is also aware that former Officer Freitas was a named civil defendant in a federal lawsuit filed in the District of Massachusetts involving an alleged incident of police misconduct that occurred while he was a Somerville Police Officer.

The Commonwealth has been further advised by the Somerville Police Department that any documents relating to the termination of former Officer Freitas and any reasons therefore are in the possession of the City of Somerville Personnel Department and/or the City of Somerville Law Department.

Respectfully Submitted,  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

\_\_\_\_\_  
Assistant District Attorney

DATED:

CERTIFICATE OF SERVICE

I, \_\_\_\_\_, hereby certify that I have served copies of the foregoing Commonwealth's Third Supplemental Discovery Response Regarding Officer Marcos A. Freitas to defense counsel of record, by 1st class mail/hand delivery/fax to attorney of record.

Signed under the pains and penalties of perjury this \_\_\_ day of \_\_\_\_, 2010.

Sincerely,

\_\_\_\_\_  
Assistant District Attorney

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the court that, with respect to potential witness Woburn Police Department Detective Edward Fumicello, the Commonwealth has provided counsel for the defendant with the following items of discovery:

1. Woburn Police Department Internal Affairs Report dated 1/26/05 by Lt. John Murphy (7 pages with attachment);
2. Letter to Philip Mahoney from Edward Bedrosian, Jr., dated July 25, 2005, regarding Internal Affairs Investigation of Detective Fumicello and Sergeant Mooney (2 pages); and
3. Letter to Edward Bedrosian, Jr., from Lt. John Murphy, dated August 3, 2005 (1 page).

In turning over the documents attached hereto and information contained herein, the Commonwealth is not stipulating to the documents' or information's relevancy, admissibility, or use in litigating this case in any way, including use at trial.

The Commonwealth hereby requests written notice from defense counsel in this matter if the defendant intends to use the documents and information attached hereto in any way during litigation of this matter or intends to call Det. Fumicello as a witness.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

Woburn Police Department

Internal Affairs REPORT

Control Number
05-002

Initiated By Middlesex County DA's Office	Initiated How Meeting	ID No.	Supervisor Capt. Kelley
1-1 Incident Concerns with [redacted] Arrest		Occurred From 01/02/2002	Occurred Till 01/11/2005
Location (Address) Woburn		Reported 01/11/2005	Dispatched
City Woburn MA 01801	State - Zip	Arrived	Cleared 01/28/2005
Directions To Location			Type of Premises City

2-1 - CODE	NAME (Last, First, Middle)	Sex - Race - DOB
Capacity	Residence Address	

Witness No	Interviewed No	Employer Business Address	Residence Phone
2-2 - CODE		NAME (Last, First, Middle)	Business Phone
Capacity		Residence Address	Sex - Race - DOB

Witness No	Interviewed No	Employer Business Address	Residence Phone
THERE ARE NO ADDITIONAL CITIZENS ON ATTACHED PAGES.		WITNESSES TO THE INCIDENT? INTERVIEWS CONDUCTED?	
		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>

3-1 - CODE	NAME (Last, First, Middle)	Sex - Race - DOB
CA#	Alias	Social Security Number

Residence Address	Height	Weight	Build	Hair	Eyes	Occupation
Employer Business Address	Scars / Marks			Tattoos		

Residence Phone	Business Phone	Location - Direction of Flight	Clothing
THERE ARE NO ADDITIONAL SUSPECT/ACCUSED ON ATTACHED PAGES.			

Suspect:	<input type="checkbox"/> Named	<input type="checkbox"/> Known	<input type="checkbox"/> Known Location	<input type="checkbox"/> Identified	<input type="checkbox"/> Description	SUSPECT/ACCUSED? NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>			
4-1 Vehicle	<input type="checkbox"/> Suspect	<input type="checkbox"/> Victim	<input type="checkbox"/> Stolen	<input type="checkbox"/> Recovered	<input type="checkbox"/> Damaged	<input type="checkbox"/> Abandoned	<input type="checkbox"/> Towed	<input type="checkbox"/> Impounded	<input type="checkbox"/> Released
Veh. Yr	Make	Model	Style	Reg. Yr	State	Reg. No	Color	VIN	

THERE ARE NO ADDITIONAL VEHICLES ON ATTACHED PAGES.			
6-1 - CODE	Model	Manufacturer	Description
Item	Serial Number		

THERE ARE NO ADDITIONAL PROPERTY ITEMS ON ATTACHED PAGES.			
8-1 - MO/SCENE	Significant MO	Ltd. Opportunity	Method(s)
		<input type="checkbox"/> TRACEABLE <input type="checkbox"/> EVIDENCE	

Processed	Lab	Instrument, Weapon
Report Date 1/26/2005	Investigator Lt. John K Murphy 69	Rec. Status CLOSED

Interview Date	Reviewing Supervisor	Final Status CLOSED	<input type="checkbox"/> NCIC ENTERED <input type="checkbox"/> STATE ENTERED <input type="checkbox"/> NCIC CLEARED <input type="checkbox"/> STATE CLEARED	Attachments C-0 S-0 V-0 P-0
2001 - Duke Technology - www.duketech.wob1000.com		NCIC #: STATE #:	PAGE 1	OF 3



Woburn Police Department  
7. NARRATIVE

CONTINUATION  
SHEET

Control Number

05-002

Dear Chief

Pursuant to a meeting (1/11/05) with the Middlesex County's District Attorney's Office, District Attorney's Coakley and Bedrosian, myself and Chief Mahoney; this officer was assigned to probe an investigation conducted by the Southern Middlesex Regional Drug Task Force (SMRDTF) that raised concern. The case was identified as an arrest of a [redacted] and [redacted]. This case was investigated by this officer reporting to Capt. Kelley, head of the Internal Affairs Unit. This officer was ordered to conduct this as an administrative investigation, not criminal, by Chief Mahoney. Capt. Kelley was notified of this decision and this officer will report to Capt. Kelley during the investigation.

[redacted] and [redacted] Arrest, log # 377413

[redacted] and [redacted] were arrested for Distribution of a Class A substance by the SMRDTF. The arrest occurred after an observed drug transaction at the Kentucky Fried Chicken restaurant on Cambridge Road in Woburn. [redacted] was in a vehicle operated by [redacted] and it approach a vehicle parked in the Kentucky Fried Chicken lot. [redacted] exits that vehicle, approaches another Honda and hands the passenger what appears to be plastic. The SMRDTF had the area under surveillance, officer Browne (SMRDTF member) approach the transaction area, confirms the presence of contraband and seizes a large quantity of heroin from the passenger in the vehicle. The Honda driven by [redacted] and [redacted] is stopped and they are arrested for distribution class A. The car is towed to the station; inventoried and no further contraband is discovered.

The issue that raised the concern of the DA's office is that of the scenario of an earlier "buy" from [redacted] from a confidential informant (CI) code named "blue". Prior to the arrest of [redacted] at Kentucky Fried Chicken, Blue has conversation with Fumicello and states that Blue can buy heroin from [redacted]. Blue also supplies particulars as [redacted] phone number, description of car, and that she has different types of heroin for sale. [redacted] is known to Fumicello as being involved in the narcotics trade. Fumicello sets up a controlled narcotics purchase at this time.

The purchase is conducted at a location in Woburn and a quantity of heroin is purchased. A report is filed on the process of the controlled narcotics purchase. This report does not reflect the fact that Blue secreted heroin down the front of Blue's pants after the buy was conducted prior to returning to the officers. Fumicello sees Blue secrete the drugs and brings her back to a location and calls his supervisor, Sgt. Mooney. Mooney and Fumicello are present as Blue retrieves the drugs from the front of Blue's pants. The description contained in the report does not represent the actual scenario surrounding the controlled narcotics purchase, see section of report noted as "Narcotic Purchase # 1". The report was submitted by Officer Fumicello and reviewed by Sgt. Mooney. After the above incident involving Blue, Blue was discontinued as an informant for SMRDTF.

It was also determined that Blue was involved in two prior cases with the SMRDTF. Only one of these cases resulted in criminal charges being pressed. This case is the arrest of one [redacted] and [redacted], log#302017 dated January 2, 2002. [redacted] (Poss Class A with Intent to Distribute, Consp to Violate Controlled Substance Act and Possession of Hypo Syringe) and [redacted] (Consp to Violate Controlled Substance Act and a Warrant) were arrested by the SMRDTF. Blue is noted as a confidential informant only, not a confidential reliable informant. Blue was not involved in any controlled purchases/introductions from either suspect. Blue provided details on [redacted] such as his vehicle, various cities and towns that he conducts operations, phone number, and the use of McDonald's parking lot to facilitate his illegal drug trade. These details that are collaborated through the

Investigator: Lt. John K Murphy

ID #: 69

PAGE 2 OF 3

Woburn Police Department

CONTINUATION SHEET

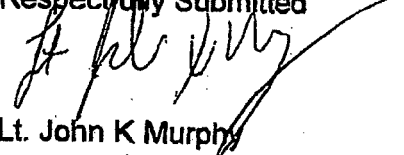
7. NARRATIVE

Control Number
05-002

investigation that was completed independent from Blue.

The second of the prior incidents was a controlled narcotics purchase from an unnamed individual from Boston or Chelsea. Blue was to serve as an intermediary between the suspect and Inspector Fumicello. The controlled narcotic purchase was set for the Friendly's parking lot on Montvale Avenue, in Woburn. Fumicello and Blue are waiting in the parking lot when the suspect arrives and parks a distance from them, Blue exited Fumicello's vehicle and conducts the transaction with the suspect. The controlled buy does not go as planned; Fumicello loses sight of Blue as Blue enters Friendly's and the suspect leaves the area. Fumicello questions Blue about entering Friendly's, Blue states that the suspect told her to go inside and meet with an employee. Blue then stated that the employee brought her into the ladies room, frisked for a recording device and allows her to leave. The purchase was completed and the illegal drugs were turned over to Fumicello. The above mentioned employee could not be located by Fumicello. As a result of these actions no criminal charges were processed and the case was suspended.

Respectfully Submitted



Lt. John K Murphy

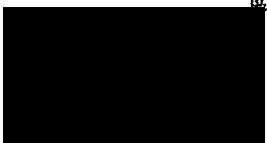
Initials: 

Investigator :Lt. John K Murphy

ID #: 69

PAGE	OF
3	3

*Sailed for  
6-22-04*



**SOUTHERN MIDDLESEX REGIONAL DRUG TASK FORCE**

To: Sgt. Det. Raymond Mooney

From: Det. Edward Funicello

Date: 6/15/2004

Re: Arrest Report for [REDACTED] & [REDACTED] Log# 377413 / DUC # 04-041

Sir,

On ~~Tuesday, June 15, 2004~~, the Woburn Police Vice/Narcotics Unit and members of the Southern Middlesex Regional Drug Task (SMRDTF) conducted a Narcotics Investigation that lead to the arrest of two subjects. Arrested as part of this investigation was [REDACTED] <sup>DOB</sup>

[REDACTED] SS# [REDACTED] of [REDACTED] and [REDACTED] DOB [REDACTED], SS# [REDACTED] of [REDACTED] Both, [REDACTED]

and [REDACTED] were charged with the violation of Chapter 94C-32; Man, Distr,Disp of a Class "A" Substance (Heroin) and violation of Chapter 94C-40; Conspiracy to Violate the Controlled Substance Laws ([REDACTED] having conspired with [REDACTED] Seized as part of this arrest were over 100 bags of heroin, \$1,300 cash and a 1992 Honda Accord wagon with Mass# [REDACTED] The arrest was conducted without incident in the St. Barbara's Church lot on Cambridge Road, Woburn.

***Narcotics Information***

Within the past several weeks, the Woburn Police narcotics unit had been investigating the illegal sale and distribution of Heroin being conducted by [REDACTED] and [REDACTED] This distribution of heroin was facilitated using [REDACTED] 1992 Honda Accord Wagon. Information had been received from a confidential reliable informant, a controlled narcotics purchase of heroin from [REDACTED] and [REDACTED] and surveillance operations.

During the first week of June 2004, I had a conversation with a Confidential Reliable Informant hereinafter referred to as "Blue". I am being intentionally vague as to the specifics of this information, ie the dates, times and locations due to the fact that this information may put "Blue" at risk if discovered. "Blue" has proven to be reliable in the past having conducted controlled narcotics purchases that lead to the seizure of a large amount of Heroin resulting in arrests and convictions. "Blue" has also introduced a police officer operating in an undercover capacity to a Heroin distribution operation from Chelsea Massachusetts that resulted in the seizure of Heroin. "Blue can be contacted at will and remains in contact with this detective.

During this conversation, "Blue" told me that a female named [REDACTED] was dealing a large amount of heroin in the City of Woburn and Lowell Massachusetts. "Blue" told me that [REDACTED] has a Spanish male boyfriend that operates a tan colored Honda Wagon. "Blue" told me that [REDACTED] and her boy-friend deal all day long taking cellular telephone orders for heroin. "Blue" provided a list of customers that [REDACTED] sells to and that [REDACTED] has several different types of heroin for sale. "Blue" provided [REDACTED] cellular telephone number as [REDACTED]. "Blue" told me that "it" could purchase heroin from [REDACTED] and obtain the license plate number of her boy friend's vehicle to further this investigation. I am familiar with [REDACTED] [REDACTED] having been involved in several narcotics related incidents with her involving heroin. At this time, I arranged for a controlled narcotics purchase using "Blue" to purchase Heroin from [REDACTED] and her boy friend.

### *Narcotics Purchase # 1*

During the first week of June 2004, the Woburn Police conducted a controlled narcotic operation that resulted in "Blue" purchasing a quantity of heroin from [REDACTED]. Again, I am being intentionally vague as to the specifics of this information, ie the dates, times and locations due to the fact that this information may put "Blue" at risk if discovered. "Blue" was met at a pre-arranged location and briefed on the operational plan. I then searched "Blue" and found no contraband or currency. I provided "Blue" with the purchase currency that I serialized earlier. Surveillance officers were set up in the area of the meet location with a clear and unobstructed view. "Blue" then was kept under surveillance at the purchase location within the City of Woburn. I observed a tan colored Honda Accord arrive at the meet location operated by a Spanish male with [REDACTED] in the passenger seat. I observed "Blue" at the passenger side window of this vehicle and within seconds an exchange took place with [REDACTED] and "Blue". I obtained the license plate of the vehicle as Mass# [REDACTED]. "Blue" then returned to a pre-arranged location and handed to this detective a quantity of heroin packaged in a plastic bag. This evidence was seized and secured at the Woburn Police Station. I then searched "Blue" again and no other contraband or currency was found. "Blue" was debriefed and told me that "it" purchased the heroin from [REDACTED] and that they would be making more sales that day.

I checked with the registry of Motor vehicle and determined that the Honda Accord Wagon operated by the Spanish male was listed to [REDACTED] of [REDACTED] [REDACTED] being [REDACTED] boy-friend. I later confirmed with "Blue" that the Spanish male during the controlled buy was known as [REDACTED] only. Surveillance followed this vehicle after the purchase an observed them making several other stops before heading in the direction of Lowell Massachusetts and surveillance was ended.

### ***Surveillance and Arrest***

On Tuesday, June 15, 2004 the Woburn Police Vice/Narcotics Unit and members of the S.M.R.D.T.F. conducted a surveillance operation the lead to the arrests of both [REDACTED] and [REDACTED] in the St. Barbara's Church parking lot. Officers involved in this operation were; Sgt. Det. Raymond Mooney of the Woburn Police Department and Detective Thomas Browne of the S.M.R.D.T.F.. Surveillance was set up at [REDACTED] address of [REDACTED]. At approximately 5:10pm, I observed [REDACTED] and [REDACTED] arrive at [REDACTED] in the Honda Accord Wagon. I observed [REDACTED] exited the vehicle and enter the residence carrying a pink bag. She then returned a short time later while [REDACTED] remained in the vehicle. I observed [REDACTED] on her cellular telephone pacing by the vehicle while talking. At approximately 5:30pm, I observed her run out of the house and return to the passenger seat of the Honda. The vehicle then pulled away with surveillance following. Surveillance was kept until the Honda operated by [REDACTED] pulled into the Kentucky Fried Chicken parking lot, location on Cambridge Road, Woburn.

I took a surveillance position with clear view of the Honda as it parked next to a pickup truck. I observed that a male and female were standing at the pickup truck and appeared to be acknowledging that they had arrived. I recorded the license plate as Mass# [REDACTED]. At this point, using my binoculars, I observed the female walk over to the passenger side of the Honda Accord and immediately pass her hand into the window where [REDACTED] was seated. I observed [REDACTED] hand to the female an item that appeared to be plastic. This female quickly placed her right hand beside her body, waved to the occupants and return to the vehicle. As a narcotics detective, I have conducted numerous hand to hand transactions involving narcotics as a undercover officer. I believed that I had just observed a hand to hand transaction and radioed the other surveillance officers of my observations.

At this time, the Honda was backing out and moving around the parking heading towards the exit. Sgt. Mooney radioed that Detective Browne would approach the pickup truck and speak with the occupants. I then followed behind the Honda as it pulled into traffic. I activated my blue lights a short distance and out of view of the pickup truck and stopped the Honda to further my investigation. I exited and approached the driver of the Honda, he was identified as [REDACTED] the owner of the vehicle. I requested that he exit the vehicle in which he complied. I then informed him that I was conducting a narcotics investigation. I then read him his Miranda Warnings from a card in my wallet and he acknowledged he understood his rights. I then did the same with [REDACTED] keeping her a distance away from [REDACTED]. I then asked [REDACTED] where he was coming from and he stated that he just picked up his girl, [REDACTED] and that they were going to the mall. I then explained that officers were a short distance away conducting a second stop of another vehicle.

Within minutes, Sgt. Mooney told me that Detective Browne had confirmed my observations and recovered a large quantity of heroin from the occupants of the pickup truck. They were identified as [REDACTED] of [REDACTED] and [REDACTED] of [REDACTED]. Detective Browne confirmed that [REDACTED] had just purchased heroin from [REDACTED] in the passenger seat of the Honda Wagon. Detective Browne seized over hundred bags of heroin at

this time. (See Detective Browne's report attached) [REDACTED] told Detective Browne that she contacted [REDACTED] earlier in the day and then spoke with [REDACTED] and arranged to meet in the lot. [REDACTED] told Det. Browne that she negotiated a price of \$960.00 for 120 bags of Heroin with a Spanish male named [REDACTED]. [REDACTED] stated that [REDACTED] agreed and set the meet location. Upon making the purchase in the lot, [REDACTED] told [REDACTED] to call again if she needed more. [REDACTED] told Det. Browne that she handed to [REDACTED] nine one hundred dollar bills, one fifty dollar bill and one ten dollar bill.

After seizing this evidence, I then placed both [REDACTED] and [REDACTED] under arrest for Distribution of a Class 'A' Substance and Conspiracy to Violate the Controlled Substance Laws, [REDACTED] having conspired with [REDACTED] and [REDACTED] to purchase heroin. I handcuffed and double locked [REDACTED] and conducted a search of his person. I recovered from his right front pocket \$960.00 (9x100, 1x50, 1x10) exactly as [REDACTED] had told Detective Browne. I then handcuffed and double locked [REDACTED]. [REDACTED] then made a statement on her own that confirmed they sold heroin to the occupants of the pickup. Both suspects were transported to the station and booked on the above charges by Lt. Murray.

During the booking process, [REDACTED] stated that there were no other narcotics in the vehicle and that they only brought the 120 bags to sell to [REDACTED]. I then informed both subjects that I would be seizing both their cellular telephones and currency. I also advised [REDACTED] that I would be seizing the Honda Accord and his jewelry (5 diamond rings, 1 diamond necklace and 1 bracelet). I then completed asset seizure form for this process.

The vehicle was towed by Tom's Towing to the station for a full inventory search. At the station I conducted a search and no other contraband or currency were found. The vehicle was secured pending seizure.

### ***Evidence Seized***

118 bags of "Moon Walk" heroin -- Seized from [REDACTED] and [REDACTED]

\$961.00 Dollars from [REDACTED] -- pocket right side

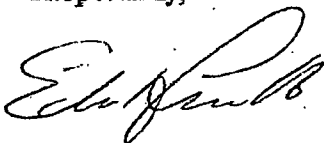
\$210.00 Dollars from [REDACTED] -- Wallet

\$140.00 Dollars from [REDACTED] -- Pocketbook

Two cellular telephones -- [REDACTED] a Nextel and [REDACTED] a Sprint

1992 Honda Accord Wagon with Mass# [REDACTED]

Respectfully,



Detective Edward Fumicello



THE COMMONWEALTH OF MASSACHUSETTS  
MIDDLESEX DISTRICT ATTORNEY  
21 MCGRATH HIGHWAY, SOMERVILLE, MA 02143

MARTHA COAKLEY  
DISTRICT ATTORNEY

Tel: (617) 591-7770  
Fax: (617) 591-7731

July 25, 2005

Philip L. Mahoney  
Chief of Police  
Woburn Police  
25 Harrison Ave.  
Woburn, Ma. 01801

Re: Internal Affairs Investigation of Detective Fumicello and Sergeant Mooney

Dear Chief Mahoney,

In the past months since receiving Lieutenant Murphy's internal affairs report concerning the conduct of Detective Edward Fumicello and Sergeant Raymond Mooney, the District Attorney's office has conducted a thorough investigation of all the cases in which either Detective Fumicello and/or Sergeant Mooney were potential witnesses. Some cases were dismissed and others were resolved short of trial. There are still some cases pending which we intend to prosecute to disposition. These cases may result in further discovery and/or evidentiary motions and jury trials.

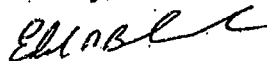
One of the cases we intend to prosecute is [REDACTED]. This case was indicted based on the testimony of Detective Fumicello. This indictment was secured shortly before Lieutenant Murphy released his report. Because of the timing of the indictment and the report, we are compelled to re-present this case to a new grand jury and present the exculpatory evidence contained in the internal affairs report.

However, Lieutenant Murphy's report simply documents that (1) "Blue" secreted drugs in her pants; (2) Detective Fumicello observed her do this and subsequently retrieved the drugs; (3) Detective Fumicello contacted his supervisor Sergeant Mooney who came to the scene; (4) these facts were not included in the original police report dated June 15, 2004; and (4) this report was written by Detective Fumicello and signed off on by Sergeant Mooney. The report does not address the ultimate question as to why and how the attempted theft of the narcotics was left out of Detective Fumicello's report and approved by Sgt Mooney. Obviously the answers to these questions may reveal further exculpatory evidence. Our ethical obligations as prosecutors require us to clarify these issues now and turn the findings over to defense counsel in the pending cases.

The District Attorney's office needs to know whether any further internal investigation is being done or will be done to address these questions and, if so, the anticipated time frame. Please advise me in writing, no later than August 3, 2005, as to the intentions of your department.

Thank you for your attention to this matter.

Sincerely,



Edward R. Bedrosian Jr.  
Chief- Special Investigations Unit  
Middlesex District Attorney's Office  
Middlesex County

cc: Lieutenant John Murphy  
District Attorney Martha Coakley



Tel (781) 932-4510  
Fax (781) 935-7792



PHILIP L. MAHONEY  
CHIEF OF POLICE

*City of Woburn  
Massachusetts  
Police Department*

25 HARRISON AVENUE  
WOBURN, MA 01801



*"Community Safety Through Regional Partnership"*

August 3, 2005

Mr. Edward Bedrosian, Jr.  
Chief-Special Investigations Unit  
Middlesex County District Attorneys Office  
Middlesex County

Lt. John K Murphy  
Internal Affairs Investigator  
Woburn Police Department

Dear Mr. Bedrosian,

Pursuant to your letter dated July 25, 2005, an interview was conducted with Officer Fumicello of the Woburn Police Department. The purpose of this interview was to further document the process by which the Rosette Arrest Report (involving "Blue") was generated. It was also conducted to specially address the question on how the attempted theft of narcotics by "Blue" was not included in the report.

According to the statements of Officer Fumicello, the following process was used to generate the report:

1. At the completion of the Arrest of Rosette and Colon a meeting was held with Sgt. Mooney and members of the Task Force to discuss the incident and the completion of the report.
2. At that meeting Sgt. Mooney assigned Officer Fumicello to complete the arrest report. Prior to Fumicello writing the report Sgt. Mooney instructed Fumicello to include the "buy" that "Blue" conducted from [REDACTED] where "Blue" secreted the narcotics after the controlled buy. This was to go to probable cause.
3. Fumicello then completed his report.

I asked Fumicello how the characterization of the incident involving "Blue" came about or how the attempted theft was left out of the report. He stated that it could be characterized as a "cut and paste" error and that he (Fumicello) should have included all the information. Fumicello wrote the report and it was his characterization of the incident that was deficient. Fumicello was directed to put the "buy" in the report, but not how to characterize it.

If you require more information or have any questions, please continue to contact me. I can be reached at 781-589-3417 or [jmurphy@woburnpd.com](mailto:jmurphy@woburnpd.com). Once again thanks for your cooperation in this important matter to the department.

Sincerely,

Lt. John K Murphy

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Robert Furtado** violated internal rules and regulations of the Medford Police Department, including neglect of duty and conduct unbecoming an officer.

The Commonwealth has been informed that Officer Furtado was suspended for three (3) full work days, removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$230.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), notifies the defendant that one of the potential witnesses in this case, **Lowell Police Officer Kevin Garneau**, was arraigned in Middlesex Superior Court, Docket No. 1981CR00261, on June 27, 2019, following indictment on two counts of rape. Officer Garneau was initially placed on paid administrative leave on May 16, 2019, though that leave was subsequently modified to unpaid leave on June 27, 2019. Officer Garneau was also the subject of an administrative investigation concerning his behavior while a part of the Lowell Community Opioid Outreach Program (COOP). That investigation ultimately concluded that the allegations were not sustained, meaning there was insufficient evidence to either prove or disprove the allegations. The Commonwealth possesses documents related to this latter investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

WOBURN DISTRICT COURT  
DOCKET NO. [REDACTED]

COMMONWEALTH

v.  
[REDACTED]

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**COMMONWEALTH'S NOTICE OF DISCOVERY 11/6/13**

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Now comes the Commonwealth in the above-entitled matter and discloses the following information to the defendant:

1. Notice: Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14, case law, and in an abundance of caution, hereby notifies the defendant that, to the best of the Commonwealth's knowledge, there is an ongoing Internal Affairs investigation into Woburn Police Officer Jerry Gately that was initiated prior to the defendant's arrest in this case. To the best of the Commonwealth's knowledge, this Internal Affairs investigation includes a complaint by [REDACTED], a witness in this matter. To the best of the Commonwealth's knowledge, the Internal Affairs complaint relates to statements made by Officer Gately regarding [REDACTED] arrest, see docket [REDACTED]. The Internal Affairs complaint and any investigation in response thereto is not in the care, custody, or control of the prosecution team.
2. Notice: Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14, case law, and in an abundance of caution, hereby notifies the defendant that, to the best of the Commonwealth's knowledge, the defendant had a past relationship with [REDACTED] and Officer Gately had a relationship with [REDACTED] at or about the time of the defendant's arrest.

The aforementioned discovery notice is true and accurate to the best of the Commonwealth's knowledge. The Commonwealth reserves the right to amend this notice should such notice become necessary.

Respectfully Submitted,  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Sarah B. Affel  
Assistant District Attorney  
BBO No. 672651  
Office of the Middlesex District Attorney  
15 Commonwealth Avenue  
Woburn, MA 01801  
781-897-6825

Dated:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Massachusetts State Police Trooper Sean Gately**, was charged in Lowell District Court, Docket No. 14 11CR 3551, with operating under the influence of intoxicating liquor arising out of his alleged conduct on June 13, 2014, in Chelmsford. On June 20, 2014, the defendant admitted to sufficient facts and the case was continued without a finding for one year with the requirements of completion of a program pursuant to G.L. c. 90, § 24D, and a 90-day loss of license.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Mass. State Police Trooper Leigha Genduso**, was the subject of an internal affairs (IA) investigation/ disciplinary process, but resigned prior to the completion of that process.

The Commonwealth has learned that the IA investigation sustained the following charges against her:

1. Trooper Genduso withheld information on her application when she failed to give a detailed description of her drug use and involvement in illegal drugs
2. Was untruthful on the Massachusetts State Police Certification Unit Questionnaire by answering that she has never withheld or lied on a job application or employment interview.
3. Was untruthful on the Massachusetts State Police Certification Unit Questionnaire by answering that she has never filed a false police report or false insurance claim.
4. Was untruthful on the Massachusetts State Police Certification Unit Questionnaire by answering that she has never been with someone when they committed a crime.
5. Was untruthful on the Massachusetts State Police Certification Unit Questionnaire by answering that she has never been accused of committing a crime.
6. Was untruthful on the Massachusetts State Police Certification Unit Questionnaire by answering that she was not aware of her name being in a case report file with any police department or law enforcement agency.
7. Was untruthful on the Massachusetts State Police Certification Unit Questionnaire by answering that everything was accurate and complete on her application.
8. Was untruthful during her applicant interview when she told the background investigator that she tried marijuana twice in 1999 but has not used it since that time.
9. Improperly gave a media interview with the Boston Globe regarding an open investigation.
10. Was untruthful during her Internal Affairs interview.

Trooper Genduso was suspended without pay on February 23, 2018. The IA investigation was completed on July 21, 2018. She resigned on August 18, 2018.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that one of the potential witnesses in this case, **Townsend Police Lieutenant Mark Giacotti**, was the subject of an internal affairs investigation in February 2017. After a subsequent proceeding before an independent hearing officer appointed by the town of Townsend in April 2017, Lieutenant Giacotti was found to have made multiple false, but not deliberately untruthful, statements, claimed an improper reimbursement, submitted misleading information to a town body and superior officer, and failed to cooperate with an internal investigation. As a result of these findings, Lieutenant Giacotti was suspended for a period of five days. The District Attorney's Office is not in possession of any documents related to the investigation mentioned above.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_ COURT  
DOCKET NO. \_\_\_  
DOCKET NO. \_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law and notifies the defendant that it possesses documents from an internal affairs investigation into one of the potential witnesses in this case, former **Framingham Police Detective Joseph Godino**, regarding an allegation of untruthfulness in his testimony in [REDACTED]. These documents include: a memorandum authored by Sergeant Chris Montouri, dated November 19, 2015, that concluded Detective Godino exhibited conduct unbecoming an officer and was untruthful in responding to questions during a motion hearing in the above-captioned case; a second memorandum, authored by Lieutenant Victor Pereira and dated December 21, 2015, reaching a contrary conclusion; and a third memorandum, authored by retired Chief Kenneth Ferguson, concurring with Lieutenant Pereira's conclusions and finding that former Detective Godino's conduct "did not rise to the level of a violation[.]" The Commonwealth subsequently filed a nolle prosequi in the case for reasons unrelated to the internal affairs investigation.

The Commonwealth objects to the disclosure of records relating to the internal affairs investigation and to impeachment of former Detective Godino by the above-referenced conduct at trial in the above-captioned case. As grounds therefor, the Commonwealth states that the documents are not relevant or material in that they are unconnected to the above-captioned case and further notes that, "[i]n general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility." Mass. G. Evid. § 608(b).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: July 27, 2018

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that one of the potential witnesses in this case, **former Everett Officer Jim Grenham**, was the subject of an internal affairs investigation stemming from his use of excessive force during a booking on September 24, 2019. That investigation concluded that Officer Grenham displayed unacceptable judgment and exhibited conduct unbecoming an officer. Officer Grenham received a one-week suspension and was recommended for termination. He retired on December 31, 2020, prior to a hearing before the city's appointing authority. The District Attorney's Office is in possession of a video recording depicting the incident mentioned above.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer James Grubb** violated internal rules and regulations of the Medford Police Department, including several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Grubb was suspended for two (2) full work days, removed from the detail list for a period of twenty-one (21) work days, and required to reimburse the department \$690.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law and notifies the defendant that a potential witnesses in this case, former **Somerville Police Officer Gravin Guillen**, was the subject of an internal affairs investigation regarding an allegation of untruthfulness which is unrelated to this case. The investigation concluded without an affirmative finding of untruthfulness. Officer Guillen resigned from the Somerville Police Department on February 24, 2016.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING A POTENTIAL WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that the Middlesex District Attorney's Office is aware that, after an internal investigation, one of the potential witnesses in this case, **Framingham Police Detective Matthew Gutwill**, was suspended for 5 days from the Framingham Police Department in a notice dated December 12, 2016, for violations of the rules regarding truthfulness and conduct unbecoming an officer.

The violations were based on statements the detective made in a telephone conversation with former Chief Kenneth Ferguson on February 5, 2016. Cf. Town of Framingham v. Framingham Police Officers Union, 93 Mass. App. 537, 539-540 & n.3 ("Despite the absence of any suggestion in the investigator's report that Officer Gutwill was dishonest, the police chief accused Officer Gutwill of denying to the investigator that he made various statements in the February 5, 2016, telephone call."), rev. den., 480 Mass. 1108 (2018). The Commonwealth possesses documents pertaining to the internal investigation.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

\_\_\_\_\_  
Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Mass. State Police Trooper John Hanna**, was charged in Natick District Court, Docket Nos. 1487CR862 and 1587CR361, with violating an abuse prevention order arising out of his alleged conduct in July, September, and October 2014 in Natick. On August 29, 2015, he admitted to sufficient facts and the cases were continued without a finding for 6 months with the condition that he abide by a restraining order.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Sergeant Charles Harnett** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Sergeant Harnett received a letter of reprimand, was suspended for one full work day, removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$276.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN

DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **Lasell-Mount Ida College Police Sergeant Joel Harris**, was the subject of an internal affairs investigation which concluded that he used excessive force against a female student and was untruthful during the course of the investigation into that incident. Sergeant Harris was placed on paid administrative leave on February 1, 2017, and was terminated on March 6, 2017.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant regarding a potential witness in this case, **North Reading Police Detective Thomas Hatch**. A decision issued on January 9, 2015, in Middlesex Superior Court allowing the defendant's motion to suppress in [REDACTED], contains an adverse credibility finding as to Detective Hatch with regard to his observation of a purported drug transaction. The Commonwealth notes that such a finding is not admissible for impeachment purposes at trial. Cf. Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009), citing Commonwealth v. Olsen, 452 Mass. 284, 293, 892 N.E.2d 739 (2008) and F.W. Stock & Sons v. Dellapenna, 217 Mass. 503, 506-507 (1914) ("Unless there is a criminal conviction, G.L. c. 233, § 21, evidence of 'particular bad acts of untruthfulness' is inadmissible for impeachment purposes.").

The Commonwealth is aware of its continuing discovery obligations and will provide any further discoverable information to the defendant as required.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office is aware that one of the potential witnesses in this case, North Reading Police Officer Ernest Henry, was involved in an internal affairs investigation in approximately 2008 by the North Reading Police Department. The Commonwealth is aware that the internal affairs investigation focused in part on Officer Henry's truthfulness in connection with his observations of a criminal act committed by former North Reading Officer John Morrison, Jr. Officer Morrison, who no longer works for the North Reading Police Department, was prosecuted by the Middlesex District Attorney's Office for Assault and Battery as well as Filing a False Police Report, and admitted to sufficient facts to those charges on January 4, 2009 in Woburn District Court, Docket No. 0853CR002568.

On November 5, 2009, the Commonwealth was advised by the North Reading Police Department that Officer Henry retired, effective November 2, 2009.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, former **Pepperell Police Sergeant Armando Herrera**, entered a guilty plea on June 13, 2016, in Middlesex Superior Court Docket No. 1581CR423, to strangulation, willfully misleading the police in a criminal investigation, and filing a false police report arising from his conduct on September 7, 2015 in Pepperell. He received a suspended sentence of 2½ years in jail and was placed on probation for 3 years. Sgt. Herrera resigned from the police department on October 13, 2015.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, former **Massachusetts State Police Trooper Nicholas Holden**, was the subject of two internal affairs investigations. On August 7, 2017, Trooper Holden was suspended without pay for eighteen months based on his violation of internal rules and regulations of the State Police. As a result of these infractions, Trooper Holden entered into a Last Chance Agreement with the State Police. On August 4, 2020, Trooper Holden was terminated for violating that Agreement after a second internal affairs investigation concluded that he exhibited conduct unbecoming an officer and violated the State Police social media policy.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b)

(specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, Medford Police Officer Gregory Hudson, had a criminal complaint issue against him on or about August 20, 2010 for sexual conduct for a fee. This case resolved in Lynn District Court, Docket No. 1013CR004272, on or about August 20, 2010 by way of a continuance without a finding until February 25, 2011.

The Commonwealth is aware of an internal affairs investigation that was conducted by the Medford Police Department in conjunction with these criminal allegations. Related to this internal affairs investigation, Officer Hudson was on paid administrative leave beginning on August 20, 2010, and beginning on March 6, 2011, he began a nine-month suspension from the Medford Police Department that ran through December 7, 2011.

In addition, the Commonwealth has become aware that Officer Hudson has additional arraignments on his BOP. Specifically, on or about March 22, 1999, Officer Hudson was charged with Assault and Battery, resulting in a disposition of pre-trial probation until December 8, 1999 out of Somerville District Court, Docket No. 9910CR0647. Also, on or about March 18, 1996, Officer Hudson was charged with three counts of Larceny by Check out of Somerville District Court No. 9610CR0587, resulting in three continuances without a finding until September 11, 1996.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **Cambridge Police Officer Brian Hussey**, was the subject of an internal affairs investigation stemming from a Facebook post made while Officer Hussey was on duty. The investigation ultimately sustained numerous violations of the internal rules, regulations, policies and procedures of the Cambridge Police Department, including those addressing biased-based policing, and found that Officer Hussey's post "perpetuate[d] stigmatizing and discriminatory practices that could be considered insensitive." Officer Hussey received a four-day suspension as a result of this investigation. The Commonwealth possesses a letter of suspension associated with this investigation.

The Commonwealth is also aware that Officer Hussey was previously suspended for one day, without pay, effective March 29, 2019. This disciplinary action was the result of an internal affairs investigation into an incident on September 12, 2017, in which unaccounted-for evidence was found in a storage cabinet. The investigation determined that Officer Hussey did not properly store evidence following the execution of a search warrant and, by mishandling the evidence, he failed to conform his behavior to the standards of conduct established by the Cambridge Police Department.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for

impeachment. “The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness’s] credibility.” Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Richard Iozza** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Iozza was suspended for four (4) full work days, removed from the detail list for a period of thirty (30) work days, and required to reimburse the department \$1,196.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, Somerville Police Officer Yvon Jean-Jacques was subject to an internal affairs (“IA”) investigation by the Somerville Police Department. More specifically, the Somerville Police Department found that Officer Jean-Jacques’ conduct on September 16, 2011 -- which related to his actions surrounding an internal police communication regarding one of his personal friends who was stopped and arrested by Somerville detectives -- violated numerous Somerville Police Department “Rule and Regulations,” listed as:

- the following “Required Conduct”:
  - (1) Attention to Duty;
  - (2) Devotion to Duty;
  - (3) Truthfulness; and
- the following “Prohibited Conduct”:
  - (1) Conduct becoming an Officer;
  - (2) False information on records,
  - (3) Improper associations;
  - (4) Incompetence;
  - (5) Neglect of duty.

The Commonwealth has been advised, based in part on a letter dated May 24, 2012 addressed to Officer Jean-Jacques from the City of Somerville, that Officer Jean-Jacques had been terminated from the Somerville Police Department as a result of the IA findings. However, Officer Jean-Jacques has since been reinstated to the Somerville Police Department following an arbitrator's decision dated June 17, 2013, which reversed some of the previous IA rulings. The arbitrator determined that, "[a]lthough various rule violations were cited in [Officer Jean-Jacques'] termination letter, there [were] two essential charges against him: being inattentive to duty and attempting to alert a target of investigation." The arbitrator went on to conclude that Officer Jean-Jacques "did not violate" department rules regarding attentiveness to duty, and that the City of Somerville "did not carry its burden of proof" – clear and convincing evidence – as to the latter charge. The arbitrator ultimately found that while Officer Jean-Jacques was "not without fault or responsibility . . . there was not just cause for his termination."

The Commonwealth is in possession of documents relating to this IA investigation, termination and reinstatement referenced above. The Commonwealth is not aware of whether the documents in our possession constitute the entire file(s) in the possession of the Somerville Police Department and/or City of Somerville.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **Mass. State Police Trooper Dale Jenkins**, was convicted on December 21, 2016, of negligent operation of a motor vehicle in Essex Superior Court, Docket No. 1477CR1424, and was sentenced to 90 days in the house of correction suspended for two years.

The Commonwealth has also learned that Trooper Jenkins was found to be violation of MSP policy and procedure by consuming an alcoholic beverage while he was on call for work and yelling at Lawrence General Hospital staff and that in light of the above, he was suspended without pay for a period of two (2) years, eight (8) months and twenty (20) days.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Marlborough Detective Derek Johnson**, admitted to stealing cash evidence from the Marlborough Police Department evidence room. In all, Detective Johnson admitted to stealing approximately \$8,000 from approximately 10 pending criminal cases. The Marlborough Police Department conducted an internal investigation into this conduct and sustained the allegation of larceny.

The Commonwealth has been advised by the Marlborough Police Department that effective May 12, 2011, Detective Johnson resigned from the Marlborough Police Department.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

MALDEN DISTRICT COURT  
DOCKET NO. 1850CR000533

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Matthew Jones** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Jones was suspended for four (4) work days, removed from the detail list for a period of thirty (30) work days, and required to reimburse the department \$1,012.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Tewksbury Police Officer Walter J. Jop, III**, was arraigned on October 20, 2020, in Lowell District Court (Docket No. 2011CR002957) for operating under the influence of intoxicating liquor based on an incident that occurred on October 19, 2020 in Tewksbury. Officer Jop has been on administrative leave since July 17, 2020 and is retired effective October 30, 2020.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

DISTRICT COURT DEPARTMENT  
DOCKET NO.:

**COMMONWEALTH**

v.

---

**COMMONWEALTH'S NOTICE REGARDING  
MSP FORENSIC SCIENTIST JAMES S. JOSEPH**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant of information concerning the credentials of **Massachusetts State Police Forensic Scientist James S. Joseph**. Attached is a letter from the Executive Office of Public Safety and Security (EOPSS) dated May 12, 2015 along with a referenced attachment detailing the applicable timeline (total of three pages).<sup>1</sup>

The timeline includes information that Mr. did not initially successfully complete an examination for miscellaneous substances (tablets, residues, phenethylamines) but after a period of remediation successfully completed the examination. During the intervening time period, Mr. Joseph participated in testing of substances involved in the above-referenced case under the supervision of a trained senior analyst.

The Commonwealth provides this Notice out of an abundance of caution and is aware of its continuing discovery obligations.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN.  
DISTRICT ATTORNEY

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Assistant District Attorney

DATE:

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<sup>1</sup> The list detailing the cases on which Mr. Joseph worked during the intervening time period, received from EOPSS and referenced in its letter, has been omitted to avoid any potential CORI violation. G.L. c. 6, §§ 167-178.



The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security  
One Ashburton Place, Room 2133  
Boston, Massachusetts 02108

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CHARLES D. BAKER  
Governor

DANIEL BENNETT  
Secretary

KARYN E. POLITO  
Lt. Governor

May 12, 2015

District Attorneys

This follow-up correspondence is in regards to the request for additional information on any other post-Dookhan forensic scientists who may have not have successfully completed examinations in their training program within MSP Forensic Services Group (FSG). The Crime Lab has identified three additional forensic scientists working in the Drug Lab who did not initially complete their first written examination for miscellaneous substances (tablets, residues, phenethylamines): Brittany Fox, Heather Mowatt and James Joseph.

The above three forensic scientists, as provided for in the State Police Crime Laboratory's training program, and consistent with national practices and ASCLD/LAB accreditation standards, subsequently completed the miscellaneous substance examinations successfully without further issue. By doing so, these analysts effectively demonstrated their abilities to independently identify miscellaneous samples and the ability to accurately report conclusions. All three forensic scientists had previously completed their marihuana competencies, demonstrated adherence to chain of custody practices, demonstrated proficiency in the use and operation of drug instrumentation and completed their cocaine/heroin competencies. At no time did any of these forensic scientists perform analysis on casework in which they were not deemed competent.

Attached are the training time lines and lists of miscellaneous substance cases associated with each of these three forensic scientists. These cases were completed under the supervision of a trained senior analyst. These lists represent the cases these forensic scientists participated in the sampling and testing of, up until they successfully completed the miscellaneous substance examinations. The names of the subjects/defendants are included for your review. Fox: 56 cases; Mowatt: 55 cases; Joseph: 57 cases.

Also attached is the list of cases for Justin Kaliszewski with each subject's name included. This list includes 221 cases, down from the originally reported 288, as the Lab removed marihuana cases from the list (Kaliszewski had passed the marihuana competency previously).

Please let me know if you need additional information or documents.

Thank you.

A handwritten signature in black ink, appearing to read "Dan Bennett", written over a horizontal line.

Daniel Bennett  
Secretary

James Joseph

Date	Event	Significance
1/28/13	Analyst begins working in the Drug Unit	His training in the Drug Unit commences
1/28/13	Analyst begins the introductory readings which includes the general laboratory information; Safety and Security, Drug Unit Quality Control procedures, Quality Assurance Manual, DEA Readings which include general readings on Marihuana, Cocaine, Opiates/Narcotics and Miscellaneous drugs	Analyst familiarizes himself with Forensic Services Group procedures, the Laboratory's accreditation standards (standards by which the laboratory is accredited and operates as per the American Society of Crime Laboratory Directors/Laboratory Accreditation Board - ASCLD/LAB), the Safety and Security procedures in the laboratory
1/28/13	Marihuana Training commences	Marihuana training includes literature review, observation of trained analysts performing casework on Marihuana cases, and review of analytical principles.
2/1/13	Analyst completes practical exercises for Marihuana/Vegetable Matter module	Practical exercises encompass use of microscopes for identification, analytical balances for weighing samples, color tests, and Gas Chromatograph/Mass Spectrometer (GC/MS) for identification (including running of negative and positive controls). <b>Successful completion of the practical exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use of the above instrumentation to conduct tests on casework samples under supervision of a trained analyst.</b>
3/26/13	Cocaine/Heroin Training commences	Cocaine/Heroin training includes literature review, observation of trained analysts performing casework on Cocaine/Heroin cases, and review of analytical principles.
4/11/13	Analyst completes powder practical exercises on analytical balances, UV/VIS, FTIR, and GC/MS instrumentation.	Practical exercises encompass use of analytical balances for weighing samples, color tests, Ultraviolet/Visible Spectrophotometer (UV/VIS), Fourier Transform Infrared Spectrometer (FTIR), and GC/MS for analysis (including running of the negative and positive controls). <b>Successful completion of the practical exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use of the above instrumentation to conduct tests on powder samples under supervision of a trained analyst.</b>
4/17/13	Marihuana exam is administered; analyst is assigned the practicals for Marihuana competency	Analyst is administered an exam on Marihuana analysis and practicals and report writing on suspected Marihuana samples. <b>Successful completion of the examination and practical demonstrates analyst's ability to independently identify suspected Marihuana samples and his ability to accurately report conclusions.</b>
7/16/13	Training on Miscellaneous Substances (tablets, residues, phenethylamines, etc.) commences	Miscellaneous substances training includes literature review, observation of trained analysts performing casework on miscellaneous substances, and review of analytical principles. Successful completion of the training exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and conducting tests on casework samples under supervision of a trained analyst.
7/24/13	Cocaine/Heroin exam is administered; analyst is assigned the practicals for powders competency	Analyst is administered an exam on Cocaine/Heroin analysis and practicals on suspected Cocaine/Heroin samples. <b>Successful completion of the examination and practical demonstrates analyst's ability to independently identify suspected Cocaine/Heroin samples and his ability to accurately report conclusions.</b>

James Joseph

1/30/14	Miscellaneous substances exam is administered; analyst is assigned the practicals for miscellaneous substances competency	Analyst is administered an exam and a practical which included a report component. Analyst did not identify all components in a sample in the practical exercise. Supervisor reviewed results with analyst to discuss the inconsistency with the expected result. Analyst is issued another practical.
4/18/14	Subsequent practical exam is administered	<b>Successful completion of the practical demonstrated analyst's ability to independently identify miscellaneous samples and her ability to accurately report conclusions.</b>
6/9/14	Mock Trial	Analyst prepares for mock trial testimony; review of courtroom procedures; a review of testimony is conducted with respect to qualifying, direct and cross examination questions (this training may occur concurrently with other training modules if the analyst has had no prior testimony experience).



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

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**COMMONWEALTH'S NOTICE REGARDING  
MSP FORENSIC SCIENTIST AMY JOY**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant of information concerning the credentials of **Massachusetts State Police Forensic Scientist Amy Joy**. Attached is a letter from Laura M. Bryant, Quality Assurance Manager of the Massachusetts State Police Crime Laboratory (MSPCL) dated December 23, 2021, along with a notification to prosecuting attorneys for current discovery requests and pretrial proceedings (total of four pages).

The notification includes information that Ms. Joy is the subject of an ongoing quality evaluation initiated by the MSPCL in response to the identification of non-conforming work during the grading of a DNA Proficiency Test. This evaluation is currently in progress and associated documentation of any conclusions is not yet complete. Any deficiencies identified as part of the review will be documented in the case record, and the applicable investigating and prosecuting agencies will be notified in accordance with MSPCL procedures.

The Commonwealth provides this Notice out of an abundance of caution and is aware of its continuing discovery obligations.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN.  
DISTRICT ATTORNEY

---

Assistant District Attorney

DATE:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO.: \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING  
FORMER MSP FORENSIC SCIENTIST JUSTIN KALISZEWSKI

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and submits this notice to the defendant concerning the credentials of **former Massachusetts State Police Forensic Scientist I Justin Kaliszewski**. Attached please find the following documents: (1) May 8, 2015 letter and attachments A (timeline) and B (“Accreditation Summary of the Drug Unit”) (total of five pages); and (2) May 12, 2015 letter (one page).<sup>1</sup>

Mr. Kaliszewski did not successfully complete an oral examination for cocaine/heroin (powders) on July 22, 2013, but did so on January 22, 2014 after remediation. During the intervening time period, he participated in testing of substances involved in the above-referenced case under the supervision of a trained senior analyst. Mr. Kaliszewski did not successfully complete the written examination on miscellaneous substances (tablets, residues, phenethylamines) on March 20, 2014. No remediation was offered as he accepted reassignment to the Office of Alcohol Testing (OAT) on June 1, 2014.

The Commonwealth provides this Notice out of an abundance of caution and is aware of its continuing discovery obligations.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN.  
DISTRICT ATTORNEY

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<sup>1</sup> Please note that the lists detailing the cases that Mr. Kaliszewski worked on during the target time period, received from EOPSS and referenced in both letters, have been omitted to avoid any potential CORI violation pursuant to G.L. c. 6, §§ 167-178.

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Assistant District Attorney

[Address]

[Tel. No.]

[BBO No.]

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

CERTIFICATE OF SERVICE

I, \_\_\_\_\_, Assistant District Attorney, served this Notice and all attachments on counsel of record in the instant case **[by first class mail/email/facsimile/in hand]** as well as the last known address for the defendant on the date noted below.

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[NAME]

Assistant District Attorney

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



The Commonwealth of Massachusetts  
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CHARLES D. BAKER  
Governor

DANIEL BENNETT  
Secretary

KARYN E. POLITO  
Lt. Governor

May 12, 2015

District Attorneys

This follow-up correspondence is in regards to the request for additional information on any other post-Dookhan forensic scientists who may have not have successfully completed examinations in their training program within MSP Forensic Services Group (FSG). The Crime Lab has identified three additional forensic scientists working in the Drug Lab who did not initially complete their first written examination for miscellaneous substances (tablets, residues, phenethylamines): Brittany Fox, Heather Mowatt and James Joseph.

The above three forensic scientists, as provided for in the State Police Crime Laboratory's training program, and consistent with national practices and ASCLD/LAB accreditation standards, subsequently completed the miscellaneous substance examinations successfully without further issue. By doing so, these analysts effectively demonstrated their abilities to independently identify miscellaneous samples and the ability to accurately report conclusions. All three forensic scientists had previously completed their marihuana competencies, demonstrated adherence to chain of custody practices, demonstrated proficiency in the use and operation of drug instrumentation and completed their cocaine/heroin competencies. At no time did any of these forensic scientists perform analysis on casework in which they were not deemed competent.

Attached are the training time lines and lists of miscellaneous substance cases associated with each of these three forensic scientists. These cases were completed under the supervision of a trained senior analyst. These lists represent the cases these forensic scientists participated in the sampling and testing of, up until they successfully completed the miscellaneous substance examinations. The names of the subjects/defendants are included for your review. Fox: 56 cases; Mowatt: 55 cases; Joseph: 57 cases.

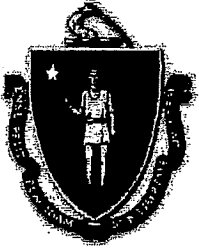
Also attached is the list of cases for Justin Kaliszewski with each subject's name included. This list includes 221 cases, down from the originally reported 288, as the Lab removed marihuana cases from the list (Kaliszewski had passed the marihuana competency previously).

Please let me know if you need additional information or documents.

Thank you.

A handwritten signature in black ink, appearing to read 'Dan Bennett', written over a horizontal line.

Daniel Bennett  
Secretary



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CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

DANIEL BENNETT  
Secretary

May 8, 2015

District Attorneys.

This correspondence is in regards to your request for information concerning Massachusetts State Police Forensic Scientist I, Justin Kaliszewski. Mr. Kaliszewski began employment in the Drug Unit on October 15, 2012 and immediately began his introductory training into laboratory operations including reviewing Drug Lab policies and procedures, ASCLD/LAB (ISO) accreditation standards that the State Police Laboratory operates under, safety and security procedures and he commenced his training in Marijuana. (see attachment A for timeline)

He successfully completed his training in the Evidence Control Unit (ECU) and the use and operation of the Laboratory Information System (LIMS) on October 17, 2012. He successfully completed his practical exercises in Marijuana/Vegetable matter module on October 25, 2012, demonstrating the ability of an analyst to perform tasks such as opening evidence, sampling evidence and the use of instrumentation to conduct tests on the casework samples under the supervision of a trained analyst.

Kaliszewski successfully completed instrumentation training on November 13, 2012, demonstrating his ability to use the instrumentation to perform casework including marijuana and powders. He continued his training program under the supervision of a trained analyst. He successfully completed his oral examination in Marijuana analysis on January 17, 2013, demonstrating his ability to independently identify Marijuana samples and his ability to report conclusions.

His cocaine/heroin training began on January 23, 2013 under the supervision of a trained analyst. On July 22, 2013 he was administered the Cocaine/Heroin (powders) oral examination. He did not successfully complete the oral examination and the remediation began. This is a widely accepted practice in the forensic community and under the ASCLD/LAB (ISO) accreditation program, which the State Police Lab operates under. (see attachment B). This remediation allowed for him to continue to perform supervised casework in the tasks he had previously demonstrated abilities. On January 22, 2014, he successfully completed his oral examination and practical on cocaine/heroin (powders). He demonstrated his ability to independently identify suspected cocaine/heroin samples and his ability to accurately report conclusions.

He began his training on miscellaneous substances (tablets, residues, phenethylamines) on January 22, 2014. He did not successfully complete the written examination on these substances on March 20, 2014. No remediation was offered as he accepted reassignment to the Office of Alcohol Testing on June 1, 2014. He did not perform any miscellaneous substances casework.

In conclusion, the State Police Drug Lab followed all of the established policies, procedures and training protocols that are in effect and are widely accepted in the forensic community and accredited under ASCLD/LAB.

Sincerely,

A handwritten signature in cursive script that reads "Daniel Bennett". The signature is written in dark ink and is positioned above the typed name.

Daniel Bennett, Secretary

Attachment A

Date	Event	Significance
10/15/12	Justin Kalszewski began working in the Drug Unit	His training in the Drug Unit commenced.
10/15/12	Justin begins the Introductory readings which included the general laboratory information; Safety and Security, Drug Unit Quality Control procedures, Quality Assurance Manual, DEA Readings which included general readings on Marijuana, Cocaine, Opiates/Narcotics and Miscellaneous drugs	Analyst familiarized himself with Forensic Services Group procedures, the Laboratory's accreditation standards (standards by which the laboratory is accredited and operates as per the American Society of Crime Laboratory Directors/Laboratory Accreditation Board - ASCLD/LAB), and the Safety and Security procedures in the laboratory
10/15/12	Marihuana Training Commences	Marihuana training includes literature review, observation of trained analysts performing casework on Marihuana cases, and review of analytical principles related to Marihuana analysis.
10/17/12	Justin completed training in the Evidence Control Unit (ECU); Laboratory Information Management System (LIMS) training	Analyst was trained to utilize the LIMS to record case information, track casework for chain of custody purposes, and evidence handling.
10/25/12	Justin completed practical exercises for Marihuana/Vegetable Matter module	Practical exercises encompassed use of microscopes for identification, analytical balances for weighing samples, color tests, and Gas Chromatograph/Mass Spectrometer (GC/MS) for identification (including running of negative and positive controls). Successful completion of the practical exercises demonstrated the ability of the analyst to perform tasks such as opening evidence, sampling evidence and use of the above instrumentation to conduct tests on the casework samples under the supervision of a trained analyst.
11/13/12	Justin completed the powder practicals on analytical balances, UV/VIS, FTIR, and GC/MS instrumentation.	Practical exercises encompassed use of analytical balances for weighing samples; color tests, Ultraviolet/Visible Spectrophotometer (UV/VIS), Fourier Transform Infrared Spectrometer (FTIR), and GC/MS for analysis (including running of the negative and positive controls). Successful completion of the practical exercises demonstrated ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use the above instrumentation to conduct tests on casework samples under the supervision of a trained analyst.
1/17/13	Marihuana Competency	Analyst successfully completed oral examination on Marihuana analysis and successfully completed his practicals and report writing on suspected Marihuana. Analyst demonstrated his ability to independently identify Marihuana samples and his ability to accurately report conclusions.
1/23/13	Cocaine/Heroin Training Commences	Cocaine/Heroin training includes literature review, observation of trained analysts performing casework on Cocaine/Heroin cases, and review of analytical principles related to Cocaine & Heroin analysis.
7/22/13	Analyst was administered the Cocaine/Heroin (powders) oral exam	Cocaine/Heroin oral exam was administered. Supervisors agreed that the oral exam was not successfully completed and remediation was necessary for Analyst to complete the powders module. Analyst could not clearly relay answers pertaining to theory and application behind the instrumentation used in the drug unit and could not describe the manufacturing process to make Cocaine from the plant. Supervisors assessed that the analyst needed to demonstrate a complete understanding in these concepts and the capability to articulate this information during court testimony. Analyst continued to perform supervised casework in the areas he had demonstrated ability in, such as opening evidence, sampling evidence, and conducting testing on casework samples.

-8/16/13	Supervisor met with analyst to discuss remediation	Analyst was informed that he needed to review materials related to the production of the Cocaine from the plant and to review the theory and application behind the instrumentation used in the drug unit. He was directed to conduct research into these topics and articulate his understanding in written form. Analyst continued to perform supervised casework in the tasks he had previously demonstrated ability in, such as opening evidence, sampling evidence, and conducting testing on samples.
10/18/13	Analyst submitted remediation documentation to supervisor	
10/22/13	Supervisors reviewed remediation documents	Supervisors reviewed the remediation documentation and decided that some explanations and concepts conveyed were of a general nature and were not specific to forensic drug analysis. Supervisors requested supplemental responses that pertained to forensic analysis within the drug unit. Analyst worked with supervisors specifically on these remediation items. Analyst continued to perform supervised casework in the tasks he had previously demonstrated ability in, such as opening evidence, sampling evidence, and conducting testing on samples.
1/22/14	Cocaine/Heroin Oral Exam remediation was accepted; analyst was assigned the practicals for powders competency	Remediation for the powders modules was accepted. Analyst successfully completed his practicals on suspected Cocaine/Heroin samples. Analyst demonstrated his ability to independently identify suspected Cocaine/Heroin samples and his ability to accurately report conclusions.
1/22/14	Training on Miscellaneous Substances (tablets, residues, phenethylamines, etc.) commences	Miscellaneous substances training includes literature review, observation of casework on these types of cases, and review of analytical principles related to the analysis of miscellaneous substances. This training included practical exercises and drug extraction procedures using in-house prepared samples.
3/20/14	Miscellaneous exam administered	Miscellaneous substances exam was administered to analyst. Supervisors agreed that the written exam was not successfully completed and remediation was necessary for Analyst to complete the miscellaneous module. Due to reassignment to Office of Alcohol Testing (OAT) remediation was not necessary as no casework in this area was performed.
6/1/14	Training in Drugs Concluded - Analyst accepts reassignment to OAT	



## Attachment B

### ACCREDITATION SUMMARY OF THE DRUG UNIT

- The Drug Identification Unit successfully achieved accreditation in 2002 by the American Society of Crime Laboratory Directors/ Laboratory Accreditation Board (ASCLD/LAB) under the Legacy Program and ASCLD/LAB's arduous *International Program* (ISO) in 2013. In 2015, ASCLD/LAB's auditors returned to perform a surveillance visit to include assessment of the new Springfield satellite Drug Unit for accreditation.
- Springfield's surveillance visit included scientific experts from across the nation to ensure compliance with accreditation standards and generally accepted practice within the forensic community. Springfield operates under the same policies, procedures and training program as the Sudbury Drug Unit which resulted in no findings and subsequently was awarded ASCLD/LAB –*International Program* (ISO) accreditation in April 2015. Surveillance visit included:
  - Drug Unit policies, QC/QA procedures, analytical methods, training program, Analyst educational and training records to include competency test records reviewed during accreditation process
  - Overarching policies governing the Crime Lab including the Quality Assurance Program and associated manuals reviewed by subject matter experts
- The method of training employed by the Drug Unit is an accepted and standard practice across the forensic community.
- Additionally, the remediation process that we have discussed is also an acceptable and common practice within any forensic training program. The goal is to ensure that analysts fully understand and can perform all aspects of their forensic discipline to meet the highest standards.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
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**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, Tewksbury Police Sergeant Timothy W. Kelly, was convicted on October 16, 2014 of leaving the scene of property damage (Lawrence District Court, docket 1418CR002469) arising out of his alleged conduct on or about April 3, 2014, in Lowell. Sergeant Kelly received a sentence of ten months' probation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Special Massachusetts State Police Officer William Kelly**, who was employed by the Cambridge Health Alliance, pleaded guilty (docket MICR 2014-00297) to violations of the Controlled Substance Act in October 2015.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

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DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Hudson Police Officer Joseph Kerrigan**, was placed on administrative leave on March 5, 2018, in conjunction with an internal affairs investigation into his conduct. On April 6, 2018, that investigation ultimately concluded that Officer Kerrigan was untruthful with officers responding to a report of criminal acts perpetrated by the officer. The Commonwealth is also aware that, in a memorandum of decision dated October 15, 2018, Justice Martine Carroll concluded that Officer Kerrigan was not credible in testimony before the Framingham District Court concerning the same incident that precipitated the aforementioned internal affairs investigation. The Commonwealth is in possession of Justice Carroll's memorandum.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and provides the defendant with a 16-page Civil Service Commission Decision dated October 26, 2006, pertaining to a potential witness in this case, **Somerville Police Officer Michael Kiely**.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, SS.

**CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503  
Boston, MA 02108  
(617) 727-2293

MICHAEL AMERAL and  
MICHAEL KIELY,

Appellants

v.

D-03-292 (AMERAL)  
D-03-289 (KIELY)

SOMERVILLE POLICE DEPARTMENT,

Respondent

Appellants' Attorney:

Stephen C. Pfaff, Esq.  
Merrick, Louison & Costello, LLP  
67 Battery March Street  
Boston, MA 02110  
(617) 439-0305  
spfaff@merricklc.com

Respondent's Attorney

Peter J. Berry, Esq.  
Brian Magner, Esq.  
Deutsch Williams Brooks  
DeRensis & Holland, P.C.  
99 Summer Street  
Boston, MA 02110-1213  
pberry@dwboston.com

Commissioner:

Christopher C. Bowman

**DECISION**

Pursuant to the provisions of G.L. c. 31, s. 43, the Appellants, Michael Kiely and Michael Ameral, (hereafter, "Kiely", "Ameral" or "Appellants"), are appealing the

decision of the Somerville Police Department (hereafter “City” or “Appointing Authority”) suspending them each for fifteen (15) days for violating various rules of the Somerville Police Department revolving around an incident that occurred on January 18, 2003. Kiely was charged with: a) falsifying records; b) being untruthful; and two charges related to c) not filing a timely and accurate report after using a weapon. Ameral was also charged with: a) falsifying records; and b) being untruthful; in addition to c) leaving an assigned area without permission; and d) neglect of duty. The two cases were consolidated as they relate to the same incident. The appeals regarding these two cases were timely filed. A hearing was held on August 28, 2006 at the offices of the Civil Service Commission. As no written notice was received from either party, the hearing was declared private. Three tapes were made of the hearing.

**FINDINGS OF FACT:**

Based upon the documents entered into evidence (Joint Exhibits 1 & 2; Appointing Authority Exhibits 3-61; and Appellant Exhibits 62-65) and the testimony of:

For the Appointing Authority:

- Somerville Police Captain John O’Connor;

For the Appellant:

- Officer Michael Kiely, Appellant;
- Officer Michael Ameral, Appellant;

I make the following findings of fact:

1. Appellant Michael Kiely was a tenured civil service employee in the position of police officer with the Somerville Police Department on January 18, 2003 and had been employed in that position for eight (8) years. He served as Vice President of the

local police union from 1998 through 2002 and described his relationship with the then-Police Chief as “hostile” as a result of several union-management issues involving budgetary matters. He had no record of discipline prior to January 18, 2003. (Testimony of Appellant Kiely)

2. Appellant Michael Ameral was also a tenured civil service employee in the position of police officer with the Somerville Police Department on January 18, 2003 and had been employed in that position for seventeen (17) years. Ameral had just recently succeeded Kiely as Vice President of the local police union in January 2003 and concurred with Kiely that there was a contentious relationship between the union and management at the time of the incident. Ameral had received a written reprimand one month earlier for being out of his sector without permission. (Testimony of Ameral)
3. Officer Kiely was assigned to a detail duty from 9:00 A.M. to 1:00 P.M. on January 18, 2003 at the East Cambridge Savings Bank on the corner of Highland Avenue and Cedar Street in Somerville, MA. (Testimony of Kiely, Exhibits 1 & 12)
4. Officer Ameral was working a tour of duty in Ward 2 on January 18, 2003 but had been given permission to attend a meeting at City Hall concerning the police department’s budget. At the conclusion of the meeting at City Hall, Ameral, the newly-elected union vice president, drove to the East Cambridge Savings Bank to discuss what happened at the meeting with Kiely, the now-former union vice president, who was on detail duty at the bank. The bank is located in Ward 5,



approximately 3/10 of a mile outside the ward that Ameral was assigned to that day (Ward 2). (Testimony of Ameral, Exhibits 2 & 15)

5. Officer Kiely did not have permission to go outside of Ward 2 at the conclusion of the City Hall meeting. (Exhibit 19)
6. Somerville Police Department General Order 97-7, Section J states, “Officers are not to leave their assigned areas without permission from the Street Supervisor or the Shift Commander.” (Exhibit 56)
7. Exactly how far away Ameral parked his car from the bank that morning when he went to visit Kiely would become an important issue at the Commission hearing in regard to the veracity of the Appellants’ testimony, particularly Ameral’s. The bank is located on the corner of Highland Avenue and Cedar Street and the entrance to the bank faces Highland Avenue. There is no dispute that Ameral, when arriving to see Kiely, parked his car somewhere down on Cedar Street.
8. Captain O’Connor, who testified on behalf of the Appointing Authority at the Commission hearing, measured the distance from the bank’s front entrance on Highland Avenue to the corner of Cedar Street (33 feet) and then measured the nearest location where Ameral’s car could have been parked on Cedar Street (an additional 75 feet). (Testimony of O’Connor and Exhibit 59)
9. Officers Ameral and Kiely conversed in the bank from approximately 11:00 A.M. to 11:38 A.M. Both officers were monitoring their police radios while in the bank. (Testimony of Kiely and Ameral; Exhibits 1, 12 and 19)

10. At approximately 11:35 A.M., the Somerville Police Department received a radio transmission from the Cambridge Police Department indicating that the Cambridge Police were pursuing a gray Honda which was believed to be a stolen vehicle. The Somerville Police dispatch broadcast this information to all units, including Officers Kiely and Ameal, at 11:36:49 A.M. (Exhibit 62)
11. Nine (9) members of the Somerville Police Department (other than the Appellants) were monitoring their police radios at the time and filed written reports with the Somerville Police Department regarding their recollection and/or involvement with the vehicle chase that day. (Exhibits 21-24; 26 & 27; 30, 32 & 33)
12. At least six of the officers who wrote the above-referenced reports explicitly referenced in their reports that they remember hearing on the radio that the stolen vehicle was headed into or toward Union Square in Somerville. While different streets are referenced in the reports as to where the stolen vehicle was at any given time, all of the streets referenced in the reports are in very close proximity to the intersection of Highland Avenue and Cedar Street, the location of the East Cambridge Savings Bank, where both of the Appellants were located. (Exhibits 21-24; 26 & 27; 30, 32 & 33)
13. There is no dispute that at some point, the pursuit of the stolen vehicle was subsequently called off by the Somerville Police Department.
14. Both Officers Ameal and Kiely testified before the Commission that they heard the initial radio transmission regarding the pursuit of the stolen vehicle. (Testimony of Appellants Ameal and Kiely)

15. Key parts of the testimony offered by Officer Ameal at the Commission hearing in regard to what happened *after* they initially heard the radio transmission about the pursuit of the stolen vehicle are inconsistent, not plausible and unsupported by the evidence.
  
16. Officer Ameal testified before the Commission that he left the bank before Officer Kiely left and walked back to his car parked down on Cedar Street, based on his purported belief that the stolen car was headed *away* from the bank and Union Square. According to Officer Ameal, he was back in his car down on Cedar Street when he heard the sound of gunshots. (Testimony of Ameal)
  
17. Officer Kiely, who heard the exact same radio transmission, testified that he exited the bank ten to fifteen seconds after Ameal, ordered pedestrians out of the cross walk, looked easterly on Highland Avenue and heard the sound of an accelerating engine. A car started speeding toward Officer Kiely and he put his hand up in an attempt to get the driver of the vehicle to stop. The speeding car started closing in on Officer Kiely and Kiely fired his gun in an attempt to shoot the driver of the car. Some of the bullets fired hit a building across the street. It was the first time Officer Kiely had discharged his weapon in a non-training environment during his tenure as a police officer. Even though Kiely's testimony comes three years after the incident, it was clear from his emotional testimony that this was a harrowing, life-threatening event that he will never forget and for which he has a vivid, detailed recollection. (Testimony of Kiely)

18. On February 5, 2003, less than 30 days after the incident in question, Officer Kiely was interviewed by Captain O'Connor. During that interview, Officer Kiely stated that, "a couple of seconds" after the shooting, he saw Officer Ameral standing on the sidewalk trying to get his attention. During his testimony before the Commission, Kiely confirmed that he saw Ameral standing there about two seconds after the shooting. (Testimony of Appellant Kiely)
  
19. Kiely's testimony directly contradicts that of Ameral. Ameral testified before the Commission that he was sitting in his car, parked down on Cedar Street, when he heard the sound of gunshots. Absent some super natural abilities, it is simply not possible that Ameral was able to get out of his car and walk, run or otherwise transport himself back to the scene --75 feet away-- in two seconds. What is more likely, based on the evidence and the testimony of Kiely, is that Ameral never went back to his car at all ---and was actually present for the entire incident, including Kiely's attempt to stop the driver of the stolen vehicle by shooting at him.
  
20. Ameral's credibility was further undermined by his testimony that, after purportedly making it back to the location in front of the bank where he believed shots may have been fired, he simply asked Officer Kiely, "are you alright, need any help?". Upon seeing Officer Kiely waiving him off, Ameral testified that he went back to his car on Cedar Street without asking even one question about the sound of gun shots. In his interview with Captain O'Connor on February 4, 2003, Ameral stated that he thought, "either they shot at him (Kiely) or he shot at them or there was no shot it was just the vehicle striking something." (Testimony of Ameral)

21. Ameral, having fired his weapon in the line of duty for the first time in his career, testified that he was seriously shaken by the incident, was nauseas, and vomited twice at his mother's house shortly after the incident. (Testimony of Ameral and Kiely)
22. Based on a call from Officer Kiely, Lt. Polito of the Somerville Police Department arrived at the scene. Polito's report indicates that upon arriving at the scene, Kiely handed over his gun voluntarily and that Kiely looked, "somewhat disoriented and a bit dazed at what had just happened." (Exhibit 32)
23. While at the scene on the day of the incident on January 18, 2003, Lt. Polito ordered Officer Kiely to "file a station report explaining his actions regarding what had occurred." (Exhibit 32)
24. Captain Matthews of the Somerville Police Department also arrived at the scene of the incident on January 18, 2003, and instructed Kiely "to go home, gather himself, and file a report right away". (Exhibit 49)
25. Lt. Polito spoke again with Officer Kiely the next morning, Sunday, January 19, 2003. According to a statement from Lt. Polito, "I asked him how he was doing and told him I needed his written report regarding what had occurred involving his actions. He (Kiely) informed me that he would be in to file his report this evening". (Exhibit 32)
26. Consistent with standard procedure, Kiely was relieved of duty on the day of the incident, January 18, 2003. He sought medical treatment and was ordered home by his personal physician. January 19, 2003 was Kiely's regular day off and he was scheduled to return to duty at midnight and begin a tour of duty at 12:01 A.M. on

January 21, 2003, but called in sick. He also called in sick on January 22, 2003, but did file his report that day (January 22, 2003). (Testimony of Kiely)

27. Section F, Rule 30 of the Somerville Police Department Rules and Regulations requires all officers to “promptly and accurately complete and submit all reports and forms as required by department procedures.” (Exhibit 55)

28. In his report filed on January 22, 2003, Officer Kiely offered a detailed account of what transpired on January 18, 2003, including references to his detail duty, with one glaring omission: there is not one reference to Officer Ameral being in, near or around the bank that day. Kiely repeatedly uses the pronoun “I” in his written report when describing even the most routine events that morning in which “we” is clearly more accurate, including, “I was standing inside the lobby of the bank”. In fact, it is undisputed that Officer Ameral was standing inside the bank with Officer Kiely. (Exhibit 1)

29. Officer Kiely never mentioned that Officer Ameral was present on January 18, 2003 to any of the numerous officers and superiors who responded to the shooting. (Testimony of Captain O’Connor)

30. During the course of his investigation, Captain O’Connor ordered all personnel who had been on patrol duty during the incident to file reports. On January 25, 2003, three days after Kiely filed his report, Officer Ameral filed a report describing his activities during the time when Officer Kiley fired his weapon on January 18<sup>th</sup>. Officer Ameral indicated in his report that he had been at or near the scene when Officer Kiley fired the shots. This was the first time that Captain O’Connor became aware that Officer

Ameral had been present with Officer Kiley in the bank during the stolen car chase.  
(Exhibit 2, Testimony of Captain O'Connor)

31. In his January 25<sup>th</sup> report, Ameral stated in part “minutes before 11:30 A.M. I departed the East Cambridge Saving bank.” (emphasis added) It is undisputed, however that the original radio transmission regarding the pursuit of the stolen vehicle did not come in until 11:36:49 A.M. and it is undisputed that Officer Kiely did not exit the bank until after 11:36:49 A.M. Since Kiely testified before the Commission that Ameral only left the bank “10 – 15 seconds” before him, Ameral’s statement can not be true. Further, Exhibit 16 is a picture captured by the bank security camera at 11:38:10 A.M. on January 18, 2003 – and Officer Ameral is standing in the bank lobby with Officer Kiely. (Exhibit 2, Exhibit 16)
32. Section F, Rule 34 of the Somerville Police Department Rules and Regulations requires an officer to “truthfully state the facts in all reports as well as when he appears before any judicial, departmental or other official investigation, hearing, trial or proceeding. He shall cooperate fully in all phases of such investigations, hearing, trial and proceedings” (Exhibit 55)
33. Officer Kiely was charged with: a) falsifying records; b) being untruthful; and two charges related to c) not filing a timely and accurate report after using a weapon and was suspended for fifteen (15) days. (Exhibit 3)
34. Officer Ameral was also charged with: a) falsifying records; and b) being untruthful; in addition to c) leaving an assigned area without permission; and d) neglect of duty. (Exhibit 4)

35. Both Appellants filed a timely appeal with the Civil Service Commission and the appeals were consolidated. (Exhibits 64 & 65)

## CONCLUSION

The role of the Civil Service Commission is to determine "whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300,304 (1997). See Town of Watertown v. Arria, 16 Mass. App. Ct. 331 (1983); McIsaac v. Civil Service Commission, 38 Mass. App. Ct. 473, 477 (1995); Police Department of Boston v. Collins, 48 Mass. App. Ct. 411 (2000); City of Leominster v. Stratton, 58 Mass. App. Ct. 726, 728 (2003). An action is "justified" when it is done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." Id. at 304, quoting Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928); Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 211, 214 (1971). The Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." Murray v. Second Dist. Ct. of E. Middlesex, 389 Mass. 508, 514 (1983); School Committee of Brockton v. Civil Service Commission, 43 Mass. App. Ct. 486, 488 (1997). The Appointing Authority's burden of proof is one of a preponderance of the evidence "if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." Tucker v.



Pearlstein, 334 Mass. 33, 35-36 (1956). In reviewing an appeal under G.L. c. 31, §43, if the Commission finds by a preponderance of the evidence that there was just cause for an action taken against an appellant, the Commission shall affirm the action of the appointing authority. Town of Falmouth v. Civil Service Commission, 61 Mass. App. Ct. 796, 800 (2004).

The issue for the commission is "not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision." Watertown v. Arria, 16 Mass. App. Ct. 331, 334 (1983). *See* Commissioners of Civil Serv. v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-728 (2003).

In January 2003, the City of Somerville and the police union had a strained relationship as a result of fiscal problems. The relationship between the local police union and the then-Police Chief was acrimonious, including the relationship between the Police Chief and the two Appellants. Officer Kiely, was the outgoing police union vice president and Officer Ameal was the incoming police union vice president.

On January 18, 2003, Officer Ameal, in his role as union vice president, attended a meeting at City Hall in regard to budget issues. Instead of returning to his assigned sector after the meeting, Ameal went outside of his sector (without permission) to speak with Officer Kiely, who was working a detail assignment at the East Cambridge Savings Bank, located on the corner of Highland Avenue and Cedar Street in Somerville.

Approximately one month prior to the incident which occurred on January 18, 2003, Officer Ameral had been disciplined for going outside his sector without permission.

While the Appellants were conversing inside the East Cambridge Savings Bank on the morning of January 18, 2003, a radio transmission was issued indicating that the Cambridge Police were pursuing a stolen vehicle into Somerville toward Union Square. All streets referenced in the radio transmission were in close proximity to the East Cambridge Savings Bank.

Officer Ameral asks the Commission to believe that, in response to these radio transmissions, he left the East Cambridge Savings Bank and walked back to his car parked over seventy (70) feet down Cedar Street. According to Ameral, once he was back in his car, he heard a sound which he assumed was gunshots. He then purportedly went back to the corner of Highland Avenue and Cedar Street. Officer Ameral then testified incredulously before the Commission that he simply asked Kiely if he was alright and, upon being waived off by Kiely, walked back to his car and drove away – never once asking Kiely about the gunshots, if Kiely himself had been shot at or whether Kiely had fired shots. On its face, this testimony is absurdly incredulous. Further, other evidence presented and the testimony of Officer Kiely confirms that Ameral is simply not telling the truth. In a report filed one week after the incident, Ameral stated that he left the bank minutes before 11:30 A.M. – which would have meant he left well before hearing the radio transmission. Pictures captured by the bank’s security video, submitted as evidence by the Appointing Authority, put both Kiely and Ameral in the bank at least until 11:38:10 A.M., offering irrefutable evidence that Ameral is not telling the truth about what time he walked out of the bank that morning. Further, even Officer Kiely

testified before the Commission that he saw Officer Ameal standing on the sidewalk outside the bank two seconds after he stepped into the road and fired his gun at the speeding vehicle. In order for Ameal's version of events to be remotely true, he (Ameal) would need to have gotten out of his car and walked or run 70 feet up Cedar Street toward Highland Avenue in two seconds.

Cognizant that his fellow officer (Ameal) had been disciplined by management approximately one month earlier for leaving his sector without permission, Officer Kiely waited three days to fill out a report regarding the incident, and once he did, failed to mention even once that Officer Ameal was present that morning at the bank, outside of his assigned sector.

An Appointing Authority is well within its rights to take disciplinary action when a police officer has "a demonstrated willingness to fudge the truth in exigent circumstances" because "[p]olice work frequently calls upon officers to speak the truth when doing so might put into question a search or might embarrass a fellow officer." See Town of Falmouth v. Civil Service Commission, 61 Mass. App. Ct. 796, 801 (2004); citing City of Cambridge, supra at 303.

By a preponderance of the evidence, the Appointing Authority has shown that Officer Kiely sought to conceal the fact that Officer Ameal was at the bank, out of his sector, when the incident in question occurred on January 18, 2003 by failing to indicate that Officer Ameal was present in the written report he submitted to the Somerville Police Department. In doing so, he was not truthful and he violated the rules and regulations regarding truthfulness and filing accurate reports. While there is a strong suspicion that

Kiely deliberately waited four days to file his report in order to coordinate his response with Ameral, which would support the charge related to Kiely not filing a timely report, the Appointing Authority did not prove this. Further, Kiely was clearly shaken by the shooting that day, appropriately sought medical attention and was out sick for two days after the incident, all mitigating factors in determining whether or not the report was filed in a timely manner. The underpinning of this case, however, is not whether or not the report in question was filed in a timely manner. Rather, the underlying question is whether or not the report was accurate, complete and truthful. It was not. As such, the 15-day suspension should not be disturbed solely because the Appointing Authority failed to show that Kiely's report was untimely.

The most troubling aspect of this case, however, is the untruthfulness of Michael Ameral. The irrefutable evidence, and even the testimony of Kiely, show that Ameral's version of events regarding the morning of September 18, 2003 is simply not true. By a preponderance of the evidence, the Appointing Authority has shown that Kiely was untruthful, falsified records, and was out of his sector without permission that day.

For all of the above-reasons, the Appellants' appeals under docket numbers D-03-289 and D-03-292 are hereby *dismissed*.

Civil Service Commission

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Christopher C. Bowman, Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Guerin, Marquis, Taylor, Commissioners) on October 26, 2006.

A true record. Attest:

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Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.  
Notice:

Stephen C. Pfaff, Esq.  
Peter J. Berry, Esq.  
Brian Magner, Esq.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14, case law, and in an abundance of caution, hereby notifies the defendant that potential Commonwealth witness, **former Malden Police Officer Brian Killion** was terminated from the Malden Police Department on October 29, 2012 following a hearing at the conclusion of an internal affairs investigation. He will not be called by the Commonwealth as a witness at trial in this case.

The Commonwealth is in possession of some documents that relate to the internal affairs investigation, but does not have any internal affairs documents reflecting its conclusions. The Commonwealth is aware of its ongoing discovery obligations pursuant to Rule 14 of the Massachusetts Rules of Criminal Procedure.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

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COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, former Mass. State Police Crime Lab employee **Erik Koester**, did not pass two proficiency tests in blood spatter analysis and did not pass a proficiency test in evidence collection. Two memos from the MSP Crime Lab, dated August 15, 2014, and September 23, 2014, totaling 5 pages are attached.

The Commonwealth possesses an additional 51 pages of documents regarding Mr. Koester which are not public in that they contain personnel information used for making employment decisions. G.L. c. 4, § 7, Twenty-sixth (c) (privacy exemption). See Wakefield Teacher's Ass'n v. School Comm. of Wakefield, 431 Mass. 792, 797-802 (2000) (“‘[P]ersonnel [file] or information’ . . . includes, at a minimum, employment applications, employee work evaluations, disciplinary documentation, and promotion, demotion, or termination information pertaining to a particular employee.”). Specifically, the documents include proficiency testing program results, detailed information regarding corrective action, and other personnel information concerning Mr. Koester from the years 2009 – 2014.

The Commonwealth has no objection to viewing of the documents by the defendant’s counsel of record. However, for the above reason, the documents should not be copied or otherwise disseminated.

Respectfully Submitted  
For the Commonwealth,

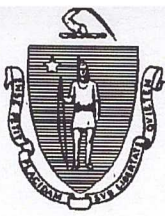
MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:





*The Commonwealth of Massachusetts*

*Department of State Police*

*Forensic and Technology Center*

*124 Acton Street*

*Raynard, Massachusetts 01754*

*Phone 978.451.3300 Facsimile 978.451.3301*

RECEIVED  
AUG 19 2014  
BY: MDAB

DEVAL L. PATRICK  
GOVERNOR

ANDREA J. CABRAL  
SECRETARY

COLONEL TIMOTHY P. ALBEN  
SUPERINTENDENT

TO: Lisa Ortiz Murray, Middlesex County District Attorney's Office

FROM: Kristen L. Sullivan, Laboratory Director, Massachusetts State Police Forensic Services Group

DATE: August 15, 2014

RE: Erik Koester Corrective Action

The Massachusetts State Police Forensic Services Group Quality Assurance Section and Forensic Biology Section have initiated a Corrective Action Plan involving former Forensic Scientist III Erik Koester. As part of this corrective action, a Quality Assurance measure was taken which involved reviewing particular areas of Criminalistics casework and crime scene analysis performed, reviewed, or supervised by this analyst. As a result of this review, corrected reports and/or memos are being issued for any case in which inaccurate information was reported. Please be aware that these corrected reports/memos will be provided to the point of contact in the respective District Attorney's Offices, applicable Assistant District Attorney as well as the investigating officer(s) for each case affected. The reports will be provided as they are completed, and approved for release through the Quality Assurance Section and/or the Director.

Should you have additional questions please contact Lynn A. Schneeweis, Section Manager of Forensic Biology at 978.451.3417 or Supervisor of the Quality Assurance Section Cathleen Morrison at 978-451-3306.

Respectfully,

Kristen L. Sullivan



# *The Commonwealth of Massachusetts*

## *Department of State Police*

### *Forensic and Technology Center*

*124 Acton Street*

*Raynard, Massachusetts 01754*

*Phone 978.451.3300 Facsimile 978.451.3301*

DEVAL L. PATRICK  
GOVERNOR

ANDREA J. CABRAL  
SECRETARY

COLONEL TIMOTHY P. ALBEN  
SUPERINTENDENT

To: District Attorney Marian T. Ryan, Middlesex Co.  
Assistant District Attorney Michael Pelgro, Middlesex Co.

Cc: Tara Maguire, Executive Director, MDAA

Date: September 23, 2014

Subject: Disclosure memo regarding former Forensic Scientist E. Koester

Erik Koester was hired by the Department of State Police Crime Lab, as a Criminalist, in January 2006. As an analyst, his job responsibilities consisted of responding to and processing crime scenes, to include screening for trace and biological materials. He was promoted to Crime Scene Response Supervisor (Danvers region) in 2008. At that time his duties also included training and supervising chemists/forensic scientists at crime scenes.

In March of 2012, Mr. Koester became the subject of an ongoing corrective action by Lab Management, due to deficiencies identified during the annual proficiency testing program (part of the Crime Lab's Quality Assurance Program). Mr. Koester resigned on April 1, 2014 and is no longer employed by the Department of State Police Crime Lab.

The following is a summation of the events of the Quality Assurance Management Section Corrective Action process:

- Mr. Koester failed proficiency testing in two areas: 1) bloodstain pattern analysis; and 2) recovery of trace material.
- He was restricted from conducting casework in the areas corresponding with his proficiency test deficiencies. (For example, he was restricted from using bloodstain pattern descriptions as well as performing technical reviews in this area.)
- Prior to resuming any casework duties in these areas, Mr. Koester was retrained and subsequently completed a competency test (internal practical test designed to test his ability to successfully perform analysis in the respective areas).
- The Crime Lab has thoroughly and chronologically documented the failures and remediation plan for Mr. Koester. The remediation plan complies with Crime Lab policies and procedures, accepted practices and ASCLD/LAB – *International* standard requirements.

Mr. Koester was removed from testing and crime scene processing whenever he failed a proficiency test. Thus, there should be no cases that include his work during time periods following his failure and before he was remediated. Based on information that has been gathered during these corrective action investigations, which included retraining, additional competency tests, retrospective case reviews, observation of courtroom testimony and analyst/supervisor discussions, the Crime Lab Management decided to conduct a comprehensive, retrospective case review to determine if there were any inconsistencies in his casework as a result of his continued competency concerns.

### **Retrospective Review**

The cases reviewed were categorized as follows and receive priority based on the severity of the case and whether the case has gone to trial:

- All cases involving a reported sexual assault in which no sperm cells were detected;
- All cases in which acid phosphatase testing was performed and a negative result was obtained (this is a presumptive test for seminal fluid);
- All cases in which biological cards had a negative result, with a photo taken for documentation, but no witness or second person reading the results;
- All cases in which trace materials were not recovered, but may have been probative if it were present;
- All cases in which bloodstain pattern analysis was conducted;
- All crime scene cases where Mr. Koester conducted the technical review and bloodstain patterns were reported.

The retrospective case review has begun with cases analyzed in July of 2013 and continues in reverse chronological order. The scope of review may be adjusted based on findings identified during the review.

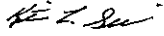
The cases are being reviewed by staff designated by the Forensic Biology Section Manager, in conjunction with the Quality Assurance Management Section (QAMS), to determine if re-examination of any evidence is required based on the case history and other probative factors.

The majority of the approximately 2200 cases Mr. Koester processed are confined to Suffolk County, Middlesex County, Essex County and possibly Worcester County, due to his assignment to the Northeast Sub-Laboratory at Danvers and the regionalization of crime scene response duties.

The Massachusetts State Police Forensic Services Group Quality Assurance Section and Forensic Biology Section have initiated a Corrective Action Plan involving former Forensic Scientist III Erik Koester. As part of this corrective action, a Quality Assurance measure was taken which involved reviewing particular areas of Criminalistics casework and crime scene analysis either performed by or supervised by this analyst. As a result of this review, corrected reports and/or memos are being issued for any case in which inaccurate information was reported. Please be aware that these corrected reports/memos will be provided to the point of contact in the respective District Attorney's Offices, applicable Assistant District Attorney, as well as the investigating officer(s) for each case affected. The reports will be provided as they are completed, and approved for release through the Quality Assurance Section and/or the Director.

If you have any additional questions, please contact Lynn Schneeweis, Forensic Biology Section Manager at 978.451.3417, Cathleen Morrison, Quality Assurance Section Supervisor at 978.451.3306 or me at 978.451.3323.

Respectfully,



Kristen L. Sullivan  
Laboratory Director/Chief Science Officer  
MSP Crime Laboratory

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Commonwealth is aware that former Weston Police Officer Joseph Kozowyk was the subject of an internal affairs ("IA") investigation by the Weston Police Department in December 2017, which resulted in adverse findings relating to Officer Kozowyk's violation of department rules and regulations concerning truthfulness, obeying lawful orders and insubordination.

The Commonwealth is also aware that, as a result of these adverse findings, Officer Kozowyk's employment was terminated by the Weston Police Department on February 2, 2018. The matter is currently before an arbitrator. The Commonwealth is in possession of the internal affairs report, dated January 2, 2018, as well as Officer Kozowyk's notice of termination.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it possesses two versions of a police report from an unrelated case generated by potential witness **Ayer Police Officer Andrew Kularski**, along with an internal affairs report regarding discrepancies between those two versions. The police reports, dated July 13, 2010 and January 26, 2011, concern an investigation into a masked armed robbery and contain several material discrepancies, including differing descriptions of: (1) the suspect's demeanor during an interview, (2) the suspect's physical appearance during that interview and how that appearance compared to the appearance of the perpetrator in a surveillance video recovered from the crime scene, and (3) the suspect's alibi for the date of the offense.

In December 2014, the Ayer Police Department concluded an internal affairs investigation that resulted in a verbal reprimand of Officer Kularski for not consulting with a supervisor before changing a submitted report.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witness in this case, **Lowell Police Officer David Lavoie**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct in conjunction with a March 7, 2018, drug arrest, concluded that Officer Lavoie violated several internal rules and regulations of the Lowell Police Department; specifically, that he (1) exhibited conduct unbecoming an officer, (2) exhibited gross incompetence, and (3) submitted inaccurate information in an arrest report. Officer Lavoie was placed on paid administrative leave on November 15, 2018. On February 26, 2018, Officer Lavoie was reassigned from the Special Investigations Section to patrol.

The Commonwealth is in possession of a redacted copy of the Board of Inquiry report, dated January 28, 2019, summarizing the conduct that formed the basis for these violations. The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

\_\_\_\_\_  
Assistant District Attorney



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that one of the potential witnesses in this case, **former Massachusetts State Trooper Corey Lee**, was terminated after a video surfaced depicting former Trooper Lee directing racial slurs at an unidentified civilian while off-duty. The District Attorney's Office is not in possession of any documents related to the incident mentioned above, and will no longer be calling former Trooper Lee as a witness.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witness in this case, **Lowell Police Officer Renee Lehmann**, was the subject of an internal affairs investigation. The investigation concluded that Officer Lehmann improperly accessed and disseminated information from the Criminal Justice Information System ("CJIS") to an unauthorized third party, and sustained numerous violations of internal rules and regulations of the Lowell Police Department. The Commonwealth has learned that, as a result of these findings, Officer Lehmann received a suspension, but is unaware of its duration.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING A POTENTIAL  
COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it is aware of an internal affairs investigation into one of the potential witnesses in this case, former **Acton Police Officer Martin Lawrence**.

To the best of the Commonwealth's knowledge, the investigation regarded an allegation that Officer Lawrence filed a false police report and failed to conduct a thorough investigation in a matter involving a MSP Trooper. None of the internal affairs documents are in the care, custody, or control of the District Attorney's Office. Officer Lawrence resigned from the Acton Police Department on September 8, 2016, prior to the completion of the internal affairs investigation.

Respectfully Submitted,  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, former Medford Police Officer Miguel Lopez, was indicted on August 15, 2013, Middlesex Superior Court Docket MICR2013-01011, on two counts of witness intimidation in violation of G. L. c. 268, § 13B. Lopez entered a guilty plea to these charges on June 26, 2017, and was sentenced to 3 years of probation with conditions.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

CAMBRIDGE DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE REGARDING  
A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and an abundance of caution, hereby notifies the defendant that the Commonwealth has been advised that effective December 2, 2011, Cambridge Police Sergeant Darcy Lowe, a potential witness in this case, resigned from the Cambridge Police Department. The Commonwealth has knowledge of the existence of Cambridge Police Department internal affairs ("IA") records in the possession of the Cambridge Police Department regarding Sgt. Lowe, including an instance involving Sgt. Lowe's credibility regarding his off-duty behavior and his department-issued firearm.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it has learned that one of the potential witnesses in this case, former **Westford Police Officer William G. Luppold, Jr.**, was the subject of an internal affairs investigation into money discovered missing from the Westford Police Department's Evidence room in August 2015. Officer Luppold was also the subject of an internal affairs investigation in April 2016 for violating police rules regarding handling of evidence, for which he received a one-year demotion.

The Commonwealth also learned that in 1997, Officer Luppold had a civilian in his cruiser during an active investigation; there was an internal affairs investigation into this incident in which Officer Luppold was found to have been untruthful; and he was suspended for 4 days as a result. Officer Luppold resigned from the Westford Police Department on March 9, 2017.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **Natick Police Officer Michael Mabardy**, was the subject of an internal affairs investigation. The investigation ultimately sustained multiple allegations of untruthfulness and conduct unbecoming an officer. Officer Mabardy was terminated from the department, effective January 16, 2020. Officer Mabardy was reinstated on November 23, 2020, when an arbitrator reduced his discipline to a two week suspension.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **former Reading Police Officer Brendan MacEachern**, was the subject of an internal affairs investigation that resulted in findings of conduct unbecoming an officer, falsifying information on records, and multiple findings of untruthfulness. Former Officer MacEachern was placed on paid administrative leave on September 10, 2020, and his employment was terminated on October 22, 2020. The District Attorney's Office is not in possession of any documents related to the investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, former Waltham Police Officer Paul Manganelli, pleaded guilty to one count of possession of child pornography in the United States District Court, District of Massachusetts, Docket Number 1:13-cr-10300-FDS-1, on May 1, 2014. Officer Manganelli was placed on administrative leave on March 25, 2013. He resigned on October 8, 2013.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant regarding one of the potential witnesses in this case, **Maynard Police Officer Paul Maria**. An Order issued on March 29, 2013, in Middlesex Superior Court allowing the defendant's motion to suppress in \_\_\_\_\_, contains an adverse credibility finding as to Officer Maria with regard to his testimony as to the "nature and source" of information leading to a vehicle stop.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Matthew Martin** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Officer Martin received a letter of reprimand, was removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$230.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that on April 18, 2018, **Ashby Police Officer Shawn McCluskey**, a potential witness in this case, was terminated from the Ashby Police Department. The Commonwealth has also been advised that Officer McCluskey was the subject of internal affairs (IA) investigations, and that one investigation included a finding that Officer McCluskey had been untruthful. Officer McCluskey appealed his termination from the department and the case was reviewed in arbitration. The arbitrator's decision issued April 22, 2019 and that decision supported all but one of the IA findings of untruthfulness. The arbitrator further concluded that the officer's testimony at the arbitration hearing was not credible and was untruthful.

This Office is not in possession of any documents related to the IA investigation or the arbitration.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it has learned that one of the potential witnesses in this case, **Somerville Police Officer Michael J. McGrath**, was charged in a complaint in Cambridge District Court, No. 2052CR000963, with one count of assault and battery by means of a dangerous weapon. Arraignment is scheduled for November 3. The Commonwealth is also aware of an ongoing internal affairs investigation into this matter, concerning allegations of excessive use of force in securing an arrestee and untruthful statements made to investigators concerning that incident. Officer McGrath has been on paid administrative leave since October 10, 2019.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that one of the potential witnesses in this case, **Belmont Police Officer Marie McHugh**, was the subject of an internal affairs investigation that concluded she was untruthful on her employment application. The Commonwealth has also been advised that Officer McHugh has been on paid administrative leave since July 27, 2020, and that as a result of the investigation the Belmont Police Department has recommended that her employment be terminated. The District Attorney's Office is not in possession of any documents related to the investigation mentioned above.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and in an abundance of caution, hereby notifies the defendant that the Commonwealth is aware that Belmont Police Officer Michael McHugh was subject to an internal affairs ("IA") investigation by the Belmont Police Department involving an incident on December 15, 2010, which resulted in an adverse finding that relates to Officer McHugh's credibility.

The Commonwealth has been informed by the Belmont Police Department that the IA investigation involved an allegation that Officer McHugh failed to charge an individual with a crime despite the existence of probable cause, based on the identity of that individual, and then subsequently included allegedly false statements in a corresponding Belmont Police Department incident report. The Commonwealth has been further informed that Officer McHugh resigned from the Belmont Police Department effective May 6, 2011.

The Commonwealth is in possession of some documents, including an incident report, witness statements by officers, and a Belmont Police Department memorandum, relating to this IA investigation. The Commonwealth has also been informed that the Belmont Police Department may have additional documents relating to this investigation.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

CAMBRIDGE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that the Commonwealth is aware that **Medford Police Officer Shawna McNeill** was subject to an internal affairs ("IA") investigation by the Medford Police Department regarding an incident on or about February 23, 2017, which resulted in an adverse finding that relates to Officer McNeill's credibility.

The Commonwealth has been informed by the Medford Police Department that the IA investigation involved an allegation that Officer McNeill provided misleading, false and fabricated information to other officers and an assistant district attorney. The Commonwealth has been further informed that Officer McNeill was suspended without pay for one year, effective August 4, 2017. The Commonwealth is in possession of documents, including a statement from Officer McNeill, relating to this IA investigation.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Jason Montalbano** violated internal rules and regulations of the Medford Police Department, specifically two counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Montalbano was suspended for two (2) full work days and removed from the detail list for a period of seven (7) work days. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN

Date:

DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Woburn Police Officer Tomas Morales**, was arraigned on December 13, 2021 in Woburn District Court (Docket No. 2153CR001885). Officer Morales was charged with assault and battery on a household member, assault and battery with a dangerous weapon, strangulation and threat to commit a crime. He is currently suspended with pay.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

DISTRICT COURT  
DOCKET NO.:

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE REGARDING  
MSP FORENSIC SCIENTIST HEATHER G. MOWATT**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant of information concerning the credentials of Massachusetts State Police Forensic Scientist Heather G. Mowatt. Attached is a letter from the Executive Office of Public Safety and Security (EOPSS) dated May 12, 2015 along with a referenced attachment detailing the applicable timeline (total of three pages).<sup>1</sup>

The timeline includes information that Ms. Mowatt did not initially successfully complete an examination for miscellaneous substances (tablets, residues, phenethylamines) but after a period of remediation successfully completed the examination.

The Commonwealth provides this Notice out of an abundance of caution and is aware of its continuing discovery obligations.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN.  
DISTRICT ATTORNEY

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Assistant District Attorney

Dated:

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<sup>1</sup> The list detailing the cases on which Ms. Mowatt worked during the intervening time period, received from EOPSS and referenced in its letter, has been omitted to avoid any potential CORI violation. G.L. c. 6, §§ 167-178.





The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security  
One Ashburton Place, Room 2133  
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CHARLES D. BAKER  
Governor

DANIEL BENNETT  
Secretary

KARYN E. POLITO  
Lt. Governor

May 12, 2015

District Attorneys

This follow-up correspondence is in regards to the request for additional information on any other post-Dookhan forensic scientists who may have not have successfully completed examinations in their training program within MSP Forensic Services Group (FSG). The Crime Lab has identified three additional forensic scientists working in the Drug Lab who did not initially complete their first written examination for miscellaneous substances (tablets, residues, phenethylamines): Brittany Fox, Heather Mowatt and James Joseph.

The above three forensic scientists, as provided for in the State Police Crime Laboratory's training program, and consistent with national practices and ASCLD/LAB accreditation standards, subsequently completed the miscellaneous substance examinations successfully without further issue. By doing so, these analysts effectively demonstrated their abilities to independently identify miscellaneous samples and the ability to accurately report conclusions. All three forensic scientists had previously completed their marihuana competencies, demonstrated adherence to chain of custody practices, demonstrated proficiency in the use and operation of drug instrumentation and completed their cocaine/heroin competencies. At no time did any of these forensic scientists perform analysis on casework in which they were not deemed competent.

Attached are the training time lines and lists of miscellaneous substance cases associated with each of these three forensic scientists. These cases were completed under the supervision of a trained senior analyst. These lists represent the cases these forensic scientists participated in the sampling and testing of, up until they successfully completed the miscellaneous substance examinations. The names of the subjects/defendants are included for your review. Fox: 56 cases; Mowatt: 55 cases; Joseph: 57 cases.

Also attached is the list of cases for Justin Kaliszewski with each subject's name included. This list includes 221 cases, down from the originally reported 288, as the Lab removed marihuana cases from the list (Kaliszewski had passed the marihuana competency previously).

Please let me know if you need additional information or documents.

Thank you.

A handwritten signature in black ink, appearing to read "Dan Bennett", written over a horizontal line.

Daniel Bennett  
Secretary

Heather Mowatt

Date	Event	Significance
1/28/13	Analyst begins working in the Drug Unit	Her training in the Drug Unit commences
1/28/13	Analyst begins the introductory readings which includes the general laboratory information; Safety and Security, Drug Unit Quality Control procedures, Quality Assurance Manual, DEA Readings which include general readings on Marihuana, Cocaine, Opiates/Narcotics and Miscellaneous drugs	Analyst familiarizes herself with Forensic Services Group procedures, the Laboratory's accreditation standards (standards by which the laboratory is accredited and operates as per the American Society of Crime Laboratory Directors/Laboratory Accreditation Board - ASCLD/LAB), the Safety and Security procedures in the laboratory.
1/28/13	Marihuana Training commences	Marihuana training includes literature review, observation of trained analysts performing casework on Marihuana cases, and review of analytical principles related to Marihuana analysis.
2/1/13	Analyst completes practical exercises for Marihuana/Vegetable Matter module	Practical exercises encompass use of microscopes for identification, analytical balances for weighing samples, color tests, and Gas Chromatograph/Mass Spectrometer (GC/MS) for identification (including running of negative and positive controls). <b>Successful completion of the practical exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use of the above instrumentation to conduct tests on casework samples under supervision of a trained analyst.</b>
2/26/13	Analyst completes training in the Evidence Control Unit (ECU); Laboratory Information Management System (LIMS) training	Analyst is trained to utilize the LIMS to record case information, track casework for chain of custody purposes, and evidence handling.
3/25/13	Cocaine/Heroin Training commences	Cocaine/Heroin training includes literature review, observation of trained analysts performing casework on Cocaine/Heroin cases, and review of analytical principles.
4/17/13	Marihuana exam is administered; analyst is assigned the practicals for Marihuana competency	Analyst is administered an exam on Marihuana analysis and practicals and report writing on suspected Marihuana samples. <b>Successful completion of the examination and practical demonstrates analyst's ability to independently identify suspected Marihuana samples and her ability to accurately report conclusions.</b>
6/10/13	Analyst completes powder practical exercises on analytical balances, UV/VIS, FTIR, and GC/MS instrumentation	Practical exercises encompass use of analytical balances for weighing samples, color tests, Ultraviolet/Visible Spectrophotometer (UV/VIS), Fourier Transform Infrared Spectrometer (FTIR), and GC/MS for analysis (including running of the negative and positive controls). <b>Successful completion of the practical exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and use of the above instrumentation to conduct tests on powder samples under supervision of a trained analyst.</b>
7/29/13	Cocaine/Heroin Exam is administered; analyst is assigned the practicals for powders competency	Analyst is administered an exam on Cocaine/Heroin analysis and practicals on suspected Cocaine/Heroin samples. <b>Successful completion of the examination and practical demonstrates analyst's ability to independently identify suspected Cocaine/Heroin samples and his/her ability to accurately report conclusions.</b>
7/29/13	Training on Miscellaneous Substances (tablets, residues, phenethylamines, etc.) commences	Miscellaneous substances training includes literature review, observation of trained analysts performing casework on miscellaneous substances, and review of analytical principles. Successful completion of the training exercises demonstrates ability of the analyst to perform tasks such as opening evidence, sampling evidence, and conducting tests on casework samples under supervision of a trained analyst.

Heather Mowatt

11/29/2013	Miscellaneous substances exam is administered; analyst is assigned the practicals for miscellaneous substances competency	Analyst is administered an exam and a practical which included a report component. Analyst did not identify all components in the sample in the practical exercise. Supervisor reviewed results with analyst to discuss the inconsistency with the expected result. Analyst is issued another practical.
12/17/2013	Subsequent practical exam is administered	<b>Successful completion of the practical demonstrated analyst's ability to independently identify miscellaneous samples and her ability to accurately report conclusions.</b>
2/10/14	Mock Trial	Analyst prepares for mock trial testimony; review of courtroom procedures; a review of testimony is conducted with respect to qualifying, direct and cross examination questions (this training may occur concurrently with other training modules if the analyst has had no prior testimony experience).

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Dunstable Police Officer Richard Nault**, was the subject of an internal affairs investigation stemming from on-duty conduct occurring on the evening of January 2, 2021. The investigation sustained multiple violations of internal rules and regulations of the Dunstable Police Department, specifically sleeping while on duty and untruthfulness.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that on June 23, 2015, a potential witness in this case, **Medford Police Officer Shawn Norton**, entered a plea in Woburn District Court Docket No. 15 53CR 259, to charges of operating under the influence of intoxicating liquor, negligent operation of a motor vehicle, and leaving the scene of property damage; the case was continued without a finding for two years. The charges arose out of conduct in Reading, Mass., on February 11, 2015.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that a potential Commonwealth witness, former **Watertown Police Officer Jason O'Brien**, was the subject of an internal affairs investigation by the Watertown Police Department. That investigation concluded that Officer O'Brien violated several internal policies and rules and that he was untruthful during the course of the investigation. Officer O'Brien resigned from the Watertown Police Department on December 23, 2016.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that former **Medford Police Sergeant David Olsen** violated internal rules and regulations of the Medford Police Department, including untruthfulness, neglect or disobedience of orders, insubordination, conduct unbecoming an officer and failure to supervise.

The Commonwealth has been informed that Sergeant Olsen received a letter of reprimand and that the Department imposed a suspension of six (6) full work days, removed him from the detail list for a period of fourteen (14) days, and required that the Department be reimbursed \$230.00. Sergeant Olsen retired before the suspension could be served. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth



MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Wayland Police Sergeant Jennifer Ordway**, was the subject of an internal affairs (IA) investigation. In November 2017 a Hearing Officer sustained numerous findings from that investigation, including Neglect of Duty, Withholding Evidence, Insubordination, Inattention to Duty, Conduct Unbecoming an Officer, Untruthfulness, and Lack of Cooperation with Internal Investigations. The Hearing Office further found that Sgt. Ordway excessively used her cruiser's computer for non-work-related reasons in violation of the rule pertaining to Departmental Property and Equipment.

The Commonwealth has also learned that an Arbitration decision subsequently concluded that while Sgt. Ordway "unquestionably abused the relative quiet and freedom of the overnight shift by streaming videos and television programs," it modified her discipline from a termination to a suspension from November 15, 2017 to April 18, 2019 with no back pay or benefits. The Commonwealth does not possess any documents regarding the IA.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant regarding one of the potential witnesses in this case, **Everett Police Sergeant Stephen Panzini**. A decision issued by Justice Shannon Frison on August 16, 2019, in Middlesex Superior Court allowing the defendant's motion to suppress in \_\_\_\_\_, contains an adverse credibility finding as to Sergeant Panzini with regard to his reason for stopping a motor vehicle operated by the defendant.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Robert Passacantili** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Officer Passacantili received a letter of reprimand, was removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$230.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Mike Pellegrino** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer.

The Commonwealth has been informed that Officer Pellegrino received a letter of reprimand, was removed from the detail list for a period of seven (7) work days, and required to reimburse the department \$276.00. The Commonwealth possesses documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Lowell Police Officer David Pender**, was the subject of an internal affairs investigation which concluded that he used unnecessary force against a 16-year-old boy in an incident on September 15, 2016. Officer Pender received a six-month unpaid suspension, retroactive to his placement on administrative leave on November 11, 2016, and was also ordered to complete anger-management training, forfeit his position as a school resource officer and, upon returning to duty, serve a two-year probation during which any misconduct will automatically place him on unpaid suspension. The two-year period of probation was reduced to one year.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witness in this case, **Lowell Police Captain Matthew Penrose**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct in conjunction with a March 7, 2018, drug arrest, concluded that Captain Penrose violated several internal rules and regulations of the Lowell Police Department; specifically that he exhibited gross incompetence and conduct unbecoming an officer.

The Commonwealth is in possession of a redacted copy of the Board of Inquiry report, dated January 28, 2019, summarizing the conduct that formed the basis for these violations.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

CAMBRIDGE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that a potential witnesses in this case, **Cambridge Police Sergeant Sean Peterson**, was the subject of an internal affairs investigation stemming from conduct surrounding a paid police detail on August 5, 2019. On May 6, 2020, that investigation concluded that Sergeant Peterson violated numerous internal rules and regulations of the Cambridge Police Department; specifically, that he was untruthful during the course of the investigation, willfully and intentionally disobeyed lawful orders from a superior officer, and committed several violations of the department's detail policy. The investigation also substantiated a charge of larceny by false pretenses and two violations of the Massachusetts conflict of interest law.

Sergeant Peterson was placed on paid administrative leave on September 29, 2019. A further hearing before City of Cambridge officials will be scheduled to impose punishment. The Commonwealth is in possession of a report summarizing the investigation's conclusions. The Commonwealth will no longer be calling Sergeant Peterson as a witness.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that a Middlesex grand jury returned an indictment in three counts, docketed as MICR2013-01609, alleging that one of the potential witnesses in this case, former Ashland Police Sergeant Edward Pomponio, did:

- 1) willfully, or with reckless disregard, cause property damage with the intent to impede, obstruct, delay, harm, punish, or otherwise interfere thereby with a criminal investigation or other criminal proceeding on July 8, 2011, in violation of G. L. c. 268, § 13B;
- 2) directly or indirectly, willfully endeavor by means of intimidation, force, or express or implied threats of force, to influence, impede, obstruct, delay or otherwise interfere with a police officer furthering a criminal investigation on diverse dates from on or about November 29, 2012, through on or about December 5, 2012, in violation of G. L. c. 268, § 13B; and
- 3) wantonly destroy or injure the property of the Ashland Police Department, to wit: suspected narcotics evidence seized from a defendant who was charged with violations of the narcotics laws in a pending criminal case on July 8, 2011, in violation of G. L. c. 266, § 127.

The Commonwealth alleges in the above-captioned action that Sergeant Pomponio destroyed narcotics evidence that had been submitted by an officer as evidence in a pending criminal case. During the course of the investigation into the above-listed crimes, Sergeant Pomponio made statements calling into doubt his competence in his performance of his duties as the Evidence Officer for the Ashland Police Department. Sergeant Pomponio was the Evidence Officer and Police Prosecutor for the Ashland Police Department from in or about January 2010 to in or about April 2012.

The Commonwealth recognizes that it is within this court’s discretion to decide whether the officer’s credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. “The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness’s] credibility.” Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant regarding one of the potential witnesses in this case, **Middlesex Sheriff's Department Correction Officer Michael Pontes**. On March 15, 2019, in Docket No. 1581CR110, Pontes was convicted of receiving stolen property over \$250 and was placed on probation for a term of three years. In Docket No. 1581CR273, on October 8, 2019, Pontes entered guilty pleas to two counts of conspiracy to receive stolen property over \$250 and was sentenced to a term of 90 days in the house of correction. In this same docket number, on March 15, 2019, Pontes was convicted of tax evasion pursuant to G.L. c. 62C, § 73, and was placed on probation concurrent with the probationary term imposed in No. 1581CR110.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, **Natick Police Officer James Quilty**, was indicted on December 22, 2021 (Docket No. 2181CR00580). Officer Quilty is charged with three counts of indecent assault and battery on a person age fourteen or older. An independent investigation into the conduct that precipitated these indictments concluded, on September 18, 2020, that Officer Quilty violated the Town of Natick's sexual harassment policy as well as multiple internal rules and regulations of the Natick Police Department including conduct unbecoming an officer. The Commonwealth possesses a copy of the investigative report associated with this investigation. Officer Quilty was placed on paid administrative leave on July 2, 2020.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b)

(specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Sergeant Angelo Raffaele** violated internal rules and regulations of the Medford Police Department, including conduct unbecoming an officer and failure to supervise.

The Commonwealth has been informed that Sergeant Raffaele received a letter of reprimand, was suspended for two (2) full work days, removed from the detail list for a period of seven (7) days, and required to reimburse the department \$230.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth



MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, former **Cambridge Police Detective Michael Regal**, entered a plea of nolo contendere on July 25, 2016, in the 6th Division District Court in Providence, Rhode Island, Docket No. P3-2015-2336ADV, to an amended charge of simple assault, for which he was sentenced to a term of one year of probation, suspended for one year. Detective Regal resigned from the Cambridge Police Department on June 2, 2017.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that the Middlesex District Attorney's Office is aware that one of the potential witnesses in this case, **Townsend Police Officer George Reidy**, was suspended for six months without pay as of June 22, 2017, and removed from his position as school resource officer.

The Commonwealth has also learned that an internal affairs investigation into Officer Reidy's conduct concluded that he had disseminated official information and violated the department's media relations and criminal intelligence policies. A redacted version of the internal affairs report was released to the public and is attached here.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

# **INTERNAL INVESTIGATION**

**TOWNSEND MA POLICE DEPARTMENT**

Atty. Raymond R. Mello  
Bernstein & Mello, PLLC  
21 Temple Street  
Nashua, New Hampshire 03060  
(603)595-1600

# INTERNAL INVESTIGATION

## TOWNSEND, MA POLICE DEPARTMENT

COMPLAINT: Did Ofc. Reidy disseminate confidential information to a member of the public in violation of any Townsend Police Department Policies or Rules and Regulations.

### INVESTIGATION:

May 14, 2017-I Met with Chief Bailey, to discuss an internal investigation involving Officer Reidy of the Townsend Police Department.

Chief Bailey provided me with a copy of an email from [REDACTED] of the [REDACTED] Department. In the email [REDACTED] stated that he received two records requests on April 27, 2017, one was from a woman by the name of Kelly Kelly requesting reports regarding [REDACTED]

The second was a Second records request from Lisa Lewand. Miss Lewand's request had a specific incident number on the request.

[REDACTED] learned that a gentleman by the name of Joseph Shank requested that Ms. Lewand ask for the specific incident number in her records request form.

[REDACTED] indicated that he had a conversation with Mr. Shank who stated that he was told on April 27, 2017, by Officer Reidy of the Townsend Police Department, to request the report from the [REDACTED] because it would tend to make [REDACTED]

See Attachment A

COMPLAINT: Did Ofc. Reidy disseminate confidential information to a member of the public in violation of any Townsend Police Department Policies or Rules and Regulations. • 1

INTERVIEW WITH [REDACTED]

May 15, 2017- I responded to the [REDACTED] and interviewed [REDACTED] regarding this case.

[REDACTED] stated that he had received two records requests from individuals looking for reports on [REDACTED] and a subject with the last name [REDACTED]

The first request from Kelly Kelly did not request a specific report number and he didn't really think much about it. He did recognize the names of the people named in the request. (See Attachment B)

The second request from Lisa Lewand requested a specific incident number ([REDACTED]) which the [REDACTED] found odd since that report number was a [REDACTED] (See Attachment C) The [REDACTED] was interested in finding out why Ms. Lewand was looking for that report. He e-mailed her and then ended up calling her. The [REDACTED] called Ms. Lewand and asked her how she got the incident number. She initially stammered when he asked this question but she told [REDACTED] that another town resident had asked her to get that report.

[REDACTED] reported that on May 3 his brother [REDACTED] called him within 1 hour of [REDACTED] speaking to Ms. Lewand stating that Joseph Shank wanted to talk to [REDACTED]

[REDACTED] called Mr. Shank and Mr. Shank stated that he had given the information to Ms. Lewand because he didn't want his name on the request. Mr. Shank stated that there was a [REDACTED] against him by [REDACTED] and he didn't want his name associated with the request. According to [REDACTED] Mr. Shank stated that he ran into Ofc. Reidy at the Townsend Police Department and that Officer Reidy of the Townsend Police Department told him to get that specific report because it would make [REDACTED] According to [REDACTED] Mr. Shank stated that he never saw the report.

COMPLAINT: Did Ofc. Reidy disseminate confidential information to a member of the public in violation of any Townsend Police Department Policies or Rules and Regulations. • 2

[REDACTED] later learned that one of his [REDACTED] had given the report to Officer Reidy on April 27 after a meeting at the [REDACTED]. The [REDACTED] stated that his [REDACTED] had given the report to Ofc. Reidy on the same day it was requested.

REFER TO TAPED INTERVIEW FOR DETAILS.

INTERVIEW WITH [REDACTED]

On May 15, 2017 I interviewed [REDACTED] of the [REDACTED].

[REDACTED] stated that he saw the records request form completed by Lisa Lewand. He took notice of the request due to the fact that a specific incident number was requested.

[REDACTED] also stated that he recognized the names of the subjects on the request and that the case was [REDACTED].

[REDACTED] was concerned when he saw the request because he thought that either Officer Reidy of the Townsend Police Department had given that number to her or that somebody in the Townsend Police Department had done so.

[REDACTED] stated that he gave the report asked for by Ms. Lewand to Officer Reidy after a meeting that occurred at the [REDACTED]. He thought that Officer Reidy may be interested in the report since the [REDACTED] were involved with the town of Townsend.

[REDACTED] stated that Officer Reidy requested a copy of the report after his conversation with [REDACTED]. [REDACTED] remembered that that the conversation between he

and Office Reidy was that [REDACTED] were people that they were looking into.

[REDACTED] stated that he had no information about how Joseph Shank may be involved with this request for information.

#### LISTEN TO TAPE RECORDING FOR MORE DETAIL

#### CONVERSATION WITH JOSEPH SHANK

On May 15, 2017 I responded to Harbor Auto to speak to Joseph Shank. I made contact with a woman in the office area who told me that Mr. Shank was under a car and could not speak with me. She then responded out back and she came back with Mr. Shank. I identified myself and why I wanted to speak with him. He told me not to believe what the assholes at Town Hall say. He told me that he couldn't see me today but to call back next week to see if he had time. I gave Mr. Shank my card and he gave me his card.

A return call was placed to Mr. Shank. He advised me that on the advice of counsel he had no comment.

#### CALL TO LISA LEWAND

I placed a call to Lisa Lewand on the number she listed on her [REDACTED] record request form. I left a message that I wanted to speak with her about her request. I have not received a call back from that message.

#### INTERVIEW WITH OFFICER GEORGE REIDY

On May 23, 2017 I responded to the Townsend Massachusetts Police Department to interview Officer George Reidy. Officer Reidy was accompanied by his attorney, David Lapachelle.



After asking Ofc. Reidy a number of background questions I asked him if he attended a meeting at the [REDACTED] on or about April 27, 2017. Officer Reidy remembered attending a CBDJ meeting at the [REDACTED] on or about that date.

After the meeting, Ofc. Reidy remembered that [REDACTED] from the [REDACTED] [REDACTED] called him into an office to share a report with him regarding a woman by the name of [REDACTED] who was [REDACTED]

Officer Reidy stated that he recognized the name [REDACTED] and has heard other officers talking about her. Officer Reidy stated that [REDACTED] was also part of the report given to him by [REDACTED]

Officer Reidy believed he took the report given to him by [REDACTED] and went first to the high school and then back to the Police Department where he created an incident report.

Ofc. Reidy stated that he then had the secretary scan the report into the police report system.

Officer Reidy stated he then shared the information with the next shift and left the report in his mailbox.

I asked Officer Reidy if he had a conversation with a town resident by the name of Joseph Shank regarding this report. He confirmed that he did. Initially, Officer Reidy stated that he stopped at Mr. Shank's business, Harbor Auto, on the way home from work because he was going to make an appointment to get his car fixed. Ofc. Reidy remembered that he was in his personal auto.

Officer Reidy stated that Mr. Shank started talking about [REDACTED] and about a [REDACTED] [REDACTED]. Officer Reidy denied having any knowledge of that [REDACTED] prior to that day.

Officer Reidy was not clear as to whether Mr. Shank brought up that he had heard that something had happened regarding [REDACTED] or if Officer Reidy brought it up. Ofc. Reidy confirmed to Mr. Shank that an incident had occurred involving [REDACTED]. According to Officer Reidy, Mr. Shank asked for a copy of the report. Mr. Shank asked how to get a copy of the report and Officer Reidy gave him the case number and told him to request the report from [REDACTED].

Officer Reidy denied having the report with him when he spoke with Mr. Shank and that the report was at the police station when he spoke with Mr. Shank.

I then specifically asked Officer Reidy if he made the comment to Mr. Shank to the effect of "the report will show that [REDACTED]". Officer Reidy stated that he did not remember making that statement and it didn't sound like something he would say.

When asked if he gave the report number to Mr. Shank because of the [REDACTED], Officer Reidy stated that Mr. Shank said that in passing and that Officer Reidy's response was that [REDACTED].

Officer Reidy stated that he did not give any details of the report to Mr. Shank but did give Mr. Shank the incident number and told him that if he wanted a copy of the report he would have to request it from [REDACTED]. Ofc. Reidy stated that because of the political climate he did not want to release the details to Mr. Shank.

Officer Reidy was very sure that he drove in his pickup truck to Mr. Shank's business. I then asked if there was any possibility that he took his truck to the meeting at the [REDACTED] and then stopped by Mr. Shank's business on the way back to his duties in Townsend. After thinking about that possibility, Officer Reidy said yes that was possible and that if he had taken his truck to the meeting that then it's possible he stopped at Mr. Shanks on the way back to Townsend.

## LISTEN TO RECORDING FOR DETAILS

## INTERVIEW WITH KELLY KELLY

On May 25, 2017 at approximately 2:05 PM I called and spoke with Kelly Kelly regarding the record request that she had submitted to the [REDACTED]

Miss Kelly advised me that her request was a general request for information and that she was not asked to make that request on behalf of any person.

Miss Kelly stated that she was only trying to get information on [REDACTED] because she believed there were police reports in [REDACTED] regarding those [REDACTED]

She repeated that she made this request on her own and not on behalf of any other person.

## CONVERSATION WITH [REDACTED]

I spoke with [REDACTED], the brother of [REDACTED] of the [REDACTED]. [REDACTED] was contacted by Joseph Shank to ask [REDACTED] to have his [REDACTED] contact Mr. Shank.

[REDACTED] confirmed that Joseph Shank reached out to him to have [REDACTED] speak to [REDACTED] and ask [REDACTED] to give Mr. Shank a call. [REDACTED] stated that Mr. Shank did not get into great detail as to why he wanted [REDACTED] to call him.

[REDACTED] then called his [REDACTED] and asked [REDACTED] to give Joe Shank a call. [REDACTED] knows Mr. Shank through a professional relationship.

COMPLAINT: Did Ofc. Reidy disseminate confidential information to a member of the public in violation of any Townsend Police Department Policies or Rules and Regulations. • 7

FOLLOW-UP WITH [REDACTED]

I called [REDACTED] regarding video recording of the parking lot of the [REDACTED]  
[REDACTED]

I asked [REDACTED] to review the day of the meeting attended by Ofc. Reidy at which he was given the report regarding [REDACTED]. [REDACTED] reported that he viewed the video of the parking lot and that Ofc. Reidy can be seen getting into a pick-up truck carrying paper(s) in his hand and leaving the [REDACTED] Parking lot.

POLICY REVIEW

I reviewed a number of Townsend Police Department policies and procedures as they possibly relate to this investigation.

I review the following policies regarding this matter

CRIMINAL INTELLIGENCE -policy number 2.04

VICE, DRUGS AND ORGANIZED CRIMES- policy number 2.03

INTERNAL AFFAIRS POLICY NUMBER 4.017

I also review the following rules and regulations

Rule 7.5-DISSEMINATION OF OFFICIAL INFORMATION

COMPLAINT: Did Ofc. Reidy disseminate confidential information to a member of the public in violation of any Townsend Police Department Policies or Rules and Regulations. \* 8

Findings

It is difficult to conceive why Ofc. Reidy would disclose the existence of a criminal investigation/intelligence report to a member of the public in this matter. It is uncontroverted that Mr. Shank brought up the name [REDACTED] and the [REDACTED] to Officer Reidy while Officer Reidy was at Mr. Shank's business. Whether Mr. Shank knew about the incident occurring in [REDACTED] or if Officer Reidy brought up that information, I cannot think of a legitimate law-enforcement related reason that Officer Reidy would point Mr. Shank to an ongoing [REDACTED] and give him the specific incident number to request. In addition, this was criminal intelligence information that most likely, Officer Reidy had not even logged into his own Police Department when he confirmed its existence with Mr. Shank. According to [REDACTED] Ofc. Reidy was interested in the report because [REDACTED] were people that the Townsend Police Department was interested in.

In my opinion Officer Reidy violated the Townsend Police Department rules and regulation 7.5 -DISSEMINATION OF OFFICIAL INFORMATION by not treating the information he received from the [REDACTED] regarding the [REDACTED] as confidential. This information was acquired by Officer Reidy in the course of his official duties. He pointed Mr. Shank to an incident number of an on-going [REDACTED] of a person [REDACTED] Mr. Shank.

I find that Ofc. Reidy did not treat the information he received from [REDACTED] as confidential and that the information related to an [REDACTED] as well as criminal intelligence received by him as a member of the Townsend Police Department.

I find that Ofc. Reidy did not treat the official business of the police department as confidential and disseminated the incident number regarding an ongoing investigation to a member of the public and not for whom the information was intended, specifically the officers of the Townsend Police Department.

I found this portion the complaint regarding the dissemination of information to be **SUSTAINED.**

I also find that Ofc. Reidy violated the Townsend Police Department policy 4.03 MEDIA RELATIONS Section II E. Information which may not be released. Ofc. Reidy released information without authorization of the Chief of Police or his or her designee which identified a person of interest prior to arrest. Officer Reidy confirmed that a report existed regarding [REDACTED]. This is an [REDACTED] and the confirmation that that report existed regarding [REDACTED], violates this policy. I find this to be **SUSTAINED.**

I find that Ofc. Reidy violated Townsend PD Policy 2.04- CRIMINAL INTELLIGENCE-Sections C. 1 In that the investigative report was kept in Ofc. Reidy's mailbox at the station and not separately from central records and maintained in a locked file. I find this to be **SUSTAINED**



On 5/4/2017 I received a phone call from,

[REDACTED]

[REDACTED] informed me of an incident that had occurred that may have involved Officer Georg Reidy of the Townsend Police. Below is an email sent by [REDACTED] that memorializes the conversation we had.

After speaking with [REDACTED] it appears that officer Reidy may have improperly released confidential information to a Townsend resident.

Chief,

Below is a summary of events regarding the leaking of information from [REDACTED] Incident Report [REDACTED] to the public that we spoke about on the phone.

On Monday, May 1, 2017, my administrative assistant showed me two [REDACTED] Records Request Forms, both dated April 27, 2017, that were both requesting information on [REDACTED]. I am familiar with [REDACTED]. One of the request forms was concerning [REDACTED] due to the fact that it specifically asked for an incident report by number "[REDACTED]" and also stated that the involved parties were "[REDACTED]". This request was filled out by Lisa Lewand of Townsend. I emailed Lewand and asked her where she got that specific information.

On Wednesday, May 3, 2017, I called Lewand after not receiving an email reply from her. I left a message and she called me back a few minutes later. I asked her where she got the incident number. Lewand stated that she got it from "another town resident" and that she was "told to request it". I asked her to identify that resident and she stated she had to check with that person first and would call me back. Approximately an hour later I received a phone call from [REDACTED]. He advised me that he is a work acquaintance of Joe Shank of Townsend, and that Shank just called him and wanted to know if I would call him. I told [REDACTED] I would call Shank.

I called Shank minutes later and he advised me that he is involved in the [REDACTED] situation. He stated that [REDACTED] the Facebook page he started. He stated that other people had posted negative things about [REDACTED] on the page including [REDACTED]. Shank stated that he was aware that I just spoke with Lewand and that she didn't want to tell me his name as the one who told her to fill out the records request. Shank then went on to explain that he was speaking with Townsend Officer Reidy the other day and Reidy told him that there was something in his "inbox" involving [REDACTED] and [REDACTED] in [REDACTED]. Shank stated that Officer Reidy told him that he should seek a copy of the incident as it may help him show that [REDACTED]. Shank stated that instead of his

name being on the request, he asked Lewand to do it. I asked Shank if he ever saw the actual report and he said no.

On May 4, 2017, I spoke with [REDACTED] regarding this matter. He confirmed that on April 27, 2017, Officer Reidy was at the [REDACTED] for a meeting. He stated that he mentioned the [REDACTED] involving [REDACTED] to Officer Reidy as he was aware that all three had ties to the town of Townsend. [REDACTED] advised me that Officer Reidy asked for a copy of the report and he gave him one. [REDACTED] advised me that this matter is still under investigation.

[REDACTED]

On 5/4/17 I looked for a copy of the report in records and could not locate it. I spoke with Officer Reidy on 5/7/17 at approximately 1500 hrs and asked if the report that he received had been filed and he stated that it was and that he had shared the information with other officers as a course of business. He told me that a copy was in his bin in the squad room and retrieved a copy and handed it to me. There was no further conversation at this time.



RECORDS REQUEST FORM

Kelly Kelly  
(Please print name)

would like to request a copy of a police report.

Please fill out the following to the best of your ability. It is possible you may not have all of the information requested.

Nature of the incident \_\_\_\_\_

Date/Time the incident occurred \_\_\_\_\_

Name of individual on the report \_\_\_\_\_ or \_\_\_\_\_

*Any police reports, police or reports 1099.*

Police officer involved \_\_\_\_\_

\*\*\*\*\*

Positive ID will be required when you pick up the requested copy of the police report.

I understand that the release of police information is confidential and I will not discuss any of the information contained in this report with any other individual of source that is not privileged to receive this information.

Signature Kelly Kelly

Date 4/27/17

Your address 5 Towns Lane Townsend

Home phone 978-597-9636

Cell phone 978-577-0820

Email kellymkelly@comcast.net

Please circle one: I will pick up report

Please email the report

Reports are usually ready on the next business day, Monday-Friday.  
\$5.00 fee for motor vehicle accident report  
\$1.00/page fee for police incident reports

C

**RECORDS REQUEST FORM**

LISA LEWAND

(Please print name)

would like to request a copy of a police report.

Please fill out the following to the best of your ability. It is possible you may not have all of the information requested.

Nature of the incident \_\_\_\_\_

INCIDENT #

Date/Time the incident occurred \_\_\_\_\_

Name of individual on the report ~~§~~ \_\_\_\_\_

Police officer involved \_\_\_\_\_

\*\*\*\*\*

Positive ID will be required when you pick up the requested copy of the police report.

I understand that the release of police information is confidential and I will not discuss any of the information contained in this report with any other individual or source that is not privileged to receive this information.

Signature \_\_\_\_\_

Date 4-27-17

Your address \_\_\_\_\_

3 NYMAN RD TOWNSEND

Home phone \_\_\_\_\_

Cell phone \_\_\_\_\_

781-308-9072

Email \_\_\_\_\_

NEEGABNER@GMAIL.COM

Please circle one: I will pick up report

Please email the report

Reports are usually ready on the next business day, Monday-Friday.

\$5.00 fee for motor vehicle accident report

\$1.00/page fee for police incident reports

THANK YOU!

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **Medford Police Officer Robert Richard**, was placed on administrative leave on May 4, 2016, and resigned on September 19, 2016.

Officer Richard was the subject of an internal affairs investigation that concluded with a 44-page report that indicates that he obstructed the internal affairs investigation, filed a false police report, manipulated an alleged crime scene, misled the police in an investigation into a breaking and entering and larceny at a Medford residence, and improperly stored his gun in his personal motor vehicle. The Commonwealth will not call Officer Richard as a witness.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Weston Police Officer Leo Richards**, was arraigned on March 5, 2018 in Waltham District Court in Docket No. 1851CR000322 for operating under the influence of intoxicating liquor and improper storage of a firearm based on an incident that occurred on or about March 4, 2018, in Weston. The case was transferred to Newton District Court, Docket No. 1812CR000143.

An internal investigation was conducted into this incident; the report, dated May 29, 2018, found that Officer Richards violated numerous Weston Police Department rules. The Commonwealth possesses this report and other documents pertaining to the investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN

DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

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REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witness in this case, **Lowell Police Officer Rafael Rivera**, was the subject of an internal affairs investigation. The investigation, which arose out of his conduct in conjunction with a March 7, 2018, drug arrest, concluded that Officer Rivera violated several internal rules and regulations of the Lowell Police Department; specifically that (1) he exhibited conduct unbecoming an officer, (2) his performance was unsatisfactory, and (3) he submitted inaccurate information in an arrest report. Officer Rivera was placed on paid administrative leave on November 2, 2018. In December 2018, Officer Rivera voluntarily left the Special Investigations Section of the Lowell Police Department.

The Commonwealth is in possession of a redacted copy of the Board of Inquiry report, dated January 28, 2019, summarizing the conduct that formed the basis for these violations.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **Harvard Police Officer Norma Rodriguez**, tendered a plea on September 9, 2014, in Woburn District Court in Docket No. 1253CR3257 to leaving the scene of personal injury and operating under the influence (OUI). The Court ordered a continuance without a finding for one year on each count to run concurrently; in addition, for the OUI, she was sentenced to a program pursuant to G.L. c. 90, § 24D, an extended disposition pursuant to Commonwealth v. Cahill, 424 Mass. 127 (2004), a 45-day loss of license, and other conditions. The Court dismissed a charge of negligent operation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Sergeant Lawrence Rogers** violated an internal rule/regulation of the Medford Police Department, specifically, failure to supervise. The investigation concluded that, after Sergeant Rogers overheard an officer in roll call mention that officers did not have to work the entire police detail, he took no steps to learn more information and did not bring the comments to the attention of a superior officer.

The Commonwealth has been informed that Sergeant Rogers was suspended for one full work day. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:



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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), notifies the defendant that one of the potential witnesses in this case, **former Tyngsborough Police Officer Kevin Ronan**, was convicted of operating under the influence of alcohol in New Hampshire. The Commonwealth does not possess any additional details regarding this charge.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that a potential witness in this case, **Cambridge Police Sergeant Jonathan Russell**, was the subject of an internal affairs investigation that concluded he improperly disclosed confidential information regarding an ongoing internal affairs investigation to another officer, who was the target of that investigation. The investigation also sustained several violations of the Massachusetts Conflict of Interest Law. Sergeant Russell has been on paid administrative leave since August 11, 2020. The Commonwealth possesses a copy of the internal affairs report associated with this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING A POTENTIAL  
COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it is aware that one of the potential witnesses in this case, **Somerville Housing Authority Officer Alfred Rymill**, was, in the context of his former employment as a Billerica Police Officer, the subject of an internal affairs investigation.

To the best of the Commonwealth's knowledge, that investigation regarded an allegation that Officer Rymill was acting in a manner unbecoming of a police officer, resulting in delayed response times to calls for assistance and other shortcomings. None of the internal affairs documents is in the care, custody, or control of the District Attorney's Office. Officer Rymill resigned from the Billerica Police Department on February 28, 2019, prior to the completion of the internal affairs investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted,  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING A POTENTIAL  
COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it is aware that there has been an internal affairs investigation, the report of which issued November 7, 2018, into one of the potential witnesses in this case, **Belmont Police Officer Robert Sacca**.

To the best of the Commonwealth's knowledge, the investigation concerned why Officer Sacca failed to respond to a duty call. The report concluded that, in replying to questions from his superior officers as to this failure, Officer Sacca was not fully truthful. The Commonwealth is not in possession of any internal affairs documents.

Respectfully Submitted,  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **James Scanlan, a Correctional Officer at MCI-Concord**, was charged in Marlborough District Court, Docket No. 1421CR001085, with operating under the influence of intoxicating liquor arising out of alleged conduct on August 22, 2014, in Hudson. The case was continued without a finding and was subsequently dismissed.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **Department of Correction Officer Richard Sevigny**, was arraigned on September 15, 2020, in Concord District Court (Docket No. 2047CR000689) on a charge of delivering an article to a prisoner in a correctional institution. The charge was based on conduct that occurred on September 11 and 14, 2020 at Massachusetts Correctional Institution - Concord. Officer Sevigny is currently detached with pay pending investigation. The Commonwealth has also learned that Officer Sevigny has open criminal matters in New Hampshire, where he faces charges of stalking and criminal trespass.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **former Newton Police Officer Scott Siegal**, was terminated by the Newton Police Department on September 16, 2020, following an internal affairs investigation into a charge of Operating Under the Influence. Former Officer Siegal was convicted of the OUI charge on November 30, 2021, after a bench trial in Dedham District Court (1954CR1928).

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior misconduct in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that it has learned that one of the potential witnesses in this case, namely Somerville Police Officer Michael Silva, was the subject of two internal affairs investigations conducted by the Somerville Police Department involving incidents on August 19, 2008 and February 19, 2010. These internal affairs investigations focused in part on Officer Silva's truthfulness, and one of the internal affairs investigations also involved allegations of physical assault by Officer Silva on a former criminal defendant. According to public records, the latter allegations are subject to a pending federal civil suit in the District Court of Massachusetts.

The Commonwealth has been informed that effective July 19, 2010, Officer Silva officially retired from the Somerville Police Department.

The Commonwealth is in possession of documents, including internal affair reports and findings, a police report, correspondence, and witness statements, relating to the Somerville Police Department's internal investigations of the incidents on August 19, 2008 and February 19, 2010. The Commonwealth is not aware of whether there are

additional documents that pertain to these investigations in the possession of the  
Somerville Police Department.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has learned that one of the potential witnesses in this case, **Cambridge Police Officer William Simmons, Jr.**, was the subject of an internal affairs investigation stemming from his response, or lack thereof, to a reported crime. The investigation ultimately sustained numerous violations of the internal rules, regulations, policies and procedures of the Cambridge Police Department, and concluded that Officer Simmons "refused to write a police report after two encounters with the involved complainant" and "intentionally misled [his] commanding officer by providing incomplete information about the encounter." Officer Simmons received a one-day suspension as a result of this investigation. The Commonwealth possesses a letter of suspension associated with this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b)

(specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Cambridge Police Detective Mark Smith**, was prosecuted by the Middlesex District Attorney's Office for Operating Under the Influence of Intoxicating Liquor, Negligent Operation of a Motor Vehicle, and one related civil infraction for a State Highway violation for an incident occurring on October 23, 2010. Detective Smith admitted to sufficient facts to those charges on November 8, 2010 in Woburn District Court, Docket No. 1053CR002521.

The Commonwealth has been advised that the Cambridge Police Department is conducting a corresponding internal affairs investigation, and that Detective Smith was suspended without pay by the Cambridge Police Department as a result of these criminal charges beginning on October 25, 2010, and returned to work on November 25, 2010.

The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

Date:

\_\_\_\_\_  
Assistant District Attorney

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SOMERVILLE DISTRICT COURT  
DOCKET NO.

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

---

Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Patrick Smith** violated internal rules and regulations of the Medford Police Department, including neglect of duty, a serious breach of the department's detail policy, and several counts of conduct unbecoming an officer.

The Commonwealth has been informed that Officer Smith was suspended for four (4) full work days, removed from the detail list for a period of thirty (30) work days, and required to reimburse the department \$1,242.00. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Somerville Police Officer Samuel Stanford**, pleaded guilty (Middlesex Superior Court, Docket No. 1581CR442) to breaking and entering in the nighttime with intent to commit a felony, various firearms charges, and possession with intent to distribute Class B controlled substances.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

---

Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, hereby notifies the defendant that one of the potential witnesses in this case, **Melrose Police Officer Kevin Stanton**, was subject to an internal affairs investigation by the Melrose Police Department in 2005-2006.

The Commonwealth was informed by the Melrose Police Department that this internal affairs investigation involved allegations that Officer Stanton, in his capacity as Evidence Officer, improperly destroyed narcotics evidence held by the Melrose Police Department, that he ingested narcotics evidence held by the Melrose Police Department, and that he was dishonest during the course of the internal affairs investigation. In 2006, a criminal case referral was made to the Middlesex District Attorney's Office by the City of Melrose. Due to an insufficient quantity of admissible evidence, no criminal charges issued. The Commonwealth was advised by the Melrose Police Department that Office Stanton was put on paid administrative leave on January 26, 2006, terminated from the police force on October 4, 2006, and then reinstated as a police officer on November 16, 2009.

The Commonwealth is in possession of documents relating to the above-referenced conduct of Officer Stanton. Given that Officer Stanton's duties are limited to answering a recorded business-line at the Melrose Police Department, and it is in this capacity that he is a potential witness in this matter, the Commonwealth objects to the disclosure of records relating to the internal affairs investigation or Officer Stanton's underlying conduct and objects to impeachment of Officer Stanton by the above referenced conduct at the trial on this matter. As grounds therefor, the Commonwealth asserts that the documents are not relevant or material.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, Woburn Police Officer Charles Stock, Jr., had a criminal complaint issue against him on or about July 29, 2011 for one count of domestic assault and battery, Docket No. 1110CR001541. On May 29, 2012, Officer Stock admitted to sufficient facts in the Somerville District Court and the case was continued without a finding for one year.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that the Middlesex District Attorney's Office has been advised that one of the potential witnesses in this case, **former Framingham Police Officer Vincent Stuart**, was the subject of an internal affairs investigation that concluded he was untruthful, filed a false report, and exhibited incompetence and conduct unbecoming an officer. The Commonwealth has also been advised that, as a result of this investigation, Officer Stuart's employment was terminated on February 22, 2017. The District Attorney's Office is not in possession of any documents related to the investigation mentioned above.

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

---

Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX,SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that the Commonwealth has learned that a potential witness in this case, **former Billerica Police Officer Wendy Sullivan**, resigned during an internal affairs investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Massachusetts State Police Trooper Robert Sundberg**, was convicted on March 20, 2019, in Docket No. 1681CR00311, of two counts of rape, one count of assault with intent to rape, one count of strangulation/suffocation, one count of stalking, four counts of assault on a family/household member, one count of assault and battery on a family/household member, three counts of assault and battery, and one count of causing malicious damage to a motor vehicle, and was sentenced to a term of 10-15 years in prison followed by a term of three years of probation. Trooper Sundberg was terminated from the State Police. The Commonwealth will no longer be calling Trooper Sundberg as a witness.

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that one of the potential witnesses in this case, former Sherborn Police Chief Richard Thompson, was the subject of an internal affairs investigation in August 2020. That investigation, conducted by an independent third party, concluded that former Chief Thompson violated the Town of Sherborn's Equal Opportunity policy, violated both the Town and Department's Professional Conduct policies, and knowingly provided false information during the course of the investigation. On October 6, 2020, following a hearing, the Sherborn Select Board voted to terminate the employment contract of former Chief Thompson for just cause.

The Commonwealth recognizes that it is within this court's discretion to decide whether an officer's prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b)

(specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING POTENTIAL COMMONWEALTH WITNESSES**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that an independent investigation into overtime discrepancies and other improprieties arising from a protracted police detail occurring between February and April 2018 concluded that **Medford Police Officer Igor Tomaz** violated internal rules and regulations of the Medford Police Department, including several counts each of neglect of duty, serious breaches of the department's detail policy, and conduct unbecoming an officer. The Commonwealth has been informed that Officer Tomaz's discipline included suspension for a period of thirty (30) full work days, removal from the detail list for a period of one year, and reimbursement of the department in the amount of \$2,392.00. He also entered into an agreement stipulating that any future misconduct would result in termination. The Commonwealth is in possession of documents, including a report summarizing the independent investigator's conclusions, relating to this investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that one of the potential witnesses in this case, **Concord Police Officer Sylvia Toumayan**, was the subject of a 2015 internal affairs investigation. The investigation, which arose out of allegations that Officer Toumayan falsified training records, concluded on May 11, 2015 and sustained several violations of internal rules and regulations of the Concord Police Department, including falsifying information on official records, conduct unbecoming an officer and untruthfulness. The Commonwealth has also learned that as a result of this investigation Officer Toumayan ultimately received a thirty day suspension from July 31, 2015 to September 11, 2015. A hearing before an arbitrator is currently pending. The District Attorney's Office is not in possession of any documents related to the investigation.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that one of the potential witnesses in this case, **former Everett Police Patrolman Daniel Tucker**, was the subject of an internal affairs (IA) investigation which sustained findings of Unacceptable Conduct, Unacceptable Judgment, and Conduct Unbecoming a Police Officer. The IA began after a Target store contacted the police department and reported that Tucker had engaged in several incidents of shoplifting. Patrolman Tucker was placed on administrative leave on April 24, 2020; served a five-day suspension without pay prior to that; and retired from the police department on July 6, 2020. The Commonwealth does not possess any documents regarding the IA.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has learned of potentially exculpatory information concerning one of the potential witnesses in this case, **Hopkinton Police Sergeant Scott vanRaalten**. An independent investigation concluded that, in or around September 2001, Sergeant vanRaalten, in separate incidents, engaged in conduct that could be construed as discriminatory. In the first incident, which occurred during booking, Sergeant vanRaalten was found to have draped an American flag around an arrestee of Middle Eastern descent and demanded that he repeat the phrase, "I love America." In the second incident, which occurred in the course of a motor vehicle stop, Sergeant vanRaalten was found to have ordered the vehicle's occupants to pick up and wave miniature American flags. Sergeant vanRaalten submitted a rebuttal letter in response to these findings.

The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth



MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

To: ADA Jamie Michael Charles  
From: Scott van Raalten Hopkinton Police Department  
RE: Rebuttal to Discovery Notice - Sergeant Scott van Raalten dated April 28, 2021  
Date: May 3, 2021

ADA Charles,

On April 29, 2021 I received the Discovery Notice referencing an investigation which was conducted by the Town of Hopkinton. I ask that this rebuttal be attached to the Discovery Notice and part of my file with MDAO (Middlesex District Attorney Office).

The investigation cited an incident from 2001, which credited statements made by a former employee of the Hopkinton Police Department. I adamantly deny I was the officer who draped the flag over the arrested individual. Although present when this inappropriate and regetable incident occurred nearly 20 years ago, another officer who I was working with conducted this discriminatory act. I have never denied the incident from occurring but the investigation is not factually accurate.

The employee the investigator found as credible was under an internal affairs investigation in 2013, for an incident which I reported to my superiors. During the course of the investigation it was determined the employee lied and ultimately resigned from the department.

The second employee who was the one who draped the flag over the arrested individual was unwilling to speak with the investigator. This employee also resigned from our department in 2008 after an internal affairs investigation revealed he lied during the course of the investigation.

I respectfully ask the MDAO attach this rebuttal to the discovery notice.

Respectfully submitted,

/s/ Scott van Raalten  
Scott van Raalten

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **Hudson Police Officer Christopher Vezeau**, was prosecuted by this Office for Operating Under the Influence of alcohol for an incident occurring on August 1, 2009. Officer Vezeau admitted to sufficient facts to that charge on August 31, 2009, in Marlborough District Court, Docket No. 0921CR001310.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and hereby notifies the defendant that a potential witness in this case, **Cambridge Police Officer Jonathan Vicente**, was arraigned on July 11, 2016 in Chelsea District Court in Docket No. 1614CR1993 on a charge of disturbing the peace arising out of his alleged conduct on July 10, 2016 in Revere. The case was subsequently continued without a finding and dismissed.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

SOMERVILLE DISTRICT COURT  
DOCKET NO.

COMMONWEALTH

v.

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**COMMONWEALTH'S DISCOVERY NOTICE REGARDING  
A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and informs the Defendant and the Court that the Somerville Police Department has conducted an Internal Affairs investigation into **Somerville Police Sergeant John Vozella**. The investigation sustained the allegation of larceny. At the conclusion of the investigation, Sergeant Vozella resigned from the Somerville Police Department on December 29, 2008.

Respectfully Submitted,  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

DATE:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth, and in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that the Middlesex District Attorney's Office has learned of exculpatory information concerning one of the potential witnesses in this case, **Tyngsborough Police Lieutenant Shaun Wagner**. An independent investigation concluded that Lieutenant Wagner violated internal rules and regulations of the Tyngsborough Police Department, including abuse of position and conduct unbecoming an officer, as well as the department's code of ethics, in conjunction with his management, oversight and inappropriate use of police union funds. The Commonwealth possesses documents associated with this investigation. A separate investigation conducted by the Office of the Middlesex District Attorney found that these violations did not rise to the level of criminal conduct.

The Commonwealth notes that this information would not be admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_  
COURT  
DOCKET NO. \_\_\_\_\_

COMMONWEALTH

v.

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COMMONWEALTH'S NOTICE REGARDING  
A POTENTIAL COMMONWEALTH WITNESS

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Now comes the Commonwealth pursuant to Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), and notifies the defendant that a potential witness in this case, **former Lowell Police Officer Eric Wayne**, was arraigned on October 16, 2014, in Essex Superior Court, Docket No. 1477CR1179, for motor vehicle homicide by negligent operation, manslaughter, and assault and battery by means of a dangerous weapon arising out of alleged conduct on or about August 23, 2014, in Methuen. He resigned from the Lowell Police Department on September 15, 2014.

On October 4, 2016, he pleaded guilty to the aforementioned charges and was sentenced by Justice Timothy Feeley to four years in state prison, with a three year term of probation from and after the committed sentence including conditions of no alcohol or drugs, substance-abuse evaluation and treatment, and random screens.

The Commonwealth recognizes that it is within this court's discretion to decide whether the officer's credibility is a critical issue at trial and whether prior false statements in an unconnected matter may significantly impact the trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that this information is not admissible for impeachment. "The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness's] credibility." Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth,

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date:



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

\_\_\_\_\_ COURT  
DOCKET NO. \_\_\_\_\_

**COMMONWEALTH**

**v.**

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**COMMONWEALTH'S NOTICE  
REGARDING A POTENTIAL COMMONWEALTH WITNESS**

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Now comes the Commonwealth and, in light of Mass. R. Crim. P. 14 and case law, including Matter of Grand Jury Investigation, 485 Mass. 641 (2020), hereby notifies the defendant that it possesses exculpatory evidence regarding one of the potential witnesses in this case, **Tyngsborough Police Officer Daniel Whitman**. An internal affairs investigation, which arose out of allegations that Officer Whitman was operating a privately-owned firearms business while on duty, concluded on October 24, 2017 and sustained several violations of internal rules and regulations of the Tyngsborough Police Department, including: neglect of duty, incompetence, lack of attention and devotion to duty, a violation of CORI laws and regulations, and a finding that Officer Whitman was untruthful during the course of the investigation. The investigation also sustained a violation of the Massachusetts conflict of interest laws. The Commonwealth is in possession of documents associated with this investigation. Officer Whitman ultimately received a ten-day suspension from January 24, 2018 to February 6, 2018.

The Commonwealth has also learned that, on January 6, 2021, a complaint issued in the United States District Court for the District of Massachusetts charging Officer Whitman with conspiracy to violate provisions of the National Firearms Act (NFA) by making, possessing, and failing to register short-barreled rifles, as well as possessing a suppressor without proper registration. Subsequently, an indictment issued on June 2, 2021, in the United States District Court for the District of Massachusetts charging Officer Whitman with conspiracy to commit bank fraud, two counts of aiding and abetting bank fraud, two counts of aiding and abetting the making of false statements to a bank, two counts of possession of an unregistered firearm, making a firearm

in violation of the NFA, and transferring a firearm in violation of the NFA. Officer Whitman has been on paid administrative leave since August 2019.

The Commonwealth recognizes that it is within this court’s discretion to decide whether an officer’s prior misconduct is a critical issue at trial, Commonwealth v. Lopes, 478 Mass. 593, 606 (2018), but contends that such information is not admissible for impeachment. “The well-established rule in Massachusetts is that [s]pecific acts of prior misconduct of the witness . . . not material to the case in which he testifies cannot be shown by the testimony of impeaching witnesses or other extrinsic evidence to affect [the witness’s] credibility.” Commonwealth v. LaVelle, 414 Mass. 146, 151 (1993) (quotation omitted). See Commonwealth v. Avalos, 454 Mass. 1, 10-11 (2009) (absent a conviction, evidence of act of untruthfulness inadmissible for impeachment); Mass. G. Evid. § 608(b) (specific instances of misconduct showing untruthfulness not admissible to attack or support credibility).

Respectfully Submitted  
For the Commonwealth

MARIAN T. RYAN  
DISTRICT ATTORNEY

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Assistant District Attorney

Date: