

Investigation

IA2014-2DAY

June 5, 2011

June 5, 2014-

Chief Hanavan told me he had been informed of possible impropriety (**untruthfulness**) by an officer currently employed by the Tisbury Police Department. Chief Hanavan indicated he had been approached by Chief Brian Cioffi and Chief Daniel Rossi in regard to an upcoming OUI trial. Both Chief's informed Chief Hanavan that Defense Attorney Moriarty was going to challenge Officer Jeff Day in regard to being untruthful. The basis of the accusation is based on several incidents which took place when Officer Day was employed by the Chilmark Police Department for which he was accused of being untruthful. According to Chief Cioffi and Chief Rossi this information had been conveyed to Attorney Moriarty who was going to challenge Officer Day's credibility as a witness.

Chief Hanavan indicated he approached Attorney Jack Collins regarding the information he had received from Chief's Cioffi and Rossi. Collins advised an investigation be conducted into the matter.

Chief Hanavan requested I conduct the review of the situation.

At approximately 12:45 PM I approached Chief Cioffi in regard to the investigation. Chief Cioffi told me he had information which supported the accusation that Officer Day was untruthful while in his employ. I made an appointment to speak with Chief Cioffi at his station on June 10, 2014.

June 10, 2014-

I drove to the Chilmark Police Department and arrived at 11:00 AM to meet with Chief Cioffi. Chief Cioffi provided me access to the files regarding Officer Day. The

files included personnel, discipline, and training. I was allowed to make copies of the information contained within these files. I made copies of several documents, but, not the entire contents of the file(s).

During conversation with Chief Cioffi I discovered Officer Day had not been formally disciplined in regard to a handgun which may have been inappropriately obtained. Chief Cioffi explained prior to his being able to discipline Officer Day in regard to this issue Officer Day had resigned. Chief Cioffi also provided me insight into situations regarding the shooting of a turkey and towing of a vehicle, during which he claimed Officer Day had been untruthful. I requested Chief Cioffi provide me with a written statement documenting the handgun situation. Chief Cioffi stated he would consult his counsel for direction regarding my request. Chief Cioffi told me that he did not want it to appear as though he had or was attempting to, "hang Officer Day out"; and he was not responsible for the implementation of the investigation. Chief Cioffi stated the information had been given to Attorney Moriarty by member of the Edgartown Police Department. Chief Cioffi did not indicate which member of the Edgartown Police Department had divulged this information, simply stating this information appeared to be common knowledge. I informed Chief Cioffi that Officer Day had informed Chief Hanavan the handgun was non-functioning at some point during his hiring process. I asked Chief Cioffi if this were true. Chief Cioffi stated he would take the gun out of the safe at the police department and test it.

I departed the Chilmark Police Department at approximately 1:00 PM and returned to the Tisbury Police Department.

June 11, 2014-

I received a telephone call from Chief Cioffi at approximately 2:00 PM. Chief Cioffi requested I provide him a written request from Chief Hanavan prior to him providing a written statement in regard to Officer Day. At 2:44 PM I faxed a copy of the written request to the Chilmark Police Department. The request was signed by Chief Hanavan (copy enclosed). During our conversation on the telephone

Chief Cioffi stated he had tested the handgun in question and it was functional as a firearm.

July 27, 2014-

I received a written letter, addressed to Chief Hanavan, from Chief Cioffi detailing several examples of untruthfulness exhibited by Officer Day while employed with the Chilmark Police Department (copy enclosed). The letter was requested on June 11, 2014 by me through Chief Hanavan in order to proceed with the investigation. The letter is dated June 30, 2014, but, not received until July 27, 2014. The letter details events from 2012 when Officer Day was employed by the Chilmark Police Department.

The letter specifically addresses an incident regarding property which had been turned in to Officer Day (.25 cal. Handgun). Chief Cioffi initiated this inquiry based on a citizen request for information regarding the requested destruction of the handgun. According to the letter it states Officer Day admitted to lying to Chief Cioffi and Sgt. Klaren as to where he had obtained a handgun which had been turned in for destruction. The issue appears to be where Officer Day received the handgun and for what purpose he received it. The letter indicates Officer Day initially stated he received the handgun while teaching a hunter safety course in Edgartown and the gun was to be used for demonstration purposes. Chief Cioffi contends the handgun was turned in to Officer Day while he was in uniform, on duty, at the Chilmark Police Department and was to be destroyed. The letter goes on to indicate Officer Day admitted to being untruthful to Chief Cioffi in the presence of Sgt. Klaren.

The second instance, Chief Cioffi's letter references, is in regard to a vehicle which was towed in West Tisbury at the request of Officer Day. According to the letter Chief Cioffi was approached by an irate citizen questioning why her vehicle was towed instead of being contacted to pick it up. Officer Day, according to the letter, was initially untruthful telling other officer's and Chief Cioffi that he had no ability to contact the registered owner. It was later determined Officer Day did

have knowledge of the registered owners location. It was further determined Officer Day had the vehicle towed for inventory purposes in regard to some illegal narcotics which had been seized from the interior. The letter indicates Officer Day was concerned the narcotics would not be admissible as evidence or could be suppressed if the vehicle was not inventoried and towed from the scene.

The letter concludes with the indication Officer Day resigned from the Chilmark Police Department for being untruthful after being placed on administrative leave. It does not appear as though there was any follow-up investigation by the Chilmark Police Department in regard to these instances. It appears that Officer Day was allowed to resign in lieu of being terminated for being untruthful based on the information provided by Chief Cioffi.

July 30, 2014-

I faxed a request to Chief Cioffi at his Police Department requesting follow-up information in regard to his allegation of Officer Day being **untruthful**. The information requested included the following:

- 1- A written statement from Sgt. J. Klaren in regard to his knowledge of events which transpired at the Chilmark Police Department regarding Chief Cioffi's allegation of untruthfulness (Chief Cioffi's written narrative specifically indicates these events were witnessed by Sgt. Klaren).
- 2- Contact information for [REDACTED] who was also referenced in Chief Cioffi's letter.
- 3- A copy of any correspondence from Attorney Moriarty, which Chief Cioffi specifically cites as the reason for this investigation.

August 4, 2014-

While attending a secret service briefing at the Martha's Vineyard Regional High School I made contact with Sgt. Klaren. I spoke with him briefly and requested an opportunity to obtain a statement from him in regard to Officer Day. Sgt. Klaren appeared to be nervous about the topic and informed me he would consult with

Chief Cioffi, since he did not feel comfortable discussing the topic. I then spoke with Chief Cioffi, who was also present at the meeting, and he told me he would, "think about it."

August 8, 2014-

At approximately 6 P.M. I received a telephone call from Chief Cioffi. He indicated he had thought about my request and decided that his statement was all I needed to complete my investigation. He referenced a transfer of information from one officer to another being adequate and his statement would stand for the entire Chilmark Police Department. It appeared to me as though Chief Cioffi was attempting to direct my investigation in regard to his complaint. I explained that I understood the transference of probable cause from one officer to another in regard to criminal activity in order to make an arrest; however, I took exception to that in regard to an internal affairs investigation regarding truthfulness. I explained I would have to substantiate any claims made by Chief Cioffi in regard to his allegation and his statement alone could not be taken at face value because there was no supporting documentation. The copies of reports turned over do not have information supporting the accusation made by Chief Cioffi.

August 14, 2014-

I spoke with Officer Day and informed him that an allegation had been made by Chief Cioffi in regard to him being untruthful in 2011. I provided Officer Day a copy of the material provided to me by Chief Cioffi. I then informed Officer Day he should read the letter submitted by Chief Cioffi and formulate a response to the accusations. I also informed him he should contact his FOP union attorney/representative and inform them of the situation. I further informed Officer Day he should have no contact with Chief Cioffi while this situation was being reviewed.

August 19, 2014-

I was contacted via telephone/email by Attorney Kareem Morgan in regard to Officer Day. I spoke with Attorney Morgan and informed him that it was my intent to question Officer Day in regard to the claim made by Chief Cioffi. Attorney

Morgan requested I wait until he had an opportunity to further consult with Officer Day.

August 20, 2014-

I sent Attorney Morgan a copy of the letter submitted to me by Chief Cioffi via fax.

August 29, 2014-

I interviewed Officer Day at approximately 4:00 P.M. in regard to the allegations made by Chief Cioffi. Officer Day was accompanied by FOP union representative Sgt. C. Habekost during the entirety of the questioning.

Officer Day informed me, through the questioning, that he had not lied to Chief Cioffi. He stated he had obtained a firearm, in non-functioning condition, from [REDACTED] after instructing her in a hunter safety course. This course was taught in Edgartown. Officer Day stated at some point after receiving the gun he was ordered by Chief Cioffi to turn it in to Chilmark police evidence for destruction. Officer Day stated he complied with this order, which is supported by the letter provided by Chief Cioffi. Officer Day indicated he believed they had brought the handgun to the Chilmark Police Department, but, it was also common practice for officers at Chilmark Police Department to utilize non-evidentiary handguns stored at the station for exhibits in the hunter safety course he and Chief Cioffi taught. Officer Day further informed me he had apologized to Chief Cioffi for the entirety of the situation, but, had never told him he had been untruthful. Officer Day indicated he had been put on administrative leave after an incident involving a towed vehicle. He stated this administrative leave had not been done in writing, just verbally conveyed by Chief Cioffi. Officer Day refuted the allegation he had utilized a vehicle tow in order to obtain evidence. He further stated he had not lied about not knowing where the owner of the vehicle was located. It should be pointed out Officer Day did in fact utilize the vehicle owners name and address in a memorandum to Chief Cioffi in regard to the vehicle tow, he further indicated he gave the vehicles owner a ride to her residence due to the fact the vehicle had been damaged and she couldn't drive it safely. Officer Day denied ever being untruthful with Chief Cioffi in regard to the vehicle being towed

or the reasons for the tow. Officer Day further indicated he had never been given any formal discipline in regard to any of the allegations made by Chief Cioffi. Officer Day stated he felt pressured to resign from the Chilmark Police Department based on Chief Cioffi's behavior towards him in regard to these incidents. Officer Day stated he had informed Chief Hanavan of these situations prior to being hired as a full time police officer by the Town of Tisbury.

September 1, 2014-

Summary:

In 2011 Officer J. Day was an employee of the Town of Chilmark working as a full time police officer. While employed at the Chilmark Police Department Officer Day was involved in teaching a hunter safety course. The hunter safety course was not part of his regular duties as a Chilmark police officer. The hunter safety course was a second job. Chief Brian Cioffi was also an instructor for the hunter safety course.

During his tenure as a hunter safety instructor Officer Day met a student named [REDACTED]. At some point [REDACTED] approached Officer Day and turned over a handgun to him. Officer Day believed this gun was given to him to be utilized as an instructional aid for future hunter safety courses. Chief Cioffi was made aware of the handgun while riding on the stream ship when he spoke to [REDACTED]. Chief Cioffi instructed subordinate Officer Day to turn the handgun in to the Chilmark Police evidence for destruction. Officer Day turned the firearm in to be destroyed as instructed and indicated in Chief Cioffi's letter. The first point of contention appears to be whether or not this was done in a timely fashion. The second point of contention appears to be where the firearm was initially obtained (Edgartown or Chilmark). The second point of contention seems to be addressed in that Officer Day stated the firearm was given to him at the Police Department.

A second incident, involving the towing of a vehicle from a traffic stop, also took place while Officer Day was employed by the Town of Chilmark as a full time police officer. Officer Day had taken a report in regard to a stolen motor vehicle. The victim of the crime indicated she had willingly given the vehicle to the

perpetrator in order to affect repairs of one of the wheels. The perpetrator then refused to return the car to the victim. When the vehicle was later located the perpetrator was taken to jail. Evidence in vehicle was located and used to support charges against the perpetrator. The vehicle was towed from the scene and the victim, who had arrived on scene, was given a ride home by Officer Day. Chief Cioffi contends Officer Day indicated he did not know where the victim lived and had the vehicle inadvertently towed in order to cover the search of the vehicle for contraband. Officer Day contends he took the victim home, knew where she lived, and the reason for the tow was due to the fact the vehicle had not been repaired. Chief Cioffi provided a memorandum from Officer Day, at his request, indicating he knew where the victim lived.

Allegations:

Chief Cioffi alleges Officer Day, while working at the Chilmark Police Department, lied to him on several occasions in regard to the summarized incidents. The alleged untruthful statements were in regard to where Officer Day obtained the firearm and secondly his knowledge of the victims residence regarding the towed motor vehicle. These allegations are supported by a typewritten statement from Chief Cioffi.

Conclusion:

I have formed the conclusion regarding this complaint that the allegations against Officer Day are unfounded. This conclusion is based on the fact that the only supporting document is the statement from Chief Cioffi. During the investigation it appeared as though Chief Cioffi was attempting to hinder my ability to gather information. Chief Cioffi either would not or could not produce any supporting documentation, which should have been readily available. There was no investigation conducted by the Chilmark Police or discipline issued in regard to either of the events. Chief Cioffi stated he would not have his employee, Sgt. Klaren, provide a statement. He merely indicated his statement would stand for the Chilmark Police Department. Any other attempts to gather information from witnesses independently has resulted in no contact or refusal to cooperate. Written requests to the Chilmark Police Department have also been ignored.

Based on conversations with Chief Cioffi it appears no investigation was conducted in regard to these allegations, which took place over three years ago, and no discipline was issued to Officer Day. Officer Day voluntarily resigned from the Chilmark Police Department.

As the investigating officer I cannot base a conclusion upon the statement of one individual without corroboration.

Date of Interview: 3/29/2016; 2:10 PM

Officer: Jeffrey Day

Subject: Admin Interview

Chief Hanavan (CH) Ok today is March 29 at 2:10 hours. I'm Chief Hanavan, I'm with Officer Jeff Day and Lt Eerik Meisner. Jeff would you like another union member to sit here with you. (Officer Day had declined having a union member join him in the interview.)

Officer Day (OD): No thank you

CH : I just want to read you the ground rules for the administrative interview.

- 1.) This is an administrative interview. You're being order to answer the questions asked of you. Your responses can not be used against you in criminal proceedings and will only be used for administrative purposes.
- 2.) I refusal to answer questions will result in discipline up to and including termination. Since you have been order to attend this meeting the anticipation is you will answer the questions truthfully and with complete answers.
- 3.) An omission of fact is considered being untruthful
- 4.) Do you understand that ?

OD: unhuh

CH: 5.) OK , I will assume you understand the question unless you speak to the contrary.

6.) Did you take any prescription drugs or medication that would affect your memory , *No*

7.) Ok, the last rule is that the failure to tell the truth will be a cause for discipline up to and including termination. Do you understand what I just said ?

OD: Yes

CH: The reason I am having this Administrative Interview with you is the handgun issue from Chilmark has surfaced again and I need to clear up some confusion that I have. I received an email from [REDACTED] the gun owner. She told me that she wanted the gun destroyed, and not used as a visual aid. I spoke to Chief Cioffi who told me you were let go, that you resigned from Chilmark and it's not because you didn't get along with him. It's because you misrepresented the facts about receiving the handgun from [REDACTED] and then you resigned. That's different information from what you told me when I hired you. So how long did you work in Chilmark.

OD: I worked in Chilmark since 1999 as a special (Special Police Officer). I was hired in 2004 as a fulltime officer.

CH: So, eight years full time. You went to the academy in 2004

OD: Yes

OD: I think I want an attorney instead of a Union Rep.

CH: Well let me tell you, You are not entitled to an attorney right now because this is an administrative hearing.

OD: I think it has implications on my employment here.

CH: All you're entitled to is a Union Rep. That's what you're entitled too.

OD: If I could get Union Representation thru my phone they could represent me thru my union.

CH: No, what your entitled to is a union member who is on duty in the building. I don't have to wait for anybody.

OD: I can get my attorney on the phone.

CH: You're not entitled to an attorney at this time.

OD: I saying I want a Union Rep by my union not by my union that is here.

CH: You're not entitled to that. You're not entitled to that. You have Ogden (Officer Ogden) or Kindia Roman. Take your pick.

CH: Did you received a handgun from a Chilmark resident in 2012?

OD: IN 2012, No

CH: When did you receive the handgun from [REDACTED]

OD: I believe it was in 2006-2008, somewhere in there.

CH: [REDACTED] is the person you received the gun from?

OD: Yes

CH: You met her in a Hunter Safety class ?

OD: Yes

CH: What month was the Hunter Safety class ?

OD: The Hunter Safety class was in April

CH: Similar to this year

OD: Yes

CH: What kind of handgun was it?

OD: It was a twenty five caliber, it was a Spanish thing

CH: Was it a pistol or a semi auto style?

OD: It was a semi auto pistol

DH: If I told you the brand was a MAB Spanish brand does that ring a bell ?

OD: Yes

CH: Was the color black?

OD: Yes

CH: Where did you received the handgun

OD: I received it at the Chilmark Police station.

CH: Did you get any instructions from the owner regarding what she wanted done with the gun?

OD: She said she wanted it destroyed because it did not function. At the time she was not permitted to have the gun, she was taking the class to get her FID card.

CH: What did you do with the gun once you received it?

OD: I took it

CH: ok what does that mean?

OD: I took it home.

CH: how long did you have it at home?

OD: Probably until 2012.

CH: So how long is that

OD: Depending when I got it , it was 6 or 4 years.

CH: did you do any transfer paperwork on it

OD: Negative

CH: Did you tell Chief Cioffi or Sgt Klaren you took the gun ?

OD: No

CH: Did you do a computer entry that someone turned in property at the station

OD: Nope

CH: Did you put a property tag on it ?

OD: I did when I was told (2012)

CH: How about in 2008, when you first got the gun

OD: No

CH: Did you place the gun in an evidence locker in 2008?

OD: No

CH: Did you tell Sgt Klaren or Chief Cioffi you received the gun in 2008?

OD: No, I believe I told Chief Rich.

CH: You mean the retired Chief

OD: I don't believe he was retired in 2006 or 2008.

CH: When did you tell Chief Cioffi you had the gun

OD: Chief Cioffi asked whatever date that happened on, in 2012.

CH: In July?

OD: Yes

CH: was the gun a functioning gun

OD: Not at the time

CH: What was wrong with it

OD: I'm not sure

CH: Was the slide detached from the body of the gun

OD: No

(Chief Rich said didn't know @ it until 2012 when Cioffi called him. Past practice was to log gun in computer, tag + put in evidence locker.

CH: I viewed the gun in Chilmark a couple weeks ago. When you rack the slide and pull the trigger, the gun functions. What is wrong with the gun

OD: At the time they told me the gun did not function. My understanding is that Chief Cioffi worked on the gun after I turned it in and made it function again. (Cioffi' denied)

CH: Did Chief Cioffi order you to bring the gun in the Chilmark Police Dept?

OD: Yes he did

CH: Did you bring it in the first time he told you to ?

OD: I did not.

CH: Why did you not follow orders from your Chief?

OD: I brought it in that night, that he told me too.

CH: Did you tell him you did not have to bring the gun in because you got it at the Rod and Gun Club and it is not a Chilmark matter.

OD: I had words to the effect that it came from the Hunter's Safety program.

CH: Where did you secure the gun when you brought it in?

OD: In the locker

CH: Did you tag it

OD: Yes

CH: What did you write on the tag ?

OD: "To be destroyed " per the order of the Chief, Charlie Ten, I believe.

CH: Did you do transfer paperwork for the gun?

OD: No

CH: So what was your intent; to keep the gun?

OD: It was for the Hunter Ed program

CH: After you brought the gun in did you have a meeting with Chief Cioffi and Sgt Klaren in the rear meeting area of the Chilmark station.

OD: I did

CH: Where did you tell them you received the gun?

OD: I told them I received it as part of as a result of the Hunter Education program.

CH: Did Chief Cioffi catch you off guard when he asked you where you got the gun?

OD: Yes

CH: It was my understanding that you told him you got the gun in Edgartown at the Hunter Safety class.

OD: As a result of it, Yes.

CH: Not as a result of it but that you received it in Edgartown.

OD: I received it at the Chilmark Police station.

CH: Did you ever tell Chief Cioffi that you received the gun in Edgartown

OD: I said I received it as a result of the Hunter Safety program

CH: (Reading from Cioffi Invest report) Chief Cioffi said he was approached by [REDACTED] wanting a letter showing that the police Department took possession of the gun and it was to be destroyed.

Again Jeff Day stated the gun was turned over at the Hunter Safety class and not the police department. I then advised Jeff that the gun better be in the drop box by the next day. Does that ring a bell ?

OD: It was in there by 7 AM the next day.

CH: The first time he asked you to bring it in you did not, did you?

OD: I brought it in on the same shift. I didn't bring it in immediately.

CH: Because you mentioned that your kids were playing in the room where the safe was and and you did not want to show them where the key was .

OD: There were kids over, kids that were not normally at my house.

CH: (Reading Cioffi report) He (Jeff) further said he was told by [REDACTED] he could use the gun as a visual aid for the Hunter Safety program. Jeff stated he didn't feel he needed to bring the gun to the station as it had no nexus to the police department as he had received the gun in Edgartown.

And you sat in the back room with the Sgt Klaren and Chief Cioffi and talked about the firearm ?

OD: Yep

CH: But there seems to be some confusion where you got the gun . REPORT :At one point Jeff Day said he got the gun at the Chilmark station when Jeff was on duty and in uniform. ██████ asked that the gun be destroyed.

OD: She came to the station and I got the gun from her at the station. It happened so long ago that I forgot which one of those people gave it to me, because her husband was also involved.

CH: But he didn't come in the station that day, he sat in the car.

OD: Correct, but I forgot that.

CH: Reading Cioffi REPORT "I then told Jeff I did not believe he got the gun in Edgartown, I believe the gun was turned in at the station. I told him that I was unsure what decision ██████ had made concerning destroying the gun but at this time she wanted the gun destroyed." Do you remember what you said after that?

OD: No

CH: At this point Jeff stated that he lied and that he did get the gun at the station when ██████ dropped it off. Jeff State he lied initially because Chief Cioffi caught him off guard and that he didn't want to get in trouble for not logging the gun, filling out the appropriate paperwork for the gun or not making a police report about turned in property.

OD: "I didn't make that statement".

CH: Did you say you were sorry about being untruthful? Because you always preach to the Specials (Special Police Officer) that they need to be truthful ?

OD: Nope, I didn't say that either.

CH: So the reason you left Chilmark when you resigned is that you were being untruthful about the handgun that was turned in to be destroyed.

OD: I left Chilmark because I decided not to work for that Chief anymore. That was not the only incident that he was accusing me of that were being blown out of proportion .

CH: What other things were there that were blown out of proportion

OD: It involved a MV stop in WT

CH: What happened there

OD: ██████ had taken some girl's car without her permission and hadn't returned it and we set up. He had a suspended license at the time. WT had a tow inventory policy that Chilmark did not have at the time so I worked with one of our specials and Garrison Vera and had them set up to retrieve

the vehicle as it was traveling on North Rd. Garrison stopped the car and he and WT at 7 Gates and [REDACTED] was indeed driving it . We suspected he had been using it for drug dealing per Chief Cioffi, information coming from the DTF. SO I suggested that they tow the vehicle in order to do a tow inventory and retrieve any drugs or drug evidence that was in the car. And then I got accused of misrepresenting if I knew the phone number of the car owner or not or how to get ahold of her. .

CH: Did you know where the car owner lived.

OD: Yes

CH: Because you gave her a ride home earlier that day or the day before.

OD: Yes

CH: So you had a way to contact the owner ?

OD: Yes

CH: So were you untruthful with the officers when they asked you if you knew how to get ahold of the owner

OD: I didn't say no, I don't

CH: What did you say ?

OD: I told them it would be in their best interest to do a tow inventory of the car.

CH: Did Lt Meisner speak to you about the handgun issue before ?

OD: Yes he has

CH: Did he ask you if you were untruthful with Chief Cioffi

OD: Yes

CH: What did you say?

OD: I said I was not

CH: But in the notes from Chilmark , Chief Cioffi's notes its noted that you said you got the handgun in Edgartown on the last day of class.

OD: I said I got the handgun from the Hunter Education program. The program happens in Edgartown.

CH: did you tell Chief Cioffi that you got the handgun in Edgartown on the last day of class.

OD: I said I got it as a result of the Hunter Safety class. He wrote that up about 3 or 4 years after the incident and that incident had occurred 4 years before that.

CH: Were you truthful with me when I hired you

OD: Yes I was

CH: You were?

OD: I told you why I was done in Chilmark

CH: You didn't tell me you took the gun home for four years.

OD: NO

CH: Do you think that is larceny of a firearm ?

OD: No, I don't

CH: She told you she wanted it destroyed.

OD: At the time, I told her there were options for the gun and I told her. She knew I was the firearms instructor for the class and she was in my class at the time. As part of the class I demonstrate different firearms and I told her I could use the gun for the class. When she talked to him that was at least four years after the gun was given to me. Her recollection of the events may have changed over time as well. She is an elderly person

CH: I heard from the beginning she turned it in she wanted the gun destroyed. She didn't want any ties to her or the gun. Either did the husband. That's why they turned it in to the police to be destroyed. Right here (reading [REDACTED] Email) "I asked that the gun be destroyed. Never had a heard about the gun being used for anything. "

CH: So its normal in the course of business, it gets turned in at your station and you don't tell anyone and you don't do a log entry that says I got a gun turned in from [REDACTED] and I'm going to use it for my Hunter Safety program.

OD: I made arrangements with her prior to her turning it in. She said she had a gun at the Hunter Safety program and I said I can take that , I can use that, and then later on she brought it to the Chilmark station. When she knew I lived, I mean worked, . She lived in Chilmark as well.

→ CH: She is saying she wanted the gun destroyed. That's what she told you. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

April 13, 2016

Mr. John W. Grande
Town Administrator
Tisbury Town Hall
P.O. Box 1239
Tisbury, MA 02568

Re: Request for Show Cause Hearing
Officer Jeffrey Day

Dear Mr. Grande:

As you know, on Tuesday, March 29, 2016, following the completion of an administrative interview, [REDACTED] "Officer Day" as said [REDACTED].

For the reasons set forth below, I hereby request that the Board of Selectmen convene in Executive Session pursuant to G.L. c. 30A, sec. 21(a)(1) to consider whether Officer Day should be disciplined, [REDACTED].

Officer Day's Appointment

In August 2012, Officer Day approached me about working in the Tisbury Police Department. Prior to his coming to me, Officer Day had resigned from his police officer position in Chilmark, with a resignation date of August 9, 2012. When he expressed an interest in working in Tisbury, I questioned Officer Day about an incident I was aware of concerning a firearm that had been turned into the Chilmark Police Department which he needed to clarify.

Officer Day explained that he came into possession of a firearm through his being an instructor at a Hunter Safety course which he taught in Edgartown. A woman, [REDACTED] who had attended his course expressed a desire to dispose of a gun she owned and she told Officer Day that she would give it to him for his use when he taught the safety course. Officer Day represented that the gun which [REDACTED] gave to him did not function at the time he received it. Finally, he represented that he would be able

to obtain a letter from [REDACTED] that she gave the gun to him for his use in the safety course.

I thereafter contacted Officer Day's employment references, all of whom spoke positively of him as a law enforcement officer.

Subsequent to speaking to Officer Day's references, I recommended Officer Day for appointment as a Special Police Officer. The Board appointed Officer Day as a Special in August 2012 and the Board later appointed him to a full-time position in April 2013.

June 2014 Internal Investigation

In June 2014, Chief Brian Cioffi of Chilmark and Chief Daniel Rossi of West Tisbury approached me with regard to an upcoming OUI trial in which Officer Day would be a witness. Chief Cioffi and Chief Rossi communicated that defense counsel intended to cross examine Officer Day concerning prior instances in Chilmark where he had not been truthful during the course of his duties as a police officer.

Upon learning of these allegations from Chief Cioffi and Chief Rossi I directed Lieutenant Erik Meisner to review the situation.

As part of his review, Lt. Meisner personally met with Chief Cioffi and requested that he provide a written statement concerning the circumstances surrounding Officer Day's ending his employment with Chilmark. Chief Cioffi's statement (attached hereto) provided that Officer Day admittedly lied with regard to how he came into possession of [REDACTED] firearm. In the following days Officer Day resigned his position in Chilmark due to the incident involving [REDACTED] firearm and his misrepresentations concerning how he came into possession of the gun, as well as another incident involving a towed vehicle where allegations existed that Officer Day was untruthful with regard to that incident.

Following receipt of Chief Cioffi's statement, Lt. Meisner interviewed Officer Day. Officer Day represented that he never lied to Chief Cioffi with regard to his possession of [REDACTED] firearm. Officer Day further communicated that he resigned his position due to Chief Cioffi's behavior towards him and that he informed me of these matters prior to being hired as a full-time officer in Tisbury.

Lieutenant Meisner concluded that the allegations against Officer Day to be unfounded, primarily due to lack of evidence of wrongdoing at that time. Lieutenant Meisner's conclusion provides that "[a]s the investigating officer I cannot base a conclusion upon the statement of one individual without corroboration."

Statement from Ms. Walker and Follow Up Reports Received

In the months following the issuance of Lt. Meisner's report, where he specifically found the allegations against Officer Day to be unfounded as he did not have corroboration of Chief Cioffi's representations, I attempted to establish contact with [REDACTED] to obtain a written statement from her with respect to the disposition of her firearm. On Friday, March 18, 2016, I received a two (2) part statement from [REDACTED] wherein she represented that she delivered the gun to the Chilmark Police Department with instructions that it was to be destroyed.

Following Officer Day's administrative interview, during which he represented that the firearm he received from [REDACTED] was inoperable and, further, that it was his understanding Chief Cioffi later repaired the gun, I contacted Chief Cioffi to ascertain the functionality of the handgun. Chief Cioffi represented that at the time Officer Day delivered the gun to him in 2012, the gun was in three (3) pieces, and upon assembly the firearm functioned properly. Chief Cioffi also represented that no one in the Chilmark Police Department had performed any repairs on the gun following Officer Day's returning the gun to Chief Cioffi in 2012.

Also, during the course of Officer Day's interview, he represented that at the time he received the firearm from [REDACTED] he "believed" he told then-Chief Rich of his receipt of the firearm. Chief Rich subsequently provided me with a statement where he vehemently denied ever knowing about [REDACTED] delivering her firearm to Chilmark. According to Chief Rich, he first learned of this incident in 2012 when Chief Cioffi approached him about the matter and that had he been "aware of the gun having been turned into Officer Day in 2008 at the Chilmark Police Station while he was on duty, there would have been a log entry and an evidence tag placed on it, which is standard operating procedure."

Based upon the foregoing I respectfully request that the Board notice Officer Day for a Show Cause Hearing pursuant to G.L. c. 30A, sec. 21(a)(1) to review these allegations and to determine, if same are proven, the appropriate level of discipline to issue Officer Day, [REDACTED]

Thank you.

Sincerely,

Daniel T. Hanavan
Chief of Police
Town of Tisbury

Dan Hanavan

From: [REDACTED]
Sent: Friday, March 18, 2016 11:09 PM
To: Dan Hanavan
Subject: MAB 25. P S

Chief! I forgot to add in the last letter - I had asked the gun to be destroyed. Never had I been asked or even heard about it being used for anything!!!!

[REDACTED]

Sent from my iPad

Dan Hanavan

From: [REDACTED]
Sent: Friday, March 18, 2016 7:09 PM
To: Dan Hanavan
Cc: [REDACTED]
Subject: MAB 25 Automatic pistol

My name is [REDACTED] After gun training class with Jeff Day I learned I needed to register all guns brought from CA. I asked if I could turn in a gun I no longer wanted, nor liked. Since I live in Chilmark Jeff said I could turn it in at the police station there. When I took the gun in there was no one there I knew from class. I left it anyway but did not receive anything in writing. I was told the officers there would let Jeff know and he would get back to me with paperwork. I believe this all happened in 2008. Chief Chofi, after relaying all the information to him gave me the paperwork in approximately 2014.

[REDACTED]

Sent from my iPad



Chief of Police
Brian A. Cioffi

Town of Chilmark
Office of
Police Department
Chilmark, Massachusetts 02535

Station (508) 645-3310
Fax 645-3101
Communications 693-1212

To: Chief Dan Hanavan
From: Chief Brian A Cioffi
Date: June 30, 2014
Re: Internal Investigation

Chief Hanavan,

Per your request dated June 11, 2014, the following is a time line of incidents and relative information to Jeff Day and untruthfulness.

July 15, 2012

At approximately 1200 hrs., I was on a Freight Boat leaving Woods Hole when I was approached by a female identified as [REDACTED] of Abel's Hill Chilmark. [REDACTED] inquired if I was the Chilmark Police Chief. [REDACTED] made small chat and then walked away.

Shortly thereafter [REDACTED] asked me if and when she would get documentation for the handgun that she gave to the police department for destruction. She just wanted to make sure it was destroyed and that it had no ties to her. I asked [REDACTED] what the handgun was and she told me a 25 ca. semi-automatic handgun. I asked her when she turned it in and who she turned it in too. [REDACTED] stated that she gave it to Jeff Day at the station one afternoon. [REDACTED] stated that she gave it to him and that he had taught her the hunter safety course and he did a great job teaching.

I called Sgt. Klaren at the station and asked if he recalled a handgun matching this description and if it was at the station. Sgt. Klaren stated he did not and looked in our evidence room with nothing found matching the above.

Next I called Jeff Day via the phone at his house. I asked him if he was aware of a gun or incident matching this description. Jeff replied yes and that he had taken possession of the gun at the end of the hunter safety course in Edgartown that previous spring. I asked him again if he received the gun at the hunter safety course in Edgartown or if he received information about the gun there and it was turned in at the station. Jeff again stated that he received the gun in Edgartown the last day of the hunter safety course.

I walked back over to [redacted] and asked if she remembered giving it to Jeff Day at the hunter safety course and not the station. Both [redacted] and her husband were adamant that she delivered it to the station and that Jeff was wearing a uniform when she gave it to him and that it was supposed to be destroyed.

I called Sgt. Klaren and asked him to look one more time. Sgt. Klaren advised me he checked all lockers that contain firearms and looked in the log with negative results. Neither Sgt. Klaren nor I had any recollection of this handgun.

7/15/12

I called Jeff Day back again and asked him if he was positive that he received the handgun at the station or the hunter's education program in Edgartown. Once again Jeff stated that he took possession of it at the hunter's education program in Edgartown. I advised Jeff that I wanted the handgun brought to the station at 1500 hrs. this same date at the start of his shift. I stated there was some discrepancy as to what was supposed to happen with the gun. Jeff stated that the gun was said to have been malfunctioning and was not together. He further said that he was told by the [redacted] that he could use it as a visual aid for the hunter safety program. Jeff stated that he didn't feel he needed to bring the gun to the station as it had no nexus to the police as he received it in Edgartown. I advised him to bring it at 1500 hrs., this same date, the start of his shift.

At 1515 hrs., on this same date Jeff arrived at the station. Jeff was 15 minutes late to work. I will point out that this was not a usual occurrence for Jeff. After the initial get in to work routine I asked him where the gun was. Sgt. Klaren was present for this. Jeff stated again that he didn't feel it was a police matter and that he had kids in the room that his safe was located in. Jeff further stated that he didn't feel comfortable getting the gun out with them in the room. (He didn't want them to see the location of the key) I told Jeff that I had been approached by [redacted] wanting a letter showing that the police department took possession of the gun and that it was to be destroyed. Again Jeff stated that the gun was turned over at the hunter safety course and not the police department. I then advised Jeff that the gun had better be in the evidence drop box by 0700 hrs. the next day as it was Sunday and both Sgt. Klaren and I were off duty. Jeff stated that he would do this.

At 0700 the gun was located by Sgt. Klaren in the evidence drop box with a tag on the gun that stated it was to be destroyed. The tag was filled out by Det. Jeff Day.

7/16/12

At 1500 hrs., July 16, 2012 at the start of Jeff's shift myself and Sgt. Klaren sat with Jeff in the back room and discussed the situation revolving around the gun. At this point I told Jeff that [redacted] was adamant that she delivered the gun to the station, on a day that Jeff was on duty, turned the gun over to Jeff while he was in uniform and asked that it be destroyed. I further stated that [redacted] husband even stated that he remained in the vehicle because from the purchase of the gun he was not happy that his wife had it and he wanted no part of it. I then told Jeff I did not believe he got the gun in Edgartown and that I believe it was turned in at the station. I then told him that I was unsure what the ending decision of [redacted] was relative to being destroyed or used as a visual aid, however, at this time she wanted the gun destroyed.

At this point Jeff stated that he had lied and that he did get the gun at the station when [redacted] dropped it off. Jeff stated that he lied initially because I caught him off guard and that he didn't want to get into trouble for not logging the gun, filling out appropriate paperwork for the gun or making a police report about turned in property. Jeff stated that he was very sorry about his untruthfulness and no one

is madder than he is about the situation because he stated he is always preaching truthfulness to the summer specials. Jeff apologized for his actions and in the end only blamed himself for lying.

July 20, 2012

A female called the station and reported that a male party named [redacted] had not returned her car after she allowed him to use the vehicle for a couple of hours. The female stated that she had just met Jason and he told her that he could fix her tire. The female was identified as [redacted] [redacted] stated that she was a Nurse working in Seven Gates off of North Road.

Later this date the vehicle was located in West Tisbury by Cpl. Vieira and subsequently [redacted] and a [redacted] were arrested for various narcotics violations and motor vehicle use without authority.

July 23, 2012

[redacted] came to the station and thanked us for retrieving her vehicle from [redacted] [redacted] asked why her vehicle had to be towed. She stated that the tow bill was in excess of \$200.00. I asked her what she meant that it was towed. She stated that the vehicle was towed by the police and Officer Day advised her that because it was used in a crime (narcotics found inside during search) that it was required to be towed.

I called Chief Rossi of West Tisbury and asked if he knew why the vehicle was towed. Chief Rossi asked Cpl. Vieira why they towed the vehicle. Cpl. Vieira stated that Officer Day advised him that he had no contact information for the owner as her cell phone was in the vehicle.

I apologized to [redacted] and made the appropriate steps to pay for the tow of her vehicle.

Ofc
Liz
Geb

Upon [redacted] departure, Officer Gebbo stated that Jeff and Officer Ventura were concerned over the evidence that was located and whether or not it was found correctly. Officer Gebbo further stated that she believed that Jeff had given [redacted] a ride home with in the last couple of hours and that it was just up the street. Officer Gebbo stated that she felt towing the vehicle wasn't right but she was not the officer in charge.

July 24, 2012

I went to West Tisbury Police Department and spoke with Cpl. Vieira. I asked Cpl. Vieira about the above incident and more relative about the towing of the vehicle. Cpl. Vieira told me that he did not want to tow the vehicle; he asked Jeff if he knew where she lived and did he have anyway to contact her. Jeff replied he did not know where she lived and had no way of contacting her.

July 25, 2012

I requested Jeff come to the station and write a To/From about the above incident and to be as detailed as possible. See Attached.

I reviewed his memo and the following took place:

We talked about why the vehicle was towed and how I was upset that we towed a vehicle that a citizen had asked us for help. I asked Jeff if he was ever asked to go get the owner from her residence and he replied no. I then informed Jeff that both Officer Gebo and Cpl. Vieira had given conflicting stories from his. I told him that Cpl. Vieira asked him if he could contact the owner or if he knew where she lived and at the time Jeff's reply was I don't have any contact information for her and I don't know where she lives. Jeff further stated to Cpl. Vieira that her cell phone was in the vehicle and that was the only contact. After some time and conversation, Jeff stated that he did tell Cpl. Vieira that he couldn't contact [REDACTED] Jeff stated that he did this because if West Tisbury towed the vehicle, they could use the tow inventory policy and the narcotics that were located in the vehicle would definitely be covered for purpose of a good search. At the end of the conversation Jeff admitted to lying to me and to Cpl. Vieira. I told Jeff this was twice in the last week that he had been untruthful and that untruthfulness was unacceptable in law enforcement. [REDACTED]

The following day Jeff resigned from his position with the department and turned in his equipment.



**WEST TISBURY POLICE DEPARTMENT
WEST TISBURY, MA**

INCIDENT # / REPORT #
2012001165 / 1

OFFICER
VIEIRA, G

RANK
OFC

REVIEW STATUS
APPROVED

INCIDENT #2012001165 DATA

As Of 07/21/2012 20:43:56

BASIC INFORMATION

<u>CASE TITLE</u>	<u>LOCATION</u>	<u>APT/UNIT #</u>
OP AFTER SUSPENSION	NORTH RD & S GATE RD	
<u>DATE/TIME REPORTED</u>	<u>DATE/TIME OCCURRED</u>	
07/20/2012 14:47:40	On or about 07/20/2012 14:47	
<u>INCIDENT TYPE/OFFENSE</u>		
LICENSE SUSPENDED OR REVOKED, OP MV WITH C90 S23		

PERSONS

<u>ROLE</u>	<u>NAME</u>	<u>SEX</u>	<u>RACE</u>
OWNER	[REDACTED]	FEMALE	

OFFENDERS

<u>STATUS</u>	<u>NAME</u>	<u>SEX</u>	<u>RACE</u>
DEFENDANT	[REDACTED]	MALE	WHITE
DEFENDANT	[REDACTED]	FEMALE	WHITE

VEHICLES

<u>ROLE</u>	<u>TYPE</u>	<u>YEAR</u>	<u>MAKE</u>	<u>MODEL</u>	<u>COLOR</u>	<u>REG #</u>	<u>STATE</u>
RECOVERED		2005	HYUND	ELANTRA HATCH	GRAY	[REDACTED]	MA
<u>STOLEN \$</u>	<u>REC CODE</u>	<u>DATE REC</u>	<u>REC \$</u>	<u>REC BY</u>			

PROPERTY

<u>CLASS</u>	<u>DESCRIPTION</u>	<u>MAKE</u>	<u>MODEL</u>	<u>SERIAL #</u>	<u>VALUE</u>
DRUGS/NARCOTICS	TWO TABLETS OF ECSTASY				1
DRUGS/NARCOTICS	ALPRAZOLAM				1

OFFICER REPORT: 2012001165 - 1 / VIEIRA, G (OFC)

<u>DATE/TIME OF REPORT</u>	<u>TYPE OF REPORT</u>	<u>REVIEW STATUS</u>
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Main Form

07/20/2012 14:47:40

INCIDENT

APPROVED

NARRATIVE

On Friday July 20, 2012, a General Broadcast was issued by the Chilmark Police to stop and hold [REDACTED] for questioning in reference to unauthorized use of a motor vehicle. He should be operating [REDACTED] 2005 Hyundai Elantra grey. They also advised [REDACTED] right to operate a motor vehicle was suspended.

At approximately 7:13pm I was monitoring traffic on North Road near the State Road intersection. I observed the above listed vehicle pass me. I could see a male operator with a baseball hat on. I pulled out behind another vehicle, activated my emergency lights, and eventually stopped the grey Hyundai bearing Massachusetts registration [REDACTED]. The Hyundai pulled into the entrance of South Gate Road. I approached the operator, whom I identified as [REDACTED], who is known to me. I immediately removed [REDACTED] and told the passenger to put and keep her hands on the dash board, which she complied. I observed a prescription bottle with its tag ripped off sitting on the center console in plain view. I put [REDACTED] in handcuffs and conducted a quick search and placed him in the rear of W-5. At this point Officer Elwell and Durawa of the Chilmark Police arrived. I then had the passenger, identified as [REDACTED], exit the vehicle and I asked Officer Elwell to place her in handcuffs and secure [REDACTED] in the rear of her police vehicle. [REDACTED] was advised that she was being placed in handcuffs and being detained for investigation purposes. Det. Ventura arrived at this time. Both parties, [REDACTED] and [REDACTED], are known to possess illegal narcotics.

Soon after Det. Day of the Chilmark police arrived, he spoke with [REDACTED] about why he had possession of the vehicle. See his report for further.

I then entered the vehicle to identify the prescription bottle. I again confirmed my earlier observations and noticed the whole tag had been ripped off. There were five and a half green colored pills in the bottle stamped S902. I did an internet search for a pill stamped with those characters and discovered it was Alprazolam. Officer Elwell assisted me in my search of the vehicle. There was a black bag that was on [REDACTED] lap when I stopped the vehicle. This was the same bag that there were multiple prescription bottles for [REDACTED] and other over the counter medications. Each bottle was looked inside of to make sure the proper medication was in it. In the Ibuprofen PM bottle, were multiple Ibuprofen PM pills that were bright orange circle with 44392 characters stamped in them, and oblong brown pills with I-2 characters stamped in them. There were two other circle pills greenish in color with spots that were in their own packaging that Det. Ventura identified those pills to be consistent with the drug Ecstasy. We later referred back to the 2011 edition of the "Drug Identification Bible" and confirmed our observations that they were consistent with the Class B drug Ecstasy. When asked about the prescription bottle Willoughby stated that he had a prescription for the drug, I told him that I needed a valid prescription label on the bottle, properly attached, authorizing him to possess this drug.

When Det. Ventura spoke with [REDACTED] about it, she did not deny that they were Ecstasy.

[REDACTED] was issued Citation [REDACTED] for c90 s23 Operation after Suspension, and c94C s34 Possession of Class E Drug Alprazolam. [REDACTED] was transported to the Dukes County Jail by Det. Ventura. He was given all his rights including Miranda and booked by Dep. McCarty. A driver history revealed that [REDACTED] was suspended for chem test refusal on 3/27/2007.

[REDACTED] was charged with c94C s34 Possession of Class B Ecstasy. [REDACTED] was transported to the Dukes County Jail by Officer Elwell and Durawa. [REDACTED] was given all her rights, including Miranda and booked by Dep. McCarty.

The pills were taken and logged into evidence.

The vehicle was towed by Bay State Towing.



Mark G. Saloio
Chief of Police

TOWN OF TISBURY

Police Department

32 Water Street • P.O. Box 426
Vineyard Haven, Massachusetts 02568
508-696-4240 • Fax 508-693-5543



AI - 2021-001

Page 1 of 2

05/21/2021: I received information from Sgt. Jeffrey Day relative to an arrest he effected earlier that date. Sgt. Day informed me that he mistakenly placed [REDACTED] under arrest after having mistakenly identified [REDACTED] as [REDACTED]. [REDACTED] currently has three outstanding warrants for arrest, through Edgartown District Court. Among the offenses in the warrants are assault and battery with a dangerous weapon, resisting arrest, and failure to stop for police.

Sgt. Day informed me that [REDACTED] strongly resembled [REDACTED] and he addressed [REDACTED] as [REDACTED] when he first encountered him. Day informed me that after addressing [REDACTED] as [REDACTED] [REDACTED] acknowledged Day's greeting and walked over to him. Subsequently, Day advised of multiple arrest warrants being in the system, and placed [REDACTED] under arrest. [REDACTED] was subsequently transported to the Dukes County House of Correction, where it was quickly learned he was in fact [REDACTED] and released forthwith. Sgt. Day submitted to me a written memorandum pertaining to this incident. When I was contacted by Day, his first words to me were "chief I fucked up."

05/24/2021: Spoke with [REDACTED] informed me that while she had been displeased with the arrest of her son, "I do not want to see anything bad happen to Jeff." She stated that she understood a mistake was made and wanted to be sure it did not happen again. I informed [REDACTED] that regardless of her not wanting anything bad to happen to Jeff, he would need to be held accountable for this mistake. I thanked her for her time and apologized for TPD's mistake. I informed [REDACTED] that I would follow up with her at the conclusion of this inquiry. [REDACTED] had also emailed me relative to this incident.

05/26/2021: Spoke with [REDACTED]. He came to the PD to meet with me. I apologized to him for our mistake. I asked [REDACTED] if there was anything I could do for him, or what he believed I should do to hold the sergeant accountable. [REDACTED] shrugged his shoulders and stated "I needed a ride to Edgartown anyway." He stated

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to provide safety, security and an enhanced quality of life within our community.

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Chief of Police

TOWN OF TISBURY

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AI-2021-001

Page 2 of 2

"it was no big deal." I asked [REDACTED] if he had been addressed as [REDACTED] by Sergeant Day. [REDACTED] stated he did not hear Sergeant Day address him as [REDACTED]

I asked [REDACTED] if he ever informed Sergeant Day that he was not [REDACTED] to which he responded "no." There was no additional conversations between [REDACTED] and Day relative to [REDACTED] identity. I asked [REDACTED] if he had any positive ID on his person when he was approached by Day. [REDACTED] responded that he had his wallet and ID in his pants pocket at the time. I asked if Day took his wallet or ID out to view it, to which [REDACTED] stated he did not. I also asked [REDACTED] if he had any conversations with the two transporting officers relative to his ID, he stated he did not.

Written memorandums obtained from Officers Ogden and Fusaro – both transported [REDACTED] to DCSO.

Determination: Preventable mistaken identity, without malice. Policy Violations – 200-9 (11) Job Knowledge/Competence; (14) Neglect of Duty.



06/02/2021: met with [REDACTED] I provided them with a formal letter of apology for this mistake. Both were satisfied and thanked me. Sergeant Day was present and apologized.

AS 6/2/21

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Mark G. Saloio
Chief of Police

TOWN OF TISBURY
Police Department
32 Water Street • P.O. Box 426
Vineyard Haven, Massachusetts 02568
508-696-4240 • Fax 508-693-5543



COPY

June 2, 2021



Dear [REDACTED]

On behalf of the Tisbury Police Department, I wish to extend my sincere apologies for the actions of Sgt. Day, toward you, on May 21st, 2021. Though the actions were neither ill-intentioned or deliberate, they were nonetheless preventable and inexcusable. As Chief of the Department, I take full responsibility for his mistake, and I apologize for any distress or embarrassment this incident may have caused for you, [REDACTED] and your family.

Sincerely,

Chief Mark G. Saloio

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Mark G. Saloio
Chief of Police

TOWN OF TISBURY
Police Department

32 Water Street • P.O. Box 426
Vineyard Haven, Massachusetts 02568
508-696-4240 • Fax 508-693-5543



COPY

June 2, 2021



Dear [REDACTED]

On behalf of the Tisbury Police Department, I wish to extend my sincere apologies for the actions of Sgt. Day, toward your son [REDACTED] on May 21st, 2021. Though the actions were neither ill-intentioned or deliberate, they were nonetheless preventable and inexcusable. As Chief of the Department, I take full responsibility for his mistake, and I apologize for any distress or embarrassment this incident may have caused for you, [REDACTED] and your family

Sincerely,

Chief Mark G. Saloio

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24 May, 2021

Tisbury Police Chief Saloio
Tisbury Police Department
32 Water Street
Tisbury, MA 02568

Dear Chief Saloio,

On Friday, May 21st, 2021, [REDACTED] was arrested in downtown Vineyard Haven [REDACTED] has lived in Tisbury his entire life.

[REDACTED] On this day, [REDACTED] was misidentified as [REDACTED] a man with 3 separate outstanding warrants for his arrest.

The Dukes County Sheriff's Office [REDACTED] received a call from the Communication Center informing us that the Tisbury Police Department would be transporting [REDACTED] to [REDACTED] facility. [REDACTED] when the Tisbury PD patrol vehicle arrived with Officer Ogden and a new officer I had not previously met. As the new officer was securing his firearm I asked about [REDACTED] behavior. [REDACTED] The new officer shared that he'd been fine, no problem.

Lt. Cristea met the vehicle in the yard to escort [REDACTED] in. However, instead of [REDACTED] Lt. Cristea escorted [REDACTED] into booking. I was confused, to say the least, but after questioning the officers I was able to ascertain that [REDACTED] had been mistaken for [REDACTED] Officer Ogden checked [REDACTED] Massachusetts State Identification Card, which was on his person, and agreed that [REDACTED] was not [REDACTED] Officer Ogden offered [REDACTED] a ride back to Vineyard Haven, which was declined, and he was released from [REDACTED] facility.

Shortly thereafter I received a phone call from Sergeant Jeff Day. Sergeant Day apologized to me. He said (and I am paraphrasing but this is certainly the gist of it) that [REDACTED] looks and walks just like [REDACTED]. ([REDACTED] is [REDACTED] first name, but is called [REDACTED] by those who know him). Sgt. Day told me that [REDACTED] turned around when he said, (loudly, I assume), [REDACTED]. I asked Sgt. Day if [REDACTED] said anything or asked what was going on. Sergeant Day told me, (paraphrasing) yes, [REDACTED] asked what was going on and I (Sgt. Day) told [REDACTED] he had outstanding warrants because he failed to appear for his court dates. [REDACTED] said that he didn't have court and wasn't aware of any reason why he would have court dates. I (Sgt. Day) told [REDACTED] that the pandemic may have contributed to his not being informed.

When I arrived home I asked [REDACTED] what had happened. He said he heard, "Hey, excuse me," yelled in his direction, not [REDACTED]. I asked [REDACTED] if the police officer asked him his name or for identification. He said no. [REDACTED] told me almost exactly what Sgt. Day had shared about what he [REDACTED] had said. "What's going on?" "I didn't have any court dates." When [REDACTED] arrived at the jail he was wearing sunglasses and a black felt hat. I asked [REDACTED] if the police officer had asked him to remove his hat or sunglasses. He said, "No".

Sergeant Day seemed to have made up his mind; that the man before him was [REDACTED] despite a whole lot of information that contradicted this assumption. Now, I am not a police officer, but I see a lot of problems with this.

- [REDACTED] and [REDACTED] are not twins. They are close in age and similar in stature.
- [REDACTED] is noticeably intoed. Their gaits are not similar.
- Sgt. Day did not have [REDACTED] remove his hat or his mirrored sunglasses.
- [REDACTED] shared with Sgt. Day that he didn't know why he was under arrest and stated he never had a court date. I know this is a common ploy but in this case it was the truth.
- Sgt. Day never asked [REDACTED] for his name or for his identification, which [REDACTED] had in his pocket.

I am proud of [REDACTED] and how he behaved throughout this incident. Of course, I wish that he had told Sgt. Day his name and I wish he'd been more insistent that they had the wrong guy. I honestly think he didn't know what was happening and did what I've always told him to do-listen to and obey police officers. And, [REDACTED] so, perhaps he thought it less of an ordeal than most. But, when I think about all that could have gone wrong, and how easily it all could have been avoided, I am left with an uneasy feeling. A feeling, I can only assume many have felt about the police in their

communities. I suppose I am writing this for a few reasons. First, I want to be certain you are aware that this happened and how I feel about it. Second, Sgt. Day should also apologize to [REDACTED] if he hasn't already done so. And lastly, I need to say, I spend a lot of time and energy explaining to friends, family, and acquaintances the difficult positions police officers often find themselves in and how public sentiment and media coverage is often unfair. The split-second life and death decisions, the scary situations, the everyday stresses, are not easily explained to the public. But, [REDACTED] This incident wasn't one of those situations. The officer had all day to get this right. There was no urgency, no emergency- yet something got in the way. I guess that's your job in all this; to figure out what got in the way and to prevent a reoccurrence.

Thank you for your time. Please let me know you've received this.

[REDACTED]



**TISBURY POLICE DEPARTMENT
TISBURY, MA**

<u>INCIDENT # / REPORT #</u> 2021005962 / 1	<u>OFFICER</u> DAY, J	<u>RANK</u> SGT	<u>REVIEW STATUS</u> APPROVED
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INCIDENT #2021005962 DATA

As Of 05/22/2021 12:38:04

BASIC INFORMATION

<u>CASE TITLE</u>	<u>LOCATION</u>	<u>APT/UNIT #</u>
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<u>DATE/TIME REPORTED</u> 05/21/2021 12:15:27	<u>DATE/TIME OCCURRED</u> On or about 05/21/2021 12:15
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INCIDENT TYPE(S)/OFFENSE(S)
(AAAG)ASSIST AGENCY: GENERAL

PERSONS

<u>ROLE</u>	<u>NAME</u>	<u>SEX</u>	<u>RACE</u>	<u>AGE</u>	<u>DOB</u>	<u>PHONE</u>
OTHER	ENGLER, WILLIAM AUGUST	MALE	WHITE			(HOME)
	ADDRESS: 431 NEAL WAY OAK BLUFFS, MA					

INVOLVED PARTY



[NO OFFENDERS]

[NO VEHICLES]

[NO PROPERTY]

OFFICER REPORT: 2021005962 - 1 / DAY, J ()

<u>DATE/TIME OF REPORT</u> 05/22/2021 12:38:01	<u>TYPE OF REPORT</u> INCIDENT	<u>REVIEW STATUS</u> APPROVED
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NARRATIVE

On May 21, 2021 while on marked cruiser patrol of State Road in Tisbury I observed a young man walking on the sidewalk towards Main Street. I believed this person to be [REDACTED] I have had past dealings with [REDACTED] has a distinctive gait. I was aware that [REDACTED] has multiple warrants for his arrest. I called the Island Communications

Center and confirmed that there were three active warrants for [REDACTED] issued from Edgartown District Court.

I turned my cruiser around and relocated [REDACTED] walking on Norton Ave. I pulled down Norton Ave and pulled in to TISBERRY parking lot. While still inside the cruiser I rolled down my window as [REDACTED] was walking by. I called out [REDACTED]. He looked at me, tipped his hat and saluted me. I told him I needed to talk to him. He asked what it was about. I got out and said [REDACTED] you have a couple of warrants. He said I dont think so. I said they were because you missed court dates. He said I dont know anything about this. At this time I called for another unit to respond to assist me.

Officer Ogden arrived on scene followed by Special Officer FUSARO. I removed a knife from his pants pocket. I placed Engler into handcuffs and then moved him towards a police cruiser. Officer OGDEN pat frisked him. He was then placed into the rear of Tisbury Police cruiser by Officer OGDEN.

Officer Ogden and FUSARO transported the suspect to Dukes County Jail. Upon arrival at the Jail the suspect was brought into the booking room. Upon entry the suspect said, [REDACTED] told Officer OGDEN that the suspect was not [REDACTED] was released forthwith.

Sgt. Jeff Day

OFFICER SIGNATURES

Reporting Officer: _____ Date: _____
DAY, J
Approving Officer: _____ Date: _____
DAY, J



Mark G. Saloio
Chief of Police

TOWN OF TISBURY

Police Department

32 Water Street • P.O. Box 426
Vineyard Haven, Massachusetts 02568
508-696-4240 • Fax 508-693 5543



To: Chief Mark G. Saloio

From: Officer Scott J. Ogden

Ref.: Report # 2021005962

Date: 05/26/2021, 17:33 hours

On 05/21/21, at approximately 12:15 hours, Sergeant Day radio the Communication Center requesting another Tisbury Police unit respond to his location, Tisbury, at 29 Main Street # rear. I was at the Tisbury Police Station when I heard Sergeant Day's communication over the radio. I had Officer Anthony Fusaro drive Tisbury marked cruiser, Tango 2, over to Sergeant Day's location while I proceed on foot across the Water Street parking lot in front of the Tisbury Police Station.

I directed Officer Fusaro to park Tango 2 on Norton Lane directly next to the Tisbury parking lot. As I approached Sergeant Day on foot, I saw that he had a detainee in handcuffs, and he began to walk the detainee from the Tisbury parking lot to where Officer Fusaro parked the cruiser on Norton Lane. I supported the detainee by holding on to his right arm as he walked to the cruiser on Norton Lane. Sergeant Day said, this is [REDACTED] and he has three warrants, one is a felony. The detainee did not protest at hearing Sergeant Day say the name [REDACTED] or the three warrants he was being detained on. Once at the cruiser on Norton Lane I conducted a pat frisk for weapons and did not find any. I secured the detainee's cell phone in the front passenger seat of the cruiser and guided the detainee into the rear seat of the cruiser where the seatbelt was secured around him. Officer Fusaro and I transported the detainee without incident to the Dukes County Sheriff's Office (Jail).

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Off at the Jail custody of the detainee was turned over to the booking Deputies. One of the Deputies walked out to the cruiser to escort the detainee from the cruiser to the booking area. I searched the rear seat of the cruiser for contraband once the Deputy had removed the detainee and did not find any. I walked back into the booking area and was told this is not [REDACTED]. The booking Deputy produced the detainee's identification that showed his true name as [REDACTED]. I said, so you are not [REDACTED] and [REDACTED] said, I don't even know that dude. I called Sergeant Day on my cell phone and advised him of the situation with his detainee.

Once the true identity of the detainee was known he was released forthwith from custody and given back his property. I asked the detainee if he needed a ride back to Tisbury, and he said I was coming to Edgartown anyway, so thanks. Officer Fusaro and I cleared from the Jail without further incident.

Respectfully Submitted;

Scott J. Ogden

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To: Chief Mark Saloio

FR: Sgt. Jeff Day

Dt: 5/21/2021

RE: Warrant Arrest of [REDACTED]

Chief Saloio I am writing a mem to report an incident that occurred on May 21, 2021 that I was involved in. While on marked cruiser patrol of State Road in Tisbury I observed a young man walking on the sidewalk towards Main Street. I believed this person to be [REDACTED] I have had past dealings with [REDACTED] [REDACTED] has a distinctive gait. I was aware that [REDACTED] has multiple warrants for his arrest. I called the Island Communications Center and confirmed that there were three active warrants for [REDACTED] issued from Edgartown District Court.

I turned my cruiser around and relocated [REDACTED] walking on Norton Ave. I pulled down Norton Ave and pulled in to TISBERRY parking lot. While still inside the cruiser I rolled down my window as [REDACTED] was walking by. I called out [REDACTED] He looked at me, tipped his hat and saluted me. I told him I needed to talk to him. He asked what it was about. I got out and said [REDACTED] you have a couple of warrants. He said I don't think so. I said they were because you missed court dates. He said I don't know anything about this. At this time I called for another unit to respond to assist me.

Officer Ogden arrived on scene followed by Special Officer FUSARO. I removed a knife from his pants pocket. I placed Engler into handcuffs and then moved him towards a police cruiser.

Officer Ogden and FUSARO transported the suspect to Dukes County Jail. Upon arrival at the Jail the suspect was brought into the booking room. Upon entry [REDACTED]

[REDACTED] Officer OGDEN that the suspect was not [REDACTED] but [REDACTED] was released forthwith.

Respectfully submitted,

Sgt. Jeffrey Day

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To: Chief Saloio

From: Special Officer Fusaro

Subject: 5/21/21 Arrest

Date: 05/27/2021

On 5/21/21 Officers Ogden, Silvia, and I were in the patrolman's room when we overheard a request for a tango unit by Sergeant Day to the "Tisberry" parking lot on Cromwell Ln for [REDACTED]. Officer Ogden and I replied and began to proceed downstairs. Officer Ogden instructed me to take our cruiser, T2, to the parking lot via the driveway next to the public bathrooms while he walked there. As I pulled up and parked on the dirt portion of Cromwell Ln, I saw Sergeant Day walking towards the cruiser with a male wearing a cowboy style hat and sunglasses handcuffed behind his back. I exited the cruiser and began walking around the back to the passenger side and Sergeant Day and Officer Ogden were standing at the passenger side rear door of the cruiser frisking the male party. I overheard from several feet away the male ask what the warrants were for and someone replied that they were just for not showing up to court. The male was placed into the rear of the cruiser, I placed his backpack in the trunk, and Officer Ogden and I immediately began driving towards the jail.

As we were departing I called into the communication center via radio to report that we were going to the jail and our mileage. At one point during the transport, the male asked us what his warrants were for, though it was very difficult for us to hear each other over open windows and the partition. Officer Ogden replied he was not sure for what exactly they were for but we could tell him as soon as we got to the jail and that he believed the courts were open so the process should go quick. There was no more dialogue for the rest of the transport aside from casual small talk between Officer Ogden and I as well as making sure I was driving the right way as it was my first time driving to the jail.

After arriving at the jail, I called off our ending mileage over the radio and proceeded into the sally port. Officer Ogden then went inside to secure his firearm and then came outside. I then proceeded inside to the booking area to secure my firearm. While inside Sheriff's [REDACTED] asked me if [REDACTED] was cooperating during the transport which I said yes to,

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this seemed to surprise her. I looked up right after removing the key from my lock box and observed another Corrections Officer and Officer Ogden coming to the booking room door. Just before entering [REDACTED] and as the male and officers entered the booking area he awkwardly laughed and [REDACTED]. Some brief conversation between the five of us occurred that I do not remember the contents of.

Once we figured out what had happened, the handcuffs were immediately removed and he was offered apologies and a ride back to Vineyard Haven but he declined and stated he was on his way to Edgartown anyway. The male and [REDACTED] exited the booking room towards the front of the jail. Officer Ogden and I exited back to the rear secure entrance as Ogden placed a phone call to Sergeant Day letting him know what happened. I do not remember the contents of that phone call as I was not directly next to Officer Ogden. We then cleared from the jail and proceeded back to Tisbury and regular patrol.

Respectfully Submitted,

Special Officer Anthony Fusaro

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