

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

Suffolk, ss.

No. SJ-2021-0129

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

v.

DISTRICT ATTORNEY FOR HAMPDEN COUNTY,  
Respondent.

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PETITIONERS' STATUS REPORT  
SEPTEMBER 16, 2021<sup>1</sup>

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The situation in Hampden County is worse than previously suspected. At a hearing in this case on July 14, 2021, the Hampden County District Attorney's Office represented that the City of Springfield had "produced a batch of documents" pertaining to some incidents of Springfield Police Department (SPD) misconduct identified in the Department of Justice's July 2020 report. Ex. A, Transcript of July 14, 2021 Hearing, *Graham & others v. District Attorney for Hampden County* (No. SJ-2021-0129) ("Hr'g Tr.") at 56-57. But neither the HCDAO nor, so far as Petitioners can tell, anyone else on behalf of the Commonwealth is using those documents as a launch pad for investigating the full scope and gravity of the SPD's egregious misconduct. Ex. B, Letter from Springfield City Solicitor Edward Pikula to Hampden County Assistant District Attorney Jennifer Fitzgerald (July 2, 2021) ("First Pikula Letter"). Instead, the HCDAO is simply relying on the SPD to identify its own misconduct and then disclose a selection of documents that not only fails to go beyond the

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<sup>1</sup> The Court's Interim Order of July 16, 2021 required the parties to file status reports within "sixty business days." That deadline is October 12, 2021. After the Respondents filed their status report early on September 14, 2021, the Petitioners decided to file their status report early as well.

examples identified by the DOJ but, according to the City Solicitor, “are not exhaustive” even as to those incidents. *Id.*

What is more, the SPD has assigned the job to Deputy Chief Steven Kent, a former member of the SPD’s Narcotics Bureau who the HCDAO itself has identified as being “involved in” the exact misconduct identified in the DOJ Report. Respondent’s Status Report (September 14, 2021) (“HCDAO Status Report”) at Ex. G. Although Deputy Chief Kent prepared a written report of his purported findings, the City is keeping that report secret from the HCDAO, and thus from criminal defendants, based on a claim that it is protected by the work-product doctrine. *Id.*

Thus, the entire system for investigating and disclosing evidence of egregious SPD misconduct now rests on admittedly incomplete disclosures that are based on an investigation and secret report by a former member of the very police unit at the center of the scandal. The HCDAO has conceded that Deputy Chief Kent’s report should not be secret. *See* HCDAO Status Report at Ex. G. But the HCDAO has not reported any plans to compel disclosure of that report or seek records from the City or SPD beyond what Deputy Chief Kent has deemed worthy of disclosure. HCDAO Status Report at 7 (“Future Action Items”). This reliance on the SPD to conduct an inquiry into itself is a far cry from the grand jury investigation that followed *Commonwealth v. Cotto*, 471 Mass. 97 (2015), in which the Commonwealth obtained, reviewed, and disclosed the evidence of misconduct that occurred at the Amherst drug lab.

The only other effort by the HCDAO to fulfill the Commonwealth’s investigative duties is a recent lawsuit against the U.S. Attorney’s Office for the District of Massachusetts (USAO), which was filed almost a year after the DOJ Report and nearly a decade after the HCDAO was first made aware of egregious misconduct in the SPD. That lawsuit requests only a subset of the exculpatory records (those believed to be “false” or “falsified” by the DOJ). It has no clear timetable for resolution, nor any guarantee that a resolution will include the release of DOJ’s records.

As explained below, these circumstances cannot fulfill the Commonwealth's duty to investigate egregious government misconduct. Unless and until the Commonwealth complies with its investigatory obligations, this Court should impose the interim remedies outlined in the Petition in order to safeguard the due process rights of defendants in Hampden County, which are infringed with each passing day.

**I. The HCDAO has failed to use its available resources to obtain and review records of SPD misconduct.**

The HCDAO represents that it is fulfilling the Commonwealth's duty to investigate by two methods. First, the HCDAO is relying on the SPD to identify the officers involved in only the examples listed in the DOJ Report, and provide exculpatory materials relating to those officers. HCDAO Status Report at 2. Second, the HCDAO has sued the USAO to obtain records from the investigation culminating in the DOJ Report. *Id.* at 6. With respect to the former, the SPD has set up a hopelessly flawed process that is too limited in scope, shrouded in secrecy, and dependent upon the objectivity and integrity of an officer who HCDAO believes was "involved in" the misconduct under investigation. HCDAO Status Report at Ex. G. As to the latter, the HCDAO's affirmative lawsuit is similarly flawed in that it requests only limited documentation. In consequence, these approaches fall far short of fulfilling the Commonwealth's obligation to investigate the full scope and gravity of the egregious government misconduct.

**a. The HCDAO cannot rely on the limited SPD investigation to discharge the Commonwealth's investigative duties.**

While the SPD is reviewing their records to identify the examples listed in the DOJ Report, they have not assigned anyone to do so for the purpose of identifying exculpatory information. Ex. B, First Pikula Letter at 2. Rather, in July 2020, the SPD initiated a review for the altogether different purpose of defending itself against or settling prospective litigation. Ex. B, Letter from Springfield City Solicitor Edward Pikula to Hampden County Assistant District Attorney Jennifer Fitzgerald

(August 24, 2021) (“Second Pikula Letter”) at 2. In fact, the review was premised on the notion that the City does not accept, and instead disputes, aspects of the DOJ Report. Ex. B, First Pikula Letter at 2 (“the Police Commissioner disagrees or disputes statements contained in the report”).

The City has previously informed the HCDAO that it will turn over only records that it deems “material” for *Brady* purposes. C.R.A. 215. And now, in making disclosures to the HCDAO following its review for the purposes of defending itself against litigation, the City reports that it has disclosed documents that “are not exhaustive as to each incident but are provided with the intent to identify the incidents described as best as we are able.” HCDAO Status Report at Ex. A.

To identify the incidents, the SPD assigned Deputy Chief Steven Kent to uncover and review the records on which this entire process now depends. Ex. B, First Pikula Letter. Deputy Chief Kent not only has a lengthy history of alleged misconduct, *see* Ex. C, IIU Report of Steven Kent (Aug. 9, 2018), but he was a sergeant, and then a lieutenant, in the Narcotics Bureau during the years investigated and reported by the DOJ.<sup>2</sup> Kent’s own conduct was at issue in the DOJ investigation: the batch of documents that the City has sent to the HCDAO includes arrest records and other documents involving Deputy Chief Kent, and the HCDAO has concluded he was “involved in” the incidents. *See* Ex. D; HCDAO Status Report at Ex. G. And this is not the first

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<sup>2</sup> Two suits alleging misconduct by Kent are pending in federal and state courts. *See* Complaint at 41-42, *Penate v. Kaczmarek*, U.S. Dist. Ct., No. 17-cv-30119 (D. Mass. Sept. 5, 2017) (alleging Kent knew but failed to report that Officer Kevin Burnham was stealing seized cash thereby allowing more than 150 cases to move forward with tampered evidence); Complaint at 17-19, *Vigneault v. Springfield*, Hampden Superior Ct., No. 17-cv-00060 (May 13, 2019) (former Narcotics Bureau officer alleges Kent lied to internal affairs, stole seized cash to stock Narcotics Bureau vending machine with beer, and “embellished” search warrant affidavits). At least three suits alleging misconduct by Deputy Chief Kent have been settled by the city. *See* First Amended Complaint at 23-25, *Douglas v. Springfield*, U.S. Dist. Ct., No. 14-cv-30210 (D. Mass. Jan. 21, 2015) (alleging Kent, as supervising officer, stood by while Gregg Bigda beat handcuffed arrestee with butt of loaded gun); First Amended Complaint at 18-35, *Palacio v. Springfield*, U.S. Dist. Ct., No. 13-cv-30149 (D. Mass. June 10, 2014) (plaintiffs, an immigrant family, alleged Kent and other officers broke down back door at night, held them in handcuffs and at gunpoint, and searched home without a warrant); Complaint at 52-59, *Vereris v. Kent*, U.S. Dist. Ct., No. 13-cv-30175 (D. Mass. Oct. 22, 2013) (alleged Kent filed false report contradicted by video evidence).



time HCDAO has made disclosures regarding Kent’s conduct—in 2018, DA Gulluni disclosed Deputy Chief Kent’s own Grand Jury testimony relating to the Narcotic Bureau as *Brady* material. Ex. E, Letter from Hampden County District Attorney Anthony Gulluni to Committee for Public Counsel Services (Dec. 18, 2018).

Significantly, the SPD has acknowledged that it is withholding important information. The SPD has asserted that information about how Kent identified the records, which he embodied in a report, is “protected by work-product doctrine as an internal memorandum prepared for the purpose of discussing potential litigation strategy.” Ex. B, First Pikula Letter at 2. Therefore, the City has declined to turn over Kent’s report to the HCDAO. *Id.* The HCDAO has conceded that the assertion of work product protection for Kent’s report should be rejected, yet it is still relying on records identified by Kent as the basis to its present disclosures, rather than reviewing evidence and making *Brady* determinations itself. Ex. B, Letter from Hampden County Assistant District Attorney Jennifer Fitzgerald to Committee for Public Counsel Services (Aug. 26, 2021) (“Madden Letter”).

**b. The HCDAO cannot rely on the limited DOJ investigation to discharge the Commonwealth’s investigative duties.**

The HCDAO has sued the USAO to obtain some, but not all, of the SPD records from the DOJ investigation. The HCDAO’s lawsuit does not focus on records of excessive force, but instead seeks the SPD records that, in the DOJ’s view, reflect “false” or “falsified” reporting along with any attendant photographs or video/digital images. *See* Complaint at 28-29, *Gulluni v. Mendell*, C.A. No. 3:21-cv-30058-NMG, ECF No. 1 (D. Mass May 19, 2021). The materials the HCDAO has requested from the DOJ in this lawsuit represent only a subset of the exculpatory information about SPD misconduct. Due to the narrow scope of materials the HCDAO has requested, this lawsuit alone cannot discharge the HCDAO’s investigatory obligation, nor is there any indication of when the suit might be resolved or what the terms of that resolution will ultimately be.

In all events, the HCDAO does not need to wait for the outcome of its suit to review the documents obtained by the DOJ. The HCDAO has repeatedly asserted that only the DOJ knows which documents it reviewed in connection with the DOJ Report. Ex. B, Madden Letter; Ex. A, Hr’g Tr. at 37:3-9 (“[n]obody but the DOJ knows what documents” the DOJ looked at). But that is not true. The DOJ Report states exactly which Narcotics Bureau documents the DOJ reviewed:

[W]e reviewed every one of the 84 prisoner injury files involving a Narcotics Bureau officer’s use of any form of force from 2013-2019, as well as many of the approximately 5,500 Narcotics Bureau arrest reports between 2013 and 2018. We also reviewed all use-of-force reports involving Narcotics Bureau officers from 2013-2018 – a total of just 10 reports for a five-year period. Some of the 10 use-of-force reports overlap with the uses of force reported in the prisoner injury files and document the injuries that resulted from the use of OC spray and tasers.

DOJ Report, C.R.A. 11. According to the above, the DOJ reviewed approximately 5,594 prisoner injury, arrest, and use-of-force reports from the Narcotics Bureau. The DOJ further specified that “[i]n many cases, we were only able to identify untruthful reporting—and deficiencies in the way force was actually used—because photographic and/or video evidence happened to be available.” *Id.* at 20. Such visual evidence was only available for a limited number of the reports. *Id.* at 21.

During the July 14 hearing, the HCDAO’s counsel also stated that the DOJ accessed the SPD’s “information management system” and “went in and looked at whatever they looked at.” Ex. A, Hr’g Tr. at 37:10-22. It is Petitioners’ understanding that the SPD uses an electronic database system developed by Information Management Corporation (“IMC system”) to store its records concerning, among other things, street-level encounters between SPD officers and private individuals, and that to access the system requires a unique login ID whose access history is tracked and logged.<sup>3</sup> *See* Ex. B, First Pikula Letter (noting that the SPD may be able to track what information the DOJ accessed but has not yet undertaken to find out).

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<sup>3</sup> In an effort to better understand the capabilities of the IMC system, counsel for Petitioners sent a request for public records to the City of Springfield on August 13, 2021. Ex. F, Letter from Jessica Lewis to City of Springfield and SPD (Aug. 13, 2021). To date, the City has not responded.

The HCDAO cannot continue to insist that “nobody” other than DOJ knows what documents were reviewed or that it is unable to obtain and review them. It, or someone else on behalf of the Commonwealth, can and must obtain and review the SPD records.<sup>4</sup>

**II. The HCDAO’s current efforts to obtain records cannot fulfill the Commonwealth’s duty to obtain and disclose exculpatory evidence.**

During the July 14 hearing, the HCDAO intimated that the duty to discover and disclose exculpatory evidence may be fulfilled through mere inquiry rather than through a thorough investigation. Ex. A, Hr’g Tr. at 42:1-7. Such a duty, HCDAO’s counsel implied, could be fulfilled even by an officer taking the Fifth. *Id.* at 42:20-23. The HCDAO’s current actions coupled with this suggestion that the Commonwealth must do no more than inquire, even where not calculated to obtain potentially exculpatory information, reveals a misunderstanding of the *Brady/Giglio* duty. *See, e.g., United States v. Bruce*, 984 F.3d 884, 895-97 (9th Cir. 2021) (“The obligations imposed by *Brady* are not limited to evidence prosecutors are aware of, or have in their possession,” rather “they have an obligation to disclose what they do not know but could have learned”).

To protect defendants’ federal due process rights, a prosecutor is under a continuing obligation to locate information where there is some reasonable prospect or notice that exculpatory or impeaching evidence exists. *See, e.g., United States v. Burnside*, 824 F. Supp. 1215, 1258 (N.D. Ill. 1993) (“It should never be the law that by maintaining ignorance, [a prosecutor] can fulfill the government’s due process obligation when the facts known not only warrant disclosure but should

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<sup>4</sup> Consistent with the views of the Committee for Public Counsel Services and Hampden County Lawyers for Justice, which have asserted that they are proper parties to serve as petitioners in this case, the HCDAO has explained that its process for disclosing evidence of SPD misconduct relies on these two organizations. Specifically, “[i]n accordance with its practice already developed in prior matters,” the HCDAO sent the City Solicitor’s letter and attachments to both CPCS and HCLJ. *See* HCDAO Status Report at 3. CPCS has responded to this correspondence by expressing concerns about the HCDAO’s approach. Ex. G, Letter from Lawrence W. Madden to Hampden County Assistant District Attorney Jennifer Fitzgerald (Sept. 10, 2021).

prompt further investigation”). This obligation includes a duty to search for and identify exculpatory or impeaching evidence as well as to make necessary follow-ups to ensure the integrity of the government’s evidence. *See United States v. Brooks*, 966 F.2d 1500, 1504 (D.C. Cir. 1992) (prosecutor was required to search unrelated police department files for evidence related to its witness’s credibility where there was notice that impeachment evidence existed).

The Supreme Judicial Court addressed this duty under state law in response to egregious misconduct by state chemists. In *Commonwealth v. Cotto*, 471 Mass. 97 (2015), and *Commonwealth v. Ware*, 471 Mass. 85 (2015), the Court ruled that the Commonwealth had a duty to conduct a thorough investigation to determine the nature and extent of the egregious misconduct, and its effect on both pending and closed cases. This duty to investigate the full scope and gravity encompasses the egregious misconduct of a chemist, who was a member of the prosecution team, as well as of a police officer. *See Matter of a Grand Jury Investigation*, 485 Mass. 641, 658 (2020).

Despite this well-settled law, the HCDAO’s Status Report indicates that neither it nor anyone else on the Commonwealth’s behalf has performed an investigation. As noted in the Petition, the district attorney has been on notice for close to a decade that there has been systemic, egregious misconduct occurring within the SPD. Pet. at 10-15. Then, in July 2020, the DOJ found that indeed, for years, SPD officers submitted false reports and used excessive force. C.R.A. 3-30. Yet the district attorney seems to have done no more than ask the SPD to turn over certain documents to the HCDAO, and ask the DOJ to turn over the records of its own limited pattern or practice investigation. Meanwhile, it is still prosecuting potentially affected cases, *see, e.g.*, O’Connor Aff., C.R.A. 225-26, and using implicated officers in other cases. This conduct does not comport with due process mandates.

**a. The Commonwealth cannot rely on determinations made by a former SPD Narcotics Bureau officer as to what records are exculpatory.**

As noted, the HCDAO has deferred to the City of Springfield's decisions about what evidence should be disclosed in the wake of the DOJ Report. And the City's disclosures, in turn, are reliant on a secret report by Deputy Chief Steven Kent; are admittedly "not exhaustive" of the exculpatory evidence in its possession; are apparently subject to influence by the fact that "the Police Commissioner disagrees or disputes statements contained in the [DOJ] report"; and are highly redacted. *See* Ex. B, First Pikula Letter at 2; Ex. B, Madden Letter. This approach is troubling in several aspects.

First, Deputy Chief Kent's long history of misconduct calls into question the HCDAO's ability to rely on his assessment of the SPD's (and potentially his own) misconduct. Second, to the extent that this effort to locate records held by the SPD will extend no further than locating the records related to the mere *examples* of the pattern of egregious misconduct in the department, this is not reasonably calculated to discover the full scope and gravity of the wrongdoing. *See* HCDAO Status Report at 6; Ex. A, Hr'g Tr. 57:2-3 (noting that the DA was reviewing the records to determine whether they match up with the examples in the report). Third, the duty to discover exculpatory evidence by a police department cannot be delegated to the police department, let alone an officer who may be a witness to or a perpetrator of that misconduct. *See Kyles v. Whitley*, 514 U.S. 419, 438-39 (1995).

**b. The Commonwealth cannot rely only on the fruits of DOJ investigation.**

The DOJ's statutorily-authorized pattern or practice investigation is not co-extensive with the state prosecution's legal and constitutional investigative obligations.<sup>5</sup> The DOJ was not acting as

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<sup>5</sup> The Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. § 12601, authorizes the attorney general, for or in the name of the United States, to obtain appropriate equitable and declaratory relief where it has reasonable cause to believe that there is a pattern or practice of

a member of the prosecution team<sup>6</sup> nor did it undertake the responsibility to assess whether there was *Brady/Giglio* evidence about specific officers or cases in the SPD files. It was tasked with assessing whether, generally, there was cause to believe that an SPD unit engaged in a pattern or practice of constitutional violations. Its investigation was limited to its purpose. DOJ Report, C.R.A. 13 (“Our investigation was narrowly focused on the use of force by the Narcotics Bureau; however, our conclusion is supported by evidence of other SPD officers escalating encounters and employing head strikes without justification”), 21 (“the inaccurate narratives raise substantial concern that there are other uses of unreasonable force that are falsely reported”). Limiting a search for exculpatory evidence to the incidents identified by the DOJ would, by definition, fall short of finding all of the exculpatory evidence that must be disclosed under *Brady* and other authorities.

**c. When faced with similar evidence of misconduct, other jurisdictions have used the ample tools at their disposal to obtain and review exculpatory records.**

Contrary to the HCDAO’s assertion that it cannot “get blood from a stone,” Ex. A, Hr’g Tr. 44:15-16, where a knowledge gap exists as to potentially exculpatory evidence, other district attorney offices have investigated, including by subpoenaing police departments, filing motions for contempt if the department fails to comply, or empaneling grand juries.

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conduct by law enforcement officers “that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.”

<sup>6</sup> Even where an outside agency is acting as a member of the prosecution team, Massachusetts case law draws into question whether district attorneys may simply rely on the conclusions of that agency to fulfill their constitutional obligation. This issue has been raised in post-conviction discovery orders seeking review of the Hinton drug lab files held by the Office of Inspector General (OIG), which conducted the Hinton investigation on behalf of the Commonwealth, and a determination by district attorneys about whether and what evidence related to chemists other than Annie Dookhan needs to be disclosed in individual cases. *See, e.g.*, Memorandum of Decision and Judgment, *Commonwealth v. Sutton*, SJ-2019-0316 (Kafker, J., Oct. 17, 2019) (upholding judge’s order requiring district attorney to review Hinton records for exculpatory evidence); Memorandum and Order, *Commonwealth v. Escobar*, No. 0984CR10059 (Suffolk Sup. Ct. April 14, 2020); Response to Motion for Post-Conviction Discovery at 9-10, *Escobar* (Dec. 14, 2020) (district attorney is obligated to review the Hinton Drug Lab files because the OIG “conducted a high-level review of the lab’s operation and management, and not an investigation specifically targeted to any individual’s conduct”).

For example, the Conviction Integrity Unit for the Office of the District Attorney for Philadelphia County recently issued a report noting that the Philadelphia Police Department, among other violations, coerced confessions through physical abuse, verbal threats, and violations of constitutional rights and sometimes, simply fabricated the confessions. PHILADELPHIA DISTRICT ATTORNEY'S OFFICE, OVERTURNING CONVICTIONS—AND AN ERA: CONVICTION INTEGRITY UNIT REPORT 2 (2018-2021). In recognition of this misconduct and its duty to discover and disclose exculpatory evidence that cannot be discharged by the police department, the Philadelphia district attorney issued to the police department 4,744 subpoenas seeking certain *Giglio* evidence regarding individual police officers; when the police department did not comply, the district attorney moved for contempt. *See, e.g.*, Motion for an Order Holding the Philadelphia Police in Contempt for Failing to Comply with *Subpoena Duces Tecum*, and Compelling Production of Potential *Giglio* Material, *Commonwealth v. Gilliam*, No. MC-51-CR-0019780-2020 (Ct. Common Pleas, Aug. 11, 2021). As a result of its review of cases, the district attorney has thus far exonerated twenty people in twenty-one cases. OVERTURNING CONVICTIONS, *supra* at 2.

Despite continuing to prosecute defendants in Hampden County, the HCDAO has employed none of these tools and has not stated an intention to do so. HCDAO Status Report at 7. Due process demands more.

The government has an obligation to investigate the full scope and gravity of the misconduct, similar to what occurred in *Cotto*. Because the Commonwealth is not investigating, this Court should step in. The Petition suggests several interim and permanent remedies, including requiring the HCDAO to identify a party who can conduct the investigation it will not and imposing certain evidentiary requirements against implicated SPD officers. Pet. at 26-27; *see also Police Comm'r of Boston v. Mun. Ct. of Dorchester Dist.*, 374 Mass. 640, 660-61 (1978) (where there is a “grave potential for injury” and “the policy of the [] police . . . [is] insufficient” to prevent it, Massachusetts courts

may intervene “as a necessary adjunct to their exercise of judicial power”). The Respondent’s Status Report demonstrates this need is as acute as ever.

Dated: September 16, 2021

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# Exhibit A

**In the Matter of:**  
*Graham & Others vs*  
*District Attorney for Hampden County*

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*Hearing Transcript*  
*July 14, 2021*

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COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

(Appeals Court No. SJ-2021-0129)

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GRAHAM & OTHERS

Plaintiff - Appellant,

v.

DISTRICT ATTORNEY FOR HAMPDEN COUNTY

Defendants – Appellees.

211-3 PETITION

BEFORE THE HONORABLE JUDGE DALILA ARGAEZ WENDLANDT

DATE: July 14, 2021

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transcript produced by transcription service.

1 office -- that's not our job. And this is so large, so  
2 many documents, we don't even know where to start.

3 MS. MULVEY: I think that's respectfully, a little  
4 bit of a mischaracterization. It is large. And I  
5 assume, since Your Honor's read the DOJ report you know  
6 that a specialized investigation division took two-and-  
7 a-half years, God knows how many millions of taxpayer  
8 dollars, looked at 114,000 documents. Nobody but the  
9 DOJ knows what documents those were.

10 THE COURT: Well, the Springfield Police  
11 Department might --

12 MS. MULVEY: They do not, no.

13 THE COURT: -- 'cause they got them.

14 MS. MULVEY: No.

15 THE COURT: Didn't they get them from them?

16 MS. MULVEY: No. They -- they were given -- asked  
17 us -- to the Springfield Police --

18 THE COURT: All right.

19 MS. MULVEY: -- Department's information  
20 management system. They went in and looked at whatever  
21 they looked at. And so, they won't tell Springfield  
22 what they looked at. So, the root of this problem is  
23 the DOJ saying yeah, we just spent all this time, all  
24 this money. We may be finding -- and the findings are  
25 probably -- depending on how you count, eight, ten,

1 MS. MULVEY: Duty -- I think the devil's in the  
2 details. And I know Coto uses the word "investigation."  
3 But really what the district attorney's obligation is to  
4 -- I would characterize it more as an inquiry than an  
5 investigation. The duty to investigate is to locate  
6 exculpatory evidence so that it can be disclosed. It's  
7 not to develop new evidence. And --

8 THE COURT: But you cite the Moffit (phonetic)  
9 case for that, and that to me is different in kind  
10 because the individual in the Moffit case was not the  
11 police officer who's part of the prosecution team. I  
12 think here it would be the police officer who's part of  
13 the prosecution team. So, the information is in the  
14 possession, custody, and control of that team. The  
15 individual ADA might not know about it, but certainly  
16 the police officer does.

17 MS. MULVEY: If this Court wanted to issue an  
18 order that prosecutors have to ask each police witness  
19 if they've ever beat up a defendant or lied in a police  
20 report, they could do that. But I don't think that's  
21 calculated to get to exculpatory evidence, because  
22 they're either going to take the fifth, they're going to  
23 say of course not. I mean that kind of evidence is much  
24 harder to locate. And it's not just Moffit. Although I  
25 think Moffit is important for that point. There's --

1 the SPD --

2 MS. MULVEY: No.

3 THE COURT: And -- and so why isn't the -- you  
4 know, they're not saying every agency is to do a  
5 government corruption just to not sustain this  
6 particular agency that has already been identified by  
7 the DOJ needs to do -- you know, there needs to be a  
8 fulsome investigation now that we know that there are  
9 these at least twenty-four narcotics bureau officers who  
10 are implicated in some way.

11 MS. MULVEY: I guess I'm having trouble with --  
12 with two parts. First is the DA chooses what he  
13 investigates in the sense of fact finding. He has a  
14 constitutional obligation to inquire about existing  
15 exculpatory evidence. But he can't -- you can't get  
16 blood from a stone. He has gone to the police  
17 department and to the city solicitor and said, "I need  
18 this exculpatory evidence." And the city solicitor has  
19 essentially said, "I'd like to help you, but I don't  
20 know what they're talking about."

21 THE COURT: Right.

22 MS. MULVEY: I mean -- I understand the  
23 constitutional issues, but there's a practical issue  
24 here. To ask people to recreate a two-and-a-half year  
25 investigation, makes no practical sense, makes no

1 (indiscernible) a year. And no one in this courtroom  
2 can say which officers are guilty of excessive force in  
3 this police force and which aren't, and no one can tell  
4 me who of my clients or their clients, who has falsified  
5 reports and where those reports are. And the reason is  
6 that it has turned out to be a quite effective strategy  
7 for the Springfield Police Department to tell the DA's  
8 office to basically go away and see if the DOJ will get  
9 this stuff for you. And that should not be -- it should  
10 not be that the consequence of a report like this by the  
11 Department of Justice, is that the people who are really  
12 left in the dark are the people who are prosecuted on  
13 the (indiscernible) of the officers who are subject to  
14 report.

15 THE COURT: All right. Thank you.

16 MR. SEGAL: Thank you.

17 MS. MULVEY: (Indiscernible)?

18 THE COURT: Yes, Attorney Mulvey?

19 MS. MULVEY: Just on that --

20 THE COURT: Good, 'cause that was my question is,  
21 you know, these are the victims, this is what he's  
22 saying.

23 MS. MULVEY: No, the city has not told the DA to  
24 go away. The city has been working with the DA. And in  
25 fact, last week I haven't seen them, but produced a

1 batch of documents that they think may be some of the  
2 incidents in the DOJ report. The DA is looking at those  
3 to see if they match up and to follow up to see if those  
4 are in fact some of them. So, it's not at all a case of  
5 -- of the city dragging its feet. The city has worked  
6 hard --

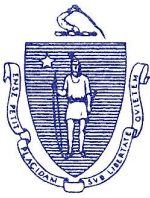
7 THE COURT: But what do the defendants do in the  
8 meantime? I mean that's what I wanted you to respond to  
9 to Counsel Segal's final statement, which is you know,  
10 there is the DOJ report that identifies unknown officers  
11 who've done bad things and lied about it. And you're  
12 saying practically its not -- you know, it's financially  
13 not fair, you can't -- it's too much, it's overwhelming.  
14 At the end of the day, the defendants are the ones who  
15 are suffering potentially.

16 MS. MULVEY: Potentially. There's no evidence of  
17 that. But the most fascinating question Your Honor  
18 asked and I was dying to hear the answer is what are you  
19 looking for. And I still have not heard an answer to  
20 anything that will get those defendants the information  
21 that they claim exists tomorrow, next week, or next  
22 month. If they have a suggestion, I'm happy to hear it,  
23 but it's not that simple.

24 THE COURT: Yeah, I mean I think that -- I'm not  
25 going to ask them to supplement what they've already



# Exhibit B



ANTHONY D. GULLUNI  
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August 26, 2021

sent via email and first class mail

Attorney Lawrence Madden  
Committee for Public Counsel Services  
101 State Street, Suite 304  
Springfield, MA 01103

RE: Potentially exculpatory Information

Dear Counsel:

As you are aware, the Hampden County District Attorney's Office (HCDAO) has been trying for more than a year to identify incidents involving the Springfield Police Department (SPD) cited in the United States Department of Justice (DOJ) report that was issued last summer. These efforts have included multiple communications and written requests to the DOJ, the filing of a lawsuit against the federal government, and inquiries to the SPD. The purpose of the HCDAO's efforts has been to fulfill the office's constitutional obligation to locate and disclose exculpatory evidence in the possession of the prosecution team. These efforts have been substantially impeded by the lack of identifying details in the DOJ report, and the DOJ's consistent refusal to provide any additional information.

During the two-and-a-half-year investigation, the City of Springfield provided the DOJ open access to its computer files, and is therefore not able to identify which documents were reviewed or cited by the DOJ. However, the City has attempted to match the cited incidents to information in its possession. The City believes that it has identified certain of the incidents, while remains unable to identify several others. With respect to the sixteen incidents it believes it has identified, the City has provided the HCDAO with relevant documents in its possession, totaling approximately 800 pages.

The HCDAO has begun the process of identifying and notifying all defense counsel who previously represented or now represent a defendant charged with a crime by a member of the Springfield Police Department identified in these exhibits after the date of incident described in the exhibit. The ongoing process is cumbersome and time consuming but nonetheless we are making it a priority in order to fulfill our ethical and legal obligations. However, as we have done with similar information in the past, while this notification process is ongoing, we are producing this information to the Hampden County Lawyers for Justice and the Committee for Public Counsel Services, so that it can be disseminated as widely and quickly as possible.

I am enclosing the letter dated July 2, 2021 which was sent to me by Springfield City Solicitor Edward Pikula as the City's response to the HCDAO's inquiry. As mentioned above, this letter was accompanied by several voluminous exhibits, which we have reviewed and are sending separately via first class mail. The exhibits have been redacted to protect possible criminal histories and personal information, but as

always, should the defense bar disagree that redactions are necessary, we are prepared to respond promptly to any motions or litigation seeking the redacted information.

You will note that, according to Attorney Pikula, despite the City's "best efforts" at identifying the incidents described in the DOJ report, the description of events in the report could not always be substantiated and in some instances, the described incidents remain unidentifiable. Nevertheless, we are providing all of the information the HCDAO received from the City in order to make disclosure of anything in its possession that could possibly be exculpatory. By making this disclosure, the HCDAO does not take any position on whether particular documents are actually exculpatory; rather, the office is intending to comply with the Supreme Judicial Court's directive that prosecutors err on the side of disclosure. In further compliance with the SJC's directions, this disclosure is made without regard to the potential admissibility of any of this information, and the HCDAO reserves the right to contest admissibility in individual cases.

You will also note that Attorney Pikula mentions a report written by Deputy Chief Steven Kent, which the City has declined to provide to the HCDAO. I am also enclosing the most recent correspondence from Attorney Pikula dated August 24, 2021, again denying my request that the City produce Deputy Chief Kent's report. I am providing this information so that any defense lawyer who wants access to this report can take the appropriate steps under Rule 17, Mass. R. Crim. P.

Please do not hesitate to contact me if you have any questions or concerns.

Jennifer Fitzgerald  
First Assistant  
Hampden District attorney's Office

**Edward M. Pikula**

***City Solicitor***

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**THE CITY OF SPRINGFIELD, MASSACHUSETTS**

July 2, 2021

Jennifer N. Fitzgerald

First Assistant

Hampden District Attorney's Office

50 State Street

Springfield, MA 01103

This correspondence is in follow up to a request from the District Attorney to Commissioner Clapprod for records, dated December 2, 2020, my response (on behalf of Commissioner Clapprod) to the District Attorney dated December 10, 2020, a follow up letter from the District Attorney dated March 11, 2021, as well as email communications between us March 16, 2021 and April 26, 2021.

The District Attorney's letter to the Commissioner, referring to the DOJ Report and the voluminous records reviewed, states:

investigators reviewed 5,500 arrest reports and 10 use-of-force reports from the Springfield Police Department's Narcotics Bureau from 2013-2018. Found by investigators, Report at 2, were "examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force[;]" and Report at 16, "... a pattern or practice ... [where] officers made false reports that were inconsistent with other available evidence, including video and photographs... "

A footnote in the letter from the DA states:

the reported findings of unconstitutional law enforcement conduct, as described in the twenty-eight-page Report, suggest the documents supporting these findings may contain potentially exculpatory material as that term is legally understood, and is subject to my mandatory review to effectively meet the constitutional, statutory, and ethical obligations of my office

As stated in my response to the District Attorney:

The City of Springfield has not been provided any information from the Department of Justice specifying any identifying information as to the case numbers, names of officers, or names of individual criminal defendants described in the Report. Shortly after receipt of the report, the Police Commissioner assigned personnel to review the incidents described in the Report in an effort to identify the specific dates of incidents, police officers, and individuals referenced in the Report. While some appear obvious and involve case information already fully disclosed to your office,

ADA Fitzgerald

July 2, 2021

Page 2

such as references to an incident relating to juveniles arrested in Palmer or an incident occurring near the Nathan Bills Restaurant; and others have been identified with a reasonable degree of certainty, some of the examples could not be identified with certainty and the effort to do so is ongoing.

Moreover, the review revealed a number of statements contained in the report which the Police Commissioner believes are not accurate. However, while the Police Commissioner disagrees or disputes statements contained in the report, she has repeatedly stated that she acknowledges the need for reforms in the Department and, with the full support of Mayor Sarno, she has initiated efforts to make changes based on the recommendations set forth in the report and is committed to implement reforms within the entire Springfield Police Department. I am informed that, since receipt of the Report and the implementation of changes so far, the Police Department has not received any citizen complaints alleging excessive force by the Narcotics Unit.

The DOJ report makes numerous references to instances with little identifying information other than to describe the multiyear time period and type of report (injury, arrest, IIU, etc.) and a description of statistics to summarize the review. The report states that 114,000 pages of SPD's incident reports, investigative reports, policies, training materials, and other internal documents were reviewed. As noted in previous correspondence, any and all records which can be made available to you that can be identified as reviewed by DOJ will be provided to you at your request. However, as I indicated to you in our conversation, to work efficiently with the DOJ they were provided access to the department's record management system and I am not sure whether or not our IT professionals are able to accurately track what information they accessed. In addition, a report was prepared by Deputy Chief Kent but I believe it is confidential as protected by the work-product doctrine as an internal memorandum prepared for the purpose of discussing potential litigation strategy. The documents provided with this letter in the appendix were utilized in preparing that work product.

However, in order to provide an exhaustive and accurate accounting of all records requested by your office will require a cooperative effort between DOJ, the Police Department, and the District Attorney's Office. As previously indicated, this office stands ready to assist you in identifying any *Brady* material.

As a first step towards accomplishing this, in follow up to my letter and our subsequent communications, set forth below is a summary of each incident as described in the DOJ report, identified in the order each is discussed in the report that could be reasonably identified. Submitted with this letter is an appendix containing documents relative to each of the incidents which the police department has been able to reasonably gather in its efforts to identify each incident described in the DOJ report. In most cases this includes the arrest report identifying number and the date of arrest. In other cases, only an Internal Investigating Unit identifying number was available. These documents in the appendix contain information that is confidential and protected under CORI. I would request that no documents be released unless properly redacted of confidential or privileged data.

The records provided in the appendix are not exhaustive as to each incident but are provided with the intent to identify the incidents described as best as we are able. These records were

collected as a result of the Police Commissioner assigning personnel to review the incidents described in the Report in an effort to identify the specific dates of incidents, police officers, and individuals referenced in the Report with legal counsel. They are being shared to make you aware of our efforts to identify potential *Brady* material with your office.

The documents should be carefully reviewed as these records reflect the best efforts to identify the incidents summarized in the report, but the records cannot always substantiate the description set forth in the DOJ report. As previously indicated, many items in the DOJ report are disputed as inconsistent with the reports that SPD was able to identify.

Once your office has had a chance to review the records provided and the information in this letter, I would anticipate a need to verify whether the incident in the DOJ report matches the records produced in the appendix and to determine potentially exculpatory material as that term is legally understood and is subject to your mandatory review to effectively meet the constitutional, statutory, and ethical obligations of your office. The incidents as described in the DOJ report, together with a reference to the corresponding documents listed as exhibits in the appendix outlining the facts alleged in the DOJ report for each incident and the page number, are set forth below. A copy of the DOJ Investigation Report is also included in the appendix:

1. "October 2018, the United States indicted a veteran Narcotics Bureau sergeant for color of law violations related to his 2016 arrest of two juveniles. The indictment alleges that the sergeant kicked one of the youths in the head, spat on him, and said, "welcome to the white man's world." Further, the sergeant allegedly threatened to, among other things, crush one of the youth's skulls and "fucking get away with it," "fucking bring the dog back [and] let him fucking go after" a youth, "fucking kill [one of the youth] in the parking lot," charge a youth with a murder and "fucking make it stick," and that he would "stick a fucking kilo of coke in [one of the youth's] pocket and put [him] away for fucking fifteen years." The indictment also alleges that during interrogation, the sergeant "pointed to blood on his boot" and told one of the youths that if he lied, the youth's "blood would be on [the sergeant's] boot next." The case is pending." (DOJ p.2).

"In addition to the federal criminal charges filed against this officer, one of the youths filed a civil lawsuit alleging that the officer used excessive force against him. The lawsuit alleges officers beat the youth so severely that he received a fractured nose, two black eyes, and numerous head contusions and abrasions. The sergeant who threatened the youths initially received a 60-day suspension for the incident, but SPD suspended him without pay after he was criminally indicted by a federal grand jury in 2018. The civil lawsuit against the City and the criminal charges against the sergeant are both still pending. As a result of this controversy, local prosecutors have had trouble successfully prosecuting drug crimes in Springfield, in large part due to the fact that they have not been able to rely on testimony from discredited Narcotics Bureau officers." (DOJ p.3).

See Exhibit 1 in Appendix.

2. “In one incident, six off-duty SPD officers not assigned to the Narcotics Bureau fought with four men in a parking lot outside a bar in April 2015. The officers reportedly caused significant injuries to the men, including knocking one unconscious and fracturing his leg and skull, kicking and punching another while he lay on the ground covering his bleeding face, and kicking a third man in the head repeatedly. The Massachusetts Attorney General’s Office has criminal charges pending against several then off-duty and then on-duty SPD officers; charges include both assault and battery and that some officers covered up the incident by providing false reporting.

The alleged beating of civilians outside a bar and alleged willingness of officers to cover up fellow officers’ misconduct demonstrate accountability lapses within the Department.” (DOJ p. 5).

See Exhibit 2 in Appendix.

3. “A former Narcotics Bureau evidence officer was indicted in January 2016 for stealing cash from the narcotics evidence room. The stolen cash allegedly was obtained from more than 170 drug cases and totaled almost \$400,000. The officer was a 43-year-veteran of SPD, and at the time of his retirement in July 2014, was the longest- serving officer in SPD. The officer died before this matter could be resolved legally or administratively.” (DOJ p.6).

As noted in the DOJ report, “the City and SPD have taken some steps to address matters within the Department in response to this incident” including “a City-led audit of SPD’s record-keeping practices” as well as “the hiring of a consultant to review SPD’s accountability systems, as well as all SPD policies and protocols. In early 2019, the consultant issued its first report, which addressed accountability, finding that although SPD has some practices in place regarding complaint intake, classification, and investigation, the practices are not comprehensive or codified appropriately in policy. The report recommended that IIU create a detailed internal affairs manual outlining the process for receiving, investigating, and resolving complaints. It also recommended that IIU create an updated electronic case management system to document and track complaints. The report further recommended improvements to the CPHB by expanding the Board from seven members to at least nine, staffing the Board with individuals who have relevant police and trial experience, and appointing an oversight coordinator that would be responsible for the daily administration of the Board. The City and SPD have publicly committed to implementing these reforms. To date, SPD has revised its IIU policies and added a captain to oversee IIU. In addition, the City added an additional CPHB member, bringing the total to eight members, and allocated additional resources to the CPHB.” (DOJ p.6).

See Exhibit 3 in Appendix.

4. “[I]n one incident, Narcotics Bureau officers punched V.A., a 25-year-old man, following a foot pursuit.<sup>20</sup> When the four Narcotics Bureau officers approached V.A. and motioned to him to remove his earphones, officer reports state that V.A. pushed one of the officers and began running away. After they caught up to V.A., a Narcotics Bureau supervisor delivered multiple punches to V.A.’s face, allegedly because V.A. looked prepared to fight by holding his closed fist in a “punching position.” V.A. sustained a broken nose and lip laceration requiring three stitches. The incident then allegedly continued on the ground with an officer and V.A. exchanging blows, though there is no evidence indicating that the officer sustained any injuries. Instead, it appears that officers chased V.A. and initiated the use of force by striking V.A., a non-assaultive subject, with multiple punches, immediately using a means of force that was disproportionate to the subject’s resistance without attempting other less dangerous uses of force. Given that four officers were present, other methods of control could have been used instead of immediately punching him in the head.” (DOJ p.12)

See Exhibit 4 in Appendix.

5. “In another incident, a Narcotics Bureau officer punched T.S., a 17-year-old youth, as he rode a motorbike past a group of Narcotics Bureau officers. At the time of the punch, the officers were making unrelated arrests; when the youth rode his motorbike past the officers, reportedly at a high rate of speed, an officer struck the youth. In the involved officer’s arrest report, he does not characterize the strike as a punch, but rather states that he “extended his left arm” to prevent the youth from colliding with him on the motorbike. The 17-year-old then “swerved” his motorbike and the officer ended up “mak[ing] contact” with the youth’s head and shoulder area. Administering a fist strike in this circumstance was particularly dangerous as the youth could have easily lost control of the motorbike, severely injuring himself, the officer, or others. The subject’s brother, L.S., was also punched in the face, but by a different Narcotics Bureau officer. The officer who punched L.S. reported that he did so because L.S. ran towards the officer “with his fist clenched and arm cocked back.” None of the other officers at the scene corroborated the punching officer’s account.” (DOJ p.12).

See Exhibit 5 in Appendix.

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



strike the subject in the head to gain compliance.” (DOJ p. 13).

See Exhibit 6 in Appendix.

7. “In the course of one drug arrest, for example, a Narcotics Bureau officer punched R.F., a slight, middle-aged man, while attempting to retrieve contraband. Officer reports state that R.F. resisted opening his fist and instead attempted to free his wrist from the Narcotics Bureau officer’s grasp; officers then immediately punched him in the face. The Narcotics Bureau officer who punched R.F. escalated the situation without attempting other means of gaining compliance, unnecessarily resulting in a serious use of force. R.F. is not a large individual – 5’9” and 140 pounds – and there was no evidence that he had access to a weapon or otherwise posed a threat. The arrest report also shows that at least four Narcotics Bureau officers were on the scene.” (DOJ p.13).

See Exhibit 7 in Appendix.

8. “In one incident, *see infra* Section III.C.3., video footage shows that officers rushed into a store and immediately hit S.L. in the face. The encounter happened so quickly that it appears the plainclothes officers failed to identify themselves. The video lacks audio, but at a minimum, the video makes clear that if officers did announce themselves or issue a command, they failed to provide S.L. with any time to react to the officers and surrender before he was hit.” (DOJ p. 14).

See Exhibit 8 in Appendix.

9. “In the case of P.J., he claimed that he fled in his vehicle because he was being chased by an unmarked vehicle and did not know law enforcement officers were in that vehicle. In one report, an officer describes “extracting [P.J.] through the passenger side door and proned [him] face down onto the pavement.” Photos show he sustained significant injuries—severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. These injuries are inconsistent with the officers’ reports that P.J. had “small cuts to the face,” and are instead consistent with repeated strikes of his head.” (DOJ p.14).

“In the case of P.J., described above, a Narcotics Bureau officer stated that he made an effort “to extract[ ] [P.J.] through the passenger side door and prone[] [him] face down onto the pavement.” According to another officer’s narrative, this resulted in “minor abrasions to the right side of his face,” and according to the booking sergeant in charge of filling out the SPD-276 form, P.J. had “small cuts to the face.” These descriptions of P.J.’s injuries are plainly contradicted by the photographs in his prisoner injury file. These photographs clearly show severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. The injuries present in the photographs are inconsistent with the officers’ reports, and are instead consistent with repeated strikes to P.J.’s head. Further,

when interviewed by IIU after P.J. filed a complaint, a civilian witness stated that she saw officers kick P.J. in the head and body. During his IIU interview, P.J. stated that one officer struck him in the head with the butt of a handgun, and that once on the ground, several officers began kicking and punching him in the head and the body. P.J. further alleged that, once back at the station and in a holding room, a Narcotics Bureau officer walked in and beat him severely in the face with a book, causing him to bleed profusely. To be clear, there is no other corroboration of P.J.'s version of events besides the photographs we reviewed and the statement of the civilian witness. But these pieces of evidence are more consistent with some of P.J.'s reporting of the takedown than the officers' reports. Although IIU investigated P.J.'s complaint, IIU failed to sustain P.J.'s allegations and the officers received no discipline." (DOJ p. 14).

See Exhibit 9 in Appendix.

10. "In the case of F.D., two Narcotics Bureau officers, including one supervisor, stated that after a brief pursuit of F.D.'s vehicle, they pulled F.D. from the car onto the ground. One officer's report says F.D. was "placed" on the ground and another officer's report states that F.D. was "escorted" to the ground. But photos of the abrasions to F.D.'s face demonstrate the use of serious force and multiple points of impact including: the left side of his forehead, the right side of his forehead, and his cheek. F.D. reported in an interview that he was kicked in the face and upper body area 10-12 times, with multiple officers taking turns kicking him. Regardless of whether these injuries were caused by an aggressive takedown or direct kicks to the head, the prisoner injury report narratives do not indicate that any such force was necessary. None of the officer reports state that F.D. resisted arrest or was combative, and this is further supported by the fact that he was not arrested for resisting arrest or assault and battery of a police officer. According to documents, 12 officers were listed as involved with the arrest and four officers completed prisoner injury report narratives, all arising from an incident that began when F.D. failed to stop because he did not know he was being chased by officers." (DOJ p. 14).

See Exhibit 10 in Appendix.

11. "[I]n the course of a recent arrest, roughly a dozen officers, most of them Narcotics Bureau officers, executed a narcotics warrant for A.E. After a vehicle pursuit, A.E. eventually stopped but refused to get out of the car, and officers physically pulled him out. At some point during his extraction from the car, A.E.'s head struck the pavement directly, and the booking photos show significant swelling in his right forehead area in two points of impact, indicating that officers likely used additional force once A.E. was on the ground. The officers' own reports indicate that Narcotics Bureau officers had A.E. under control at all times, and nothing indicates that his head needed to be slammed to the pavement. Despite the serious head injuries depicted in the booking photos, one officer's report described A.E. as having only a "minor injury" above his eye. Notably, the Narcotics Bureau officers' accounts of

what happened in the course of the arrest are also inconsistent with each other. One Narcotics Bureau officer reported that A.E. and other officers fell to the ground together, and that A.E. then continued to struggle and resist handcuffing. Another officer did not mention that any officers fell to the ground, and instead reported that A.E. tried to pull away when officers handcuffed him and “stumbled falling to the ground.” Viewed in isolation, each officer’s report fails to describe circumstances that would justify the level of force used in this encounter. Viewed together, the inconsistencies between these reports demonstrate that the officers did not accurately report how A.E. sustained the significant and multiple injuries to his head.” (DOJ p. 15).

See Exhibit 11 in Appendix.

12. “[D]uring the execution of an arrest warrant in 2017, a Narcotics Bureau officer used force against a subject who refused to exit his home, but the officer did not report the use of force in a prisoner injury file. Citing an “aggressive barking dog,” the officer executing the warrant deployed one burst of oleoresin capsicum (OC) spray to the subject’s face through a window, and then pulled the subject through the door. Once the subject was out of the house, the officer used a leg sweep, causing the subject to land on the floor of the porch. The officer then struck the subject with his fist in the upper arm/shoulder area. The force employed during this incident was not reported in a prisoner injury file.” (DOJ p. 16).

See Exhibit 12 in Appendix.

13. “According to another Narcotics Bureau arrest report from 2018, while executing an arrest warrant related to the sale of narcotics, officers took a subject from the front seat of a car and placed him face down on the street in order to be handcuffed. The arrest report notes that he “sustained minor abrasions to his forehead.” There is no accompanying prisoner injury file for this incident.” (DOJ p. 16).

See Exhibit 13 in Appendix.

14. “Officers regularly use rote and pat language to justify their uses of force without providing individualized descriptions. Reports often contain conclusory language calling a particular use of force reasonable without describing in detail the circumstances surrounding the use of force. One report, for example, said that as the officer attempted to stop the subject from fleeing, they “both violently fell to the ground. Once on the ground [the subject] continued to struggle[,] at which point [another officer] arrived and began assisting and controlling and placing [the subject] under arrest.” The report concludes by stating, “[o]nly reasonable and necessary force was used to apprehend the subject.”. (DOJ p. 17).

Not able to determine incident.

15. "Other reports acknowledge some sort of a struggle, but fail to document the specific resistance encountered or the specific type of force used by the officers involved. One such prisoner injury narrative simply stated about a female subject that, "[d]ue to her resisting [arrest] and in order for us to safely handcuff her, we had to bring her down, in a prone position, face first, onto the sidewalk. During this struggle she sustained scrapes to her face area." (DOJ p. 17).

Not able to determine incident.

16. "In the case of P.J., described above, a Narcotics Bureau officer stated that he made an effort "to extract[ ] [P.J.] through the passenger side door and prone[] [him] face down onto the pavement." According to another officer's narrative, this resulted in "minor abrasions to the right side of his face," and according to the booking sergeant in charge of filling out the SPD-276 form, P.J. had "small cuts to the face." These descriptions of P.J.'s injuries are plainly contradicted by the photographs in his prisoner injury file. These photographs clearly show severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. The injuries present in the photographs are inconsistent with the officers' reports, and are instead consistent with repeated strikes to P.J.'s head. Further, when interviewed by IIU after P.J. filed a complaint, a civilian witness stated that she saw officers kick P.J. in the head and body. During his IIU interview, P.J. stated that one officer struck him in the head with the butt of a handgun, and that once on the ground, several officers began kicking and punching him in the head and the body. P.J. further alleged that, once back at the station and in a holding room, a Narcotics Bureau officer walked in and beat him severely in the face with a book, causing him to bleed profusely. To be clear, there is no other corroboration of P.J.'s version of events besides the photographs we reviewed and the statement of the civilian witness. But these pieces of evidence are more consistent with some of P.J.'s reporting of the takedown than the officers' reports. Although IIU investigated P.J.'s complaint, IIU failed to sustain P.J.'s allegations and the officers received no discipline".(DOJ p. 18)

See Exhibit 9 in Appendix.

17. "In another prisoner injury file, Narcotics Bureau officers report that M.K., a 5'3" man, had a "small cut over and under his left eye," whereas the photographs show not only the small cuts but that his eye was almost swollen shut." (DOJ p. 18).

See Exhibit 14 in Appendix.

18. "In a 2016 incident, security camera footage directly contradicted aspects of the reports of Narcotics Bureau officers. In reports documenting a Narcotics Bureau arrest of S.L., a Narcotics Bureau officer stated that as he reached out to secure S.L., S.L. "backed away and struck [him] in the face with a closed fist." The officer reported that he then struck S.L. in the face and upper body in an attempt to stop S.L.

from striking him again. As reported by the officer, the circumstances of this interaction would justify the force used. But the officer's account is belied by video evidence, which shows S.L. standing, looking down at a piece of paper in his hand, when two plainclothes officers rush towards S.L., grab his wrist and tackle him to the ground. But for the video evidence of what happened in this use of force, the use of force described in the misleading reports provided by the officers would have appeared reasonable." (DOJ p. 18).

See Exhibit 8 in Appendix.

19. "In many cases, we were only able to identify untruthful reporting—and deficiencies in the way force was actually used—because photographic and/or video evidence happened to be available. However, these inaccurate reports indicate that it is not uncommon for Narcotics Bureau officers to write false or incomplete narratives that justify their uses of force. Because many prisoner injury files lack photographs of subjects' injuries (in contravention of SPD policy) or video evidence of the arrest, the inaccurate narratives raise substantial concern that there are other uses of unreasonable force that are falsely reported." (DOJ p.18).

Not able to determine incident(s).

20. In one of them, the complainant alleged that a Narcotics Bureau officer reached in the car while she was driving, pushed her against the seat, and grabbed her hand and slammed it into the dashboard so hard that she was bruised. In her IIU complaint, she submitted photos showing bruises. Because she was not arrested, no arrest report or Prisoner Injury file exists for this incident. (DOJ p. 20).

Not able to determine incident.

21. "In another incident, the complainant alleged that a Narcotics Bureau officer pulled him out of a car and handcuffed him roughly, only to release him because they had attempted to arrest the wrong person. Following IIU investigations, neither of these complaints were sustained". (DOJ p. 20).

See Exhibit 15 in appendix.

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

that could potentially cause death or serious bodily injury. Had SPD referred this case to IIU for a full investigation, the Department could have reasonably sustained an excessive force complaint, rather than finding only that the officer erred by improperly failing to justify his use of force.” (DOJ p. 23).

See Exhibit 16 in appendix.

23. “In one IIU investigation regarding allegations of excessive force conducted in the spring of 2016, IIU failed to interview several key witnesses who observed the incident. The incident so disturbed the witnesses that they recounted it in social media postings the same day. The IIU investigator knew who the witnesses were, where they lived, and had taken a statement from another witness confirming their identities, yet never interviewed them, noting instead in the report that “all efforts to contact [them] were unsuccessful,” without any detail as to what “efforts” he made. Other IIU files document similar failings in following up with key witnesses, including law enforcement officers from other agencies, to conduct interviews and obtain essential information.” (DOJ p. 24).

See Exhibit 1 in appendix.

Once you have had a chance to review the appendix of records submitted with this letter, containing information collected in an effort to identify the incidents in the DOJ report and outlined above, please contact me to discuss next steps in this process of compliance with your request.

Very truly yours,



Edward M. Pikula

Enc. Appendix.

cc: Police Commissioner

**Edward M. Pikula**  
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Springfield, MA 01103  
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Direct Dial: (413) 787-6098  
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THE CITY OF SPRINGFIELD, MASSACHUSETTS

August 24, 2021

VIA EMAIL ONLY

Jennifer Fitzgerald  
Assistant District Attorney  
Hampden District  
50 Court Street  
Springfield, MA 01102

[jennifer.fitzgerald@state.ma.us](mailto:jennifer.fitzgerald@state.ma.us)

**RE:** *Response to Letter to Atty. William Fennell.*

Dear Attorney Fitzgerald,

I am writing in follow up to your letter to Atty. William Fennell who provides outside legal services to the Commissioner and her Command Staff. As per our discussion by phone yesterday, I write to clarify the City's legal position with regard to the report prepared by Deputy Chief Steven Kent referenced in your letter.

As referenced in my letter to District Attorney Gulluni dated December 10, 2020, Deputy Kent's work product that you reference is related to a meeting that took place shortly after the issuance of the Department of Justice Report in July 2020. At that time, I met with the Police Commissioner and members of her staff to review the DOJ report for purposes of the potential litigation presented by the results of the DOJ investigation pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. § 12601. Given the DOJ conclusion that reasonable cause existed to believe that Narcotics Bureau officers engage in a pattern or practice of excessive force in violation of the Fourth Amendment of the United States Constitution, we needed to be prepared to meet any litigation that may be forthcoming.

During that meeting I requested that the Police Commissioner assign personnel to review the incidents described in the Report in an effort to identify the specific dates of incidents, police officers that could be identified, as well as individuals who are referenced in the Report. As noted in my response to your office dated July 2, 2021, that task was carried out and a report was provided to my office by Deputy Chief Steven Kent.

My past experience with DOJ's Civil Rights Division includes a lawsuit brought under the Voting Rights Act in which DOJ filed suit against the City and sought an injunction prior to the City being able to negotiate a settlement agreement. As such, it was my opinion at the time of my meeting in July 2020 that the City faced the prospect of litigating the details of each of the incidents described. To date, we have been successful in avoiding litigation and we continue to negotiate.

Under the circumstances, it is my opinion that the report by Deputy Kent is protected by the work-product doctrine as described in Mass. R. Civ. P. 26(b)(3) as “the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation” as it is opinion work-product that was prepared in anticipation of litigation or for trial by or for a party or party representative. As such, Deputy Kent’s report is protected from discovery to the extent provided under Mass. R. Civ. P. 26(b)(3), even where the opinion work product has been made or received by a State or local government employee. *See DaRosa v. City of New Bedford*, 471 Mass. 446, 462 (2015)(protecting opinion work product that would be protected from discovery by rule 26(b)(3) through exemption (d) of a public records request pursuant to G.L. c. 4, § 7, Twenty-sixth (d)).

The City and DOJ have been actively participating in settlement negotiations since the issuance of the report and it is my hope and expectation that the ongoing negotiations will result in a settlement agreement between the parties in the near future. I do not wish to jeopardize those discussions or compromise our bargaining position by release of the report. As such, I have provided you with the underlying factual information that the report is based on in the appendix to my letter of July 2, 2021, but not the report itself which provides analysis, impressions, or opinions.

As referenced in my past letters, I believe next steps towards addressing *Brady* obligations should be a meeting between the Springfield Police Department and the District Attorneys’ office to review each incident, as well as an effort to coordinate with DOJ to confirm the accuracy of our efforts to identify the incidents described, and to obtain additional information where, either no determination could be made, or the determination is not accurate.

In furtherance of this, I would ask Commissioner Clapprod to arrange for Deputy Kent to participate in those discussions in order to provide information as to his methodology of searching for records provided and efforts to attempt to match them up to the incidents described in the report. As indicated, the records are by no means exhaustive, but simply used as a reference to attempt to identify the cases, officers, and individuals involved as described in the DOJ Report. Additional records that can be obtained after matching them to criminal case files and records in the District Attorneys’ office to supplement as necessary and to the extent records are available.

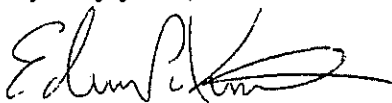
As for including the report of Deputy Kent in your response to the SJC, I would make the report available for *in camera* inspection if so ordered, but I believe it should be protected from production to your office or any other party to avoid any potential claim of voluntary waiver and to maintain the ongoing negotiations with the DOJ.

In addition, as per our discussion, the appendix includes records and information that is exempt from public disclosure. Prior to any production of the appendix, redaction or other safeguards must be undertaken to protect the confidentiality of those records as applicable.

I hope this provides clarification as to the situation. I look forward to arranging a meeting between representatives of your office and the Police Department to discuss and identify the most efficient means of reviewing and producing any other document required in order to assure compliance with *Brady* obligations. In the mean-time please feel free to contact me at 413-787-6085 to discuss in more detail.



Very truly yours,

A handwritten signature in black ink, appearing to read "Edward M. Pikula". The signature is fluid and cursive, with a prominent initial "E" and a long, sweeping underline.

Edward M. Pikula, City Solicitor.

EMP

# Exhibit C

# IIU Report By Police Officer

37180 Kent Steven M

SO Number	CC Number	Date Received	Name Last	Name First	Nature of Complain	Summary	Disposition	Final Disposition
09-081	09-16	4/1/1931	E		Physical/Hands	Complainant states he was assaulted by police.	Unfounded	Unfounded
10-119	10-17	5/25/2010	G	E	Rules & Regulations	Officer harasses complainant	Unfounded	Unfounded
11-002		1/9/2011	V	N	Physical/Hands	Invst. Rpt. From Capt. Cheetham injury to prisoner. 90 Day letter served 4/7/11. Hearing rescinded by Comm. 12/9/11	Not Sustained	Not Sustained
11-083	11-23	6/14/2011	M	A	Physical/Hands	Arresting officers twisted his wrist and choked him until he fainted and beat him up.	Not Sustained	Not Sustained
14-017	14-05	2/12/2014	S	R	Rules & Regulations	Complainant states officers destroyed his baseball card collection while in the process of searching his rental property.	Not Sustained	Not Sustained
17-058	17-22	3/17/2017	J	R	Rules & Regulations	Complainant was refused medical attention, denied a phone call, damaged property, and officers were rude (6)	Not Sustained	Not Sustained
97-244	97-066	5/8/1997	M	M	Physical	ALLEGES OFFICER HIT HIM AFTER HE TRIED TO GIVE HIMSELF UP	Not Sustained	Not Sustained
98-181	98-048	5/7/1998	S	T	Physical	CLAIMS SHE WAS ILLEGALLY SEARCHED AT 130 PEARL FOR DRUGS.	Unfounded	Unfounded
98-182	98-049	5/7/1998	D	H	Physical	COMPLAINT ALLEGES HE RECEIVED BROKEN LEG AS A RESULT OF POLICE	Not Sustained	Not Sustained
d00-022	00-007	1/25/2000	E	E	Rules&Regulations	He was stopped by police and his friend was hit with flashlight. See AO# 00-	Not Sustained	Not Sustained
d00-024	00-008	1/25/2000	E	I	Physical	States he was struck in face with flashlight by officers in tan Honda.	Not Sustained	Not Sustained
d00-232	00-085	6/8/2000	I	N	Rules&Regulations	officers entered her room looking for drugs w/o warrant	Not Sustained	Not Sustained
d02-445	02-115	12/13/2002	O	N	Physical	Officers used excessive force when arresting complainant.	Not Sustained	Not Sustained

Thursday, August 9, 2018

37180 Kent Steven M

SO Number	CC Number	Date Received	Name Last	Name First	Nature of Complain	Summary	Disposition	Final Disposition
d03-019	03-004	1/17/2003	T	M	Property	Complainant states that detectives destroyed the inside of her truck when they arrested her husband.	Not Sustained	Not Sustained
d06-217	06-037	8/26/2006	A	M	Rules&Regulations	Officers responded to a noise call and Officers used force & Officer Kourouvacilis drew his duty weapon on members of the party.	Not Sustained	Not Sustained
d06-219	06-044		S	T	Physical	Complainant was sitting on her porch when officers went to the apartment next door. When she asked if she could bring the little girl that was with her inside, an officer elbowed her in the eye.	Not Sustained	Not Sustained
d06-219A	06-045		F	J	Physical	Police came into his dad's apt., threw him on the floor, cuffed him and then punched and kicked him and choked him.	Not Sustained	Not Sustained
d07-031	07-005	2/3/2007	E	D	Physical/Hands	One of several police officers that stopped the complainant, punched him in the face and in the gut then shoved his face into a brick wall.	Not Sustained	Not Sustained
d12-012	ADMIN	1/25/2012	Invst. Injuries to X		Physical/Hands A	Invst. Rpt. By Capt. Cheatham re: Injuries to prisoner.	Not Sustained	Not Sustained
d16-215	ADMIN	12/5/2016	Invst email S		Rules & Regulations	Invst. Email from S [redacted] re S [redacted] court case. Claims arrest report does not match video of incident.	Not Sustained	Not Sustained
d99-168	99-047		S	S	Physical	CLAIMS HIS HEAD WAS BANGED AGAINST CRUISER.	Not Sustained	Not Sustained
d99-237	99-066	5/26/1999	L	F	Rules&Regulations	Claims he was falsely arrested and stripped searched.	Retraining	Retraining
dPIE#10-58	40	7/20/2010		T	Physical/Equip	Officer approached him with his duty weapon drawn, another officer violently threw him to the ground	Exonerated	Exonerated
dPIE#10-66	48	8/20/2010	P	C	Rules & Regulations	Officers handcuffed complainants and searched their home without a warrant.	Not Sustained	Not Sustained
dPIE#10-66	48	8/20/2010	C	S	Rules & Regulations	Officers handcuffed complainants and searched their home without a warrant.	Not Sustained	Not Sustained

37180 Kent Steven M

SO Number	CC Number	Date Received	Name Last	Name First	Nature of Complain Summary	Disposition	Final Disposition
PIE#09-71		11/16/2009	[REDACTED]	H	Physical/Hands Officer violently arrested, illegally searched his car and for no reason but messing with him.	Not Sustained	Not Sustained
PIE#11-57	48	10/27/2011	[REDACTED]	W	Rudeness Officers did not provide a search warrant when asked for one.	Not Sustained	Not Sustained

# Exhibit D

**Edward M. Pikula**

***City Solicitor***

Law Department

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Springfield, MA 01103

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Direct Dial: (413) 787-6098

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**THE CITY OF SPRINGFIELD, MASSACHUSETTS**

July 2, 2021

Jennifer N. Fitzgerald

First Assistant

Hampden District Attorney's Office

50 State Street

Springfield, MA 01103

This correspondence is in follow up to a request from the District Attorney to Commissioner Clapprod for records, dated December 2, 2020, my response (on behalf of Commissioner Clapprod) to the District Attorney dated December 10, 2020, a follow up letter from the District Attorney dated March 11, 2021, as well as email communications between us March 16, 2021 and April 26, 2021.

The District Attorney's letter to the Commissioner, referring to the DOJ Report and the voluminous records reviewed, states:

investigators reviewed 5,500 arrest reports and 10 use-of-force reports from the Springfield Police Department's Narcotics Bureau from 2013-2018. Found by investigators, Report at 2, were "examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force[;]" and Report at 16, "... a pattern or practice ... [where] officers made false reports that were inconsistent with other available evidence, including video and photographs... "

A footnote in the letter from the DA states:

the reported findings of unconstitutional law enforcement conduct, as described in the twenty-eight-page Report, suggest the documents supporting these findings may contain potentially exculpatory material as that term is legally understood, and is subject to my mandatory review to effectively meet the constitutional, statutory, and ethical obligations of my office

As stated in my response to the District Attorney:

The City of Springfield has not been provided any information from the Department of Justice specifying any identifying information as to the case numbers, names of officers, or names of individual criminal defendants described in the Report. Shortly after receipt of the report, the Police Commissioner assigned personnel to review the incidents described in the Report in an effort to identify the specific dates of incidents, police officers, and individuals referenced in the Report. While some appear obvious and involve case information already fully disclosed to your office,

strike the subject in the head to gain compliance.” (DOJ p. 13).

See Exhibit 6 in Appendix.

7. “In the course of one drug arrest, for example, a Narcotics Bureau officer punched R.F., a slight, middle-aged man, while attempting to retrieve contraband. Officer reports state that R.F. resisted opening his fist and instead attempted to free his wrist from the Narcotics Bureau officer’s grasp; officers then immediately punched him in the face. The Narcotics Bureau officer who punched R.F. escalated the situation without attempting other means of gaining compliance, unnecessarily resulting in a serious use of force. R.F. is not a large individual – 5’9” and 140 pounds – and there was no evidence that he had access to a weapon or otherwise posed a threat. The arrest report also shows that at least four Narcotics Bureau officers were on the scene.” (DOJ p.13).

See Exhibit 7 in Appendix.

8. “In one incident, *see infra* Section III.C.3., video footage shows that officers rushed into a store and immediately hit S.L. in the face. The encounter happened so quickly that it appears the plainclothes officers failed to identify themselves. The video lacks audio, but at a minimum, the video makes clear that if officers did announce themselves or issue a command, they failed to provide S.L. with any time to react to the officers and surrender before he was hit.” (DOJ p. 14).

See Exhibit 8 in Appendix.

9. “In the case of P.J., he claimed that he fled in his vehicle because he was being chased by an unmarked vehicle and did not know law enforcement officers were in that vehicle. In one report, an officer describes “extracting [P.J.] through the passenger side door and proned [him] face down onto the pavement.” Photos show he sustained significant injuries—severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. These injuries are inconsistent with the officers’ reports that P.J. had “small cuts to the face,” and are instead consistent with repeated strikes of his head.” (DOJ p.14).

“In the case of P.J., described above, a Narcotics Bureau officer stated that he made an effort “to extract[ ] [P.J.] through the passenger side door and prone[] [him] face down onto the pavement.” According to another officer’s narrative, this resulted in “minor abrasions to the right side of his face,” and according to the booking sergeant in charge of filling out the SPD-276 form, P.J. had “small cuts to the face.” These descriptions of P.J.’s injuries are plainly contradicted by the photographs in his prisoner injury file. These photographs clearly show severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. The injuries present in the photographs are inconsistent with the officers’ reports, and are instead consistent with repeated strikes to P.J.’s head. Further,



when interviewed by IIU after P.J. filed a complaint, a civilian witness stated that she saw officers kick P.J. in the head and body. During his IIU interview, P.J. stated that one officer struck him in the head with the butt of a handgun, and that once on the ground, several officers began kicking and punching him in the head and the body. P.J. further alleged that, once back at the station and in a holding room, a Narcotics Bureau officer walked in and beat him severely in the face with a book, causing him to bleed profusely. To be clear, there is no other corroboration of P.J.'s version of events besides the photographs we reviewed and the statement of the civilian witness. But these pieces of evidence are more consistent with some of P.J.'s reporting of the takedown than the officers' reports. Although IIU investigated P.J.'s complaint, IIU failed to sustain P.J.'s allegations and the officers received no discipline." (DOJ p. 14).

See Exhibit 9 in Appendix.

10. "In the case of F.D., two Narcotics Bureau officers, including one supervisor, stated that after a brief pursuit of F.D.'s vehicle, they pulled F.D. from the car onto the ground. One officer's report says F.D. was "placed" on the ground and another officer's report states that F.D. was "escorted" to the ground. But photos of the abrasions to F.D.'s face demonstrate the use of serious force and multiple points of impact including: the left side of his forehead, the right side of his forehead, and his cheek. F.D. reported in an interview that he was kicked in the face and upper body area 10-12 times, with multiple officers taking turns kicking him. Regardless of whether these injuries were caused by an aggressive takedown or direct kicks to the head, the prisoner injury report narratives do not indicate that any such force was necessary. None of the officer reports state that F.D. resisted arrest or was combative, and this is further supported by the fact that he was not arrested for resisting arrest or assault and battery of a police officer. According to documents, 12 officers were listed as involved with the arrest and four officers completed prisoner injury report narratives, all arising from an incident that began when F.D. failed to stop because he did not know he was being chased by officers." (DOJ p. 14).

See Exhibit 10 in Appendix.

11. "[I]n the course of a recent arrest, roughly a dozen officers, most of them Narcotics Bureau officers, executed a narcotics warrant for A.E. After a vehicle pursuit, A.E. eventually stopped but refused to get out of the car, and officers physically pulled him out. At some point during his extraction from the car, A.E.'s head struck the pavement directly, and the booking photos show significant swelling in his right forehead area in two points of impact, indicating that officers likely used additional force once A.E. was on the ground. The officers' own reports indicate that Narcotics Bureau officers had A.E. under control at all times, and nothing indicates that his head needed to be slammed to the pavement. Despite the serious head injuries depicted in the booking photos, one officer's report described A.E. as having only a "minor injury" above his eye. Notably, the Narcotics Bureau officers' accounts of

15. "Other reports acknowledge some sort of a struggle, but fail to document the specific resistance encountered or the specific type of force used by the officers involved. One such prisoner injury narrative simply stated about a female subject that, "[d]ue to her resisting [arrest] and in order for us to safely handcuff her, we had to bring her down, in a prone position, face first, onto the sidewalk. During this struggle she sustained scrapes to her face area." (DOJ p. 17).

Not able to determine incident.

16. "In the case of P.J., described above, a Narcotics Bureau officer stated that he made an effort "to extract[ ] [P.J.] through the passenger side door and prone[] [him] face down onto the pavement." According to another officer's narrative, this resulted in "minor abrasions to the right side of his face," and according to the booking sergeant in charge of filling out the SPD-276 form, P.J. had "small cuts to the face." These descriptions of P.J.'s injuries are plainly contradicted by the photographs in his prisoner injury file. These photographs clearly show severe contusions and dark bruising on the right side of his face, a large black eye, a gash on the bridge of his nose, and additional abrasions on the left side of his face and the left side of his nose. The injuries present in the photographs are inconsistent with the officers' reports, and are instead consistent with repeated strikes to P.J.'s head. Further, when interviewed by IIU after P.J. filed a complaint, a civilian witness stated that she saw officers kick P.J. in the head and body. During his IIU interview, P.J. stated that one officer struck him in the head with the butt of a handgun, and that once on the ground, several officers began kicking and punching him in the head and the body. P.J. further alleged that, once back at the station and in a holding room, a Narcotics Bureau officer walked in and beat him severely in the face with a book, causing him to bleed profusely. To be clear, there is no other corroboration of P.J.'s version of events besides the photographs we reviewed and the statement of the civilian witness. But these pieces of evidence are more consistent with some of P.J.'s reporting of the takedown than the officers' reports. Although IIU investigated P.J.'s complaint, IIU failed to sustain P.J.'s allegations and the officers received no discipline".(DOJ p. 18)

See Exhibit 9 in Appendix.

17. "In another prisoner injury file, Narcotics Bureau officers report that M.K., a 5'3" man, had a "small cut over and under his left eye," whereas the photographs show not only the small cuts but that his eye was almost swollen shut." (DOJ p. 18).

See Exhibit 14 in Appendix.

18. "In a 2016 incident, security camera footage directly contradicted aspects of the reports of Narcotics Bureau officers. In reports documenting a Narcotics Bureau arrest of S.L., a Narcotics Bureau officer stated that as he reached out to secure S.L., S.L. "backed away and struck [him] in the face with a closed fist." The officer reported that he then struck S.L. in the face and upper body in an attempt to stop S.L.

from striking him again. As reported by the officer, the circumstances of this interaction would justify the force used. But the officer's account is belied by video evidence, which shows S.L. standing, looking down at a piece of paper in his hand, when two plainclothes officers rush towards S.L., grab his wrist and tackle him to the ground. But for the video evidence of what happened in this use of force, the use of force described in the misleading reports provided by the officers would have appeared reasonable." (DOJ p. 18).

See Exhibit 8 in Appendix.

19. "In many cases, we were only able to identify untruthful reporting—and deficiencies in the way force was actually used—because photographic and/or video evidence happened to be available. However, these inaccurate reports indicate that it is not uncommon for Narcotics Bureau officers to write false or incomplete narratives that justify their uses of force. Because many prisoner injury files lack photographs of subjects' injuries (in contravention of SPD policy) or video evidence of the arrest, the inaccurate narratives raise substantial concern that there are other uses of unreasonable force that are falsely reported." (DOJ p.18).

Not able to determine incident(s).

20. In one of them, the complainant alleged that a Narcotics Bureau officer reached in the car while she was driving, pushed her against the seat, and grabbed her hand and slammed it into the dashboard so hard that she was bruised. In her IIU complaint, she submitted photos showing bruises. Because she was not arrested, no arrest report or Prisoner Injury file exists for this incident. (DOJ p. 20).

Not able to determine incident.

21. "In another incident, the complainant alleged that a Narcotics Bureau officer pulled him out of a car and handcuffed him roughly, only to release him because they had attempted to arrest the wrong person. Following IIU investigations, neither of these complaints were sustained". (DOJ p. 20).

See Exhibit 15 in appendix.

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

that could potentially cause death or serious bodily injury. Had SPD referred this case to IIU for a full investigation, the Department could have reasonably sustained an excessive force complaint, rather than finding only that the officer erred by improperly failing to justify his use of force.” (DOJ p. 23).

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23. “In one IIU investigation regarding allegations of excessive force conducted in the spring of 2016, IIU failed to interview several key witnesses who observed the incident. The incident so disturbed the witnesses that they recounted it in social media postings the same day. The IIU investigator knew who the witnesses were, where they lived, and had taken a statement from another witness confirming their identities, yet never interviewed them, noting instead in the report that “all efforts to contact [them] were unsuccessful,” without any detail as to what “efforts” he made. Other IIU files document similar failings in following up with key witnesses, including law enforcement officers from other agencies, to conduct interviews and obtain essential information.” (DOJ p. 24).

See Exhibit 1 in appendix.

Once you have had a chance to review the appendix of records submitted with this letter, containing information collected in an effort to identify the incidents in the DOJ report and outlined above, please contact me to discuss next steps in this process of compliance with your request.

Very truly yours,



Edward M. Pikula

Enc. Appendix.

cc: Police Commissioner

## **EXHIBITS**

1. Arrest #: 16-646-AR; 16-647-AR; 16-648-AR; Arrest Date: 02/27/2016
2. SO# 15-083; 04/08/2015
3. Hampden County Superior Court Criminal Action No. 1579CR01041
4. Arrest #: 15-57-AR; Arrest Date: 01/06/2015
5. Arrest #: 19-2408-AR; #19-2409-AR; Arrest Date: 07/28/2019
6. Arrest #: 13-2691-AR; Arrest Date: 08/08/2013
7. Arrest #: 15-3059-AR; Arrest Date: 09/03/2015
8. Arrest #: 16-1983-AR; Arrest Date: 06/09/2016
9. Arrest #: 13-850-AR; Arrest Date: 03/22/2013
10. Arrest #: 15-3465-AR; Arrest Date: 10/01/2015
11. Arrest #: 18-2458-AR; Arrest Date: 07/25/2018
12. Arrest #: 17-305-AR; Arrest Date: 01/26/2017
13. Arrest #: 18-392-AR; Arrest Date: 02/09/2018
14. Arrest#: 14-590-AR; Arrest Date: 03/05/2014
15. IIU Report#: 02/08/2018; SO#18-051
16. Arrest#: 14-1230-AR; Arrest Date: 04/26/2014

# EXHIBIT 8



Springfield Police Department  
Arrest Report

Page: 2  
06/09/2016

Arrest #: 16-1983-AR  
Call #: 16-97730

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
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[FAMILY/EMPLOYMENT INFORMATION]

MARITAL STATUS: SINGLE

FATHER'S NAME:  
MOTHER'S NAME:

EMPLOYER/SCHOOL:

OCCUPATION: UNEMPLOYED

[RIGHTS/BOOKING CHECKS]

PHONE USED: N  
ARRESTEE SECURED: Y 06/09/2016 2010  
ARRESTEE CELL #: M21

OFFENSE(S)	ATTEMPTED	TYPE
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LOCATION TYPE: Liquor Store  
33 FORT PLEASANT AVE Apt. #3R  
SPRINGFIELD MA  
Zone: Sector H1 Forest Park

DRUG, POSSESS TO DISTRIB CLASS A, SUBSQ. 94C/32/D OCCURRED: 06/09/2016 1503 CRIMINAL ACTIVITY: Possessing/Concealing	N	Felony
DRUG, POSSESS TO DISTRIB CLASS B, SUBSQ. 94C/32A/H CRIMINAL ACTIVITY: Possessing/Concealing	N	Felony
.A&B (Simple) 265/13A/B WEAPON/FORCED USED: Personal Weapons (Hands/Feet/Etc)	N	Misdemeanor
.A&B (Simple) 265/13A/B WEAPON/FORCED USED: Personal Weapons (Hands/Feet/Etc)	N	Misdemeanor
.A&B (Simple) 265/13A/B WEAPON/FORCED USED: Personal Weapons (Hands/Feet/Etc)	N	Misdemeanor
RESIST ARREST 268/32B WEAPON/FORCED USED: Personal Weapons (Hands/Feet/Etc)	N	Misdemeanor
AGGR. ASSAULT/HOMICIDE: Assault on Law Enforcement Officer(s)		
DESTRUCTION OF PROPERTY +\$250, MALICIOUS 266/127/A	N	Felony



Springfield Police Department  
Arrest Report

Arrest #: 16-1983-AR  
Call #: 16-97730

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
1	HITAS, CHRISTOPHER 130 PEARL ST SPRINGFIELD MA DOB: ***** EMPLOYER: CITY OF SPFLD . ***** INJURIES: None ETHNICITY: Not of Hispanic Origin RESIDENT STATUS: Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 3 RELATION TO: [REDACTED]	M	W	46	NOT AVAIL	*****
					Stranger	
2	ROBLES, JOSE A 130 PEARL ST SPRINGFIELD MA 01105 DOB: ***** EMPLOYER: SPRINGFIELD . ***** INJURIES: Apparent Minor Injury ETHNICITY: Hispanic RESIDENT STATUS: Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 4 RELATION TO: [REDACTED]	M	W	48	NOT AVAIL	*****
					Stranger	
	COURNOYER, LUKE F 130 PEARL ST SPRINGFIELD MA 01104 DOB: ***** EMPLOYER: SPFLD POLICE DEPT . ***** INJURIES: Apparent Minor Injury ETHNICITY: Not of Hispanic Origin RESIDENT STATUS: Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 5 RELATION TO: [REDACTED]	M	W	33	NOT AVAIL	*****
					Stranger	
	SOUTH END PACKAGE STORE 32 FORT PLEASANT AVE SPRINGFIELD MA VICTIM CONNECTED TO OFFENSE NUMBER(S): 7					*****
	TEMPLEMAN, MARK D 130 PEARL ST SPRINGFIELD MA DOB: ***** EMPLOYER: SPRINGFIELD POLICE DEPT . ***** INJURIES: None ETHNICITY: Not of Hispanic Origin RESIDENT STATUS: Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 6 RELATION TO: [REDACTED]	M	W	47	NOT AVAIL	*****
					Stranger	

DRUG(S)	PROPERTY #	STATUS
HEROIN (GOTTI)		
QUANTITY: 78.000 (Dosage of Units/Items)	VALUE: \$0.00	Seized (Not Previously Stolen)
OWNER: [REDACTED]		DATE: 06/09/2016

Springfield Police Department  
Arrest Report

Page: 4  
06/09/2016

Arrest #: 16-1983-AR  
Call #: 16-97730

#	DRUG(S)	PROPERTY #	STATUS
2	CRACK COCAINE		
	QUANTITY: 3.000 (Grams)	VALUE: \$0.00	Seized (Not Previously Stolen)
	OWNER: [REDACTED]		DATE: 06/09/2016

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	\$188		
	QUANTITY: 1	VALUE: \$188.00	Evidence (Not Nibrs Reportable)
	SERIAL #: NOT AVAIL		
	DATE: 06/09/2016		
	OWNER: [REDACTED]		
2	VARIOUS FOOD PRODUCTS		
	QUANTITY: 1	VALUE: \$500.00	Destroyed/Damaged/Vandalized
	SERIAL #: NOT AVAIL		
	DATE: 06/09/2016		
	OWNER: SOUTH END PACKAGE STORE		

**ADDITIONAL ASSISTING OFFICERS**

Officer Juan Rodriguez	Officer Felix Aguirre
Officer Gregg Bigda	Officer Jaime Bruno
Officer Michael Goggin	Sergeant Christopher Hitas
Lieutenant Steven Kent	Officer Edward Kalish
Sergeant Lawrence Murphy	Officer Jose Robles
Officer Mark Templeman	Officer Daniel Huard

Ref: 16-1983-AR

Entered: 06/09/2016 @ 2057      Entry ID: 106667  
Modified: 06/09/2016 @ 2058      Modified ID: 106667  
Approved: 06/09/2016 @ 2113      Approval ID: H544

Sir,

On 06/09/16 members of the narcotics bureau, under the direction of Lt.'s Ayala and Kent and Sgt.'s Hitas and Murphy arrested the following H/M from within 32 Fort Pleasant Ave.

1. [REDACTED] for:

1. Possession of a Class A Substance W/INT- Subsq
2. Possession of a Class B Substance W/INT-Subsq
3. Assault and Battery on a Police Officer (Cournoyer)
4. Assault and battery on a Police Officer (Robles)
5. Assault and Battery on a Police Officers (Hitas)
6. Resisting Arrest
7. Malicious Destruction of Property +\$250.00

Over the past several weeks members of the narcotics bureau and I have been investigation the illegal distribution of Heroin from 33 Fort Pleasant Ave apt. 3R. Over the course of this investigation I was able to identify the dealer as an H/M, by the name [REDACTED]. This investigation involved controlled purchased of roin by a Confidential Reliable Informant. By the term confidential and reliable informant, I mean someone who has provided information to the members of the narcotics unit in the past. This subject's information has resulted in arrest/ seizure of illegal narcotics and a Firearm. This case is currently pending in the Springfield court systems. For the purpose of this report she/he will be referred to as CRI.

On 06/06/16 I applied for and was granted a Springfield District Court Search Warrant for 33 Fort Pleasant Ave, naming [REDACTED] as the target. On 06/09/16, at approx. 1:40 p.m., officers responded to the area of 33 Fort Pleasant Ave with the intent to execute this warrant. Once in the area officers began to hold the address under surveillance in order to confirm that [REDACTED] was inside.

At approx. 2:45 p.m. I was contacted by the CRI who stated that [REDACTED] was about to exit the address to respond to the South End Package Store. CRI also stated that [REDACTED] would be in possession of a large amount of Heroin. At approx. 2:50 p.m. Det. Kalish observed [REDACTED] exiting the rear alleyway of 33 Fort Pleasant Ave. This alleyway leads to Belmont Ave. [REDACTED] then walked to the South End package store located at 32 Fort Pleasant Ave. Once [REDACTED] was in the store Det. Robles and I responded to the store. Once we approached [REDACTED] with our police attire (Badge, radio, firearm, hand cuffs) in plain view and I identified myself and reason for being there. This was done by calling [REDACTED] by name as I instructed him not

Ref: 16-1983-AR

Entered: 06/09/2016 @ 2057      Entry ID: 106667  
Modified: 06/09/2016 @ 2058      Modified ID: 106667  
Approved: 06/09/2016 @ 2113      Approval ID: H544

to resist. As I reached out to secure [REDACTED] he backed away and struck me in the face with a closed fist. I then struck [REDACTED] in the face and upper body in an attempt to stop him from striking me again. Det. Robles was now assisting as we tried to gain control of [REDACTED]. [REDACTED] was now striking and kicking both officers and the three of us fell into the lower part of the store knocking over several displays. [REDACTED] continued to violently struggle to which Det. Robles struck [REDACTED] several times about the face and upper body to stun and deflate [REDACTED] violent behavior. Det. Robles and I along with [REDACTED] then fell into an alcove approximately 3 feet wide and 4 feet long. While on the ground [REDACTED] maintained a hold of Det. Robles shirt and vest ultimately tearing both. While holding onto his (Robles) clothing [REDACTED] struck Det. Robles in the neck and chin several times.

Lt. Kent, Sgt. Hitas and Det. Templeman then arrived and all officers attempted to gain control of [REDACTED]. During this assault on officers [REDACTED] attempted to remove a green box cutter from his left back pocket. Upon seeing this I knocked the box cutter from his hand. As [REDACTED] continued to fight he kicked Sgt. Hitas several times. It was at this time that Sgt. Hitas grabbed hold of his right ankle and used joint manipulation to assist in gaining control of [REDACTED]. After a violent struggle officers were finally able to gain control of [REDACTED] and place him into handcuffs.

As Lt. Kent attempted to pick Suarez off of the floor he began to violently resist again resulting in he and Lt. Kent falling to the floor. This happened twice before Lt. Kent was finally able to control him. Sgt. Hitas then recovered the box cutter and [REDACTED] wallet, from the floor of the store.

Due to [REDACTED] violent behavior several shelves and displays were knocked to the ground breaking approx. \$500.00 of merchandise. [REDACTED] was then transported to the police station by Officer J. Walters. Prior to placing [REDACTED] into Officer Walters cruiser, Det. Aguirre checked the plastic formed seat as well as the floor boards for contraband with negative results. [REDACTED] was then transported to the police station. While en route to the station Officer Walters observed [REDACTED] to be moving about in the back seat. Once at the police station Officer Walters removed [REDACTED] from the cruiser. Once removed, Officer Walters observed a large amount of heroin and crack cocaine on the floor board where [REDACTED] was seated. Officers Walters then recovered these items.

As the arrest and transport of [REDACTED] was taking place remaining officers executed the search warrant approx. 3:00 p.m. The address was found to be un-occupied at this time. An organized search was then conducted of the address with negative results. A copy of the search warrant was left on scene.

Once at the police station Officers found that the narcotics recovered from Officer Walters' cruiser were 78 grams of heroin with a "Gotti" stamp and two bags of crack cocaine. Sgt. Hitas recovered \$188.00 from [REDACTED] wallet. All items recovered were placed into evidence with the following tag numbers.

Tag # 372023 -78 bags "Gotti" Heroin rec. by Walters from cruiser

Tag # 372024 - Crack Cocaine rec. by Walters from cruiser

Springfield Police Department

NARRATIVE FOR OFFICER LUKE F COURNOYER

Ref: 16-1983-AR

Entered: 06/09/2016 @ 2057	Entry ID: 106667
Modified: 06/09/2016 @ 2058	Modified ID: 106667
Approved: 06/09/2016 @ 2113	Approval ID: H544

Tag # 372022 - U.S Currency rec. by Hitas from wallet.

Tag # 372026 - Box Cutter rec. by Hitas.

Squad Commander notified

Respectfully Submitted,

Ofc Luke Cournoyer.

City of Springfield, Massachusetts

Department of Police

Date: 6/9/16

REPORT TO THE POLICE COMMISSIONER  
IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 276 OF THE GENERAL LAWS

Arresting Officer Lt. A. Ayala et al

Time 1503

Prisoner

Condition Fair

Marks or bruises: Small cut to nose and lower lip, bruise to left wrist, sprained right ankle

How caused: Stated he was "beat up" by the police

Examined by P.A. Natalee Shea

Attended by Dr.

Remarks Treated at Mercy Hospital

Signature

*[Handwritten Signature]*  
Sgt. Daniel Reigner

Photos by *[Handwritten Signature]*

# EXHIBIT 10





Springfield Police Department  
Arrest Report

Arrest #: 15-3465-AR

FID.  
Pg 14 Para 4

Date/Time Reported: 10/01/2015 @ 1820  
Arrest Date/Time: 10/01/2015 @ 1850  
Booking Date/Time: 10/02/2015 @ 0025



OBTN: TSPR201503465  
Court: Springfield  
Court Date: 01/20/2016 @ 0531  
Reporting Officer: Lieutenant Steven Kent  
Assisting Officer: Lieutenant Alberto Ayala  
Approving Officer: Lieutenant Steven Kent

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

Bail For Court: Springfield      Prosecutor: MCCARTHY, KAREN  
Bail Unpaid:  
Released To: Court  
Released: 10/02/2015 @ 0643

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

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
1	[REDACTED]	M	W	31	[REDACTED]	[REDACTED]

Military Active Duty: N  
HEIGHT: 601      WEIGHT: 240      HAIR: BLOND OR STRAWBERRY      EYES: BLUE  
BODY: MEDIUM      COMPLEXION: FAIR  
DOB: [REDACTED]      PLACE OF BIRTH: SPRINGFIELD, MASS  
STATE ID: [REDACTED]      FBI ID: [REDACTED]  
LICENSE NUMBER: [REDACTED]      ETHNICITY: NOT HISPANIC  
LOCAL ID: [REDACTED]

[CONTACT INFORMATION]

Home Phone (Primary) [REDACTED]  
Home Phone [REDACTED]

[APPEARANCE]

GENERAL APPEARANCE: MUSSED

HAT: NO HAT  
SHIRT: T-SHIRT  
SWEATERS/COATS/JACKETS: NO COAT OR JACKET  
PANTS/SKIRT: JEANS-COLOR  
SHOE: JOGGING SHOES  
MASK: NO MASK  
GLASSES WORN: NO

MARKS: DISC HEAD(LARGE WART LEFT TEMPLE)  
TATTOOS: TAT R SHLD(ST MICHEAL SHOOTING THE D), TAT L SHLD(STAIRWAY TO HEAVEN)



Springfield Police Department  
Arrest Report

Page: 2  
06/01/2018

Arrest #: 15-3465-AR

# DEFENDANT (S) SEX RACE AGE SSN PHONE

ALIAS LAST NAME FIRST NAME MIDDLE NAME SSN DOB  
[REDACTED] NOT AVAIL [REDACTED]

[FAMILY/EMPLOYMENT INFORMATION]

MARITAL STATUS: SINGLE  
FATHER'S NAME: [REDACTED]  
MOTHER'S NAME: [REDACTED]  
EMPLOYER/SCHOOL: [REDACTED]

[RIGHTS/BOOKING CHECKS]

RIGHTS ADVISED BY: Sergeant Michael P Kervick DATE/TIME: 10/02/2015 @ 0027  
PHONE USED: N PHONED DATE/TIME: 10/02/2015 @ 0027  
ARRESTEE SECURED: Y 10/02/2015 0029  
ARRESTEE CELL #: M18  
FINGERPRINTED: N  
PHOTOGRAPHED: N  
VIDEO: YES  
SUICIDE CHECK: Performed  
PERSONS: State&Federal  
NCIC VEHICLE CHECK: Not Performed  
INJURY OR ILLNESS: N

# OFFENSE (S) ATTEMPTED TYPE

LOCATION TYPE: Residence/Home/Apt./Condo Zone: Sector El Metro/South End

- 1 COCAINE, TRAFFICKING IN N Felony  
94C/32E/A 94C 32E  
OCCURRED: 10/01/2015 1820  
CRIMINAL ACTIVITY: Possessing/Concealing
- 2 CONSPIRACY TO VIOLATE DRUG LAW N Felony  
94C/40 94C 40  
OCCURRED: 10/01/2015 1820
- 3 STOP FOR POLICE, FAIL N Misdemeanor  
90/25/D 90 25  
OCCURRED: 10/01/2015 1820

# DRUG (S) PROPERTY # STATUS

1 COCAINE Seized (Not Previously Stolen)  
QUANTITY: 460.000 (Grams) VALUE: \$0.00 DATE: 10/01/2015  
OWNER: [REDACTED]

Springfield Police Department  
Arrest Report

Page: 3  
06/01/2018

Arrest #: 15-3465-AR

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	US CURRENCY QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 10/02/2015 OWNER: [REDACTED]	VALUE: \$15,400.00	Seized (Not Previously Stolen)

ADDITIONAL ASSISTING OFFICERS

Officer Edwin Hernandez  
Officer Juan Rodriguez  
Officer Christian De La Cruz  
Officer Felix Aguirre  
Sergeant Lawrence Murphy  
Officer Jose Robles  
Officer Mark Templeman

Officer Luke Cournoyer  
Officer Matthew Rief  
Officer Steven Vigneault  
Sergeant Christopher Hitas  
Officer James Mazza  
Officer William Lopes

NARRATIVE FOR LIEUTENANT STEVEN KENT

Ref: 15-3465-AR

Entered: 10/02/2015 @ 0147      Entry ID: K180  
Modified: 10/02/2015 @ 0147      Modified ID: K180  
Approved: 10/02/2015 @ 0148      Approval ID: K180

Sir,

As the result of an investigation into illegal firearm possession and drug distribution at 93 Acushnet St. members of the Vice/Narcotic Control Unit arrested the following:

At approximately 6:05PM at the intersection of Broad St. and East Columbus Ave.,

1. [REDACTED] of [REDACTED], for,
- A. Trafficking in Cocaine 200+ Grams, and,
  - B. Conspiracy to Violate Narcotic Drug Laws.

At approximately 6:50PM near the intersection of Pine and Central Sts.,

2. [REDACTED] of [REDACTED], for,
- A. Trafficking in Cocaine 200+ Grams,
  - B. Conspiracy to Violate Narcotic Drug Laws, and,
  - C. Refusing to Submit.

At approximately 7:30PM at 93 Acushnet Ave.,

3. [REDACTED] of [REDACTED] for,
- A. Trafficking in Cocaine 200+ Grams,
  - B. Possession of PCP w/Intent to Dist.,
  - C. Conspiracy to Violate Narcotic Drug Laws,
  - D. Possession of a High Capacity Rifle,
  - E. Possession of a High Capacity Feeding Device,
  - F. Possession of Ammo w/out a F.I.D.,
  - G. Possession of a Firearm in the Commission of a Felony.

For the past several weeks I have been investigating the activities of [REDACTED] of [REDACTED] in the [REDACTED]. During this investigation it was learned that [REDACTED] was in possession of a AR-15 style rifle and related items within [REDACTED]. It was also learned that [REDACTED] had a history of convictions for drug related offenses and that he was operating a drug distribution business from [REDACTED]. This investigation resulted in the issuance of Springfield District Court Search Warrant #15SW0251 authorizing a search of [REDACTED] for an AR-15 rifle, high capacity magazines for this rifle, ammunition and related items as well as papers and documents identifying the occupants of [REDACTED].

On 10/01/2015 members of the Vice/Narcotics Control Unit placed the residence under surveillance in preparation to serve this warrant. At approximately 5:45pm Det. Templeman observed a gray BMW SUV pull to the curb in front of [REDACTED]. This vehicle bore Massachusetts registration [REDACTED] and was registered to [REDACTED]. Det. Templeman and others members of the Vice/Control Unit know [REDACTED] to be a convicted cocaine trafficker and have received information from sources unrelated to this investigation regarding his cocaine distribution.

As Det. Templeman watched, [REDACTED] walked empty handed from the side of [REDACTED] and



## NARRATIVE FOR LIEUTENANT STEVEN KENT

Ref: 15-3465-AR

Entered: 10/02/2015 @ 0147      Entry ID: K180  
Modified: 10/02/2015 @ 0147      Modified ID: K180  
Approved: 10/02/2015 @ 0148      Approval ID: K180

entered [REDACTED] vehicle. Det. Templeman continue to watch as [REDACTED] and [REDACTED] huddled together and appeared to be looking at something on [REDACTED] lap and then [REDACTED] appeared to count currency while he and [REDACTED] engaged in an animated conversation. After several minutes [REDACTED] emerged from [REDACTED] vehicle carrying a brown cardboard container and walked hurriedly back up the driveway as [REDACTED] drove from the area.

Detectives followed [REDACTED] as he drove to the area of Broad St. and East Columbus Ave. where he was stopped and secured without incident. At this time Det. Mazza recovered \$500.00 from [REDACTED] lap. During an additional search of the vehicle Det. Cournoyer recovered \$6000.00 from the center console of this vehicle. An additional \$1,150.00 was later recovered from [REDACTED] person by Cournoyer and an additional \$69.00 from his wallet.

Det. Templeman remained on surveillance and at approximately 6:20PM he observed a black Cadillac bearing Ct. registration [REDACTED] pull into the driveway of [REDACTED]. A registration check of this vehicle showed it to be a rental vehicle. By initiating a mobile surveillance Det. Templeman was able to observe that [REDACTED] had entered the passenger seat and that the dome light was on. Det. Templeman was able to observe as [REDACTED] and the operator, later identified as [REDACTED] were huddled together over the center console of the vehicle and appeared to be engaged in an animated conversation. After several minutes [REDACTED] exited the vehicle and walked hurriedly back towards the residence while concealing something in the front of his sweatshirt.

Dets. followed [REDACTED] as he drove from the area. At the intersection of Central and Pine Sts. dets. attempted to stop the Cadillac by exiting their vehicles, displaying badges and identifying themselves as police officers, but [REDACTED] accelerated around and away away from them and their vehicles causing a minor collision between the vehicles involved. A brief pursuit ensued before [REDACTED] was eventually stopped, removed from the vehicle and placed into custody. At this time \$15,400.00 packaged in a black plastic bag was recovered by Det. Aguirre from [REDACTED] vehicle. Also recovered from the vehicle was by Det. Lopes was 4 cellular telephones.

A team was then assembled to serve the search warrant at [REDACTED]. Dets. utilized the no-knock provision of the warrant and entered and secured the residence. [REDACTED] was located hiding in a closet on the third floor. [REDACTED] mother, the owner of [REDACTED], [REDACTED] was located on the second floor and [REDACTED] sister, [REDACTED] was located on the first floor. At the time of his [REDACTED] arrest Det. Catellier recovered \$755.00

After securing the residence detectives noted that the first floor was under renovation and that there was no kitchen. Through conversations with [REDACTED] and [REDACTED] it was learned that [REDACTED] resided on the third floor of the residence but that she and her husband had been renovating the first floor and planning to move in. On the third floor detectives noted that [REDACTED] bedroom contained her clothing and personal effects.

As an organized search of the residence was begun detectives immediately began to uncover evidence of cocaine distribution including a shoe box in the closet recovered by this officer containing approximately 1105 grams of cocaine contained in 1 large, 6 medium and 8 smaller bags. This box also contained the cardboard box that Det. Templeman had observed [REDACTED] carrying from [REDACTED] vehicle. This box held packaging for a half of a kilogram of cocaine and this packaging and the interior of the box were covered with cocaine residue. Also in this box were two digital scales, a pair of scissors, a grinding bowl and a screwdriver, a box of unused sandwich bags and several sandwich bags with the corners torn away. The scissors, scales, grinding bowl, screwdriver and unused sandwich bags are commonly used to prepare and package cocaine for street level distribution. The torn baggies are the refuse resulting from this packaging. Two pieces of paperwork bearing [REDACTED] information were recovered from this box as well.

As the search continued for the AR-15 and related items I returned to 130 Pearl St. and applied for a second search warrant for [REDACTED] seeking permission to search for cocaine, proceeds of cocaine distribution and items related to cocaine distribution. This warrant was issued.



## NARRATIVE FOR LIEUTENANT STEVEN KENT

Ref: 15-3465-AR

Entered: 10/02/2015 @ 0147      Entry ID: K180  
Modified: 10/02/2015 @ 0147      Modified ID: K180  
Approved: 10/02/2015 @ 0148      Approval ID: K180

As the search continued Det. Vigneault recovered a large mason jar of liquid PCP from the refrigerator in [REDACTED] bedroom on the third floor. Also recovered from this refrigerator was 25 bags of packaged PCP. From underneath the dresser Det. Vigneault recovered a box of empty dropper bottles commonly used to package and distribute PCP. Recovered from the floor in this bedroom by Det. Vigneault were additional plastic bags and a food saver vacuum. These are commonly used to package large amounts of controlled substances. Also recovered in this room were empty black plastic bags identical to the one containing the money recovered from [REDACTED] vehicle.

From the closet on the third floor Det. Aguirre and Officer Catellier recovered a diaper box containing \$67,282.00. Also in this box was a Hampden County day reporting identification card and a Toyota Automotive statement belonging to [REDACTED]. In a separate closet on the third floor Det. Vigneault recovered \$7,307.00.

Various personal papers and documents bearing the personal information of [REDACTED] were recovered from the residence.

An additional digital scale was recovered by Det. Vigneault in the basement.

On the first floor of the residence Det. Lopes recovered a locked gun safe containing a Stag Arms high capacity semiautomatic rifle, 5 high capacity magazines, and 50 .45 caliber rounds. A key for this safe was recovered by Det. Bigda on an end table in this room.

Copies of both search warrants were left at the residence.

During a closer examination of the cocaine recovered in this investigation investigators found that the large bag containing approximately 480 grams to be markedly different in packaging, texture and color from the other 14 bags recovered from the shoe box. This leads investigators to believe that the cocaine was obtained from different sources. A closer scrutiny of the 6 medium size bags showed them to closely fit into the kilogram wrapping material recovered from the cardboard box that Det. Templeman had observed [REDACTED] carrying from [REDACTED] vehicle. Investigators believe that the larger bag of cocaine was the product of the transaction between [REDACTED] and [REDACTED] observed by Det. Templeman. The similarity between the empty black bags recovered from [REDACTED] bedroom and the black plastic bag containing the money recovered from [REDACTED] vehicle reinforces this belief.

A records check confirmed that no person on scene at [REDACTED] have been issued the necessary permits to possess a firearm, ammunition or high capacity magazines.

Evidence tags #s 367672, 675, 677, 681, 682, 094, 096, 097, 098 and 099.

Citation R6231324

Accident report completed.

Respectfully submitted,

Lt. Steven M. Kent [REDACTED]

City of Springfield, Massachusetts

Department of Police

Date: 10/2/15

REPORT TO THE POLICE COMMISSIONER

IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 276 OF THE GENERAL LAWS

Arresting Officer Lt. Kent Lt. Dyal Time 1850 10/1/15

Prisoner [REDACTED] Condition Good

Marks or bruises: Small scrape right side of face / forehead

How caused: time of arrest

Examined by \_\_\_\_\_ Attended by Dr. \_\_\_\_\_

Remarks No medical attention required

Signature Lt. M. Kent  
[Signature]

Photos taken by cadet

Squad Captain notified

10/2/2015

Special Report to Commissioner John Barbieri  
RE: Prisoner Injury

Sir,

On 10/10/2015 members of the Vice/Narcotics Control Unit arrested [REDACTED]  
[REDACTED], Arrest #15-3465.

During this arrest detectives attempted to place Faust in to custody for cocaine distribution offenses. [REDACTED] initially attempted to flee in his motor vehicle but was stopped, removed from his vehicle, placed face down on the pavement and taken into custody.

Only reasonable and necessary force was used to place [REDACTED] into custody.

Respectfully submitted,

Lt. Steven M. Kent [REDACTED]

SPRINGFIELD POLICE DEPARTMENT

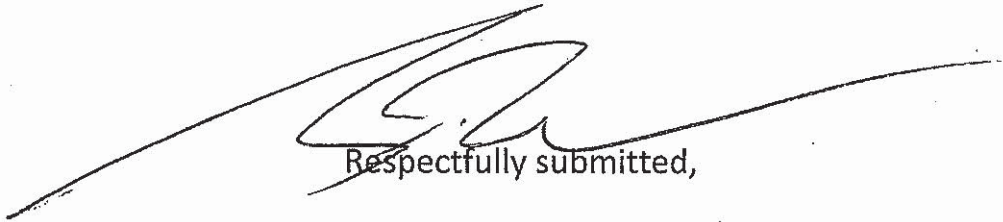
DATE: 10/01/2015

ATT: Commissioner Barbieri

Ref: Prisoner Injury Report

Sir,

On the above date, while attempting to place [REDACTED] into custody, [REDACTED] sustained some minor scratches and bruising to his facial area. [REDACTED] fled from Officers during a traffic stop and failed to comply with Officer's orders (AR#3465). Lt. Kent and I escorted [REDACTED] to the ground in order to place him into custody. Once secured, I observed that [REDACTED] had sustained several scratches to his facial area. [REDACTED] was charged with trafficking Cocaine.



Respectfully submitted,

Officer Jose A. Robles [REDACTED]



# EXHIBIT 14

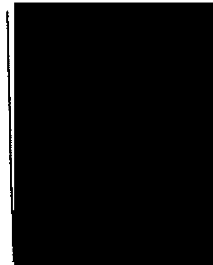


Springfield Police Department  
Arrest Report

Arrest #: 14-590-AR  
Related Arrest #: 14-587-AR

M.K  
Pg 18 Para 3

Date/Time Reported: 03/05/2014 @ 1400  
Arrest Date/Time: 03/05/2014 @ 1400  
Booking Date/Time: 03/05/2014 @ 1751



OBTN: TSPR201400590  
Additional Cases: 14-588-AR  
14-589-AR  
14-591-AR  
14-592-AR  
14-593-AR

Court: Springfield  
Court Date: 03/06/2014 @ 0724  
Reporting Officer: Vice Control  
Assisting Officer: Officer Jaime Bruno  
Booking Officer: Sergeant Frank Fossa  
Approving Officer: Lieutenant Charles Cook

Signature: \_\_\_\_\_  
Released To: Court  
Released: 03/06/2014 @ 0659

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

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
1	[REDACTED]	M	W	30	[REDACTED]	[REDACTED]

Military Active Duty: N  
HEIGHT: 503      WEIGHT: 200      HAIR: BLACK      EYES: BROWN  
BODY: HEAVY      COMPLEXION: MEDIUM  
DOB: [REDACTED]      PLACE OF BIRTH: ARECIBO, P.R.  
STATE ID: [REDACTED]      FBI ID: [REDACTED]  
LICENSE NUMBER: [REDACTED]      ETHNICITY: HISPANIC  
LOCAL ID: [REDACTED]

[APPEARANCE]

GLASSES WORN: NO

SCARS: SC BACK(1 1/2)  
TATTOOS: TAT NECK(CROSS ON BACK OF NECK), TAT LF ARM(CROSS/[REDACTED] AND STARS, SKUL)  
TAT RF ARM(CROSS W/FLOWER RIP DAD)

[FAMILY/EMPLOYMENT INFORMATION]

MARITAL STATUS: SINGLE

FATHER'S NAME: [REDACTED]  
MOTHER'S NAME: [REDACTED]  
OCCUPATION: [REDACTED]

Springfield Police Department  
Arrest Report

Page: 2  
08/02/2018

Arrest #: 14-590-AR  
Related Arrest #: 14-587-AR

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
---	--------------	-----	------	-----	-----	-------

[RIGHTS/BOOKING CHECKS]

PHONE USED: Y                      PHONED DATE/TIME: 03/05/2014 @ 1755  
ARRESTEE SECURED: Y    03/05/2014    1756  
ARRESTEE CELL #: M-9

FINGERPRINTED: N  
PHOTOGRAPHED: N  
VIDEO: BOOKING  
SUICIDE CHECK: Performed  
PERSONS: State&Federal  
NCIC VEHICLE CHECK: Not Performed  
INJURY OR ILLNESS: Y - SMALL CUTS OVER/UNDER LEFT EYE

#	OFFENSE(S)	ATTEMPTED	TYPE
---	------------	-----------	------

LOCATION TYPE: Residence/Home/Apt./Condo                      Zone: Sector A N. End/Memorial  
9 ORCHARD ST  
SPRINGFIELD MA

- |   |  |   |        |
|---|--|---|--------|
| 1 | DRUG, POSSESS TO DISTRIB CLASS A<br>94C/32/C                      94C                      32<br>OCCURRED: 03/05/2014    1400<br>CRIMINAL ACTIVITY: Distributing/Selling   | N | Felony |
| 2 | DRUG VIOLATION NEAR SCHOOL/PARK<br>94C/32J                      94C                      32J<br>OCCURRED: 03/05/2014    1400<br>CRIMINAL ACTIVITY: Distributing/Selling    | N | Felony |
| 3 | CONSPIRACY TO VIOLATE DRUG LAW<br>94C/40                      94C                      40<br>OCCURRED: 03/05/2014    1400  | N | Felony |
| 4 | DRUG, POSSESS TO DISTRIB CLASS E<br>94C/32D/C                      94C                      32D<br>OCCURRED: 03/05/2014    1400<br>CRIMINAL ACTIVITY: Distributing/Selling | N | Felony |
| 5 | DRUG, POSSESS TO DISTRIB CLASS D<br>94C/32C/C                      94C                      32C<br>OCCURRED: 03/05/2014    1400<br>CRIMINAL ACTIVITY: Distributing/Selling | N | Felony |
| 6 | DRUG VIOLATION NEAR SCHOOL/PARK<br>94C/32J                      94C                      32J<br>OCCURRED: 03/05/2014    1400<br>CRIMINAL ACTIVITY: Distributing/Selling    | N | Felony |

#	DRUG(S)	PROPERTY #	STATUS
---	---------	------------	--------

- |   |   |               |  |
|---|---|---------------|--|
| 1 | HEROIN (13) BAGS "CVS" STAMP<br>QUANTITY: 13.000 (Dosage of Units/Items)<br>OWNER: [REDACTED] | VALUE: \$0.00 | Seized (Not Previously Stolen)<br>DATE: 03/05/2014 |
|---|---|---------------|--|

Springfield Police Department  
Arrest Report

Page: 3  
08/02/2018

Arrest #: 14-590-AR  
Related Arrest #: 14-587-AR

#	DRUG(S)	PROPERTY #	STATUS
2	MARIJUANA (12) SMALL BAGS, (2) MED BAGS, (1) BAG LOOSE QUANTITY: 15.000 (Grams) OWNER: [REDACTED]	VALUE: \$0.00	Seized (Not Previously Stolen) DATE: 03/05/2014
3	ZOLOFT (13) HALF PILLS QUANTITY: 13.000 (Dosage of Units/Items) OWNER: [REDACTED]	VALUE: \$0.00	Seized (Not Previously Stolen) DATE: 03/05/2014
#	OTHER PROPERTIES	PROPERTY #	STATUS
1	\$4601 RECURED, MINUS \$20 SPD BUY MONEY QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 03/05/2014 OWNER: [REDACTED]	VALUE: \$4,581.00	Evidence (Not Nibrs Reportable)
2	PERS. PAPERS, SCALE, PACK.MAT, HOUSE KEYS QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 03/05/2014 OWNER: [REDACTED]	VALUE: \$0.00	Evidence (Not Nibrs Reportable)
3	(12) CELL PHONES QUANTITY: 12 SERIAL #: NOT AVAIL DATE: 03/05/2014 OWNER: [REDACTED]	VALUE: \$0.00	Evidence (Not Nibrs Reportable)

NARRATIVE FOR OFFICER JAIME BRUNO

Ref: 14-590-AR

Entered: 03/05/2014 @ 2059  
Modified: 03/05/2014 @ 2059  
Approved: 03/05/2014 @ 2110

Entry ID: B979  
Modified ID: B979  
Approval ID: C709

Sir:

On March 5th, 2014, at about 2:00 PM, Captain Collins, Lt. Cook, Sgt. Tarpey and Sgt. Kent, along with members of the Springfield Police Department's Strategic Impact Unit, consisting of members from the Vice / Narcotics Bureau and Intelligence Unit, arrested the following individuals as a result of a narcotics investigation;

Arrested inside [REDACTED]

- 1) [REDACTED]
- 2) [REDACTED]

Arrested inside [REDACTED]

- 3) [REDACTED]
- 4) [REDACTED]

Arrested in the parking lot in between [REDACTED]

- 5) [REDACTED]
- 6) [REDACTED]
- 7) [REDACTED]

All charged as follows :

- 1) Possession of a Class "A" Substance with Intent to Distribute - Heroin
- 2) Possession of a Class "D" Substance with Intent to Distribute - Marijuana
- 3) Violation of a Drug Free School Zone - Chestnut Accelerated Middle School
- 4) Violation of a Drug Free School Zone - Chestnut Accelerated Middle School
- 5) Possession of a Class "E" Substance with Intent to Distribute - Zoloft
- 6) Violation of a Drug Free Park Zone - Kenefick Park
- 7) Conspiracy to Violate Narcotic Drug Laws.

[REDACTED] is being charged additionally with Operating a Motor Vehicle without a License .

Prior to the arrest of the above individuals, Detectives from the Narcotics Bureau and I had been receiving information about the illegal distribution of heroin at number [REDACTED] and [REDACTED] in the City of [REDACTED]. The information provided to members of the Narcotics Bureau is that heroin was sold throughout the day and night at [REDACTED] and [REDACTED] by a male, who goes by the street moniker [REDACTED]. [REDACTED] heads this operation by having individuals sell heroin from [REDACTED] and [REDACTED], while he keeps the bulk of his heroin supply at [REDACTED]. It was learned that [REDACTED] enlisted the help of [REDACTED] where they delivered heroin nearby to the parking lot located in between [REDACTED].

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██████████ also enlisted the assistance of the residents of ██████████ where he had ██████████ deliver amounts of illicit narcotics to the same parking lot that was being used by ██████████. This parking lot faces the front door of ██████████ and is located in between this target apartment and ██████████.

I utilized a co-operating individual for this investigation where I was provided with the following: A prospective customer calls ██████████ on his cellular phone # ██████████ where a price and amount of heroin is requested. ██████████ will instruct the customer to drive or walk to the parking lot located in between ██████████ and ██████████ where he will call either ██████████ from ██████████ or ██████████ from ██████████ to deliver the requested amount of heroin in the parking lot where the drug transaction occurs.

The CI also states that if larger amounts of heroin are requested, ██████████ will direct the customer to the parking lot in front of his apartment where he will come out and make the sale with the prospective customer in the parking lot of 100 Division Street, in the City of Springfield Massachusetts. Upon completion of the drug transaction, ██████████ re-enters ██████████. This apartment building is mainly occupied by older citizens who reside within these units and this property belongs to the Springfield Housing Authority, Respectively.

With the assistance of the co-operating individual, who I have referred to as the CI, purchases of heroin were made from within ██████████, and ██████████, Respectively. These efforts were compiled in an affidavit in support of the issuance of a Search Warrant for each address. On today's date, March 5th, 2014, I applied for and was issued District Court Search Warrants for ██████████, ██████████, and ██████████ in the City of ██████████. (See Affidavits for Details)

In the afternoon hours, Lt. Cook and I briefed Detectives on the background of this investigation where assignments were given for each address, assigned to 9 Orchard Street was Sgt. Kent along with Narcotics Detectives Kalish, Bigda, Fay, Lopes and Dowd, assigned to ██████████ was Lt. Cook, Detective Hackett, Provost, Nehmer, McKnight, and Rosario, and assigned to ██████████, was Capt. Collins, Sgt. Tarpey, along with Narcotics Detectives Soto, Bruno, Santiago, assisted by TFA C. Bates.

Surveillance was established by Detective Templeman where he was directed to the area of Orchard Street in an effort to have a view of ██████████ and ██████████, along with the parking lot located in between ██████████ and ██████████, in ██████████. Immediately upon establishing surveillance, Detective Templeman observed that ██████████ was quiet but his attention was drawn to the second floor window of ██████████ where he observed that ██████████ wearing a distinctive black hat with a red brim hung out of the open window. ██████████ known to the SPD as ██████████ remained in the second floor window of ██████████ until an individual, who appeared to be drug dependent, arrived into the parking lot ██████████ walked out through the front door of ██████████ where he was handed an amount of paper currency from this individual appearing to be drug dependent. In exchange, ██████████ was observed handing this unknown male a small white item. Upon completion of this transaction, the unknown male left the area, while ██████████ walked back inside ██████████.

## NARRATIVE FOR OFFICER JAIME BRUNO

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Several other males arrived in the area where they loitered in the parking lot located in between [REDACTED] and [REDACTED]. This parking lot was identified as the transaction location utilized by [REDACTED] and his heroin network which was utilized throughout the investigation.

Detective Templeman observed that [REDACTED] exited [REDACTED] and entered a silver and blue Ford Explorer and drove away from the area. Within minutes of [REDACTED] leaving the area, [REDACTED] and [REDACTED] exited [REDACTED] where they walked to the aforementioned parking lot and engaged in conversation with several males that were already there. Upon arriving at the parking lot, Detective Templeman began observing individuals handing [REDACTED] paper currency in exchange for a small white item that [REDACTED] handed these individuals. This surveillance confirmed ongoing drug activity and we prepared to execute the District Court Search Warrants at [REDACTED] and [REDACTED] where they would be executed simultaneously.

Detective Templeman continued observing activity in the parking lot and soon after informed Detectives that [REDACTED] and [REDACTED] were walking back towards [REDACTED]. We began making our way onto Orchard Street from Riverside Road where I observed that [REDACTED] had turned onto Orchard Street where he operated the silver and blue Ford Explorer towards [REDACTED]. Sgt. Kent and his raid team drove onto Orchard Street first, followed by Lt. Cook and his team. Immediately upon arriving into the area close to [REDACTED], we observed that [REDACTED] was parked in the entrance to the parking lot in front of [REDACTED] where people began yelling "agua - agua" a term used to reference police.

Lt. Cook and his team of Detectives arrived in front of [REDACTED] where the yelling continued as Detectives exited the raid van preparing to execute the District Court Search Warrant at [REDACTED]. [REDACTED] was secured quickly as he sat in driver seat of the silver and blue Ford Explorer. [REDACTED] was also secured as he stood by the drivers side window while a third individual, [REDACTED] ran from the area but was quickly apprehended by MSP Trp. M. Trombley. Fearing that evidence may be destroyed within [REDACTED], Lt. Cook instructed Detective Provost to force entry into the apartment. Detectives entered [REDACTED] Street where [REDACTED] and [REDACTED] were placed into custody in the first floor area of the apartment, without incident.

Sgt. Kent drove his team past [REDACTED] where they observed that [REDACTED] and [REDACTED] observed the arrival of police at [REDACTED]. They quickly began entering [REDACTED] where [REDACTED] ran inside while [REDACTED] blocked the front door of the target apartment. Sgt. Kent along with Detectives Kalish, Bigda, Fay, Lopes, and Dowd, exited the raid van with police equipment and raid vests on with the words "police" where they yelled "Police - Search Warrant" as they gained access to the open door. They ran inside [REDACTED] after [REDACTED] with Sgt. Kent and Detective Bigda running after Melendez where they found him in the first floor bathroom flushing packets of heroin down the toilet. The Detectives tackled [REDACTED] away from the toilet bowl in an effort to prevent him from getting rid of evidence. In doing so, [REDACTED] struck his head on the porcelain bowl and thrashed about on the floor with the Detectives. A hole was made to the wall during this struggle and [REDACTED] suffered a cut to his eye. [REDACTED] was secured without incident in the living room area of [REDACTED] without incident.

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I had responded to [REDACTED] where I recovered a set of keys from [REDACTED] belonging to [REDACTED]. I explained our intentions at all three locations and informed him that a third team was responding to [REDACTED] where we had a District Court Search Warrant for Apt. [REDACTED].

Captain Collins along with Sgt. Tarpey, Detectives Soto, Bruno, Santiago, and TFA Bates responded to this address where I knocked on the front door to Apartment # [REDACTED]. I could hear a radio with its volume set high within the apartment and I knocked again not getting any response from within. I utilized the keys I had secured from [REDACTED] where I opened the door and yelled "Police".

Detectives entered the apartment where we located [REDACTED] in the kitchen cooking over the stove while a spanish gospel radio station played loudly. We secured the interior of the apartment where I explained our purpose inside [REDACTED] to [REDACTED] in spanish and provided her a copy of the District Court Search Warrant. [REDACTED] was brought into the living room area where I shut the radio off as I spoke to [REDACTED] in spanish explaining the District Court Search Warrant for the apartment.

\* An organized search was conducted at [REDACTED] yielding the following items as evidence: \*

Property Tag# 350130 - 2 Packets of heroin were recovered by Det. Bigda near the toilet bowl in the 1st Floor bathroom bearing the CVS logo in a red colored marking.

Property Tag# 350133 - Recovered by Detective Dowd from [REDACTED] pants pocket was \$85.00 dollars in U.S. Currency, Recovered by Sgt. Kent from [REDACTED] pocket was \$85.00 dollars in U.S. currency.

Property Tag# 350135 - 1 bag of marijuana was recovered by Det. Dowd on the person of [REDACTED]

\* An organized search was conducted at [REDACTED] yielding the following items as evidence: \*

Property Tag# 350135 - 1 bag of Marijuana was recovered by Det.'s Nehmer and Mc Knight on the second floor front bedroom belonging to [REDACTED] and [REDACTED]. 1 bag of marijuana was also recovered by Trp. M. Trombley from the middle dresser drawer in the front bedroom.

Property Tag# 350134 - A scale and sifters were recovered in the middle dresser drawer in the 2nd Floor front bedroom by Trp. Trombley, ID's, cell phones, personal papers bearing [REDACTED] name were recovered in the front bedroom on the 2nd Floor by Det.'s Nehmer and Mc Knight; Health cards, court paperwork for [REDACTED] and [REDACTED] was recovered by Det. Mc Knight in the 2nd Floor bedroom, additional paperwork was recovered by Det. Hackett for [REDACTED] and [REDACTED] in a cabinet in the dining area.

Property Tag# 350133 - Det. Mc Knight recovered \$54.00 dollars in U.S. currency from a headboard in the 2nd floor bedroom, as well as \$160.00 dollars from a dresser drawer also in this bedroom.

\* An organized search was conducted at [REDACTED], yielding the following as evidence: \*

Property Tag# 353084 - 14 Chunks of Zolofit, a prescribed medicine, was recovered in [REDACTED] bedroom by Det. Bruno in a pair of pants in the closet. This prescribed medicine was recovered in a small brown envelope without a prescription bottle or label identifying [REDACTED] as the prescribed



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owner.

Property Tag# 353083 - Yellow and Black Beads signifying gang membership were located inside [REDACTED] bedroom, along with personal papers and a cell phone on a TV stand by Det. Bruno.

Property Tag# 350133 - \$2,370.00 dollars in U.S. currency were recovered by Det. Bates inside a pair of pants in a closet in [REDACTED] bedroom. \$20.00 dollars in SPD drug fund buy money was recovered in this money by Det. Kalish. Total currency seized - \$2,350.00 dollars.

Found on the person of [REDACTED] by Capt. Collins and Det. Rosario as he stood in the parking lot in between [REDACTED] was 11 bags of marijuana, Property Tag# 350135. Detective Hackett also recovered 2 white packets of heroin on [REDACTED] person. Capt. Collins recovered \$51.00 dollars in U.S. Currency from [REDACTED] pants pocket seized as evidence with Property Tag#350133. A cell phone was recovered from [REDACTED] person by Capt. Collins, tagged under property tag# 350133.

Found on the person of [REDACTED] by Captain Collins was a bag of marijuana. This marijuana is packaged identical to the packaging of marijuana recovered inside [REDACTED], Property Tag# 350135. Additionally, [REDACTED] was charged as operating a motor vehicle without a license and was issued a Massachusetts Uniform Citation by Det. Santiago. Citation# R4728892.

[REDACTED], who ran at the sight of police arriving at [REDACTED] was secured by Trp. Trombley where a search of his person by Trp. Trombley and Det. Mc Knight yielded 9 white packets of heroin stamped with the red CVS logo. These heroin packets were identical to the ones recovered inside [REDACTED] by Detective Bigda from the bathroom floor. [REDACTED] was placed under arrest and is being charged as a joint venture in this investigation, Property Tag# 350130. Also recovered from [REDACTED] pants pocket by Det. Mc Knight was \$1,380.00 dollars in U.S. currency which was seized and tagged with property tag# 350133.

A total of \$4,601.00 dollars in U.S. Currency was seized in this investigation where \$20.00 dollars of this money was recovered inside [REDACTED]. This \$20.00 dollar bill was pre-recorded SPD drug Fund buy money which was identified by Det. Kalish, total seized \$4,581.00 dollars.

A copy of the Search Warrants were given to the occupants at each target address and each was posted on the refrigerator at [REDACTED], in the City of Springfield, Respectively.

The point of arrest at [REDACTED] is well within 300 feet of the Chestnut Accelerated School located at 355 Plainfield Street, in the City of Springfield, Ma. This is a public school owned and operated by the City of Springfield.

All the above arrested parties are being charged under the joint venture theory as [REDACTED] orchestrated this heroin operation operating at the target addresses. Det. Templeman observed that these individuals sold illicit narcotics in the parking lot identified as being used by [REDACTED] and his heroin network prior to the execution of the search warrants and the heroin recovered was identical to the heroin recovered inside [REDACTED] [REDACTED] possessed heroin on his person identical to the heroin which was recovered inside [REDACTED]. The marijuana recovered inside [REDACTED] is identical to the marijuana that was recovered from [REDACTED].

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The prescribed medication recovered inside [REDACTED] did not belong to [REDACTED] and he was charged as possessing this medication with the intent to distribute. The park at Kenefick Park is well within 100 feet of [REDACTED], Respectively.

Squad CO / Captain Collins Notified.

Respectfully Submitted ,  
Jaime Bruno, Badge# [REDACTED]

City of Springfield, Massachusetts

Department of Police

Date: 05-05-14

REPORT TO THE POLICE COMMISSIONER  
IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 276 OF THE GENERAL LAWS

Arresting Officer Vice Unit Time 1751

Prisoner [Redacted] Condition Good

Marks or bruises: Small cuts over and under left eye

How caused: while being arrested

Examined by \_\_\_\_\_ Attended by Dr. \_\_\_\_\_

Remarks no medical needed or wanted

Signature [Signature]

Photo D. Edwards  
DB 20

3/5/2014

Special Report to Commissioner William J. Fitchet  
RE: Prisoner Injury

Sir,

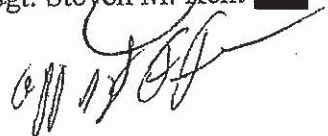
On 03/05/2014 I participated in the arrest of [REDACTED] arrest 14-590-AR. This arrest resulted from an investigation and subsequent search warrant execution at [REDACTED]

As the other detectives and I attempted to serve this warrant [REDACTED] fled from the threshold of [REDACTED] into the bathroom and was taken into custody as he attempted to flush contraband down the toilet. I did not have any contact with [REDACTED] until after he was placed into custody.

Only reasonable and necessary force was used to place [REDACTED] into custody.

Respectfully submitted,

Sgt. Steven M. Kent [REDACTED]



# EXHIBIT 16

Springfield Police Officer's W/Civil Complaints

Sgt. Gregg Bigda - [REDACTED]

Det. Steven Kent - (23 Complaints/ 1 complaint [REDACTED])

Det. Robert Patrunc - ( 9 Complaints/ 1 Complaint [REDACTED])

Det. Thomas Kakley - (13 Complaints/ 5 Complaints for excessive force)

Det. Mark Templeman - (30 Complaints/ 20 Complaints for excessive force)

Det. Edward Kalish - (19 Complaints/ 11 Complaints for excessive force/ 1 excessive force complaint [REDACTED])

Det. Christopher Bates - (12 Complaints/ 3 Complaints for excessive force)

*Liam Jones*

Officer's Involved In Wilbraham On Camera Threat to Plant Drugs

Sgt. Gregg Bigda

Sgt. Christopher Hitas

Sgt. Steven Vignault

Sgt. Lawrence Murphy

Offcr. Edward Ratish

Offcr. Michael Goggin

Offcr. Jose Robles

Offcr. Juan Rodriguez

Offcr. Daniel Huard

Offcr. Felix Aguirre

Offcr. Mark Templeman

Offcr. Jamie Bruno

State Trooper Liam Jones

*deemed unreliable by TINA  
Page for lying under oath*

Officer's in involved In Corrupt Issues IN Springfield Mass.

Offcr. Edwin Hernandez [REDACTED]

Offcr. Donald Brown

Offcr. Mathew Rief [REDACTED]

Offcr. James Mazza

Offcr. Aristides Casillas

Offcr. William Lopes

Offcr. Luka Gournoyer

Det. Walagher [REDACTED]

*complaint  
civil  
matter*

[REDACTED]

# Exhibit E





ANTHONY D. GULLUNI  
DISTRICT ATTORNEY

COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE DISTRICT ATTORNEY  
HAMPDEN DISTRICT

HALL OF JUSTICE  
50 STATE STREET  
SPRINGFIELD, MASSACHUSETTS 01102

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

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

December 18, 2018

Anthony Benedetti  
Chief Counsel  
Committee for Public Counsel Services  
44 Bromfield Street  
Boston, MA 02108-4909



Re: Notice of Potential Exculpatory Information Pursuant to *Brady*

To Whom it May Concern:

Please be advised that the Hampden District Attorney's Office has recently come into possession of information that may be regarded as exculpatory pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), as it relates to defendants in whose cases the Springfield Police Department police officers Luke Cournoyer, Edward Kalish, Jose Robles, Lieutenant Alberto Ayala, and Captain Steven Kent are or were involved. This information was provided to my office on Thursday, December 13, 2018. We began a thorough, but expeditious, review of the material including ascertaining whether the materials were subject to any protective order or other restriction from federal court. I have informed all assistant district attorneys of this information, as well.

The Hampden District Attorney's Office is presently working to identify all cases in which this information is relevant in order to affirmatively provide this notice and the specific discovery to counsel for those defendants. In the meantime, I thought it prudent to author this letter to give your office and its attorneys immediate notice to ensure that there is no prejudice to anyone. Please feel free to direct any questions to Assistant District Attorney Matthew Green or First Assistant District Attorney Jennifer Fitzgerald while we disseminate this information as swiftly as possible.

Sincerely,

Anthony D. Gulluni  
Hampden District Attorney



# Exhibit F



Jessica J. Lewis  
Staff Attorney  
(617) 482-3170 ext. 334  
jlewis@aclum.org

August 13, 2021

**Via Email**

City of Springfield  
City Clerk's Office  
Room 123  
36 Court Street  
Springfield, MA 01103

Springfield Police Department  
130 Pearl St  
Springfield, MA 01105

Re: Public Records Request

To Whom It May Concern:

This letter is a request under the Public Records Law, G.L., c. 66, § 10, on behalf of the American Civil Liberties Union of Massachusetts, Inc. ("ACLUM"). The request seeks documents made, received, or possessed by the Springfield Police Department ("SPD") concerning its electronics recordkeeping systems. This request is not limited to any division or unit within the SPD; however, if any division or unit has a unique recordkeeping system, this request encompasses that unique system also.

ACLUM hereby requests the following records.

1. Records revealing how SPD stores or files its prisoner injury files, including photographs. This request includes all commissioner's memos, training materials, policies, by-laws, operating procedures, user agreements, and other contracts for software or software as a service relating to this recordkeeping system.
2. Records revealing how SPD stores or files its arrest reports, including booking videos. This request includes all commissioner's memos, training materials, policies, by-laws, operating procedures, user agreements, and other contracts for software or software as a service relating to this recordkeeping system.
3. Records revealing how SPD stores or files use-of-force reports, including photographs and recordings of the incident such as bodycam videos. This request includes all commissioner's

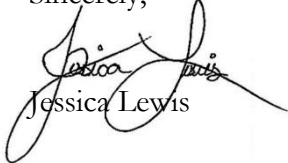
memos, training materials, policies, by-laws, operating procedures, user agreements, and other contracts for software or software as a service relating to this recordkeeping system.

I ask that you waive any fees and copying costs, pursuant to 950 C.M.R. 32.07. ACLUM is a not-for-profit, non-partisan organization dedicated to the principles of liberty and equality. As the Massachusetts affiliate of the national ACLU, a not-for-profit, non-partisan organization, ACLUM distributes information both within and outside of Massachusetts. Gathering and disseminating current information to the public is a critical and substantial component of ACLUM's mission and work. ACLUM publishes newsletters, news briefings, reports and other printed materials that are disseminated to the public. These materials are widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, at no cost. ACLUM also disseminates information through its website and regular posts on social media sites such as Facebook and Twitter. Accordingly, disclosure of the records serves the public interest, and not the commercial interest of ACLUM.

If you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and release any portions of the records for which you do not claim an exemption. We ask that you provide the records in electronic format to the maximum extent possible. As you know, a custodian of public records shall comply with a request within ten days of receipt.

Thank you for your assistance. Please do not hesitate to contact me if I can clarify any part of this request.

Sincerely,



Jessica Lewis

# Exhibit G



**Committee for Public Counsel Services**

Springfield Criminal  
101 State Street  
Springfield, MA 01103  
TEL: (413) 750-1670  
FAX: (413) 732-1273

**ANTHONY J. BENEDETTI**  
CHIEF COUNSEL

Lawrence W. Madden  
Attorney In Charge

September 10, 2021

Jennifer Fitzgerald  
First Assistant District Attorney  
Hampden County District Attorneys Office  
50 State Street  
Springfield, MA 01103

Dear ADA Fitzgerald:

Thank you for your letter of August 26, 2021, providing documents that your office has received from the City concerning the misconduct of its police officers. I am writing to ask that your office take additional steps to comply with its duties to disclose exculpatory evidence and investigate misconduct.

First, please confirm that your office knows of no investigation of or report about the egregious misconduct identified in the Department of Justice's July 2020 report, beyond the work of Springfield Police Department Deputy Chief Steven Kent. According to the correspondence from City Solicitor Ed Pikula that was attached to your letter, I now understand that, beginning in July 2020, Deputy Chief Steven Kent was tasked with identifying incidents referenced in the DOJ report, and that Deputy Chief Kent wrote a report in connection with that task. This report was evidently completed many months ago, yet no one told me about this report until your letter dated August 2021. I know of no other investigation on behalf of the City or the Commonwealth, other than Deputy Chief Kent's secret report, into any portion of the scope and gravity of misconduct by the Springfield Police Department. If any other undisclosed

inquiries into the DOJ's report are underway or completed, please tell me now.

Second, please confirm that Deputy Chief Kent's report remains secret from your office, defense counsel, and the public. Based on the correspondence you provided, it is my understanding that the City claims that Deputy Chief Kent's report is protected by the work-product doctrine and is refusing to produce it to the HCDAO or anyone else outside of the City's government. It appears neither your office nor anyone else has the ability to review the report to assess the scope of its inquiry, the reliability of its methodology, or the breadth of its findings. Please confirm whether that is the case.

Third, please confirm that the HCDAO has not served the City with a subpoena or issued any other legal process to obtain Deputy Chief Kent's report. The City's assertion of work product protection appears to be mistaken, and in all events the qualified protection, even if applicable, is plainly overcome by the Commonwealth's obligation to provide disclosures necessary to provide fair trials, prevent false convictions, and operate its criminal legal system within well-established constitutional boundaries. The report was, purportedly, drafted to function specifically as a collection of material exculpatory and impeachment evidence. The HCDAO cannot blindly acquiesce to the indefinite secrecy of such a report, while simultaneously continuing to prosecute the exact people who would benefit from access to the material exculpatory and impeachment information contained therein.

Fourth, please confirm the limited scope of Deputy Chief Kent's secret report, and of the disclosures that the City is now making in reliance upon it. As you know, the DOJ carefully explained that its report details only some of the egregious misconduct by the Springfield Police Department, and thus the examples of misconduct described therein are merely a non-exhaustive subset of the SPD's misconduct. Nevertheless, based on my review of City Solicitor Pikula's letters, it is my understanding that Deputy Chief Kent was tasked only with identifying the incidents that the DOJ specifically articulated in the report; that he was unable to identify even that limited set of those incidents; and that the City is now providing your office with records that are "not exhaustive" of its files concerning those incidents, but instead merely sufficient "to

identify the incidents." Thus, it is my understanding that the City is providing your office with a subset of a subset of a subset of the exculpatory evidence to which criminal defendants in Hampden County are entitled by law. Please let me know if you disagree.

Fifth, given that the City has apparently decided to disclose to your office only some of the exculpatory evidence in its possession, custody, and control, please let me know what steps your office is taking to remedy that violation of defendants' rights.

Sixth, please describe your office's efforts to ensure that the documents attached to your letter, limited as they might be, are being disclosed by your office to defendants in both pending and resolved criminal cases.

Seventh, please explain why some of the material enclosed with your letter, which is exculpatory in nature, and which has long been known to your office and to the SPD, is being disclosed only now. For instance, we were provided disclosures of police officer grand jury testimony referencing falsified reports in 2018. The falsified reports were provided in your recent Brady disclosure, some three years later. If you believe the SPD is to blame for the fact that these records were not previously disclosed, please let me know what steps your office is taking to address that violation of defendants' rights. If you believe your office is to blame, please let me know what steps are being taken within your office.

Finally, please provide me with copies of all records in your office's possession, custody, or control concerning Deputy Chief Kent. In 2018, then-Captain Kent was publicly identified by District Attorney Gulluni as a member of the SPD's Narcotics Unit—the same unit that was a subject of the DOJ investigation.<sup>1</sup> In other words, Deputy Chief Kent and his close associates seemingly were participants in or witnesses to the unlawful patterns and practices that the DOJ identified and that Deputy Chief Kent was evidently tasked to investigate. It is therefore troubling, to put mildly, that the City has not only tasked him with compiling records relating to the DOJ report, but also attempted to conceal its correspondence with him behind the

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<sup>1</sup> <https://www.masslive.com/news/2018/12/questions-raised-about-5-springfield-narcotics-officers-could-jeopardize-drug-prosecutions.html>

curtain of work product protection. To the extent that there are records of an exculpatory nature concerning Deputy Chief Kent in your office's possession, custody, or control, those records should be supplied without redaction to me and to all defendants being prosecuted by your office in cases concerning the SPD. To the extent your office deems those records not to be exculpatory in nature, please consider my request for those records to be made under the Massachusetts public records law.

I look forward to your responses on these queries.

Very Truly Yours,

Larry Madden  
Attorney In Charge  
Committee for Public Counsel Services  
Springfield PDD  
101 State Street, 3<sup>rd</sup> Floor  
Springfield, MA 01103  
(413) 847-0622



COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

Suffolk, ss.

No. SJ-2021-0129

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

v.

DISTRICT ATTORNEY FOR HAMPDEN COUNTY,  
Respondent.

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CERTIFICATE OF SERVICE

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I hereby certify that, on September 16, 2021, I served a copy of the foregoing Petitioners' Status Report, with exhibits, through email on the following counsel of record for the Respondents:

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/s/ Matthew P. Horvitz  
Matthew P. Horvitz (BBO #664136)  
Attorney for the Petitioners