
From: kellymkelly@comcast.net
Sent: Tuesday, August 08, 2017 11:23 PM
To: rao@townsend.ma.us
Subject: Public records request: Chief Eaton's disciplinary hearing

Please accept this public records request for a copy of Mr. Kreidler's audio recording of Chief Eaton's disciplinary hearing, Mr. Kreidler's notes and minutes of the hearing, and a copy of the Town's exhibits and Chief Eaton's attorney's exhibits.

Thank you,

Kelly Kelly
5 Taurus Lane
Townsend, MA 01469

Sent from XFINITY Connect Mobile App



Virus-free. www.avg.com



Office of the
BOARD OF SELECTMEN
272 Main Street, Townsend, Massachusetts 01469

Gordon Clark, *Chairman*
James Kreidler,
Town Administrator

Cindy King, *Vice-Chairman*

Carolyn Smart, *Clerk*

OPEN AND EXECUTIVE SESSION MINUTES- SESSION 1
APRIL 21, 2017 10:00 A.M.
SELECTMEN'S CHAMBERS, TOWN HALL¹
272 MAIN STREET, TOWNSEND, MA

In open session, motion Carolyn Smart (CS) second Cindy King (CK) to adjourn to the North Middlesex Regional High School Auditorium (NMRHS). Vote unanimous.

Session reconvened at the NMRHS.

Gordon Clark (GC) asked if Chief Eaton (CE) would prefer open or closed session.

Chief Eaton's attorney Austin Joyce (AJ) stated he would prefer open session. AJ proceeded to produce letters from CE's doctors detailing his suffering from post-traumatic stress disorder and his treatment and reasons therefore. A second letter re: his outpatient treatment. Final letter from a psychologist recommending CE not testify in a hearing until after outpatient treatment in ten weeks. Chief's PTSD is a temporary impairment.

AJ requests continuance for 10 weeks as a reasonable accommodation.

DJ continuance request did not mention CE is impaired. If it was valid it should have been mentioned. Therefore it was waived.

Second, CE suggests a diagnosis of PTSD however there was no description of what caused it, tragic event not associated with everyday living. Therefore town cannot base continuance on this. CE provided insufficient information for accommodation.

DJ stated that the Chief's contract has details about how hearing is run. No requirement that documents be provided in advance. Documents previously emailed to AJ. Neither CE or AJ have asked for documents.

AJ said not true. Said he asked for chief's notes yesterday.

¹ Meeting relocated to NMRHS Auditorium

DJ we gave documents without obligation to do so.

DJ stated that the town never got CE notes as he refused to provide them to town.

DJ suggested based upon all of that that the Board go forward today.

GC asked if AJ had anything to add.

AJ said I do. Make record clear that there is a hearing notice, a request by CE for continuance, a Town Administrator (TA) response and an email re: CE notes.

AJ said no requirement to have raised medical issue in advance.

DJ stated that the referenced email is incomplete as it does not show all emails. DJ told AJ town did not have the CE report documents and further advised that the effort had been made to retrieve the reports/notes but they were locked up in evidence. Chief's notes were never produced to town.

Motion to move forward with hearing/deny continuance CS, second CK. Vote: Unanimous.

DJ Presentation

DJ proposed findings of fact prepared by him in advance. Not bound by them. Just guidance. You decide facts as evidence dictates. Evidence is largely uncontested. What happened is unfortunate.

Dispute is whether CE was within his rights to ignore the Board's instruction (related to the CJIS/CORI/BOP matter) and distribute information.

DJ referred to a list of town exhibits. (attached)

DJ presented a chronology of the police department personnel, with focus on CE, involvement in the access and dissemination of confidential CORI/BOP and CJIS information.

Recess for 5 minutes

AJ presentation

Restate Dr. Burkhart has restricted CE's ability to defend himself in this tribunal. DJ stated that CE could either make a verbal statement or he could submit something in writing similar to the affidavit he produced in the matter of Lt. Giancotti and asked if CE

wished to do the same here. He would not be subject to cross examination by anyone. Medical note suggests the issue is CE not having to answer questions.

AJ said he disagrees with the interpretation of the medical note and then asked how long they could have to produce such a document.

DJ said today. CE was able to do the affidavit for Lt. Giancotti ha should be able to do one here. He could have anticipated this. In order to keep the case moving, as the department has been without a Chief, we can provide you and CE space here today if he'd like to write something. I do not recommend that the Board continue this matter.

AJ stated we're not going to do that today.

Short recess. Five minute break moved by CS, second CK. Vote: Unanimous.

TA asked to read Counsel's suggested "Findings of Fact" (copy enclosed). TA asked Board members to signify if they disagreed with any one finding.

CS moved, second CK, that the Board adopt the findings of facts and exhibits as presented. Vote: Unanimous.

CS moved, second CK, that the Board find the actions of Chief Eaton as set out in the findings of fact and exhibits constitute violations of the Chief's employment contract and rules and regulations of the police department.

DJ suggested inquiring of board members re: discussion.

CK-no.

CS- I agree that in adopting the findings of fact that it is violations of the Chief's employment contract, so nothing further.

GC- none at this time.

Repeat Motion- CS moved, second CK, that the Board find the actions of Chief Eaton as set out in the findings of fact and exhibits constitute violations of the Chief's employment contract and rules and regulations of the police department.

Vote: Unanimous.

CS moved, second CK, that as the basis of the findings of fact and the finding of contract and rule and regulation violations that the Board find there is just cause to terminate the employment of the Chief effective immediately.

Any discussion? CK- No. CS- No. GC- No.

Vote: Unanimous.

Motion Carolyn Smart (CS) second Cindy King (CK) enter Executive Session pursuant to GL c. 30A, s. 21(a)(2) to discuss strategy or to conduct negotiations with non-union personnel with respects to the Town Administrator and to adjourn executive session and come back into open session. Roll Call Vote: CS-Aye, CK-Aye, GC- Aye.

Entered Executive Session.

COMMONWEALTH OF MASSACHUSETTS

TOWN OF TOWNSEND,

Plaintiff

v.

ROBERT ME. EATON,

Defendant

FINDINGS OF FACT OF THE
BOARD OF SELECTMEN

This matter having come before the Board of Selectmen (the "Board") for a hearing on April 21, 2017, the Board makes the following findings of fact.

- (1) Robert ME. Eaton was appointed by the Board to the position of Chief of Police of the Town of Townsend (the "Town") effective May 1, 2016
- (2) On or about March 24, 2016, the Town and Chief Eaton entered into a contract of employment which has been entered into the record as an exhibit and is incorporated by reference.
- (3) On September 27, 2016, the Board met in open session.
- (4) On September 27, 2016, the Board approved the appointment of Kelly Merrill to the position of Administrative Assistant to the Town Administrator.
- (5) On September 27, 2016, Sergeant Girard and Officer Michael Marchand were on duty as police officers.
- (6) On September 27, 2016, Erin Considine was on duty as a dispatcher.

- (7) Officer Marchand was assigned to a cruiser and was on patrol.
- (8) On September 27, 2016, Sergeant Girard ordered dispatcher Considine to prepare a Board of Probation ("BOP") inquiry on Kelly Merrill using the Department of Criminal Justice Information Services ("CJIS") system.
- (9) Dispatcher Considine followed Sgt. Girard's order and performed the BOP inquiry on Ms. Merrill.
- (10) There was no legitimate police purpose for the BOP inquiry run on Ms. Merrill on September 27, 2016.
- (11) On October 10, 2016, Sgt. Girard used the CJIS system to perform a BOP inquiry on Kelly Merrill and another individual.
- (12) Chief Eaton and Carolyn Smart exchanged a text message in which a meeting was arranged between the Chief and Ms. Smart.
- (13) Ms. Smart and the Chief met on October 16, 2016.
- (14) On October 16, 2016, Chief Eaton provided Ms. Smart with confidential BOP information.
- (15) On October 16, 2016, Chief Eaton informed Ms. Smart that information concerning Ms. Merrill had been anonymously left under the door of his office. The statement that the information had been left anonymously was false.
- (16) The information left at the Chief's office had been left by Sgt. Girard and Chief Eaton knew that the information had been left by Sgt. Girard.
- (17) On November 8, 2016, Officer Rochette used the CJIS system to perform two BOP inquiries on Kelly Merrill.

- (18) On November 16, 2016, Town Counsel and Chief Eaton had a telephone conversation. During that conversation, Chief Eaton stated to Town Counsel that police department employees were authorized to conduct "background investigations" of Town employees.
- (19) Chief Eaton's statement that department employees are authorized to conduct background investigations is not an accurate statement of the law and constitutes a circumvention of the use of BOP information in violation of state law.
- (20) On January 24, 2017, Town Counsel sent an e-mail to Chief Eaton asking him to confirm a statement made by Officer Rochette that the Chief advised Officer Rochette that he was preparing a report vindicating all department officers in the BOP investigation.
- (21) At the time that Chief Eaton made the statement, he was not authorized to perform an investigation into this matter.
- (22) At the time the Chief made the statement, the investigation into this matter was not complete.
- (23) On January 30, 2017, Town Counsel followed up on the e-mail of January 24, 2017.
- (24) On January 30, 2017, Chief Eaton confirmed that Officer Rochette's testimony was accurate.
- (25) On January 31, 2017, Town Counsel sent an e-mail to Chief Eaton.
- (26) Chief Eaton did not respond to Town Counsel's January 31, 2017 e-mail.
- (27) On February 2, 2017, Town Counsel sent an e-mail to Chief Eaton following up on the e-mail of January 31, 2017.
- (28) During the period of November 16, 2017 to February 1, 2017, Chief Eaton interviewed witnesses in connection with the BOP inquiry and kept notes of those interviews. Town Counsel has requested the interview notes, and Chief Eaton has refused to produce the notes.

(29) On February 8, 2017, Town Counsel sent an e-mail to Chief Eaton. The e-mail instructed Chief Eaton to take no independent action on the BOP investigation.

(30) On February 8, 2017, Chief Eaton received a report from DCJIS.

(31) On February 9, 2017, Chief Eaton forwarded a copy of the DCJIS report to Town Counsel.

(32) On February 9, 2017, Town Counsel sent an e-mail to Chief Eaton with a copy to Attorney Austin Joyce. The e-mail instructed Chief Eaton that the investigation and the DCJIS report remained confidential.

(33) Chief Eaton did not respond to the e-mail of February 9, 2017.

(34) On February 10, 2017, Chief Eaton sent a memorandum to the Board of Selectmen and the Town Administrator.

(35) In the memorandum of February 10, 2017, Chief Eaton acknowledges that he performed his own independent investigation.

(36) Chief Eaton informed the Board that the DCJIS investigation "unequivocally exonerates all 3 police officers" in connection with the BOP investigation.

(37) The statement made by Chief Eaton was false.

(38) Chief Eaton informed the Board that he had complied with all requests of Town Counsel.

(39) This statement was false in that Chief Eaton conducted an unauthorized concurrent investigation and withheld relevant and material evidence from Town Counsel.

(40) Chief Eaton advised the Board that unless the demands set forth in the memorandum were not implemented within two (2) hours that he would issue a written press release.

(41) On February 10, 2017, Chief Eaton issued a press release which falsely informed the public as to the status of the DCJIS investigations.

- (42) On November 28, 2016, Chief Eaton advised Dispatcher Considine that an administrative inquiry was being conducted with regard to the BOP matter.
- (43) On December 1, 2016, Dispatcher Considine submitted a written report.
- (44) On February 14, 2017, Town Counsel conducted a recorded interview with Dispatcher Considine.
- (45) On November 28, 2016, Chief Eaton advised Sgt. Girard that an administrative inquiry was being conducted into the BOP matter.
- (46) On November 28, 2016, Sgt. Girard submitted a memo to Chief Eaton stating that he would not file a report on the basis of his constitutional rights.
- (47) On December 8, 2016, Sgt. Girard advised the Town that he would resign if the Town agreed not to force him to provide a statement regarding the BOP inquiry and not to refer the BOP inquiry matter for a criminal inquiry.
- (48) On December 22, 2016, Sgt. Girard executed a resignation agreement.
- (49) On December 7, 2016, Officer Rochette submitted a report regarding the BOP investigation.
- (50) On January 20, 2017, Town Counsel conducted a recorded interview with Officer Rochette concerning the BOP investigation.
- (51) On February 14, 2017, Town Counsel conducted a second recorded interview with Officer Rochette concerning the BOP investigation.

TOWN OF TOWNSEND

By its attorney,

David C. Jenkins (BBO# 251000)
KP Law, P.C.

101 Arch Street, 12th Floor
Boston, MA 02110-1109
(617) 556-0007
djenkins@k-plaw.com

Date: _____

580713/TOWN/0079

COMMONWEALTH OF MASSACHUSETTS

Town of Townsend

and

Robert M. Eaton
Police Chief

LIST OF TOWN EXHIBITS

1. Notice of Hearing;
2. Employment Agreement;
3. Text Messages between Smart and Robert Eaton;
4. Public Police Log – September 27, 2016;
5. Email Robert Eaton – November 23, 2016;
6. Assertion of Constitutional Rights by Officer Thaddeus Rochette – December 2, 2016;
7. Narrative report by Officer Thaddeus Rochette – December 7, 2016;
8. Recorded interview of Officer Thaddeus Rochette – January 20, 2017;
9. Reserved;
10. Recorded interview of Officer Jeffrey Gilles – January 20, 2017;
11. Narrative report by Erin Considine – December 1, 2016;
12. Recorded interview of Erin Considine – February 14, 2017;
13. Statement of Fifth Amendment Rights by Sergeant Randy Girard – November 28, 2016;
14. Statement of Ryan Strategies Group, LLC – February 14, 2017;
15. Memorandum from Robert Eaton to Board of Selectmen – February 10, 2017;
16. Recorded interview of Nim Collins – February 17, 2017;
17. Letter from James Slater to Robert Eaton – February 8, 2017;
18. Notice of Administrative Leave – February 10, 2017;
19. Police Public Logs – October 11, 2016 and November 8, 2016;
20. Email from David Jenkins to Robert Eaton – November 25, 2016 (9 pages);
21. Email from David Jenkins to Robert Eaton – November 28, 2016 (9 pages);
22. Email from David Jenkins to Robert Eaton – January 19, 2017 (1 page);
23. Email from David Jenkins to Robert Eaton – January 30, 2017 (3 pages);
24. Email from David Jenkins to Robert Eaton – January 31, 2017 (8 pages);
25. Email from David Jenkins to Robert Eaton – February 2, 2017 (6 pages);
26. Email from David Jenkins to Robert Eaton – February 8, 2017 (6 pages);
27. Email from David Jenkins to Robert Eaton – February 9, 2017 (3 pages);
28. Recorded Interview of James Landi – February 14, 2017;

29. Recorded Interview of Michael Marchand – February 17, 2017;
30. Employment Settlement Agreement between Town of Townsend and Randy Girard;
31. Notice of Termination of Administrative Leave – January 30, 2017;
32. Townsend Police Department Facebook printout (5 pages);
33. Email from Town Administrator to Robert Eaton – February 10, 2017;
34. Recorded Statement of Robert Eaton – March 28, 2017.

580699/TOWN/0080



McLean HOSPITAL
HARVARD MEDICAL SCHOOL AFFILIATE



HARVARD MEDICAL SCHOOL
TEACHING HOSPITAL

C1

March 1st, 2017

To Whom It May Concern:

We are writing re: Robert Eaton (DOB [REDACTED]), a patient in our care here in the LEADER Program at McLean Hospital. Mr. Eaton was admitted here to McLean 2/13/2017, and he is discharging today 3/1/2017. He has been actively and productively engaged in his time here, and he has successfully completed our program while following all of our recommendations for further treatment.

In the course of the present admission, Mr. Eaton has received treatment for PTSD symptoms, and he will be continuing as an outpatient with Michael Burkart, PhD. In our assessment, at this time, additional work-related stress could exacerbate his current symptoms. It is our recommendation that Mr. Eaton avoid any work-related responsibilities until he has achieved a period of greater stabilization of symptoms.

Sincerely,

Rachel Tester, APRN
Director, LEADER Program

Robert P. Drozek, LICSW
Clinical Team Manager, LEADER Program

115 Mill Street, Belmont, MA 02478-1064
T: 617.855.2000 F: 617.855.3299

www.mcleanhospital.org



McLean Hospital is a member of Partners HealthCare.



McLean HOSPITAL
HARVARD MEDICAL SCHOOL AFFILIATE



HARVARD MEDICAL SCHOOL
TEACHING HOSPITAL

115 Mill Street, Belmont, MA 02478-1064 800.333.0338

March 7, 2017

To Whom It May Concern:

I am a clinical psychologist with the McLean Hospital Adult Outpatient Clinic Trauma Track. Mr. Robert Eaton is currently receiving outpatient treatment through the Trauma Track and has agreed to participate in our 12-session skills-based group for symptoms of Post-Traumatic Stress Disorder (PTSD). The group started on 2/27/17 and as of today, Mr. Eaton has attended all sessions.

Please feel free to contact me with any questions.

Sincerely,

Matthew A. Robinson, PhD
Staff Psychologist
Adult Outpatient Trauma Program
McLean Hospital
115 Mill Street
Belmont, MA 02478
Phone: 617-855-2304

C 3
MICHAEL R. BURKART, Ph. D.
Licensed Clinical Psychologist

444 Angell Street
Providence, RI 02906

(401) 273-5115

March 16, 2017

To Whom It May Concern:

Robert Eaton DOB: [REDACTED] is currently in treatment with me for PTSD. Mr. Eaton is also currently receiving outpatient treatment for PTSD at McKean Hospital.

It is my recommendation that he not testify or answer questions at any hearing until he completes his current treatment which should be in both conjunction with me and McKean Hospital in approximately 10 weeks from today.

Sincerely,

Michael R. Burkart, Ph.D.



C4

Office of the
BOARD OF SELECTMEN
272 Main Street
Townsend, Massachusetts 01469

Gordon Clark, *Chairman*

Cindy King, *Vice-Chairman*

Carolyn Smart, *Clerk*

Office (978) 597-1701

Fax (978) 597-1719

April 6, 2017

BY EMAIL, CERTIFIED MAIL, FIRST CLASS MAIL and CONSTABLE

Chief Robert Eaton
70 Brookline Street
Townsend, MA

Re: Notice of Disciplinary Hearing Opportunity

Dear Chief Eaton:

Please accept this correspondence as notice pursuant to the provisions of Section 15 of the contract between you and the Town of the intention of the Board of Selectmen to impose discipline up to and including termination upon you. Pursuant to the contract you have ten (10) business days to request a hearing on this matter. If you so advise we have scheduled April 21, 2017 for such a hearing.

As grounds for this action the Board asserts that:

1. Between October 27, 2016 and February 10, 2017, inclusive, you exhibited a failure to administer and manage the Police Department in an efficient and responsible manner and you exhibited a failure after written warning to carry out the duties and responsibilities of Chief-
 - i. You unlawfully disseminated confidential and protected CJIS information outside of law enforcement and in violation of CJIS rules and regulation, and
 - ii. You failed to address the improper use of CJIS information in your department and in fact you failed to recognize that the actions of your staff, and you yourself, were matters of concern at all, and

- iii. You were insubordinate to the Board of Selectmen in having continued an investigation after having been ordered to discontinue your involvement, and
- iv. You were insubordinate in your dealings with town counsel in withholding witness statements taken during your investigation, and
- v. You were insubordinate to the Board of Selectmen in having issued an unprofessional and wholly inappropriate ultimatum that the Board take a certain action within a two hour period of time, and
- vi. You were untruthful and incomplete in the information you shared with CJIS related to the unlawful access and dissemination of confidential and protected CJIS information in your efforts at eliciting a response from them, and
- vii. You were untruthful in your disseminated press release related to the investigation of the unlawful access and dissemination of confidential and protected CJIS information wherein you mischaracterized CJIS's findings and wherein you erroneously asserted that you had fully complied with all requests from town counsel, and
- viii. You continued an investigation after having been ordered to discontinue your involvement.

If proven, the above actions constitute just cause for the imposition of discipline pursuant to the terms of your employment agreement with the town.

If proven, the actions above may constitute violations of the following department rules and regulations and/or policies and procedures:

4.0 - PROFESSIONAL CONDUCT AND RESPONSIBILITIES

The police are the most visible and most readily accessible representatives of local government. They respond to calls for assistance of a diversified nature and are expected to resolve a wide variety of community problems as they occur. Police officers are professionals, and, as such, are expected to maintain exceptionally high standards in the performance of their duty while conducting themselves at all times, both on and off duty, in such a manner as to reflect favorably upon themselves and the department.

5.0 - NEGLIGENCE OF DUTY

Officers are required to be attentive to and not neglect their sworn duty. Officers must not absent themselves from their assigned duty without leave. They must not leave their post or assignment without being properly relieved; likewise, they must take suitable and appropriate police action when any crime, public disorder or other incident requires police attention or service. Examples of neglect of duty include but are not limited to: failure to take appropriate action on the occasion of a crime, medical emergency, public disorder or other act or condition deserving attention; failure to render medical assistance consistent with one's training; absence without leave; failure to report to duty at the time and place designated; unnecessary absence from one's assignment during a tour of duty; failure to

perform duties or comply with any job description, rule or regulation, general, special or other order; or failure to conform to department policies and procedures.

RULE 6.1 – INCOMPETENCE

Officers shall maintain sufficient competency to perform their duty and to assume the responsibilities of their position. Incompetence may be demonstrated by, but is not limited to, the following:

- a. a lack of knowledge of the application of laws required to be enforced;
- b. an unwillingness or inability to perform assigned tasks;
- c. the failure to conform to work standards established for the officer's rank, grade, or position;
- d. repeated poor evaluations or repeated infractions of the rules and regulations, job descriptions, or policies and procedures.

RULE 7.5 – DISSEMINATION OF OFFICIAL INFORMATION

Officers shall treat as confidential that information which is confided to them personally in the course of their official duties. They shall disclose such information only as required in the proper performance of their duties.

Officers shall neither disclose nor use for their personal interest any confidential information acquired by them in the course of their official duties. Officers shall treat as confidential all matters relating to investigations, internal affairs, and personnel. Officers shall treat the official business of the police department as confidential and shall conform to the following guidelines:

- a. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established departmental procedures.

RULE 7.7 – TRUTHFULLNESS

Officers shall speak the truth at all times when on duty or when discussing a matter arising out of or related to the officers duties or the operation, organization or business of the department

RULE 10.10 – COOPERATION WITH INVESTIGATIONS

Officers shall answer questions truthfully, respond to lawful orders, and render material and relevant statements, in an internal department investigation when such orders, questions and statements are directly related to job responsibilities or fitness for duty.

13.0 – REPORTS

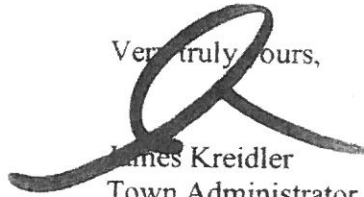
Officers are required to promptly and accurately complete all required reports and forms. Failure to complete a required report or falsification of a police report or record, by submitting false written or oral information, may result in disciplinary action against the officer. Police reports and records include such things as

affidavits, incident reports, time sheets, condition of the officer's health, doctor's slips, IAD investigation reports, and citations. Report filing requirements are an essential duty of a police officer. Additionally, credibility is an essential characteristic of every officer, due to the nature of police work where public interaction and testimony at judicial proceedings are required.

RULE 13.2 – FALSIFYING RECORDS

Officers shall not knowingly enter or cause to be entered upon a police report or police record any inaccurate, false or improper information.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'James Kreidler', is written over the printed name.

James Kreidler
Town Administrator
Per Vote of the Board of Selectmen

CS
Chief Robert Eaton
70 Brookline Street
Townsend, MA 01469

April 14, 2017

Board of Selectmen
272 Main Street
Townsend, MA 01469
Attention: Gordon Clark, Chairman

RE: Notice of Discipline Hearing

Dear Mr. Chairman:

I am in receipt of Mr. Kreidler's letter dated April 6, 2017 related to Notice of Discipline Hearing Opportunity, which purports to be compliant with Section 15 of my employment contract with the town. It is not compliant, however, because it does not include the dates and times of all alleged offenses as required by Section 15(d). Furthermore, Section 15(b) requires the Board of Selectmen to hold a hearing in order to discipline me, and I have no intention at present to waive that requirement. Inasmuch as my contract also provides me with the right to counsel at my own expense during the process, I request that the Town and its counsel schedule the hearing for a date and time mutually convenient to all parties; the date unilaterally chosen by the Town is problematic because of my counsel's current preparations in conjunction with the Springfield Law Department attorneys for a federal court civil rights trial in Springfield to begin May 1. I look forward to participating in the process that I am due under my contract and under state and federal laws in order to defend myself.

Please have the town's attorney contact my attorney, Austin M. Joyce, Reardon, Joyce & Akerson, P.C., 4 Lancaster Terrace, Worcester, MA 01609, phone 508-754-7285, e-mail ajoyce@rja-law.com in order to arrange service of the proper charge notice and arrange a mutually convenient hearing date.

Sincerely,



Chief Robert M. Eaton, Jr.

cc: James Kreidler



GL

Office of the
BOARD OF SELECTMEN
272 Main Street, Townsend, Massachusetts 01469

Gordon Clark, *Chairman*

Cindy King, *Vice-Chairman*

Carolyn Smart, *Clerk*

James Kreidler,
Town Administrator

VIA EMAIL-CERTIFIED MAIL-CONSTABLE

April 18, 2017

Mr. Robert M. Eaton, Jr.
70 Brookline Street
Townsend, MA 01469

Re: Notice of Disciplinary Hearing

Dear Mr. Eaton:

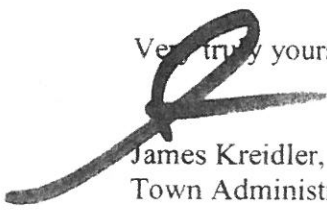
Please let this correspondence serve to acknowledge receipt of your correspondence dated April 14, 2017.

First, the Notice of Disciplinary Hearing specifically identifies dates upon which you are alleged to have committed misconduct. As you are aware, the charge informs you that you had interfered with an investigation to be conducted by Town Counsel with respect to improper use of Board of Probation records by your department. The Notice informs you that you conducted a parallel investigation and were not truthful to Town Counsel. The letter further describes your actions from February 8, 2017 through February 10, 2017. In the view of the Town the Notice is sufficient. You also indicate that your counsel is beginning a trial on May 1, 2017. However, your counsel has not indicated to Town Counsel that he has any difficulty with the hearing schedule. Moreover, you have not articulated the reason why a hearing scheduled on April 21, 2017 would interfere with a trial beginning two weeks later.

The hearing will proceed as scheduled on April 21, 2017 at 10:00 a.m. at Town Hall.

Thank you.

Very truly yours,


James Kreidler,
Town Administrator

C7

From: Austin M. Joyce
Sent: Wednesday, April 19, 2017 2:15 PM
To: 'David C. Jenkins'
Subject: RE: Townsend v. Eaton

David:

Not surprised. What's the format for this "hearing"?

Austin

From: David C. Jenkins [mailto:DJenkins@k-plaw.com]
Sent: Wednesday, April 19, 2017 1:57 PM
To: Austin M. Joyce <ajoyce@rja-law.com>
Subject: Re: Townsend v. Eaton

Austin

I have followed up with the town and the hearing as required by the contract will go forward as scheduled. You could bring up any issues before the BOS on Friday

David

Sent from my iPhone

On Apr 19, 2017, at 11:10 AM, Austin M. Joyce <ajoyce@rja-law.com> wrote:

David:

As we discussed, attached is a copy of the letter that Mr. Kreidler sent to Chief Eaton about the scheduling of the hearing. Obviously, I disagree with Mr. Kreidler's view of the notice's compliance with the contractual language and with his view of my need of additional time to prepare for the Springfield trial and for this hearing, considering I just saw your package of materials this morning. It arrived here Monday, according to Mike, who was still here, and I spent all of yesterday in Springfield. I understand that the Town does not want to wait a long time for the hearing, but, since it has apparently stopped paying the chief, I question the rush to judgment.

Austin M. Joyce

Reardon, Joyce & Akerson, P.C.
4 Lancaster Terrace
Worcester, Massachusetts 01609
T: 508.754.7285
F: 508.754.7220
E: <email@rja-law.com>

CJ

Robert Eaton

From: LaChappelle, David <DLaChappelle@afscme93.org>
Sent: Tuesday, November 29, 2016 12:08 PM
To: Robert Eaton
Cc: David C. Jenkins; Jim Kreidler; Delorey, Joe
Subject: CJIS investigation
Attachments: Townsend CJIS investigation.pdf

Dear Chief Eaton,

Please see the attached correspondence regarding the Department's investigation of employees' use of the CJIS system.
Thank you very much.

David LaChappelle, Esq.
Associate General Counsel
AFSCME Council 93
21 Wilbraham Street, Building 51, Suite 201
Palmer, MA 01069
Email: dlachappelle@afscme93.org
Phone: 413-668-2203



Frank Moroney
Executive Director

Charles C. Owen, Jr.
President

Kevin Hanley
Vice President

Nancy Silva
Recording Secretary

Gerry Mills
Treasurer

Scott Keil
Sgt. at Arms

Chief Robert Eaton
Town of Townsend
70 Brookline Street
Townsend, MA 01469

November 29, 2016

RE: Certain employees of the Townsend Police Department represented
by Council 93

Dear Chief Eaton,

Please be advised that this office represents certain employees of the Townsend Police Department in connection with an investigation being conducted into allegations of improper use of the Massachusetts Criminal Justice Information System. Based on the information that I have received to date, I understand the department is investigating allegations that one or more of this group of employees has improperly accessed private citizens' criminal history.

The allegations of wrongdoing the department appears to be investigating amount to violations of criminal law, and as such these employees are entitled to all protections as provided in Carney v. Springfield, 403 Mass. 604 (1988); Baglioni v. Chief of Police of Salem, 421 Mass. 229 (1995); Commonwealth v. Dormady, 423 Mass. 190 (1996). Those cases set forth that these employees cannot be compelled to testify without a grant of transactional immunity.

I understand that the Town has contacted these employees to set up an interview. I would ask that before the Town undertakes to question these employees, you solicit and receive written assurance from the public attorneys with jurisdiction over these matters that they will not prosecute these employees based on any information that they may provide the department in this inquiry.

After you have received the requested assurance kindly contact my office and I will advise these employees of their options and obligations under the law as it relates to such interviews.

Sincerely,

A handwritten signature in black ink, appearing to read "David LaChappelle", with a stylized flourish at the end.

David LaChappelle
Associate General Counsel
AFSCME Council 93

cc: James Kreidler, Town Administrator
David Jenkins, Esq., Town Counsel



ROBERT M. EATON, JR.
CHIEF OF POLICE

TOWNSEND POLICE DEPARTMENT

70 BROOKLINE STREET • TOWNSEND, MASSACHUSETTS 01469
TEL. 978-5972242 FAX 978-597-1718

INTERNAL AFFAIRS INCIDENT SUMMARY

CONFIDENTIAL

COMPLAINT #: 2016-7

INVOLVED INCIDENT # Not Applicable

COMPLAINANT (S): Chief Eaton

SUBJECT OF THE INVESTIGATION(S): Dispatcher Erin Considine; Sergeant Girard; Officer Rochette; Officer Rochette

DATE OF COMPLAINT: November 28, 2016

DATE INVESTIGATION INITIATED: November 28, 2016

INVESTIGATOR (S): Lieutenant Mark Giancotti

ALLEGED IMPROPER USE OF THE MASSACHUSETTS CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS)

On November 28, 2016, at approximately 14:00 hours, I was directed by Chief Eaton to conduct an internal investigation for allegations brought forward by the Town of Townsend relative to possible improper use by certain members of the Townsend Police Department and the Townsend Communication Center of the Massachusetts Criminal Justice Information System (CJIS).

INVESTIGATION

On November 16, 2016, this officer was contacted by Chief Eaton requesting I conduct a CJIS Audit of all Townsend Police Personnel that may have queried two individuals that were later identified as Kelly Merrill, DOB [REDACTED] and Adam Cotty, DOB [REDACTED]. In response to said request, I contacted CJIS and initiated an audit. On November 18, 2016, at approximately 17:57 hours, I received the response from CJIS via e-mail with an encrypted spreadsheet attachment identifying who and when the above queried the above referenced individuals. I then forwarded said email with attachment to Chief Eaton.

- Information received from the below referenced CJIS Offline Search Request for Kelly Merrill indicates that Kelly Merrill was quarried on September 4, 2016 at approximately 00:42 hours using multiple message keys and again on October 15, 2016, at 16:52 hours using multiple message keys by **Officer Giles** through CJISWEB.
- Information received CJIS Offline Search Request for Kelly Merrill indicates that Kelly Merrill was quarried on September 27, 2016 at approximately 18:40 hours using multiple message keys by **Dispatcher Considine** through CJISWEB.
- Information received CJIS Offline Search Request for Kelly Merrill indicates that Kelly Merrill was quarried on October 11, 2016, at approximately 13:50 hours using multiple message keys and again on November 8, 2016 between 13:50 and 14:32 using multiple message keys by **Officer Rochette** through CJISWEB and CJIS BROKER.
- Information received CJIS Offline Search Request for Kelly Merrill indicates that Kelly Merrill was quarried on October 11, 2016, at approximately 20:20 using multiple message keys hours by **Sergeant Girard** through CJISWEB.
- Information received CJIS Offline Search Request for Kelly Merrill indicates that Adam Cotty was quarried on October 11, 2016 at approximately 20:21 hours using multiple message keys by **Sergeant Girard** through CJISWEB.

Please see spreadsheet hereto attached for additional information.

BACKGROUND INFORMATION

It was leaned by different officers that a Townsend Town Administrator Assistant had been hired by the Town. This person, Kelly Merrill, was known by certain officers from calls of service to [REDACTED] Due to said concern, an officer brought this information to the chief's attention by placing a packet that included Kelly Merrill and Adam Cotty's information, including master card detail and Board of Probation Checks, under the chief's door.

[REDACTED]

[REDACTED]

2015-11-03 15:21:31.400

Search Parameters

First Name = KELLY (Exact)
Last Name = MERRILL (Exact)
OLN = 530428222 (Exact)
SSN = 022633352 (Exact)
PLATE = 1DCS81 (Exact)

Date/Time Range = 05/01/2018 00:00 - 10/31/2018 23:59

Request Date	Message Key	Source System	ORU	User ID	User P	Query Parameters
2016-09-01 02:11:59.597	RAW RS and RS	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	Plate No. = ICCS61
2016-09-01 02:41:59.850	ROF	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	Plate = ICCS61
2016-09-01 02:42:03.287	WU61	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-09-01 02:42:03.337	BOPI1	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-09-01 02:42:04.113	SKI	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-09-01 02:42:04.643	BOPI1	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-09-01 02:42:05.771	FSN	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-09-01 10:42:17.428	WU61	CJWEBE	MA0294488	CONSIDINE-ERN	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-09-01 10:42:17.640	CJWEBE	MA0294488	CONSIDINE-ERN	170 154.163 126	First Name = KELLY, Last Name = MERRILL	
2016-09-01 10:42:17.737	SKI	CJWEBE	MA0294488	CONSIDINE-ERN	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-09-01 10:42:17.760	BOPI1	CJWEBE	MA0294488	CONSIDINE-ERN	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-09-01 10:42:17.843	FSN	CJWEBE	MA0294488	CONSIDINE-ERN	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-09-01 10:42:33.519	BOPI	CJWEBE	MA0294488	CONSIDINE-ERN	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-11 12:58:49.717	RAW RS and RS	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	Plate No. = ICCS61
2016-10-11 12:58:49.810	ROF	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	Plate = ICCS61
2016-10-11 12:58:52.000	WU61	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	First Name = KELLY, Last Name = MERRILL
2016-10-11 12:59:52.200	BOPI1	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	First Name = KELLY, Last Name = MERRILL
2016-10-11 12:59:52.310	SKI	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	First Name = KELLY, Last Name = MERRILL
2016-10-11 12:59:52.367	BOPI1	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	First Name = KELLY, Last Name = MERRILL
2016-10-11 12:59:52.400	FSN	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	First Name = KELLY, Last Name = MERRILL
2016-10-11 14:52:04.570	BOPI	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 129	First Name = KELLY, Last Name = MERRILL
2016-10-11 20:28:28.880	RI	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	SSH = 02080367 Image = True
2016-10-11 20:28:30.830	WU61	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-11 20:28:32.880	BOPI1	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-11 20:28:33.847	SKI	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-11 20:28:33.940	BOPI1	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-11 20:28:34.973	FSN	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-11 20:28:35.120	BOPI	CJWEBE	MA0294488	GRAND-RANDY	170 154.163 126	First Name = KELLY, Last Name = MERRILL
2016-10-15 10:52:53.088	RAW RS and RS	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	Plate No. = ICCS61
2016-10-15 10:52:53.143	ROF	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	Plate = ICCS61
2016-10-15 10:52:57.763	WU61	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-10-15 10:52:57.877	BOPI1	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-10-15 10:52:57.970	SKI	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-10-15 10:52:58.000	BOPI1	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-10-15 10:52:58.000	FSN	CJWEBE	MA0294488	GILES-JEFFREY	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:11.190	RAW RS and RS	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	Plate No. = ICCS61
2016-11-03 12:58:11.243	ROF	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	Plate = ICCS61
2016-11-03 12:58:44.517	WU61	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:44.610	BOPI1	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:44.787	SKI	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:44.873	BOPI1	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:44.943	FSN	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:58.323	BOPI1	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 12:58:58.377	BOPI2	CJWEBE	MA0294488	ROCHETTE-THADDEUS	166 143.150 127	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:30.587	RAW RS and RS	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	Plate No. = ICCS61
2016-11-03 14:22:30.630	ROF	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	Plate = ICCS61
2016-11-03 14:22:30.657	WU61	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:30.657	BOPI1	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:30.659	FSN	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:30.693	SKI	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:30.693	BOPI1	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:31.170	BOPI2	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL
2016-11-03 14:22:31.787	BOPI2	CJSPROKER	MA0294488	ROCHETTE-THADDEUS	170 154.225.87	First Name = KELLY, Last Name = MERRILL



2016-11-18 16:08:54.115

Search Parameters

First Name = ADAM (Exact)

Last Name = COTTY (Exact)

OLN = 002147354 (Exact)

SSN = 025643702 (Exact)

Date/Time Range = 08/01/2016 00:00 - 11/17/2016 23:59

Request Date	Message Key	Source System	ORF	User ID	User IP	Query Parameters
2016-10-11 20:21:46.523	R1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	SSN = 025643702, Image = true
2016-10-11 20:21:48.523	WMS1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY
2016-10-11 20:21:50.080	BOP1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-11 20:21:50.173	SK1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-11 20:21:50.283	BOPF1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-11 20:21:50.440	FS1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-11 20:22:18.153	BOP2	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-17 15:28:48.060	R1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	SSN = 025643702, Image = true
2016-10-17 15:28:51.977	WMS1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY
2016-10-17 15:28:52.040	BOP1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-17 15:28:52.117	SK1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-17 15:28:52.260	BOPF1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-17 15:28:52.367	FS1	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =
2016-10-17 15:27:05.840	BOP2	CJSWEB	MA0094485	GRARD-RANDY	170.154.153.126	First Name = ADAM, Last Name = COTTY, DOB =

MA0094485 - TOWNSEND POLICE DEPARTMENT

INVESTIGATION CONTINUED

On November 28, 2016, at approximately 16:00 hours, I issued **Sergeant Girard** in hand, his Disciplinary Action Notice of Rights Forms to which he dated and signed. Sergeant Girard immediately received a copy in return after signature. Later in the day, I was advised by Sergeant Girard that he had placed his report under my door and that he had invoked his Fifth Amendment rights under the U.S. Constitution and pursuant to the Massachusetts Declaration of Rights, Article 12.

On November 29, 2016 at approximately 08:00 hours, I issued **Dispatcher Considine** in hand, her Disciplinary Action Notice of Rights Forms to which she dated and signed. Dispatcher Considine immediately received a copy in return after signature.

On November 30, 2016, at approximately 16:00 hours, I issued **Officer Giles** in hand, his Disciplinary Action Notice of Rights Forms to which he dated and signed. Officer Giles immediately received a copy in return after signature. On November 30, 2016, at approximately 13:30 hours, I received a report back from Officer Giles.

On December 1, 2016, at approximately 07:00 hours, I issued **Officer Rochette**, in hand, his Disciplinary Action Notice of Rights Forms to which he dated and signed. Officer Rochette immediately received a copy in return after signature. On Monday December 5, 2016, I noticed that Officer Rochette had placed his report under my door and that he had invoked his Fifth Amendment rights under the U.S. Constitution and pursuant to the Massachusetts Declaration of Rights, Article 12.

CORRESPONDING DOCUMENTATION

- E-Mail to CJIS dated November 17, 2016 (3) regarding department audit
- E-Mail from CJIS dated November 18, 2016
- CJIS Offline Search Request for Kelly Merrill
- CJIS Offline Search Request for Adam Cotty
- Disciplinary Action Notice of Rights Forms (4)
- E-Mail document to Chief Eaton from Attorney Jenkins
- E-Mail document from Chief Eaton to Attorney Jenkins
- Master Card Detail Reports for Kelly Merrill and Adam Cotty
- CJIS User Agreement

CLOSING REMARKS/RECCOMENDATIONS

Based on an investigation and after conducting a general inquiry into the above referenced allegation(s,) I conclude that there is insufficient supporting evidence to support the allegations of improper use by all but two members of the Townsend Police Department and the Townsend Communication Center named above of the Massachusetts Criminal Justice Information System (CJIS). Due to limited information received from Sergeant Girard and Officer Rochette, I recommend that further inquiry be conducted.

These findings will be forwarded to Chief Eaton for further review and or for additional instructions.

On December 6, 2016, this report, as well as supporting documents, were forwarded to Town Council, Attorney David Jenkins.

Respectfully submitted,

Mark Giancotti
Lieutenant

To: Chief Robert Eaton
From: Thaddeus Rochette
Date: December 2, 2016
Re: CJIS Investigation

Sir,

I have received your letter in which you have ordered me to provide information related to the Department's CJIS investigation. You have compelled me to issue a written report with the threat of termination should I fail to comply with your demand. Therefore, I hereby invoke my rights pursuant to the Massachusetts Declaration of Rights, Article 12, to not provide a statement, unless I have received transactional immunity for the allegations against me as result of this investigation.

I would further state that not filing a report at this time is in no way admitting to any wrong doing or misuse of the CJIS System. I would further request Union Representative David LaChapelle from AFSCME93 be at any and all hearings do to the threat of termination. Any and all documentation should be copied to him. David LaChappelle@afscme93.org

Thank you in advance for your consideration in this matter.



Thaddeus Rochette

Patrol Officer #17

Dear Chief Eaton,
November 28, 2016
Re: Notice of Disciplinary Investigation

This statement is in response to your November 28, 2016, order to submit a full and complete report by the end of my tour of duty regarding the Department's allegations that I engaged in the improper use of the Massachusetts CJIS system. You have compelled me to issue a written report with the threat of termination should I fail to comply with your demand. As a result, in accordance with your letter, I hereby invoke my rights pursuant to the Massachusetts Declaration of Rights, Article 12, and my 5th Amendment Rights of the United States Constitution as outlined in paragraph two and three of your demand, unless I have received transactional immunity for the allegations against me as result of this investigation. This is not an admission of guilt; however want a reasonable time to seek legal council in regards to these allegations set forth against me. Thank you for your attention to this matter.

Sincerely,



11, 28, 2016

Sgt. Randy Girard

To: Chief Robert Eaton

From: Officer Jeffrey J. Giles

Date: November 30th, 2016

Re: Response to IA- Allegation of Improper Use of MA CIIS

Chief Eaton,

I am writing this document in response to your inquiry into my use of CIIS to query Kelly Merrill DOB [REDACTED]. Over the past year, I was made aware of Kelly Merrill on a several occasions during department roll calls as well as through my own interactions with her.

- My first experience was in the fall of 2015, I was on Dudley Road and I queried a passing vehicle the vehicle's registration was identified as expired and belonging to Kelly Merrill, I was unable to locate the vehicle after it passed me. I later found out she had also failed to notify the registry of her address change from a Brookline Road address to [REDACTED] Townsend Ma.
- On December 19th, 2015, I was notified at roll call that [REDACTED] as completed on Kelly and her boyfriend- Adam Cotty DOB [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- On Sunday June 26th, 2016, [REDACTED], I conducted a motor vehicle stop on Fitchburg Road in which Kelly was the operator. I issued her a written warning for failure to inspect her motor vehicle. During this stop, Kelly advised me that this was her third van this year due to mechanical failures with the other ones.
- On Saturday September 3rd, 2016, I was assigned to work uniformed patrol in fully marked cruiser #43 for the 2300-0700 shift. On Sunday September 4th, 2016 at approximately 0041, I was on a motor vehicle stop with a suspended operator on Highland Street. As I was awaiting the arrival of two of the operator's friends to pick him and the vehicle up, I observed MA PC [REDACTED] 2007 Dodge Van color Blue traveling eastbound with a defective headlight. As the vehicle passed me, I recognized the operator as Kelly Merrill. I ran the registration through my cruiser's MDT which automatically queries the registration (R5 / R6), Recent Query Field (RQF), Warrant Management System (WMS1), Board of Probation (BOP1), Sex Offender database

(SX1), Firearms Inquiry (BOPFI1) and Firearm Sales Inquiry (FSI1), and confirmed the owner of the vehicle to also be Kelly Merrill. Due to the fact that I was already on a motor vehicle stop that I could not abandon, I did not stop Kelly's vehicle.

- On Saturday October 15th, 2016, I was assigned to work uniformed patrol in fully marked cruiser #43 for the 1500-2300 shift. During this shift, I had a civilian ride along- Erik Debettencourt with me. At approximately 1652, I was conducting stationary traffic enforcement in the Unique Boutique parking lot (536 Main Street, West Townsend) when I observed MA P [REDACTED] 2007 Dodge van color Blue traveling westbound on Main Street. I recognized this vehicle from prior listed incidents and ran a "random query" of the registration through my MDT which automatically queries the registration's R5/R6, RQF, WMS1, BOP1, SX1, BOPFI and FSI1 fields. The query revealed an active status for Kelly's registration and license status.

This document contains a summary of my knowledge of and interactions with Kelly Merrill over the past twelve months. I am available to answer any questions you may have regarding the information contained in this document.

Dear Chief Eaton,

December 1, 2016

Re: Notice of Disciplinary Investigation

I have received your letter in which you have ordered me to provide information related to the Department's CJIS investigation. You have compelled me to issue a written report with the threat of termination should I fail to comply with your demand.

It is to my understand that you are looking for any facts or knowledge I may possess pertaining to an inquiry performed on, Tuesday, September 27, 2016- at 1840 hrs on a Kelly Merrill. Allow the following report to depict the facts in which I can recall about said circumstance.

On Tuesday, Sept. 27, 2016, I worked my first full-time shift in communications between the hours of 1500-1900. During this shift, at 1800hrs, the Board of Selectmen held a meeting which was televised in real-time on the local cable channel. To the best of my recollection, I tuned into the meeting in the communication center, since we do have a television provided to us, along with a fellow telecommunicator, as well as an officer in the room. While watching the meeting, Town Administrator James Kreidler presented that he was looking for the Board to affirm his decision to appoint Kelly Merrill as Executive Assistant to the Town Administrator. After this had been affirmed by the Board, I was instructed by an officer to run an inquiry through the Massachusetts Criminal Justice Information System (CJIS) of the proposed appointed party. At this time, I did as instructed by the officer and performed the inquiry, including Board of Probation (BOP) check.

As a telecommunicator, my job allows for me the authority to run inquiries on individuals, vehicles, and other articles, under the direction of an officer. In this given situation, I was given the direction by the officer, and did as I am trained to do in regards to running an inquiry on an individual in CJIS. My position as a telecommunicator does not grant me the authority to question an officer's orders and instructions, but to do as I am directed.

Sincerely,

A handwritten signature in black ink, appearing to read "Erin Considine". The signature is fluid and cursive, with the first name "Erin" being more prominent than the last name "Considine".

Erin Considine

From: David C. Jenkins <DJenkins@k-plaw.com>
Sent: Friday, April 14, 2017 8:32 AM
To: Austin M. Joyce
Subject: FW: BOP Audit/Investigation

David C. Jenkins, Esq.

KP | LAW

101 Arch Street, 11th Floor

Boston, MA 02110

O: (617) 654 1761

F: (617) 654 1735

C: (617) 257 9584

djenkins@k-plaw.com

www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

From: David C. Jenkins
Sent: Wednesday, December 07, 2016 10:57 AM
To: 'Robert Eaton'
Subject: RE: BOP Audit/Investigation

Chief:

I think you are back from vacation today. The TA told me that you may have a [REDACTED] and if so please take care of that. When you get a chance I would like to discuss the status of the BOP run investigation. By this time I am sure that the Lt has advised you of the status. It is important that we discuss next steps on this before any further action is taken. Please call either number. I know I had trouble with the cell on the day you were going on vacation. I should be around all day if you have the time.

David

Kopelman and Paige is now KP | LAW

David C. Jenkins, Esq.

KP | LAW

101 Arch Street, 11th Floor

Boston, MA 02110

O: (617) 654 1761

F: (617) 654 1735

C: (617) 257 9584

djenkins@k-plaw.com

www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any



CU

Office of the
BOARD OF SELECTMEN
272 Main Street, Townsend, Massachusetts 01469

Carolyn Smart, *Chairman*
James Kreidler,
Town Administrator

Gordon Clark, *Vice-Chairman*

Cindy King, *Clerk*

Meeting Minutes
DECEMBER 13, 2016 6:00 P.M.
SELECTMEN'S CHAMBERS, TOWN HALL
272 MAIN STREET, TOWNSEND, MA

- I. PRELIMINARIES - VOTES MAY BE TAKEN:**
- 1.1 Chairman called the meeting to order at 6:00PM and roll call vote showed Carolyn Smart(CS) and Gordon Clark(GC) present.
 - 1.2 Pledge of Allegiance observed
 - 1.3 Chairman announced that the meeting is being tape recorded.
 - 1.4 Chairman's Additions or Deletions:
 - 2.14 Amended notice of non-exercise of option.
 - 2.15 Discuss permit fees for the West Townsend Fire Station project.
- II. MEETING BUSINESS - VOTES MAY BE TAKEN**
- 2.1 GC Motioned approve and sign out of session all 2017 Alcoholic Common Victualler Restaurant Renewal Licenses as attached contingent upon a valid certificate of inspection issued by the Building Commissioner and signed off by the Fire Chief. CS seconded. Unanimous
 - 2.2 GC Motioned approve and sign out of session 2017 Alcoholic Club Renewal License as attached contingent upon a valid certificate of inspection issued by the Building Commissioner and signed off by the Fire Chief in accordance with Chapter 304 of the Acts of 2004. CS seconded. Unanimous
 - 2.3 GC Motioned approve and sign all 2017 Alcoholic and Walt & Malt Renewal Liquor Licenses as attached. CS seconded. Unanimous
 - 2.4 GC Motioned approve and sign out of session all 2017 Common Victualler license renewals as attached. CS seconded. Unanimous
 - 2.5 GC Motioned approve and sign all 2017 Weekly and Sunday Entertainment license renewals as attached. CS seconded. Unanimous
 - 2.6 GC Motioned approve and sign all 2017 Class I, II, III license renewals as attached. CS seconded. Unanimous

- 2.7 James Kreidler Towns Administrator (JK) informed the board there was a packet an application in the packet from the property owner as well as a letter from John Barret. Regarding RE: Installing a 1.283 megawatt ground mounted solar facility at 22 West Meadow Road. John Barret recognizes it is not currently allowed but it shall be under the Bylaw that is being constructed to be ready for Town Meeting. Due to time. They are looking for an appeal for a variance on the matter. CS had no comment as this is not generally under the BOS. GC questioned if the rates were current, and to be sure the most current rates applied.
- 2.8 GC motioned as presented by JK review/ Approve 2017 Holiday Calendar. CS seconded. Unanimous
- 2.9 GC motioned review/Sign Chap. 90 Reimbursement Re: North End Road \$244,417.00 CS seconded. Unanimous
- 2.10 GC motioned review/Sign Chap. 90 Reimbursement Re: Tyler Road \$163,473.00 CS seconded. Unanimous
- 2.11 CS explained that the purpose to close all non-essential offices at 12:00 PM on December 23, 2016. Is that most employees take the day off and to avoid the public coming in to closed offices it makes most sense to close. The employees are not paid. They are required to use personal or vacation time is they choose. GC motioned to close all non-essential offices at 12:00 PM on December 23, 2016. CS seconded. Unanimous
- 2.12 CS read an email from the fire chief on behalf of the donation. GC motioned to accept donation of \$10,000 by United Way of North Central MA to the Townsend Police and Fire EMS. CS seconded. Unanimous
- 2.13 GC motioned to accept donation of 10 Safety 1st car seats provided by Cosco Safety 1st First Responder Thanksgiving Campaign to the Townsend Fire-EMS CS seconded. Unanimous
- 2.14 CS explained when the original non-exercise of option was done back in 1999 the wrong chapter of the law was referenced. GC motioned to approve the amended non-exercise of option for a parcel of land described as off North End Road. As well as approving the Chairman to sign the document. CS seconded. Unanimous
- 2.15 JK explained the Chief is looking to have the permit fee waived for the West Townsend Fire Station project consistent with practice as was done with the headquarters. CS was concerned that the fee was possibly is the specs for the developer to pay. JK suggested to amend the vote to fit the reading of the specs. GC motioned to waive the permit fee for the West Townsend Fire Station project subject to the application of the RFP process. CS seconded. Unanimous

III. WORK SESSION - VOTES MAY BE TAKEN:

- 3.1 Town Administrator updates and reports.
JK updated the Board on the budget and 5 year projection from the McCormick Institute. The budget memos and the new format will be likely going out by week end. Looking at a Dec 15-Jan 15 for departments to submit their requests and a Jan 15- Feb 15 for the TA to work with Departments to get things into balance.
JK explained the further process for the coming year and it will make for a smoother process.

GC proposed an amendment to empower JK due to public emergency safety winter conditions make the judgment calls to ensure the roads mentions are treated until January 15, 2017. CS seconded. Unanimous.

Coppersmith way needs to be further discussed as a non-accepted road.

JK discussed of waste oil from the highway department that needs to be declared surplus. IF Ed Kukkula deems it available for the TA to declare it surplus.

- 3.2 Board of Selectmen announcements, updates, and reports.

GC requested at the next meeting there be an update as to the year end accomplishment.

CS spoke of Special Town meeting. Informed the Board many are asking when the meeting will take place. Jk was projecting a February meeting, hoping to set a date at the next meeting. CS requested JK look into a program called Digital Stakeout.

- ~~3.3 Approval of Meeting minutes.~~

- 3.4 GC motioned to review and sign bills payable warrants out of session. CS seconded. Unanimous.

JK stated Selectman King will be available be remote for executive session

IV. EXECUTIVE SESSION:

Executive Session pursuant to GL c. 30A, s. 21(a)(2) to discuss strategy or to conduct negotiations with non-union personnel with respects to the Police Lieutenant, the Police Chief, and the Fire-EMS Chief.

Executive Session pursuant to GL c. 30A, s. 21(a)(5) to investigate charges of criminal misconduct or to consider the filing of criminal complaints.

V. ADJOURNMENT:

GC motioned to move into Executive Session pursuant to GL c. 30A, s. 21(a)(2) to discuss strategy or to conduct negotiations with non-union personnel with respects to the Police Lieutenant, the Police Chief, and the Fire-EMS Chief.

Executive Session pursuant to GL c. 30A, s. 21(a)(5) to investigate charges of criminal misconduct or to consider the filing of criminal complaints.

And adjourn form executive session.

Roll call vote Carolyn Smart and Gordon Clark all in favor.

Office of the
BOARD OF SELECTMEN
272 Main Street
Townsend, Massachusetts 01469

Carolyn Smart, *Chairman*
James M Kreidler, Jr.,
1700
Town Administrator

Gordon Clark, Vice-Chairman

Cindy King, Clerk
Office (978) 597-
Fax (978) 597-1719

SELECTMEN'S MEETING AGENDA
DECEMBER 13, 2016 - 6:00 P.M.
Selectmen's Meeting Chambers

ATTACHMENT - RENEWAL LICENSES

RESTAURANT – ALL ALCOHOLIC

Chung Wai Yu	Season's Palace Inc., dba YEE's Village	350 Main Street
Mike Far Liang	Gourmet House dba Panda Wok	18 Main Street
Albert S. Mariano, Jr.	Bailey's Bar & Grille, LLC	18 Main Street
Robert Dickhaut	Townsend House Restaurant	2 Depot Street
Pamela Mariano	Baily's On The Green	40 Scales Lane

RESTAURANT – WINE & MALT

Nancy Pappas	Patriot Pizza	24 Main Street
--------------	---------------	----------------

PACKAGE STORE – ALL ALCOHOLIC

Chanchetha Un	Chanchetha Corp., dba The Wine Nook	18 Main Street
Patel Rajitaben	dba Townsend Package Store	224 Main Street
Girish Patel	dba Old Brick Store	440 Main Street

CLUB – ALL ALCOHOLIC

Terri Roy	V.F.W. Post #6538	491 A Main Street
-----------	-------------------	-------------------

COMMON VICTUALLER

Chung Wai Yu	Season's Palace #3, Inc dba YEE's Village	350 Main Street
Mike Far Liang	Gourmet House dba Panda Wok	18 Main Street
Girish Patel	dba Old Brick Store	440 Main Street
Gregory C. Frediani	Townsend Pizza, Inc.	237 Main Street
Thomas Panagiotes, Jr	The Ice Cream Factory	7 Elm Street Circle
Steve Catalano	Courtney Donuts LLC dba Dunkin Donuts	17 Elm Street

Frank J. Catalano Street	F.J. Enterprises, Inc. dba Dunkin Donuts	28 Main
Nancy Pappas	Patriot Pizza & Subs	26 Main Street
Mohamed Eldardir	dba Gourmet Donuts	210 Main Street
Terrance McNabb	McNabbs Pharmacy	233 Main Street
Ashraf Soliman	Pizza Pizzaz	18 Main Street
Michelle Wagner Street	Energy North dba Haffners	197 Main
Judy Knapp Street	dba Hannaford Brothers Inc	18 Main
Nicholas Koutsoufis	dba Sophia's Pizza	220 Main Street
Albert S. Mariano, Jr.	Bailey's Bar & Grille, LLC	18 Main Street
Terri Roy	V.F.W. Post #6538	491 A Main Street
Ronald Kirwood	Grovercare, Inc.	27 Main Street
Pamela Mariano	Bailey's On The Green	40 Scales Lane
Robert Dickhaut	Townsend House Restaurant	2 Depot Street
Glen Shephard	Cherry Hill Ice Cream Too	53 Main Street
Kiesten Pacaro	Cliff's Café & Catering	266 Main Street
Kenneth Saucier	South Fitchburg Hunting & Fishing	60 Warren Road
Katie Phelan	dba Mr. Mikes	238 Main Street
David Yee	dba McDonalds	21 Main Street
Paul Harris	Townsend Rod and Gun Club	46 Emery Road
Dimple Desai	dba Subway	18 Main Street

WEEKLY ENTERTAINMENT

Chung Wai Yu	Season's Palace #3 dba YEE's Village	350 Main Street
Albert S. Mariano, Jr.	Bailey's Bar & Grille	18 Main Street
Terri Roy	V.F.W. Post #6538	491 A Main Street
Pamela Mariano	Bailey's On The Green	40 Scales Lane
Robert Dickhaut	Townsend House Restaurant	2 Depot Street

SUNDAY ENTERTAINMENT

Chung Wai Yu	Season's Palace #3 dba YEE's Village	350 Main Street
Albert S. Mariano, Jr.	Bailey's Bar & Grille, LLC	18 Main Street
Terri Roy	V.F.W. Post #6538	491 A Main Street
Pamela Mariano	Bailey's On The Green	40 Scales Lane

CLASS I

Thomas J. Cleary	Townsend Sales & Service, Inc	340 Main Street
------------------	-------------------------------	-----------------

CLASS II

William Baro/Jamie Baro	W.Baro Enterprises	345 Main Street
Glen D. Shepherd	dba Shepherd Sales & Service	55 Main Street

Richard Koivu
Road
Joseph Shank

Country Auto Sales
Harbor Auto Body

118 bayberry Hill
98 Main Street

CLASS III

Carl Cerullo
Glen Shepherd

dba MJS Metals
dba Joe's Auto Body

60 Turnpike Road
55 Main Street

Additional renewals will be added if received prior to the



ROBERT M. EATON, JR.
CHIEF OF POLICE

TOWNSEND POLICE DEPARTMENT

70 BROOKLINE STREET • TOWNSEND, MASSACHUSETTS 01469

TEL. 978-5972242 FAX 978-597-1718

Disciplinary Action Investigation Notice of rights and Responsibilities

CONFIDENTIAL

IN HAND SERVICE

To: Officer Tad Rochette

From: Robert M. Eaton, Jr., Chief of Police

Date: December 14, 2016

Re: Interview Notices

Allegations: Improper use of the Massachusetts Criminal Justice Information System (CJIS)

Officer Rochette:

With the assistance of Town counsel, and at the express and unanimous direction of the Townsend Board of Selectmen, the Town will be conducting further investigation relative to allegations of improper use of the Massachusetts Criminal Justice Information System (CJIS). Specifically, inquiries run within the Massachusetts Criminal Justice Information System (CJIS) between September 1, 2016 and November 17, 2016, of Kelly Merrill, including Board of Probation checks.

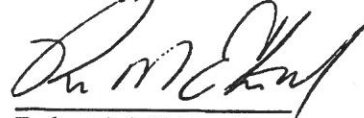
As your precise knowledge and/or involvement in this matter is unclear, your presence, participation, and cooperation in an interview to be conducted at the Townsend Memorial Hall, 272 Main Street, Townsend, MA, 01469, on Thursday, December 15, 2016, at 2:00 pm. Failure to appear and cooperate fully in the investigation will result in discipline which could include up to discharge. Once you appear, you must answer all questions narrowly and specifically designed to fully explain your actions, responses and knowledge of the subject matter under investigation. You may invoke any of your constitutionally guaranteed rights against self-incrimination when asked specific questions in regards to your involvement in any specific criminal activity, but must answer all questions that are narrowly and specifically defined regarding the performance of your duties and professional responsibilities, that do not involve criminal activity.

The interview will be solely investigative in nature. Its purpose will be to discover the facts and to offer you an opportunity to explain any knowledge that you may have regarding the subject matter under investigation. The interview will not seek a final determination or adjudication, but will be investigative in nature.

Please be advised that you have all of the rights and privileges guaranteed by the laws of the Commonwealth of Massachusetts and the United States Constitution, including the right to be represented by the union representative of your choice under the Weingarten Rights. Please be advised that "You have the right to remain silent," about any of your actions that involve criminal conduct, although you may be subject to disciplinary action by the Town of Townsend in the form of discharge **for your failure to answer material and relevant questions relating to the performance of your duties, as an employee of the Townsend Police Department.**

Failure to appear at this interview will result in disciplinary action in the form of discipline to include up to discharge. No rescheduling of this interview will be allowed unless approved by me in writing.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R. M. Eaton, Jr.', written over a horizontal line.

Robert M. Eaton, Jr.
Chief of Police



213

Office of the
BOARD OF SELECTMEN
272 Main Street
Townsend, Massachusetts 01469

Carolyn Smart, *Chairman*
James Kreidler,
Interim Town Administrator

Gordon Clark, *Vice-Chairman*

Cindy King, *Clerk*
Office (978) 597-1701
Fax (978) 597-1719

December 15, 2016

BY HAND

Sgt. Randy Girard

Re: Notice of Administrative Leave

Dear Sgt. Girard :

Pursuant to the vote of the Board of Selectmen on December 13, 2016, please accept this correspondence as notification that effective immediately you are being placed on administrative leave status pending the outcome of an investigation arising out of your ability to act as a police officer of the Town of Townsend. . This action does not constitute a disciplinary action against you.

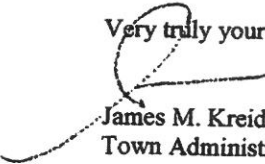
During the term of this administrative leave, which will extend until further notification by the Board, you are relieved of all of the duties and responsibilities as a police officer, you are to perform no duties of the office, and you are to have no active or passive role in the operation or management of the Department. You are not to respond to any police calls or be present at the police station for any reason unless you have a personal public safety emergency at which time you may enter the lobby at the station. You are not to use any Town equipment on property.

You are hereby directed to turn over to the Police Chief any and all equipment issued to you by the Town including but not limited to any automobile, paging equipment, radios, cell phones, identification cards, keys or any other equipment of any kind. You are also directed to turn over all computer codes in your possession with regard to Town owned equipment. You are also directed not to have any contact with any Department employee regarding Department business.

The failure to follow each of these orders could result in the issuance of discipline up to any including termination.

Your administrative leave status will continue until further notification from the Board.

Very truly yours,


James M. Kreidler, Jr.
Town Administrator



ROBERT M. EATON, JR.
CHIEF OF POLICE

TOWNSEND POLICE DEPARTMENT

70 BROOKLINE STREET • TOWNSEND, MASSACHUSETTS 01469
TEL. 978-5972242 FAX 978-597-1718

MEMO

Date: December 15, 2016

To: James M. Kreidler – Town Administrator
Board of Selectmen

From: Robert M. Eaton, Jr. – Chief of Police

Re: Update on Internal Affairs Investigation to the Alleged Misuse of CJIS

Dear Mr. Kreidler and Board of Selectmen:

I'm still actively investigating the alleged misuse of the Criminal Justice Information System (CJIS) by several department employees.

I'm currently working with CJIS officials along with waiting for additional documents from them.

Until I'm able to obtain these documents, I'm unable to complete my investigation or make a finding.

Robert M. Eaton, Jr.
Chief of Police

From: David C. Jenkins <DJenkins@k-plaw.com>
Sent: Friday, April 14, 2017 8:30 AM
To: Austin M. Joyce
Subject: FW: General Status

David C. Jenkins, Esq.
KP | LAW
101 Arch Street, 11th Floor
Boston, MA 02110
O: (617) 654 1761
F: (617) 654 1735
C: (617) 257 9584
djenkins@k-plaw.com
www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

-----Original Message-----

From: David C. Jenkins
Sent: Friday, December 23, 2016 7:54 AM
To: 'Robert Eaton'
Subject: RE: General Status

Thank you.

Kopelman and Paige is now KP | LAW

David C. Jenkins, Esq.
KP | LAW
101 Arch Street, 11th Floor
Boston, MA 02110
O: (617) 654 1761
F: (617) 654 1735
C: (617) 257 9584
djenkins@k-plaw.com
www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

-----Original Message-----

From: Robert Eaton [mailto:REaton@townsendpd.org]
Sent: Thursday, December 22, 2016 6:08 PM
To: David C. Jenkins
Subject: RE: General Status

David,

Attached are the results of the additional offline search request I made to CJIS on December 20, 2016.

Robert M. Eaton, Jr.
Chief of Police
Townsend Police Department
70 Brookline Road
Townsend, MA 01469
(978) 597-6214 Ext. 101
(978) 597-1718 Fax

CONFIDENTIALITY NOTICE: This message contains information which may be privileged or confidential, or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, retention, archiving, or copying of this communication is strictly prohibited. If you have received this e-mail in error, please notify immediately by return e-mail to the sender.

-----Original Message-----

From: David C. Jenkins [mailto:DJenkins@k-plaw.com]
Sent: Wednesday, December 21, 2016 3:40 PM
To: Robert Eaton <REaton@townsendpd.org>
Subject: Re: General Status

Chief

Thank you for your work. I would request that you not prepare a report at this time. I want to see where we are tomorrow first

Are you able to provide any information on the rifle purchase.

David

Sent from my iPhone

> On Dec 21, 2016, at 3:11 PM, Robert Eaton <REaton@townsendpd.org> wrote:

>

> Dave,

>

> I have attached all of the documents I currently have in my possession. Because the Lieutenant has been out of the office the last three days, I haven't been able to retrieve the original IA file. If he comes in tomorrow, I will scan in what he has and send it along to you.

>

> I'm waiting for additional CJIS offline searches and I'm currently working on my report. It's my goal to get my report to you by tomorrow morning.

>

> Sgt. Girard has told me that David LaChappelle was calling Mr. Kreidler to set the appointment up.

>

> If there is anything I may have missed or you need please let me know.

>

>

>

> Robert M. Eaton, Jr.

> Chief of Police

> Townsend Police Department

> 70 Brookline Road

> Townsend, MA 01469

> (978) 597-6214 Ext. 101

> (978) 597-1718 Fax

>

> [cid:image002.jpg@01D17EBE.064B4FE0]

>

> [cid:6B2CB1781E6342F5874E6D19949A547A@BobEatonPC]

>

>

> CONFIDENTIALITY NOTICE: This message contains information which may be privileged or confidential, or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, retention, archiving, or copying of this communication is strictly prohibited. If you have received this e-mail in error, please notify immediately by return e-mail to the sender.

>

>

>

> From: David C. Jenkins [mailto:DJenkins@k-plaw.com]

> Sent: Tuesday, December 20, 2016 6:28 PM

> To: Robert Eaton <REaton@townsendpd.org>

> Cc: James Kreidler <jkreidler@townsend.ma.us>

> Subject: Re: General Status

>

> Thank you.

>

> Sent from my iPhone

>

> On Dec 20, 2016, at 4:58 PM, Robert Eaton <REaton@townsendpd.org<mailto:REaton@townsendpd.org>> wrote:

> David,

>

> I'm working on all of the BOP materials you and Mr. Kreidler have requested. I anticipate having them to you tomorrow.

>

> When I spoke with Sgt. Girard to find out what his availability is, he told me he had to call Dave LaChappelle to check on his availability and will get back to me. If I don't hear back from Sgt. Girard by the morning I will call him again in the AM.

>

> I'm also working on generating a response to your questions related to the AR 15.

>

>

>

> Robert M. Eaton, Jr.
 > Chief of Police
 > Townsend Police Department
 > 70 Brookline Road
 > Townsend, MA 01469
 > (978) 597-6214 Ext. 101
 > (978) 597-1718 Fax

>

> <image001.jpg>

>

> <image002.png>

>

>

> CONFIDENTIALITY NOTICE: This message contains information which may be privileged or confidential, or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, retention, archiving, or copying of this communication is strictly prohibited. If you have received this e-mail in error, please notify immediately by return e-mail to the sender.

>

>

>

> From: David C. Jenkins [mailto:DJenkins@k-plaw.com]
 > Sent: Tuesday, December 20, 2016 9:57 AM
 > To: Robert Eaton <REaton@townsendpd.org<mailto:REaton@townsendpd.org>>
 > Subject: General Status

>

> Chief:

>

> I was hoping to catch up on a couple of thigs. Could you please forward to me any documents you have accumulated with regard to the Board of Probation matter including any reports, witness statements, correspondence from the state and any other documents that relate or pertain to the investigation.

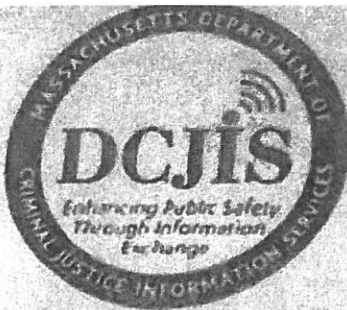
>

> I would like to set up an interview with the sergeant. Would you make contact with him and let me know his availability for the remainder of the week.

>

> I have been asked by town hall a question regarding an equipment reimbursement submitted by an officer for the purchase of an AR 15 rifle. If the invoice is approved could you let me know who the licensed owner of the rifle would be. Could you also let me know if officers are trained in the use of the rifle and where the rifle will be stored. Would the officer be allowed to use the weapon while off duty and what would become of the rifle when the officer leaves/retires. Lastly, is it the usual practice for town officers to purchase firearms using the equipment allowance.

>
> Thanks for your attention to this.
>
> David
>
> Kopelman and Paige is now KP | LAW
>
> David C. Jenkins, Esq.
> KP | LAW
> 101 Arch Street, 11th Floor
> Boston, MA 02110
> O: (617) 654 1761
> F: (617) 654 1735
> C: (617) 257 9584
> djenkins@k-plaw.com<mailto:djenkins@k-plaw.com>
> www.k-plaw.com<http://www.k-plaw.com/>
>
>
> This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.
>
> received this e-mail in error, please notify us immediately by reply e-mail or by telephone.
> <image001.jpg>
> <image002.png>
> <3 Additional CJIS Offline Search Requests 12-20-16.pdf> <CJIS Audit
> 11-18-2016.pdf> <CJIS Training Records.pdf> <David LaChaplle, Esq.
> Notice.pdf> <Disp Considine's Statement.pdf> <Dispatch Log for
> 9-27-16.pdf> <Dispatch Log for 10-11-16.pdf> <Dispatch Log for
> 11-8-16.pdf> <Lt.'s IA Summary.pdf> <Memo Update to BOS 12-15-16.pdf>
> <New CJIS Audit with Emails.pdf> <Officer Giles Statement.pdf>
> <Officer Rochette's Statement.pdf> <Package Left Under Chief's
> Door.pdf> <Parole Board Notice - Roll Call.pdf> <Planit Schedule for
> 9-27-16.pdf> <Sgt Girard's Admin Leave.pdf> <Sgt Girard's
> Statement.pdf> <TPD C.O.R.I. Policy.pdf>



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Department of Criminal Justice Information Services

200 Arlington Street, Suite 2200, Chelsea, Massachusetts 02150, MASS.GOV/CJIS
TEL: 617-660-4600 • TTY: 617-660-4606 • FAX: 617-660-4613

Charles D. Hall, Jr. | Karen L. Pardo | David Strehl | James F. Slater, III
Chairman | Deputy Chairman | Secretary | Commissioner

March 17, 2017

David Jenkins
KP Law
101 Arch Street
Boston, MA 02110

RE: Town of Townsend Police Department

Dear Attorney Jenkins:

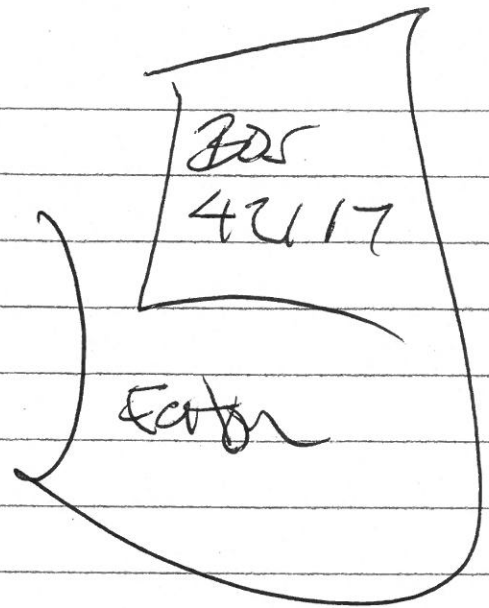
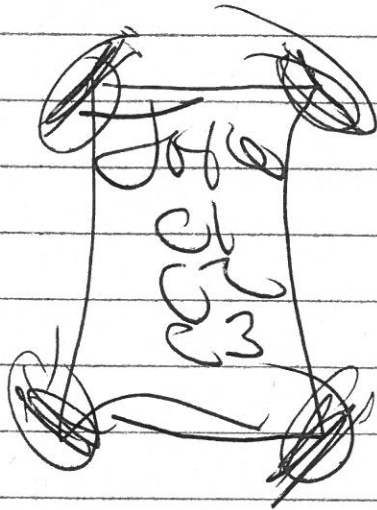
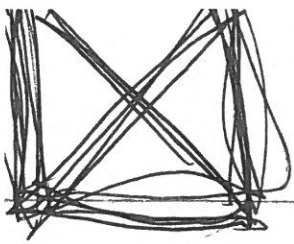
I am writing in response to your correspondence to the Department of Criminal Justice Information Services (DCJIS) Commissioner James F. Slater, dated February 16, 2017. As you know, Townsend Police Chief Robert Eaton in accordance with the Criminal Justice Information Services (CJIS) User Agreement recently notified DCJIS of allegations concerning misuse of the CJIS. I am writing to confirm that DCJIS is currently investigating these allegations.

In your correspondence you noted that DCJIS may not have had all related information concerning these allegations. The correspondence provided to Chief Eaton on February 8, 2017 included a summary of DCJIS's review of the reports and transactions monitored by this office. Please do not hesitate to submit any additional information you believe is related to this matter. DCJIS is willing to reconsider its earlier findings based on additional information that was not available at the time of the review. You may submit this information to my attention at the address listed above.

If you have any questions you may reach me at 617-660-4654.

Sincerely,

Agapi Koulouris
General Counsel



→ May
→ 2nd

unusually low forward

303
4/20/17

Lisa - ~~HEY~~ Jap. Looks like
you wheel well!

Chris w/ Sgt. Johnson
on track

now about ~~the~~ ^{the} could use that ~~the~~ ^{the}

~~2nd~~

Met ~~the~~ C.C.

— transfer

TS. + Chair to apt.

Two Chas

Joyce

"tribunal"

fall ex assert w/ doc. "different"

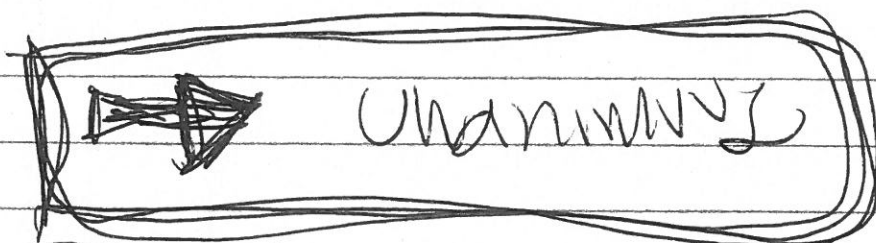
~~John~~ Girard - WFO in pocket

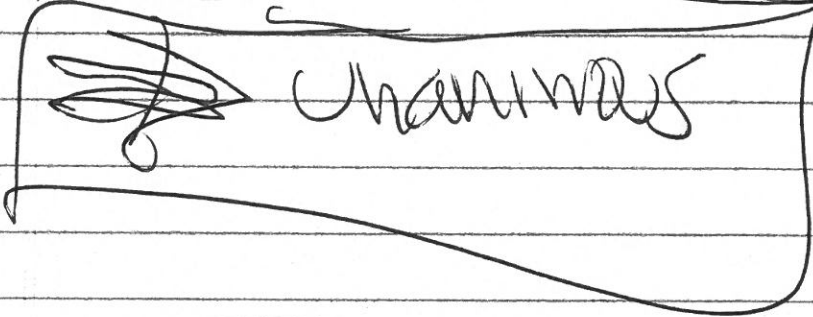
- Giles to admin ~~copy~~ until → interview
- admitted ~~copy~~ until interview
- pro until interview then returned

Dec 13th

Lachapelle ~~offered~~ the
30 day & etc

NEVER ~~stayed~~

 channel

 channel

10 minute

COMMONWEALTH OF MASSACHUSETTS

TOWN OF TOWNSEND,

Plaintiff

v.

ROBERT E. EATON,

Defendant

FINDINGS OF FACT OF THE
BOARD OF SELECTMEN

This matter having come before the Board of Selectmen (the "Board") for a hearing on April 21, 2017, the Board makes the following findings of fact.

- (1) Robert E. Eaton was appointed by the Board to the position of Chief of Police of the Town of Townsend (the "Town") effective May 1, 2016
- (2) On or about March 24, 2016, the Town and Chief Eaton entered into a contract of employment which has been entered into the record as an exhibit and is incorporated by reference.
- (3) On September 27, 2016, the Board met in open session.
- (4) On September 27, 2016, the Board approved the appointment of Kelly Merrill to the position of Administrative Assistant to the Town Administrator.
- (5) On September 27, 2016, Sergeant Girard and Officer Michael Marchand were on duty as police officers.
- (6) On September 27, 2016, Erin Considine was on duty as a dispatcher.
- (7) Officer Marchand was assigned to a cruiser and was on patrol.

(8) On September 27, 2016, Sergeant Girard ordered dispatcher Considine to prepare a Board of Probation ("BOP") inquiry on Kelly Merrill using the Department of Criminal Justice Information Services ("CJIS") system.


(9) Dispatcher Considine followed Sgt. Girard's order and performed the BOP inquiry on Ms. Merrill.

(10) There was no legitimate police purpose for the BOP inquiry run on Ms. Merrill on September 27, 2016.

(11) On October 10, 2016, Sgt. Girard used the CJIS system to perform a BOP inquiry on Kelly Merrill and another individual.

(12) Chief Eaton and Carolyn Smart exchanged a text message in which a meeting was arranged between the Chief and Ms. Smart.

(13) Ms. Smart and the Chief met on October 16, 2016.

(14) On October 16, 2016, Chief Eaton provided Ms. Smart with confidential BOP information. 

(15) On October 16, 2016, Chief Eaton informed Ms. Smart that information concerning Ms. Merrill had been anonymously left under the door of his office. The statement that the information had been left anonymously was false.

(16) The information left at the Chief's office had been left by Sgt. Girard and Chief Eaton knew that the information had been left by Sgt. Girard.

(17) On November 8, 2016, Officer Rochette used the CJIS system to perform two BOP inquiries on Kelly Merrill.

(18) On November 16, 2016, Town Counsel and Chief Eaton had a telephone conversation.

During that conversation, Chief Eaton stated to Town Counsel that police department employees were authorized to conduct "background investigations" of Town employees.

(19) Chief Eaton's statement that department employees are authorized to conduct background investigations is not an accurate statement of the law and constitutes a circumvention of the use of BOP information in violation of state law.

(20) On November 23, 2016, Chief Eaton was advised and a press release was issued confirming the fact that the Board had directed Town Counsel to perform the investigation and that Chief Eaton was directed to comply with all of Town Counsel's requests.

(21) On January 24, 2017, Town Counsel sent an e-mail to Chief Eaton asking him to confirm a statement made by Officer Rochette that the Chief advised Officer Rochette that he was preparing a report vindicating all department officers in the BOP investigation.

(22) At the time that Chief Eaton made the statement, he was not authorized to perform an investigation into this matter.

(23) At the time the Chief made the statement, the investigation into this matter was not complete.

(24) On January 30, 2017, Town Counsel followed up on the e-mail of January 24, 2017.

(25) On January 30, 2017, Chief Eaton confirmed that Officer Rochette's testimony was accurate.

(26) On January 31, 2017, Town Counsel sent an e-mail to Chief Eaton.

(27) Chief Eaton did not respond to Town Counsel's January 31, 2017 e-mail.

(28) On February 2, 2017, Town Counsel sent an e-mail to Chief Eaton following up on the e-mail of January 31, 2017.

(29) During the period of November 16, 2017 to February 1, 2017, Chief Eaton interviewed witnesses in connection with the BOP inquiry and kept notes of those interviews. Town Counsel has requested the interview notes, and Chief Eaton has refused to produce the notes.

(30) On February 8, 2017, Town Counsel sent an e-mail to Chief Eaton. The e-mail once again instructed Chief Eaton to take no independent action on the BOP investigation.

(31) On February 8, 2017, Chief Eaton received a report from DCJIS.

(32) On February 9, 2017, Chief Eaton forwarded a copy of the DCJIS report to Town Counsel.

(33) On February 9, 2017, Town Counsel sent an e-mail to Chief Eaton with a copy to Attorney Austin Joyce. The e-mail instructed Chief Eaton that the investigation and the DCJIS report remained confidential.

(34) Chief Eaton did not respond to the e-mail of February 9, 2017.

(34) On Friday, February 10, 2017, at 2:40pm, Chief Eaton sent a memorandum to the Board of Selectmen and the Town Administrator via email.

(36) In the memorandum of February 10, 2017, Chief Eaton acknowledges that he performed his own independent investigation. In direct contravention to the express order of the Board and Town Counsel.

(37) Chief Eaton informed the Board that the DCJIS investigation "unequivocally exonerates all 5 police officers" in connection with the BOP investigation.

(38) The statement made by Chief Eaton was false.

(39) Chief Eaton informed the Board that he had complied with all requests of Town Counsel.

(40) This statement was false in that Chief Eaton conducted an unauthorized concurrent investigation and withheld relevant and material evidence from Town Counsel.

(41) Chief Eaton advised the Board that unless the demands set forth in the memorandum were not implemented within two (2) hours, at 5:00pm, that he would issue a written press release.

(42) During the course of the following two hour period several attempts were made by phone, email and text by Counsel, the Town Administrator to reach the Chief.

The Chief failed to answer.

(43) On February 10, 2017, at 5:00pm, Chief Eaton issued a press release which falsely informed the public as to the status of the DCJIS investigations.

(44) On February 10, 2017, at 5:02pm, the Chief called the Town Administrator only after having released the press release.

(45) On November 28, 2016, Chief Eaton advised Dispatcher Considine that an administrative inquiry was being conducted with regard to the BOP matter.

(46) On December 1, 2016, Dispatcher Considine submitted a written report.

(47) On February 14, 2017, Town Counsel conducted a recorded interview with Dispatcher Considine.

(48) On November 28, 2016, Chief Eaton advised Sgt. Girard that an administrative inquiry was being conducted into the BOP matter.

(49) On November 28, 2016, Sgt. Girard submitted a memo to Chief Eaton stating that he would not file a report on the basis of his constitutional rights.

(50) On December 8, 2016, Sgt. Girard advised the Town that he would resign if the Town agreed not to force him to provide a statement regarding the BOP inquiry and not to refer the BOP inquiry matter for a criminal inquiry.

(51) On December 22, 2016, Sgt. Girard executed a resignation agreement.

✓ (52) On December 7, 2016, Officer Rochette submitted a report regarding the BOP investigation.

✓ (53) On December 9, 2016 Town Counsel directed the Chief to not have contact with any employees involved in the CJIS matter.

✓ (54) On December 15, 2016, Chief Eaton advised the Town Administrator and Town Counsel that he had secured written statements from Sgt. Girard and Officer Rochette after having been directed to stop his investigation.

✓ (55) On January 20, 2017, Town Counsel conducted a recorded interview with Officer Rochette concerning the BOP investigation.

✓ (56) On February 14, 2017, Town Counsel conducted a second recorded interview with Officer Rochette concerning the BOP investigation.

TOWN OF TOWNSEND

By its attorney,

David C. Jenkins (BBO# 251000)
KP Law, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110-1109
(617) 556-0007
djenkins@k-plaw.com

Date: _____

580713/TOWN/0079

POSSIBLE MOTIONS

1. I move that the Board vote to adopt the findings of fact and exhibits as presented.
2. I move that the Board find that the actions of Chief Eaton as set out in the findings of fact and exhibits constitute a violation of the Chief's employment contract and rules and regulations of the police department.
3. I move that as the basis of the findings of fact and the finding of contract and rules and regulations violations that the Board find there is just cause to terminate the employment of the Chief effective immediately.
4. I move that the Board authorize their Chair with the assistance of the Town Administrator to prepare a notice of termination to the Chief consistent with this vote.