



## **CITY OF BOSTON IN CITY COUNCIL**

*WHEREAS*, Governments around the world are responding to the COVID-19 pandemic with an unprecedented use of surveillance tools, despite public health and privacy experts agreeing that public trust is essential to an effective response to the pandemic; *and*

*WHEREAS*, Surveillance technology and electronic data gathering can be useful tools for advancing effective delivery and analysis of constituent services, public safety and security; *and*

*WHEREAS*, Usage of surveillance technology must include safeguards with accountability to the public in order to protect privacy rights and civil liberties; *and*

*WHEREAS*, Boston Public Schools should be welcoming and safe environments for all students regardless of immigration status or race. Due to COVID-19, Boston Public Schools has transitioned entirely to online learning where it is expected that even after returning to in-person learning, technology will be a larger part of education; *and*

*WHEREAS*, As people in Boston and across the state are sheltering in place, we are growing more dependent on technology to connect us to each other and to our government; *and*

*WHEREAS*, Cities around the country such as Cambridge, Somerville, Santa Clara, and Providence have created ordinances governing the acquisition and use of surveillance technology and electronic data in order to protect the civil liberties of their citizens while allowing for appropriate use to assist in the charge of improving delivery of services and public safety; *and*

*WHEREAS*, As more municipalities move toward electronic data collection used to manage assets and resources efficiently and new technologies are becoming available, the public would benefit from proactive discussion of current practices and future acquisitions. *NOW, therefore be it ordained by the City Council of Boston as follows:*

That the City of Boston Code, Ordinances, be amended in Chapter XVI by adding the following after 16-62:

**16-63: ORDINANCE ON SURVEILLANCE OVERSIGHT AND INFORMATION SHARING**

**16-63.1 Purpose:** The purpose of this ordinance is to provide accountability, transparency, and oversight regarding the acquisition and use of Surveillance Technology and Surveillance Data by the City of Boston and its agencies and officers, and to protect privacy, civil rights, and racial and immigrant justice while allowing for appropriate use to assist in the charge of improving delivery of services and public safety.

**16-63.2 Definitions:**

The following definitions apply to this Ordinance:

*Annual Surveillance Report* means a written report submitted by the Mayor's office on an annual basis concerning specific Surveillance Technology used during the previous year and containing the information set forth in this ordinance by the following City Departments and Agencies: the Boston Police Department, the Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

*Exigent Circumstances* means the police commissioner, the police commissioner's designee, the head of BHA's Police, or the head of the BPHC Police's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render it impracticable to obtain a warrant, requires the use of the Surveillance Technology or the Surveillance Data it provides. The use of Surveillance Technology in Exigent Circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.

*Identifiable Individual* means an individual whose identity can be revealed by data, including Surveillance Data, or revealed by data when it is analyzed and/or combined with any other type of record.

*Surveillance* means the act of observing or analyzing the movements, behavior, or actions of Identifiable Individuals.

*Surveillance Data* means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the City or operated at the direction of the City.

*Surveillance Technology* means any device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, associational, or similar information specifically associated with, or capable of being associated with, any identifiable individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.

- a) Examples of Surveillance Technology include, but are not limited to:
1. International mobile subscriber identity (IMSI) catchers and other cell-site simulators;
  2. Automatic license plate readers;
  3. Electronic toll readers;
  4. Closed-circuit television cameras except as otherwise provided herein;
  5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
  6. Mobile DNA capture technology;
  7. Gunshot detection and location hardware and services;
  8. X-ray vans;
  9. Video and audio monitoring and/or recording technology, such as surveillance cameras;
  10. Surveillance enabled or capable light bulbs or light fixtures;
  11. Tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
  12. Social media monitoring software;
  13. Through-the-wall radar or similar imaging technology;
  14. Passive scanners of radio networks;

15. Long-range Bluetooth and other wireless-scanning devices;
16. Thermal imaging or “forward-looking infrared” devices or cameras;
17. Electronic database systems containing Surveillance Data about Identifiable Individuals;
18. Radio-frequency identification (RFID) scanners; and
19. Software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software.

*Surveillance Technology Impact Report* means a written report submitted by the Mayor’s office with a request for approval of acquisition or use of Surveillance Technology, and which includes, at a minimum, the requirements set forth in this ordinance.

*Surveillance Use Policy* means a policy for the City’s use of Surveillance Technology, approved by the Corporation Counsel and the Mayor’s office, and submitted by the Mayor’s office to and approved by the City Council. The Surveillance Use Policy shall at a minimum satisfy the requirements set forth in this ordinance.

*Technology-Specific Surveillance Use Policy* means a policy governing the City’s use of a specific Surveillance Technology not already covered under the City’s Surveillance Use Policy, approved by the Corporation Counsel and the Mayor, and submitted by the Mayor to the City Council with a Surveillance Technology Impact Report under this ordinance.

*BPS* means the Boston Public Schools.

*BPS personnel* means any employee or agent of the Boston Public Schools, excluding School Safety Specialists.

*School Safety Specialists* means any officials or employees that belong to the Boston Public Schools Department of Safety Services or any other security and enforcement personnel, and that may or may not be licensed by the Boston Police Department as special police officers.



*BPD* means the City of Boston Police Department.

*Student Report* means a written record that is not an educational record protected under FERPA and that is created by School Safety Specialists or by BPS personnel and that pertains to a student. Student Reports include but are not limited to School Safety Reports, BPD Form 1.1 Incident Reports, Field Interrogation and Observation Reports, Intelligence Reports, and Face Sheets. Student Reports also include informal emails, texts, and other electronic messages that describe or contain details pertaining to student activity.

*Historic Student Reports* mean Student Reports that they have created or produced prior to the Effective Date of this ordinance.

*Serious bodily harm* means bodily injury that results in permanent disfigurement, loss or impairment of a bodily function, limb or organ, or substantial risk of death.

*Surveillance Oversight Advisory Board* is a group comprised of five individuals, one representative to be chosen by each of the following: the president of the City Council, the Massachusetts American Civil Liberties Union, and the Boston Police Commissioner; and two representatives chosen by the Mayor, at least one of whom shall be an academic representative with expertise in technology and public policy issues. The Board shall serve as an advisory body to host further discussion and provide recommendations on surveillance issues to the Mayor.

### **16-63.3 Community Control Over Surveillance**

#### **a) Applicability**

This section shall ~~only~~ apply to the following City departments and agencies: the Boston Police Department, Boston Public Schools, Boston Public Health Commission, the Boston Parks Department Park Rangers, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word “City” shall mean the City departments and agencies listed above.

#### **b) Exceptions and Exemptions**

The following situations are exceptions and exemptions from this ordinance.

1. The following do not constitute Surveillance Data and are exempted from the requirements of this Ordinance:
  - A) Surveillance Data acquired where the individual knowingly and voluntarily consented to provide the information, such as submitting personal information for the receipt of City services; and
  - B) Surveillance Data acquired where the individual was presented with a clear and conspicuous opportunity to opt-out of providing the information.
2. Surveillance Technology does not include the following devices, software, or hardware, which are exempt from the requirements of this ordinance, unless the devices, hardware, or software are modified to include additional surveillance capabilities:
  - A) Routine office hardware, such as televisions, computers, and printers, that are in widespread public use and will not be used for any surveillance or surveillance- related functions;
  - B) Parking ticket devices (PTDs) and related databases;
  - C) Manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously, that are used for non-law enforcement and non-investigatory purposes, and whose functionality is used for manually capturing and manually downloading video and/or audio recordings;
  - D) Cameras installed in or on a police vehicle;
  - E) Cameras installed pursuant to state law authorization in or on any vehicle or along a public right-of-way solely to record traffic violations or traffic patterns, provided that the Surveillance Data gathered is used only for that purpose;
  - F) Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
  - G) City databases that do not and will not contain any Surveillance Data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology;
  - H) Manually-operated technological devices that are used primarily for internal City communications and are not designed to surreptitiously collect Surveillance Data, such as radios and email systems;

- I) Parking access and revenue control systems, including proximity card readers and transponder readers at City-owned or controlled parking garages;
  - J) Card readers and key fobs used by City employees and other authorized persons for access to City-owned or controlled buildings and property;
  - K) Cameras installed on City property solely for security purposes, including closed-circuit television cameras installed by the City, to monitor entryways and outdoor areas of City-owned or controlled buildings and property for the purpose of controlling access, maintaining the safety of City employees and visitors to City buildings, and protecting City property;
  - L) Security cameras including closed-circuit television cameras installed by the City to monitor cashiers' windows and other cash-handling operations and to maintain the safety of City employees and visitors to such areas;
  - M) Cameras installed solely to protect the physical integrity of City infrastructure; or
  - N) Technology that monitors only City employees in response to complaints of wrongdoing or in order to prevent waste, fraud, or abuse of City resources.
  - O) Devices exclusively capable of detecting radiation.
  - P) Radio-frequency identification scanners (RFIDs) used for disaster patient tracking by the Boston Public Health Commission.
  - Q) BPHC technology used to track BPHC owned or leased equipment and vehicles
3. Notwithstanding the provisions of this ordinance, BPD, BHA Police, or BPHC Police may temporarily acquire or temporarily use Surveillance Technology in Exigent Circumstances for a period not to exceed 30 days without following the provisions of this chapter before that acquisition or use. However, if these bodies acquire or use Surveillance Technology in Exigent Circumstances under this section, the BPD Commissioner, BHA Head of Police, or BPHC Head of Police must:
- A) Report that acquisition or use to the City Council in writing within 30 days following the end of those Exigent Circumstances;
  - B) Submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy to the City Council regarding that Surveillance Technology within 30 days following the end of those Exigent Circumstances; and

- C) Include that Surveillance Technology in the Department or Agency's next Annual Surveillance Report to the City Council following the end of those Exigent Circumstances.
  - D) If the Department or Agency is unable to meet the 30-day timeline to submit a Surveillance Technology Impact Report and, if necessary, a technology-specific Surveillance Use Policy to the City Council, the Department or Agency must notify the City Council in writing requesting to extend this period. The City Council may grant extensions beyond the original 30-day timeline to submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy.
  - E) Any Surveillance Technology Impact Report, and, if necessary, any Technology-Specific Surveillance Use Policy submitted to the City Council under this subsection shall be made publicly available on the City's website upon submission to the City Council.
  - F) Any Surveillance Technology Impact Report and, if necessary, technology-specific Surveillance Use Policy submitted to the City Council under this section may be redacted to the extent required to comply with an order by a court of competent jurisdiction, or to exclude information that, in the reasonable discretion of the Commissioner of police, if disclosed, would materially jeopardize an ongoing investigation or otherwise represent a significant risk to public safety and security provided, however, that any information redacted pursuant to this paragraph will be released in the next Annual Surveillance Report following the point at which the reason for such redaction no longer exists.
4. A City department head may apply a technical patch or upgrade that is necessary to mitigate threats to the City's environment. The department shall not use the new surveillance capabilities of the technology until the requirements of this ordinance are met, unless the Mayor, or their designee, determines that the use is unavoidable; in that case, the Mayor shall request City Council approval as soon as possible. The request shall include a report to the City Council of how the altered surveillance capabilities were used since the time of the upgrade. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.

c) Surveillance Use Policy

1. The Mayor shall submit to the City Council for its review and approval a proposed Surveillance Use Policy applicable to each applicable City Department that possesses or uses Surveillance Technology before the effective date of this ordinance. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
2. Any Surveillance Use Policy submitted under this section shall be made publicly available upon submission to the City Council.
3. A Surveillance Use Policy shall at a minimum specify the following:
  - A) Purpose: the specific purpose(s) for the Surveillance Technology;
  - B) Authorized use: the uses that are authorized, the rules and processes required before that use, and the uses that are prohibited;
  - C) Data collection: the Surveillance Data that can be collected by the Surveillance Technology;
  - D) Data access: the individuals who can access or use the collected Surveillance Data, and the rules and processes required before access or use of the information;
  - E) Data protection: the safeguards that protect information from unauthorized access, including, but not limited to, encryption, access-control, and access-oversight mechanisms;
  - F) Data retention: the time period, if any, for which information collected by the Surveillance Technology will be routinely retained, the reason that retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period has elapsed, and the conditions that must be met to retain information beyond that period;
  - G) Public access: if and how collected Surveillance Data can be accessed by members of the public, including criminal defendants;
  - H) Information and data-sharing: if and how other City or non-City entities can access or use the Surveillance Data, how information is shared among City agencies or between City agencies and non-City entities and organizations, including any required justification and legal standard necessary to do so, and any obligation(s) imposed on the recipient of the Surveillance Data;

- I) Training: the training, if any, required for any individual authorized to use the Surveillance Data or technology or to access information collected by the Surveillance Technology, including whether there are training materials;
  - J) Oversight: the mechanisms to ensure that the Surveillance Use Policy is followed, including, but not limited to, identifying personnel assigned to ensure compliance with the policy, internal record keeping of the use of the technology or access to information collected by the Surveillance Technology, audit requirements or procedures, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the sanctions for violations of the policy;
  - K) Legal Authority: the statutes, regulations, or legal precedents, if any, that control the collection, capturing, recording, retaining, processing, interception, analysis, release, or disclosure of Surveillance Data and technology; and
  - L) Child Rights: special considerations specific to Surveillance Technology and Surveillance Data pertaining to minor children.
4. The City Council shall vote to approve or deny the Surveillance Use Policy by a vote of a simple majority within 60 days of submission. If the City Council does not approve the Surveillance Use Policy, the Policy shall be sent to the Surveillance Oversight Advisory Board who will make recommendations of improvement to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- d) Surveillance Technology Impact Report and Technology-Specific Surveillance Use Policy
1. The Mayor's office must seek and obtain approval from the City Council as set forth in this section prior to the City acquiring, using, or entering into an agreement to acquire, share or otherwise use, unapproved Surveillance Technology or Surveillance Data as defined in this ordinance.

- A) The City may seek, but not accept, funds for Surveillance Technology without approval from the City Council, provided that the City shall notify the City Council of the funding application at the time it is submitted, and include in this notification the deadline of the funding opportunity and details regarding the nature of the Surveillance Technology for which funding is sought. If the City Council declines to accept funds for Surveillance Technology the request to accept the funds shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- 2. Acquisition of Surveillance Technology by applicable City departments. Unless exempted or excepted from the requirements of this ordinance, any applicable City department intending to acquire new Surveillance Technology or Surveillance Data, including but not limited to procuring that Surveillance Technology without the exchange of monies or other consideration, or use Surveillance Technology or Surveillance Data for a purpose or in a manner not previously approved, shall, prior to acquisition or use, obtain council approval of the acquisition or use. The process for obtaining approval shall be as follows:
  - A) The City department shall submit a Surveillance Technology Impact Report, and, if necessary, a Technology-Specific Surveillance Use Policy, as described below, to the Mayor's office for review and approval.
  - B) If the request is approved by the Mayor's office, the Mayor's office shall submit the request, including copies of the City department's Surveillance Technology Impact Report and, if applicable, Technology-Specific Surveillance Use Policy, to the City Council for review.
  - C) The City Council shall have 60 days from the date of submission to approve or deny a request by majority vote for the acquisition or use of Surveillance Technology. If the City Council does not approve the acquisition or use of Surveillance technology the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
  - D) Contents of Surveillance Technology Impact Report. A Surveillance Technology Impact Report submitted shall include all of the following:
    - E) Information describing the Surveillance Technology and how it works;

- F) Information on the proposed purpose(s) for the Surveillance Technology;
  - G) Information describing the kind of surveillance the Surveillance Technology will conduct and what Surveillance Data will be gathered, including a detailed accounting of which entities may have access to any Surveillance Data, under what circumstances (e.g. ongoing automated access, subject to an informal request, subject to subpoena, subject to a warrant, etc.);
  - H) The location(s) the Surveillance Technology may be deployed and when;
  - I) A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the equipment will be regulated to protect privacy and anonymity, and to limit the risk of abuse;
  - J) The potential impact(s) on privacy in the City; the potential impact on the civil rights and liberties of any individuals, communities or groups, including, but not limited to, communities of color or other marginalized communities in the City, and a description of a plan to address these impact(s);
  - K) An estimate of the fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding; and
  - L) An explanation of how the Surveillance Use Policy will apply to this Surveillance Technology and, if it is not sufficiently applicable, a Technology-Specific Surveillance Use Policy.
3. A Technology-Specific Surveillance Use Policy shall be required if the purpose, authorized use, data collection, data access, data protection, data retention, public access, third-party data sharing, training, or oversight of the requested Surveillance Technology differ from the standards in the Surveillance Use Policy submitted under Sections 16-63.3c and 16-63.3d.
- A) A Technology-Specific Surveillance Use Policy shall not conflict with any provision of the City's Surveillance Use Policy.
  - B) To the extent a conflict arises between the provisions of the City's Surveillance Use Policy and a Technology-Specific Surveillance Use Policy, the City's Surveillance Use Policy shall govern. A Technology-Specific Surveillance Use Policy shall include all of the elements of the Surveillance Use Policy as outlined in Section 16-63.3b.
- ~~4.~~ Any Surveillance Technology Impact Report, and, if necessary, Technology-Specific Surveillance Use Policy submitted to the City Council under Sections 16-63.3c and 16-63.3d shall be made publicly available on the City's website upon submission to the council.



#### **16-63.4 Boston Public Schools And Boston Police Department Information-sharing Policy**

- a) School Safety Specialists shall not collect, store, or share information pertaining to students except by creating and sharing Student Reports in accordance with this Chapter.
  - 1. Student Reports shall only be created when:
    - A) Serious bodily harm to an individual has occurred as a result of willful conduct by a student;
    - B) A credible threat to the safety of the school arises that would amount to criminal conduct;
    - C) A student is in possession of firearms as defined in Chapter 269 section 10 (j), ammunition, or a dangerous weapon as defined in M.G.L. Chapter 269 section 10 (b); or
    - D) A student unlawfully possesses or uses controlled substances, provided those substances are not marijuana, nicotine, or alcohol, and further provided, however, that School Safety Specialists may collect, store and share information pertaining to unlawful distribution of alcohol or marijuana when a student has unlawfully distributed marijuana or alcohol on school grounds in excess of the following amounts: thirty (30) grams for marijuana and one (1) liter for alcohol.
  - 2. School Safety Specialists may not create a Student Report relating to matters that are not described above.
  - 3. Student Reports shall not contain information pertaining to:
    - A) Immigration status;
    - B) Citizenship;
    - C) Address and/or neighborhood of residence;
    - D) Religion;
    - E) National origin;
    - F) Students' native or spoken language;
    - G) Suspected, alleged, or confirmed gang involvement, affiliation, association, or membership;
    - H) Participation in school activities, extracurricular activities outside of school, sports teams, or school clubs or organizations;
    - I) Degrees, Honors, or Awards; or
    - J) Post-high school plans.

4. Before creating the Student Report, the School Safety Specialists must discuss the writing of the report with the Principal(s) or Head(s) of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work. The required Principals or Heads of School must document in writing that the incident at hand merits a report under the criteria in Section 16-63.4a.
  5. Principals and Heads of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work must receive copies of all Student Reports written under this section immediately upon writing.
    - A) Within 24 hours of the writing of a Student Report under this section, the relevant Principals and/or Heads of School must provide a copy of the report, with any necessary redactions to protect student privacy, to every student referenced by name in the Report, as well as to those students' families. Reports which involve allegations of parental/household abuse may also be withheld from students' families if disclosure of the report is not in the best interest of the student. In cases of allegations of parental/household abuse, a copy of the Report shall be provided to the student or a trusted adult of their choosing.
- b) Rules for Student Information Sharing
1. School Safety Specialists and BPS personnel shall not transmit to or share with BPD or any other outside entities any information about students, including but not limited to Student Reports, through any official or unofficial channels, including but not limited to text, phone, email, database, and in-person communication, except if the transmission or sharing is done (i) pursuant to Section 16-63.4c or (ii) in Exigent Circumstances pursuant to Section 16-63.4d.
- c) Transmitting information to the BPD and other entities outside the Boston Public Schools
1. BPS personnel and School Safety Specialists may not send information relating to Boston Public Schools students to the Boston Regional Intelligence Center (BRIC), federal immigration authorities, federal law enforcement agencies, or any law enforcement fusion center under any circumstances, except where required by state or federal law.
  2. BPS personnel may not transmit to the BPD any student information, including but not limited to a Student Report, unless in response to a judicial warrant issued upon a finding of probable cause, as required under MGL c. 269, sec. 10(j) and MGL c. 71, sec. 37L, or as otherwise required by state or federal law. Nothing in this ordinance shall limit the ability of Boston Public Schools to release information as required by state or federal laws and regulations.

3. Before BPS personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to BPD or to any other entity outside of the Boston Public Schools in accordance with Sections 16-63.4c1 and 16-63.4c2, the following must take place:
  - A) Any student named in a Student Report or other record, and their parent or guardian, must be notified in writing that the Student Report they received pursuant to Section 16-63.4a5A will be transmitted to BPD or to the outside agency and receive an explanation of why the information reflected in the report is prompting the communication. All written materials must be provided in both English and the language spoken by the relevant student's parent or guardian.
  - B) The Boston Public Schools must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter of the family's choosing must be present for any party that requires one. The interpreter cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred interpreter, BPS must provide a qualified translator.
  - C) The Principals and Heads of School mentioned in Section 16-63.4a5A, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1, they must place a note in the record attesting to this fact, and the Student Report may not be transmitted to the BPD or any entity outside of BPS.
  - D) The student and family may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - E) Students and families may amend a student's record by placing a note with information relating to any Student Report in which the student is named in the student's file.
- d) Transmission of information pursuant to Exigent Circumstances
  1. Within 12 hours after a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances:

- A) The School Safety Specialists must notify the relevant Principal or Head of School that student information was shared with the BPD, and provide the relevant Principal or Head of School with a copy of the information shared;
- 2. Within 24 hours after the conclusion of the exigent circumstance or within 24 hours after BPS Personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances, the relevant Principal or Head of School shall:
  - A) Notify in writing any student whose information or Student Report was shared and their parent or guardian that the student information was shared, and share a copy of the information transmitted and an explanation of the incident prompting the communication to BPD after the information was transmitted. All written materials must be provided in both English and the language spoken by the parent or guardian.
  - B) The relevant Principal or Head of School must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter/translator of the parent or guardian's choosing must be present for any party that requires one. The interpreter/translator cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred translator, BPS must provide a qualified translator.
    - I. The student and parent or guardian may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - C) If the information shared was a Student Report, the Principals and/or Heads of School mentioned in Section 16-63.4a5, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1 they must place a note in the record attesting to this fact, and the BPD must be notified to the same within 3 business hours.
- e) School Safety Specialists shall not attend any meetings where officers or employees from U.S. Immigrations and Customs Enforcement are present, either in person or virtually.
- f) Transparency and Communication

1. Students, families, school administrators, teachers, and counselors must be made aware of this ordinance by including a copy of the ordinance in the Guide to Boston Public Schools.

g) Community Information-Sharing Oversight Board

1. A community oversight board shall be created to provide oversight regarding the implementation of Section 16-63.4 of this ordinance.
2. The board must include at least one representative from each of the following groups: a student chosen by the Boston Student Advisory Council, a parent or guardian chosen by the Citywide Parent Council, a parent or guardian chosen by the Boston Special Education Parent Advisory Council, a representative chosen by the Code of Conduct Advisory Council, a representative of the District English Learner Advisory Committee, a teacher chosen by the Boston Teachers Union, a local immigration advocate chosen by the Student Immigrant Movement (SIM), a civil rights advocate chosen by Lawyers for Civil Rights, and an immigration attorney familiar with the immigration consequences of criminal proceedings chosen by the Political Asylum/Immigration Representation Project.
3. The Superintendent shall report monthly to the board:
  - A) The number of Student Reports created, disaggregated by school;
  - B) The number of Student Reports shared with any outside entity, disaggregated by school and receiving entity;
  - C) The number of Student Reports reviewed by the Legal Advisor for the School Department that did not meet the criteria specified in Section 16-63.4a1, disaggregated by school, and including the date of each incident, a description of each incident, the race, ethnicity, gender, age, and grade level of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entity.
  - D) The number of Student Reports written under Section 16-63.4a, disaggregated by school, including the date of the incident, a description of the incident including the justification for the creation of the report per Section 16-63.4a1, the type of report, the race, ethnicity, gender, age and grade of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entities.
4. The board will review the information provided under Section 16-63.4g3 and may request that School Safety Specialists or District personnel respond to questions, either in writing or at a public meeting, relating to the information provided.

5. The board shall review the information for patterns and compliance with this ordinance. It shall issue findings and report such findings to the City Council and School Committee on a quarterly basis.
- h) Accountability and Training
1. All School Safety Specialists and school administrators must receive training on this policy, and the training will be designed in collaboration with the Student Immigrant Movement and Boston Teachers Union's Unafraid Educators. The training will also be provided by the Central Office and not by individual schools. Training materials will be made publicly available.
  2. All School Safety Specialists and BPS personnel, including school administrators, will sign an acknowledgment of responsibility for safeguarding student information under Section 16-63.4 of this ordinance, FERPA, and state student records law.
  3. All new School Safety Specialists will receive training on the requirements of Section 16-63.4 of this ordinance as part of their orientation.
  4. All School Safety Specialists must be trained every three years or at the discretion of the community oversight board.
  5. Any transfer of information about students in violation of Section 16-63.4 of this ordinance shall result in appropriate disciplinary action, up to and including dismissal, in accordance with the rules of collective bargaining.
  6. Should any School Safety Specialist be found to have violated this policy, the Superintendent will instruct the Chief of Safety Services to suspend all authorization of School Safety Specialists report submissions to BPD pending a full investigation of such violation.
- i) Nothing in this section shall be construed to prevent or restrict reporting requirements around sexual assault, sexual abuse, and child abuse in accordance with Massachusetts General Laws.

#### **16-63.5      Annual Surveillance Report**

- a) Applicability: This section shall apply to the following City departments and agencies: the Boston Police Department, Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word "City" shall mean the City departments and agencies listed above.

- b) Within 18 months of the effective date, and annually thereafter, all applicable City departments shall submit to the Mayor an Annual Surveillance Report pertaining to each City department for which approval for the use of Surveillance Technology or Surveillance Data has been obtained under Sections 16-63.3c and 16-63.3d of this ordinance. Upon receipt of such reports, the Mayor shall promptly submit them to the City Council. Any Annual Surveillance Report submitted under this section shall be made publicly available on the City's website upon submission to the council.
- c) The Annual Surveillance Report submitted pursuant to this section shall include all of the following:
  - 1. A description of how Surveillance Technology has been used, including whether it captured images, sound, or other information regarding members of the public who are not suspected of engaging in unlawful conduct;
  - 2. Whether and how often data acquired through the use of the Surveillance Technology was shared with local, state, and federal, the name of any recipient entity, the type(s) of data disclosed, any legal standard(s) under which the information was disclosed, and the justification for the disclosure;
  - 3. A summary of community complaints or concerns about the Surveillance Technology, if any;
  - 4. The results of any internal audits, any information about violations of the Surveillance Use Policy, and any actions taken in response other than to the extent that such inclusion would violate the privacy rights of an employee of the City;
  - 5. A detailed accounting of whether the Surveillance Technology has been effective at achieving its identified purpose;
  - 6. The number of public records requests received by the City seeking documents concerning Surveillance Technologies approved during the previous year;
  - 7. An estimate of the total annual costs for the Surveillance Technology, including personnel and other ongoing costs, and what source(s) of funding will fund the technology in the coming year, if known;
  - 8. Whether the civil rights and liberties of any communities or groups, including communities of color or other marginalized communities in the City are disproportionately impacted by the deployment of the Surveillance Technology; and
  - 9. A disclosure of any new agreements made in the past 12 months with non-City entities that may include acquiring, sharing, or otherwise using Surveillance Technology or the Surveillance Data it provides.

- d) Based upon information provided in the Annual Surveillance Report, the City Council shall determine whether the benefits to the applicable, impacted City department(s) and the community of the Surveillance Technology outweigh the financial and operational costs and whether reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by the deployment of the Surveillance Technology. If the benefits or reasonably anticipated benefits do not outweigh the financial and/or operational costs or civil liberties or civil rights are not reasonably safeguarded, the City Council may recommend modifications to the Surveillance Use Policy that are designed to address the City Council's concerns to the Mayor for their consideration; withdraw authorization for continued use of Surveillance Technology by a majority vote of the City Council; and/or request a report back from the Mayor regarding steps taken to address the City Council's concerns. Should the Council withdraw authorization for a previously approved surveillance technology, the Mayor may request that the Surveillance Oversight Advisory Board meet to discuss the City Council's concerns and provide recommendations to the Mayor. The mayor at their discretion may resubmit a modified request to the City Council for approval.
- e) Nothing in this ordinance shall prohibit the City Council from enacting a separate ordinance to ban or otherwise regulate any Surveillance Technology, whether previously approved or not.
- f) No later than May 31 of each year, the City Council shall hold a meeting to discuss the applicable City departments' Annual Surveillance Reports, and shall publicly release a report that includes a summary of all requests for approval of Surveillance Technology received by the City Council during the prior year, including whether the City Council approved or denied the City's request for acquisition or use of the Surveillance Technology.

#### **16-63.6 Enforcement**

- a) Enforcement officials: This ordinance shall be enforced by the Mayor's office or the Mayor's designee.
- b) Suppression: No data collected or derived from any use of Surveillance Technology in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the City of Boston.



- c) Cause of action: Any violation of this ordinance constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this ordinance. An action instituted under this paragraph shall be brought against the City and, if necessary to effectuate compliance with this ordinance, any other governmental agency with possession, custody, or control of data subject to this ordinance.
- d) The City will address alleged violations of this ordinance in accordance with its usual practices, applicable law, and contractual obligations.
- e) Whistleblower protections. Subject to the limitations and requirements set forth in G. L. c. 149, §185 (the “Massachusetts Whistleblower Statute” or “Section 185”) as it may be amended from time to time, any City employee as defined in Section 185 who reports an alleged violation of this ordinance, shall be afforded protections against retaliation if applicable pursuant to Section 185, as set forth in and subject to the limitations and requirements of Section 185.
- f) Nothing in this ordinance shall be construed to limit or affect any individual’s rights under state or federal laws.

#### **16-63.7 Severability**

- a) The provisions in this ordinance are severable. If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall continue to have full force and effect.

#### **16-63.8 Effective Date and Implementation**

The effective date and implementation of the ordinance shall be as follows.

- a) The ordinance shall take effect and be implemented in the manner and ways described in this section.
- b) The ordinance shall take effect notwithstanding any other provision of law and shall supersede any prior law and regulation enacted by the City of Boston and/or any agreement entered into by the City of Boston or any of its agencies that are interpreted to be in conflict with its provisions.
- c) Sections 16-63.1, 16-63.2, 16-63.4, 16-63.6, and 16-63.7 shall take effect one month after its adoption in accordance with the following provisions:
  - 1. Every School Safety Specialist shall create a record of Historic Student Reports
  - 2. Within four months of the Effective Date:

- A) The Historic Student Reports that do not conform with Section 16-63.4a1 shall be destroyed, in both print and electronic form, provided that such destruction is permitted under the state law relating to retention of records.
  - B) The Historic Student Reports that conform with Section 16-63.4a1 can be retained, provided there is a previous certification by the BPS Legal Advisor that their creation meets such requirements.
  - C) All reports created more than 5 years ago shall be destroyed.
3. Within six months of the Effective Date, the Head of the School Safety Specialists and the Legal Advisor must submit a report to the Community Information-Sharing Oversight Board. Such report must contain:
- A) The number of Historic Student Reports, including the format or file type of the report, description of each incident, disaggregated by race, ethnicity, gender, age, and grade level of each student who is named in the report;
  - B) The number of Historic Student Reports retained in accordance with Section 16-63.8c2A;
  - C) The number of Historic Student Reports destroyed in accordance with Section 16-63.8c2B and 16-63.8c2C;
4. No more than one month after receiving such report, the Community Information-Sharing Oversight Board shall call a public hearing to discuss the Historic Student Reports. The Head of the School Safety Specialists as well as individual School Safety Specialists shall be present at such public hearing.
- d) Sections 16-63.3 and 16-63.5 shall take effect nine months after their adoption.

#### **16-63.9 Establishment of a Surveillance, Data, and Privacy Working Group**

- a) The Working Group shall be tasked with identifying a set of priorities and implementable objectives to increase the transparency, accountability, and engagement around the public deployment of technology and use of data within City of Boston Departments not covered by this ordinance.
- b) The Working Group will move forward sustainable policies to increase engagement on the topic of privacy and supply recommendations on professional development opportunities and training for City staff.
- c) The Working Group must produce recommendations for implementation within one year from the date of adoption to the Mayor and City Council.

- d) The Working Group shall comprise a representative from the Mayor's Office of New Urban Mechanics, a representative from the Department of Innovation and Technology, a representative from the City Council to be chosen by the Boston City Council President, a representative from the Massachusetts American Civil Liberties Union, a representative from the community-at-large to be chosen by SIM, and a representative appointed by the Mayor.
- e) The Working Group will dissolve upon the publication of recommendations to the Mayor and City Council.
- f) The Working Group seats shall be filled within one month of this ordinance's passage and the Group shall convene for its first meeting one month thereafter.

Filed in City Council: October 20, 2021

**From:** Jillian Eweka <jillian.eweka@boston.gov>  
**Sent:** Monday, April 11, 2022 1:05 PM EDT  
**To:** david.carabin@pd.boston.gov <david.carabin@pd.boston.gov>  
**Subject:** Ordinance  
**Attachment(s):** "COB Surveillance Ordinance.pdf"

I actually think this is the same document we've all seen! Andrew just wanted us to make sure we sent any projects to him that may fall under it.

I don't think there are any changes but I could be wrong. Let me know if you notice any!



## CITY OF BOSTON IN CITY COUNCIL

*WHEREAS*, Governments around the world are responding to the COVID-19 pandemic with an unprecedented use of surveillance tools, despite public health and privacy experts agreeing that public trust is essential to an effective response to the pandemic; *and*

*WHEREAS*, Surveillance technology and electronic data gathering can be useful tools for advancing effective delivery and analysis of constituent services, public safety and security; *and*

*WHEREAS*, Usage of surveillance technology must include safeguards with accountability to the public in order to protect privacy rights and civil liberties; *and*

*WHEREAS*, Boston Public Schools should be welcoming and safe environments for all students regardless of immigration status or race. Due to COVID-19, Boston Public Schools has transitioned entirely to online learning where it is expected that even after returning to in-person learning, technology will be a larger part of education; *and*

*WHEREAS*, As people in Boston and across the state are sheltering in place, we are growing more dependent on technology to connect us to each other and to our government; *and*



*WHEREAS*, Cities around the country such as Cambridge, Somerville, Santa Clara, and Providence have created ordinances governing the acquisition and use of surveillance technology and electronic data in order to protect the civil liberties of their citizens while allowing for appropriate use to assist in the charge of improving delivery of services and public safety; *and*

*WHEREAS*, As more municipalities move toward electronic data collection used to manage assets and resources efficiently and new technologies are becoming available, the public would benefit from proactive discussion of current practices and future acquisitions. *NOW, therefore be it ordained by the City Council of Boston as follows:*

That the City of Boston Code, Ordinances, be amended in Chapter XVI by adding the following after 16-62:

### **16-63: ORDINANCE ON SURVEILLANCE OVERSIGHT AND INFORMATION SHARING**

**16-63.1 Purpose:** The purpose of this ordinance is to provide accountability, transparency, and oversight regarding the acquisition and use of Surveillance Technology and Surveillance Data by the City of Boston and its agencies and officers, and to protect privacy, civil rights, and racial and immigrant justice while allowing for appropriate use to assist in the charge of improving delivery of services and public safety.

#### **16-63.2 Definitions:**

The following definitions apply to this Ordinance:

*Annual Surveillance Report* means a written report submitted by the Mayor's office on an annual basis concerning specific Surveillance Technology used during the previous year and containing the information set forth in this ordinance by the following City Departments and Agencies: the Boston Police Department, the Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.



*Exigent Circumstances* means the police commissioner, the police commissioner's designee, the head of BHA's Police, or the head of the BPHC Police's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render it impracticable to obtain a warrant, requires the use of the Surveillance Technology or the Surveillance Data it provides. The use of Surveillance Technology in Exigent Circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.









*Identifiable Individual* means an individual whose identity can be revealed by data, including Surveillance Data, or revealed by data when it is analyzed and/or combined with any other type of record.



*Surveillance* means the act of observing or analyzing the movements, behavior, or actions of Identifiable Individuals.

*Surveillance Data* means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the City or operated at the direction of the City.

*Surveillance Technology* means any device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, associational, or similar information specifically associated with, or capable of being associated with, any identifiable individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.

a) Examples of Surveillance Technology include, but are not limited to:

1. International mobile subscriber identity (IMSI) catchers and other cell-site simulators;
-  2. Automatic license plate readers;
3. Electronic toll readers;
4. Closed-circuit television cameras except as otherwise provided herein;
5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
6. Mobile DNA capture technology;
-  7. Gunshot detection and location hardware and services;
-  8. X-ray vans;
9. Video and audio monitoring and/or recording technology, such as surveillance cameras; 
10. Surveillance enabled or capable light bulbs or light fixtures;
11. Tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
-  12. Social media monitoring software;
13. Through-the-wall radar or similar imaging technology;
-  14. Passive scanners of radio networks;

- 15. Long-range Bluetooth and other wireless-scanning devices;
-  16. Thermal imaging or “forward-looking infrared” devices or cameras;
- 17. Electronic database systems containing Surveillance Data about Identifiable Individuals;
- 18. Radio-frequency identification (RFID) scanners; and
-  19. Software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software.

*Surveillance Technology Impact Report* means a written report submitted by the Mayor’s office with a request for approval of acquisition or use of Surveillance Technology, and which includes, at a minimum, the requirements set forth in this ordinance.

*Surveillance Use Policy* means a policy for the City’s use of Surveillance Technology, approved by the Corporation Counsel and the Mayor’s office, and submitted by the Mayor’s office to and approved by the City Council. The Surveillance Use Policy shall at a minimum satisfy the requirements set forth in this ordinance.

*Technology-Specific Surveillance Use Policy* means a policy governing the City’s use of a specific Surveillance Technology not already covered under the City’s Surveillance Use Policy, approved by the Corporation Counsel and the Mayor, and submitted by the Mayor to the City Council with a Surveillance Technology Impact Report under this ordinance.

*BPS* means the Boston Public Schools.

*BPS personnel* means any employee or agent of the Boston Public Schools, excluding School Safety Specialists.

*School Safety Specialists* means any officials or employees that belong to the Boston Public Schools Department of Safety Services or any other security and enforcement personnel, and that may or may not be licensed by the Boston Police Department as special police officers.



*BPD* means the City of Boston Police Department.

*Student Report* means a written record that is not an educational record protected under FERPA and that is created by School Safety Specialists or by BPS personnel and that pertains to a student. Student Reports include but are not limited to School Safety Reports, BPD Form 1.1 Incident Reports, Field Interrogation and Observation Reports, Intelligence Reports, and Face Sheets. Student Reports also include informal emails, texts, and other electronic messages that describe or contain details pertaining to student activity.

*Historic Student Reports* mean Student Reports that they have created or produced prior to the Effective Date of this ordinance.

*Serious bodily harm* means bodily injury that results in permanent disfigurement, loss or impairment of a bodily function, limb or organ, or substantial risk of death.



*Surveillance Oversight Advisory Board* is a group comprised of five individuals, one representative to be chosen by each of the following: the president of the City Council, the Massachusetts American Civil Liberties Union, and the Boston Police Commissioner, and two representatives chosen by the Mayor, at least one of whom shall be an academic representative with expertise in technology and public policy issues. The Board shall serve as an advisory body to host further discussion and provide recommendations on surveillance issues to the Mayor.

### **16-63.3 Community Control Over Surveillance**

#### **a) Applicability**



This section shall ~~only~~ apply to the following City departments and agencies: the Boston Police Department, Boston Public Schools, Boston Public Health Commission, the Boston Parks Department Park Rangers, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word "City" shall mean the City departments and agencies listed above.

#### **b) Exceptions and Exemptions**

The following situations are exceptions and exemptions from this ordinance.

1. The following do not constitute Surveillance Data and are exempted from the requirements of this Ordinance:
  - A) Surveillance Data acquired where the individual knowingly and voluntarily consented to provide the information, such as submitting personal information for the receipt of City services; and
  - B) Surveillance Data acquired where the individual was presented with a clear and conspicuous opportunity to opt-out of providing the information.
2. Surveillance Technology does not include the following devices, software, or hardware, which are exempt from the requirements of this ordinance, unless the devices, hardware, or software are modified to include additional surveillance capabilities:
  - A) Routine office hardware, such as televisions, computers, and printers, that are in widespread public use and will not be used for any surveillance or surveillance- related functions;
  - B) Parking ticket devices (PTDs) and related databases;
  - C) Manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously, that are used for non-law enforcement and non-investigatory purposes, and whose functionality is used for manually capturing and manually downloading video and/or audio recordings;
  - D) Cameras installed in or on a police vehicle;
  - E) Cameras installed pursuant to state law authorization in or on any vehicle or along a public right-of-way solely to record traffic violations or traffic patterns, provided that the Surveillance Data gathered is used only for that purpose;
  - F) Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
  - G) City databases that do not and will not contain any Surveillance Data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology;
  - H) Manually-operated technological devices that are used primarily for internal City communications and are not designed to surreptitiously collect Surveillance Data, such as radios and email systems;

- I) Parking access and revenue control systems, including proximity card readers and transponder readers at City-owned or controlled parking garages;
  - J) Card readers and key fobs used by City employees and other authorized persons for access to City-owned or controlled buildings and property;
  -  K) Cameras installed on City property solely for security purposes, including closed-circuit television cameras installed by the City, to monitor entryways and outdoor areas of City-owned or controlled buildings and property for the purpose of controlling access, maintaining the safety of City employees and visitors to City buildings, and protecting City property;
  - L) Security cameras including closed-circuit television cameras installed by the City to monitor cashiers' windows and other cash-handling operations and to maintain the safety of City employees and visitors to such areas;
  -  M) Cameras installed solely to protect the physical integrity of City infrastructure; or
  - N) Technology that monitors only City employees in response to complaints of wrongdoing or in order to prevent waste, fraud, or abuse of City resources.
  - O) Devices exclusively capable of detecting radiation.
  - P) Radio-frequency identification scanners (RFIDs) used for disaster patient tracking by the Boston Public Health Commission.
  - Q) BPHC technology used to track BPHC owned or leased equipment and vehicles
3. Notwithstanding the provisions of this ordinance, BPD, BHA Police, or BPHC Police may temporarily acquire or temporarily use Surveillance Technology in Exigent Circumstances for a period not to exceed 30 days without following the provisions of this chapter before that acquisition or use. However, if these bodies acquire or use Surveillance Technology in Exigent Circumstances under this section, the BPD Commissioner, BHA Head of Police, or BPHC Head of Police must:
- A) Report that acquisition or use to the City Council in writing within 30 days following the end of those Exigent Circumstances;
  - B) Submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy to the City Council regarding that Surveillance Technology within 30 days following the end of those Exigent Circumstances; and

- C) Include that Surveillance Technology in the Department or Agency's next Annual Surveillance Report to the City Council following the end of those Exigent Circumstances.
  - D) If the Department or Agency is unable to meet the 30-day timeline to submit a Surveillance Technology Impact Report and, if necessary, a technology-specific Surveillance Use Policy to the City Council, the Department or Agency must notify the City Council in writing requesting to extend this period. The City Council may grant extensions beyond the original 30-day timeline to submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy.
  - E) Any Surveillance Technology Impact Report, and, if necessary, any Technology-Specific Surveillance Use Policy submitted to the City Council under this subsection shall be made publicly available on the City's website upon submission to the City Council.
  - F) Any Surveillance Technology Impact Report and, if necessary, technology-specific Surveillance Use Policy submitted to the City Council under this section may be redacted to the extent required to comply with an order by a court of competent jurisdiction, or to exclude information that, in the reasonable discretion of the Commissioner of police, if disclosed, would materially jeopardize an ongoing investigation or otherwise represent a significant risk to public safety and security provided, however, that any information redacted pursuant to this paragraph will be released in the next Annual Surveillance Report following the point at which the reason for such redaction no longer exists.
4. A City department head may apply a technical patch or upgrade that is necessary to mitigate threats to the City's environment. The department shall not use the new surveillance capabilities of the technology until the requirements of this ordinance are met, unless the Mayor, or their designee, determines that the use is unavoidable; in that case, the Mayor shall request City Council approval as soon as possible. The request shall include a report to the City Council of how the altered surveillance capabilities were used since the time of the upgrade. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.


c) Surveillance Use Policy





1. The Mayor shall submit to the City Council for its review and approval a proposed Surveillance Use Policy applicable to each applicable City Department that possesses or uses Surveillance Technology before the effective date of this ordinance. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
2. Any Surveillance Use Policy submitted under this section shall be made publicly available upon submission to the City Council.
3. A Surveillance Use Policy shall at a minimum specify the following:
  - A) Purpose: the specific purpose(s) for the Surveillance Technology;
  - B) Authorized use: the uses that are authorized, the rules and processes required before that use, and the uses that are prohibited;
  - C) Data collection: the Surveillance Data that can be collected by the Surveillance Technology;
  - D) Data access: the individuals who can access or use the collected Surveillance Data, and the rules and processes required before access or use of the information;
  - E) Data protection: the safeguards that protect information from unauthorized access, including, but not limited to, encryption, access-control, and access-oversight mechanisms;
  - F) Data retention: the time period, if any, for which information collected by the Surveillance Technology will be routinely retained, the reason that retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period has elapsed, and the conditions that must be met to retain information beyond that period;
  - G) Public access: if and how collected Surveillance Data can be accessed by members of the public, including criminal defendants;
  - H) Information and data-sharing: if and how other City or non-City entities can access or use the Surveillance Data, how information is shared among City agencies or between City agencies and non-City entities and organizations, including any required justification and legal standard necessary to do so, and any obligation(s) imposed on the recipient of the Surveillance Data;

- I) Training: the training, if any, required for any individual authorized to use the Surveillance Data or technology or to access information collected by the Surveillance Technology, including whether there are training materials;
  - J) Oversight: the mechanisms to ensure that the Surveillance Use Policy is followed, including, but not limited to, identifying personnel assigned to ensure compliance with the policy, internal record keeping of the use of the technology or access to information collected by the Surveillance Technology, audit requirements or procedures, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the sanctions for violations of the policy;
  - K) Legal Authority: the statutes, regulations, or legal precedents, if any, that control the collection, capturing, recording, retaining, processing, interception, analysis, release, or disclosure of Surveillance Data and technology; and
  - L) Child Rights: special considerations specific to Surveillance Technology and Surveillance Data pertaining to minor children.
4. The City Council shall vote to approve or deny the Surveillance Use Policy by a vote of a simple majority within 60 days of submission. If the City Council does not approve the Surveillance Use Policy, the Policy shall be sent to the Surveillance Oversight Advisory Board who will make recommendations of improvement to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- d) Surveillance Technology Impact Report and Technology-Specific Surveillance Use Policy
1. The Mayor's office must seek and obtain approval from the City Council as set forth in this section prior to the City acquiring, using, or entering into an agreement to acquire, share or otherwise use, unapproved Surveillance Technology or Surveillance Data as defined in this ordinance.

- A) The City may seek, but not accept, funds for Surveillance Technology without approval from the City Council, provided that the City shall notify the City Council of the funding application at the time it is submitted, and include in this notification the deadline of the funding opportunity and details regarding the nature of the Surveillance Technology for which funding is sought. If the City Council declines to accept funds for Surveillance Technology the request to accept the funds shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
2. Acquisition of Surveillance Technology by applicable City departments. Unless exempted or excepted from the requirements of this ordinance, any applicable City department intending to acquire new Surveillance Technology or Surveillance Data, including but not limited to procuring that Surveillance Technology without the exchange of monies or other consideration, or use Surveillance Technology or Surveillance Data for a purpose or in a manner not previously approved, shall, prior to acquisition or use, obtain council approval of the acquisition or use. The process for obtaining approval shall be as follows:
-  A) The City department shall submit a Surveillance Technology Impact Report, and, if necessary, a Technology-Specific Surveillance Use Policy, as described below, to the Mayor's office for review and approval.
- B) If the request is approved by the Mayor's office, the Mayor's office shall submit the request, including copies of the City department's Surveillance Technology Impact Report and, if applicable, Technology-Specific Surveillance Use Policy, to the City Council for review.
- C) The City Council shall have 60 days from the date of submission to approve or deny a request by majority vote for the acquisition or use of Surveillance Technology. If the City Council does not approve the acquisition or use of Surveillance technology the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- D) Contents of Surveillance Technology Impact Report. A Surveillance Technology Impact Report submitted shall include all of the following:
- E) Information describing the Surveillance Technology and how it works;



- F) Information on the proposed purpose(s) for the Surveillance Technology;
  - G) Information describing the kind of surveillance the Surveillance Technology will conduct and what Surveillance Data will be gathered, including a detailed accounting of which entities may have access to any Surveillance Data, under what circumstances (e.g. ongoing automated access, subject to an informal request, subject to subpoena, subject to a warrant, etc.);
  - H) The location(s) the Surveillance Technology may be deployed and when;
  - I) A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the equipment will be regulated to protect privacy and anonymity, and to limit the risk of abuse;
  - J) The potential impact(s) on privacy in the City; the potential impact on the civil rights and liberties of any individuals, communities or groups, including, but not limited to, communities of color or other marginalized communities in the City, and a description of a plan to address these impact(s);
  - K) An estimate of the fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding; and
  - L) An explanation of how the Surveillance Use Policy will apply to this Surveillance Technology and, if it is not sufficiently applicable, a Technology-Specific Surveillance Use Policy.
3. A Technology-Specific Surveillance Use Policy shall be required if the purpose, authorized use, data collection, data access, data protection, data retention, public access, third-party data sharing, training, or oversight of the requested Surveillance Technology differ from the standards in the Surveillance Use Policy submitted under Sections 16-63.3c and 16-63.3d.
- A) A Technology-Specific Surveillance Use Policy shall not conflict with any provision of the City's Surveillance Use Policy.
  - B) To the extent a conflict arises between the provisions of the City's Surveillance Use Policy and a Technology-Specific Surveillance Use Policy, the City's Surveillance Use Policy shall govern. A Technology-Specific Surveillance Use Policy shall include all of the elements of the Surveillance Use Policy as outlined in Section 16-63.3b.
- ~~4.~~ Any Surveillance Technology Impact Report, and, if necessary, Technology-Specific Surveillance Use Policy submitted to the City Council under Sections 16-63.3c and 16-63.3d shall be made publicly available on the City's website upon submission to the council.



#### **16-63.4 Boston Public Schools And Boston Police Department Information-sharing Policy**

- a) School Safety Specialists shall not collect, store, or share information pertaining to students except by creating and sharing Student Reports in accordance with this Chapter.
  - 1. Student Reports shall only be created when:
    - A) Serious bodily harm to an individual has occurred as a result of willful conduct by a student;
    - B) A credible threat to the safety of the school arises that would amount to criminal conduct;
    - C) A student is in possession of firearms as defined in Chapter 269 section 10 (j), ammunition, or a dangerous weapon as defined in M.G.L. Chapter 269 section 10 (b); or
    - D) A student unlawfully possesses or uses controlled substances, provided those substances are not marijuana, nicotine, or alcohol, and further provided, however, that School Safety Specialists may collect, store and share information pertaining to unlawful distribution of alcohol or marijuana when a student has unlawfully distributed marijuana or alcohol on school grounds in excess of the following amounts: thirty (30) grams for marijuana and one (1) liter for alcohol.
  - 2. School Safety Specialists may not create a Student Report relating to matters that are not described above.
  - 3. Student Reports shall not contain information pertaining to:
    - A) Immigration status;
    - B) Citizenship;
    - C) Address and/or neighborhood of residence;
    - D) Religion;
    - E) National origin;
    - F) Students' native or spoken language;
    - G) Suspected, alleged, or confirmed gang involvement, affiliation, association, or membership;
    - H) Participation in school activities, extracurricular activities outside of school, sports teams, or school clubs or organizations;
    - I) Degrees, Honors, or Awards; or
    - J) Post-high school plans.

4. Before creating the Student Report, the School Safety Specialists must discuss the writing of the report with the Principal(s) or Head(s) of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work. The required Principals or Heads of School must document in writing that the incident at hand merits a report under the criteria in Section 16-63.4a.
  5. Principals and Heads of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work must receive copies of all Student Reports written under this section immediately upon writing.
    - A) Within 24 hours of the writing of a Student Report under this section, the relevant Principals and/or Heads of School must provide a copy of the report, with any necessary redactions to protect student privacy, to every student referenced by name in the Report, as well as to those students' families. Reports which involve allegations of parental/household abuse may also be withheld from students' families if disclosure of the report is not in the best interest of the student. In cases of allegations of parental/household abuse, a copy of the Report shall be provided to the student or a trusted adult of their choosing.
- b) Rules for Student Information Sharing
1. School Safety Specialists and BPS personnel shall not transmit to or share with BPD or any other outside entities any information about students, including but not limited to Student Reports, through any official or unofficial channels, including but not limited to text, phone, email, database, and in-person communication, except if the transmission or sharing is done (i) pursuant to Section 16-63.4c or (ii) in Exigent Circumstances pursuant to Section 16-63.4d.
- c) Transmitting information to the BPD and other entities outside the Boston Public Schools
1. BPS personnel and School Safety Specialists may not send information relating to Boston Public Schools students to the Boston Regional Intelligence Center (BRIC), federal immigration authorities, federal law enforcement agencies, or any law enforcement fusion center under any circumstances, except where required by state or federal law.
  2. BPS personnel may not transmit to the BPD any student information, including but not limited to a Student Report, unless in response to a judicial warrant issued upon a finding of probable cause, as required under MGL c. 269, sec. 10(j) and MGL c. 71, sec. 37L, or as otherwise required by state or federal law. Nothing in this ordinance shall limit the ability of Boston Public Schools to release information as required by state or federal laws and regulations.

3. Before BPS personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to BPD or to any other entity outside of the Boston Public Schools in accordance with Sections 16-63.4c1 and 16-63.4c2, the following must take place:
  - A) Any student named in a Student Report or other record, and their parent or guardian, must be notified in writing that the Student Report they received pursuant to Section 16-63.4a5A will be transmitted to BPD or to the outside agency and receive an explanation of why the information reflected in the report is prompting the communication. All written materials must be provided in both English and the language spoken by the relevant student's parent or guardian.
  - B) The Boston Public Schools must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter of the family's choosing must be present for any party that requires one. The interpreter cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred interpreter, BPS must provide a qualified translator.
  - C) The Principals and Heads of School mentioned in Section 16-63.4a5A, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1, they must place a note in the record attesting to this fact, and the Student Report may not be transmitted to the BPD or any entity outside of BPS.
  - D) The student and family may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - E) Students and families may amend a student's record by placing a note with information relating to any Student Report in which the student is named in the student's file.
- d) Transmission of information pursuant to Exigent Circumstances
  1. Within 12 hours after a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances:

- A) The School Safety Specialists must notify the relevant Principal or Head of School that student information was shared with the BPD, and provide the relevant Principal or Head of School with a copy of the information shared;
- 2. Within 24 hours after the conclusion of the exigent circumstance or within 24 hours after BPS Personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances, the relevant Principal or Head of School shall:
  - A) Notify in writing any student whose information or Student Report was shared and their parent or guardian that the student information was shared, and share a copy of the information transmitted and an explanation of the incident prompting the communication to BPD after the information was transmitted. All written materials must be provided in both English and the language spoken by the parent or guardian.
  - B) The relevant Principal or Head of School must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter/translator of the parent or guardian's choosing must be present for any party that requires one. The interpreter/translator cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred translator, BPS must provide a qualified translator.
    - I. The student and parent or guardian may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - C) If the information shared was a Student Report, the Principals and/or Heads of School mentioned in Section 16-63.4a5, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1 they must place a note in the record attesting to this fact, and the BPD must be notified to the same within 3 business hours.
- e) School Safety Specialists shall not attend any meetings where officers or employees from U.S. Immigrations and Customs Enforcement are present, either in person or virtually.
- f) Transparency and Communication

1. Students, families, school administrators, teachers, and counselors must be made aware of this ordinance by including a copy of the ordinance in the Guide to Boston Public Schools.

g) Community Information-Sharing Oversight Board

1. A community oversight board shall be created to provide oversight regarding the implementation of Section 16-63.4 of this ordinance.
2. The board must include at least one representative from each of the following groups: a student chosen by the Boston Student Advisory Council, a parent or guardian chosen by the Citywide Parent Council, a parent or guardian chosen by the Boston Special Education Parent Advisory Council, a representative chosen by the Code of Conduct Advisory Council, a representative of the District English Learner Advisory Committee, a teacher chosen by the Boston Teachers Union, a local immigration advocate chosen by the Student Immigrant Movement (SIM), a civil rights advocate chosen by Lawyers for Civil Rights, and an immigration attorney familiar with the immigration consequences of criminal proceedings chosen by the Political Asylum/Immigration Representation Project.
3. The Superintendent shall report monthly to the board:
  - A) The number of Student Reports created, disaggregated by school;
  - B) The number of Student Reports shared with any outside entity, disaggregated by school and receiving entity;
  - C) The number of Student Reports reviewed by the Legal Advisor for the School Department that did not meet the criteria specified in Section 16-63.4a1, disaggregated by school, and including the date of each incident, a description of each incident, the race, ethnicity, gender, age, and grade level of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entity.
  - D) The number of Student Reports written under Section 16-63.4a, disaggregated by school, including the date of the incident, a description of the incident including the justification for the creation of the report per Section 16-63.4a1, the type of report, the race, ethnicity, gender, age and grade of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entities.
4. The board will review the information provided under Section 16-63.4g3 and may request that School Safety Specialists or District personnel respond to questions, either in writing or at a public meeting, relating to the information provided.


5. The board shall review the information for patterns and compliance with this ordinance. It shall issue findings and report such findings to the City Council and School Committee on a quarterly basis.
- h) Accountability and Training
1. All School Safety Specialists and school administrators must receive training on this policy, and the training will be designed in collaboration with the Student Immigrant Movement and Boston Teachers Union's Unafraid Educators. The training will also be provided by the Central Office and not by individual schools. Training materials will be made publicly available.
  2. All School Safety Specialists and BPS personnel, including school administrators, will sign an acknowledgment of responsibility for safeguarding student information under Section 16-63.4 of this ordinance, FERPA, and state student records law.
  3. All new School Safety Specialists will receive training on the requirements of Section 16-63.4 of this ordinance as part of their orientation.
  4. All School Safety Specialists must be trained every three years or at the discretion of the community oversight board.
  5. Any transfer of information about students in violation of Section 16-63.4 of this ordinance shall result in appropriate disciplinary action, up to and including dismissal, in accordance with the rules of collective bargaining.
  6. Should any School Safety Specialist be found to have violated this policy, the Superintendent will instruct the Chief of Safety Services to suspend all authorization of School Safety Specialists report submissions to BPD pending a full investigation of such violation.
- i) Nothing in this section shall be construed to prevent or restrict reporting requirements around sexual assault, sexual abuse, and child abuse in accordance with Massachusetts General Laws.

#### **16-63.5      Annual Surveillance Report**

- a) Applicability: This section shall apply to the following City departments and agencies: the Boston Police Department, Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word "City" shall mean the City departments and agencies listed above.



- b) Within 18 months of the effective date, and annually thereafter, all applicable City departments shall submit to the Mayor an Annual Surveillance Report pertaining to each City department for which approval for the use of Surveillance Technology or Surveillance Data has been obtained under Sections 16-63.3c and 16-63.3d of this ordinance. Upon receipt of such reports, the Mayor shall promptly submit them to the City Council. Any Annual Surveillance Report submitted under this section shall be made publicly available on the City's website upon submission to the council.
- c) The Annual Surveillance Report submitted pursuant to this section shall include all of the following:
  - 1. A description of how Surveillance Technology has been used, including whether it captured images, sound, or other information regarding members of the public who are not suspected of engaging in unlawful conduct;
  - 2. Whether and how often data acquired through the use of the Surveillance Technology was shared with local, state, and federal, the name of any recipient entity, the type(s) of data disclosed, any legal standard(s) under which the information was disclosed, and the justification for the disclosure;
  - 3. A summary of community complaints or concerns about the Surveillance Technology, if any;
  - 4. The results of any internal audits, any information about violations of the Surveillance Use Policy, and any actions taken in response other than to the extent that such inclusion would violate the privacy rights of an employee of the City;
  - 5. A detailed accounting of whether the Surveillance Technology has been effective at achieving its identified purpose;
  -  6. The number of public records requests received by the City seeking documents concerning Surveillance Technologies approved during the previous year;
  - 7. An estimate of the total annual costs for the Surveillance Technology, including personnel and other ongoing costs, and what source(s) of funding will fund the technology in the coming year, if known;
  - 8. Whether the civil rights and liberties of any communities or groups, including communities of color or other marginalized communities in the City are disproportionately impacted by the deployment of the Surveillance Technology; and
  - 9. A disclosure of any new agreements made in the past 12 months with non-City entities that may include acquiring, sharing, or otherwise using Surveillance Technology or the Surveillance Data it provides.





- d) Based upon information provided in the Annual Surveillance Report, the City Council shall determine whether the benefits to the applicable, impacted City department(s) and the community of the Surveillance Technology outweigh the financial and operational costs and whether reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by the deployment of the Surveillance Technology. If the benefits or reasonably anticipated benefits do not outweigh the financial and/or operational costs or civil liberties or civil rights are not reasonably safeguarded, the City Council may recommend modifications to the Surveillance Use Policy that are designed to address the City Council's concerns to the Mayor for their consideration; withdraw authorization for continued use of Surveillance Technology by a majority vote of the City Council; and/or request a report back from the Mayor regarding steps taken to address the City Council's concerns. Should the Council withdraw authorization for a previously approved surveillance technology, the Mayor may request that the Surveillance Oversight Advisory Board meet to discuss the City Council's concerns and provide recommendations to the Mayor. The mayor at their discretion may resubmit a modified request to the City Council for approval.
- e) Nothing in this ordinance shall prohibit the City Council from enacting a separate ordinance to ban or otherwise regulate any Surveillance Technology, whether previously approved or not.
- f) No later than May 31 of each year, the City Council shall hold a meeting to discuss the applicable City departments' Annual Surveillance Reports, and shall publicly release a report that includes a summary of all requests for approval of Surveillance Technology received by the City Council during the prior year, including whether the City Council approved or denied the City's request for acquisition or use of the Surveillance Technology.

#### **16-63.6 Enforcement**



- a) Enforcement officials: This ordinance shall be enforced by the Mayor's office or the Mayor's designee.
- b) Suppression: No data collected or derived from any use of Surveillance Technology in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the City of Boston.

- c) Cause of action: Any violation of this ordinance constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this ordinance. An action instituted under this paragraph shall be brought against the City and, if necessary to effectuate compliance with this ordinance, any other governmental agency with possession, custody, or control of data subject to this ordinance.
- d) The City will address alleged violations of this ordinance in accordance with its usual practices, applicable law, and contractual obligations.
- e) Whistleblower protections. Subject to the limitations and requirements set forth in G. L. c. 149, §185 (the “Massachusetts Whistleblower Statute” or “Section 185”) as it may be amended from time to time, any City employee as defined in Section 185 who reports an alleged violation of this ordinance, shall be afforded protections against retaliation if applicable pursuant to Section 185, as set forth in and subject to the limitations and requirements of Section 185.
- f) Nothing in this ordinance shall be construed to limit or affect any individual’s rights under state or federal laws.


#### **16-63.7 Severability**

- a) The provisions in this ordinance are severable. If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall continue to have full force and effect.

#### **16-63.8 Effective Date and Implementation**

The effective date and implementation of the ordinance shall be as follows.

- a) The ordinance shall take effect and be implemented in the manner and ways described in this section.
- b) The ordinance shall take effect notwithstanding any other provision of law and shall supersede any prior law and regulation enacted by the City of Boston and/or any agreement entered into by the City of Boston or any of its agencies that are interpreted to be in conflict with its provisions.
- c) Sections 16-63.1, 16-63.2, 16-63.4, 16-63.6, and 16-63.7 shall take effect one month after its adoption in accordance with the following provisions:
  - 1. Every School Safety Specialist shall create a record of Historic Student Reports
  - 2. Within four months of the Effective Date:

- A) The Historic Student Reports that do not conform with Section 16-63.4a1 shall be destroyed, in both print and electronic form, provided that such destruction is permitted under the state law relating to retention of records.
  - B) The Historic Student Reports that conform with Section 16-63.4a1 can be retained, provided there is a previous certification by the BPS Legal Advisor that their creation meets such requirements.
  - C) All reports created more than 5 years ago shall be destroyed.
3. Within six months of the Effective Date, the Head of the School Safety Specialists and the Legal Advisor must submit a report to the Community Information-Sharing Oversight Board. Such report must contain:
- A) The number of Historic Student Reports, including the format or file type of the report, description of each incident, disaggregated by race, ethnicity, gender, age, and grade level of each student who is named in the report;
  - B) The number of Historic Student Reports retained in accordance with Section 16-63.8c2A;
  - C) The number of Historic Student Reports destroyed in accordance with Section 16-63.8c2B and 16-63.8c2C;
4. No more than one month after receiving such report, the Community Information-Sharing Oversight Board shall call a public hearing to discuss the Historic Student Reports. The Head of the School Safety Specialists as well as individual School Safety Specialists shall be present at such public hearing.
-  d) Sections 16-63.3 and 16-63.5 shall take effect nine months after their adoption.

#### **16-63.9 Establishment of a Surveillance, Data, and Privacy Working Group**

- a) The Working Group shall be tasked with identifying a set of priorities and implementable objectives to increase the transparency, accountability, and engagement around the public deployment of technology and use of data within City of Boston Departments not covered by this ordinance.
- b) The Working Group will move forward sustainable policies to increase engagement on the topic of privacy and supply recommendations on professional development opportunities and training for City staff.
- c) The Working Group must produce recommendations for implementation within one year from the date of adoption to the Mayor and City Council.





- d) The Working Group shall comprise a representative from the Mayor's Office of New Urban Mechanics, a representative from the Department of Innovation and Technology, a representative from the City Council to be chosen by the Boston City Council President, a representative from the Massachusetts American Civil Liberties Union, a representative from the community-at-large to be chosen by SIM, and a representative appointed by the Mayor.
- e) The Working Group will dissolve upon the publication of recommendations to the Mayor and City Council.
- f) The Working Group seats shall be filled within one month of this ordinance's passage and the Group shall convene for its first meeting one month thereafter.

Filed in City Council: October 20, 2021

General Questions:

- How to best communicate this with other jurisdictions?
- How does this effect current contracts in place?
- So the Mayor has to write the Surveillance Use Policy (who is writing it for her?) (as specified on page 2 of JM memo)
- Will the Council be providing templates for the required approval request documents? If not, I can work on shaping those (might help put us in the best light possible and show our willingness to comply)



## **CITY OF BOSTON IN CITY COUNCIL**

*WHEREAS*, Governments around the world are responding to the COVID-19 pandemic with an unprecedented use of surveillance tools, despite public health and privacy experts agreeing that public trust is essential to an effective response to the pandemic; *and*

*WHEREAS*, Surveillance technology and electronic data gathering can be useful tools for advancing effective delivery and analysis of constituent services, public safety and security; *and*

*WHEREAS*, Usage of surveillance technology must include safeguards with accountability to the public in order to protect privacy rights and civil liberties; *and*

*WHEREAS*, Boston Public Schools should be welcoming and safe environments for all students regardless of immigration status or race. Due to COVID-19, Boston Public Schools has transitioned entirely to online learning where it is expected that even after returning to in-person learning, technology will be a larger part of education; *and*

*WHEREAS*, As people in Boston and across the state are sheltering in place, we are growing more dependent on technology to connect us to each other and to our government; *and*

*WHEREAS*, Cities around the country such as Cambridge, Somerville, Santa Clara, and Providence have created ordinances governing the acquisition and use of surveillance technology and electronic data in order to protect the civil liberties of their citizens while allowing for appropriate use to assist in the charge of improving delivery of services and public safety; *and*

*WHEREAS*, As more municipalities move toward electronic data collection used to manage assets and resources efficiently and new technologies are becoming available, the public would benefit from proactive discussion of current practices and future acquisitions. *NOW, therefore be it ordained by the City Council of Boston as follows:*

That the City of Boston Code, Ordinances, be amended in Chapter XVI by adding the following after 16-62:

**16-63: ORDINANCE ON SURVEILLANCE OVERSIGHT AND INFORMATION SHARING**

**16-63.1 Purpose:** The purpose of this ordinance is to provide accountability, transparency, and oversight regarding the acquisition and use of Surveillance Technology and Surveillance Data by the City of Boston and its agencies and officers, and to protect privacy, civil rights, and racial and immigrant justice while allowing for appropriate use to assist in the charge of improving delivery of services and public safety.

**16-63.2 Definitions:**

The following definitions apply to this Ordinance:

*Annual Surveillance Report* means a written report submitted by the Mayor's office on an annual basis concerning specific Surveillance Technology used during the previous year and containing the information set forth in this ordinance by the following City Departments and Agencies: the Boston Police Department, the Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

*Exigent Circumstances* means the police commissioner, the police commissioner's designee, the head of BHA's Police, or the head of the BPHC Police's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render it impracticable to obtain a warrant, requires the use of the Surveillance Technology or the Surveillance Data it provides. The use of Surveillance Technology in Exigent Circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.

*Identifiable Individual* means an individual whose identity can be revealed by data, including Surveillance Data, or revealed by data when it is analyzed and/or combined with any other type of record.

*Surveillance* means the act of observing or analyzing the movements, behavior, or actions of Identifiable Individuals.

*Surveillance Data* means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the City or operated at the direction of the City.

*Surveillance Technology* means any device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, associational, or similar information specifically associated with, or capable of being associated with, any identifiable individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.

- a) Examples of Surveillance Technology include, but are not limited to:
1. International mobile subscriber identity (IMSI) catchers and other cell-site simulators;
  2. Automatic license plate readers;
  3. Electronic toll readers;
  4. Closed-circuit television cameras except as otherwise provided herein;
  5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
  6. Mobile DNA capture technology;
  7. Gunshot detection and location hardware and services;
  8. X-ray vans;
  9. Video and audio monitoring and/or recording technology, such as surveillance cameras;
  10. Surveillance enabled or capable light bulbs or light fixtures;
  11. Tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
  12. Social media monitoring software;
  13. Through-the-wall radar or similar imaging technology;
  14. Passive scanners of radio networks;



15. Long-range Bluetooth and other wireless-scanning devices;
16. Thermal imaging or “forward-looking infrared” devices or cameras;
17. Electronic database systems containing Surveillance Data about Identifiable Individuals;
18. Radio-frequency identification (RFID) scanners; and
19. Software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software.

*Surveillance Technology Impact Report* means a written report submitted by the Mayor’s office with a request for approval of acquisition or use of Surveillance Technology, and which includes, at a minimum, the requirements set forth in this ordinance.

*Surveillance Use Policy* means a policy for the City’s use of Surveillance Technology, approved by the Corporation Counsel and the Mayor’s office, and submitted by the Mayor’s office to and approved by the City Council. The Surveillance Use Policy shall at a minimum satisfy the requirements set forth in this ordinance.

*Technology-Specific Surveillance Use Policy* means a policy governing the City’s use of a specific Surveillance Technology not already covered under the City’s Surveillance Use Policy, approved by the Corporation Counsel and the Mayor, and submitted by the Mayor to the City Council with a Surveillance Technology Impact Report under this ordinance.

*BPS* means the Boston Public Schools.

*BPS personnel* means any employee or agent of the Boston Public Schools, excluding School Safety Specialists.

*School Safety Specialists* means any officials or employees that belong to the Boston Public Schools Department of Safety Services or any other security and enforcement personnel, and that may or may not be licensed by the Boston Police Department as special police officers.

*BPD* means the City of Boston Police Department.

*Student Report* means a written record that is not an educational record protected under FERPA and that is created by School Safety Specialists or by BPS personnel and that pertains to a student. Student Reports include but are not limited to School Safety Reports, BPD Form 1.1 Incident Reports, Field Interrogation and Observation Reports, Intelligence Reports, and Face Sheets. Student Reports also include informal emails, texts, and other electronic messages that describe or contain details pertaining to student activity.

*Historic Student Reports* mean Student Reports that they have created or produced prior to the Effective Date of this ordinance.

*Serious bodily harm* means bodily injury that results in permanent disfigurement, loss or impairment of a bodily function, limb or organ, or substantial risk of death.

*Surveillance Oversight Advisory Board* is a group comprised of five individuals, one representative to be chosen by each of the following: the president of the City Council, the Massachusetts American Civil Liberties Union, and the Boston Police Commissioner; and two representatives chosen by the Mayor, at least one of whom shall be an academic representative with expertise in technology and public policy issues. The Board shall serve as an advisory body to host further discussion and provide recommendations on surveillance issues to the Mayor.

### **16-63.3 Community Control Over Surveillance**

#### **a) Applicability**

This section shall ~~only~~ apply to the following City departments and agencies: the Boston Police Department, Boston Public Schools, Boston Public Health Commission, the Boston Parks Department Park Rangers, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word “City” shall mean the City departments and agencies listed above.

#### **b) Exceptions and Exemptions**

The following situations are exceptions and exemptions from this ordinance.

1. The following do not constitute Surveillance Data and are exempted from the requirements of this Ordinance:
  - A) Surveillance Data acquired where the individual knowingly and voluntarily consented to provide the information, such as submitting personal information for the receipt of City services; and
  - B) Surveillance Data acquired where the individual was presented with a clear and conspicuous opportunity to opt-out of providing the information.
2. Surveillance Technology does not include the following devices, software, or hardware, which are exempt from the requirements of this ordinance, unless the devices, hardware, or software are modified to include additional surveillance capabilities:
  - A) Routine office hardware, such as televisions, computers, and printers, that are in widespread public use and will not be used for any surveillance or surveillance- related functions;
  - B) Parking ticket devices (PTDs) and related databases;
  - C) Manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously, that are used for non-law enforcement and non-investigatory purposes, and whose functionality is used for manually capturing and manually downloading video and/or audio recordings;
  - D) Cameras installed in or on a police vehicle;
  - E) Cameras installed pursuant to state law authorization in or on any vehicle or along a public right-of-way solely to record traffic violations or traffic patterns, provided that the Surveillance Data gathered is used only for that purpose;
  - F) Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
  - G) City databases that do not and will not contain any Surveillance Data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology;
  - H) Manually-operated technological devices that are used primarily for internal City communications and are not designed to surreptitiously collect Surveillance Data, such as radios and email systems;

- I) Parking access and revenue control systems, including proximity card readers and transponder readers at City-owned or controlled parking garages;
  - J) Card readers and key fobs used by City employees and other authorized persons for access to City-owned or controlled buildings and property;
  - K) Cameras installed on City property solely for security purposes, including closed-circuit television cameras installed by the City, to monitor entryways and outdoor areas of City-owned or controlled buildings and property for the purpose of controlling access, maintaining the safety of City employees and visitors to City buildings, and protecting City property;
  - L) Security cameras including closed-circuit television cameras installed by the City to monitor cashiers' windows and other cash-handling operations and to maintain the safety of City employees and visitors to such areas;
  - M) Cameras installed solely to protect the physical integrity of City infrastructure; or
  - N) Technology that monitors only City employees in response to complaints of wrongdoing or in order to prevent waste, fraud, or abuse of City resources.
  - O) Devices exclusively capable of detecting radiation.
  - P) Radio-frequency identification scanners (RFIDs) used for disaster patient tracking by the Boston Public Health Commission.
  - Q) BPHC technology used to track BPHC owned or leased equipment and vehicles
3. Notwithstanding the provisions of this ordinance, BPD, BHA Police, or BPHC Police may temporarily acquire or temporarily use Surveillance Technology in Exigent Circumstances for a period not to exceed 30 days without following the provisions of this chapter before that acquisition or use. However, if these bodies acquire or use Surveillance Technology in Exigent Circumstances under this section, the BPD Commissioner, BHA Head of Police, or BPHC Head of Police must:
- A) Report that acquisition or use to the City Council in writing within 30 days following the end of those Exigent Circumstances;
  - B) Submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy to the City Council regarding that Surveillance Technology within 30 days following the end of those Exigent Circumstances; and

- C) Include that Surveillance Technology in the Department or Agency's next Annual Surveillance Report to the City Council following the end of those Exigent Circumstances.
  - D) If the Department or Agency is unable to meet the 30-day timeline to submit a Surveillance Technology Impact Report and, if necessary, a technology-specific Surveillance Use Policy to the City Council, the Department or Agency must notify the City Council in writing requesting to extend this period. The City Council may grant extensions beyond the original 30-day timeline to submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy.
  - E) Any Surveillance Technology Impact Report, and, if necessary, any Technology-Specific Surveillance Use Policy submitted to the City Council under this subsection shall be made publicly available on the City's website upon submission to the City Council.
  - F) Any Surveillance Technology Impact Report and, if necessary, technology-specific Surveillance Use Policy submitted to the City Council under this section may be redacted to the extent required to comply with an order by a court of competent jurisdiction, or to exclude information that, in the reasonable discretion of the Commissioner of police, if disclosed, would materially jeopardize an ongoing investigation or otherwise represent a significant risk to public safety and security provided, however, that any information redacted pursuant to this paragraph will be released in the next Annual Surveillance Report following the point at which the reason for such redaction no longer exists.
4. A City department head may apply a technical patch or upgrade that is necessary to mitigate threats to the City's environment. The department shall not use the new surveillance capabilities of the technology until the requirements of this ordinance are met, unless the Mayor, or their designee, determines that the use is unavoidable; in that case, the Mayor shall request City Council approval as soon as possible. The request shall include a report to the City Council of how the altered surveillance capabilities were used since the time of the upgrade. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.

c) Surveillance Use Policy

1. The Mayor shall submit to the City Council for its review and approval a proposed Surveillance Use Policy applicable to each applicable City Department that possesses or uses Surveillance Technology before the effective date of this ordinance. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
2. Any Surveillance Use Policy submitted under this section shall be made publicly available upon submission to the City Council.
3. A Surveillance Use Policy shall at a minimum specify the following:
  - A) Purpose: the specific purpose(s) for the Surveillance Technology;
  - B) Authorized use: the uses that are authorized, the rules and processes required before that use, and the uses that are prohibited;
  - C) Data collection: the Surveillance Data that can be collected by the Surveillance Technology;
  - D) Data access: the individuals who can access or use the collected Surveillance Data, and the rules and processes required before access or use of the information;
  - E) Data protection: the safeguards that protect information from unauthorized access, including, but not limited to, encryption, access-control, and access-oversight mechanisms;
  - F) Data retention: the time period, if any, for which information collected by the Surveillance Technology will be routinely retained, the reason that retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period has elapsed, and the conditions that must be met to retain information beyond that period;
  - G) Public access: if and how collected Surveillance Data can be accessed by members of the public, including criminal defendants;
  - H) Information and data-sharing: if and how other City or non-City entities can access or use the Surveillance Data, how information is shared among City agencies or between City agencies and non-City entities and organizations, including any required justification and legal standard necessary to do so, and any obligation(s) imposed on the recipient of the Surveillance Data;



- I) Training: the training, if any, required for any individual authorized to use the Surveillance Data or technology or to access information collected by the Surveillance Technology, including whether there are training materials;
  - J) Oversight: the mechanisms to ensure that the Surveillance Use Policy is followed, including, but not limited to, identifying personnel assigned to ensure compliance with the policy, internal record keeping of the use of the technology or access to information collected by the Surveillance Technology, audit requirements or procedures, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the sanctions for violations of the policy;
  - K) Legal Authority: the statutes, regulations, or legal precedents, if any, that control the collection, capturing, recording, retaining, processing, interception, analysis, release, or disclosure of Surveillance Data and technology; and
  - L) Child Rights: special considerations specific to Surveillance Technology and Surveillance Data pertaining to minor children.
4. The City Council shall vote to approve or deny the Surveillance Use Policy by a vote of a simple majority within 60 days of submission. If the City Council does not approve the Surveillance Use Policy, the Policy shall be sent to the Surveillance Oversight Advisory Board who will make recommendations of improvement to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- d) Surveillance Technology Impact Report and Technology-Specific Surveillance Use Policy
1. The Mayor's office must seek and obtain approval from the City Council as set forth in this section prior to the City acquiring, using, or entering into an agreement to acquire, share or otherwise use, unapproved Surveillance Technology or Surveillance Data as defined in this ordinance.

- A) The City may seek, but not accept, funds for Surveillance Technology without approval from the City Council, provided that the City shall notify the City Council of the funding application at the time it is submitted, and include in this notification the deadline of the funding opportunity and details regarding the nature of the Surveillance Technology for which funding is sought. If the City Council declines to accept funds for Surveillance Technology the request to accept the funds shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- 2. Acquisition of Surveillance Technology by applicable City departments. Unless exempted or excepted from the requirements of this ordinance, any applicable City department intending to acquire new Surveillance Technology or Surveillance Data, including but not limited to procuring that Surveillance Technology without the exchange of monies or other consideration, or use Surveillance Technology or Surveillance Data for a purpose or in a manner not previously approved, shall, prior to acquisition or use, obtain council approval of the acquisition or use. The process for obtaining approval shall be as follows:
  - A) The City department shall submit a Surveillance Technology Impact Report, and, if necessary, a Technology-Specific Surveillance Use Policy, as described below, to the Mayor's office for review and approval.
  - B) If the request is approved by the Mayor's office, the Mayor's office shall submit the request, including copies of the City department's Surveillance Technology Impact Report and, if applicable, Technology-Specific Surveillance Use Policy, to the City Council for review.
  - C) The City Council shall have 60 days from the date of submission to approve or deny a request by majority vote for the acquisition or use of Surveillance Technology. If the City Council does not approve the acquisition or use of Surveillance technology the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
  - D) Contents of Surveillance Technology Impact Report. A Surveillance Technology Impact Report submitted shall include all of the following:
    - E) Information describing the Surveillance Technology and how it works;

- F) Information on the proposed purpose(s) for the Surveillance Technology;
  - G) Information describing the kind of surveillance the Surveillance Technology will conduct and what Surveillance Data will be gathered, including a detailed accounting of which entities may have access to any Surveillance Data, under what circumstances (e.g. ongoing automated access, subject to an informal request, subject to subpoena, subject to a warrant, etc.);
  - H) The location(s) the Surveillance Technology may be deployed and when;
  - I) A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the equipment will be regulated to protect privacy and anonymity, and to limit the risk of abuse;
  - J) The potential impact(s) on privacy in the City; the potential impact on the civil rights and liberties of any individuals, communities or groups, including, but not limited to, communities of color or other marginalized communities in the City, and a description of a plan to address these impact(s);
  - K) An estimate of the fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding; and
  - L) An explanation of how the Surveillance Use Policy will apply to this Surveillance Technology and, if it is not sufficiently applicable, a Technology-Specific Surveillance Use Policy.
3. A Technology-Specific Surveillance Use Policy shall be required if the purpose, authorized use, data collection, data access, data protection, data retention, public access, third-party data sharing, training, or oversight of the requested Surveillance Technology differ from the standards in the Surveillance Use Policy submitted under Sections 16-63.3c and 16-63.3d.
- A) A Technology-Specific Surveillance Use Policy shall not conflict with any provision of the City's Surveillance Use Policy.
  - B) To the extent a conflict arises between the provisions of the City's Surveillance Use Policy and a Technology-Specific Surveillance Use Policy, the City's Surveillance Use Policy shall govern. A Technology-Specific Surveillance Use Policy shall include all of the elements of the Surveillance Use Policy as outlined in Section 16-63.3b.
- ~~4.~~ Any Surveillance Technology Impact Report, and, if necessary, Technology-Specific Surveillance Use Policy submitted to the City Council under Sections 16-63.3c and 16-63.3d shall be made publicly available on the City's website upon submission to the council.

#### **16-63.4 Boston Public Schools And Boston Police Department Information-sharing Policy**

- a) School Safety Specialists shall not collect, store, or share information pertaining to students except by creating and sharing Student Reports in accordance with this Chapter.
  - 1. Student Reports shall only be created when:
    - A) Serious bodily harm to an individual has occurred as a result of willful conduct by a student;
    - B) A credible threat to the safety of the school arises that would amount to criminal conduct;
    - C) A student is in possession of firearms as defined in Chapter 269 section 10 (j), ammunition, or a dangerous weapon as defined in M.G.L. Chapter 269 section 10 (b); or
    - D) A student unlawfully possesses or uses controlled substances, provided those substances are not marijuana, nicotine, or alcohol, and further provided, however, that School Safety Specialists may collect, store and share information pertaining to unlawful distribution of alcohol or marijuana when a student has unlawfully distributed marijuana or alcohol on school grounds in excess of the following amounts: thirty (30) grams for marijuana and one (1) liter for alcohol.
  - 2. School Safety Specialists may not create a Student Report relating to matters that are not described above.
  - 3. Student Reports shall not contain information pertaining to:
    - A) Immigration status;
    - B) Citizenship;
    - C) Address and/or neighborhood of residence;
    - D) Religion;
    - E) National origin;
    - F) Students' native or spoken language;
    - G) Suspected, alleged, or confirmed gang involvement, affiliation, association, or membership;
    - H) Participation in school activities, extracurricular activities outside of school, sports teams, or school clubs or organizations;
    - I) Degrees, Honors, or Awards; or
    - J) Post-high school plans.

4. Before creating the Student Report, the School Safety Specialists must discuss the writing of the report with the Principal(s) or Head(s) of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work. The required Principals or Heads of School must document in writing that the incident at hand merits a report under the criteria in Section 16-63.4a.
  5. Principals and Heads of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work must receive copies of all Student Reports written under this section immediately upon writing.
    - A) Within 24 hours of the writing of a Student Report under this section, the relevant Principals and/or Heads of School must provide a copy of the report, with any necessary redactions to protect student privacy, to every student referenced by name in the Report, as well as to those students' families. Reports which involve allegations of parental/household abuse may also be withheld from students' families if disclosure of the report is not in the best interest of the student. In cases of allegations of parental/household abuse, a copy of the Report shall be provided to the student or a trusted adult of their choosing.
- b) Rules for Student Information Sharing
1. School Safety Specialists and BPS personnel shall not transmit to or share with BPD or any other outside entities any information about students, including but not limited to Student Reports, through any official or unofficial channels, including but not limited to text, phone, email, database, and in-person communication, except if the transmission or sharing is done (i) pursuant to Section 16-63.4c or (ii) in Exigent Circumstances pursuant to Section 16-63.4d.
- c) Transmitting information to the BPD and other entities outside the Boston Public Schools
1. BPS personnel and School Safety Specialists may not send information relating to Boston Public Schools students to the Boston Regional Intelligence Center (BRIC), federal immigration authorities, federal law enforcement agencies, or any law enforcement fusion center under any circumstances, except where required by state or federal law.
  2. BPS personnel may not transmit to the BPD any student information, including but not limited to a Student Report, unless in response to a judicial warrant issued upon a finding of probable cause, as required under MGL c. 269, sec. 10(j) and MGL c. 71, sec. 37L, or as otherwise required by state or federal law. Nothing in this ordinance shall limit the ability of Boston Public Schools to release information as required by state or federal laws and regulations.

3. Before BPS personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to BPD or to any other entity outside of the Boston Public Schools in accordance with Sections 16-63.4c1 and 16-63.4c2, the following must take place:
  - A) Any student named in a Student Report or other record, and their parent or guardian, must be notified in writing that the Student Report they received pursuant to Section 16-63.4a5A will be transmitted to BPD or to the outside agency and receive an explanation of why the information reflected in the report is prompting the communication. All written materials must be provided in both English and the language spoken by the relevant student's parent or guardian.
  - B) The Boston Public Schools must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter of the family's choosing must be present for any party that requires one. The interpreter cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred interpreter, BPS must provide a qualified translator.
  - C) The Principals and Heads of School mentioned in Section 16-63.4a5A, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1, they must place a note in the record attesting to this fact, and the Student Report may not be transmitted to the BPD or any entity outside of BPS.
  - D) The student and family may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - E) Students and families may amend a student's record by placing a note with information relating to any Student Report in which the student is named in the student's file.
- d) Transmission of information pursuant to Exigent Circumstances
  1. Within 12 hours after a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances:



- A) The School Safety Specialists must notify the relevant Principal or Head of School that student information was shared with the BPD, and provide the relevant Principal or Head of School with a copy of the information shared;
- 2. Within 24 hours after the conclusion of the exigent circumstance or within 24 hours after BPS Personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances, the relevant Principal or Head of School shall:
  - A) Notify in writing any student whose information or Student Report was shared and their parent or guardian that the student information was shared, and share a copy of the information transmitted and an explanation of the incident prompting the communication to BPD after the information was transmitted. All written materials must be provided in both English and the language spoken by the parent or guardian.
  - B) The relevant Principal or Head of School must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter/translator of the parent or guardian's choosing must be present for any party that requires one. The interpreter/translator cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred translator, BPS must provide a qualified translator.
    - I. The student and parent or guardian may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - C) If the information shared was a Student Report, the Principals and/or Heads of School mentioned in Section 16-63.4a5, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1 they must place a note in the record attesting to this fact, and the BPD must be notified to the same within 3 business hours.
- e) School Safety Specialists shall not attend any meetings where officers or employees from U.S. Immigrations and Customs Enforcement are present, either in person or virtually.
- f) Transparency and Communication

1. Students, families, school administrators, teachers, and counselors must be made aware of this ordinance by including a copy of the ordinance in the Guide to Boston Public Schools.

g) Community Information-Sharing Oversight Board

1. A community oversight board shall be created to provide oversight regarding the implementation of Section 16-63.4 of this ordinance.
2. The board must include at least one representative from each of the following groups: a student chosen by the Boston Student Advisory Council, a parent or guardian chosen by the Citywide Parent Council, a parent or guardian chosen by the Boston Special Education Parent Advisory Council, a representative chosen by the Code of Conduct Advisory Council, a representative of the District English Learner Advisory Committee, a teacher chosen by the Boston Teachers Union, a local immigration advocate chosen by the Student Immigrant Movement (SIM), a civil rights advocate chosen by Lawyers for Civil Rights, and an immigration attorney familiar with the immigration consequences of criminal proceedings chosen by the Political Asylum/Immigration Representation Project.
3. The Superintendent shall report monthly to the board:
  - A) The number of Student Reports created, disaggregated by school;
  - B) The number of Student Reports shared with any outside entity, disaggregated by school and receiving entity;
  - C) The number of Student Reports reviewed by the Legal Advisor for the School Department that did not meet the criteria specified in Section 16-63.4a1, disaggregated by school, and including the date of each incident, a description of each incident, the race, ethnicity, gender, age, and grade level of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entity.
  - D) The number of Student Reports written under Section 16-63.4a, disaggregated by school, including the date of the incident, a description of the incident including the justification for the creation of the report per Section 16-63.4a1, the type of report, the race, ethnicity, gender, age and grade of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entities.
4. The board will review the information provided under Section 16-63.4g3 and may request that School Safety Specialists or District personnel respond to questions, either in writing or at a public meeting, relating to the information provided.

5. The board shall review the information for patterns and compliance with this ordinance. It shall issue findings and report such findings to the City Council and School Committee on a quarterly basis.
- h) Accountability and Training
1. All School Safety Specialists and school administrators must receive training on this policy, and the training will be designed in collaboration with the Student Immigrant Movement and Boston Teachers Union's Unafraid Educators. The training will also be provided by the Central Office and not by individual schools. Training materials will be made publicly available.
  2. All School Safety Specialists and BPS personnel, including school administrators, will sign an acknowledgment of responsibility for safeguarding student information under Section 16-63.4 of this ordinance, FERPA, and state student records law.
  3. All new School Safety Specialists will receive training on the requirements of Section 16-63.4 of this ordinance as part of their orientation.
  4. All School Safety Specialists must be trained every three years or at the discretion of the community oversight board.
  5. Any transfer of information about students in violation of Section 16-63.4 of this ordinance shall result in appropriate disciplinary action, up to and including dismissal, in accordance with the rules of collective bargaining.
  6. Should any School Safety Specialist be found to have violated this policy, the Superintendent will instruct the Chief of Safety Services to suspend all authorization of School Safety Specialists report submissions to BPD pending a full investigation of such violation.
- i) Nothing in this section shall be construed to prevent or restrict reporting requirements around sexual assault, sexual abuse, and child abuse in accordance with Massachusetts General Laws.

#### **16-63.5      Annual Surveillance Report**

- a) Applicability: This section shall apply to the following City departments and agencies: the Boston Police Department, Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word "City" shall mean the City departments and agencies listed above.

- b) Within 18 months of the effective date, and annually thereafter, all applicable City departments shall submit to the Mayor an Annual Surveillance Report pertaining to each City department for which approval for the use of Surveillance Technology or Surveillance Data has been obtained under Sections 16-63.3c and 16-63.3d of this ordinance. Upon receipt of such reports, the Mayor shall promptly submit them to the City Council. Any Annual Surveillance Report submitted under this section shall be made publicly available on the City's website upon submission to the council.
- c) The Annual Surveillance Report submitted pursuant to this section shall include all of the following:
  - 1. A description of how Surveillance Technology has been used, including whether it captured images, sound, or other information regarding members of the public who are not suspected of engaging in unlawful conduct;
  - 2. Whether and how often data acquired through the use of the Surveillance Technology was shared with local, state, and federal, the name of any recipient entity, the type(s) of data disclosed, any legal standard(s) under which the information was disclosed, and the justification for the disclosure;
  - 3. A summary of community complaints or concerns about the Surveillance Technology, if any;
  - 4. The results of any internal audits, any information about violations of the Surveillance Use Policy, and any actions taken in response other than to the extent that such inclusion would violate the privacy rights of an employee of the City;
  - 5. A detailed accounting of whether the Surveillance Technology has been effective at achieving its identified purpose;
  - 6. The number of public records requests received by the City seeking documents concerning Surveillance Technologies approved during the previous year;
  - 7. An estimate of the total annual costs for the Surveillance Technology, including personnel and other ongoing costs, and what source(s) of funding will fund the technology in the coming year, if known;
  - 8. Whether the civil rights and liberties of any communities or groups, including communities of color or other marginalized communities in the City are disproportionately impacted by the deployment of the Surveillance Technology; and
  - 9. A disclosure of any new agreements made in the past 12 months with non-City entities that may include acquiring, sharing, or otherwise using Surveillance Technology or the Surveillance Data it provides.

- d) Based upon information provided in the Annual Surveillance Report, the City Council shall determine whether the benefits to the applicable, impacted City department(s) and the community of the Surveillance Technology outweigh the financial and operational costs and whether reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by the deployment of the Surveillance Technology. If the benefits or reasonably anticipated benefits do not outweigh the financial and/or operational costs or civil liberties or civil rights are not reasonably safeguarded, the City Council may recommend modifications to the Surveillance Use Policy that are designed to address the City Council's concerns to the Mayor for their consideration; withdraw authorization for continued use of Surveillance Technology by a majority vote of the City Council; and/or request a report back from the Mayor regarding steps taken to address the City Council's concerns. Should the Council withdraw authorization for a previously approved surveillance technology, the Mayor may request that the Surveillance Oversight Advisory Board meet to discuss the City Council's concerns and provide recommendations to the Mayor. The mayor at their discretion may resubmit a modified request to the City Council for approval.
- e) Nothing in this ordinance shall prohibit the City Council from enacting a separate ordinance to ban or otherwise regulate any Surveillance Technology, whether previously approved or not.
- f) No later than May 31 of each year, the City Council shall hold a meeting to discuss the applicable City departments' Annual Surveillance Reports, and shall publicly release a report that includes a summary of all requests for approval of Surveillance Technology received by the City Council during the prior year, including whether the City Council approved or denied the City's request for acquisition or use of the Surveillance Technology.

#### **16-63.6 Enforcement**

- a) Enforcement officials: This ordinance shall be enforced by the Mayor's office or the Mayor's designee.
- b) Suppression: No data collected or derived from any use of Surveillance Technology in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the City of Boston.

- c) Cause of action: Any violation of this ordinance constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this ordinance. An action instituted under this paragraph shall be brought against the City and, if necessary to effectuate compliance with this ordinance, any other governmental agency with possession, custody, or control of data subject to this ordinance.
- d) The City will address alleged violations of this ordinance in accordance with its usual practices, applicable law, and contractual obligations.
- e) Whistleblower protections. Subject to the limitations and requirements set forth in G. L. c. 149, §185 (the “Massachusetts Whistleblower Statute” or “Section 185”) as it may be amended from time to time, any City employee as defined in Section 185 who reports an alleged violation of this ordinance, shall be afforded protections against retaliation if applicable pursuant to Section 185, as set forth in and subject to the limitations and requirements of Section 185.
- f) Nothing in this ordinance shall be construed to limit or affect any individual’s rights under state or federal laws.

#### **16-63.7 Severability**

- a) The provisions in this ordinance are severable. If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall continue to have full force and effect.

#### **16-63.8 Effective Date and Implementation**

The effective date and implementation of the ordinance shall be as follows.

- a) The ordinance shall take effect and be implemented in the manner and ways described in this section.
- b) The ordinance shall take effect notwithstanding any other provision of law and shall supersede any prior law and regulation enacted by the City of Boston and/or any agreement entered into by the City of Boston or any of its agencies that are interpreted to be in conflict with its provisions.
- c) Sections 16-63.1, 16-63.2, 16-63.4, 16-63.6, and 16-63.7 shall take effect one month after its adoption in accordance with the following provisions:
  - 1. Every School Safety Specialist shall create a record of Historic Student Reports
  - 2. Within four months of the Effective Date:



- A) The Historic Student Reports that do not conform with Section 16-63.4a1 shall be destroyed, in both print and electronic form, provided that such destruction is permitted under the state law relating to retention of records.
  - B) The Historic Student Reports that conform with Section 16-63.4a1 can be retained, provided there is a previous certification by the BPS Legal Advisor that their creation meets such requirements.
  - C) All reports created more than 5 years ago shall be destroyed.
3. Within six months of the Effective Date, the Head of the School Safety Specialists and the Legal Advisor must submit a report to the Community Information-Sharing Oversight Board. Such report must contain:
- A) The number of Historic Student Reports, including the format or file type of the report, description of each incident, disaggregated by race, ethnicity, gender, age, and grade level of each student who is named in the report;
  - B) The number of Historic Student Reports retained in accordance with Section 16-63.8c2A;
  - C) The number of Historic Student Reports destroyed in accordance with Section 16-63.8c2B and 16-63.8c2C;
4. No more than one month after receiving such report, the Community Information-Sharing Oversight Board shall call a public hearing to discuss the Historic Student Reports. The Head of the School Safety Specialists as well as individual School Safety Specialists shall be present at such public hearing.
- d) Sections 16-63.3 and 16-63.5 shall take effect nine months after their adoption.

#### **16-63.9 Establishment of a Surveillance, Data, and Privacy Working Group**

- a) The Working Group shall be tasked with identifying a set of priorities and implementable objectives to increase the transparency, accountability, and engagement around the public deployment of technology and use of data within City of Boston Departments not covered by this ordinance.
- b) The Working Group will move forward sustainable policies to increase engagement on the topic of privacy and supply recommendations on professional development opportunities and training for City staff.
- c) The Working Group must produce recommendations for implementation within one year from the date of adoption to the Mayor and City Council.

- d) The Working Group shall comprise a representative from the Mayor's Office of New Urban Mechanics, a representative from the Department of Innovation and Technology, a representative from the City Council to be chosen by the Boston City Council President, a representative from the Massachusetts American Civil Liberties Union, a representative from the community-at-large to be chosen by SIM, and a representative appointed by the Mayor.
- e) The Working Group will dissolve upon the publication of recommendations to the Mayor and City Council.
- f) The Working Group seats shall be filled within one month of this ordinance's passage and the Group shall convene for its first meeting one month thereafter.

Filed in City Council: October 20, 2021

**From:** David Carabin <david.carabin@pd.boston.gov>

**Sent:** Tuesday, April 05, 2022 4:13 PM EDT

**To:** Jessica Kuron <jessica.kuron@usdoj.gov>

**Subject:** Surveillance Ordinance - Docket 0397 Final (3).pdf

**Attachment(s):** "Surveillance Ordinance - Docket 0397 Final (3).pdf", "ATT00002.bin"

Hi Jessica,

As requested, please see attached:

--

David Carabin  
Assistant Chief, Bureau of Intelligence & Analysis  
Director, Boston Regional Intelligence Center  
Boston Police Department  
Office: 617-343-4328  
[Email: david.carabin@pd.boston.gov](mailto:david.carabin@pd.boston.gov)



## **CITY OF BOSTON IN CITY COUNCIL**

*WHEREAS*, Governments around the world are responding to the COVID-19 pandemic with an unprecedented use of surveillance tools, despite public health and privacy experts agreeing that public trust is essential to an effective response to the pandemic; *and*

*WHEREAS*, Surveillance technology and electronic data gathering can be useful tools for advancing effective delivery and analysis of constituent services, public safety and security; *and*

*WHEREAS*, Usage of surveillance technology must include safeguards with accountability to the public in order to protect privacy rights and civil liberties; *and*

*WHEREAS*, Boston Public Schools should be welcoming and safe environments for all students regardless of immigration status or race. Due to COVID-19, Boston Public Schools has transitioned entirely to online learning where it is expected that even after returning to in-person learning, technology will be a larger part of education; *and*

*WHEREAS*, As people in Boston and across the state are sheltering in place, we are growing more dependent on technology to connect us to each other and to our government; *and*

*WHEREAS*, Cities around the country such as Cambridge, Somerville, Santa Clara, and Providence have created ordinances governing the acquisition and use of surveillance technology and electronic data in order to protect the civil liberties of their citizens while allowing for appropriate use to assist in the charge of improving delivery of services and public safety; *and*

*WHEREAS*, As more municipalities move toward electronic data collection used to manage assets and resources efficiently and new technologies are becoming available, the public would benefit from proactive discussion of current practices and future acquisitions. *NOW, therefore be it ordained by the City Council of Boston as follows:*

That the City of Boston Code, Ordinances, be amended in Chapter XVI by adding the following after 16-62:

**16-63: ORDINANCE ON SURVEILLANCE OVERSIGHT AND INFORMATION SHARING**

**16-63.1 Purpose:** The purpose of this ordinance is to provide accountability, transparency, and oversight regarding the acquisition and use of Surveillance Technology and Surveillance Data by the City of Boston and its agencies and officers, and to protect privacy, civil rights, and racial and immigrant justice while allowing for appropriate use to assist in the charge of improving delivery of services and public safety.

**16-63.2 Definitions:**

The following definitions apply to this Ordinance:

*Annual Surveillance Report* means a written report submitted by the Mayor's office on an annual basis concerning specific Surveillance Technology used during the previous year and containing the information set forth in this ordinance by the following City Departments and Agencies: the Boston Police Department, the Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

*Exigent Circumstances* means the police commissioner, the police commissioner's designee, the head of BHA's Police, or the head of the BPHC Police's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render it impracticable to obtain a warrant, requires the use of the Surveillance Technology or the Surveillance Data it provides. The use of Surveillance Technology in Exigent Circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.



*Identifiable Individual* means an individual whose identity can be revealed by data, including Surveillance Data, or revealed by data when it is analyzed and/or combined with any other type of record.

*Surveillance* means the act of observing or analyzing the movements, behavior, or actions of Identifiable Individuals.

*Surveillance Data* means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the City or operated at the direction of the City.

*Surveillance Technology* means any device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, associational, or similar information specifically associated with, or capable of being associated with, any identifiable individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.

- a) Examples of Surveillance Technology include, but are not limited to:
1. International mobile subscriber identity (IMSI) catchers and other cell-site simulators;
  2. Automatic license plate readers;
  3. Electronic toll readers;
  4. Closed-circuit television cameras except as otherwise provided herein;
  5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
  6. Mobile DNA capture technology;
  7. Gunshot detection and location hardware and services;
  8. X-ray vans;
  9. Video and audio monitoring and/or recording technology, such as surveillance cameras;
  10. Surveillance enabled or capable light bulbs or light fixtures;
  11. Tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
  12. Social media monitoring software;
  13. Through-the-wall radar or similar imaging technology;
  14. Passive scanners of radio networks;

15. Long-range Bluetooth and other wireless-scanning devices;
16. Thermal imaging or “forward-looking infrared” devices or cameras;
17. Electronic database systems containing Surveillance Data about Identifiable Individuals;
18. Radio-frequency identification (RFID) scanners; and
19. Software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software.

*Surveillance Technology Impact Report* means a written report submitted by the Mayor’s office with a request for approval of acquisition or use of Surveillance Technology, and which includes, at a minimum, the requirements set forth in this ordinance.

*Surveillance Use Policy* means a policy for the City’s use of Surveillance Technology, approved by the Corporation Counsel and the Mayor’s office, and submitted by the Mayor’s office to and approved by the City Council. The Surveillance Use Policy shall at a minimum satisfy the requirements set forth in this ordinance.

*Technology-Specific Surveillance Use Policy* means a policy governing the City’s use of a specific Surveillance Technology not already covered under the City’s Surveillance Use Policy, approved by the Corporation Counsel and the Mayor, and submitted by the Mayor to the City Council with a Surveillance Technology Impact Report under this ordinance.

*BPS* means the Boston Public Schools.

*BPS personnel* means any employee or agent of the Boston Public Schools, excluding School Safety Specialists.

*School Safety Specialists* means any officials or employees that belong to the Boston Public Schools Department of Safety Services or any other security and enforcement personnel, and that may or may not be licensed by the Boston Police Department as special police officers.

*BPD* means the City of Boston Police Department.

*Student Report* means a written record that is not an educational record protected under FERPA and that is created by School Safety Specialists or by BPS personnel and that pertains to a student. Student Reports include but are not limited to School Safety Reports, BPD Form 1.1 Incident Reports, Field Interrogation and Observation Reports, Intelligence Reports, and Face Sheets. Student Reports also include informal emails, texts, and other electronic messages that describe or contain details pertaining to student activity.

*Historic Student Reports* mean Student Reports that they have created or produced prior to the Effective Date of this ordinance.

*Serious bodily harm* means bodily injury that results in permanent disfigurement, loss or impairment of a bodily function, limb or organ, or substantial risk of death.

*Surveillance Oversight Advisory Board* is a group comprised of five individuals, one representative to be chosen by each of the following: the president of the City Council, the Massachusetts American Civil Liberties Union, and the Boston Police Commissioner; and two representatives chosen by the Mayor, at least one of whom shall be an academic representative with expertise in technology and public policy issues. The Board shall serve as an advisory body to host further discussion and provide recommendations on surveillance issues to the Mayor.

### **16-63.3 Community Control Over Surveillance**

#### **a) Applicability**

This section shall ~~only~~ apply to the following City departments and agencies: the Boston Police Department, Boston Public Schools, Boston Public Health Commission, the Boston Parks Department Park Rangers, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word “City” shall mean the City departments and agencies listed above.

#### **b) Exceptions and Exemptions**

The following situations are exceptions and exemptions from this ordinance.

1. The following do not constitute Surveillance Data and are exempted from the requirements of this Ordinance:
  - A) Surveillance Data acquired where the individual knowingly and voluntarily consented to provide the information, such as submitting personal information for the receipt of City services; and
  - B) Surveillance Data acquired where the individual was presented with a clear and conspicuous opportunity to opt-out of providing the information.
2. Surveillance Technology does not include the following devices, software, or hardware, which are exempt from the requirements of this ordinance, unless the devices, hardware, or software are modified to include additional surveillance capabilities:
  - A) Routine office hardware, such as televisions, computers, and printers, that are in widespread public use and will not be used for any surveillance or surveillance- related functions;
  - B) Parking ticket devices (PTDs) and related databases;
  - C) Manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously, that are used for non-law enforcement and non-investigatory purposes, and whose functionality is used for manually capturing and manually downloading video and/or audio recordings;
  - D) Cameras installed in or on a police vehicle;
  - E) Cameras installed pursuant to state law authorization in or on any vehicle or along a public right-of-way solely to record traffic violations or traffic patterns, provided that the Surveillance Data gathered is used only for that purpose;
  - F) Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
  - G) City databases that do not and will not contain any Surveillance Data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology;
  - H) Manually-operated technological devices that are used primarily for internal City communications and are not designed to surreptitiously collect Surveillance Data, such as radios and email systems;

- I) Parking access and revenue control systems, including proximity card readers and transponder readers at City-owned or controlled parking garages;
  - J) Card readers and key fobs used by City employees and other authorized persons for access to City-owned or controlled buildings and property;
  - K) Cameras installed on City property solely for security purposes, including closed-circuit television cameras installed by the City, to monitor entryways and outdoor areas of City-owned or controlled buildings and property for the purpose of controlling access, maintaining the safety of City employees and visitors to City buildings, and protecting City property;
  - L) Security cameras including closed-circuit television cameras installed by the City to monitor cashiers' windows and other cash-handling operations and to maintain the safety of City employees and visitors to such areas;
  - M) Cameras installed solely to protect the physical integrity of City infrastructure; or
  - N) Technology that monitors only City employees in response to complaints of wrongdoing or in order to prevent waste, fraud, or abuse of City resources.
  - O) Devices exclusively capable of detecting radiation.
  - P) Radio-frequency identification scanners (RFIDs) used for disaster patient tracking by the Boston Public Health Commission.
  - Q) BPHC technology used to track BPHC owned or leased equipment and vehicles
3. Notwithstanding the provisions of this ordinance, BPD, BHA Police, or BPHC Police may temporarily acquire or temporarily use Surveillance Technology in Exigent Circumstances for a period not to exceed 30 days without following the provisions of this chapter before that acquisition or use. However, if these bodies acquire or use Surveillance Technology in Exigent Circumstances under this section, the BPD Commissioner, BHA Head of Police, or BPHC Head of Police must:
- A) Report that acquisition or use to the City Council in writing within 30 days following the end of those Exigent Circumstances;
  - B) Submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy to the City Council regarding that Surveillance Technology within 30 days following the end of those Exigent Circumstances; and

- C) Include that Surveillance Technology in the Department or Agency's next Annual Surveillance Report to the City Council following the end of those Exigent Circumstances.
  - D) If the Department or Agency is unable to meet the 30-day timeline to submit a Surveillance Technology Impact Report and, if necessary, a technology-specific Surveillance Use Policy to the City Council, the Department or Agency must notify the City Council in writing requesting to extend this period. The City Council may grant extensions beyond the original 30-day timeline to submit a Surveillance Technology Impact Report, and, if necessary, a technology-specific Surveillance Use Policy.
  - E) Any Surveillance Technology Impact Report, and, if necessary, any Technology-Specific Surveillance Use Policy submitted to the City Council under this subsection shall be made publicly available on the City's website upon submission to the City Council.
  - F) Any Surveillance Technology Impact Report and, if necessary, technology-specific Surveillance Use Policy submitted to the City Council under this section may be redacted to the extent required to comply with an order by a court of competent jurisdiction, or to exclude information that, in the reasonable discretion of the Commissioner of police, if disclosed, would materially jeopardize an ongoing investigation or otherwise represent a significant risk to public safety and security provided, however, that any information redacted pursuant to this paragraph will be released in the next Annual Surveillance Report following the point at which the reason for such redaction no longer exists.
4. A City department head may apply a technical patch or upgrade that is necessary to mitigate threats to the City's environment. The department shall not use the new surveillance capabilities of the technology until the requirements of this ordinance are met, unless the Mayor, or their designee, determines that the use is unavoidable; in that case, the Mayor shall request City Council approval as soon as possible. The request shall include a report to the City Council of how the altered surveillance capabilities were used since the time of the upgrade. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.

c) Surveillance Use Policy



1. The Mayor shall submit to the City Council for its review and approval a proposed Surveillance Use Policy applicable to each applicable City Department that possesses or uses Surveillance Technology before the effective date of this ordinance. If the City Council does not approve the use of the proposed new surveillance capabilities, the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
2. Any Surveillance Use Policy submitted under this section shall be made publicly available upon submission to the City Council.
3. A Surveillance Use Policy shall at a minimum specify the following:
  - A) Purpose: the specific purpose(s) for the Surveillance Technology;
  - B) Authorized use: the uses that are authorized, the rules and processes required before that use, and the uses that are prohibited;
  - C) Data collection: the Surveillance Data that can be collected by the Surveillance Technology;
  - D) Data access: the individuals who can access or use the collected Surveillance Data, and the rules and processes required before access or use of the information;
  - E) Data protection: the safeguards that protect information from unauthorized access, including, but not limited to, encryption, access-control, and access-oversight mechanisms;
  - F) Data retention: the time period, if any, for which information collected by the Surveillance Technology will be routinely retained, the reason that retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period has elapsed, and the conditions that must be met to retain information beyond that period;
  - G) Public access: if and how collected Surveillance Data can be accessed by members of the public, including criminal defendants;
  - H) Information and data-sharing: if and how other City or non-City entities can access or use the Surveillance Data, how information is shared among City agencies or between City agencies and non-City entities and organizations, including any required justification and legal standard necessary to do so, and any obligation(s) imposed on the recipient of the Surveillance Data;

- I) Training: the training, if any, required for any individual authorized to use the Surveillance Data or technology or to access information collected by the Surveillance Technology, including whether there are training materials;
  - J) Oversight: the mechanisms to ensure that the Surveillance Use Policy is followed, including, but not limited to, identifying personnel assigned to ensure compliance with the policy, internal record keeping of the use of the technology or access to information collected by the Surveillance Technology, audit requirements or procedures, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the sanctions for violations of the policy;
  - K) Legal Authority: the statutes, regulations, or legal precedents, if any, that control the collection, capturing, recording, retaining, processing, interception, analysis, release, or disclosure of Surveillance Data and technology; and
  - L) Child Rights: special considerations specific to Surveillance Technology and Surveillance Data pertaining to minor children.
4. The City Council shall vote to approve or deny the Surveillance Use Policy by a vote of a simple majority within 60 days of submission. If the City Council does not approve the Surveillance Use Policy, the Policy shall be sent to the Surveillance Oversight Advisory Board who will make recommendations of improvement to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- d) Surveillance Technology Impact Report and Technology-Specific Surveillance Use Policy
1. The Mayor's office must seek and obtain approval from the City Council as set forth in this section prior to the City acquiring, using, or entering into an agreement to acquire, share or otherwise use, unapproved Surveillance Technology or Surveillance Data as defined in this ordinance.

- A) The City may seek, but not accept, funds for Surveillance Technology without approval from the City Council, provided that the City shall notify the City Council of the funding application at the time it is submitted, and include in this notification the deadline of the funding opportunity and details regarding the nature of the Surveillance Technology for which funding is sought. If the City Council declines to accept funds for Surveillance Technology the request to accept the funds shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
- 2. Acquisition of Surveillance Technology by applicable City departments. Unless exempted or excepted from the requirements of this ordinance, any applicable City department intending to acquire new Surveillance Technology or Surveillance Data, including but not limited to procuring that Surveillance Technology without the exchange of monies or other consideration, or use Surveillance Technology or Surveillance Data for a purpose or in a manner not previously approved, shall, prior to acquisition or use, obtain council approval of the acquisition or use. The process for obtaining approval shall be as follows:
  - A) The City department shall submit a Surveillance Technology Impact Report, and, if necessary, a Technology-Specific Surveillance Use Policy, as described below, to the Mayor's office for review and approval.
  - B) If the request is approved by the Mayor's office, the Mayor's office shall submit the request, including copies of the City department's Surveillance Technology Impact Report and, if applicable, Technology-Specific Surveillance Use Policy, to the City Council for review.
  - C) The City Council shall have 60 days from the date of submission to approve or deny a request by majority vote for the acquisition or use of Surveillance Technology. If the City Council does not approve the acquisition or use of Surveillance technology the request shall be sent to the Surveillance Oversight Advisory Board who will make recommendations to the Mayor. Subsequent to receiving the recommendations from the Surveillance Oversight Advisory Board, the Mayor may at their discretion resubmit a modified request to the City Council for approval.
  - D) Contents of Surveillance Technology Impact Report. A Surveillance Technology Impact Report submitted shall include all of the following:
    - E) Information describing the Surveillance Technology and how it works;

- F) Information on the proposed purpose(s) for the Surveillance Technology;
  - G) Information describing the kind of surveillance the Surveillance Technology will conduct and what Surveillance Data will be gathered, including a detailed accounting of which entities may have access to any Surveillance Data, under what circumstances (e.g. ongoing automated access, subject to an informal request, subject to subpoena, subject to a warrant, etc.);
  - H) The location(s) the Surveillance Technology may be deployed and when;
  - I) A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the equipment will be regulated to protect privacy and anonymity, and to limit the risk of abuse;
  - J) The potential impact(s) on privacy in the City; the potential impact on the civil rights and liberties of any individuals, communities or groups, including, but not limited to, communities of color or other marginalized communities in the City, and a description of a plan to address these impact(s);
  - K) An estimate of the fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding; and
  - L) An explanation of how the Surveillance Use Policy will apply to this Surveillance Technology and, if it is not sufficiently applicable, a Technology-Specific Surveillance Use Policy.
3. A Technology-Specific Surveillance Use Policy shall be required if the purpose, authorized use, data collection, data access, data protection, data retention, public access, third-party data sharing, training, or oversight of the requested Surveillance Technology differ from the standards in the Surveillance Use Policy submitted under Sections 16-63.3c and 16-63.3d.
- A) A Technology-Specific Surveillance Use Policy shall not conflict with any provision of the City's Surveillance Use Policy.
  - B) To the extent a conflict arises between the provisions of the City's Surveillance Use Policy and a Technology-Specific Surveillance Use Policy, the City's Surveillance Use Policy shall govern. A Technology-Specific Surveillance Use Policy shall include all of the elements of the Surveillance Use Policy as outlined in Section 16-63.3b.
- ~~4.~~ Any Surveillance Technology Impact Report, and, if necessary, Technology-Specific Surveillance Use Policy submitted to the City Council under Sections 16-63.3c and 16-63.3d shall be made publicly available on the City's website upon submission to the council.

#### **16-63.4 Boston Public Schools And Boston Police Department Information-sharing Policy**

- a) School Safety Specialists shall not collect, store, or share information pertaining to students except by creating and sharing Student Reports in accordance with this Chapter.
  - 1. Student Reports shall only be created when:
    - A) Serious bodily harm to an individual has occurred as a result of willful conduct by a student;
    - B) A credible threat to the safety of the school arises that would amount to criminal conduct;
    - C) A student is in possession of firearms as defined in Chapter 269 section 10 (j), ammunition, or a dangerous weapon as defined in M.G.L. Chapter 269 section 10 (b); or
    - D) A student unlawfully possesses or uses controlled substances, provided those substances are not marijuana, nicotine, or alcohol, and further provided, however, that School Safety Specialists may collect, store and share information pertaining to unlawful distribution of alcohol or marijuana when a student has unlawfully distributed marijuana or alcohol on school grounds in excess of the following amounts: thirty (30) grams for marijuana and one (1) liter for alcohol.
  - 2. School Safety Specialists may not create a Student Report relating to matters that are not described above.
  - 3. Student Reports shall not contain information pertaining to:
    - A) Immigration status;
    - B) Citizenship;
    - C) Address and/or neighborhood of residence;
    - D) Religion;
    - E) National origin;
    - F) Students' native or spoken language;
    - G) Suspected, alleged, or confirmed gang involvement, affiliation, association, or membership;
    - H) Participation in school activities, extracurricular activities outside of school, sports teams, or school clubs or organizations;
    - I) Degrees, Honors, or Awards; or
    - J) Post-high school plans.

4. Before creating the Student Report, the School Safety Specialists must discuss the writing of the report with the Principal(s) or Head(s) of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work. The required Principals or Heads of School must document in writing that the incident at hand merits a report under the criteria in Section 16-63.4a.
  5. Principals and Heads of School of (i) the school(s) where the subject(s) of the report is/are enrolled and (ii) the school where the School Safety Specialists writing the report is assigned to work must receive copies of all Student Reports written under this section immediately upon writing.
    - A) Within 24 hours of the writing of a Student Report under this section, the relevant Principals and/or Heads of School must provide a copy of the report, with any necessary redactions to protect student privacy, to every student referenced by name in the Report, as well as to those students' families. Reports which involve allegations of parental/household abuse may also be withheld from students' families if disclosure of the report is not in the best interest of the student. In cases of allegations of parental/household abuse, a copy of the Report shall be provided to the student or a trusted adult of their choosing.
- b) Rules for Student Information Sharing
1. School Safety Specialists and BPS personnel shall not transmit to or share with BPD or any other outside entities any information about students, including but not limited to Student Reports, through any official or unofficial channels, including but not limited to text, phone, email, database, and in-person communication, except if the transmission or sharing is done (i) pursuant to Section 16-63.4c or (ii) in Exigent Circumstances pursuant to Section 16-63.4d.
- c) Transmitting information to the BPD and other entities outside the Boston Public Schools
1. BPS personnel and School Safety Specialists may not send information relating to Boston Public Schools students to the Boston Regional Intelligence Center (BRIC), federal immigration authorities, federal law enforcement agencies, or any law enforcement fusion center under any circumstances, except where required by state or federal law.
  2. BPS personnel may not transmit to the BPD any student information, including but not limited to a Student Report, unless in response to a judicial warrant issued upon a finding of probable cause, as required under MGL c. 269, sec. 10(j) and MGL c. 71, sec. 37L, or as otherwise required by state or federal law. Nothing in this ordinance shall limit the ability of Boston Public Schools to release information as required by state or federal laws and regulations.



3. Before BPS personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to BPD or to any other entity outside of the Boston Public Schools in accordance with Sections 16-63.4c1 and 16-63.4c2, the following must take place:
  - A) Any student named in a Student Report or other record, and their parent or guardian, must be notified in writing that the Student Report they received pursuant to Section 16-63.4a5A will be transmitted to BPD or to the outside agency and receive an explanation of why the information reflected in the report is prompting the communication. All written materials must be provided in both English and the language spoken by the relevant student's parent or guardian.
  - B) The Boston Public Schools must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter of the family's choosing must be present for any party that requires one. The interpreter cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred interpreter, BPS must provide a qualified translator.
  - C) The Principals and Heads of School mentioned in Section 16-63.4a5A, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1, they must place a note in the record attesting to this fact, and the Student Report may not be transmitted to the BPD or any entity outside of BPS.
  - D) The student and family may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - E) Students and families may amend a student's record by placing a note with information relating to any Student Report in which the student is named in the student's file.
- d) Transmission of information pursuant to Exigent Circumstances
  1. Within 12 hours after a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances:

- A) The School Safety Specialists must notify the relevant Principal or Head of School that student information was shared with the BPD, and provide the relevant Principal or Head of School with a copy of the information shared;
- 2. Within 24 hours after the conclusion of the exigent circumstance or within 24 hours after BPS Personnel or a School Safety Specialists transmits a Student Report created pursuant to Section 16-63.4a or any other information relating to a student to the BPD pursuant to the existence of Exigent Circumstances, the relevant Principal or Head of School shall:
  - A) Notify in writing any student whose information or Student Report was shared and their parent or guardian that the student information was shared, and share a copy of the information transmitted and an explanation of the incident prompting the communication to BPD after the information was transmitted. All written materials must be provided in both English and the language spoken by the parent or guardian.
  - B) The relevant Principal or Head of School must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter/translator of the parent or guardian's choosing must be present for any party that requires one. The interpreter/translator cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred translator, BPS must provide a qualified translator.
    - I. The student and parent or guardian may have an attorney and/or advocate present at the meeting. At the moment the meeting is scheduled and requested, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
  - C) If the information shared was a Student Report, the Principals and/or Heads of School mentioned in Section 16-63.4a5, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in Section 16-63.4a1 is present. If the Legal Advisor finds that the incident did not meet the criteria in Section 16-63.4a1 they must place a note in the record attesting to this fact, and the BPD must be notified to the same within 3 business hours.
- e) School Safety Specialists shall not attend any meetings where officers or employees from U.S. Immigrations and Customs Enforcement are present, either in person or virtually.
- f) Transparency and Communication

1. Students, families, school administrators, teachers, and counselors must be made aware of this ordinance by including a copy of the ordinance in the Guide to Boston Public Schools.

g) Community Information-Sharing Oversight Board

1. A community oversight board shall be created to provide oversight regarding the implementation of Section 16-63.4 of this ordinance.
2. The board must include at least one representative from each of the following groups: a student chosen by the Boston Student Advisory Council, a parent or guardian chosen by the Citywide Parent Council, a parent or guardian chosen by the Boston Special Education Parent Advisory Council, a representative chosen by the Code of Conduct Advisory Council, a representative of the District English Learner Advisory Committee, a teacher chosen by the Boston Teachers Union, a local immigration advocate chosen by the Student Immigrant Movement (SIM), a civil rights advocate chosen by Lawyers for Civil Rights, and an immigration attorney familiar with the immigration consequences of criminal proceedings chosen by the Political Asylum/Immigration Representation Project.
3. The Superintendent shall report monthly to the board:
  - A) The number of Student Reports created, disaggregated by school;
  - B) The number of Student Reports shared with any outside entity, disaggregated by school and receiving entity;
  - C) The number of Student Reports reviewed by the Legal Advisor for the School Department that did not meet the criteria specified in Section 16-63.4a1, disaggregated by school, and including the date of each incident, a description of each incident, the race, ethnicity, gender, age, and grade level of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entity.
  - D) The number of Student Reports written under Section 16-63.4a, disaggregated by school, including the date of the incident, a description of the incident including the justification for the creation of the report per Section 16-63.4a1, the type of report, the race, ethnicity, gender, age and grade of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entities.
4. The board will review the information provided under Section 16-63.4g3 and may request that School Safety Specialists or District personnel respond to questions, either in writing or at a public meeting, relating to the information provided.

5. The board shall review the information for patterns and compliance with this ordinance. It shall issue findings and report such findings to the City Council and School Committee on a quarterly basis.
- h) Accountability and Training
1. All School Safety Specialists and school administrators must receive training on this policy, and the training will be designed in collaboration with the Student Immigrant Movement and Boston Teachers Union's Unafraid Educators. The training will also be provided by the Central Office and not by individual schools. Training materials will be made publicly available.
  2. All School Safety Specialists and BPS personnel, including school administrators, will sign an acknowledgment of responsibility for safeguarding student information under Section 16-63.4 of this ordinance, FERPA, and state student records law.
  3. All new School Safety Specialists will receive training on the requirements of Section 16-63.4 of this ordinance as part of their orientation.
  4. All School Safety Specialists must be trained every three years or at the discretion of the community oversight board.
  5. Any transfer of information about students in violation of Section 16-63.4 of this ordinance shall result in appropriate disciplinary action, up to and including dismissal, in accordance with the rules of collective bargaining.
  6. Should any School Safety Specialist be found to have violated this policy, the Superintendent will instruct the Chief of Safety Services to suspend all authorization of School Safety Specialists report submissions to BPD pending a full investigation of such violation.
- i) Nothing in this section shall be construed to prevent or restrict reporting requirements around sexual assault, sexual abuse, and child abuse in accordance with Massachusetts General Laws.

#### **16-63.5      Annual Surveillance Report**

- a) Applicability: This section shall apply to the following City departments and agencies: the Boston Police Department, Boston Parks Department Park Rangers, Boston Public Schools, Boston Public Health Commission, Boston Housing Authority, Boston Municipal Protection Services, and the Office of Emergency Management.

For the purpose of this section, the word "City" shall mean the City departments and agencies listed above.

- b) Within 18 months of the effective date, and annually thereafter, all applicable City departments shall submit to the Mayor an Annual Surveillance Report pertaining to each City department for which approval for the use of Surveillance Technology or Surveillance Data has been obtained under Sections 16-63.3c and 16-63.3d of this ordinance. Upon receipt of such reports, the Mayor shall promptly submit them to the City Council. Any Annual Surveillance Report submitted under this section shall be made publicly available on the City's website upon submission to the council.
- c) The Annual Surveillance Report submitted pursuant to this section shall include all of the following:
  - 1. A description of how Surveillance Technology has been used, including whether it captured images, sound, or other information regarding members of the public who are not suspected of engaging in unlawful conduct;
  - 2. Whether and how often data acquired through the use of the Surveillance Technology was shared with local, state, and federal, the name of any recipient entity, the type(s) of data disclosed, any legal standard(s) under which the information was disclosed, and the justification for the disclosure;
  - 3. A summary of community complaints or concerns about the Surveillance Technology, if any;
  - 4. The results of any internal audits, any information about violations of the Surveillance Use Policy, and any actions taken in response other than to the extent that such inclusion would violate the privacy rights of an employee of the City;
  - 5. A detailed accounting of whether the Surveillance Technology has been effective at achieving its identified purpose;
  - 6. The number of public records requests received by the City seeking documents concerning Surveillance Technologies approved during the previous year;
  - 7. An estimate of the total annual costs for the Surveillance Technology, including personnel and other ongoing costs, and what source(s) of funding will fund the technology in the coming year, if known;
  - 8. Whether the civil rights and liberties of any communities or groups, including communities of color or other marginalized communities in the City are disproportionately impacted by the deployment of the Surveillance Technology; and
  - 9. A disclosure of any new agreements made in the past 12 months with non-City entities that may include acquiring, sharing, or otherwise using Surveillance Technology or the Surveillance Data it provides.

- d) Based upon information provided in the Annual Surveillance Report, the City Council shall determine whether the benefits to the applicable, impacted City department(s) and the community of the Surveillance Technology outweigh the financial and operational costs and whether reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by the deployment of the Surveillance Technology. If the benefits or reasonably anticipated benefits do not outweigh the financial and/or operational costs or civil liberties or civil rights are not reasonably safeguarded, the City Council may recommend modifications to the Surveillance Use Policy that are designed to address the City Council's concerns to the Mayor for their consideration; withdraw authorization for continued use of Surveillance Technology by a majority vote of the City Council; and/or request a report back from the Mayor regarding steps taken to address the City Council's concerns. Should the Council withdraw authorization for a previously approved surveillance technology, the Mayor may request that the Surveillance Oversight Advisory Board meet to discuss the City Council's concerns and provide recommendations to the Mayor. The mayor at their discretion may resubmit a modified request to the City Council for approval.
- e) Nothing in this ordinance shall prohibit the City Council from enacting a separate ordinance to ban or otherwise regulate any Surveillance Technology, whether previously approved or not.
- f) No later than May 31 of each year, the City Council shall hold a meeting to discuss the applicable City departments' Annual Surveillance Reports, and shall publicly release a report that includes a summary of all requests for approval of Surveillance Technology received by the City Council during the prior year, including whether the City Council approved or denied the City's request for acquisition or use of the Surveillance Technology.

#### **16-63.6 Enforcement**

- a) Enforcement officials: This ordinance shall be enforced by the Mayor's office or the Mayor's designee.
- b) Suppression: No data collected or derived from any use of Surveillance Technology in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the City of Boston.



- c) Cause of action: Any violation of this ordinance constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this ordinance. An action instituted under this paragraph shall be brought against the City and, if necessary to effectuate compliance with this ordinance, any other governmental agency with possession, custody, or control of data subject to this ordinance.
- d) The City will address alleged violations of this ordinance in accordance with its usual practices, applicable law, and contractual obligations.
- e) Whistleblower protections. Subject to the limitations and requirements set forth in G. L. c. 149, §185 (the “Massachusetts Whistleblower Statute” or “Section 185”) as it may be amended from time to time, any City employee as defined in Section 185 who reports an alleged violation of this ordinance, shall be afforded protections against retaliation if applicable pursuant to Section 185, as set forth in and subject to the limitations and requirements of Section 185.
- f) Nothing in this ordinance shall be construed to limit or affect any individual’s rights under state or federal laws.

#### **16-63.7 Severability**

- a) The provisions in this ordinance are severable. If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall continue to have full force and effect.

#### **16-63.8 Effective Date and Implementation**

The effective date and implementation of the ordinance shall be as follows.

- a) The ordinance shall take effect and be implemented in the manner and ways described in this section.
- b) The ordinance shall take effect notwithstanding any other provision of law and shall supersede any prior law and regulation enacted by the City of Boston and/or any agreement entered into by the City of Boston or any of its agencies that are interpreted to be in conflict with its provisions.
- c) Sections 16-63.1, 16-63.2, 16-63.4, 16-63.6, and 16-63.7 shall take effect one month after its adoption in accordance with the following provisions:
  - 1. Every School Safety Specialist shall create a record of Historic Student Reports
  - 2. Within four months of the Effective Date:

- A) The Historic Student Reports that do not conform with Section 16-63.4a1 shall be destroyed, in both print and electronic form, provided that such destruction is permitted under the state law relating to retention of records.
  - B) The Historic Student Reports that conform with Section 16-63.4a1 can be retained, provided there is a previous certification by the BPS Legal Advisor that their creation meets such requirements.
  - C) All reports created more than 5 years ago shall be destroyed.
3. Within six months of the Effective Date, the Head of the School Safety Specialists and the Legal Advisor must submit a report to the Community Information-Sharing Oversight Board. Such report must contain:
- A) The number of Historic Student Reports, including the format or file type of the report, description of each incident, disaggregated by race, ethnicity, gender, age, and grade level of each student who is named in the report;
  - B) The number of Historic Student Reports retained in accordance with Section 16-63.8c2A;
  - C) The number of Historic Student Reports destroyed in accordance with Section 16-63.8c2B and 16-63.8c2C;
4. No more than one month after receiving such report, the Community Information-Sharing Oversight Board shall call a public hearing to discuss the Historic Student Reports. The Head of the School Safety Specialists as well as individual School Safety Specialists shall be present at such public hearing.
- d) Sections 16-63.3 and 16-63.5 shall take effect nine months after their adoption.

#### **16-63.9 Establishment of a Surveillance, Data, and Privacy Working Group**

- a) The Working Group shall be tasked with identifying a set of priorities and implementable objectives to increase the transparency, accountability, and engagement around the public deployment of technology and use of data within City of Boston Departments not covered by this ordinance.
- b) The Working Group will move forward sustainable policies to increase engagement on the topic of privacy and supply recommendations on professional development opportunities and training for City staff.
- c) The Working Group must produce recommendations for implementation within one year from the date of adoption to the Mayor and City Council.

- d) The Working Group shall comprise a representative from the Mayor's Office of New Urban Mechanics, a representative from the Department of Innovation and Technology, a representative from the City Council to be chosen by the Boston City Council President, a representative from the Massachusetts American Civil Liberties Union, a representative from the community-at-large to be chosen by SIM, and a representative appointed by the Mayor.
- e) The Working Group will dissolve upon the publication of recommendations to the Mayor and City Council.
- f) The Working Group seats shall be filled within one month of this ordinance's passage and the Group shall convene for its first meeting one month thereafter.

Filed in City Council: October 20, 2021

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** agnaldo.monteiro@pd.boston.gov <agnaldo.monteiro@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** aimee.pelosi@pd.boston.gov <aimee.pelosi@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** alexander.reyes@pd.boston.gov <alexander.reyes@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** aliza.rodriguez@pd.boston.gov <aliza.rodriguez@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** allison.gunther@pd.boston.gov <allison.gunther@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** amy.erlandson@pd.boston.gov <amy.erlandson@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** amy.hamilton@pd.boston.gov <amy.hamilton@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** andrew.creed@pd.boston.gov <andrew.creed@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** andrew.hunter@pd.boston.gov <andrew.hunter@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** andrew.hunter@pd.boston.gov <andrew.hunter@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** andrew.minichello@pd.boston.gov <andrew.minichello@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** andrew.minichello@pd.boston.gov <andrew.minichello@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** andrew.miskell@pd.boston.gov <andrew.miskell@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** andrew.miskell@pd.boston.gov <andrew.miskell@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** angelene.richardson@pd.boston.gov <angelene.richardson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** angelene.richardson@pd.boston.gov <angelene.richardson@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.bellissimo@pd.boston.gov <anthony.bellissimo@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.bellissimo@pd.boston.gov <anthony.bellissimo@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.braga@pd.boston.gov <anthony.braga@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.braga@pd.boston.gov <anthony.braga@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.cutone@pd.boston.gov <anthony.cutone@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.cutone@pd.boston.gov <anthony.cutone@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.francis@pd.boston.gov <anthony.francis@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.francis@pd.boston.gov <anthony.francis@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.lamonica@pd.boston.gov <anthony.lamonica@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.lamonica@pd.boston.gov <anthony.lamonica@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.serra@pd.boston.gov <anthony.serra@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.serra@pd.boston.gov <anthony.serra@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.twining@pd.boston.gov <anthony.twining@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.twining@pd.boston.gov <anthony.twining@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** anthony.williams@pd.boston.gov <anthony.williams@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** anthony.williams@pd.boston.gov <anthony.williams@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** antoine.ramos@pd.boston.gov <antoine.ramos@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** antoine.ramos@pd.boston.gov <antoine.ramos@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:50 AM EDT  
**To:** arthur.depinho@pd.boston.gov <arthur.depinho@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** arthur.depinho@pd.boston.gov <arthur.depinho@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** arthur.torigian@pd.boston.gov <arthur.torigian@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** arthur.torigian@pd.boston.gov <arthur.torigian@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ashley.clark@pd.boston.gov <ashley.clark@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ashley.clark@pd.boston.gov <ashley.clark@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ayesha.lawton@pd.boston.gov <ayesha.lawton@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ayesha.lawton@pd.boston.gov <ayesha.lawton@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** bernadette.holiday@pd.boston.gov <bernadette.holiday@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** bernadette.holiday@pd.boston.gov <bernadette.holiday@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** bernadette.sullivan@pd.boston.gov <bernadette.sullivan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** bernadette.sullivan@pd.boston.gov <bernadette.sullivan@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** beth.leary@pd.boston.gov <beth.leary@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brendan.kelly@pd.boston.gov <brendan.kelly@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Boston Police Department - Operations Division

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brendan.lyons@pd.boston.gov <brendan.lyons@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brendan.wheeler@pd.boston.gov <brendan.wheeler@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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Boston Police Department - Operations Division

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Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brendan.wheeler@pd.boston.gov <brendan.wheeler@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.albert@pd.boston.gov <brian.albert@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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Boston Police Department - Operations Division

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**To:** brian.albert@pd.boston.gov <brian.albert@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.ball@pd.boston.gov <brian.ball@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brian.ball@pd.boston.gov <brian.ball@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.barcelou@pd.boston.gov <brian.barcelou@pd.boston.gov>  
**Subject:** Arrest

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brian.barcelou@pd.boston.gov <brian.barcelou@pd.boston.gov>  
**Subject:** Protesters

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.delahanty@pd.boston.gov <brian.delahanty@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brian.delahanty@pd.boston.gov <brian.delahanty@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.holmes@pd.boston.gov <brian.holmes@pd.boston.gov>  
**Subject:** Arrest

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District E5

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Boston Police Department - Operations Division

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brian.holmes@pd.boston.gov <brian.holmes@pd.boston.gov>  
**Subject:** Protesters

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.johnson@pd.boston.gov <brian.johnson@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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Boston Police Department - Operations Division

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brian.johnson@pd.boston.gov <brian.johnson@pd.boston.gov>  
**Subject:** Protesters

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.larkin@pd.boston.gov <brian.larkin@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** brian.larkin@pd.boston.gov <brian.larkin@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** brian.leahy@pd.boston.gov <brian.leahy@pd.boston.gov>  
**Subject:** Arrest

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**From:** Darrin Greeley <darrin.greeley@pd.boston.gov>

**Sent:** Monday, April 04, 2022 12:48 PM EDT

**To:** Michael Hegarty <michael.hegarty@pd.boston.gov>; John Earley <john.earley@pd.boston.gov>; Tomas Kearney <thomas.kearney@pd.boston.gov>; Dana Barrett <dana.barrett@pd.boston.gov>; Nicole McMullin <nicole.mcmullin@pd.boston.gov>; Frank St Peter <francis.st.peter@pd.boston.gov>; Timothy Fitzpatrick <timothy.fitzpatrick@pd.boston.gov>; Wilson Quiles <wilson.quiles@pd.boston.gov>; Stephen OBrien <stephen.obrien@pd.boston.gov>

**CC:** John Hughes <john.hughes@pd.boston.gov>; Joseph Gillespie <joseph.gillespie@pd.boston.gov>; Scott OMara <scott.omara@pd.boston.gov>; Michael Mylett <michael.mylett@pd.boston.gov>; Joe Freeman <joe.freeman@pd.boston.gov>; Gerard Bailey <gerard.bailey@pd.boston.gov>; Gregory Long <gregory.long@pd.boston.gov>; James Tarantino <james.tarantino@pd.boston.gov>; Michael Kern <michael.kern@pd.boston.gov>; Tony Troy <troyan.bpd@ci.boston.ma.us>; Katelyn OToole <katelyn.otoole@pd.boston.gov>; Erica Bradley <erica.bradley@pd.boston.gov>; Brian Waters <brian.waters@pd.boston.gov>; John Rouvalis <john.rouvalis@pd.boston.gov>; Mathew Wosny <mathew.wosny@pd.boston.gov>; John Farrell <john.farrell@pd.boston.gov>; Kevin McClay <kevin.mcclay@pd.boston.gov>; Brian Armstrong <brian.armstrong@pd.boston.gov>; John Brown <john.brown@pd.boston.gov>

**Subject:** Response for Protest 17 Augustus Ave Roslindale

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING. If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office. VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** Mail Delivery Subsystem <mailer-daemon@mx0a-00241402.pphosted.com>

**Sent:** Tuesday, April 05, 2022 8:46 AM EDT

**To:** bric@pd.boston.gov <bric@pd.boston.gov>

**Subject:** Returned mail: see transcript for details

**Attachment(s):** "ATT00001.bin", "details.txt", "Daily BRIC Homeland Security Incident Review For 04/05/2022"

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.freddo-miller@pd.boston.gov <daniel.freddo-miller@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**To:** daniel.freddo-miller@pd.boston.gov <daniel.freddo-miller@pd.boston.gov>  
**Subject:** Protesters

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Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**Internal investigation      IA No: IAD2022-0136      Received: Apr 01, 2022**

Case No:

**Classification/Sub-classification: Rights & Responsibilities - 102 / Sec 03 - Conduct**

**Officers involved:**

**Sergt Shana Cottone [00325/106714]**

**Officer current info:**

Bureau : Bureau Of Administration & Technology  
Zone / Division: Human Resources Division  
Area:

**Snapshot - Officer information at time of incident:**

Employee ID Number: 106714  
Bureau : Bureau Of Administration & Technology  
Zone / Division: Human Resources Division  
Area:  
Unit: Administrative Leave Section  
Rank/title: Sergt  
Age: 36    Years of employment: 13    Years with unit:  
Off duty: Unk    Off duty employed: Unk

Allegations:

Conduct Unbecoming  
< Open allegation - no finding >

**Officer complainants:**

**Sergeant Detective Jason S S Gilmore Sr. [00250/011055]**

**Officer current info:**

Bureau : Office Of Police Commissioner  
Zone / Division:  
Area:

**Officer witnesses:**

**Sergt Stephen T T O'brien [00535/009033]**

**Officer current info:**

Bureau : Bureau Of Field Services  
Zone / Division: Three  
Area: E

**Summary:**

On 04/01/2022, at approximately 7:15 am, protesters began arriving at the corner of Crandall and Augustus Av. The number increased to approximately 6-8 protesters. The protesters began yelling in the direction of the Mayor's house relative to the Vax Mandate and City Ordinances. These protesters were, also, waving flags and holding signs. Sgt Det. Jason



Gilmore of the Mayors Security Team approached the group and advised them of the City Ordinance 16-63 regarding Targeted Residential Picketing.. After advising the group of the ordinance, I (E901) provided, a copy of the CITY ORDINANCE to each protester in hand. Sgt. Cottone was present for Sgt Det Gilmore's reading of the ordinance and I personally handed Sgt Cottone a copy of the new city ordinance. A short time later, Sgt. Cottone approached me and notified me that she was leaving the area. Later, I heard someone using an amplification device further down Crandall St. After several outbursts form down the street it was determined that Sgt. Cottone was now on Crandall St. street broadcasting from her personal vehicle at least two times. Finally, when the Mayor exited her house and entered the security teams vehicle, I observed that a motor vehicle began to follow the Mayor's vehicle at a close distance down Augustus onto Poplar Street towards Roslindale Sq, The vehicle was, also, using a amplification device to broadcast anti Wu statements , This vehicle was the same vehicle that was parked down the street on Crandall and previously using an amplification device to broadcast ant Wu sentiments. The vehicle was identified as being owned and operated by Sgt, Shana Cottone, The incident was captured by BWC worn officers on scene .

**When/where:**

Date/time occurred: Apr 01 2022 07:15

Incident location: 17 Augustus Avenue Boston MA 02131 Precinct: E-5  
County: E-5

**Status/assignment information:**

Status: Active

Opened: 04/04/2022 Assigned: 04/04/2022 Due: 05/01/2022 Completed:

Disposition: Pending

Unit assigned: Internal Affairs  
Handled at field/unit level: No  
Investigator assign: Sergeant Detective Rafael Antunez  
Supervisor assign: Lieutenant Detective Thomas Lema  
Source of information: Form 1920

**Organizational component(s):**

Bureau : Bureau Of Field Services  
Zone / Division: Three  
Area: E  
District: 05  
Unit: Administrative Leave Section

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** caitlin.haugh@pd.boston.gov <caitlin.haugh@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** caitlin.haugh@pd.boston.gov <caitlin.haugh@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** carl.blando@pd.boston.gov <carl.blando@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** carl.blando@pd.boston.gov <carl.blando@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** carmen.curry@pd.boston.gov <carmen.curry@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

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**To:** carmen.curry@pd.boston.gov <carmen.curry@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** carolyn.flaherty@pd.boston.gov <carolyn.flaherty@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** carolyn.flaherty@pd.boston.gov <carolyn.flaherty@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** carolyn.sygiel@pd.boston.gov <carolyn.sygiel@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** cary.chin@pd.boston.gov <cary.chin@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** casey.mcdonough@pd.boston.gov <casey.mcdonough@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** casey.mcdonough@pd.boston.gov <casey.mcdonough@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** casey.king@pd.boston.gov <casey.king@pd.boston.gov>  
**Subject:** Arrest

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**To:** casey.king@pd.boston.gov <casey.king@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** charles.cellucci@pd.boston.gov <charles.cellucci@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** charles.cellucci@pd.boston.gov <charles.cellucci@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** charles.wilson@pd.boston.gov <charles.wilson@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** charles.wilson@pd.boston.gov <charles.wilson@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** chau.nguyen@pd.boston.gov <chau.nguyen@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**To:** chau.nguyen@pd.boston.gov <chau.nguyen@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Monday, April 25, 2022 7:49 AM EDT

**To:** christine.doucette@pd.boston.gov <christine.doucette@pd.boston.gov>

**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** christine.doucette@pd.boston.gov <christine.doucette@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christofer.steele@pd.boston.gov <christofer.steele@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** christofer.steele@pd.boston.gov <christofer.steele@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christopher.broderick@pd.boston.gov <christopher.broderick@pd.boston.gov>  
**Subject:** Arrest

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**To:** christopher.broderick@pd.boston.gov <christopher.broderick@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christopher.carr@pd.boston.gov <christopher.carr@pd.boston.gov>  
**Subject:** Arrest

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**To:** christopher.carr@pd.boston.gov <christopher.carr@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christopher.hamilton@pd.boston.gov <christopher.hamilton@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christopher.holt@pd.boston.gov <christopher.holt@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christopher.kennedy@pd.boston.gov <christopher.kennedy@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** christopher.kennedy@pd.boston.gov <christopher.kennedy@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** christopher.markunas@pd.boston.gov <christopher.markunas@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** christopher.markunas@pd.boston.gov <christopher.markunas@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** chris.walsh@pd.boston.gov <chris.walsh@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** chris.walsh@pd.boston.gov <chris.walsh@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** claire.duffy@pd.boston.gov <claire.duffy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** claire.duffy@pd.boston.gov <claire.duffy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** connor.hardy@pd.boston.gov <connor.hardy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** connor.hardy@pd.boston.gov <connor.hardy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** cornell.paterson@pd.boston.gov <cornell.paterson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** cornell.paterson@pd.boston.gov <cornell.paterson@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** Dana Barrett <dana.barrett@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 1:05 PM EDT  
**To:** Richard Driscoll <richard.driscoll@pd.boston.gov>  
**Subject:** Fwd: Response for Protest 17 Augustus Ave Roslindale

----- Forwarded message -----

From: **Darrin Greeley** <darrin.greeley@pd.boston.gov>  
Date: Mon, Apr 4, 2022 at 12:48 PM  
Subject: Response for Protest 17 Augustus Ave Roslindale  
To: Michael Hegarty <michael.hegarty@pd.boston.gov>, John Earley <john.earley@pd.boston.gov>, Tomas Kearney <thomas.kearney@pd.boston.gov>, Dana Barrett <dana.barrett@pd.boston.gov>, Nicole McMullin <nicole.mcmullin@pd.boston.gov>, Frank St Peter <francis.st.peter@pd.boston.gov>, Timothy Fitzpatrick <timothy.fitzpatrick@pd.boston.gov>, Wilson Quiles <wilson.quiles@pd.boston.gov>, Stephen O'Brien <stephen.obrien@pd.boston.gov>  
CC: John Hughes <john.hughes@pd.boston.gov>, Joseph Gillespie <joseph.gillespie@pd.boston.gov>, Scott O'Mara <scott.omara@pd.boston.gov>, Michael Mylett <michael.mylett@pd.boston.gov>, Joe Freeman <joe.freeman@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Gregory Long <gregory.long@pd.boston.gov>, James Tarantino <james.tarantino@pd.boston.gov>, Michael Kern <michael.kern@pd.boston.gov>, Tony Troy <TroyAn.bpd@ci.boston.ma.us>, Katelyn O'Toole <katelyn.otoole@pd.boston.gov>, Erica Bradley <erica.bradley@pd.boston.gov>, Brian Waters <brian.waters@pd.boston.gov>, John Rouvalis <john.rouvalis@pd.boston.gov>, Mathew Wosny <mathew.wosny@pd.boston.gov>, John Farrell <john.farrell@pd.boston.gov>, Kevin McClay <kevin.mcclay@pd.boston.gov>, Brian Armstrong <brian.armstrong@pd.boston.gov>, John Brown <john.brown@pd.boston.gov>

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING.  
If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office.  
VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
darrin.greeley@pd.boston.gov



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** dana.barrett@pd.boston.gov <dana.barrett@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** Dana Barrett <dana.barrett@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 1:04 PM EDT  
**To:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** Re: Response for Protest 17 Augustus Ave Roslindale

Received, thank you.

On Mon, Apr 4, 2022 at 12:48 PM Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)> wrote:  
POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING. If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

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PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dana.grant@pd.boston.gov <dana.grant@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** dana.grant@pd.boston.gov <dana.grant@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dana.mcgillicuddy@pd.boston.gov <dana.mcgillicuddy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** dana.mcgillicuddy@pd.boston.gov <dana.mcgillicuddy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.duff@pd.boston.gov <daniel.duff@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.duff@pd.boston.gov <daniel.duff@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.griffin@pd.boston.gov <daniel.griffin@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.griffin@pd.boston.gov <daniel.griffin@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.harlow@pd.boston.gov <daniel.harlow@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.harlow@pd.boston.gov <daniel.harlow@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.hegerich@pd.boston.gov <daniel.hegerich@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.hegerich@pd.boston.gov <daniel.hegerich@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.mccarthy@pd.boston.gov <daniel.mccarthy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.mccarthy@pd.boston.gov <daniel.mccarthy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.pusey@pd.boston.gov <daniel.pusey@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

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Event Description: One person under arrest for violating the City Ordinance.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.pusey@pd.boston.gov <daniel.pusey@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.quintiliani@pd.boston.gov <daniel.quintiliani@pd.boston.gov>  
**Subject:** Arrest

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** daniel.quintiliani@pd.boston.gov <daniel.quintiliani@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daniel.smith@pd.boston.gov <daniel.smith@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** daran.edwards@pd.boston.gov <daran.edwards@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dario.fancelli@pd.boston.gov <dario.fancelli@pd.boston.gov>  
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**To:** darlene.lagoa@pd.boston.gov <darlene.lagoa@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** david.carabin@pd.boston.gov <david.carabin@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** david.estrada@pd.boston.gov <david.estrada@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** davidf.hernandez@pd.boston.gov <davidf.hernandez@pd.boston.gov>  
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**From:** John Boyle <johnt.boyle@pd.boston.gov>

**Sent:** Monday, April 25, 2022 11:14 AM EDT

**To:** David Fredette <david.fredette@pd.boston.gov>; Adam Cederbaum <adam.cederbaum@boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>

**Subject:** unredacted report from 17 Augustus Ave on Monday, April 25, 2022

**Attachment(s):** "20220425111020795.pdf"

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

Boston PD

## IS 222028976 - Offense/Incident Report

REPORTED ON DATE / TIME	DISTRICT / SECTOR / REPORTING AREA / SUBMISSION A / SUBMISSION B	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME
Apr 25, 2022 08:18	E5 / E414	Apr 25, 2022 07:18

REPORTING OFFICER

MATHEW PIEROWAY #106666

REPORT MADE LOCATION

17 AUGUSTUS AVE, ROSLINDALE, MA 02131

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                         | <input type="checkbox"/> Drugs             |
| <input type="checkbox"/> Sexual Assault              | <input type="checkbox"/> NIDV              |
| <input type="checkbox"/> Child Present               | <input type="checkbox"/> Homeless          |
| <input type="checkbox"/> CRU - Hate/Bias             | <input type="checkbox"/> Car Jack          |
| <input type="checkbox"/> Other Agency/Unit Notified  | <input type="checkbox"/> Bicycle           |
| <input type="checkbox"/> DVIP                        | <input type="checkbox"/> Licensed Premise  |
| <input type="checkbox"/> Warrant Arrest              | <input type="checkbox"/> School            |
| <input type="checkbox"/> Juvenile                    | <input type="checkbox"/> Disabled          |
| <input type="checkbox"/> Gang                        | <input type="checkbox"/> Search Warrant    |
| <input type="checkbox"/> Homeland Security           | <input type="checkbox"/> Shots Fired       |
| <input type="checkbox"/> Sex Offender                | <input type="checkbox"/> Elderly           |
| <input type="checkbox"/> Homeland Security UASI      | <input type="checkbox"/> Victim Shot       |
| <input type="checkbox"/> Home Invasion               | <input type="checkbox"/> Victim Stabbed    |
| <input type="checkbox"/> Human Trafficking           | <input type="checkbox"/> Child Abuse       |
| <input checked="" type="checkbox"/> Body Worn Camera | <input type="checkbox"/> Auto Investigator |

## NARRATIVE

At about 7:45 AM on Monday April 25, 2022 Officer Pieroway in the E626D Unit, while on a fixed post at 17 Augustus Ave, did arrest Shannon Llewellyn DOB 7/12/76 for willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

At about 7:30 AM on the above date, Officer Pieroway in the E626D, while on a fix post at 17 Augustus Ave was speaking with a known neighbor, observed 1 unidentified male and 2 unidentified females as well as the Suspect, later identified as Shannon Llewellyn DOB 7/12/76, walk towards the corner of Augustus Ave and Crandell St. The Suspect was holding 2 signs a cooking pot with a cooking utensil. Officer Pieroway then contacted the Patrol Supervisor E901 Sgt. O'Brien of the protestors.

Sgt. O'Brien then arrived on scene and handed the protestors a copy of the City of Boston Ordinance 16-63 Regarding Targeted Residential Picketing. Officer Pieroway at this time activated his body worn camera.

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)	JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)
PRINT NAME	PRINT NAME
MATHEW PIEROWAY #106666	JOHN EARLEY #012114



Sgt. O'Brien then explained the ordinance to the protestors and informed them they would be subject to arrest if they did not leave. One of the unidentified females stated she was a member of the press and was documenting the incident. The second female along with unidentified male then stated they could not get arrested and stated they were leaving. The Suspect then continued to argue with officers stating this was unconstitutional. Sgt. O'Brien then stated to the Suspect that she had five minutes to leave or she would be arrested for willful violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing pursuant to Mass General Law Chapter 272 Section 59. The Suspect was then given ample time to leave but she refused and began to banging the cooking utensil against the pot in a disturbing manner. Sgt. O'Brien then directed Officer Pieroway and Barboza to place the Suspect under arrest due to the Suspect knowing and willfully violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

The Suspect then put both of her arms out as Officer Pieroway and Officer Barboza (ET55) placed her into custody. Officer Barboza transported the Suspect to Area E5 while Officer Pieroway followed behind. The Suspect was then transported without further incident.

Further investigation revealed the Suspect was at West Roxbury District Court on April 15, 2022 for a Clerks hearing and was advised by Clerk Magistrate Sean Murphy of the City Ordinance and MGL 272 59 (specifically of the time of 9:00AM to 9:00PM restriction in the ordinance). Also present at the hearing was Sgt. Brian Waters representing the City of Boston. It should be noted that this is the second time the Suspect has been charged with this offense.

Shannon Llewellyn is to be charged willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing in West Roxbury District Court.

REPORTING PARTY - 1			
REPORTING PARTY - 1 (ORGANIZATION)			
R-1 Myself			
OFFENSE-1			
OFFENSE CODE			
VIOLATION - CITY ORDINANCE			
OCCURRED FROM DATE/TIME		SUSPECTED NITE / CRIME	
Apr 25, 2022 07:18		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
OFFENSE LOCATION			
LOCATION NAME / STREET NUMBER / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION			
17 AUGUSTUS AVE			
CITY	STATE	ZIP	COUNTRY CODE
ROSLINDALE	MA	02131	US
LOCATION CATEGORY		DISTRICT / SECTOR / REPORTING AREA / SUPERVISION A / SUPERVISION B	PUBLIC / PRIVATE
Highway/ Road/ Alley/ Street/ Sidewalk		E5 / E414	Public
VICTIMS-1			
VICTIMS-1 NAME			
V-1 Commonwealth of Massachusetts			
ORGANIZATION TYPE		ORGANIZATION INDUSTRY	
Criminal Justice		Law Enforcement	
SUSPECTS-1			
SUSPECTS-1 NAME (LAST, FIRST MIDDLE)		DOB / ESTIMATED AGE RANGE	
S-1 Llewellyn, Shannon		1976-07-12	
SEX	RACE / ETHNICITY	PHONE NUMBER	
REPORTING OFFICER SIGNATURE / DATE		SUPERVISOR SIGNATURE / DATE	
MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)		JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)	
PRINT NAME		PRINT NAME	
MATHEW PIEROWAY #106666		JOHN EARLEY #012114	

Female	White / Not of Hispanic Origin	(781) 592-2155 [primary, Mobile Phone]
--------	--------------------------------	--

HOME ADDRESS

37 MAPLE VALLEY ROAD, LYNN, MA 01904

REPORTING OFFICER SIGNATURE / DATE

MATHEW PIEROWAY #106665 Apr 25, 2022 10:10 (e-signature)

PRINT NAME

MATHEW PIEROWAY #106665

SUSPECT SIGNATURE / DATE

JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)

PRINT NAME

JOHN EARLEY #012114

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** david.martinez@pd.boston.gov <david.martinez@pd.boston.gov>  
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**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** david.singletary@pd.boston.gov <david.singletary@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dawn.francis@pd.boston.gov <dawn.francis@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dawn.morse@pd.boston.gov <dawn.morse@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dean.bickerton@pd.boston.gov <dean.bickerton@pd.boston.gov>  
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Boston Police Department  
Boston PD

## # 222022674 - Offense/Incident Report

REPORTED ON DATE / TIME	DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION 4 / SUBDIVISION 5	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME
Apr 1, 2022 08:33	E5 / E414	Apr 1, 2022 01:57

REPORTING OFFICER

JOHN CALLAHAN #144429

REPORT TAKEN LOCATION

17 AUGUSTUS AVE, ROSLINDALE, MA 02131

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

## NARRATIVE

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E202D Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)	TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)
PRINT NAME	PRINT NAME
JOHN CALLAHAN #144429	TIMOTHY FITZPATRICK #011810

Upon physical receipt of the city ordinance Shana Cottone acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. Cottone then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue Robert Burke City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

Mayor Wu was picked up at her residence by her security detail and when the Mayors car began to drive off, Cottone in her personal vehicle, began following the Mayors car while using an amplifying device to yell and harass the Mayor. Sgt. Detective Chin, of the Mayors security detail, observed Cottone following the Mayors vehicle and heard her yelling at the mayor using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] and Shana Cottone for violation of city ordinances 16-63 and 16.88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

**REPORTING PARTY -1**

REPORTING PARTY-1 (ORGANIZATION)

R-1 Myself

**OFFENSE-1**

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HATE CRIME

☐ YES ☒ NO**OFFENSE LOCATION**

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION 4 / SUBDIVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

**VICTIMS-1**

VICTIMS-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

**SUSPECTS-1**

SUSPECTS-1 NAME (LAST, FIRST/MIDDLE)

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

**SUSPECTS-2**

SUSPECTS-2 NAME (LAST, FIRST/MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

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SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female White / Unknown

SUSPECTS-3

SUSPECTS-3 NAME (LAST, FIRST MIDDLE)

[REDACTED]

[REDACTED]

REPORTING OFFICER SIGNATURE / DATE

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PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

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PRINT NAME

TIMOTHY FITZPATRICK #011810

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** debra.blandin@pd.boston.gov <debra.blandin@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dennis.cogavin@pd.boston.gov <dennis.cogavin@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** dennis.medina@pd.boston.gov <dennis.medina@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** derrick.harris@pd.boston.gov <derrick.harris@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**To:** diamantino.araujo@pd.boston.gov <diamantino.araujo@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** domingo.montiero@pd.boston.gov <domingo.montiero@pd.boston.gov>  
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**To:** domingo.montiero@pd.boston.gov <domingo.montiero@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** donald.keenan@pd.boston.gov <dona1d.keenan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** donald.wightman@pd.boston.gov <donald.wightman@pd.boston.gov>  
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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** eamon.geoghegan@pd.boston.gov <eamon.geoghegan@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** eddie.hernandez@pd.boston.gov <eddie.hernandez@pd.boston.gov>  
**Subject:** Arrest

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**Internal investigation      IA No: IAD2022-0136      Received: Apr 01, 2022**

Case No:

**Classification/Sub-classification: Rights & Responsibilities - 102 / Sec 03 - Conduct**

**Officers involved:**

**Sergt Shana Cottone [00325/106714]**

**Officer current info:**

Bureau : Bureau Of Administration & Technology  
Zone / Division: Human Resources Division  
Area:

**Snapshot - Officer information at time of incident:**

Employee ID Number: 106714  
Bureau : Bureau Of Administration & Technology  
Zone / Division: Human Resources Division  
Area:  
Unit: Administrative Leave Section  
Rank/title: Sergt  
Age: 36    Years of employment: 13    Years with unit:  
Off duty: Unk    Off duty employed: Unk

Allegations:

Conduct Unbecoming  
< Open allegation - no finding >

**Officer complainants:**

**Sergeant Detective Jason S S Gilmore Sr. [00250/011055]**

**Officer current info:**

Bureau : Office Of Police Commissioner  
Zone / Division:  
Area:

**Officer witnesses:**

**Sergt Stephen T T O'brien [00535/009033]**

**Officer current info:**

Bureau : Bureau Of Field Services  
Zone / Division: Three  
Area: E

**Summary:**

On 04/01/2022, at approximately 7:15 am, protesters began arriving at the corner of Crandall and Augustus Av. The number increased to approximately 6-8 protesters. The protesters began yelling in the direction of the Mayor's house relative to the Vax Mandate and City Ordinances. These protesters were, also, waving flags and holding signs. Sgt Det. Jason

Gilmore of the Mayors Security Team approached the group and advised them of the City Ordinance 16-63 regarding Targeted Residential Picketing.. After advising the group of the ordinance, I (E901) provided, a copy of the CITY ORDINANCE to each protester in hand. Sgt. Cottone was present for Sgt Det Gilmore's reading of the ordinance and I personally handed Sgt Cottone a copy of the new city ordinance. A short time later, Sgt. Cottone approached me and notified me that she was leaving the area. Later, I heard someone using an amplification device further down Crandall St. After several outbursts form down the street it was determined that Sgt. Cottone was now on Crandall St. street broadcasting from her personal vehicle at least two times. Finally, when the Mayor exited her house and entered the security teams vehicle, I observed that a motor vehicle began to follow the Mayor's vehicle at a close distance down Augustus onto Poplar Street towards Roslindale Sq, The vehicle was, also, using a amplification device to broadcast anti Wu statements , This vehicle was the same vehicle that was parked down the street on Crandall and previously using an amplification device to broadcast ant Wu sentiments. The vehicle was identified as being owned and operated by Sgt, Shana Cottone, The incident was captured by BWC worn officers on scene .

**When/where:**

Date/time occurred: Apr 01 2022 07:15

Incident location: 17 Augustus Avenue Boston MA 02131 Precinct: E-5  
County: E-5

**Status/assignment information:**

Status: Active

Opened: 04/04/2022 Assigned: 04/04/2022 Due: 05/01/2022 Completed:

Disposition: Pending

Unit assigned: Internal Affairs  
Handled at field/unit level: No  
Investigator assign: Sergeant Detective Rafael Antunez  
Supervisor assign: Lieutenant Detective Thomas Lema  
Source of information: Form 1920

**Organizational component(s):**

Bureau : Bureau Of Field Services  
Zone / Division: Three  
Area: E  
District: 05  
Unit: Administrative Leave Section

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** eddy.chrispin@pd.boston.gov <eddy.chrispin@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** eddy.pena@pd.boston.gov <eddy.pena@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** edgar.varela@pd.boston.gov <edgar.varela@pd.boston.gov>  
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**From:** Peter McCarthy <peter.mccarthy@pd.boston.gov>

**Sent:** Monday, April 25, 2022 8:37 AM EDT

**To:** Robert Donaruma <robert.donaruma@pd.boston.gov>; Michael Sullivan <michaelj.sullivan@pd.boston.gov>; David Edwards <david.edwards@pd.boston.gov>; Keith Monahan <keith.monahan@pd.boston.gov>; Edward Barrett <edward.barrett@pd.boston.gov>; Rami Awad <rami.awad@pd.boston.gov>; Michael Locke <michael.locke@pd.boston.gov>

**CC:** Joseph Gillespie <joseph.gillespie@pd.boston.gov>

**Subject:** EDT's at Augustus Ave

Gentlemen,

Just wanted to make sure that you were all aware that a protester was arrested this morning outside the Mayor's house. Going forward anyone who violates 272/ 59 (Wilful Violation of a City Ordinance) is going to be subject to possible arrest. E-5 wanted us to make sure that the last half and day EDT's are aware that they will be called out and will be there in a timely fashion.

Thanks,

Pete

**Sergeant Pete McCarthy**

**District E-18**

**1249 Hyde Park Ave**

**Hyde Park, MA 02136**

**617-343-5600 Office**

**617-343-5335 Fax**

**[peter.mccarthy@pd.boston.gov](mailto:peter.mccarthy@pd.boston.gov)**

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**From:** Joseph Gillespie <joseph.gillespie@pd.boston.gov>

**Sent:** Tuesday, April 05, 2022 10:08 AM EDT

**To:** john.johnson@pd.boston.gov <john.johnson@pd.boston.gov>; Daniel Keane <daniel.keane@pd.boston.gov>; David Edwards <david.edwards@pd.boston.gov>; Edward Barrett <edward.barrett@pd.boston.gov>; John Tevnan <john.tevnan@pd.boston.gov>; Michael Locke <michael.locke@pd.boston.gov>; Peter McCarthy <peter.mccarthy@pd.boston.gov>; Robert Donaruma <donarumar.bpd@cityofboston.gov>; Tracey Fenton <tracey.fenton@pd.boston.gov>; Eric Krause <eric.krause@pd.boston.gov>; Jeffrey Lynch <jeffrey.lynch@pd.boston.gov>; John Rouvalis <john.rouvalis@pd.boston.gov>; Keith Monahan <keith.monahan@pd.boston.gov>; Anastatia Hamilton <stacey.boyle@pd.boston.gov>; Michael Sullivan <michaelj.sullivan@pd.boston.gov>

**Subject:** Fwd: Response for Protest 17 Augustus Ave Roslindale

mona

----- Forwarded message -----

From: **Darrin Greeley** <darrin.greeley@pd.boston.gov>

Date: Mon, Apr 4, 2022 at 12:48 PM

Subject: Response for Protest 17 Augustus Ave Roslindale

To: Michael Hegarty <michael.hegarty@pd.boston.gov>, John Earley <john.earley@pd.boston.gov>, Tomas Kearney <thomas. Kearney@pd.boston.gov>, Dana Barrett <dana.barrett@pd.boston.gov>, Nicole McMullin <nicole.mcmullin@pd.boston.gov>, Frank St Peter <francis.st.peter@pd.boston.gov>, Timothy Fitzpatrick <timothy.fitzpatrick@pd.boston.gov>, Wilson Quiles <wilson.quiles@pd.boston.gov>, Stephen O'Brien <stephen.obrien@pd.boston.gov>

Cc: John Hughes <john.hughes@pd.boston.gov>, Joseph Gillespie <joseph.gillespie@pd.boston.gov>, Scott O'Mara <scott.omara@pd.boston.gov>, Michael Mylett <michael.mylett@pd.boston.gov>, Joe Freeman <joe.freeman@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Gregory Long <gregory.long@pd.boston.gov>, James Tarantino <james.tarantino@pd.boston.gov>, Michael Kern <michael.kern@pd.boston.gov>, Tony Troy <TroyAn.bpd@ci.boston.ma.us>, Katelyn O'Toole <katelyn.otoole@pd.boston.gov>, Erica Bradley <erica.bradley@pd.boston.gov>, Brian Waters <brian.waters@pd.boston.gov>, John Rouvalis <john.rouvalis@pd.boston.gov>, Mathew Wosny <mathew.wosny@pd.boston.gov>, John Farrell <john.farrell@pd.boston.gov>, Kevin McClay <kevin.mcclay@pd.boston.gov>, Brian Armstrong <brian.armstrong@pd.boston.gov>, John Brown <john.brown@pd.boston.gov>

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING. If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office. VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5

[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

--

**Captain Joseph G. Gillespie**

**Commander, District E-18**

**1249 Hyde Park Avenue**

**Hyde Park, MA 02136**

Office: (617) 343 - 5329

Cell: (617) 594 - 3481

Email: [joseph.gillespie@pd.boston.gov](mailto:joseph.gillespie@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** edward.meade@pd.boston.gov <edward.meade@pd.boston.gov>  
**Subject:** Arrest

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04-25-2022 07:47:30

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:50 AM EDT  
**To:** eileen.holmes@pd.boston.gov <eileen.holmes@pd.boston.gov>  
**Subject:** Arrest

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**To:** eileen.holmes@pd.boston.gov <eileen.holmes@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** eliseo.marrero@pd.boston.gov <eliseo.marrero@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** elizabeth.campbell@pd.boston.gov <elizabeth.campbell@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ellys.lee@pd.boston.gov <ellys.lee@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ellys.lee@pd.boston.gov <ellys.lee@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
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**To:** emanuel.canuto@pd.boston.gov <emanuel.canuto@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**From:** Patrick Bryant <pbryant@pylerome.com>  
**Sent:** Tuesday, April 19, 2022 4:31 PM EDT  
**To:** BPSOF President <president@bpsof.org>; erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>  
**Subject:** FW: IAD notice/Sgt. Shana Cottone

Sgt. Schroeder-Withington,

Please be advised that we are informed that Sgt. Cottone's individual counsel is unavailable tomorrow. Sgt. Cottone will appear and has stated an intent to rely upon previous assertions of Carney rights pertaining to these matters, which were accepted by the Department.

We assume it will remain at 11a.

Sincerely,

Patrick N. Bryant, *admitted in Massachusetts and Vermont*



**Pyle Rome Ehrenberg PC**  
**Boston Northampton, MA Burlington, VT**  
**Mobile number:** (503) 705-5036

**Boston Office (mailing address):** 2 Liberty Square, 10<sup>th</sup> Floor, Boston, MA 02109  
tel: (617) 367-7200 fax: (617) 367-4820

**Vermont Office:** 110 Main Street, Suite 2A, Burlington, VT 05401  
tel: (802) 652-5124 fax: (802) 652-5125

[www.pylerome.com](http://www.pylerome.com)  
News: [www.pylerome.com/recent](http://www.pylerome.com/recent)  
Twitter: @pylerome

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**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>  
**Sent:** Tuesday, April 12, 2022 8:52 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

Hi Jeanne

We are doing the interview on Wednesday, April 20 at 10:00 for Augustus Ave. The Superintendent wants the letter the attorney offered that day regarding her Carney Form and if she doesn't present a letter on April 20th she will be interviewed about Penguin Pizza and anything non-criminal she will be ordered by a LT to answer. If you could pass that on to her. Thank you

Erin

On Mon, Apr 11, 2022 at 11:20 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

YW!

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

---

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**Sent:** Monday, April 11, 2022 11:19 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

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Sounds good, tyvm.

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

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**Sent:** Monday, April 11, 2022 11:09 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

Sure that works 11:00 ok?

On Mon, Apr 11, 2022 at 11:05 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

Same issue on those days, sorry. How about Wednesday the 20<sup>th</sup>?

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

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**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>  
**Sent:** Monday, April 11, 2022 11:03 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

I cannot do friday. Can we do wednesday the 13th? Or Tuesday the 19th?

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Good morning,  
We don't have an attorney for Thursday. Can you do Friday at same time?

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Jeanne

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**617-288-3550**

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**Sent:** Monday, April 11, 2022 9:00 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

Hi Jeanne  
She signed for the certified letter on wednesday April 6, so she could have made it in here Thursday. Can we arrange for this Thursday April 16 at 11:00 please?

Erin

On Thu, Apr 7, 2022 at 10:54 AM Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)> wrote:

I am not in tomorrow so she can set a day for next week and we can meet then. Thanks

Erin

On Thu, Apr 7, 2022 at 9:30 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

Ty

Jeanne Carroll  
President BPSOF

---

**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>  
**Sent:** Thursday, April 7, 2022 9:22:17 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

I (Sergeant O'Brien) respectfully report that on 03/14/2022, at approximately 7:15 AM, I responded to 17 Augustus Av, relative to an active protest taking place in front of the Mayor's residence. I requested Area EDT's from E-5, E18 and E13 to assist at 17 Augustus Av. Upon arrival I observed approximately six protesters with signs standing at the intersection of Crandall Street at Augustus Av. These individuals were, also, yelling their grievances towards the Mayor's residence. I further observed one (1) female banging a on container. I approached this female and advised her not to bang on the "drum". I then began to advise the protesters that they can hold signs and yell but they can no longer use amplification devices and Bull Horns, bells and whistles. I further stated that if they continued using these items that there is possibility of a criminal complaint application being sought for disturbing the peace. I further advised the protesters that no one would be arrested and no devices would be seized. Several times during my statement, Sgt. Shana Cottone interrupted me and stated her displeasure with what I stated previously about amplification devices and

other noise devices. Shana Cottone then advised me and both officers and protesters on scene that my statement was unlawful and violates free speech. As time passed, several more protesters arrived on scene till there were now approximately 16. It should be noted that with the arrival of more protesters, the use of Bull Horns and whistles took place. I observed several protesters including Sgt Cottone using the "Bull Horn" when directing their grievances at the Mayor's residence. Finally, The Mayor and her husband along with their two young children exited their residence and proceeded to walk down Augustus Av onto Poplar Street towards Roslindale Sq. Some of the protesters began to follow the Mayor and her family down the street. At this point, I directed several officers to walk with the Mayor and her family. A short way down Poplar Street, the protesters stopped following the Mayor and returned to 17 Augustus Av. At no point was there any physical contact between the Mayor, her family and the protesters. The entire incident was captured by the BWC of the Police with J201 & J416A ) A incident report was written by P.O. Daveiga.

On Thu, Apr 7, 2022 at 9:15 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

Thanks. Can you please send the summary too?

Jeanne Carroll  
President BPSOF

---

**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>  
**Sent:** Thursday, April 7, 2022 8:24:22 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** IAD notice

--

**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**

--

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**Sent:** Tuesday, April 19, 2022 4:56 PM EDT

**To:** Patrick Bryant <pbryant@pylerome.com>

**Subject:** Re: FW: IAD notice/Sgt. Shana Cottone

Hi Patrick

This is another complaint issued against her where she does not have a 5th, the charges are all rule violations. We can do that interview first then move on to the next one and I will read her the questions from Penguin pizza (as instructed by my supervisors) and she can just assert her 5th again. Thanks

Erin



Virus-free. [www.avast.com](http://www.avast.com)

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President BPSOF

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**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>

**Subject:** Re: IAD notice

I (Sergeant O'Brien) respectfully report that on 03/14/2022, at approximately 7:15 AM, I responded to 17 Augustus Av, relative to an active protest taking place in front of the Mayor's residence. I requested Area EDT's from E-5, E18 and E13 to assist at 17 Augustus Av. Upon arrival I observed approximately six protesters with signs standing at the intersection of Crandall Street at Augustus Av. These individuals were, also, yelling their grievances towards the Mayor's residence. I further observed one (1) female banging a on container. I approached this female and advised her not to bang on the "drum". I then began to advise the protesters that they can hold signs and yell but they can no longer use amplification devices and Bull Horns, bells and whistles. I further stated that if they continued using these items that there is possibility of a criminal complaint application being sought for disturbing the peace. I further advised the protesters that no one would be arrested and no devices would be seized. Several times during my statement, Sgt. Shana Cottone interrupted me and stated her displeasure with what I stated previously about amplification devices and other noise devicces. Shana Cottone then advised me and both officers and protesters on scene that my statement was unlawful and violates free speech. As time passed, several more protesters arrived on scene till there were now approximately 16. It should be noted that with the arrival of more protesters, the use of Bull Horns and whistles took place. I observed several protesters including Sgt Cottone using the "Bull Horn" when directing their grievances at the Mayor's residence. Finally, The Mayor and her husband along with their two young children exited their residence and proceeded to walk down Augustus Av onto Poplar Street towards Roslindale Sq. Some of the protesters began to follow the Mayor and her family down the street. At this point, I directed several officers to walk with the Mayor and her family. A short way down Poplar Street, the protesters stopped following the Mayor and returned to 17 Augustus Av. At no point was there any physical contact between the Mayor, her family and the protesters. The entire incident was captured by the BWC of the Police with J201 & J416A. A incident report was written by P.O. Daveiga.

On Thu, Apr 7, 2022 at 9:15 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

Thanks. Can you please send the summary too?

Jeanne Carroll

President BPSOF

---

**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>

**Sent:** Thursday, April 7, 2022 8:24:22 AM

**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>

**Subject:** IAD notice

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**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**

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**Sergeant Erin Schroeder**  
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**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**



Virus-free. [www.avast.com](http://www.avast.com)

**To:** Deputy Superintendent Eddy Crispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Erin Schroeder  
Bureau of Professional Standards  
Internal Investigations Unit

**Date:** April 1, 2022

**Subject:** IAD Complaint No. IAD2022-0103

**Employee:** Sergeant Shana Cottone  
ID # 106714

**Violations:**  
Violation of City of Boston Ordinance 714 Section 354:  
Unreasonable Noise  
Rule 102 Section 3: Conduct Unbecoming  
Rule 102 Section 9: Respectful Treatment

**Complainant:** Deputy Superintendent Eddy Crispin  
Sergeant Daniel Conway

**Sir**

I, Sergeant Erin Schroeder, respectfully submit the following investigative report regarding IAD Complaint No IAD2022-0103. The following paragraphs are synopses and not verbatim accounts of the recorded interviews.

**Summary of Complaint:**

I respectfully report that on 03/14/2022, at approximately 7:15 AM, I responded to 17 Augustus Av, relative to an active protest taking place in front of the Mayor's residence. I requested Area EDTs from E-5, E18, and E13 to assist at 17 Augustus Av. Upon arrival I observed approximately six protesters with signs standing at the intersection of Crandall Street at Augustus Av. These individuals were, also, yelling their grievances towards the Mayor's residence. I further observed one (1) female banging on a container. I approached this female and advised her not to bang on



the "drum". I then began to advise the protesters that they can hold signs and yell but they can **no** longer use amplification devices and Bull Horns, bells, and whistles. I further stated that if they continued using these items that there is a possibility of a criminal complaint application being sought for disturbing the peace. I further advised the protesters that no one would be arrested and no devices would be seized. Several times during my statement, Sgt. Shana Cottone interrupted me and stated her displeasure with what I stated previously about amplification devices and other noise devices. Shana Cottone then advised me and both the officers and protesters on the scene that my statement was unlawful and violates free speech. As time passed, several more protesters arrived on the scene until there were approximately 16. It should be noted that with the arrival of more protesters, the use of Bull Horns and whistles took place. I observed several protesters including Sgt Cottone using the "Bull Horn" when directing their grievances at the Mayor's residence. Finally, The Mayor and her husband along with their two young children exited their residence and proceeded to walk down Augustus Av onto Poplar Street towards Roslindale Sq. A few of the protesters began to follow the Mayor and her family down the street. At this point, I directed several officers to walk with the Mayor and her family. A short way down Poplar Street, the protesters stopped following the Mayor and returned to 17 Augustus Av. At no point was there any physical contact between the Mayor, her family, and the protesters. The entire incident was captured by the BWC of the Police with J201 & J416A). An incident report was written by P.O. Daveiga.

### **Summary of Interview:**

### **Police Officer John Callahan**

A recorded interview was conducted with Officer John Callahan on April 2, 2022, at the Internal Affairs Division of the Boston Police Department located on the 3<sup>rd</sup> floor of BPD Headquarters. Officer Callahan was accompanied by Union Representative Officer Pokrant. Officer Callahan was provided with a copy of the Commissioner's Memorandum #10-007, concerning truthfulness. Officer Callahan acknowledged his understanding of the document. The following is a synopsis of the recorded interview, not a verbatim account.

Officer Callahan stated he has been assigned to 17 Augustus Avenue, Roslindale many times on his day shift. He stated he looked at his BWC footage and acknowledged he was present on March 14, 2022. Officer Callahan stated he has never met Sergeant Cottone personally or professionally. He stated he only has encountered her while assigned to the Mayor's house. Officer Callahan stated he has never been addressed by any of the protesters. Officer Callahan stated that no protesters have ever been rude or disrespectful towards him. Officer Callahan stated Sergeant O'Brien has them stand opposite the protesters and keep their BWC activated at all times. Officer Callahan did remember Sergeant Cottone unfolding a lawn chair and sitting in the middle of the street on the chair. He stated he does not remember any neighbor coming outside on March 14, 2022, but acknowledged neighbors have come out in the past to complain to officers about the noise. Officer Callahan was asked if he had been more than 100 feet from the area around the

Mayor's house would he have been able to hear the noise the protesters were making, to which he replied that absolutely the noise could be heard. The interview concluded at that time.

**Summary of Interview:**

**Sergeant Stephen O'Brien**

A recorded interview was conducted with Sergeant Stephen O'Brien on April 2, 2022, at the Internal Affairs Division of the Boston Police Department located on the 3<sup>rd</sup> floor of BPD Headquarters. Sergeant O'Brien was provided with a copy of the Commissioner's Memorandum #10-007, concerning truthfulness. Sergeant O'Brien acknowledged his understanding of the document. The following is a synopsis of the recorded interview, not a verbatim account.

Sergeant O'Brien stated he is assigned to the Mayor's home all four days he is the Patrol Supervisor. On March 14, 2022, Sergeant O'Brien stated that the protest started with approximately 6 protesters and was pretty quiet. He stated that after a few minutes approximately 9-10 more people showed up. Sergeant O'Brien stated he approached the crowd, Sergeant Cottone came to the front and he informed them they were not allowed to use amplification devices, whistles, or bang the "drums" they have been banging. Sergeant O'Brien stated at that time Sergeant Cottone began to interrupt him and say things like "Steve I don't think that's the law" and "I don't think he knows what he's talking about" and let the protesters know they did not have to abide by that because it isn't a law. Sergeant O'Brien stated Sergeant Cottone informed him he wasn't being honest and he was breaking the law and violating the 1<sup>st</sup> Amendment rights of the protesters. Sergeant O'Brien stated Sergeant Cottone was not overly disrespectful, in his opinion, but felt it was rude and embarrassing because they are co-workers. Sergeant O'Brien stated he informed the officers to not engage with any of the protesters who were yelling at them and asking questions about the Constitution. He stated that at one point a neighbor came down the street wearing a mask and the protesters surrounded him and began to yell at him to take off his mask. Sergeant O'Brien stated the male took off his mask and engaged in a "friendly" debate with one of the protesters he knows as Karina. Sergeant O'Brien stated he walked over to intervene but saw the male was talking politics and mandates with them so he went back to the opposite side of the street. Sergeant O'Brien stated he observed Sergeant Cottone use the bull horn 2 times. He explained the first use she was saying something out loud and another protester, Sergeant O'Brien identified as Ms. Scott, put the bullhorn in front of Sergeant Cottone's mouth. Sergeant O'Brien stated that on the second use she grabs the bullhorn and starts making statements about Mayor Wu and her mandates. I asked Sergeant O'Brien about a moment in the BWC footage where Sergeant Cottone goes to a car and gets a working bullhorn to switch out for Ms. Scott after the one she is using appears to break. Sergeant O'Brien stated he did not specifically remember that. The BWC footage shows a female protester screaming "Mayor Wu you're a cunt" while Sergeant Cottone is standing near her. I asked Sergeant O'Brien if he had any memory of that and he stated the protesters are there so often and yell profanity that all the days seem to blend into each other. Sergeant O'Brien stated the Mayor's 97-year-old neighbor comes out daily asking him to ask the

protesters to stop making so much noise. Sergeant O'Brien stated the elderly neighbor has told him he is physically tired because the protesters are there so early every morning. I asked Sergeant O'Brien if a person was more than 100 feet away from the Mayor's house could they hear the protest and he stated absolutely. Sergeant O'Brien stated that when Mayor Wu and her family came out of the house to walk down Poplar Street Sergeant Cottone followed her for approximately 2 steps then broke off. Sergeant O'Brien stated that Sergeant Cottone has informed him on at least 2 occasions that she does not want to have to sue him but that it's business and not personal. The interview concluded at that point.

**Summary of Interview:**

**Police Officer Luis Rivera**

A recorded interview was conducted with Officer Rivera on April 4, 2022, at the Internal Affairs Division of the Boston Police Department located on the 3<sup>rd</sup> floor of BPD Headquarters. Officer Rivera was accompanied by Union Representative Officer Ho. Officer Rivera was provided with a copy of the Commissioner's Memorandum #10-007, concerning truthfulness. Officer Rivera acknowledged his understanding of the document. The following is a synopsis of the recorded interview, not a verbatim account.

Officer Rivera stated he is the last half wagon in area E-5. He stated he and his partner are sent to the Mayor's house almost daily. Officer Rivera stated he did remember a conversation between Sergeant Cottone and Sergeant O'Brien where she was overheard loudly telling Sergeant O'Brien that he was stepping on her 1<sup>st</sup> Amendment privileges. Officer Rivera stated he knows Sergeant Cottone professionally from working in Area E-5 for 14 years. He stated at no time during any of the protests has she said anything to him or any officers in his presence. Officer Rivera stated that when Sergeant O'Brien is on-scene he tells the officers to stand across the street from the protesters and keep their BWC activated. Officer Rivera was asked if he was more than 100 feet away from the Mayor's house did he think he would be able to hear the protest, to which he stated he did believe that he would be able. Officer Rivera stated he did remember the Mayor and her family leaving their home unannounced that morning and one of the female protesters chasing them down the street yelling on a bullhorn. The interview concluded at that time.

**Summary of Interview:**

**Police Officer Curtis Jones**

A recorded interview was conducted with Officer Jones on April 5, 2022, at the Internal Affairs Division of the Boston Police Department located on the 3<sup>rd</sup> floor of BPD Headquarters. Officer Jones was accompanied by Union Representative Officer Loewen. Officer Jones was provided with a copy of the Commissioner's Memorandum #10-007, concerning truthfulness. Officer Jones acknowledged his understanding of the document. The following is a synopsis of the recorded interview, not a verbatim account.

Officer Jones stated he knew Sergeant Cottone before the protests at the Mayor's house because she is a Sergeant in Area E-5. Officer Jones stated he remembered Sergeant O'Brien

informing the group about the noise ordinance and the use of devices, whistles, and buckets. He stated he never saw Sergeant Cottone on the bullhorn but did observe her yelling at Sergeant O'Brien. Officer Jones stated Sergeant Cottone was loud when she was yelling at Sergeant O'Brien. He stated he did not remember Sergeant Cottone in a lawn chair that particular day. He then went on to explain that he is assigned to the Mayor's house daily so some of the days seem to blend. Officer Jones stated Sergeant Cottone seems to be a leader of the group and one of the loudest and angriest when they are yelling. The interview concluded at that time.

**Summary of Interview:**

**Police Officer Peter Giannopoulos**

A recorded interview was conducted with Officer Giannopoulos on April 5, 2022, at the Internal Affairs Division of the Boston Police Department located on the 3<sup>rd</sup> floor of BPD Headquarters. Officer Giannopoulos was accompanied by Union Representative Officer Ho. Officer Giannopoulos was provided with a copy of the Commissioner's Memorandum #10-007, concerning truthfulness. Officer Giannopoulos acknowledged his understanding of the document. The following is a synopsis of the recorded interview, not a verbatim account.

Officer Giannopoulos stated he was present at the beginning of the morning on March 14, 2022. He stated he was relieved when the day shift responded to their posts at 17 Augustus Ave. Officer Giannopoulos stated he had no memory of Sergeant Cottone using a bull horn or sitting in a lawn chair in the middle of the street. The interview concluded at that time.

**Summary of Interview:**

**Police Officer Moses DaSilva**

A recorded interview was conducted with Officer Dasilva on April 4, 2022, at the Internal Affairs Division of the Boston Police Department located on the 3<sup>rd</sup> floor of BPD Headquarters. Officer Dasilva was accompanied by Union Representative Officer Ho. Officer Dasilva was provided with a copy of the Commissioner's Memorandum #10-007, concerning truthfulness. Officer Dasilva acknowledged his understanding of the document. The following is a synopsis of the recorded interview, not a verbatim account.

Officer Dasilva stated he was working the last half on March 13, 2022, into March 14, 2022, but was not at the Mayor's house after his 2:00 am-4:00 am Code 19. The interview concluded at that time.

**Summary of Interview:**

**Sergeant Shana Cottone**

**Investigation:**

- **The following observations are from BWC footage 17\_Augustus\_Ave**
- Immediately as the audio begins Sergeant Cottone, upon seeing all the police officers on their post, states loudly “who’s on overtime?”
- The complaint written by Sergeant O’Brien states on March 14, 2022, at approximately 07:15 am Sergeant Cottone was advised by Sergeant O’Brien about the noise ordinance regarding the use of amplification devices. A review of BWC shows Sergeant O’Brien approaching the group of 12-15 protesters (10:10 on 17\_Augustus\_Ave BWC footage) and attempting to explain the ordinance (Ordinance 714 section 354) and Sergeant Cottone continuously interrupting him. Sergeant Cottone can be heard stating “Steve it’s a law, law, law, not a rule you’re not being honest.” After that statement, the protesters begin to surround Sergeant O’Brien and scream at him. Sergeant Cottone can be heard in the background yelling “Wu shame on you how dare you use the police to do this. Do you know what the Constitution is?” The other protesters begin to ask the police officers if protesting is against the Constitution and what has changed since last week. Sergeant Cottone begins to yell “I’ll tell you, she changed her mind she changed her mood.”
- The BWC footage shows Sergeant O’Brien being surrounded by the protesters who are yelling at him because he will not allow them on the sidewalk in front of Mayor Wu’s house. Sergeant Cottone can be seen standing in the middle of the street not moving out of the street and heard saying “this is not good, this is not good” to Sergeant O’Brien. Sergeant Cottone is having an off-camera conversation with someone and someone asks Sergeant O’Brien why they can’t go on the sidewalk he says they aren’t allowed and Sergeant Cottone states “yes they do have a right to go on the sidewalk” which makes the protesters begin yelling louder at the officers and Sergeant O’Brien.
- **The following observations are from BWC Protest\_AT-17\_Augustus\_Ave**
- At 00:39, when the audio kicks in, Sergeant Cottone is yelling the definition of an amplification device in Sergeant O’Brien’s face. This is in response to Sergeant O’Brien
- When a protester, identified as Shannon, is swearing Sergeant Cottone yells at Sergeant O’Brien “can she swear?” then tells Shannon not to swear.
- Sergeant Cottone can be heard stating “This is a lawsuit for telling us you’re going to arrest us.” Sergeant O’Brien tells her “Shana don’t lie I never said arrest” and she states, “you said criminal complaint Steve” and goes on to explain that they

(protesters) would have to go to court and when they don't show up warrants will be issued. Sergeant Cottone then says "not cool dude" to Sergeant O'Brien after he explains that a criminal complaint could result based on the new ordinances. The group of protesters all begin to berate Sergeant O'Brien with someone calling him a fascist and another calling him a criminal. The group begins to say "shame on Steve."

- Sergeant Cottone can be seen talking to the group asking if the same standard was used for demonstrations in the past. The group then begins to yell about a protest from the Copley Marriott that Mayor Wu is alleged to have participated in. The group then begins to chant multiple variations of "Shame on Wu."
- At certain points Sergeant Cottone is sitting in a lawn chair she set up on Crandall Street, in the road.
- Sergeant Cottone can be seen looking at her phone and reading the ordinance out loud and saying the device must be electronic, not a bell, not a whistle, an electronic device.
- At 7:07 she addresses Sergeant O'Brien saying "it's good to know the rule and regs you know?" while making a face at Sergeant O'Brien.
- Sergeant Cottone can be heard off-camera explaining to Sergeant O'Brien that the protest is a 1<sup>st</sup> Amendment protest and the lawsuit won't be worth it. In my recorded interview with Sergeant O'Brien he addresses the fact that Sergeant Cottone has told him on a couple of occasions she doesn't want to sue him but it's business not personal.
- At 12:56 one of the protesters can be heard yelling "Go back to China" after the group is chanting "go back to Chicago" and Sergeant Cottone states "alright alright stop" which does make the woman stop saying that. In the recorded interviews Sergeant O'Brien, and other officers, stated they can see that Sergeant Cottone is the ring leader and has influence over the group.
- At 23:55 a male protester says "we need clarification on this sidewalk issue, Steve." Sergeant O'Brien is seen talking with the protester and the other protesters begin to push against the line the officers had created in front of Mayor Wu's house. Sergeant Cottone can be heard stating "taxpayers own the sidewalks, not you Wu." This prompts the protesters to begin to yell more at Sergeant O'Brien. A blonde woman can be seen sticking her cell phone in Sergeant O'Brien's face and yelling about the Constitution. Sergeant O'Brien asks the officers to have the group go back across the street. Sergeant Cottone asks Sergeant O'Brien "why are you pushing them back?" he states "to get them out of the street" and she states "you just put them in the street." She then turns and makes a face and a hand motion towards Sergeant O'Brien, which makes the group start to laugh.

- At 30:32 Sergeant Cottone can be seen and heard yelling “Hey Wu come on down girlfriend, come violate our rights in person you big tough guy.”
  - The group can be seen blocking traffic making cars wait to continue down Augustus Ave or turning onto Crandall Street. The officers on the scene have to ask numerous times for people to step out of the street.
  - At 1:18:34 Sergeant Cottone grabs the bullhorn and yells “We are not your subjects Queen Wu.”
  - At 1:22:00 a protester’s bullhorn, identified as Ms. Scott, stops working and Sergeant Cottone walks down the street to a car and comes back with a working one and switches it out.
  - At 1:30:00 Sergeant Cottone is on the bullhorn yelling for the Mayor to resign.
  - The protest and BWC footage end when Mayor Wu and her family leave the house on foot. Ms. Scott can be seen walking after the Mayor yelling at her with the bullhorn. This pursuit continues for a couple of streets.
- 
- Recorded interview with Officer John Callahan
  - Recorded interview with Officer Curtis Jones
  - Recorded interview with Sergeant Stephen O’Brien
  - Recorded interview with Officer Moses Dasilva
  - Recorded interview with Officer Peter Giannopoulos
  - Recorded interview with Officer Luis Rivera
  - Recorded interview with Sergeant Shana Cottone
  - Review of BWC from Officers

Respectfully submitted,

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Sergeant Erin Schroeder  
Internal Investigation Unit, BPS

Approved,

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Lieutenant Detective Timothy Gaughan  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Crispin  
Assistant Chief- Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standards

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Legal Advisor



**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Monday, April 25, 2022 7:49 AM EDT

**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>

**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Thursday, April 07, 2022 6:44 AM EDT

**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>

**Subject:** Protesters

□

Event P220148523

District E5

04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division

Message Sent By: Aimee Pelosi

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Sent:** Monday, April 11, 2022 11:10 AM EDT  
**To:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Subject:** RE: IAD notice

Sounds good, tyvm.

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

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**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Sent:** Monday, April 11, 2022 11:09 AM  
**To:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Subject:** Re: IAD notice

Sure that works 11:00 ok?

On Mon, Apr 11, 2022 at 11:05 AM Jeanne Carroll - BPSOF <president@bpsof.org> wrote:

Same issue on those days, sorry. How about Wednesday the 20<sup>th</sup>?

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

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**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Sent:** Monday, April 11, 2022 11:03 AM  
**To:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Subject:** Re: IAD notice

I cannot do friday. Can we do wednesday the 13th? Or Tuesday the 19th?

On Mon, Apr 11, 2022 at 11:00 AM Jeanne Carroll - BPSOF <president@bpsof.org> wrote:

Good morning,  
We don't have an attorney for Thursday. Can you do Friday at same time?

TY

Jeanne

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

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**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Sent:** Monday, April 11, 2022 9:00 AM  
**To:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Subject:** Re: IAD notice

Hi Jeanne  
She signed for the certified letter on wednesday April 6, so she could have made it in here Thursday. Can we arrange for this Thursday April 16 at 11:00 please?

Erin

On Thu, Apr 7, 2022 at 10:54 AM Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov> wrote:

I am not in tomorrow so she can set a day for next week and we can meet then. Thanks

Erin

On Thu, Apr 7, 2022 at 9:30 AM Jeanne Carroll - BPSOF <president@bpsof.org> wrote:

Ty

Jeanne Carroll  
President BPSOF

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**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Sent:** Thursday, April 7, 2022 9:22:17 AM  
**To:** Jeanne Carroll - BPSOF <president@bpsof.org>

**Subject:** Re: IAD notice

I (Sergeant O'Brien) respectfully report that on 03/14/2022, at approximately 7:15 AM, I responded to 17 Augustus Av, relative to an active protest taking place in front of the Mayor's residence. I requested Area EDT's from E-5, E18 and E13 to assist at 17 Augustus Av. Upon arrival I observed approximately six protesters with signs standing at the intersection of Crandall Street at Augustus Av. These individuals were, also, yelling their grievances towards the Mayor's residence. I further observed one (1) female banging a on container. I approached this female and advised her not to bang on the "drum". I then began to advise the protesters that they can hold signs and yell but they can no longer use amplification devices and Bull Horns, bells and whistles. I further stated that if they continued using these items that there is possibility of a criminal complaint application being sought for disturbing the peace. I further advised the protesters that no one would be arrested and no devices would be seized. Several times during my statement, Sgt. Shana Cottone interrupted me and stated her displeasure with what I stated previously about amplification devices and other noise devivces. Shana Cottone then advised me and both officers and protesters on scene that my statement was unlawful and violates free speech. As time passed, several more protesters arrived on scene till there were now approximately 16. It should be noted that with the arrival of more protesters, the use of Bull Horns and whistles took place. I observed several protesters including Sgt Cottone using the "Bull Horn" when directing their grievances at the Mayor's residence. Finally, The Mayor and her husband along with their two young children exited their residence and proceeded to walk down Augustus Av onto Poplar Street towards Roslindale Sq. Some of the protesters began to follow the Mayor and her family down the street. At this point, I directed several officers to walk with the Mayor and her family. A short way down Poplar Street, the protesters stopped following the Mayor and returned to 17 Augustus Av. At no point was there any physical contact between the Mayor, her family and the protesters. The entire incident was captured by the BWC of the Police with J201 & J416A ) A incident report was written by P.O. Daveiga.

On Thu, Apr 7, 2022 at 9:15 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

Thanks. Can you please send the summary too?

Jeanne Carroll  
President BPSOF

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**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>  
**Sent:** Thursday, April 7, 2022 8:24:22 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** IAD notice

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**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
**1 Schroeder Plaza**  
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**617-343-5021**

**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>

**Sent:** Tuesday, April 12, 2022 8:51 AM EDT

**To:** Jeanne Carroll - BPSOF <president@bpsof.org>

**Subject:** Re: IAD notice

Hi Jeanne

We are doing the interview on Wednesday, April 20 at 10:00 for Augustus Ave. The Superintendent wants the letter the attorney offered that day regarding her Carney Form and if she doesn't present a letter on April 20th she will be interviewed about Penguin Pizza and anything non-criminal she will be ordered by a LT to answer. If you could pass that on to her. Thank you

Erin

On Mon, Apr 11, 2022 at 11:20 AM Jeanne Carroll - BPSOF <president@bpsof.org> wrote:

YW!

**Jeanne L. Carroll, President**

**Boston Police Superior Officers Federation**

**617-288-3550**

---

**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>

**Sent:** Monday, April 11, 2022 11:19 AM

**To:** Jeanne Carroll - BPSOF <president@bpsof.org>

**Subject:** Re: IAD notice

Thank you I appreciate you facilitating this

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Sounds good, tyvm.

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**Subject:** Re: IAD notice

Sure that works 11:00 ok?

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Same issue on those days, sorry. How about Wednesday the 20<sup>th</sup>?

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**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>

**Subject:** Re: IAD notice

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**Subject:** IAD notice

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**Sergeant Erin Schroeder**



**Boston Police Internal Affairs Division**

**1 Schroeder Plaza**

**Boston MA 02120**

**617-343-5021**

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President BPSOF

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**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**

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**Boston MA 02120**  
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**Subject:** RE: IAD notice

YW!

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

---

**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Sent:** Monday, April 11, 2022 11:19 AM  
**To:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Subject:** Re: IAD notice

Thank you I appreciate you facilitating this

On Mon, Apr 11, 2022 at 11:11 AM Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)> wrote:

Sounds good, tyvm.

**Jeanne L. Carroll, President**  
**Boston Police Superior Officers Federation**  
**617-288-3550**

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**From:** Erin Schroeder-Withington <[erin.schroeder-withington@pd.boston.gov](mailto:erin.schroeder-withington@pd.boston.gov)>  
**Sent:** Monday, April 11, 2022 11:09 AM  
**To:** Jeanne Carroll - BPSOF <[president@bpsof.org](mailto:president@bpsof.org)>  
**Subject:** Re: IAD notice

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Same issue on those days, sorry. How about Wednesday the 20<sup>th</sup>?

**Jeanne L. Carroll, President**  
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Jeanne Carroll  
President BPSOF

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President BPSOF

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**Subject:** IAD notice

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**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**

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President BPSOF

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President BPSOF



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**Subject:** IAD notice

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**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
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**Sent:** Thursday, April 07, 2022 10:54 AM EDT  
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**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>

**Sent:** Monday, April 11, 2022 11:02 AM EDT

**To:** Jeanne Carroll - BPSOF <president@bpsof.org>

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Jeanne Carroll

President BPSOF

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**To:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Subject:** Re: IAD notice

I (Sergeant O'Brien) respectfully report that on 03/14/2022, at approximately 7:15 AM, I responded to 17 Augustus Av, relative to an active protest taking place in front of the Mayor's residence. I requested Area EDT's from E-5, E18 and E13 to assist at 17 Augustus Av. Upon arrival I observed approximately six protesters with signs standing at the intersection of Crandall Street at Augustus Av. These individuals were, also, yelling their grievances towards the Mayor's residence. I further observed one (1) female banging a on container. I approached this female and advised her not to bang on the "drum". I then began to advise the protesters that they can hold signs and yell but they can no longer use amplification devices and Bull Horns, bells and whistles. I further stated that if they continued using these items that there is possibility of a criminal complaint application being sought for disturbing the peace. I further advised the protesters that no one would be arrested and no devices would be seized. Several times during my statement, Sgt. Shana Cottone interrupted me and stated her displeasure with what I stated previously about amplification devices and other noise devivces. Shana Cottone then advised me and both officers and protesters on scene that my statement was unlawful and violates free speech. As time passed, several more protesters arrived on scene till there were now approximately 16. It should be noted that with the arrival of more protesters, the use of Bull Horns and whistles took place. I observed several protesters including Sgt Cottone using the "Bull Horn" when directing their grievances at the Mayor's residence. Finally, The Mayor and her husband along with their two young children exited their residence and proceeded to walk down Augustus Av onto Poplar Street towards Roslindale Sq. Some of the protesters began to follow the Mayor and her family down the street. At this point, I directed several officers to walk with the Mayor and her family. A short way down Poplar Street, the protesters stopped following the Mayor and returned to 17 Augustus Av. At no point was there any physical contact between the Mayor, her family and the protesters. The entire incident was captured by the BWC of the Police with J201 & J416A ) A incident report was written by P.O. Daveiga.

On Thu, Apr 7, 2022 at 9:15 AM Jeanne Carroll - BPSOF <president@bpsof.org> wrote:  
Thanks. Can you please send the summary too?

Jeanne Carroll  
President BPSOF

---

**From:** Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>  
**Sent:** Thursday, April 7, 2022 8:24:22 AM  
**To:** Jeanne Carroll - BPSOF <president@bpsof.org>  
**Subject:** IAD notice

--

**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**

--

**Sergeant Erin Schroeder**  
**Boston Police Internal Affairs Division**  
**1 Schroeder Plaza**  
**Boston MA 02120**  
**617-343-5021**

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ethan.cole@pd.boston.gov <ethan.cole@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** eva.santiago@pd.boston.gov <eva.santiago@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** fabian.belgrave@pd.boston.gov <fabian.belgrave@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** felipe.colon@pd.boston.gov <felipe.colon@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** finley.kemp@pd.boston.gov <finley.kemp@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** francis.deluca@pd.boston.gov <francis.deluca@pd.boston.gov>  
**Subject:** Arrest

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**From:** John Brown <john.brown@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 1:47 PM EDT  
**To:** Francis McLaughlin <francis.mclaughlin@pd.boston.gov>  
**Subject:** Fwd: Response for Protest 17 Augustus Ave Roslindale

----- Forwarded message -----

**From:** **Darrin Greeley** <darrin.greeley@pd.boston.gov>  
**Date:** Mon, Apr 4, 2022 at 12:48 PM  
**Subject:** Response for Protest 17 Augustus Ave Roslindale  
**To:** Michael Hegarty <michael.hegarty@pd.boston.gov>, John Earley <john.earley@pd.boston.gov>, Tomas Kearney <thomas.kearney@pd.boston.gov>, Dana Barrett <dana.barrett@pd.boston.gov>, Nicole McMullin <nicole.mcmullin@pd.boston.gov>, Frank St Peter <francis.st.peter@pd.boston.gov>, Timothy Fitzpatrick <timothy.fitzpatrick@pd.boston.gov>, Wilson Quiles <wilson.quiles@pd.boston.gov>, Stephen O'Brien <stephen.obrien@pd.boston.gov>  
**CC:** John Hughes <john.hughes@pd.boston.gov>, Joseph Gillespie <joseph.gillespie@pd.boston.gov>, Scott O'Mara <scott.omara@pd.boston.gov>, Michael Mylett <michael.mylett@pd.boston.gov>, Joe Freeman <joe.freeman@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Gregory Long <gregory.long@pd.boston.gov>, James Tarantino <james.tarantino@pd.boston.gov>, Michael Kern <michael.kern@pd.boston.gov>, Tony Troy <TroyAn.bpd@ci.boston.ma.us>, Katelyn O'Toole <katelyn.otoole@pd.boston.gov>, Erica Bradley <erica.bradley@pd.boston.gov>, Brian Waters <brian.waters@pd.boston.gov>, John Rouvalis <john.rouvalis@pd.boston.gov>, Mathew Wosny <mathew.wosny@pd.boston.gov>, John Farrell <john.farrell@pd.boston.gov>, Kevin McClay <kevin.mcclay@pd.boston.gov>, Brian Armstrong <brian.armstrong@pd.boston.gov>, John Brown <john.brown@pd.boston.gov>

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING.  
If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office.  
VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
darrin.greeley@pd.boston.gov

--

Sergeant Detective John M Brown  
District E-13

3345 Washington Street  
Jamaica Plain, MA 02130

617 343-5628  
617 343-4960 (fax)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** franklyn.centeio@pd.boston.gov <franklyn.centeio@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Subject:** Protesters

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** fred.williams@pd.boston.gov <fred.williams@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** garrett.mitchell@pd.boston.gov <garrett.mitchell@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** gary.barkerjr@pd.boston.gov <gary.barkerjr@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** gary.eblan@pd.boston.gov <gary.eblan@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** gerald.cahill@pd.boston.gov <gerald.cahill@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** gino.provenzano@pd.boston.gov <gino.provenzano@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** gino.rodriguez@pd.boston.gov <gino.rodriguez@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** gregg.bowden@pd.boston.gov <gregg.bowden@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** gregory.long@pd.boston.gov <gregory.long@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 1:28 PM EDT  
**To:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** Re: Response for Protest 17 Augustus Ave Roslindale

Thank you.

Sent from my iPhone

On Apr 4, 2022, at 12:48 PM, Darrin Greeley <darrin.greeley@pd.boston.gov> wrote:

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING. If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office. VIOLATION IS ABOVE 70 decimals. PLEASE MAKE SURE IT IS WELL ABOVE 70 decimals AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** greg.walsh@pd.boston.gov <greg.walsh@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** greg.walsh@pd.boston.gov <greg.walsh@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** harold.white@pd.boston.gov <harold.white@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** haseeb.hosein@pd.boston.gov <haseeb.hosein@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** henry.staines@pd.boston.gov <henry.staines@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** henry.staines@pd.boston.gov <henry.staines@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** iris.morales@pd.boston.gov <iris.morales@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** iris.morales@pd.boston.gov <iris.morales@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jacqueline.creaven@pd.boston.gov <jacqueline.creaven@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jamesb.conley@pd.boston.gov <jamesb.conley@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jamesb.conley@pd.boston.gov <jamesb.conley@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.chin@pd.boston.gov <james.chin@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.clark@pd.boston.gov <james.clark@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.defeo@pd.boston.gov <james.defeo@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.foley@pd.boston.gov <james.foley@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.foley@pd.boston.gov <james.foley@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.gaughan@pd.boston.gov <james.gaughan@pd.boston.gov>  
**Subject:** Arrest

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**To:** james.gaughan@pd.boston.gov <james.gaughan@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.kenneally@pd.boston.gov <james.kenneally@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.mcgarrell@pd.boston.gov <james.mcgarrell@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.meredith@pd.boston.gov <james.meredith@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.meredith@pd.boston.gov <james.meredith@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.miller@pd.boston.gov <james.miller@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.miller@pd.boston.gov <james.miller@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.moccia@pd.boston.gov <james.moccia@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.moccia@pd.boston.gov <james.moccia@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.moore@pd.boston.gov <james.moore@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.moore@pd.boston.gov <james.moore@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.obrien@pd.boston.gov <james.obrien@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.obrien@pd.boston.gov <james.obrien@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.sheehan@pd.boston.gov <james.sheehan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.sheehan@pd.boston.gov <james.sheehan@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** james.tarantino@pd.boston.gov <james.tarantino@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** james.tarantino@pd.boston.gov <james.tarantino@pd.boston.gov>  
**Subject:** Protesters

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Supervisor: Sgt. Noberini

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**From:** John Hughes <john.hughes@pd.boston.gov>

**Sent:** Monday, April 25, 2022 1:11 PM EDT

**To:** Gerard Bailey <gerard.bailey@pd.boston.gov>; James Tarantino <james.tarantino@pd.boston.gov>

**Subject:** Protesters

Sir,

That party from 17 Augustus ave. was arraigned at West Roxbury Court this morning without incident. None of her fellow protesters were present inside or outside the court.

Captain John Hughes  
Boston Police District 13  
3347 Washington Street  
Jamaica Plain Ma. 02130  
(617) 343-4604 (Office)  
(617) 571-0232 (Cell)

**From:** James Tarantino <james.tarantino@pd.boston.gov>

**Sent:** Monday, April 25, 2022 1:15 PM EDT

**To:** John Hughes <john.hughes@pd.boston.gov>

**Subject:** Re: Protesters

Ok thanks

Sent from my iPhone

> On Apr 25, 2022, at 1:11 PM, John Hughes <john.hughes@pd.boston.gov> wrote:

>

>

> Sir,

> That party from 17 Augustus ave. was arraigned at West Roxbury Court this morning without incident. None of her fellow protesters were present inside or outside the court.

>

> Captain John Hughes

> Boston Police District 13

> 3347 Washington Street

> Jamaica Plain Ma. 02130

> (617) 343-4604 (Office)

> (617) 571-0232 (Cell)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** janine.busby@pd.boston.gov <janine.busby@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

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Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** janine.busby@pd.boston.gov <janine.busby@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jarrod.gero@pd.boston.gov <jarrod.gero@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jarrod.gero@pd.boston.gov <jarrod.gero@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jason.gilmore@pd.boston.gov <jason.gilmore@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jason.gilmore@pd.boston.gov <jason.gilmore@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jason.marshall@pd.boston.gov <jason.marshall@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jason.marshall@pd.boston.gov <jason.marshall@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jason.whyte@pd.boston.gov <jason.whyte@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jason.whyte@pd.boston.gov <jason.whyte@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jay.tully@pd.boston.gov <jay.tully@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jay.tully@pd.boston.gov <jay.tully@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jean.jean-louis@pd.boston.gov <jean.jean-louis@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jean.jean-louis@pd.boston.gov <jean.jean-louis@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeanne.carroll@pd.boston.gov <jeanne.carroll@pd.boston.gov>  
**Subject:** Arrest

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jeanne.carroll@pd.boston.gov <jeanne.carroll@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jean-paul.limontas@pd.boston.gov <jean-paul.limontas@pd.boston.gov>  
**Subject:** Arrest

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**To:** jean-paul.limontas@pd.boston.gov <jean-paul.limontas@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeffrey.callahan@pd.boston.gov <jeffrey.callahan@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jeffrey.callahan@pd.boston.gov <jeffrey.callahan@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeffrey.cecil@pd.boston.gov <jeffrey.cecil@pd.boston.gov>  
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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jeffrey.cecil@pd.boston.gov <jeffrey.cecil@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeffrey.connolly@pd.boston.gov <jeffrey.connolly@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeffrey.king@pd.boston.gov <jeffrey.king@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeffrey.lopez@pd.boston.gov <jeffrey.lopez@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jeffrey.lopes@pd.boston.gov <jeffrey.lopes@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jeffrey.walcott@pd.boston.gov <jeffrey.walcott@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jeffrey.walcott@pd.boston.gov <jeffrey.walcott@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jenna.savage@pd.boston.gov <jenna.savage@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**To:** jenna.savage@pd.boston.gov <jenna.savage@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jennifer.bencivenga@pd.boston.gov <jennifer.bencivenga@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jennifer.connolly@pd.boston.gov <jennifer.connolly@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jennifer.durden@pd.boston.gov <jennifer.durden@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jennifer.durden@pd.boston.gov <jennifer.durden@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jennifer.fredericks@pd.boston.gov <jennifer.fredericks@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

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**From:** Jennifer Terrasi <jennifer.terradi@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 10:03 AM EDT  
**To:** Stephen Parenteau <stephen.parenteau@pd.boston.gov>  
**CC:** Scott OMara <scott.omara@pd.boston.gov>  
**Subject:** 2 Abandoned Vehicles

Hi Stephen,

Can you please look into these abandoned vehicles, called in by resident Richard Frieze who lives on Metropolitan.

Parked in front of 111 Metropolitan St/corner of Augustus

95 Blu Neon Reg #1CPF88

Gray Acura Reg #4LS69 - Expired Sticker Nov 21

Thank you,  
Jen



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jessica.gardner@pd.boston.gov <jessica.gardner@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jessica.wagner@pd.boston.gov <jessica.wagner@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jillian.dineen@pd.boston.gov <jillian.dineen@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jim.fitzpatrick@pd.boston.gov <jim.fitzpatrick@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jimmy.giraldo@pd.boston.gov <jimmy.giraldo@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joao.rodrigues@pd.boston.gov <joao.rodrigues@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joao.rodrigues@pd.boston.gov <joao.rodrigues@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joel.mccarthy@pd.boston.gov <joel.mccarthy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joel.mccarthy@pd.boston.gov <joel.mccarthy@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.alves@pd.boston.gov <john.alves@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** johna.teixeira@pd.boston.gov <johna.teixeira@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.broderick@pd.boston.gov <john.broderick@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.broderick@pd.boston.gov <john.broderick@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.brown@pd.boston.gov <john.brown@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Supervisor: Sgt. Monahan

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**From:** John Brown <john.brown@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 1:47 PM EDT  
**To:** Sueboo <susanbrown617@gmail.com>; jbrown38 <jbrown38@comcast.net>  
**Subject:** Fwd: Response for Protest 17 Augustus Ave Roslindale

----- Forwarded message -----

**From:** **Darrin Greeley** <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>  
**Date:** Mon, Apr 4, 2022 at 12:48 PM  
**Subject:** Response for Protest 17 Augustus Ave Roslindale  
**To:** Michael Hegarty <[michael.hegarty@pd.boston.gov](mailto:michael.hegarty@pd.boston.gov)>, John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>, Tomas Kearney <[thomas.kearney@pd.boston.gov](mailto:thomas.kearney@pd.boston.gov)>, Dana Barrett <[dana.barrett@pd.boston.gov](mailto:dana.barrett@pd.boston.gov)>, Nicole McMullin <[nicole.mcmullin@pd.boston.gov](mailto:nicole.mcmullin@pd.boston.gov)>, Frank St Peter <[francis.st.peter@pd.boston.gov](mailto:francis.st.peter@pd.boston.gov)>, Timothy Fitzpatrick <[timothy.fitzpatrick@pd.boston.gov](mailto:timothy.fitzpatrick@pd.boston.gov)>, Wilson Quiles <[wilson.quiles@pd.boston.gov](mailto:wilson.quiles@pd.boston.gov)>, Stephen O'Brien <[stephen.obrien@pd.boston.gov](mailto:stephen.obrien@pd.boston.gov)>  
**CC:** John Hughes <[john.hughes@pd.boston.gov](mailto:john.hughes@pd.boston.gov)>, Joseph Gillespie <[joseph.gillespie@pd.boston.gov](mailto:joseph.gillespie@pd.boston.gov)>, Scott O'Mara <[scott.omara@pd.boston.gov](mailto:scott.omara@pd.boston.gov)>, Michael Mylett <[michael.mylett@pd.boston.gov](mailto:michael.mylett@pd.boston.gov)>, Joe Freeman <[joe.freeman@pd.boston.gov](mailto:joe.freeman@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>, Michael Kern <[michael.kern@pd.boston.gov](mailto:michael.kern@pd.boston.gov)>, Tony Troy <[TroyAn.bpd@ci.boston.ma.us](mailto:TroyAn.bpd@ci.boston.ma.us)>, Katelyn O'Toole <[katelyn.otoole@pd.boston.gov](mailto:katelyn.otoole@pd.boston.gov)>, Erica Bradley <[erica.bradley@pd.boston.gov](mailto:erica.bradley@pd.boston.gov)>, Brian Waters <[brian.waters@pd.boston.gov](mailto:brian.waters@pd.boston.gov)>, John Rouvalis <[john.rouvalis@pd.boston.gov](mailto:john.rouvalis@pd.boston.gov)>, Mathew Wosny <[mathew.wosny@pd.boston.gov](mailto:mathew.wosny@pd.boston.gov)>, John Farrell <[john.farrell@pd.boston.gov](mailto:john.farrell@pd.boston.gov)>, Kevin McClay <[kevin.mcclay@pd.boston.gov](mailto:kevin.mcclay@pd.boston.gov)>, Brian Armstrong <[brian.armstrong@pd.boston.gov](mailto:brian.armstrong@pd.boston.gov)>, John Brown <[john.brown@pd.boston.gov](mailto:john.brown@pd.boston.gov)>

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING.  
If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office.  
VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

--

Sergeant Detective John M Brown  
District E-13



3345 Washington Street  
Jamaica Plain, MA 02130

617 343-5628  
617 343-4960 (fax)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.brown@pd.boston.gov <john.brown@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.burrows@pd.boston.gov <john.burrows@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.burrows@pd.boston.gov <john.burrows@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.ciccolo@pd.boston.gov <john.ciccolo@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.ciccolo@pd.boston.gov <john.ciccolo@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.conroy@pd.boston.gov <john.conroy@pd.boston.gov>  
**Subject:** Arrest

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.conroy@pd.boston.gov <john.conroy@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.danilecki@pd.boston.gov <john.danilecki@pd.boston.gov>  
**Subject:** Arrest

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.danilecki@pd.boston.gov <john.danilecki@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.davin@pd.boston.gov <john.davin@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** johnd.conway@pd.boston.gov <johnd.conway@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.dineen@pd.boston.gov <john.dineen@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.dineen@pd.boston.gov <john.dineen@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.doris@pd.boston.gov <john.doris@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.doris@pd.boston.gov <john.doris@pd.boston.gov>  
**Subject:** Protesters

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**From:** John Earley <john.earley@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 9:25 AM EDT  
**To:** eldoradoclassic75@gmail.com <eldoradoclassic75@gmail.com>  
**Subject:** Fwd: Mayors House Security Commitment

----- Forwarded message -----

**From:** Michael Hegarty <[michael.hegarty@pd.boston.gov](mailto:michael.hegarty@pd.boston.gov)>  
**Date:** Wed, Feb 9, 2022 at 11:13 AM  
**Subject:** Mayors House Security Commitment  
**To:** Timothy Fitzpatrick <[timothy.fitzpatrick@pd.boston.gov](mailto:timothy.fitzpatrick@pd.boston.gov)>, Nicole McMullin <[nicole.mcmullin@pd.boston.gov](mailto:nicole.mcmullin@pd.boston.gov)>, Frank St Peter <[francis.st.peter@pd.boston.gov](mailto:francis.st.peter@pd.boston.gov)>, Stephen O'Brien <[stephen.obrien@pd.boston.gov](mailto:stephen.obrien@pd.boston.gov)>, Wilson Quiles <[wilson.quiles@pd.boston.gov](mailto:wilson.quiles@pd.boston.gov)>, Michael Kern <[michael.kern@pd.boston.gov](mailto:michael.kern@pd.boston.gov)>, Tomas Kearney <[thomas.kearney@pd.boston.gov](mailto:thomas.kearney@pd.boston.gov)>, John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>, Dana Barrett <[dana.barrett@pd.boston.gov](mailto:dana.barrett@pd.boston.gov)>

Hello All,

The Captain asked me to resend his prior email regarding morning coverage at Augustus Ave. As a reminder, the EDT's from 13 & 18 MUST be called every morning and be on scene. The PS on scene can make a determination when to release units as they see fit. Thanks...

**(Bosses, the protests at the Mayor's house were quite a bit more active today with more protesters getting in the way of the Mayor's security and actively blocking the street. We needed more Officers to assist.**

**From today going forward we will at 6:30 AM call in the EDT's from Districts 13 and 18. That should give us 11 Officers along with a District 5 Patrol Supervisor. I have asked the Mayor's security detail to have the Mayor get into the back seat and get out quicker.**

**For any Sgt. working that day or the Duty Supervisor please inform any outside Sgt doing overtime and assigned to the Mayor's house that we want to actively warn the protestors to not block the street or get within arms distance of the Mayors vehicle (Safety Reasons). Failure to abide by the commands may result in arrest. Please inform all Officers assigned to this task to work together to get the Mayor out of the residence as quickly as possible. The sooner this is done then we can release District 13 and 18 EDT's.**

**The last thing we want is arrests but this may be our only option, Officer safety along with the Mayor and her security detail is paramount!**

**Any questions please call me.)**



**Lieutenant Michael J. Hegarty**

**Area E-5, West Roxbury**

**(office) 617-343-9850**

**(cell) 617-935-0000**

**From:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 4:42 PM EDT  
**To:** John Earley <john.earley@pd.boston.gov>  
**Subject:** Re: Response for Protest 17 Augustus Ave Roslindale

Good points. The PS will need to be there at 7:00 AM every morning.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

On Mon, Apr 4, 2022 at 1:57 PM John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)> wrote:

Captain,

Based on this update the PS only responds if protestors show up but the EDTs Areawide do automatically. Maybe it should be written PS is to arrive prior to 7 as they were doing before it slowed down.

Without the PS on scene prior to any protestors showing up there is no way for PS to know if protestors or EDTs showed up in real time. Could cause a long delay and your phone would blow up by the time they did. In other words, I would suggest having the PS go up before 7 and then assess.

Also, allowing the PS to release EDTs if no protestors show up leaves PS in a quandary. What time is a good time to release EDTs? 7:30 sounds good until protestors show up at 7:45 and then the proverbial phone blowing up occurs.

Maybe it should be written that areawide EDTs can be released at discretion of PS at a certain time while E5 EDTs remain until further notice. This way our numbers will be good until day tour EDTs from 13 and 18 show up.

Just some thoughts.

On Mon, Apr 4, 2022 at 12:48 PM Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)> wrote:

POLICY regarding the Mayor's HOUSE.

COMPLAINT - Civil HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CIVIL COMPLAINT HEARING. If second subsequent time then add Mass 272.s 59 for Willful Violation of City Ordinance.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond. Please have Area E EDT's every morning and release if no protestors show up.

PUT ON BODY CAMERAS!

TARGETED PROTESTING 16.63 - 9:00 PM to 9:00 AM

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office. VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors - READ CITY ORDINANCE TARGETED PROTESTING and to not use amplified devices and if it is before 9:00 AM that it is in violation of **City Ordinance 16.63 for protesting before 9:00 AM**. If the protestors fail to comply with his oral warning to leave and to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification. The COMPLAINT FORM will be FILLED OUT, City Ordinance Violation - 16.63 Targeted residential picketing and 16.26.8 - loud amplification device in public space. The Civil hearing will be at West Roxbury District Court. The Patrol Supervisor will make sure the incident report has all elements of violation and tag all body cameras and attempt to identify all suspects. We have a master list of protesters that will help with identification.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

West Roxbury Court will handle all civil complaints in Clerks Hearing and issue fines, warnings etc. We will follow the policy and guidelines of the Court and if an arrest is to be determined it will be by the Court for violations of the ordinance.

PLEASE POST AT E-5 DS DESK for anyone on overtime from outside the District.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** John Earley <john.earley@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 1:56 PM EDT  
**To:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** Re: Response for Protest 17 Augustus Ave Roslindale

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Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.farrell@pd.boston.gov <john.farrell@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.farrell@pd.boston.gov <john.farrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.fitzgerald@pd.boston.gov <john.fitzgerald@pd.boston.gov>  
**Subject:** Arrest

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**To:** johng.fitzgerald@pd.boston.gov <johng.fitzgerald@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.mcdonald@pd.boston.gov <john.mcdonald@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** john.mcdonald@pd.boston.gov <john.mcdonald@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** johnn.flynn@pd.boston.gov <johnn.flynn@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** johnn.flynn@pd.boston.gov <johnn.flynn@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.noberini@pd.boston.gov <john.noberini@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.shaughnessy@pd.boston.gov <john.shaughnessy@pd.boston.gov>  
**Subject:** Arrest

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Boston Police Department - Operations Division

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** john.surette@pd.boston.gov <john.surette@pd.boston.gov>  
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**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Monday, April 25, 2022 1:05 PM EDT  
**To:** Platoff, Emma <emma.platoff@globe.com>  
**Subject:** Re: Globe request - arrest report for 17 Augustus Ave this morning  
**Attachment(s):** "20220425125736541.pdf"

Emma,

Attached is the incident report, please feel free to call me if you have any questions.

Thanks,

On Mon, Apr 25, 2022 at 12:35 PM Platoff, Emma <emma.platoff@globe.com> wrote:

Hi there, any word on this arrest report? And can you confirm that this is the first arrest of a protester outside Mayor Wu's home?

I see a case filed against Shannon Llewellyn, is that the woman who was arrested this morning?

[2206CR000371](#)

On Mon, Apr 25, 2022 at 10:36 AM Platoff, Emma <emma.platoff@globe.com> wrote:

Hey all,

Another question on this. My understanding from earlier this month was that nine fines had been issued to eight individuals (one person given two fines). But I just spoke with someone in the clerk's office in West Roxbury who said that the protesters had not been fined, but had been charged criminally for violating the city ordinance. Can you clarify what has happened to other protesters outside the mayor's home since the new picketing ordinance went into effect?

Thanks,  
Emma

On Mon, Apr 25, 2022 at 9:57 AM Platoff, Emma <emma.platoff@globe.com> wrote:

Hi there,

Requesting the arrest report for 17 Augustus Avenue this morning -Event P #220177673

Can you also confirm:

-Is this the first protester arrested outside the mayor's home?

-How many citations have been issued at or near that address for violating the city's new targeted picketing ordinance?

Thanks,  
Emma

--

Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--

Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520




**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02110

Boston PD

**# 222028976 - Offense/Incident Report**

REPORTED ON DATE / TIME <b>Apr 25, 2022 08:18</b>	DISTRICT / SECTION / REPORTING AREA / SUBDIVISION / SUBORDINATES <b>E5 / E414</b>	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 25, 2022 07:18</b>
--	--	--

## REPORTING OFFICER

**MATHEW PIEROWAY #106666**

## REPORT TAKEN LOCATION

**17 AUGUSTUS AVE, ROSLINDALE, MA 02131**

## EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                         | <input type="checkbox"/> Drugs             |
| <input type="checkbox"/> Sexual Assault              | <input type="checkbox"/> NIDV              |
| <input type="checkbox"/> Child Present               | <input type="checkbox"/> Homeless          |
| <input type="checkbox"/> CRU - Hate/Bias             | <input type="checkbox"/> Car Jack          |
| <input type="checkbox"/> Other Agency/Unit Notified  | <input type="checkbox"/> Bicycle           |
| <input type="checkbox"/> DVIP                        | <input type="checkbox"/> Licensed Premise  |
| <input type="checkbox"/> Warrant Arrest              | <input type="checkbox"/> School            |
| <input type="checkbox"/> Juvenile                    | <input type="checkbox"/> Disabled          |
| <input type="checkbox"/> Gang                        | <input type="checkbox"/> Search Warrant    |
| <input type="checkbox"/> Homeland Security           | <input type="checkbox"/> Shots Fired       |
| <input type="checkbox"/> Sex Offender                | <input type="checkbox"/> Elderly           |
| <input type="checkbox"/> Homeland Security UASI      | <input type="checkbox"/> Victim Shot       |
| <input type="checkbox"/> Home Invasion               | <input type="checkbox"/> Victim Stabbed    |
| <input type="checkbox"/> Human Trafficking           | <input type="checkbox"/> Child Abuse       |
| <input checked="" type="checkbox"/> Body Worn Camera | <input type="checkbox"/> Auto Investigator |

**NARRATIVE**

At about 7:45 AM on Monday April 25, 2022 Officer Pieroway in the E626D Unit, while on a fixed post at 17 Augustus Ave, did arrest Shannon Llewellyn DOB [REDACTED] for willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

At about 7:30 AM on the above date, Officer Pieroway in the E626D, while on a fix post at 17 Augustus Ave was speaking with a known neighbor, observed 1 unidentified male and 2 unidentified females as well as the Suspect, later identified as Shannon Llewellyn DOB [REDACTED] walk towards the corner of Augustus Ave and Crandell St. The Suspect was holding 2 signs a cooking pot with a cooking utensil. Officer Pieroway then contacted the Patrol Supervisor E901 Sgt. O'Brien of the protestors.

Sgt. O'Brien then arrived on scene and handed the protestors a copy of the City of Boston Ordinance 16-63 Regarding Targeted Residential Picketing. Officer Pieroway at this time activated his body worn camera.

## REPORTING OFFICER SIGNATURE / DATE

**MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)**

## PRINT NAME

**MATHEW PIEROWAY #106666**

## SUPERVISOR SIGNATURE / DATE

**JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)**

## PRINT NAME

**JOHN EARLEY #012114**

Sgt. O'Brien then explained the ordinance to the protestors and informed them they would be subject to arrest if they did not leave. One of the unidentified females stated she was a member of the press and was documenting the incident. The second female along with unidentified male then stated they could not get arrested and stated they were leaving. The Suspect then continued to argue with officers stating this was unconstitutional. Sgt. O'Brien then stated to the Suspect that she had five minutes to leave or she would be arrested for willful violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing pursuant to Mass General Law Chapter 272 Section 59. The Suspect was then given ample time to leave but she refused and began to banging the cooking utensil against the pot in a disturbing manner. Sgt. O'Brien then directed Officer Pieroway and Barboza to place the Suspect under arrest due to the Suspect knowing and willfully violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

The Suspect then put both of her arms out as Officer Pieroway and Officer Barboza (ET55) placed her into custody. Officer Barboza transported the Suspect to Area ES while Officer Pieroway followed behind. The Suspect was then transported without further incident.

Further investigation revealed the Suspect was at West Roxbury District Court on April 15, 2022 for a Clerks hearing and was advised by Clerk Magistrate Sean Murphy of the City Ordinance and MGL 272 59 (specifically of the time of 9:00AM to 9:00PM restriction in the ordinance). Also present at the hearing was Sgt. Brian Waters representing the City of Boston. It should be noted that this is the second time the Suspect has been charged with this offense.

Shannon Llewellyn is to be charged willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing in West Roxbury District Court.

## REPORTING PARTY-1

REPORTING PARTY-1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

## VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 25, 2022 07:18

SUSPECTED HATE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT. UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION 1 / SUBDIVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIM-1 NAME

V-1 Commonwealth of Massachusetts

ORGANIZATION TYPE

Criminal Justice

ORGANIZATION INDUSTRY

Law Enforcement

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 Llewellyn, Shannon

DOB / ESTIMATED AGE RANGE

SEX

RACE / ETHNICITY

PHONE NUMBER

REPORTING OFFICER SIGNATURE / DATE

MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)

PRINT NAME

MATHEW PIEROWAY #106666

SUPERVISOR SIGNATURE / DATE

JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)

PRINT NAME

JOHN EARLEY #012114

Female	White / Not of Hispanic Origin	[REDACTED] (primary, Mobile Phone)
HOME ADDRESS [REDACTED]		

REPORTING OFFICER SIGNATURE / DATE MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)	SUPERVISOR SIGNATURE / DATE JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)
PRINT NAME MATHEW PIEROWAY #106666	PRINT NAME JOHN EARLEY #012114

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
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**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** Platoff, Emma <emma.platoff@globe.com>

**Sent:** Monday, April 25, 2022 1:22 PM EDT

**To:** John Boyle <johnt.boyle@pd.boston.gov>

**Subject:** Re: Globe request - arrest report for 17 Augustus Ave this morning

Thanks so much! I do have a couple questions -- just left you a voicemail, could you give me a call back? 203 530 6009

On Mon, Apr 25, 2022 at 1:05 PM John Boyle <johnt.boyle@pd.boston.gov> wrote:

Emma,

Attached is the incident report, please feel free to call me if you have any questions.

Thanks,

On Mon, Apr 25, 2022 at 12:35 PM Platoff, Emma <emma.platoff@globe.com> wrote:

Hi there, any word on this arrest report? And can you confirm that this is the first arrest of a protester outside Mayor Wu's home?

I see a case filed against Shannon Llewellyn, is that the woman who was arrested this morning?

[2206CR000371](#)

On Mon, Apr 25, 2022 at 10:36 AM Platoff, Emma <emma.platoff@globe.com> wrote:

Hey all,

Another question on this. My understanding from earlier this month was that nine fines had been issued to eight individuals (one person given two fines). But I just spoke with someone in the clerk's office in West Roxbury who said that the protesters had not been fined, but had been charged criminally for violating the city ordinance. Can you clarify what has happened to other protesters outside the mayor's home since the new picketing ordinance went into effect?

Thanks,  
Emma

On Mon, Apr 25, 2022 at 9:57 AM Platoff, Emma <emma.platoff@globe.com> wrote:

Hi there,

Requesting the arrest report for 17 Augustus Avenue this morning - Event P #220177673

Can you also confirm:

-Is this the first protester arrested outside the mayor's home?

-How many citations have been issued at or near that address for violating the city's new targeted picketing ordinance?

Thanks,  
Emma

--

Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--

Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520

**From:** David Fredette <david.fredette@pd.boston.gov>

**Sent:** Monday, April 25, 2022 11:28 AM EDT

**To:** John Boyle <johnt.boyle@pd.boston.gov>

**CC:** Adam Cederbaum <adam.cederbaum@boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>

**Subject:** Re: unredacted report from 17 Augustus Ave on Monday, April 25, 2022

Thanks john

On Mon, Apr 25, 2022 at 11:15 AM John Boyle <johnt.boyle@pd.boston.gov> wrote:

--

*Sergeant Detective John Boyle*

*Boston Police Department*

*Office of Media Relations*

[1 Schroeder Plaza](#)

[Boston, Massachusetts, 02120](#)

617-343-4520

**From:** Adam Cederbaum <adam.cederbaum@boston.gov>  
**Sent:** Monday, April 25, 2022 12:22 PM EDT  
**To:** David Fredette <david.fredette@pd.boston.gov>  
**CC:** John Boyle <johnt.boyle@pd.boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>  
**Subject:** Re: unredacted report from 17 Augustus Ave on Monday, April 25, 2022

Thanks John and Dave

On Mon, Apr 25, 2022 at 11:28 AM David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)> wrote:  
Thanks john

On Mon, Apr 25, 2022 at 11:15 AM John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)> wrote:

--  
*Sergeant Detective John Boyle*  
*Boston Police Department*  
*Office of Media Relations*  
[1 Schroeder Plaza](#)  
[Boston, Massachusetts, 02120](#)  
617-343-4520

--  
Adam Cederbaum (he/him)  
Corporation Counsel  
City of Boston Law Department  
City Hall, Room 615  
Boston, MA 02201  
(617) 635-4030  
[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jonathan.gunn@pd.boston.gov <jonathan.gunn@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jonathan.gunn@pd.boston.gov <jonathan.gunn@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jonathan.hester@pd.boston.gov <jonathan.hester@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jose.araujo@pd.boston.gov <jose.araujo@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jose.lozano@pd.boston.gov <jose.lozano@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jose.lozano@pd.boston.gov <jose.lozano@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jose.pereyra@pd.boston.gov <jose.pereyra@pd.boston.gov>  
**Subject:** Arrest

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**To:** jose.pereyra@pd.boston.gov <jose.pereyra@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.boyle@pd.boston.gov <joseph.boyle@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.connolly@pd.boston.gov <joseph.connolly@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.connolly@pd.boston.gov <joseph.connolly@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.digirolamo@pd.boston.gov <joseph.digirolamo@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.gillespie@pd.boston.gov <joseph.gillespie@pd.boston.gov>  
**Subject:** Arrest

□

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.gillespie@pd.boston.gov <joseph.gillespie@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.holmes@pd.boston.gov <joseph.holmes@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.holmes@pd.boston.gov <joseph.holmes@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.keaveney@pd.boston.gov <joseph.keaveney@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.king@pd.boston.gov <joseph.king@pd.boston.gov>  
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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.king@pd.boston.gov <joseph.king@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.madden@pd.boston.gov <joseph.madden@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.maguire@pd.boston.gov <joseph.maguire@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.maguire@pd.boston.gov <joseph.maguire@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.mcdonough@pd.boston.gov <joseph.mcdonough@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.mcdonough@pd.boston.gov <joseph.mcdonough@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.medina@pd.boston.gov <joseph.medina@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.medina@pd.boston.gov <joseph.medina@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.monahan@pd.boston.gov <joseph.monahan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.monahan@pd.boston.gov <joseph.monahan@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.sullivan@pd.boston.gov <joseph.sullivan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.sullivan@pd.boston.gov <joseph.sullivan@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joseph.tse@pd.boston.gov <joseph.tse@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joseph.tse@pd.boston.gov <joseph.tse@pd.boston.gov>  
**Subject:** Protesters

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04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jose.ruiz@pd.boston.gov <jose.ruiz@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jose.ruiz@pd.boston.gov <jose.ruiz@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** jose.teixeira@pd.boston.gov <jose.teixeira@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** jose.teixeira@pd.boston.gov <jose.teixeira@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joshua.delisle@pd.boston.gov <joshua.delisle@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joshua.delisle@pd.boston.gov <joshua.delisle@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** joyce.fitzgerald@pd.boston.gov <joyce.fitzgerald@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** joyce.fitzgerald@pd.boston.gov <joyce.fitzgerald@pd.boston.gov>  
**Subject:** Protesters

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** juan.estevez@pd.boston.gov <juan.estevez@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** juan.estevez@pd.boston.gov <juan.estevez@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** juan.seoane@pd.boston.gov <juan.seoane@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** juan.seoane@pd.boston.gov <juan.seoane@pd.boston.gov>  
**Subject:** Protesters

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** S C <shanacottone@gmail.com>  
**Sent:** Wednesday, April 06, 2022 3:20 PM EDT  
**To:** policereport@pd.boston.gov <policereport@pd.boston.gov>  
**Subject:** Copy of 1.1 request  
**Attachment(s):** "image0.jpeg", "ATT00002.txt"

Good afternoon,

I am requesting a copy of the following report and any supplements/other reports referencing my name from this date:

Incident # 22022674

Date: April 1, 2022 (between the approximate hours of 7am and 9am)

Location: 17 Augustus Ave Roslindale (this is a guess though since I haven't seen the report to know the address used).

Thank you.

--

You received this message because you are subscribed to the Google Groups "Policereport" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [policereport+unsubscribe@pd.boston.gov](mailto:policereport+unsubscribe@pd.boston.gov).

To view this discussion on the web visit [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_groups.google.com\\_a\\_pd.boston.gov\\_d\\_msgid\\_policereport\\_A7F98E0C-2D6367-2D4BFB-2D9669-2D2EBF79B98073-2540gmail.com&d=DwlFaQ&c=jHPIKdF3zLuO12CD8lDt5g&r=1VE4lTawFS8rc-noVYO3RBIWssYb7hGJk2pECLMpn9E&m=h2COJdYgADj3J-Rz52DJJDWm865-VZ5uWHCfNqYXvic&s=VemqytjWt3cT-gCKnWQIB7J\\_2J1tiwiCc7c3N620qlc&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_groups.google.com_a_pd.boston.gov_d_msgid_policereport_A7F98E0C-2D6367-2D4BFB-2D9669-2D2EBF79B98073-2540gmail.com&d=DwlFaQ&c=jHPIKdF3zLuO12CD8lDt5g&r=1VE4lTawFS8rc-noVYO3RBIWssYb7hGJk2pECLMpn9E&m=h2COJdYgADj3J-Rz52DJJDWm865-VZ5uWHCfNqYXvic&s=VemqytjWt3cT-gCKnWQIB7J_2J1tiwiCc7c3N620qlc&e=) .

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** julian.turner@pd.boston.gov <julian.turner@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** julian.turner@pd.boston.gov <julian.turner@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:50 AM EDT  
**To:** juliet.lariche@pd.boston.gov <juliet.lariche@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** juliet.lariche@pd.boston.gov <juliet.lariche@pd.boston.gov>  
**Subject:** Protesters

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Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** karen.kelleher@pd.boston.gov <karen.kelleher@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** karen.kelleher@pd.boston.gov <karen.kelleher@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** katherine.shea@pd.boston.gov <katherine.shea@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** katherine.shea@pd.boston.gov <katherine.shea@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kathy.kearney@pd.boston.gov <kathy.kearney@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kathy.kearney@pd.boston.gov <kathy.kearney@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kaylee.hutchinson@pd.boston.gov <kaylee.hutchinson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kaylee.hutchinson@pd.boston.gov <kaylee.hutchinson@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kelley.mccormick@pd.boston.gov <kelley.mccormick@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kelley.mccormick@pd.boston.gov <kelley.mccormick@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kenisha.stewart@pd.boston.gov <kenisha.stewart@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

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**To:** kenisha.stewart@pd.boston.gov <kenisha.stewart@pd.boston.gov>  
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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kenneth.autio@pd.boston.gov <kenneth.autio@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kenneth.autio@pd.boston.gov <kenneth.autio@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kenneth.grubbs@pd.boston.gov <kenneth.grubbs@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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Boston Police Department - Operations Division

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kerry.ryan@pd.boston.gov <kerry.ryan@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kerry.ryan@pd.boston.gov <kerry.ryan@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kerry.sullivan@pd.boston.gov <kerry.sullivan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kerry.sullivan@pd.boston.gov <kerry.sullivan@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** keva.phillips@pd.boston.gov <keva.phillips@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** keva.phillips@pd.boston.gov <keva.phillips@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.cahill@pd.boston.gov <kevin.cahill@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kevin.cahill@pd.boston.gov <kevin.cahill@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.cook@pd.boston.gov <kevin.cook@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kevin.cook@pd.boston.gov <kevin.cook@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.cullen@pd.boston.gov <kevin.cullen@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kevin.cullen@pd.boston.gov <kevin.cullen@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.doogan@pd.boston.gov <kevin.doogan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kevin.doogan@pd.boston.gov <kevin.doogan@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.jones@pd.boston.gov <kevin.jones@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**To:** kevin.jones@pd.boston.gov <kevin.jones@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevinp.mcgoldrick@pd.boston.gov <kevinp.mcgoldrick@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kevinp.mcgoldrick@pd.boston.gov <kevinp.mcgoldrick@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.pumphret@pd.boston.gov <kevin.pumphret@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.swan@pd.boston.gov <kevin.swan@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**To:** kevin.swan@pd.boston.gov <kevin.swan@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kevin.watson@pd.boston.gov <kevin.watson@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kevin.watson@pd.boston.gov <kevin.watson@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** khalilah.drummer@pd.boston.gov <khalilah.drummer@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** khalilah.drummer@pd.boston.gov <khalilah.drummer@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kim.tavares@pd.boston.gov <kim.tavares@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kim.tavares@pd.boston.gov <kim.tavares@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** kit.tong@pd.boston.gov <kit.tong@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** kit.tong@pd.boston.gov <kit.tong@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lamont.anderson@pd.boston.gov <lamont.anderson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lamont.anderson@pd.boston.gov <lamont.anderson@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lanita.cullinane@pd.boston.gov <lanita.cullinane@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lanita.cullinane@pd.boston.gov <lanita.cullinane@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** larry.ellison@pd.boston.gov <larry.ellison@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** larry.ellison@pd.boston.gov <larry.ellison@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** latoya.gamble@pd.boston.gov <latoya.gamble@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** latoya.gamble@pd.boston.gov <latoya.gamble@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** laura.dickerson@pd.boston.gov <laura.dickerson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** laura.dickerson@pd.boston.gov <laura.dickerson@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** laurence.johnson@pd.boston.gov <laurence.johnson@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** laurence.johnson@pd.boston.gov <laurence.johnson@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lauren.woods@pd.boston.gov <lauren.woods@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lauren.woods@pd.boston.gov <lauren.woods@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** laurie.farrell@pd.boston.gov <laurie.farrell@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** laurie.farrell@pd.boston.gov <laurie.farrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** leanne.hurley@pd.boston.gov <leanne.hurley@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** leanne.hurley@pd.boston.gov <leanne.hurley@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lee.merlino@pd.boston.gov <lee.merlino@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lee.merlino@pd.boston.gov <lee.merlino@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** leighton.facey@pd.boston.gov <leighton.facey@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** leighton.facey@pd.boston.gov <leighton.facey@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lenin.frederick@pd.boston.gov <lenin.frederick@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lenin.frederick@pd.boston.gov <lenin.frederick@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** liam.hawkins@pd.boston.gov <liam.hawkins@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** liam.hawkins@pd.boston.gov <liam.hawkins@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lisa.obrien@pd.boston.gov <lisa.obrien@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lisa.obrien@pd.boston.gov <lisa.obrien@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** louisimond.vertyl@pd.boston.gov <louisimond.vertyl@pd.boston.gov>  
**Subject:** Arrest

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** louisimond.vertyl@pd.boston.gov <louisimond.vertyl@pd.boston.gov>  
**Subject:** Protesters

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**From:** BWC Special Notification <itproduction@pd.boston.gov>

**Sent:** Tuesday, April 12, 2022 9:53 AM EDT

**To:** itproduction@pd.boston.gov <itproduction@pd.boston.gov>; darrin.greeley@pd.boston.gov <darrin.greeley@pd.boston.gov>; veu@pd.boston.gov <veu@pd.boston.gov>

**Subject:** BWC: Request for physical copy of one's own digital evidence

**Attachment(s):** "BWC Special Notification Form 04/12/202204/12/2022 09:52:37790.pdf"

A BWC Special Notification Form: "Request for physical copy of one's own digital evidence" has been submitted by Stephen Obrien. Per Rule 405, Supervisors shall review this form and shall submit a copy through the Chain of Command to the Bureau Chief.

Please open the attachment for details.

Emails have been sent to:

Video Evidence Unit: [veu@pd.boston.gov](mailto:veu@pd.boston.gov)

Captain Darrin Greeley [darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

--

You received this message because you are subscribed to the Google Groups "VEU" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [veu+unsubscribe@pd.boston.gov](mailto:veu+unsubscribe@pd.boston.gov).

To view this discussion on the web visit

<https://groups.google.com/a/pd.boston.gov/d/msgid/veu/CALFtfu%2B7KmOiwDkjrR65E7ks2wP6BeuCqRg6re9uQCOu%3DQtEyA%40mail.gmail.com>.

[illegible]

at 9:30am

**From:** Sgt. Det. Louis Madeira <louis.madeira@pd.boston.gov>

**Sent:** Tuesday, April 12, 2022 11:49 AM EDT

**To:** Stephen OBrien <stephen.obrien@pd.boston.gov>

**Subject:** Re: BWC 17 Augustus Av April 1st 7am-9am

Thank you pal

Sgt. Det. Lou Madeira  
Boston Police Department  
Bureau of Administration and Technology  
Commander, Video Evidence Unit  
One Schroeder Plaza Boston Ma. 02120

On Apr 12, 2022, at 11:47 AM, Stephen O'Brien <stephen.obrien@pd.boston.gov> wrote:

Clerk Magistrate Sean Murphy at West Roxbury Court will be handling hearings on protesters on Thursday April



The screenshot shows an email inbox interface. At the top, there's a header bar with the word 'Evidence' and some search filters. Below that, there's a table of email messages. The table has columns for 'From', 'To', 'Subject', 'Date', and 'Status'. The messages are listed in a grid, with each row representing an email. The first few rows show messages from 'Stephen O'Brien' to 'Louis Madeira' with subjects related to 'BWC 17 Augustus Av'. The messages are dated 'April 12, 2022'.

From	To	Subject	Date	Status
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read
Stephen O'Brien	Louis Madeira	BWC 17 Augustus Av	April 12, 2022	Read

14th, 2022 at 9:30am

**From:** Sgt. Det. Louis Madeira <louis.madeira@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 2:35 PM EDT  
**To:** Stephen OBrien <stephen.obrien@pd.boston.gov>  
**CC:** Michael Kern <michael.kern@pd.boston.gov>; Capt. Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** Re: BWC 17 Augustus Av April 1st 7am-9am

The BWC videos listed above has been sent to ADA Robert Settana who will forward it to Clerk Magistrate Sean Murphy.

Let me know if you have any questions or if I can be of any more assistance.

Stay Safe

On Tue, Apr 12, 2022 at 11:47 AM Stephen O'Brien <[stephen.obrien@pd.boston.gov](mailto:stephen.obrien@pd.boston.gov)> wrote:  
Clerk Magistrate Sean Murphy at West Roxbury Court will be handling hearings on protesters on Thursday April



14th, 2022 at 9:30am

--  
Respectfully Submitted,

Sgt. Det. Lou Madeira  
Bureau of Administration and Technology  
Commander, Video Evidence Unit  
Boston Police Department  
One Schroeder Plaza Boston Ma. 02120

**Confidentiality Note**

The substance of this email transmission and any accompanying documents that may be attached contain information from the Boston Police Department which is CONFIDENTIAL AND/OR PRIVILEGED. This e-mail is protected under Massachusetts General Laws. If you are not the intended recipient be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this e-mail in error, please contact the sender immediately.

**From:** Stephen OBrien <stephen.obrien@pd.boston.gov>  
**Sent:** Friday, April 15, 2022 1:18 PM EDT  
**To:** Sgt. Det. Louis Madeira <louis.madeira@pd.boston.gov>  
**Subject:** Re: BWC 17 Augustus Av April 1st 7am-9am

THANKS

On Wed, Apr 13, 2022 at 2:35 PM Sgt. Det. Louis Madeira <louis.madeira@pd.boston.gov> wrote:

The BWC videos listed above has been sent to ADA Robert Settana who will forward it to Clerk Magistrate Sean Murphy.

Let me know if you have any questions or if I can be of any more assistance.

Stay Safe

On Tue, Apr 12, 2022 at 11:47 AM Stephen O'Brien <stephen.obrien@pd.boston.gov> wrote:

Clerk Magistrate Sean Murphy at West Roxbury Court will be handling hearings on protesters on Thursday April



Evidence	Date	Location	Officer	Incident	Status	Comments
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]
[Icon]	4/12/2022	West Roxbury Court	[Name]	[Incident]	[Status]	[Comments]

14th,2022 at 9:30am

--  
Respectfully Submitted,

Sgt. Det. Lou Madeira  
Bureau of Administration and Technology  
Commander, Video Evidence Unit  
Boston Police Department  
One Schroeder Plaza Boston Ma. 02120

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** louis.madeira@pd.boston.gov <louis.madeira@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** louis.madeira@pd.boston.gov <louis.madeira@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** louis.relerford@pd.boston.gov <louis.relerford@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** louis.relerford@pd.boston.gov <louis.relerford@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lucas.taxter@pd.boston.gov <lucas.taxter@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lucas.taxter@pd.boston.gov <lucas.taxter@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** luciano.cirino-ayuso@pd.boston.gov <luciano.cirino-ayuso@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** luciano.cirino-ayuso@pd.boston.gov <luciano.cirino-ayuso@pd.boston.gov>  
**Subject:** Protesters

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ludwig.castillo@pd.boston.gov <ludwig.castillo@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ludwig.castillo@pd.boston.gov <ludwig.castillo@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ludwik.bartkiewicz@pd.boston.gov <ludwik.bartkiewicz@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ludwik.bartkiewicz@pd.boston.gov <ludwik.bartkiewicz@pd.boston.gov>  
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District E5  
04-07-2022 06:31:00

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** luis.lopez@pd.boston.gov <luis.lopez@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** luis.lopez@pd.boston.gov <luis.lopez@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** luke.holbrook@pd.boston.gov <luke.holbrook@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** luke.holbrook@pd.boston.gov <luke.holbrook@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** lynette.williams@pd.boston.gov <lynette.williams@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** lynette.williams@pd.boston.gov <lynette.williams@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** myeshia.henderson@pd.boston.gov <myeshia.henderson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
**Sent:** Monday, April 25, 2022 9:57 AM EDT  
**To:** [mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov) <[mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov)>  
**Subject:** Globe request - arrest report for 17 Augustus Ave this morning

Hi there,

Requesting the arrest report for 17 Augustus Avenue this morning -Event P #220177673

Can you also confirm:

-Is this the first protester arrested outside the mayor's home?

-How many citations have been issued at or near that address for violating the city's new targeted picketing ordinance?

Thanks,  
Emma

--

Emma Platoff  
Politics reporter  
203-530-6009 (c)  
[@emmaplatoff](mailto:@emmaplatoff)  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** myeshia.henderson@pd.boston.gov <myeshia.henderson@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>

**Sent:** Monday, April 25, 2022 10:36 AM EDT

**To:** [mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov) <[mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov)>; John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>

**Subject:** Re: Globe request - arrest report for 17 Augustus Ave this morning

Hey all,

Another question on this. My understanding from earlier this month was that nine fines had been issued to eight individuals (one person given two fines). But I just spoke with someone in the clerk's office in West Roxbury who said that the protesters had not been fined, but had been charged criminally for violating the city ordinance. Can you clarify what has happened to other protesters outside the mayor's home since the new picketing ordinance went into effect?

Thanks,  
Emma

On Mon, Apr 25, 2022 at 9:57 AM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:

Hi there,

Requesting the arrest report for 17 Augustus Avenue this morning -Event P #220177673

Can you also confirm:

-Is this the first protester arrested outside the mayor's home?

-How many citations have been issued at or near that address for violating the city's new targeted picketing ordinance?

Thanks,  
Emma

--  
Emma Platoff  
Politics reporter  
203-530-6009 (c)  
[@emmaplatoff](mailto:@emmaplatoff)  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

**From:** Platoff, Emma <emma.platoff@globe.com>

**Sent:** Monday, April 25, 2022 12:35 PM EDT

**To:** mediarelations@pd.boston.gov <mediarelations@pd.boston.gov>; John Boyle <johnt.boyle@pd.boston.gov>

**Subject:** Re: Globe request - arrest report for 17 Augustus Ave this morning

Hi there, any word on this arrest report? And can you confirm that this is the first arrest of a protester outside Mayor Wu's home?

I see a case filed against Shannon Llewellyn, is that the woman who was arrested this morning?

[2206CR000371](#)

On Mon, Apr 25, 2022 at 10:36 AM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:

Hey all,

Another question on this. My understanding from earlier this month was that nine fines had been issued to eight individuals (one person given two fines). But I just spoke with someone in the clerk's office in West Roxbury who said that the protesters had not been fined, but had been charged criminally for violating the city ordinance. Can you clarify what has happened to other protesters outside the mayor's home since the new picketing ordinance went into effect?

Thanks,  
Emma

On Mon, Apr 25, 2022 at 9:57 AM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:

Hi there,

Requesting the arrest report for 17 Augustus Avenue this morning -Event P #220177673

Can you also confirm:

-Is this the first protester arrested outside the mayor's home?

-How many citations have been issued at or near that address for violating the city's new targeted picketing ordinance?

Thanks,  
Emma

--

Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** manuel.roberto@pd.boston.gov <manuel.roberto@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** manuel.roberto@pd.boston.gov <manuel.roberto@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** marcellus.parker@pd.boston.gov <marcellus.parker@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** marc.sullivan@pd.boston.gov <marc.sullivan@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** marcus.eddings@pd.boston.gov <marcus.eddings@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** maria.cheevers@pd.boston.gov <maria.cheevers@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** mark.bachta@pd.boston.gov <mark.bachta@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** mark.whalen@pd.boston.gov <mark.whalen@pd.boston.gov>  
**Subject:** Arrest

□

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**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Rebecca S. Murray  
*Supervisor of Records*

April 4, 2022  
SPR22/0785

Michelle Frigon  
VIA EMAIL  
MA

Dear Michelle Frigon:

I have received your letter appealing the response of the Boston Police Department to your request for records.

I have directed a member of my staff, Benjamin Chan, to review this matter. Upon completion of the review, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray".

Rebecca S. Murray  
Supervisor of Records

Cc: Sgt. John Boyle

**From:** [Michelle Frigon](#)  
**To:** [SEC-DL-PRCS1VER](#)  
**Subject:** FOIA Request  
**Date:** Saturday, April 2, 2022 3:20:12 AM

---

**April 2, 2022**

**Good Morning,**

**I submitted a FOIA request to the Boston Mayor's Office and Boston Police Dept on March 12, 2022. The original FOIA request is included in full at the bottom of this email.**

**I inquired about it first on 3/23 in the email below, as the Boston FOIA site had my request marked as "complete":**

Good Evening,

I'm writing in regards to the status of this FOIA request.  
The site states the request is completed.  
It has been 11 days today.

I greatly appreciate your assistance in this matter,  
-Michelle Frigon  
[774-276-7618](tel:774-276-7618)

**On 3/24, I received this response:**

The public records law states: The RAO must respond to requests without unreasonable delay and within ten business days.<sup>13</sup> The RAO may offer to provide records; provide a fee estimate, where applicable; or deny access to records in a manner consistent with G. L. c. 66, § 10(a-b).

Your request will receive a response by March 28th which will then be 10 business days after your original request on March 12th.  
This request is also a duplicate request to B000625-031222. Please refer to this request for further communications.

Very truly yours,  
**Eva Scapicchio**  
Paralegal  
Public Records  
City of Boston Law Department  
[617-635-3268](tel:617-635-3268)  
[eva.scapicchio@boston.gov](mailto:eva.scapicchio@boston.gov)  
03/24/2022

**On 3/28 I inquired after not receiving:**

Good Afternoon,

I'd greatly appreciate any insight into why this request has not been fulfilled on the Mayor's Office end.  
Much of this information would originate there.

It's been the legally noted 10 business days. Is there a reason this FOIA was marked in process and then complete, yet not completed?

Thank you for your attention,  
-Michelle Frigon  
[774-276-7618](tel:774-276-7618)

**And the reply:**

I see that a response to this request is due today. I have alerted a representative from the Boston Police Department in an effort to obtain an update on the status of your March 12, 2022 public records request. I will provide an update to you once additional information is provided to me by the department.

Very truly yours,

  
**Eva Scapicchio**  
Paralegal  
Public Records  
City of Boston Law Department  
[617-635-3268](tel:617-635-3268)  
[eva.scapicchio@boston.gov](mailto:eva.scapicchio@boston.gov)

**On 3/29 I received another reply:**


03/29/2022

RE: PUBLIC RECORDS REQUEST of March 12, 2022, Reference # B000625-031222

Dear Michelle Frigon:

Thank you for your March 28, 2022 communication seeking an update on your request. As a member of my staff informed you earlier in the day, the City is actively working on this request and hopes to have a response for you as soon as possible. Please contact me directly at [shawn.williams@boston.gov](mailto:shawn.williams@boston.gov) if you have further questions.

Very truly yours,



Shawn A. Williams, Esq.  
Director of Public Records  
Records Access Officer

---

**It is now April 2nd and I have yet to receive any information. The online portal says it is "complete" via Mayor's Office, but also now states "In Progress" via the PD. See screenshot of the site:**



The Mayor's Office request is numbered B000625-031222 while the same info requested from the BPD is numbered as R000770-031222.

*Sincerely, Michelle Frigon*

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

Director of Public Records  
Records Access Officer  
City of Boston

**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Monday, April 04, 2022 3:06 PM EDT  
**To:** martha.demaio@pd.boston.gov <martha.demaio@pd.boston.gov>  
**Subject:** [GovQA] Note Added ~::~ B000625-031222

--- Please respond above this line ---

☐ Eva Scapicchio added a note on B000625-031222

## Police Records Request / B000625-031222

☐ on 4/4 spr appeal acknowledgement received, attached in govqa.

### Request Information

Assigned Staff: Martha DeMaio

Status: SPR Appeal

Create Date: 3/12/2022 2:46:30 AM

Request Details: Under the Massachusetts Public Records Act § 66-10 et seq., I am requesting an opportunity to inspect or obtain copies of public records that: -Include any correspondence by public officials in any format from the dates of September 12th, 2021 to the present date March 12th, 2022 that mention or refer to the police presence at 17 Augustus Ave, Roslindale MA; -Include the number of officers or other people employed by the City of Boston that are or have been placed at the above referenced street in the above referenced time period; -The pay rate for said officers and total costs to provide such a police detail at 17 Augustus Ave, Roslindale MA for the dates provided above; -Any public record correspondences that reference/discuss/determined the decision making and confirmation process with respect to this police officer placement on Augustus Ave; -Where funds for this police officer assignment originate in the budget of the City of Boston to pay for these and all associated costs,

[Access the Public Records Center to View the Request](#)

All Notes:

**On 3/28/2022 9:48:00 AM, Shawn Williams wrote:**

I'm working on this one.

**On 3/28/2022 9:15:00 AM, Eva Scapicchio wrote:**

Martha, this request is due today. Have you spoken to Shawn about closing it? I will send the requester a response to aware them we are working on it.

cc: [Shawn Williams](#)

**On 3/16/2022 2:08:00 PM, Shawn Williams wrote:**

BPD

Export query

Type:(Gmail) Mode:(All data) [Exclude drafts] Sent after 2021-09-12 Time zone:(America/Detroit) Terms:("17 augustus avenue" OR "17 augustus ave" OR "17 augustus") Org:(Police)

COB

Export query

Type:(Gmail) Mode:(All data) [Exclude drafts] Sent after 2021-09-12 Time zone:(America/Detroit) Terms:("17 augustus avenue" OR "17 augustus ave" OR "17 augustus") Org:(CoB)

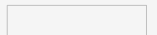
<https://app.logikcull.com/projects/1908495591/uploads>

I'll go through this and upload a PDF to Govqa's Attachment tab

**On 3/14/2022 12:27:00 PM, Jean Shirley wrote:**

[Martha DeMaio](#) - The City received a similar request for same information - R000770-031222. Thought you might want to know.

I will discuss with Shawn whether we want to close one as a dup.



**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Monday, April 04, 2022 4:43 PM EDT  
**To:** martha.demaio@pd.boston.gov <martha.demaio@pd.boston.gov>  
**Subject:** [GovQA] Requestor Communication - B000625-031222

☐ The requestor has **updated** a request assigned to you

## Police Records Request / [B000625-031222](#)

The requestor (Michelle Frigon, ) has sent in new communication via email or the portal, please login to review the message history.

### Request Information

Assigned Staff: Martha DeMaio

Customer Name: Michelle Frigon

Customer Company

Status: SPR Appeal

Create Date: 3/12/2022 2:46:30 AM

Type of Record: General Request

Record(s) Requested: Under the Massachusetts Public Records Act § 66-10 et seq., I am requesting an opportunity to inspect or obtain copies of public records that: -Include any correspondence by public officials in any format from the dates of September 12th, 2021 to the present date March 12th, 2022 that mention or refer to the police presence at 17 Augustus Ave, Roslindale MA; -Include the number of officers or other people employed by the City of Boston that are or have been placed at the above referenced street in the above referenced time period; -The pay rate for said officers and total costs to provide such a police detail at 17 Augustus Ave, Roslindale MA for the dates provided above; -Any public record correspondences that reference/discuss/determined the decision making and confirmation process with respect to this police officer placement on Augustus Ave; -Where funds for this police officer assignment originate in the budget of the City of Boston to pay for these and all associated costs, and how they are deferred to in this assignment (overtime, special assignment etc); -Any information or correspondence where the protest on Augustus Ave is mentioned between the dates above referenced, including data or correspondence in any format (email or other communications from the Mayor and/or her office or staff to the police) regarding police presence on Augustus Ave in Roslindale, and any pertinent details such as police reports or incident notes taken there within above specified dates; -Any correspondence regarding the reasons and decisions to increase police presence on Augustus Ave. If there are any fees for searching or copying these records, please inform me if the cost will exceed \$50. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the way our law enforcement resources are used and how publicly elected officials may deem a large police presence necessary. This information is not being sought for commercial purposes. The Massachusetts Public Records Act requires a response to this request within 10 days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. Thank you for considering my request. Sincerely, Michelle Frigon

[Access the Public Records Center to View the Request](#)

**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Tuesday, April 19, 2022 9:01 AM EDT  
**To:** martha.demaio@pd.boston.gov <martha.demaio@pd.boston.gov>  
**Subject:** [GovQA] Required Completion Date Exceeded - B000625-031222

☐ Notification that the following request is **past due**.

## Police Records Request / [B000625-031222](#)

Please log in to the Public Records Center to review this request and update as needed.

### **Request Information**

Assigned Martha DeMaio

Staff:

Status: SPR Appeal

Create 3/12/2022 2:46:30 AM

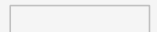
Date:

Type of General Request

Request:

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** martha.demaio@pd.boston.gov <martha.demaio@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

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04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** martha.demaio@pd.boston.gov <martha.demaio@pd.boston.gov>  
**Subject:** Protesters

□

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** martin.joseph@pd.boston.gov <martin.joseph@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** mary.lee@pd.boston.gov <mary.lee@pd.boston.gov>  
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04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** mary.lee@pd.boston.gov <mary.lee@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** matthew.fogarty@pd.boston.gov <matthew.fogarty@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** matthew.fogarty@pd.boston.gov <matthew.fogarty@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** matthew.grogan@pd.boston.gov <matthew.grogan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** matthew.grogan@pd.boston.gov <matthew.grogan@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** matthew.haslett@pd.boston.gov <matthew.haslett@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** matthew.haslett@pd.boston.gov <matthew.haslett@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** matthew.hogardt@pd.boston.gov <matthew.hogardt@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** matthew.hogardt@pd.boston.gov <matthew.hogardt@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** matthew.spillane@pd.boston.gov <matthew.spillane@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** matthew.spillane@pd.boston.gov <matthew.spillane@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** matthew.wyman@pd.boston.gov <matthew.wyman@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** matthew.wyman@pd.boston.gov <matthew.wyman@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** megan.barry@pd.boston.gov <megan.barry@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** meghan.barry@pd.boston.gov <meghan.barry@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Monday, April 25, 2022 7:49 AM EDT

**To:** melissa.lombardo@pd.boston.gov <melissa.lombardo@pd.boston.gov>

**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** melissa.lombardo@pd.boston.gov <melissa.lombardo@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** melvin.ruiz@pd.boston.gov <melvin.ruiz@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** melvin.ruiz@pd.boston.gov <melvin.ruiz@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.aziz@pd.boston.gov <michael.aziz@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.aziz@pd.boston.gov <michael.aziz@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.brown@pd.boston.gov <michael.brown@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.brown@pd.boston.gov <michael.brown@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.byrnes@pd.boston.gov <michael.byrnes@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.byrnese@pd.boston.gov <michael.byrnese@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.connolly@pd.boston.gov <michael.connolly@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.connolly@pd.boston.gov <michael.connolly@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.dillon@pd.boston.gov <michael.dillon@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.dillon@pd.boston.gov <michael.dillon@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.golden@pd.boston.gov <michael.golden@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.golden@pd.boston.gov <michael.golden@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.hanson@pd.boston.gov <michael.hanson@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.hanson@pd.boston.gov <michael.hanson@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.hegarty@pd.boston.gov <michael.hegarty@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.hegarty@pd.boston.gov <michael.hegarty@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.kern@pd.boston.gov <michael.kern@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.kern@pd.boston.gov <michael.kern@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.linskey@pd.boston.gov <michael.linskey@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.linskey@pd.boston.gov <michael.linskey@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.lydon@pd.boston.gov <michael.lydon@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.lydon@pd.boston.gov <michael.lydon@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.mcdonagh@pd.boston.gov <michael.mcdonagh@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.mcdonagh@pd.boston.gov <michael.mcdonagh@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.miller@pd.boston.gov <michael.miller@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.miller@pd.boston.gov <michael.miller@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.mylett@pd.boston.gov <michael.mylett@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.mylett@pd.boston.gov <michael.mylett@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.odwyer@pd.boston.gov <michael.odwyer@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.ohara@pd.boston.gov <michael.ohara@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.ohara@pd.boston.gov <michael.ohara@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.paradis@pd.boston.gov <michael.paradis@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.paradis@pd.boston.gov <michael.paradis@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.ridge@pd.boston.gov <michael.ridge@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.ridge@pd.boston.gov <michael.ridge@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.santry@pd.boston.gov <michael.santry@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.santry@pd.boston.gov <michael.santry@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.sullivan@pd.boston.gov <michael.sullivan@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.sullivan@pd.boston.gov <michael.sullivan@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.taylor@pd.boston.gov <michael.taylor@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.taylor@pd.boston.gov <michael.taylor@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.walsh@pd.boston.gov <michael.walsh@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.walsh@pd.boston.gov <michael.walsh@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** michael.wilson@pd.boston.gov <michael.wilson@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** michael.wilson@pd.boston.gov <michael.wilson@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** mike.mccarthy@pd.boston.gov <mike.mccarthy@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** mike.mccarthy@pd.boston.gov <mike.mccarthy@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** mv.butler@pd.boston.gov <mv.butler@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** mv.butler@pd.boston.gov <mv.butler@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nancy.cellucci@pd.boston.gov <nancy.cellucci@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nancy.cellucci@pd.boston.gov <nancy.cellucci@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** natasha.levarity@pd.boston.gov <natasha.levarity@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nicholas.dicairano@pd.boston.gov <nicholas.dicairano@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nicholas.dicairano@pd.boston.gov <nicholas.dicairano@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nicholas.fisher@pd.boston.gov <nicholas.fisher@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nicholas.fisher@pd.boston.gov <nicholas.fisher@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nicholas.moore@pd.boston.gov <nicholas.moore@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nicholas.moore@pd.boston.gov <nicholas.moore@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nickisha.gales@pd.boston.gov <nickisha.gales@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nickisha.gales@pd.boston.gov <nickisha.gales@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nicole.grant@pd.boston.gov <nicole.grant@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nicole.grant@pd.boston.gov <nicole.grant@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nilton.ramos@pd.boston.gov <nilton.ramos@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nilton.ramos@pd.boston.gov <nilton.ramos@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** nora.baston@pd.boston.gov <nora.baston@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** nora.baston@pd.boston.gov <nora.baston@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** otis.harewood@pd.boston.gov <otis.harewood@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** otis.harewood@pd.boston.gov <otis.harewood@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:50 AM EDT  
**To:** pamelia.harris@pd.boston.gov <pamelia.harris@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** pamelia.harris@pd.boston.gov <pamelia.harris@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patricia.durant@pd.boston.gov <patricia.durant@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patricia.durant@pd.boston.gov <patricia.durant@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.browning@pd.boston.gov <patrick.browning@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.browning@pd.boston.gov <patrick.browning@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.byrne@pd.boston.gov <patrick.byrne@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.byrne@pd.boston.gov <patrick.byrne@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.conroy@pd.boston.gov <patrick.conroy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.conroy@pd.boston.gov <patrick.conroy@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.curtin@pd.boston.gov <patrick.curtin@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.curtin@pd.boston.gov <patrick.curtin@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.kane@pd.boston.gov <patrick.kane@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.kane@pd.boston.gov <patrick.kane@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.mcdonough@pd.boston.gov <patrick.mcdonough@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.mcdonough@pd.boston.gov <patrick.mcdonough@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.mcgillicuddy@pd.boston.gov <patrick.mcgillicuddy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.mcgillicuddy@pd.boston.gov <patrick.mcgillicuddy@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** patrick.sullivan@pd.boston.gov <patrick.sullivan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** patrick.sullivan@pd.boston.gov <patrick.sullivan@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** paul.boddy@pd.boston.gov <paul.boddy@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** paul.boddy@pd.boston.gov <paul.boddy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** paul.chevrette@pd.boston.gov <paul.chevrette@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** paul.chevrette@pd.boston.gov <paul.chevrette@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** pauline.gilmartin@pd.boston.gov <pauline.gilmartin@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** pauline.gilmartin@pd.boston.gov <pauline.gilmartin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** Paul Joseph <paul.joseph@pd.boston.gov>  
**Sent:** Monday, April 11, 2022 5:07 PM EDT  
**To:** Stephen OBrien <stephen.obrien@pd.boston.gov>; Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** IAD2022-0136  
**Attachment(s):** "Notice to Appear (Sworn) Sgt Stephen O'Brien IAD2022-0136.doc"

Sir:

Please have the following Sergeant report to IAD for a scheduled interview, the summary of the complaint is as follows:

On 04/01/2022, at approximately 7:15 am, protesters began arriving at the corner of Crandall and Augustus Av. The number increased to approximately 6-8 protesters. The protesters began yelling in the direction of the Mayor's house relative to the Vax Mandate and City Ordinances. These protesters were, also, waving flags and holding signs. Sgt Det. Jason Gilmore of the Mayors Security Team approached the group and advised them of the City Ordinance 16-63 regarding Targeted Residential Picketing. After advising the group of the ordinance, I (E901) provided, a copy of the CITY ORDINANCE to each protester in hand. Sgt. Cottone was present for Sgt Det Gilmore's reading of the ordinance and I handed Sgt Cottone a copy of the new city ordinance. A short time later, Sgt. Cottone approached me and notified me that she was leaving the area. Later, I heard someone using an amplification device further down Crandall St. After several outbursts from down the street it was determined that Sgt. Cottone was now on Crandall St. street broadcasting from her vehicle at least two times. Finally, when the Mayor exited her house and entered the security teams vehicle, I observed that a motor vehicle began to follow the Mayor's vehicle at a close distance down Augustus onto Poplar Street towards Roslindale Sq. The vehicle was, also, using an amplification device to broadcast anti-Wu statements, This vehicle was the same vehicle that was parked down the street on Crandall and previously using an amplification device to broadcast anti Wu sentiments. The vehicle was identified as being owned and operated by Sgt, Shana Cottone, The incident was captured by BWC worn officers on the scene.

Respectfully

Paul Joseph  
IAD

**From:** Paul Joseph <paul.joseph@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 9:59 AM EDT  
**To:** Timothy Kervin <timothy.kervin@pd.boston.gov>; Jeanne Carroll <jeanne.carroll@pd.boston.gov>  
**Subject:** IAD2022-0136  
**Attachment(s):** "Notice to Appear Sergeant Shana Cottone IAD2022-0136.doc"

Good morning Timothy and Jeanne

Hope all is well with you. I'm requesting assistance coordinating an Administrative Interview with Sergeant Shana Cuttone for April 20, 2022 @1230PM. It is my understanding that she has a few interviews earlier on that day. Please Advise.

Best Regards,

Paul Joseph  
IAD

FYI  
The complaint is as follows:

On 04/01/2022, at approximately 7:15 am, protesters began arriving at the corner of Crandall and Augustus Av. The number increased to approximately 6-8 protesters. The protesters began yelling in the direction of the Mayor's house relative to the Vax Mandate and City Ordinances. These protesters were, also, waving flags and holding signs. Sgt Det. Jason Gilmore of the Mayors Security Team approached the group and advised them of the City Ordinance 16-63 regarding Targeted Residential Picketing. After advising the group of the ordinance, I (E901) provided, a copy of the CITY ORDINANCE to each protester in hand. Sgt. Cottone was present for Sgt Det Gilmore's reading of the ordinance and I handed Sgt Cottone a copy of the new city ordinance. A short time later, Sgt. Cottone approached me and notified me that she was leaving the area. Later, I heard someone using an amplification device further down Crandall St. After several outbursts from down the street it was determined that Sgt. Cottone was now on Crandall St. street broadcasting from her vehicle at least two times. Finally, when the Mayor exited her house and entered the security teams vehicle, I observed that a motor vehicle began to follow the Mayor's vehicle at a close distance down Augustus onto Poplar Street towards Roslindale Sq. The vehicle was, also, using an amplification device to broadcast anti-Wu statements, This vehicle was the same vehicle that was parked down the street on Crandall and previously using an amplification device to broadcast anti Wu sentiments. The vehicle was identified as being owned and operated by Sgt, Shana Cottone, The incident was captured by BWC-worn officers on scene.



**From:** Paul Joseph <paul.joseph@pd.boston.gov>

**Sent:** Monday, April 11, 2022 5:11 PM EDT

**To:** Jason Gilmore <jason.gilmore@pd.boston.gov>; Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>

**Subject:** IAD2022-0136

**Attachment(s):** "Notice to Appear (Sworn) Sergeant Detective Jason S Gilmore Sr. IAD2022-0136.doc"

Sir

Please have the following S/D report to IAD for a scheduled interview. The complaint is as follows:

On 04/01/2022, at approximately 7:15 am, protesters began arriving at the corner of Crandall and Augustus Av. The number increased to approximately 6-8 protesters. The protesters began yelling in the direction of the Mayor's house relative to the Vax Mandate and City Ordinances. These protesters were, also, waving flags and holding signs. Sgt Det. Jason Gilmore of the Mayors Security Team approached the group and advised them of the City Ordinance 16-63 regarding Targeted Residential Picketing. After advising the group of the ordinance, I (E901) provided, a copy of the CITY ORDINANCE to each protester in hand. Sgt. Cottone was present for Sgt Det Gilmore's reading of the ordinance and I personally handed Sgt Cottone a copy of the new city ordinance. A short time later, Sgt. Cottone approached and notified me that she was leaving the area. Later, I heard someone using an amplification device further down Crandall St. After several outbursts from down the street it was determined that Sgt. Cottone was now on Crandall St. street broadcasting from her personal vehicle at least two times. Finally, when the Mayor exited her house and entered the security teams vehicle, I observed that a motor vehicle began to follow the Mayor's vehicle at a close distance down Augustus onto Poplar Street towards Roslindale Sq. The vehicle was, also, using an amplification device to broadcast anti-Wu statements. This vehicle was the same vehicle that was parked down the street on Crandall and previously using an amplification device to broadcast anti Wu sentiments. The vehicle was identified as being owned and operated by Sgt, Shana Cottone. The incident was captured by BWC worn officers on the scene.

Respectfully Submitted,

Paul Joseph  
IAD

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** paul.macisaac@pd.boston.gov <paul.macisaac@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** paul.macisaac@pd.boston.gov <paul.macisaac@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** paul.mclaughlin@pd.boston.gov <paul.mclaughlin@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** paul.mclaughlin@pd.boston.gov <paul.mclaughlin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** paul.sheehan@pd.boston.gov <paul.sheehan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** paul.sheehan@pd.boston.gov <paul.sheehan@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** paul.zelvis@pd.boston.gov <paul.zelvis@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** paul.zelvis@pd.boston.gov <paul.zelvis@pd.boston.gov>  
**Subject:** Protesters

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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** peter.cazeau@pd.boston.gov <peter.cazeau@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** peter.cazeau@pd.boston.gov <peter.cazeau@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** peter.messina@pd.boston.gov <peter.messina@pd.boston.gov>  
**Subject:** Arrest

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** philip.bissonnette@pd.boston.gov <philip.bissonnette@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** philip.bissonnette@pd.boston.gov <philip.bissonnette@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** philip.bliss@pd.boston.gov <philip.bliss@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**To:** philip.bliss@pd.boston.gov <philip.bliss@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** phillip.terenzi@pd.boston.gov <phillip.terenzi@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** phillip.terenzi@pd.boston.gov <phillip.terenzi@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
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Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** rachel.mcguire@pd.boston.gov <rachel.mcguire@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** rachel.mcguire@pd.boston.gov <rachel.mcguire@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** rafael.antunez@pd.boston.gov <rafael.antunez@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** rafael.antunez@pd.boston.gov <rafael.antunez@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** rami.awad@pd.boston.gov <rami.awad@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** rami.awad@pd.boston.gov <rami.awad@pd.boston.gov>  
**Subject:** Protesters

□

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** regina.harris@pd.boston.gov <regina.harris@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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Event P220148523  
District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** renisha.silva@pd.boston.gov <renisha.silva@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** richard.harrington@pd.boston.gov <richard.harrington@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** richard.moriarty@pd.boston.gov <richard.moriarty@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** rick.johnson@pd.boston.gov <rick.johnson@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** robert.ciccolo@pd.boston.gov <robert.ciccolo@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** robert.cordasco@pd.boston.gov <robert.cordasco@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** roberto.lacolla@pd.boston.gov <roberto.lacolla@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ronald.pirrello@pd.boston.gov <ronald.pirrello@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** rosangela.pina-tavares@pd.boston.gov <rosangela.pina-tavares@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ryan.frederick@pd.boston.gov <ryan.frederick@pd.boston.gov>  
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**To:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Roberto Paulino  
Bureau of Professional Standards  
Internal Investigation Unit

**Date:** March 30, 2022

**Subject:** Complaint Number: IAD 2022-0003

**Employee:** Sergeant Shanna Cottone, ID# 106714

**Rule Violation:** Rule 102, Section 04, Neglect of Duty

**Complainant:** Captain Darrin Patrick Greeley, ID# 9748  
District E5, Commander

**Sir,**

I, Sergeant Roberto Paulino, respectfully submit the following investigative report in regards to IAD complaint #IAD2022-0003. The following is a synopsis, not a verbatim account of recorded interviews. It is a summary of the investigation.

**Summary of the Complaint:**

The complaint reads as originally recorded:

*I respectfully report, on Tuesday, January 4, 2022, at 8:06 AM I was informed by Lieutenant Michael Hegarty, the duty supervisor at District 5 that Sgt. Shana Cottone responded to a radio call as the patrol supervisor for a group protesting in front of Mayor Wu's house located at 17 Augustus Ave, Roslindale. Lieutenant Hegarty informed me Officer Anne Maher, was assigned to the mayors' house and requested a patrol supervisor to respond. I requested the radio transmissions from the Operations Division for a follow-up report because Officer Maher was informed to not activate her Boston Police issued body camera. After reviewing the audio transmissions from channel 4 and channel 7, I found Sgt. Cottone did respond via radio transmission that she was around the corner from the incident and told Officer Maher not to activate body camera because it is against the Body Worn Camera Policy of the Department.*

*Officer Maher should have activated her department issued body camera due to the fact it was the mayors house and the were 5 protestors in front of her house protesting against vaccine mandates. Also, another group of neighbors showed up who were counter protesting the original protestors. Sgt. Cottone also stated to Officer Maher on channel 7 that “this is what democracy looks like”.*

**Investigation:**

- Collected District E5 Bat
- Review of Boston Police Rule 405, Body-Worn Camera Policy, SO 21-38, Dated 9/8/21
- Form 26 collected and reviewed
- 1.1 incident report collected and reviewed
- Operations audio recording collected
- Boston Police Incident History

**Interview with Lieutenant Michael J. Hegarty ID# 11209:**

On Wednesday, February 15, 2022, at around 10:13 AM, an audio-recorded interview was conducted with Lieutenant Michael J. Hegarty, assigned to District E5, within the office of the Internal Affairs Division, at Boston Police headquarters. Sgt. Det. Charlie Moore assisted during the interview.

Lt. Hegarty has been a sworn member of the Boston Police Department for approximately 24 years. Lt. Hegarty acknowledged working an overtime day shift on Tuesday, January 4, 2022, as the duty supervisor in District E5, and Sgt. Shana Cottone was assigned as the patrol supervisor. Lt. Hegarty explained that he assigned an Officer to a fixed post at 17 Augustus Ave. for the fact that it is Mayor Michelle Wu’s home residence. 24-hour police security is assigned to this address.

Lt. Hegarty continued to state that at one point he learned that Officer Anne Maher requested a patrol supervisor to 17 Augustus Ave. over channel 4. Lt. Hegarty explained that he was made aware that there were a few protesters at the address as well as counter-protesters. The dispatcher subsequently requested for the patrol supervisor to respond. To the best of Lt. Hegarty’s knowledge, prior to this incident, there was no additional police response to this location other than the unit regularly assigned to the fixed post.

After the patrol supervisor responded to the address, Lt. Hegarty stated that he spoke with Officer Maher to inquire about the status of the situation. Officer Maher explained that there were a couple of neighbors that were counter-protesting but everything was fine. Lt. Hegarty instructed Officer Maher to assist the mayor’s security detail. Lt. Hegarty proceeded to state that he also spoke with Sgt. Cottone, via cell phone, confirmed that everything was fine at the location, and once again reiterated to her to help the mayor’s security detail in facilitating Mayor Wu into the car safely.

Lt. Hegarty never discussed the activation of Officer Maher's body camera. However, Lt. Hegarty later informed the district commander, Captain Greeley of the event, and that Sgt. Cottone was the supervisor on the scene.

#### **Interview with Police Officer Anne Maher, ID# 157688**

On Wednesday, February 16, 2022, at around 10:45 AM, an audio-recorded interview was conducted with Officer Anne Maher. The interview was conducted within the office of the Internal Affairs Division, at Boston Police headquarters. Sgt. Det. Charles Moore assisted during the interview. Officer Maher was accompanied by Officer Michael Durant, who was acting as her union representative.

Officer Maher has been a sworn member of the Boston Police Department since 2019 and is currently assigned to District E5. Officer Maher reported working on the morning of Tuesday, January 4, 2022. Officer Maher continued to report that during the morning roll call she was informed that there were protesters at Mayor Wu's house (17 Augustus Ave.). Officer Maher, who was assigned a code 19, fixed post, observed a group of protesters upon arrival. Officer Maher recalls observing less than 10 protesters. At one point Officer Maher recalls observing a group of individuals which she perceived as residents, walking in the area. Officer Maher mentioned that these people spoke to the protesters, but was unsure if they were counter-protesters or not. Officer Maher made this observation from inside her cruiser and described the incident as verbal in nature.

Officer Maher, when asked if she has encountered protesters in the past at this address, replied by stating that she has not personally encountered protesters, but has been assigned to this location where protesters have been present in the past. Officer Maher indicated that her primary concern was the noise that the crowd was making, and subsequently called the patrol supervisor via radio. Sgt. Shana Cottone was the patrol supervisor who responded. According to Officer Maher, Sgt. Cottone instructed her not to turn on her body-worn camera because the protesters were peaceful in nature. The communication between Officer Maher and Sgt. Cottone was conducted via department radio and cell phone. Sgt. Cottone later arrived on the scene and further instructed Officer Maher to remain in her cruiser. Officer Maher could not recall whether Sgt. Cottone remained on the scene or not. In conclusion, the mayor left her house, and Officer Maher was subsequently relieved. Officer Maher finally mentioned that as a result of the incident, she wrote a form 26 as directed by Captain Greeley.

#### **Interview with Captain Darrin Greeley, ID# 9748**

On Tuesday, March 1, 2022, at around 12:03 PM, an audio-recorded interview was conducted with Captain Darrin Greeley, within the office of the Internal Affairs Division, at Boston Police headquarters. Sgt. Det. Juana Hernandez assisted during the interview.

Capt. Greeley has been a sworn member of the Boston Police Department for over 35 years and is currently the commander of district E5. Capt. Greeley reported that Lt. Michael Hegarty, Sgt. Shanna Cottone and Officer Anne Maher are all currently under his command.

Capt. Greeley explained that 17 Augustus Ave. is a two-family home, and is the residence of the Mayor of the City of Boston, Michelle Wu, who resides on the second floor, and her mother lives on the first floor. Officers are assigned to a fixed post at a mayor's residence on a 24-hour basis, traditionally for every mayor of the City of Boston according to Capt. Greeley.

On Tuesday, January 4, 2022, Capt. Greeley was working his tour of duty. Capt. Greeley continued to explain what led him to file an internal affairs complaint. Capt. Greeley reported that on Tuesday, January 4, 2022, there were protesters in front of the mayor's residence. Capt. Greeley reported that normally protesters would arrive at approximately 6:30 AM and would stay for an hour or two with loudspeakers, whistles, and bells, in turn upsetting the neighbors. These amplifying devices, which could become rather loud, were curtailed according to Capt. Greeley. This was an ongoing issue. According to Capt. Greeley, some counter-protesters were also present on the day in question.

Capt. Greeley learned about the protest when Lt. Hegarty informed him of what occurred in front of the mayor's house. Capt. Greeley also learned that Sgt. Cottone had responded to the scene. According to Capt. Greeley learned from Lt. Hegarty that Officer Maher was instructed not to turn on her body-worn camera. These instructions were concerning Capt. Greeley, as well as Sgt. Cottone's comments, "this is what democracy looks like", therefore he requested a copy of the radio transmission between Officer Maher and Sgt. Cottone. Capt. Greeley felt that it was unprofessional of Sgt. Cottone, and wanted to address it with her.

During the interview, Capt. Greeley referenced the body-worn camera policy. Capt. Greeley did acknowledge that the body-worn cameras are not activated for every incident of public protest. However, Capt. Greeley felt that this incident was different due to the fact that there were some counter-protesters present, and there was an objective to protect the mayor. Capt. Greeley described it as a public safety issue therefore the body-worn camera should have been on.

After learning what occurred at the scene, from Lt. Hegarty, and having an opportunity to listen to the radio transmission from the scene, Capt. Greeley reported that he spoke with Officer Maher and had her write a form 26. Officer Maher reported to him that Sgt. Cottone instructed her to sit in her car and not activate her body-worn camera. Capt. Greeley expressed that he did not want that to happen and wanted the body-worn cameras on. Since the incident, Capt. Greeley has made it a requirement for officers to activate their body-worn cameras. Capt. Greeley has also requested additional resources such as EDTs and a rapid. At times, up to 12 officers every day are present as the mayor is ready to depart her residence. This measure was to make sure that everyone can protest, that the mayor remains safe, and the body cameras are activated at all times.

Based on the conditions that Officer Maher was facing, Capt. Greeley felt that Officer Maher should have had her body-worn camera on. Capt. Greeley felt that duty called for it, and that it was not just a general protest, due to the fact that the mayor was the target of public displeasure as a result of the Covid-19 vaccine mandate therefore it was the duty of the police to have the body-worn cameras on. Capt. Greeley expressed that in his opinion that Sgt. Cottone was wrong when she instructed Officer Maher not to activate her body-worn camera.

During the interview, when asked if he had an opportunity to speak with Sgt. Cottone regarding the instructions, she gave to Officer Maher, Capt. Greeley initially replied that he did. Sgt. Cottone did not want to talk about it according to Capt. Greeley. Captain Greeley, immediately clarifies that he did not speak with Sgt. Cottone after reviewing his submitted form 26 and refreshing his memory *(7:09 min mark of the interview)*.

Regarding past issues with Sgt. Cottone supervisory style in district E5, Capt. Greeley reported that he has had issues in the past with her. Capt. Greeley expressed that Sgt. Cottone has extended roll call with officers, as she discussed the vaccine mandate policy. Capt. Greeley reported that he has counseled her many times regarding political beliefs on duty. Capt. Greeley stated that he advised her to stay neutral, follow the rules and procedure, and let the unions debate the policy in court. Capt. Greeley proceeded to state that he referred her to peer support because it appeared that this matter was causing Sgt. Cottone emotional distress.

#### **Interview with Sgt. Shana Cottone, ID# 106714**

On Thursday, March 10, 2022, an audio-recorded interview was conducted with Sgt. Shana Cottone within the office of the Internal Affairs Division, at Boston Police headquarters. Lt. Henry Staines and Sgt. Det. Juana Hernandez assisted me during the interview. Sgt. Cottone was accompanied by her private attorney William Gentz, Superior Officers Federation attorney Patrick Bryant, Sgt. Jeanne Carroll and Lt. Timothy Kervin as her union representatives.

At the commencement of the interview, Lt. Staines reminded all attendees that no external recordings were permitted during the course of the interview. Sgt. Cottone is a 14-year veteran, and a sworn member of the Boston Police Department, and is currently assigned to District E5 day shift. Sgt. Cottone acknowledged working a day shift on Tuesday, January 4, 2022, as the patrol supervisor.

Sgt. Cottone continued to report her knowledge of 17 Augustus Ave. and recognized it as Mayor Michelle Wu's residence. Sgt. Cottone also stated that officers assigned to this address are on a code 19 fixed post for 2 hours at a time. On the morning in question, Sgt. Cottone mentioned that she was aware of a protest at 17 Augustus Ave. Sgt. Cottone mentioned that to the best of her knowledge, she believes this was the first protest that occurred at this location. Sgt. Cottone reported that she was first made aware of a protest by a last-half officer (Francis Garcia). Sgt. Cottone mentioned that she evaluated the situation and observed a peaceful protest consisting of about 4-5 people on the sidewalk. Sgt. Cottone ensured that Officer Garcia was not recording the protesters.

Sgt. Cottone stated that she remained in the area, monitoring, and once again was informed of a protest by Officer Maher who had relieved Officer Garcia after the last half shift. Sgt. Cottone again responded to 17 Augustus Ave., instructed Officer Maher to remain in her cruiser, monitor the situation, and if things change it will get addressed. Sgt. Cottone again stated that it was a peaceful demonstration, and felt that Officer Maher did not have to activate her body-worn camera to record the incident.



Sgt. Cottone at one point during the interview explained what she meant by the statement she transmitted over the radio, “this is what democracy looks like”. Sgt. Cottone elaborated by stating, this is what peaceful demonstrations look like, as opposed to a violent demonstration, the democratic process of getting your concerns heard in a peaceful way without breaking the law. According to Sgt. Cottone responded twice to speak with Officer Maher, observing both times a peaceful protest.

Sgt. Cottone later references Rule 405 (September 8, 2021) Body-Worn Camera Policy, Sec.1 general considerations, *“The Department prohibits recording civilians based solely upon the civilian’s political or religious beliefs or upon the exercise of the civilian’s constitutional rights, including but not limited to freedom of speech, religious expression, and lawful petition and assembly.”* Sgt. Cottone continued to reference Rule 405, sec. 2.2, 9, 10, when an officer shall record:

- 9, when an officer reasonably believes a crowd control incident may result in unlawful activity;
- 10, Any contact that becomes adversarial, including a Use of Force incident, when the officer has not already activated the BWC; or

Sgt. Cottone acknowledged that some neighbors (3 women exercising) did walk by the area and said something to the protesters, but felt that it did not qualify as an adversarial interaction.

After the incident occurred, Sgt. Cottone stated that she could not recall any superior supervisors approaching her regarding the event, other than possibly the captain (Captain Darrin Greeley, E5 Commander). However, Sgt. Cottone sighted blurred memory and was not able to provide further detail regarding being approached by a superior. Sgt. Cottone reported that she has read rule 405 as it has been released by the department.

Reflecting on the incident, Sgt. Cottone reported that she felt satisfied with her response due to the fact that she remained on scene to monitor. Sgt. Cottone reported multiple times that this was the first day of protest at 17 Augustus Ave, and if this was a repeated event, she would have called a different supervisor to handle it. Sgt. Cottone explained that on this day she remained on scene until the mayor left.

Sgt. Cottone at one point admitted that she has participated in a protest at 17 Augustus Ave. and reported that the one she has participated in have been conducted peacefully. Sgt. Cottone continued to state “I have no room for anything that is not peaceful, that is not how I operate.” Prior to the interview with Sgt. Cottone, a group of protesters gathered in front of 1 Schroeder Plaza around 10:00 AM. The protesters consisted of about 8-10 people and were standing on the island, on Tremont St. in front of Boston Police headquarters. The protesters, although nonviolent, created enough noise with megaphones and drums that were audible from the hallway outside of the Internal Affairs Division. Sgt. Cottone denied inviting these protesters to headquarters and explained that group size and the noise level was not comparable. Sgt. Cottone described the group in question on January 4, 2022, consisting of approximately 5 people, standing on the corner with signs. Sgt. Cottone acknowledges that the protest has morphed since the first day.

Sgt. Det Hernandez inquired with Sgt. Cottone about the second time Officer Maher reached out to her regarding the protesters at 17 Augustus Ave. Sgt. Cottone could not recall exactly why Officer Maher reached out to her. Lt. Staines inquired regarding the first time Sgt. Cottone was called to the scene, to which Sgt. Cottone explained that it was by a last half officer (Francis Garcia) past 7:00 AM. Sgt. Cottone further explained that the activity did not appear to be disturbing. Sgt. Cottone insisted that the group was engaging in first amendment protected activity, there was no interruption of traffic flow, nor interruption for pedestrians. Despite being requested to respond multiple times, Sgt. Cottone reported that the conditions of the protest did not change.

Towards the conclusion of the interview, Attorney Gentz had an opportunity to ask Sgt. Cottone some questions. Attorney Gentz, referenced the original complaint submitted by Capt. Greeley. He proceeded to question Sgt. Cottone about any stipulations in rule 405 regarding recording at the mayor's residence to which Sgt. Cottone replied "not that I recall." Attorney Gentz, again while referring to Capt. Greeley's complaint also questioned if there were any stipulations in the rule regarding recording a protest for vaccine mandates opposed to others exercising their rights of assembly. Sgt. Cottone replied, "not that I'm aware of."

#### **Interview with Officer Francis Garcia, ID# 10955**

On Tuesday, March 29, 2022, an audio-recorded interview was conducted with Officer Francis Garcia within the offices of the Internal Affairs Division at Boston Police headquarters. Sgt. Det. Juana Hernandez assisted me during the interview. Officer Garcia was accompanied by his union representative Officer Kevin Rooney.

Officer Garcia has been a sworn member of the Boston Police department for 29 years and is currently assigned to District E5, last half. Officer Garcia was working a last half tour of duty on Monday, January 3, 2021, and performed a code 19 fixed post in front of 17 Augustus Ave towards the end of his shift. 17 Augustus Ave. is the home of the mayor for the city of Boston (Michelle Wu).

Officer Garcia mentions that at around 7:00 AM he observed people gathering in front of 17 Augustus Ave. He mentions that he spoke with the group who explained to him that they were going to protest the mayor. Officer Garcia stated that he has never seen anyone protest before at this location. He expressed that he was shocked and did not expect that. Officer Garcia continued to report that he summoned a supervisor, and activated his body-worn camera.

Officer Garcia reported that the group consisted of 4-5 people, equipped with a megaphone, and were actively using it by speaking on it. Officer Garcia described the group as loud and felt that they were disturbing the peace, but no one confronted the protesters. Officer Garcia stated that he activated his body-worn camera because the event was unexpected and did not know how things were going to develop.

Sgt. Shana Cottone subsequently responded to the scene at the request of Officer Garcia over the radio. Upon Sgt. Cottone's arrival, Officer Garcia mentioned that he indicated to her

that he was recording, to which Sgt. Cottone had him turn off his camera. According to Officer Garcia, Sgt. Cottone explained to him that these people have the right to protest and there is no need to record it. Sgt. Cottone remained in the area according to Officer Garcia. Officer Garcia was eventually relieved by Officer Maher at around 8:00 AM.

### **Summary of the Investigation**

On Tuesday, January 4, 2022, Sgt. Cottone was listed on the District E5 BAT as the patrol supervisor (E913). Captain Greeley, Lt. Hegarty, and Officer Maher (E417D) were also listed as working a day tour of duty. Officer Maher was assigned to a fixed post at 17 Augustus Ave (Mayor Michelle Wu's residence) and relieved Officer Garcia.

Prior to Officer Maher relieving Officer Garcia. Officer Garcia had observed protesters in the area of 17 Augustus Ave. and called it to the attention of Sgt. Cottone. According to the Boston Police incident history, Officer Garcia was on a fixed post at the location as of 6:00 AM. A review of Officer Garcia's body-worn camera history revealed 3 minute and 51 seconds video of the protest in front of Mayor Wu's home that immediately concluded upon Sgt. Cottone's arrival. The video displayed a small group consisting of 4-5 people, holding signs, megaphones in possession, activating a siren (T12:24:51z) chanting "Wu has no heart." Sgt. Cottone instructed Officer Francis to shut his camera off because it was a protest towards the end of the video (T12:28:12Z). During Sgt. Cottone's audio-recorded interview, she mentioned no laws being broken, no violence or disorder. Therefore, she ensured that Officer Francis was not capturing video of the protest (*4:15 mark of the audio recorded interview with Sgt. Cottone*). Officer Francis was later relieved by Officer Maher at around 7:44 AM. The pedestrians did not appear to interrupt the flow of pedestrians or motor vehicle traffic.

Officer Maher reported on her 1.1 police report (I#222000673) observing a group of 5 individuals standing at the corner of Augustus Ave. and Crandall St. Officer Maher mentioned in her report that the group held signs and were in possession of 3 bullhorns. She continued to mention in the report that Sgt. Cottone was previously made aware of the group's presence. At one point a separate group of 3 individuals approached the protesters and displayed their middle finger before departing the area. When a resident of 17 Augustus Ave. exited the home, the protesters activated the siren feature of the bullhorn. The protest never turned violent, and Officer Maher was later instructed to complete a 1.1 report per order of Lt. Hegarty (EA02).

Officer Maher also wrote a form 26 further documenting the incident. Again, Officer Maher mentions the protest at 17 Augustus Ave. Officer Maher mentions that the signage held by the protesters made reference to the COVID-19 vaccine and that the group had 3 bullhorns (megaphones). Officer Maher mentions in her form 26 that the 3 individuals who displayed the middle finger to the protesters, did engage in a verbal altercation, therefore Sgt. Cottone was once again updated on the incident. Sgt. Cottone advised Officer Maher to stay in the cruiser and not activate her body-worn camera unless the protest turned violent. When Mayor Wu stepped out of her home at around 8:00 AM, the group activated the siren features of the bullhorn. Officer Maher reports notifying Sgt. Cottone and once again was instructed to remain in her cruiser. According to Officer Maher's form 26, Sgt. Cottone subsequently responded to the scene, however, Mayor Wu had already departed, and the group began to disperse. Officer

Maier was later relieved at 9:30 AM (9:28 AM per the incident history) and notified Lt. Hegarty of what had transpired.

Lt. Hegarty reported on his form 26, that at approximately 8:00 AM he notified Captain Greeley of the protest at Mayor Wu's residence. He also informed the captain that Sgt. Cottone was the patrol supervisor and responded to the scene. Lt. Hegarty, during the interview, stated that he did not recall prior incidents at 17 Augustus Ave. that required a police response other than the regular fixed post (Code 19). Lt. Hegarty did advise both Sgt. Cottone and Officer Maher to assist that mayor's security detail while on scene. Lt. Hegarty never discussed the activation of the body-worn camera with Officer Maher.

Captain Greeley, the complainant, submitted a form 26 as a result of this investigation. Captain Greeley reported in his form 26 that on the day in question at around 8:06 AM he learned from Lt. Hegarty that Sgt. Cottone, upon the request of Officer Maher, had responded to 17 Augustus Ave. due to a protest. Captain Greeley requested the radio transmission from the Operations Division for a follow-up report and discovered that Sgt. Cottone did instruct Officer Maher not to activate her body camera because it was against the Body-Worn Camera Policy of the department.

*Operations Transmission:*

- **Sgt. Cottone to operations:** "yes sir, this is a very peaceful group here exercising their rights... you can give it a 14 Paul if you even opened a ticket on it."
- **Operations:** "Ok, I have it thank you."

*Sgt. Cottone later goes to channel 7 and speaks with Officer Maher who reports the following:*

- **Officer Maher:** "Good morning Serg, we have a group of local residents that are coming out with a counter stance to the group of individuals that are here now, just wanted to give you a heads up"
- **Sgt. Cottone:** "Yup, I'm at the bottom of Augustus and Poplar, I'll swing around and take a look but nope, this is what democracy looks like."
- **Officer Maher:** "Yeah it looks like they are actually moving along now, just wanted to give you a heads up"
- **Sgt. Cottone:** "Alright, I'll swing by anyways, just ah, per rules and regs, remember we don't ah, body camera, ah record any ah protest demonstrations unless they, we have a reason such as you know violence or something that is necessary for recording, ok."
- **Officer Maher:** "Ok, I have that".

Sgt. Cottone was not present in real-time to observe the activity of the counter-protesters that Officer Maher was making her aware of. These counter-protesters, according to Officer Maher, did showcase their middle fingers and engaged in a verbal exchange.

Captain Greeley cited in his form 26, rule 405, Body-Worn Camera Policy section 2.2, highlighting bullet points 3 and 9. He continued to reiterate that Officer Maher should have activated her body-worn camera due to the fact that it was the mayor's house and that there were

5 protesters in front of her house protesting against vaccine mandates. Captain Greeley also mentioned the fact that neighbors were also present as counter-protestors.

During the interview Capt. Greeley expressed that the instructions that Sgt. Cottone gave Officer Maher was concerning, and felt that her comment “this is what democracy looks like” was unprofessional. Capt. Greeley did acknowledge that although the body-worn cameras are not activated for every incident, this particular event was different due to the fact that there were counter-protesters and the objective was to protect the mayor. It was a public safety issue according to Capt. Greeley. Therefore, since the incident on January 4, 2022, he has made it a requirement for officers to activate their body-worn cameras during those events. Captain Greeley concluded the interview by stating that he has counseled Sgt. Cottone regarding her political views on duty, and extending roll calls to discuss the vaccine mandates. He advised her to let the unions handle the matter, stay neutral, and follow the rules. Capt. Greeley also mentioned referring her to the Peer Support Unit because the subject appears to cause Sgt. Cottone emotional stress.

During the interview Sgt. Cottone revealed that she first learned about the protest from Officer Garcia who was the last officer on the last half, and who was subsequently relieved by Officer Maher. Officer Garcia did record a portion of the event with his body-worn camera, until Sgt. Cottone’s arrival instructed Officer Garcia to seize the recording. Sgt. Cottone evaluated the situation and described the protest (consisting of 4-5 people) as peaceful. Sgt. Cottone, who remained in the area, was once again notified of the protester by Officer Maher. Officer Maher (as captured in the radio transmission) informed Sgt. Cottone of counter-protesters on scene. Which Sgt. Cottone during the interview expressed that she felt that the neighbors/counter-protest did not equate to an adversarial interaction. Sgt. Cottone reference rule 405 sec. 1, and sec. 2.2 bullets 9 and 10 as her guidance.

After the incident Sgt. Cottone cited blur memory regarding whether a superior officer (Capt. Greeley) approached her concerning the event. She later admitted to having participated in a protest in front of the mayor’s house and denied inviting protesters on the day of her IAD interview (March 10, 2022), which ultimately altered the meeting from the conference room to the IAD locker room due to the noise from the protesters in front of 1 Schroeder Plaza. The protesters in front of 1 Schroeder Plaza were peaceful and ceased their protest around the time Sgt. Cottone’s IAD interviews were concluded. Sgt. Cottone reported that despite responding to 17 Augustus Ave. multiple times the conditions of the protest did not change and remained peaceful.

Captain Greeley ultimately filed an IAD complaint.

Respectfully submitted,

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Sergeant Roberto Paulino, ID# 99721  
Internal Affairs Division

Approved,

Bureau of Professional Standards  
Contents Noted and Approved,

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Lieutenant Ryan Mason  
Internal Investigation Unit, BPS

---

Deputy Superintendent Eddy Chrispin  
Assistant Chief-Bureau of Professional Standards

Concurred,

---

Superintendent Sharon Dottin  
Chief, Bureau of Professional Standards

---

Legal Advisor

**Attachments:**

- Attachment #1: Operations radio transmission CD
- Attachment #2: E5 Day tour BAT for January 4, 2022
- Attachment #3: Boston Police incident history
- Attachment #4: Officer's form 26
- Attachment #5: 1.1 report, I#222000673

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ryan.mason@pd.boston.gov <ryan.mason@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ryan.mason@pd.boston.gov <ryan.mason@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ryan.walsh@pd.boston.gov <ryan.walsh@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**To:** samora.lobes@pd.boston.gov <samora.lobes@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

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Boston Police Department - Operations Division

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Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** santino.daddieco@pd.boston.gov <santino.daddieco@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** santino.daddieco@pd.boston.gov <santino.daddieco@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** schenice.coleman@pd.boston.gov <schenice.coleman@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** scott.maccallum@pd.boston.gov <scott.maccallum@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** scott.mackie@pd.boston.gov <scott.mackie@pd.boston.gov>  
**Subject:** Arrest

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04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** scott.robby@pd.boston.gov <scott.robby@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** sean.doherty@pd.boston.gov <sean.doherty@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** sean.martin@pd.boston.gov <sean.martin@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** seth.housman@pd.boston.gov <seth.housman@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** shandra.lerro@pd.boston.gov <shandra.lerro@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Monday, April 25, 2022 7:49 AM EDT

**To:** shannon.mclaughlin-fabiano@pd.boston.gov <shannon.mclaughlin-fabiano@pd.boston.gov>

**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** shannon.mclaughlin-fabiano@pd.boston.gov <shannon.mclaughlin-fabiano@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** sharon.dottin@pd.boston.gov <sharon.dottin@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** sharon.woods@pd.boston.gov <sharon.woods@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** shawn.burns@pd.boston.gov <shawn.burns@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** shawn.butler@pd.boston.gov <shawn.butler@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** shawn.grant@pd.boston.gov <shawn.grant@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
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**To:** shawn.maciver@pd.boston.gov <shawn.maciver@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** shawn.romanoski@pd.boston.gov <shawn.romanoski@pd.boston.gov>  
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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** shawn.romanowski@pd.boston.gov <shawn.romanowski@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** shea.kelly@pd.boston.gov <shea.kelly@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** sixto.merced@pd.boston.gov <sixto.merced@pd.boston.gov>  
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If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** sixto.merced@pd.boston.gov <sixto.merced@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** skye.robinson@pd.boston.gov <skye.robinson@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** s.rooney@pd.boston.gov <s.rooney@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** stephanie.curtis@pd.boston.gov <stephanie.curtis@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** stephanie.gaines@pd.boston.gov <stephanie.gaines@pd.boston.gov>  
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**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** stephen.mcnulty@pd.boston.gov <stephen.mcnulty@pd.boston.gov>  
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**From:** Stephen OBrien <stephen.obrien@pd.boston.gov>  
**Sent:** Tuesday, April 12, 2022 11:47 AM EDT  
**To:** Sgt. Det. Louis Madeira <louis.madeira@pd.boston.gov>  
**Subject:** BWC 17 Augustus Av April 1st 7am-9am

Clerk Magistrate Sean Murphy at West Roxbury Court will be handling hearings on protesters on Thursday April 14th,2022



The screenshot shows a table titled "Evidence" with columns for Case, Item, Description, Uploaded By, Uploaded Date, and Status. The table contains several rows of data, each representing a piece of evidence. The first row shows a case number, an item number, a description, the name of the person who uploaded it, the upload date, and the status. The table is partially obscured by a sidebar on the left and a toolbar on the right.

Case	Item	Description	Uploaded By	Uploaded Date	Status
123456789	1	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	2	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	3	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	4	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	5	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	6	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	7	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	8	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	9	10/10/2021	10/10/2021	10/10/2021	10/10/2021
123456789	10	10/10/2021	10/10/2021	10/10/2021	10/10/2021

at 9:30am



**From:** Sgt. Det. Louis Madeira <louis.madeira@pd.boston.gov>  
**Sent:** Friday, April 15, 2022 1:19 PM EDT  
**To:** stephen.obrien@pd.boston.gov <stephen.obrien@pd.boston.gov>  
**Subject:** Out of office Re: BWC 17 Augustus Av April 1st 7am-9am

Hi, I am currently out of the office.

If you are in need of assistance please call the unit directly (617)  
343-6575 or contact us by  
email at [veu@pd.boston.gov](mailto:veu@pd.boston.gov) \*(M-F 7:30am to 4:00pm)\*

If you are in need of immediate assistance as it relates to the maintenance  
and repair of the district  
station cell camera system or the FLIR traffic camera system please contact  
Director of BPD Telecommunications Shawn Romanoski at (617) 594-2994.

Thank you and Stay Safe

--

Respectfully Submitted,

Sergeant Detective Lou Madeira  
Bureau of Administration and Technology  
Commander, Video Evidence Unit  
Boston Police Department  
One Schroeder Plaza Boston Ma. 02120

**Confidentiality Note**

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1/5	aban	E5	West Roxbury	KA5421 Vehicle has been parked on street for 6 months. Has not been moved. Registration and inspection sticker expired. Saturn/Vue Orange	14 Heron St, West Roxbury, MA 02132	4116447	
1/5	aban	E5	Roslindale	3DX546 Been parked here for 3 days without moving. Not a resident of this street Honda Accord Gray	24 Basile St, Roslindale, MA 02131	4117477	
1/12	aban	E5	Roslindale	NISSAN 4DR GREYSILVER 169mz5 MA This car is located across from 124 Beechland Circle	116-124 Beechland Cir, Roslindale, MA 02131	4123859	
1/12	aban	E5	Roslindale	AUDI SUV BLACK 9zc762 MA This vehicle is located across from 156 Beechland Cir. Roslindale, Ma 02131.	150-164 Beechland Cir, Roslindale, MA 02131	4123867	
1/13	aban	E5	Roslindale	3419E This car has been sitting here for at least 2- 3weeks. Expired plate and inspection sticker. We have limited parking on this street so abandoned cars are annoying Ford Fiesta Grayish	4 Kittredge Ct, Roslindale, MA 02131	4124832	
1/13	aban	E5	Roslindale	RJH211 Grey car, Florida plates. Saab Grey	Aldrich St & Cornell St, Roslindale, MA	4125260	
1/16	aban	E5	Roslindale	33989R7 Honda Accord Red	31 Bexley Rd, Roslindale, MA 02131	4127342	
1/16	aban	E5	Roslindale	No plates, blocking the driveway Mazda Black	59 Bradeen St, Roslindale, MA 02131	4127556	

1/19	aban	E5	Roslindale	CHEVROLET BLUE 9GA428 MA Car has not moved in a year	57 Bradeen St, Roslindale, MA 02131	4130827
1/19	aban	E5	Roslindale	HONDA REDORANGE 7aa549 MA This vehicle has not moved from this spot for months. The tire is flat and has damaged suspension. The rear of the vehicle is far from the curb and poses a safety hazard for passing vehicles. Honda Accord Red	33 Bexley Rd, Roslindale, MA 02131	4131089
1/20	aban	E5	Roslindale	lona street near beech street. No plates. Hasn't moved for over a week Saturn Black	106 Beech St, Roslindale, MA 02131	4141453
1/25	aban	E5	West Roxbury	AUDI 4DR BLACK 2778DD MA Constituent states that this vehicle has been at this location for four months. Concerned with upcoming weather, narrow street. Requesting towing.	3-5 Spring Valley Rd, West Roxbury, MA 02132	4146387
1/28	aban	E5	Roslindale	SUBARU SUV BROWNGOLDTAN KAK646 VT Subaru forrester been parked here for over a month.	43 Wellsmere Rd, Roslindale, MA 02131	4149936
2/5	park	E5	Roslindale	2007 Chevrolet Suburban Beige/TanLicense Plate 62V 410Parked Outside Residence since January 27th, 2022 or earlier. Taking up multiple spaces; no one has been by to clean or move the truck.	27 Averton St, Roslindale, MA 02131	4166501

2/6	aban	E5	Roslindale	FORD PU GREYSILVER 5393981 None paper plate on car, has been left here for a week.	90 Kittredge St, Roslindale, MA 02131	4167648
2/8	aban	E5	West Roxbury	518KR8 Abandon Toyota Camry Silver	36 Carrolton Rd, West Roxbury, MA 02132	4170757
2/10	aban	E5	West Roxbury	2PVC64 This car has not been moved since before theMajor snowstorm 2 weeks ago. It's parked in the Draper park/ Draper pool parking lot. Volvo xc70 Grey	5267 Washington St, West Roxbury, MA 02132	4173621
2/12	aban	E5	Roslindale	RJH211 Grey Saab Sedan with Florida plates, parked there for 2+ years. Grey	Aldrich St & Cornell St, Roslindale, MA	4176672
2/14	aban	E5	West Roxbury	Please advise status AUDI 4DR BLACK 49m110 MA on the Schirmer Rd side, hasn't moved in 5 months, interferes with snow clearing, plate covered in snow	121-123 Willow St, West Roxbury, MA 02132	4177693
2/14	aban	E5	Roslindale	213XN2 Expired plates and inspection sticker. Parked on path to stairs, city sidewalk and city property for several days without moving. Honda Civic Black	Allen St & Brown Ave, Roslindale, MA	4178457
2/23	aban	E5	Roslindale	3VL495 Abandoned truck sitting in same spot for months even during a house fire in front of it. Unknown pickup truck Black	62 Wellsmere Rd, Roslindale, MA 02131	4198278

2/24	aban	E5	West Roxbury	UNKNOWN TRAIL WHITE None Constituent states a hitched trailer has been left there for several weeks	94 Lyall Ter, West Roxbury, MA 02132	4199838
2/28	aban	E5	Roslindale	Old broken trailer left there n side of side of street nearly a year	101 Rowe St, Roslindale, MA 02131	4204445
3/4	aban	E5	West Roxbury	Two abandoned trailers	771 VFW Pkwy, West Roxbury, MA 02132	4209302
3/6	aban	E5	West Roxbury	SATURN REDORANGE temp plate Saturn been parked there for about 3yrs now. Temp plates been expired for the past 2yrs. No one turns it on or moves it. Saturn Orange	11 Heron St, West Roxbury, MA 02132	4211409
3/8	aban	E5	West Roxbury	2XGS55 The car hasn't moved in three years and the person that parked behind him hasn't moved in about three months, both vehicles have expired inspection stickers Honda Civic Gray	9 Cowing St, West Roxbury, MA 02132	4213713
3/11	aban	E5	West Roxbury	9MYV10 Parked for months, flat tires, not moved Buick Roadmaster Maroon	65 Perham St, West Roxbury, MA 02132	4217795
3/11	aban	E5	West Roxbury	HONDA 4DR WHITE None TX Behind 777 VFW ON LYALL TERRACE AT THE DEAD END. Expired paper tags from February 11.	777 VFW Pkwy, West Roxbury, MA 02132	4218177

3/13	aban	E5	West Roxbury	SATURN REDORANGE unknown Cat has been sitting here for 2yrs need it towed away ASAP. Saturn Burgandy	11 Heron St, West Roxbury, MA 02132	4219270	
3/14	aban	E5	Roslindale	SAAB GREYSILVER rjh211 FL Expired registration abandoned for 2 years. Saab 93 Silver	Aldrich St & Cornell St, Roslindale, MA	4220476	
3/15	aban	E5	West Roxbury	9MYV10 Abandoned car, flat tires, has been parked illegally for months. PLEASE TOW. Buick Maroon	64 Perham St, West Roxbury, MA 02132	4221638	
3/17	aban	E5	West Roxbury	253GL3 white chevy pickup chevy pickup white	64 Perham St, West Roxbury, MA 02132	4224386	
3/17	aban	E5	Roslindale	2SM286 Damaged, leaking fluid. Owner taking no action. Mazda 4DR	Brookdale St & Ridge St, Roslindale, MA	4224392	
3/17	aban	E5	West Roxbury	2XGS55 Vehicle is broken down and has been parked here for YEARS along with black BMW behind it taking up valuable parking spaces in a crowded street as is. Please tow, only tickets have been giving and they just leave them on the windshield unpaid. Honda Civic Grey	9 Cowing St, West Roxbury, MA 02132	4224618	

3/20	aban	E5	West Roxbury	2PVC64 This vehicle has been here for months now. Through multiple snow storms and hasn't been moved. It also has an expired inspection sticker. Volvo station wagon Gray	5267 Washington St, West Roxbury, MA 02132	4226862	
3/28	aban	E5	Roslindale	1FRD63 This truck appears abandoned- has been parked on the corner of Beryl St for months, owner has not cleared snow from several storms or moved it in months. A neighbor called 311 and BTD came out and looked at THIS truck and then proceeded to tag a different black truck nearby. Dodge Ram 2500 Black	Aldrich St & Beryl St, Roslindale, MA	4236218	
3/29	aban	E5	West Roxbury	9896GM Car has not moved since November 2021 and is parked on the curb. Grand Marquis Mercury White	123 Landseer St, West Roxbury, MA 02132	4237428	
3/29	aban	E5	Roslindale	4NGF19 Envoy has been parked here for 2 weeks. Tires are going flat Chevy envoy Black	35 Firth Rd, Roslindale, MA 02131	4237585	
4/4	aban	E5	Roslindale	4EPW61 Van dumped in this spot by a tow truck last week and hasn't moved since. Please remove this abandoned vehicle. Van White	33 Firth Rd, Roslindale, MA 02131	4244635	

4/9	aban	E5	Roslindale	4FL222 Car been here more than a day hasn't moved deliberately parks here. Owner does not live anywhere near around here.. Volkswagen Black	3904 Washington St, Roslindale, MA 02131	4250985
4/10	aban	E5	West Roxbury	School Bus Bus Yellow	1205 VFW Pkwy, West Roxbury, MA 02132	4251322
4/10	aban	E5	Roslindale	FORD PU GREYSILVER 2AZH17 MA been here a week and a half	15 Averton St, Roslindale, MA 02131	4251436
4/11	aban	E5	Roslindale	UNKNOWN PU BLACK 1FRD63 MA Truck has been here for 3 months. where it is prevents the school bus from making the turn	Aldrich St & Beryl St, Roslindale, MA	4252583
4/13	aban	E5	Roslindale	T32200 This truck likely owned by a local tow company has been placed all around this neighborhood.	74 Whitford St, Roslindale, MA 02131	4255405
4/13	aban	E5	Roslindale	1CPF88 Car with expired sticker abandoned on Metropolitan and Augustus Plymouth/ Neon Blue	Augustus Ave & Metropolitan Ave, Roslindale, MA	4255961
4/13	aban	E5	Roslindale	4LL569 Car abandoned in Augustus and Metropolitan. Expired sticker Acura / Legend Grey	Augustus Ave & Metropolitan Ave, Roslindale, MA	4255966
4/14	aban	E5	Roslindale	UNKNOWN Gas powered Scooter lying on the sidewalk, impeding passage	Blakemore St & Brown Ave,	4257039



					Roslindale, MA		
4/14	aban	E5	West Roxbury	mini party bus black ford lv80154....This commercial van was abandoned at this residential location since March 08, 2022.	Fairlane Rd & Vogel St, West Roxbury, MA	4257117	
4/14	aban	E5	Roslindale	Moped	224 Florence St, Roslindale, MA 02131	4257173	

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** stephen.ridge@pd.boston.gov <stephen.ridge@pd.boston.gov>  
**Subject:** Arrest

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Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** steven.sweeney@pd.boston.gov <steven.sweeney@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** steven.sweeney@pd.boston.gov <steven.sweeney@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** sylvia.zayas@pd.boston.gov <sylvia.zayas@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** sylvia.zayas@pd.boston.gov <sylvia.zayas@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** taylor.small@pd.boston.gov <taylor.small@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** terence.long@pd.boston.gov <terence.long@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**To:** terence.long@pd.boston.gov <terence.long@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** terry.thomas@pd.boston.gov <terry.thomas@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**To:** terry.thomas@pd.boston.gov <terry.thomas@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.barrett@pd.boston.gov <thomas.barrett@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.barrett@pd.boston.gov <thomas.barrett@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.binnall@pd.boston.gov <thomas.binnall@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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Message Sent By: Eva Santiago

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.binnall@pd.boston.gov <thomas.binnall@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.brooks@pd.boston.gov <thomas.brooks@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.brooks@pd.boston.gov <thomas.brooks@pd.boston.gov>  
**Subject:** Protesters

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Event P220148523  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** griffint.bpd@cityofboston.gov <griffint.bpd@cityofboston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.griffin@pd.boston.gov <thomas.griffin@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** griffint.bpd@cityofboston.gov <griffint.bpd@cityofboston.gov>  
**Subject:** Protesters

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Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.griffin@pd.boston.gov <thomas.griffin@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.hopkins@pd.boston.gov <thomas.hopkins@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.hopkins@pd.boston.gov <thomas.hopkins@pd.boston.gov>  
**Subject:** Protesters

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District E5  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.lema@pd.boston.gov <thomas.lema@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.lema@pd.boston.gov <thomas.lema@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.menino@pd.boston.gov <thomas.menino@pd.boston.gov>  
**Subject:** Arrest

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Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.menino@pd.boston.gov <thomas.menino@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.pratt@pd.boston.gov <thomas.pratt@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** thomas.taylorjr@pd.boston.gov <thomas.taylorjr@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** thomas.taylorjr@pd.boston.gov <thomas.taylorjr@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** timothy.connolly@pd.boston.gov <timothy.connolly@pd.boston.gov>  
**Subject:** Arrest

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District E5

04-25-2022 07:47:30

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** timothy.connolly@pd.boston.gov <timothy.connolly@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** timothy.denio@pd.boston.gov <timothy.denio@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**To:** timothy.denio@pd.boston.gov <timothy.denio@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** timothy.donovan@pd.boston.gov <timothy.donovan@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** timothy.donovan@pd.boston.gov <timothy.donovan@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** timothy.kervin@pd.boston.gov <timothy.kervin@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

Event Description: One person under arrest for violating the City Ordinance.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Monahan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** timothy.kervin@pd.boston.gov <timothy.kervin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220148523  
District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

Event Description: Group of protesters outside of Mayor's home ... Area E EDT's requested and dispatched.

Boston Police Department - Operations Division  
Message Sent By: Aimee Pelosi  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** timothy.laham@pd.boston.gov <timothy.laham@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**To:** timothy.laham@pd.boston.gov <timothy.laham@pd.boston.gov>  
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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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Boston Police Department - Operations Division  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** timothy.murray@pd.boston.gov <timothy.murray@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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Boston Police Department - Operations Division

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** timothy.murray@pd.boston.gov <timothy.murray@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** tisha.murphy@pd.boston.gov <tisha.murphy@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** tisha.murphy@pd.boston.gov <tisha.murphy@pd.boston.gov>  
**Subject:** Protesters

□

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District E5  
04-07-2022 06:31:00

Event Location: 17 Augustus Ave, RS

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** tod.herron@pd.boston.gov <tod.herron@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**To:** tod.herron@pd.boston.gov <tod.herron@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** vance.mills@pd.boston.gov <vance.mills@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

Event Location: 17 Augustus Avenue

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** vance.mills@pd.boston.gov <vance.mills@pd.boston.gov>  
**Subject:** Protesters

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District E5  
04-07-2022 06:31:00

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** vernelle.smalls-cardona@pd.boston.gov <vernelle.smalls-cardona@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** vernelle.smalls-cardona@pd.boston.gov <vernelle.smalls-cardona@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** victor.evans@pd.boston.gov <victor.evans@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** victor.evans@pd.boston.gov <victor.evans@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** vincent.schettino@pd.boston.gov <vincent.schettino@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** vincent.schettino@pd.boston.gov <vincent.schettino@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** waiman.lee@pd.boston.gov <waiman.lee@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** waiman.lee@pd.boston.gov <waiman.lee@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** warren.hoppie@pd.boston.gov <warren.hoppie@pd.boston.gov>  
**Subject:** Arrest

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**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** warren.hoppie@pd.boston.gov <warren.hoppie@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** wayne.lanchester@pd.boston.gov <wayne.lanchester@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** wayne.lanchester@pd.boston.gov <wayne.lanchester@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** william.meade@pd.boston.gov <william.meade@pd.boston.gov>  
**Subject:** Arrest

□

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District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** william.meade@pd.boston.gov <william.meade@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** william.moccia@pd.boston.gov <william.moccia@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** william.toner@pd.boston.gov <william.toner@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** william.toner@pd.boston.gov <william.toner@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** william.traft@pd.boston.gov <william.traft@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** william.traft@pd.boston.gov <william.traft@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** winston.deleon@pd.boston.gov <winston.deleon@pd.boston.gov>  
**Subject:** Arrest

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** winston.deleon@pd.boston.gov <winston.deleon@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** ydritzabel.oller@pd.boston.gov <ydritzabel.oller@pd.boston.gov>  
**Subject:** Arrest

□

Event P #220177673

District E5

04-25-2022 07:47:30

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 07, 2022 6:44 AM EDT  
**To:** ydritzabel.oller@pd.boston.gov <ydritzabel.oller@pd.boston.gov>  
**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Monday, April 25, 2022 7:49 AM EDT  
**To:** zachary.crossen@pd.boston.gov <zachary.crossen@pd.boston.gov>  
**Subject:** Arrest

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District E5

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**To:** zachary.crossen@pd.boston.gov <zachary.crossen@pd.boston.gov>  
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**From:** Dennis Cogavin <dennis.cogavin@pd.boston.gov>  
**Sent:** Sunday, April 03, 2022 2:41 PM EDT  
**To:** B2 Supervisors <b2supervisors@pd.boston.gov>; Dean Bickerton <dean.bickerton@pd.boston.gov>  
**Subject:** Fwd: News Clips for Sunday, April 3, 2022

----- Forwarded message -----

From: **John Boyle** <johnt.boyle@pd.boston.gov>  
Date: Sun, Apr 3, 2022 at 12:11 PM  
Subject: News Clips for Sunday, April 3, 2022  
To: Gregory Long <gregory.long@pd.boston.gov>, Paul Donovan <paul.donovan@pd.boston.gov>, Winifred Cotter <winifred.cotter@pd.boston.gov>, Charles Wilson <charles.wilson@pd.boston.gov>, Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>, Nora Baston <nora.baston@pd.boston.gov>, Marcus Eddings <marcus.eddings@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Felipe Colon <felipe.colon@pd.boston.gov>, Kenneth Gaines <kenneth.gaines@pd.boston.gov>, James Chin <james.chin@pd.boston.gov>, Richard Dahill <richard.dahill@pd.boston.gov>, Sharon Dottin <sharon.dottin@pd.boston.gov>, Carmen Curry <carmen.curry@pd.boston.gov>, Luis Cruz <luis.cruz@pd.boston.gov>, James Miller <james.miller@pd.boston.gov>, John Boyle <johnt.boyle@pd.boston.gov>, David Fredette <david.fredette@pd.boston.gov>, Mark Hayes <mark.hayes@pd.boston.gov>, Terry Thomas <terry.thomas@pd.boston.gov>, Leighton Facey <leighton.facey@pd.boston.gov>, Steven Sweeney <steven.sweeney@pd.boston.gov>, Therese Kozmiski 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<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a-medal-in-honor-of-two-officers-slain-in-1970s/>

## Two Boston Police officers to receive Schroeder Brother Memorial Medal, a medal in honor of two officers slain in 1970s

Schroeder descendants toured Boston Police HQ ahead of ceremony

Boston Police headquarters sits at [1 Schroeder Plaza](#), named in honor of two Boston Police brothers who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for

news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, “was shot to death in cold blood shortly before noon” Nov. 30, 1973 “while attempting to thwart three armed men during the holdup of a Roxbury pawn shop,” the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

“As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery,” the paper wrote, adding they even stole John’s service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter’s grandsons, Paul, serving as a police officer, and John’s first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth’s son Rhein Ingham, 15, said he’d like to be a police officer.

“It’s a big honor,” he said. “I want to live up to the name.”

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that’s otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here’s the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That’s where cops found it, according to a police report that the department provided to the Herald when asked about the gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she’d seen photos from social media of Brown’s gravestone somewhere in Mission Hill. So, she said, she’d headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they’d found the headstone, picking it up on Annunciation Road.

“Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping,” police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, “This is just something that can escalate so easily.”

“We need cooler heads, mentorship and availability of services” to try to disrupt these cycles of violence, he added.

The 16-year-old Brown’s slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa’s team, even though they weren’t technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That’s what makes Brown’s killing doubly tragic, in DaRosa’s estimation. A young man was slain, but also a peer pillar of his friends’ lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

“Kids keep inheriting street drama,” DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. “Now it’s two groups of young people who are knee deep in all this.”

Asked about the gang conflict, Mayor Michelle Wu’s administration said, “The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies.”

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That’s down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he’s not optimistic.

“It’s only going to get worse, and it’s going to involve a lot of younger people,” DaRosa predicted. “This summer is going to be on fire.”

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

## Man arraigned in hospital after alleged shootout with Boston police

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## **'In panic mode': Boston police investigating after woman claims she's being tracked by unknown AirTag**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## **Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester**

Boston police told NBC10 Boston that two people were injured in a reported road rage incident

<https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## **Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show**

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## **Boston police rescue woman pinned under car in Dorchester**

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/ramon-man-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

## **Ramón man shot by Boston police arraigned from hospital bed for allegedly firing at officers**

A Ramón man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point "several officers" fired back, "striking the suspect multiple times" and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.

<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

## Demonstrators fined near Wu's home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

"Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too," she said.

The protesters, she said, "have retained an attorney and will be suing Mayor Wu yet again."

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance "will be in conformance with law."

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance "could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,"

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

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Office of Media Relations  
[1 Schroeder Plaza](#)  
[Boston, Massachusetts, 02120](#)  
617-343-4520

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For more options, visit <https://groups.google.com/a/pd.boston.gov/d/optout>.



TYPE OF ARREST	INCIDENT NUMBER FOR ARREST	WHAT REPORTS NEEDED (Arrest Report Must Be Completed First)
New Charges	New Incident Number	Offense Report on New Incident Number
Boston Warrant Only	Prior Incident Number	Supplement on Prior Incident Number
Outside Warrant	New Incident Number	Offense Report on New Incident Number
New Charge & Boston Warrant	New Incident Number	Offense Report on New Incident Number for New Charge & Supplement on Prior Incident Report for Boston Warrant
New Charge & Outside Warrant	New Incident Number	Offense Report on New Incident Number for both New Charges & Outside Warrant
Boston Warrant & Outside Warrant	New Incident Number	Supplement on Prior Incident Number for Boston Warrant & Offense Report on New Incident Number for Outside Warrant
New Charge & Outside Warrant & Boston Warrant	New Incident Number	Offense Report on New Incident Number for both New Charges & Outside Warrant Supplement on Prior Incident Number
	<b>CHARGES FOR OUTSIDE WARRANT WILL ALWAYS BE EXTERNAL WARRANT DO NOT SELECT ANY OTHER CHARGE FOR OUTSIDE WARRANT</b>	





# MARK43

## Boston Police Charges Box

Add/Edit Charges

Charge #1

Charge
A&B c285.12A

ASSAULT - SIMPLE (021)  
Offense ID: 100210000  
Offense Start Date: Sep 10, 2019 00:00

+ Warrant

+ Charge

SAVE
CANCEL
?

Add/Edit Charges

Charge #1

Charge
B&E BUILDING DAYTIME FORTH LONY c285.2B

Burglary - Residential - Force (020)  
Offense ID: 140111100  
Offense Start Date: Jun 15, 2019 21:00  
Offense End Date: Jun 15, 2019 13:10

#1907WR099 Warrant  
Issuing Court: Superior (District) Court  
Issuing Judge: L. Hennes  
Warrant Date (MM/DD/YYYY): 06/04/19

+ Charge

SAVE
CANCEL
?

Add/Edit Charges

Charge #1

Charge
External Warrant Arrest

WARRANT ARREST - OUTSIDE OF BOSTON WARRANT (0106)  
Offense ID: 100214000  
Offense Start Date: Sep 05, 2019 00:00

#1823WR5981 Warrant  
Issuing Court: Boston District Court  
Issuing Judge: H. Shaw  
Warrant Date (MM/DD/YYYY): 08/29/18

+ Charge

SAVE
CANCEL
?

## Geocoding in Mark43

District D14 station address - Select a Mark43 Location that Geocodes to District D14

REPORT TAKEN LOCATION [Required]

BOSTON POLICE DEPARTMENT - DISTRICT D14  
 301 WASHINGTON ST  
 BRIGHTON, MA 02135  
 UNITED STATES  
 VERIFIED LOCATION

District / Sector /  
 Reporting Area /  
 Subdivision 4 /  
 Subdivision 5: **D14 / K421 / 770**

Location Category: Government/ Public Building  
 Public / Private: Public  
 Entered Date: Nov 22, 2021

**Add Location**

SEARCH RESULTS

+ NEW LOCATION

BOSTON POLICE DEPARTMENT - DISTRICT D14  
 301 WASHINGTON ST  
 BRIGHTON, MA 02135  
 MARK43 LOCATION

301 WASHINGTON ST  
 DORCHESTER, MA 02121  
 MARK43 LOCATION

301 WASHINGTON ST  
 BRIGHTON, MA 02135  
 MARK43 LOCATION

301 Washington Street  
 Boston, MA 02135  
 ESRI LOCATION

Always search for:

- District D14
- 301 Washington St

REPORT TAKEN LOCATION [Required]

BOSTON POLICE DEPARTMENT - DISTRICT D14  
 301 WASHINGTON ST  
 BRIGHTON, MA 02135  
 UNITED STATES  
 VERIFIED LOCATION

Expand dropdown  
to verify the  
district

General Tips

- Type slowly in the search box. Results are generated as you type; Mark43 locations will not display if you type quickly.
- Search for intersections with a forward slash, *do not* use an ampersand.
- *Do not* abbreviate street names, *do* abbreviate most street types.
- Acceptable street types: Aly, Ave, Blvd, Cir, Cirt, Cres, Ct, Ctr, Dm, Dr, Drwy, Ext, Gdn, Gdns, Grn, Hwy, Ln, Mall, Park, Pkwy, Pl, Plz, Rd, Row, Sq, St, Ter, Vw, Way, Whrf, Xwy
- *Do not* use periods after the street types.
- Search “Massachusetts Ave / Melnea Cass Blvd” rather than “Mass / Cass” or “Massachusetts Ave. / Melnea Cass Blvd.”
- Add a ZIP code to the address or intersection if you do not see a Mark43 or Esri location.

Warren St / Waverly St 02119

- Addresses *must* include a number, *do not* enter only the street name.

External / Extérnal

HARVARD ST  
MATTAPAN, MA  
02124

- *Do not* create a new location unless absolutely necessary, because it will not be assigned to a BPD

External / Extérnal

FOUR SEASONS  
200 BOYLSTON ST  
BOSTON, MA

district. 02118

- Verify that locations are assigned to the correct district before submitting reports.
- Contact [mark43@pd.boston.gov](mailto:mark43@pd.boston.gov) for assistance.

# 3 Scenarios for Linking Charges on an Arrest Report

Obtained via FOIA by Judicial Watch Inc.

	New Charge	Boston Warrant Arrest	Outside of Boston Warrant Arrest
Charge	<ul style="list-style-type: none"> <li>Select <b>+ CHARGE</b></li> <li>Then choose the charge related to the arrest</li> </ul> <p>Charge</p>	<ul style="list-style-type: none"> <li>Select <b>+ CHARGE</b></li> <li>Then choose the charge related to the arrest</li> </ul> <p>Charge</p>	<ul style="list-style-type: none"> <li>Select <b>+ CHARGE</b></li> <li>Then choose "External Warrant Arrest"</li> </ul> <p>Charge</p> <p>External Warrant Arrest</p>
Offense	<ul style="list-style-type: none"> <li>Select <b>+ OFFENSE</b></li> <li>Select <b>NEW OFFENSE</b></li> <li>Choose the correct offense code, then enter                             <ul style="list-style-type: none"> <li>Offense Start Date</li> <li>Offense Location</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Select <b>+ OFFENSE</b></li> <li>Select <b>PRIOR OFFENSE</b></li> <li>Enter I# of prior Offense Report</li> <li>Then Select the related offense</li> <li><b>Linked Supplement Needed to clear &amp; notify Warrant Unit.</b></li> </ul>	<ul style="list-style-type: none"> <li>Select <b>+ OFFENSE</b></li> <li>Select <b>NEW OFFENSE</b></li> <li>Select</li> </ul> <p>Offense Code</p> <p>WARRANT ARREST - OUTSIDE OF BOSTON WARRANT</p> <ul style="list-style-type: none"> <li><b>Clear in report. Notify Warrant Unit.</b></li> </ul>
Warrant		<ul style="list-style-type: none"> <li>Select <b>+ WARRANT</b></li> <li>Select <b>ADD NEW WARRANT</b></li> <li>Enter Docket Number, Issuing Court and Judge, and Issued Date</li> </ul>	<ul style="list-style-type: none"> <li>Select <b>+ WARRANT</b></li> <li>Select <b>ADD NEW WARRANT</b></li> <li>Enter Docket Number, Issuing Court and Judge, and Issued Date.</li> </ul>





# MARK43 Boston Police Managing Permissions

## Need a Report Locked?

Duty Supervisors, Detective Supervisors, SAU or ISG will have the ability to LOCK a report using the **Manage Permissions** icon on any police report **after Approval**.

If you do not have the ability to Lock a report, notify SAU (343-4400), CACU (343-6183) or ISG (343-4440) to have report locked.



Permissions for an individual or group can be changed to one of the following four options:

**Can Find** - User or Group can see that a report exists under the incident #, but can't view.

**Can View** - User or Group can view the report, but can't edit.

**Can Edit** - User or Group can edit the report.

**Can Manage** - User or Group can manage permissions and edit the report.

## Steps to Lock a Report:

**Step 1:** Choose the Manage Permissions icon of the report.

**Step 2:** Change the "Department-boston" role from from CAN VIEW to CAN FIND.

**Step 3:** Delete (trash can button) all other roles from the report except for SAU.

**BEFORE**

User or Group	Permission
Detective - Supervisor	Can Manage
Detective	Can Edit
Admin	Can Edit
SAU	Can Manage
Duty Supervisor	Can Edit
Department - Boston-training	Can View
Field Reports	Can Edit

+ PERSONNEL

OK CANCEL

**AFTER**

User or Group	Permission
Department - Boston	Can Find
SAU	Can Manage

+ PERSONNEL

OK CANCEL

## Need a Case Jacket Locked?

Detectives wishing to lock a Case Jacket from view may use Manage Permissions to do so. Ensure the assigned detective has CAN MANAGE permissions.

**From:** Gregory Long <gregory.long@pd.boston.gov>

**Sent:** Sunday, April 03, 2022 12:53 PM EDT

**To:** John Boyle <johnt.boyle@pd.boston.gov>

**Subject:** Re: News Clips for Sunday, April 3, 2022

Thank you.

Sent from my iPhone

On Apr 3, 2022, at 12:18 PM, John Boyle <johnt.boyle@pd.boston.gov> wrote:

<https://www.bostonglobe.com/2022/04/01/metro/mass-high-court-places-limits-police-access-cellphone-data/>

# Mass. high court places limits on police access to cellphone data

The state's highest court on Friday for the first time extended privacy protections to "tower dumps" of cellphone data, requiring police to get a search warrant for the novel technique, which was used by Boston police to pinpoint two men out of 50,000 people as suspects in a 2018 Boston murder and several robberies.

The Supreme Judicial Court said in a unanimous opinion it was responding to 21st-century technology that has "resulted in a quantity and quality of surveillance that never could have been imagined, let alone realized, at the time of the founding."

Writing for the court, Justice Frank M. Gaziano said cellphone technology used in the Boston area can allow police to track thousands of individuals "precisely, down to the specific floor of a particular building." Like privacy rights for an individual inside their home, cellphone data must now be shielded from unfettered intrusion by law enforcement, the court concluded.

Gaziano noted that using the tower dumps — the sharing of identifying information by a cell tower operator — "investigators were able to compile and catalogue the locations of more than 50,000 individuals at varying points over more than one month, without any one of them ever knowing that he or she was the target of police surveillance."

"Privacy in one's associations, whether political, religious, or simply amicable, plays a crucial role in maintaining our democracy, and therefore is protected" under Article 14 of the state constitution, he wrote. "Providing law enforcement with such personal information is of particular concern because it risks chilling the associational and expressive freedoms that our State and Federal Constitutions strive to protect."

The ruling stems from the pending Suffolk Superior Court prosecution of Jerron J. Perry for the Oct. 6, 2018, slaying of 62-year-old Jose Luis Williams. Williams was working at the Fabian Gas Station on Washington Street in Dorchester when he was killed by a single shot from a .45-caliber handgun, records show.

Perry is also charged with committing five armed robberies in Boston, Cambridge, and Canton in September and October 2018. A codefendant, Gregory H. Williams III, is charged with being an accessory to Williams's murder — and five counts of armed robbery, records show.

Both men have pleaded not guilty and are being held without bail, records show.

Victims of the robberies provided broadly similar descriptions of the robber, the gun used, and the getaway car sometimes used, according to the SJC. But the two men were not linked to the crimes — or each other — until the FBI and Boston police collected data through seven tower dumps around the dates and times of the crimes, the SJC said.

Tower dumps "provided investigators with highly personal and previously unknowable details" of Perry's life," Gaziano wrote. "An owner's location and associations are tied to his or her telephone

number and unique identifier, which, here, were used to discern the defendant's identity and that of his suspected accomplice."

The SJC said that some of the data seized by police cannot be used against Perry. "The Commonwealth's use of the seven tower dumps intruded upon the defendant's reasonable expectation of privacy," Gaziano wrote.

Perry's defense attorney, Eric Tennen, said Friday that he was reviewing the 51-page ruling to determine the precise impact the court's decision will have on the case.

Suffolk District Attorney Kevin R. Hayden said the SJC ruling would not impact the prosecution of the two men.

"Criminal investigations, as with all aspects of modern life, are affected by constant advancements in technology," Hayden said in a statement. The SJC decision "brings clarity to how law enforcement agencies can go about collecting technological evidence they deem important to an investigation. We welcome that clarity."

In its decision, the SJC issued new, stricter rules police must follow before they can conduct tower dumps. Police must get a search warrant justifying their request for information on thousands of people who have no idea their data is being examined by police and have no tie to the crime being investigated.

Search warrants can be approved by a clerk magistrate or a judge — but not for tower dumps. For tower dumps, only a judge can approve the warrant. Moreover, the SJC said, police must also spell out how they will delete data collected from the thousands of people who weren't involved in the crime.

The court said its ruling is not retroactive.

The American Civil Liberties Union and the ACLU of Massachusetts, the Electronic Frontier Foundation, Massachusetts Association of Criminal Defense Lawyers, and the Committee for Public Counsel Services submitted a joint amicus brief to the SJC.

"This is a groundbreaking decision that provides crucial privacy protections for people in Massachusetts," Jessie Rossman, managing attorney at the ACLU of Massachusetts, said in a statement. "The message is clear: If the police use tower dumps over multiple days to identify someone they believe to have committed crimes, they must first get a warrant, and they must promptly discard any data they acquire from those tower dumps about people other than the target."

On Sun, Apr 3, 2022 at 12:11 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a-medal-in-honor-of-two-officers-slain-in-1970s/>

## **Two Boston Police officers to receive Schroeder Brother Memorial Medal, a medal in honor of two officers slain in 1970s**

**Schroeder descendants toured Boston Police HQ ahead of ceremony**

Boston Police headquarters sits at 1 Schroeder Plaza, named in honor of two Boston Police brothers who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the

inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, "was shot to death in cold blood shortly before noon" Nov. 30, 1973 "while attempting to thwart three armed men during the holdup of a Roxbury pawn shop," the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

"As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery," the paper wrote, adding they even stole John's service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter's grandsons, Paul, serving as a police officer, and John's first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth's son Rhein Ingham, 15, said he'd like to be a police officer.

"It's a big honor," he said. "I want to live up to the name."

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that's otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here's the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That's where cops found it, according to a police report that the department provided to the Herald when asked about the gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she'd seen photos from social media of Brown's gravestone somewhere in Mission Hill. So, she said, she'd headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they'd found the headstone, picking it up on Annunciation Road.

"Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and



other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping,” police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, “This is just something that can escalate so easily.”

“We need cooler heads, mentorship and availability of services” to try to disrupt these cycles of violence, he added.

The 16-year-old Brown’s slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa’s team, even though they weren’t technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That’s what makes Brown’s killing doubly tragic, in DaRosa’s estimation. A young man was slain, but also a peer pillar of his friends’ lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

“Kids keep inheriting street drama,” DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. “Now it’s two groups of young people who are knee deep in all this.”

Asked about the gang conflict, Mayor Michelle Wu’s administration said, “The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies.”

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That’s down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he’s not optimistic.

“It’s only going to get worse, and it’s going to involve a lot of younger people,” DaRosa predicted. “This summer is going to be on fire.”

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

## Man arraigned in hospital after alleged shootout with Boston police

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## ‘In panic mode’: Boston police investigating after

## woman claims she's being tracked by unknown AirTag

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester

Boston police told NBC10 Boston that two people were injured in a reported road rage incident <https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## Boston police rescue woman pinned under car in Dorchester

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/randolph-man-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

## Randolph man shot by Boston police arraigned from hospital

# bed for allegedly firing at officers

A Randolph man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point "several officers" fired back, "striking the suspect multiple times" and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.

<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

# Demonstrators fined near Wu's home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

"Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too," she said.

The protesters, she said, "have retained an attorney and will be suing Mayor Wu yet again."

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance "will be in conformance with law."

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance "could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,"

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

--

*Sergeant Detective John Boyle*

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# **Boston Police Academy Recruits Class 59-19**

## **CONSTITUTIONAL LAW**



Originally Prepared by: Lieutenant (Ret.) James A. Moore

Updated by: Lieutenant Michael A. Chapman

Instructors: Police Officer Ciro Feliciano and Police Officer Yong Lee

INTRODUCTION  
TO THE  
LEGAL PROCESS  
RECRUIT CLASS 59-19

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## **INTRODUCTION**

This course, Introduction to the Legal Process, is brief in comparison to other courses at the Academy. Although it is brief, it is vital that you master its subject matter. This course forms the basis of many other courses a Recruit Officer will study. The concepts discussed here will be repeated constantly in other subject areas in the weeks to come. You will be required to memorize basic definitions in order to be able to comprehend the legal principles addressed in other courses.

This course was revised and compiled by Lieutenant James A. Moore, and members of the Academy Staff past and present. Sources of some of the material are *Criminal Law for Policeman*, Chamelin & Evans, Prentice Hall, 1977; *Constitutional Law for Police Officers*, Attorney James A. Moore, 1996; and the work of Deputy Superintendent William J. Hogan.

Learn as much as you can each day. Take advantage of all study time available, whether at the Academy or at home. Be attentive. Be respectful to yourself, your fellow recruits, and the Academy Staff. This will enable you to acquire one of the most important tools a police officer can have: knowledge.

## **INSTRUCTOR INTRODUCTION(S)**

My name is Police Officer Yong Lee and I have been with the Boston Police Department since 2006. Prior to my assignment at the academy, I held assignments in District D14 (Brighton), District B2 (Roxbury) and M.O.P (Mobile Operations Patrol) as a member of the BPD Special Weapons and Tactics Team (S.W.A.T. Team). I am excited to be teaching Constitutional Law to you and to help you understand everything we do as police officers. From making an arrest to the use of lethal force, it is all shaped by the U.S. Constitution.

My name is Police Officer Ciro Feliciano. I have been with the Boston Police Department since 2008. I started my career with the department as a Boston Police Cadet prior to becoming a Police Officer in 2010. Prior to my assignment at the academy, I held assignments in District E13 (Jamaica Plain), District C11 (Dorchester) and the District B2 Drug Control Unit (Roxbury). I am a veteran of the United States Armed Forces. I have a strong passion for teaching and hope to become a college professor in the near future. The U.S Constitution is the foundation of everything we do as Police Officers.

## **BASIC DEFINITIONS TO BE COMMITTED TO MEMORY**

### **1. ARREST**

The taking under real or assumed authority, custody of another person for the purpose of holding him to answer to a criminal charge, or to prevent harm to himself or others.

### **2. CRIME**

An act committed or omitted in violation of public law, either forbidding it or commanding it to be done.

### **3. FELONY**

Any crime punishable by death or imprisonment in the state prison.

### **4. MISDEMEANOR**

Any crime less than a felony.

### **5. PROBABLE CAUSE**

That level of proof that is more than reasonable suspicion, yet less than proof beyond a reasonable doubt.

#### **A. Probable Cause to Arrest**

That level of proof, based on facts sufficiently strong in themselves, to cause a reasonable and prudent person to believe that the accused committed the crime with which he is charged.

#### **B. Probable Cause to Search**

That level of proof, based on facts sufficiently strong in themselves, to cause a reasonable person to believe seizable evidence is located in a particular place.

### **6. SEARCH**

Implies a quest or examination. A prying into hidden places for that which is concealed.

### **7. SEIZURE**

A forceful taking or dispossession of property of another, not accompanied by a search.

### **8. FRISK**

The patting down of the outer clothing of a person, or area under his control, to determine by the sense of touch the presence of a weapon. In specific instances a frisk may include a motor vehicle.

**9. REASONABLE SUSPICION**

That level of proof that is less than probable cause but more than mere suspicion.

**10. UNLAWFUL DESIGN**

That a suspect has committed, is committing, or is about to commit a crime.

## **I. HISTORICAL BACKGROUND OF CRIMINAL LAW**

### **A. The Nature of Law**

The question "what is law?" invites many answers, for "law" is a broad concept with many definitions. For the purposes of this course, law can be defined as a group of rules governing interactions. Law is a set of regulations governing the relationship between man and his fellow men, and between man and the state. Law is a necessary means of social control attempting to either alleviate conflicts or settle them in a manner most advantageous to the group.

### **B. Law as Language**

Law is nothing more than language. Just as a carpenter uses a hammer, a police officer uses his ability to communicate. Communication is the ability to make another understand one's self. Law strives for uniformity of interpretation. It is important that both the sending and receiving parties to a communication use terms that mean the same thing to both parties. Throughout this course, the student will be presented with terms that require memorization. This will assure uniformity of interpretation as much as humanly possible.

### **C. Crime Defined**

Not all violations of the law are crimes. Some violations of the law are civil infractions. They are private in nature, involving only the parties and not the state. A police officer has no power in civil matters in Massachusetts. The legislature makes some violations of the law criminal in nature. It is these violations with which a police officer must concern himself. A crime is an act committed or omitted in violation of public law, either forbidding it or commanding it to be done. Crimes are prosecuted in the name of the Commonwealth. The state is a party to the action. There are two purposes of criminal law. First, it attempts to control behavior of human beings. Second, it attempts to sanction uncontrolled behavior by punishing the violator.

### **D. Early Developments of Criminal Law**

Criminal law developed from the personal vendetta. When one individual harmed another, it became the responsibility of the victim or his family to seek redress. Eventually society began to treat certain offenses as crimes against the sovereign, and that state began to punish violators. This practice developed into modern criminal law.

## **E. Common Law**

Common law began as a result of habits of individuals and the customs of groups. They became accepted as norms of behavior. When courts developed violations of these customs produced the cases heard. As the courts recorded their decisions, other judges looking for assistance followed previous court decisions, and precedents developed. The English colonists who settled Massachusetts brought with them a large part of the body of law to which they were accustomed. Common law has been defined as that body of law that derives its authority from judicial decision and ancient statutes and usage, as distinguished from statute law that is enacted by the legislature or congress. Common law derives its authority solely from the usage and customs of antiquity, or from judgements and decrees of the courts recognizing, affirming, and enforcing such uses and customs. Massachusetts embraced this unwritten law of England. Examples of common law crimes, which still exist today are: affray and criminal libel. They have never been made punishable by statute. If no punishment is provided by statute, "the court shall impose such sentence according to the nature of the crime, as conforms to the common usage and practice of the Commonwealth." **M.G.L. C. 279, S.5.**

## **F. Statute Law**

Statute law has been defined as that law effected by legislative enactment. The reading of a statute must be construed strictly. If a statute sets forth a series of acts and proscribes their commission, the wording is critically important. Some examples of statutes are: armed robbery, breaking and entering, and motor vehicle violations.

### **1. Ordinance**

An ordinance is an enactment by a legislative body of a municipal corporation. A rule proposed by a city, establishing when properly enacted. An ordinance has the full force and effect of law.

### **2. By-Laws**

Laws, rules, or regulations adopted by a town for its government are known as by-laws.

### **3. Rules & Regulations**

Park rules, traffic rules, etc. are laws that are a formal means of social control that are interpreted and enforced by the courts of a political community.

## **G. Case Law**

The role of court decisions and their relationship to the law is known as case law. It is a term commonly used to describe the rule of law announced in court decisions. The rule announced in a court decision will reflect the court's reading of a constitutional, statutory, or administrative action. Thus case law merges with other forms of law. Although the wording of a statute may suggest a different meaning to the ordinary reader, it is the interpretation of the courts, the case law, that governs.

### **Points to remember**

Rules of conduct at the different levels of government are known as the following:

1. Federal. ....laws
2. State ..... statutes
3. City .....ordinances, rules & regulations
4. Town .....by-laws, rules & regulations

## **II. FUNDAMENTALS OF CRIMINAL LAW**

Students beginning the study of criminal law must be able to approach the subject with an open mind. They must be objective as possible. Very often there is a difference between what is morally wrong and what is legally prohibited. Personal emotion can play no part in influencing an officer's decision in settling legal problems. Those who resort to emotion will not solve the problem correctly.

An act, which may obviously be wrong to most people, may be committed, but there is no legal penalty. If an officer responded with emotion and made an arrest in such a Situation, the arrest would be unlawful. This would result in the officer's exposure to civil liability. Officers must approach each situation with an analytical mind, and make judgments based on his training.

### **A. Classifications of Crimes**

Crimes are classified in many ways. There is a distinction made between crimes that are *mala in se* and *mala prohibita*. Those classified as *mala in se* are those that are bad in themselves, murder and rape for example. Those classified as *mala prohibita* are those that are wrong simply because the legislature has prohibited them. Examples would be: operating a motor vehicle without being licensed or selling alcohol to a minor.

States are free to classify crimes in any way they choose, and to impose any punishment it desires. However, the punishment cannot violate the Eighth Amendment by being cruel and unusual. In Massachusetts crimes are classified in two categories: felonies and misdemeanors. A felony is any crime punishable by death or imprisonment in the state prison. A misdemeanor is any crime less than a felony.

It is important to know the distinction between a felony and a misdemeanor. Whether or not to arrest may be made, whether or not an arrest warrant is required, how much force may be used, are a few of the questions that can only be determined by the maximum penalty that can be imposed as stated by statute. It does not depend on the sentence actually handed out by the court. For example, Anthony commits a larceny from the person, a crime punishable by five years in state prison. He has committed a felony. This is so even if the court only sentences him to six months in the House of Correction.

## **B. Role of the Court**

By establishing the Federal and State Constitutions, the people have both granted and forbidden the legislatures of both governments the power to do certain things. When the legislature acts, it is the role of the courts to determine if this action is in accordance with the constitutions. Any law that is contrary to the provisions of either constitution will be declared unconstitutional. In addition, since people are entitled to know what conduct is prohibited, statutes cannot be written in broad terms so that they become unclear. In our system of government, the benefit of the doubt goes to the defendant. Criminal laws are construed strictly, when they work against the defendant and they are construed liberally when they work in his favor. In the law, as in baseball, the tie goes to the runner.

## **III. A BRIEF HISTORY OF THE UNITED STATES CONSTITUTION**

The Constitution of the United States is the political foundation of our nation. It was written and adopted after careful consideration, and after experiments had been made with other forms of alliances among the colonies. The main body of the Constitution is composed of seven articles. The first three define the legislative, executive and judicial branches of government and outline their duties. Shortly after this segment of the Constitution was written, leaders decided that it placed too much power in a central government. It was this type of government that the colonies originally rebelled against.

A solution to this concern was reached on December 15, 1791, when the first ten Amendments, popularly known as the Bill of Rights, were adopted and added to the Constitution. At that time, the Amendments only applied to the federal government. It was not until 1858 that the Fourteenth Amendment was adopted. It provides that due process standards apply to the states.

In order to understand the applicability of the Bill of Rights to law enforcement, one must first grasp the concept of "due process." In a simplistic way, it means that no person may be deprived of any rights unless law enforcement action is in accordance with the proper criminal procedures.

Those failing to respect these Constitutional standards are subject to severe criminal and civil penalties. Police Officers must operate within certain boundaries. They can accomplish this task by using proper criminal procedure. Concepts of arrest, search and seizure, the privilege against self-incrimination, and the right to counsel are included in this body of law.

The United State constitution is the supreme law of the land and it prevails over all other kinds of law, both federal and state. States may grant citizens greater protection under the state constitution than may be granted under the federal, but may not grant less. Any law in conflict with the federal constitution is without legal force, and will not be enforced by the courts. At the state level, the state constitution rules are supreme as compared to rules coming from other state sources (e.g., state statutes), and prevail over such laws in cases of conflict.

In order to avoid government tyranny, the founding fathers decided to implement a series of checks and balances by putting executive, legislative and judicial powers in separate departments. These checks and balances are included in the U.S. Constitution. There are three (3) distinct branches of government: legislative, executive and judicial. The executive branch is the enforcement branch, and police are part of the executive branch.

The judicial branch may check the other two branches by ruling on the constitutionality of their actions. The legislative branch can check the other two by using its power to appropriate funds. The executive branch can check the other two by using its power of veto.

## IV. IMPORTANT LEGAL CONCEPTS

### A. Probable Cause to Arrest

Probable cause is a level of proof. It is the amount of proof necessary to justify an arrest. Probable cause exists if, based on facts sufficiently strong in themselves, it causes a reasonable and prudent person to believe that the accused committed the crime with which he is charged. It is **reasonable grounds** for belief in guilt.

Whether an arrest is valid or not depends upon, if at the moment of arrest, the officer had probable cause to make it, that is whether, at the moment the facts within the arresting officer's knowledge and of which he had reasonable trustworthy information, were sufficient to warrant a prudent man in believing that the defendant had committed, was committing the offense. The officer's knowledge is the sum total of what he learns through his five senses. The Fourth Amendment requires that probable cause exist for an arrest with or without a warrant, if it is to be a legal arrest.



Arrest on just suspicion is **illegal**. The amount of evidence needed to establish probable cause for an arrest need not be sufficient to establish guilt; but it must be more than mere suspicion.

Example: A robbery took place and one of the suspects was described as a black male, wearing a trench coat; black male fled from a taxi; a black male was walking down the street 1 ½ miles from where the robbery took place. Is there probable cause to arrest?

Good faith on the part of an officer is not sufficient to withstand the attack on lack of probable cause. A police officer must have probable cause at **the exact moment of arrest**. However, it is not necessary for the officer to make an arrest at the moment he has the minimum amount of evidence to establish probable cause, unless a delay in executing an arrest warrant deprives the defendant of a constitutional right.

An exception for the arresting officer to have probable cause can occur when the collective knowledge of the organization as a whole can be imputed to the individual. An example would be if an officer is authorized or requested by his supervisors to arrest.

If three are three police officers, one with probable cause, and he points out a suspect to the other two officers to make the arrest, then there is probable cause for the arrest, because the knowledge of one was the knowledge of all when engaged in a joint effort. *Commonwealth v. McDermott*, 347 Mass 246, 197 N.E.2d 668 (1964), *Commonwealth v. Zirpolo* 37 Mass App Ct. 307, 639 N.E. 2d 1083 (1994).

Example: An officer transmits over the radio that two white males in tan suits, driving a brown Ford, license number 123456 have just committed an armed robbery. This information could provide probable cause to arrest.

Factors for probable cause must be determined by the facts of a particular case. Generally, no one factor circumstance is enough to establish probable cause, unless the officer observed the offense. On many occasions, probable cause is established by a series of facts, some innocent in themselves, which are known to the arresting officer, and of which he has reliable knowledge at the time of arrest. Prior criminal record, reputation for criminal activity, flight, furtive gestures, evasive answers, conflicting stories, are all factors to be considered. No one factor alone is sufficient to establish probable cause, but a combination of them or other specific knowledge on the part of police officers relating the accused to evidence of a crime are proper factors to be considered in the decision to make an arrest. (See *Lawton* case).

The word "arrest" is derived from the French word "arreter" meaning to stop or stay; it signifies the restraint of a person. Arrest has been defined a taking under real or assumed authority, custody of another person for the purpose of holding him to answer to a criminal charge, or to prevent harm to himself or others. Clearly, police officers must be guided by the intent and the purpose of the law. There are however, limited circumstances in the discretion of the officer involved. When public interest would be

better served by not making an arrest, even though the officer could lawfully make the arrest.

In Massachusetts a police officer has the right of arrest in the following circumstances:

FELONY ..... IN PRESENCE

FELONY ..... PROBABLE CAUSE

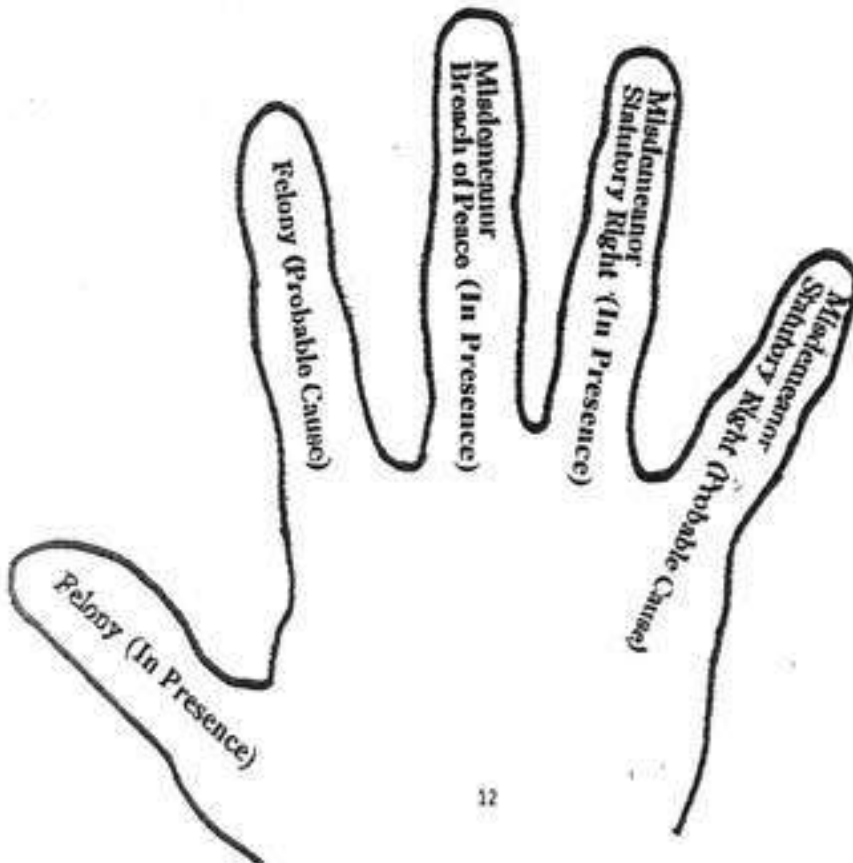
MISDEMEANOR ..... IN PRESENCE AND A BREACH OF THE PEACE

MISDEMEANOR ..... IN PRESENCE – STATUTORY RIGHT

MISDEMEANOR ..... PROBABLE CAUSE – STATUTORY RIGHT

ARREST WARRANT

**RIGHTS OF ARREST (WARRANTLESS) FOR A POLICE OFFICER IN MASSACHUSETTS (HOGAN'S HAND)**



## B. Breach of the Peace

The term "Breach of the Peace" has been troublesome, and in some instances, misinterpreted by police officers. For one thing **it is not the name of a crime**, but rather may be referred to as a "descriptive term" one that describes criminal offenses that effect public peace, for example, the common type of misdemeanor offense of "assault and battery." There is no statutory right of arrest for Assault and Battery, as indicated by item #4 or #5 on the arrest chart. However, every crime of violence against another is by tradition and practice a "Breach of the Peace." Therefore, it is arrestable under item #3 on the arrest chart, if committed in the officer's presence.

You will find that most misdemeanor offense do not provide for an arrest without a warrant, even if committed in the officer's presence additionally, the commission of any offense, whether it is a felony or misdemeanor is a "Breach of the Law," that is breaking the law, but not necessarily a breaking of the peace. On the other hand, certain offenses such as a riot, unlawful assembly, disturbing a public assembly, etc. would by their very nature, amount to a breach of the peace, and thus be arrestable, if committed in the officer's presence. There is no problem with factor of Breach of the Peace in matters concerned with felony arrests under either item #1 and #2 on the arrest chart if probable cause exists for such warrantless arrests. No doubt most felonies would also be breaches of the peace, but the right to make an arrest under either item #1 or #2 on the arrest chart is completely devoid of any reference to Breach of the Peace as a prerequisite thereof.

The police student should at this point concentrate on items #3, #4, and #5 on the arrest chart. The police student will be amazed no doubt to learn, that there are practically hundreds of misdemeanor offenses that are not arrestable without a warrant, even if committed in the officer's presence. From day one you will be exposed to the definition of a misdemeanor. Now project your thinking to #3, #4 and #5 misdemeanor arrests. The occasions under which you may lawfully arrest without a warrant as follows:

- a. Item #3 - Misdemeanor Arrests, when the offense amounts to a Breach of the Peace, and is committed in the officer's presence, or there is a present criminal offense, the Breach of the Peace may be in the future. Item # 3 is the old common law right of arrest for Misdemeanor arrest, developed in early England and is not found in Massachusetts statutes. It should be remembered as well, that the term "Breach of the Peace" does not have to be alleged in the formal complaint in court. It is merely the legal means of making an arrest, however, it should be explained fully in an officer' s complaint in court to justify the arrest, as no statutory right of arrest exists under item #3.
- b. Items #4 & #5 - Statutory Right of Arrest. This is the most common type of warrantless arrest made in practice. It is purely a right given by the legislature, and

has no relation to the common law rule previously covered. Not to confuse the sensitive area of warrantless arrest, but we do have a few isolated examples of instances whereby there are actually two authorities for making misdemeanor arrests, one of which is, the case of *Commonwealth v. Gorman*, 288 Mass 294 (1934). The Supreme Judicial Court ruled that operating a motor vehicle while under the influence of intoxicating liquor, was offense amounting to a breach of the peace, thus immediately creating a new right of arrest under item #3. In later years the Legislature created new statutory right of arrest for operating a motor vehicle under the influence of intoxicating liquor under section 21 of Chapter 90 of the general laws. This is a rarity of course, and the statutory right of arrest is used more commonly.

As an added reminder, the term "Breach of the Peace" is not the specific name of a crime in the Commonwealth, as it may be in some other states. Most of the misunderstanding of this subject in the past stemmed from this area. A person is not arrested and formally charged with a "Breach of the Peace", although this has been frequently quoted as such in news media. It is not the subject of a criminal charge, but the reasons justifying a warrantless arrest, when these facts are present. Not all misdemeanor offenses involve a "Breach of the Peace," because if they did, all would be arrestable, and we would not use item #4.

As a final example, the term "Breach of the Peace" may be equated with terms "vandalism," "white collar crime," "corruption," etc., which in and of themselves do not spell out a crime, but rather are descriptive of acts that, in fact, do spell out crimes. The rationale of the *Gorman* case clearly indicates that it is not only loud, boisterous action that may involve "Breach of the Peace." *Gorman* was arrested for operating under the influence of liquor, while seated at the wheel of a parked motor vehicle, and the major thrust of the decision was that if he continued to operate the motor vehicle, he could create a "Breach of the Peace" by endangering lives and safety of the public. The Breach of the Peace may be prospective and/or anticipated, as long as there is present criminal activity.

### **C. In Presence of an Officer**

The term "in presence of an officer" is of great importance to police officers particularly in the matter of lawful warrantless arrests for offense in the misdemeanor class. With very limited exceptions, misdemeanors must be committed in the presence of an officer to justify a warrantless arrest.

The substance of various court decisions on the subject of "in presence" is that it means what comes to an officer's attention through one or more of his five senses (sight, hearing, touch, taste, smell). An offense is committed "in presence" or "in view" of an officer, within the rule authorizing an arrest without a warrant, when an officer sees an act constituting the offense,

though at a distance, or when circumstances with his observation give probable cause for belief that the defendant has committed an offense, or when he hears a disturbance created by the offense, and proceeds at once to the scene, or if the offense is continuing, or has not been fully consummated when the arrest is made. An offense is taking place within the "view" of an officer so as to authorize an arrest without a warrant, when the officer's senses afford him knowledge that the offense is being committed. What is required is that the officer, by use of his senses, has reason to believe the misdemeanor is now occurring before him. The offense must be occurring while the officer is on the scene. Officers who are working together on a case may combine their collective perception so that if the composite otherwise satisfies the presence requirement that requirement is deemed satisfied although the arresting officer does not himself witness all the elements of the offense. (See *W.LaFave, Search and Seizure. A Treatise on the Fourth Amendment*, s.5.1 © at 28 (1996); *Commonwealth v. Zirpolo*, 37 Mass App. Ct. 307, 639 N.E. 2d 1083 (1994).

This of course does not mean arriving at the scene and being told about some misdemeanor that happened before your arrival. In the old English case of *Regina v. Tooley*, 2 Ld. Haynes 296(1301), Lord Chief Justice Holt states the rule as follows: A constable cannot arrest, but when he sees an actual breach of the peace, and, if the affray be over, he cannot arrest."

The case of *Commonwealth v. Thomas R. Conway*, 316 N.E. 2d 757 (1974) illustrates this point. The defendant was arrested for knowingly using a motor vehicle without authority of the owner. The court ruled the arrest unlawful because the officers arrived on the scene fifteen minutes after the automobile had been in use, the officers did not see the defendant in the vehicle, and the offense is a misdemeanor.

## V. POWERS & DUTIES OF POLICE OFFICERS

Chapter 41, Section 98 of the Massachusetts General Laws (M.G.L.), is that part of the law where police officers obtain their powers and duties.

### **M.G.L. Chapter 41 Section 98.**

The chief and other police officers of all cities and towns shall have all the powers and duties of constables except serving and executing civil process. They shall suppress and prevent all disturbances and disorder. They may carry within the commonwealth such weapons as the chief of police or the board or officer having control of the police in a city or town shall determine; provided, that any law enforcement officer of another state or territory of the United States may, while on official business within the commonwealth, carry such weapons as are authorized by

his appointing authority. They may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more persons, and may enter any building to suppress a riot or breach of peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled and who do not disperse when ordered, and persons making, aiding and abetting in a riot or disturbance may be arrested by the police, and may thereafter be safely kept by imprisonment or otherwise unless released in the manner provided by law, and taken before a district court to be examined and prosecuted.

Whoever is arrested and charged with any offense committed during a riot, disturbance or mass demonstration may be fingerprinted, in accordance with the protocol of the identification system of the department of the state police and may be photographed.

If a police officer stops a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If he finds such weapon or any other thing the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall return it, if lawfully possessed, or he shall arrest such person.

**M.G.L. Chapter 41 Section 98A.**

A police officer of a city or town who is empowered to make arrests within a city or town may, on fresh and continued pursuit, exercise such authority in any other city or town for any offence committed in his presence within his jurisdiction for which he would have the right to arrest within his jurisdiction without a warrant. Said officer may return any person so arrested to the jurisdiction wherein said offence was committed. Nothing contained in this section shall be construed as limiting the powers of a police officer to make arrests and in so far as possible this section shall be deemed to be declaratory of the common law of the commonwealth.

**M.G.L. Chapter 41 Section 98C.**

In any city or town which accepts the provisions of this section no uniformed police officer, and no other uniformed person empowered to make arrests, employed by such city or town shall be required to wear a badge, tag or label of any kind which identifies him by name, but any such officer or other person employed by such city or town who does not wear any such badge, tag or label shall wear a badge, tag or label which identifies him by number.

**M.G.L. Chapter 41 Section 98D.**

Each city or town shall issue to every full-time police officer employed by it an identification card bearing the officer's photograph and identifying information. The secretary of public safety and security may adopt regulations relative to the form, content and issuance of such identification cards and to the carrying thereof by municipal police officers. Such identification card shall be carried on the officer's person and shall be exhibited upon lawful request for purposes of identification.



348 Mass. 129

Supreme Judicial Court of Massachusetts, Middlesex.  
COMMONWEALTH

v.

John D. LAWTON (and a companion case).

Argued Oct. 5, 1964. Decided Dec. 1, 1964.

Defendants were convicted of breaking and entering in the nighttime and possessing burglarious instruments. The Superior Court, Gourdin, J., entered judgments and defendant appealed. The Supreme Judicial Court, Wilkins, C. J., held that officer who had learned of recent break and at once went to house involved, was told that occupant had seen man in heavy dark coat run out of back door and onto and across adjacent golf links toward designated street, who soon afterwards came upon defendant attired in heavy dark coat when temperature was between 85 and 90 degrees and who was rebuffed by obscene replies and outright refusal to answer when he attempted to interrogate defendant by way of brief threshold inquiry had reasonable cause to arrest on charge of breaking and entering, and defendant was not entitled to have evidence obtained in incidental search suppressed.

Judgments affirmed.

Before \*129 WILKINS, C. J., and SPALDING, WHITTEMORE, CUTTER, KIRK, SPIEGEL and REARDON, JJ.

Opinion

WILKINS, Chief Justice.

These two indictments, respectively for breaking and entering in the nighttime and for possession of burglarious implements (G.L. c. 266, §§ 15, 49), were tried before a judge sitting without jury. At the trial, which was made subject to G.L. c. 278, §§ 33A-33G, as amended, the defendant was convicted of both crimes, and has appealed. The errors assigned and argued are (1) to the denial of a motion to suppress evidence made before trial and heard by the same judge who presided at the trial; (2) to the denial of the same motion when renewed at the trial; and (3) to the denial of the defendant's request in each case for a finding of not guilty on all the evidence as matter of law.

\* 131 1. We summarize the evidence at the hearing of the motion to suppress before trial. The only witness was Officer Fitzsimmons of the Newton Police. On July 24, 1963, about 10:30 P.M. he was in a cruising car when he received information that a break had taken place at 67 Dorset Road, Waban. He learned this from a police radio dispatch to the effect that a woman had just called and reported that, as she entered her house, a man wearing a dark jacket ran out the back door toward the Braeburn Golf Course, which was right in back of the house. Officer Fitzsimmons went to the house where inspectors were interviewing the occupants. Officer Fitzsimmons learned from other officers that the man had run across the golf course toward Fuller Street. About 11:20 P.M. Officer Fitzsimmons, alone in the cruising car, saw the defendant standing at a bus stop at the corner of Commonwealth Avenue and Washington Street,

West Newton. This was about two blocks from the Fuller Street entrance of the golf course and a mile from the house where the break occurred. The temperature was very hot, between eighty-five and ninety degrees. The defendant was wearing a heavy black jacket. Officer Fitzsimmons asked him why he was standing there. The defendant in obscene language replied that it was none of the officer's business. Upon being asked his name, the defendant made the same answer. To a question as to where he was coming from, the defendant said 'the Newton-Wellesley Hospital,' and that if the bus should come, he was going to get on it. Officer Fitzsimmons called by radio for the sergeant in charge at the station, who arrived in a 'cruiser' with another officer. Officer Fitzsimmons then arrested the defendant for being abroad in the nighttime. See G.L. c. 41, § 98, as amended through St.1957, c. 688, § 1, entitled 'Powers and duties of police officers,' which reads \*\*826 in part: 'During the night time they may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whether they are going \* \* \*. Persons so suspected who do not give a satisfactory \*132 account of themselves\*\*\* maybe arrested \* \* \*.' The unlawful design of which Officer Fitzsimmons suspected the defendant was breaking and entering, but he was not charged with that until after he had been booked at the police station and searched. Officers there took from him a silver dollar in a plastic case which the lieutenant in charge knew had come from a break and was later identified as coming from 67 Dorset Road. The officers also took from the defendant a bag which contained a claw hammer, punch set, screw driver, chisel, a pair of gloves, a pair of rubber-soled shoes, and two flashlights, one a wink light identified as taken in a previous break in Waban. The defendant did not answer any of the 'regular booking questions,' and did not give his name until after two hours, namely, at 1:30 A.M.

12 The defendant argues that the denial of the motion was error, because G.L. c. 41, § 98, is unconstitutional in so far as it authorizes a police officer to make an arrest for being abroad in the nighttime. This, it is contended, is contrary to the Fourth Amendment to the Constitution of the United States, as permitting an arrest 'on suspicion.' It is also argued that § 98 is unconstitutionally vague 'as affording no guidance to the police officer, who is the sole judge as to whether a person gives a satisfactory account of himself. We shall not decide these questions because there was probable cause for arrest for breaking and entering. To be sure, the police officer, who was a layman and not a legal technician, did not state this to be the ground of arrest during the nighttime encounter on the city streets. But the citizens of the Commonwealth, whom the police are organized and exist to protect, and the Commonwealth should not be conclusively bound or limited by the officer's choice of words made subjectively in the active execution of his duties. A police officer in the solution of a crime and in the presence of one he thinks committed it is not a judge with time for mature consideration. On the contrary, his position more nearly resembles that of a sentry at his post in time of war. Upon his alertness and judgment depends the \*133 safety of the many. Officer Fitzsimmons was confronted by a practical problem calling for an immediate exercise of judgment. Without delay he had to reach a decision as to whether he had probable cause to hold the defendant or whether he must let the defendant go, an action which might finally and conclusively eliminate the defendant from the case. If the facts known to the officer reasonably permitted a conclusion that probable cause existed for a charge of breaking and entering, the arrest should be treated as legal even though he at first assigned another ground. *Sec Brinegar v. United States*, 338 U.S. 160, 174-176, 69 S.Ct. 1302, 93 L.Ed. 1879.



3 We are of opinion that the combination of facts known to Officer Fitzsimmons reasonably permitted such a conclusion. He had learned of a recent break from his superiors and at once went to the house. He was told that a female occupant had seen a man in a heavy dark coat run out of the back door and onto and across the adjacent golf links toward Fuller Street. Soon after, while searching in the vicinity of the Fuller Street entrance to the golf course, he had come upon the defendant attired in a heavy dark coat. He could reasonably conclude that not many men would be abroad that night in that vicinity attired in an article of clothing so unsuited to a temperature of eighty-five to ninety degrees. He followed the elementary and highly reasonable course of attempting to interrogate the defendant by way of a brief threshold inquiry. See \*\*827 Commonwealth v. Lehan, Mass., 196 N.E.2d 840.1 He was rebuffed by obscene replies and outright refusals to answer. This reception by the defendant was much more suspicious than that of the 'unconvincing reply' (p. 87) which was made to the police officer in Bell v. United States, 102 U.S.App.D.C. 383, 254 F.2d 82, cert. den. 358 U.S. 885, 79 S.Ct. 126, 3 L.Ed.2d 113. For other Federal cases of unsatisfactory replies to police officers, see Ellis v. United States, 105 U.S.App.D. C. 86, 264 F.2d 372, cert. den. 359 U.S. 998, 79 S.Ct. 1129, 3 L.Ed.2d 986; Robinson v. United States, 109 U.S.App.D.C. 22, 283 F.2d 508, cert. den. 364 U.S. 919, 81 S.Ct. 282, 5 L.Ed.2d 259, cert. den. sub nom. Dawson v. United States, 365 U.S. 827, 81 S.Ct. 716, 5 L.Ed.2d 707, cert. den. sub nom. Williams v. United States, 365 U.S. 830, 81 S.Ct. 718, 5 L.Ed.2d 708; Campbell v. United States, 110 U.S.App.D.C. 109, 289 F.2d 775.

\*134 2. The evidence at the trial was not substantially different from that at the hearing on the motion before trial. The defendant does not argue that it was. In fact he argues both motions simultaneously.

The renewed motion was rightly denied.

45 3. The bag, the articles in it, and the silver dollar were discovered in a reasonable search incident to a lawful arrest. Commonwealth v. Holmes, 344 Mass. 524, 525, 183 N.E.2d 279, and cases cited. They were admissible in evidence and with the other testimony were ample to prove the crimes charged.

6 4. The defendant contends that Marjory M. Alberts testified that the house and the articles taken were hers. The indictment for breaking and entering charges that the house and articles belonged to Sidney Alberts, her husband. This was not a variance. See G.L. c. 277, §§ 25, 35; c. 278, § 9. The property, both real and personal, could be found to have been in the actual or constructive possession of the husband. Commonwealth v. Binkiewicz, 342 Mass. 740, 748-749, 175 N.E.2d 473. See Commonwealth v. McLaughlin, 103 Mass. 435, 436.

5. The requests for findings of not guilty were rightly denied.

Judgments affirmed.

All Citations

348 Mass. 129, 202 N.E.2d 824

**COMMONWEALTH**

v.

**GORMAN**

288 Mass. 294

Supreme Judicial Court of Massachusetts, Worcester.

Nov. 2, 1934.

Report from Superior Court; Worcester County; Buttrick, Judge.

T. Francis Gorman was convicted of operating a motor vehicle on a way while under the influence of intoxicating liquor. On report by a judge of a district court sitting in the Superior Court under statutory authority.

Verdict to stand.

**Opinion**

LUMMUS, Justice .

The defendant, having in his possession a license to operate motor vehicles, was arrested without a warrant by a state police officer, who found the defendant in the act of operating a motor vehicle upon a way while under the influence of intoxicating liquor. G.L. (Ter. Ed.) c. 90, § 24, as amended by St. 1932, c. 26. After being committed to the lockup, the defendant gave bail for his appearance before the District Court. The recognizance, we assume, conformed to G. L. (Ter. Ed.) c. 276, § 65. After complaint against the defendant had been made to the District Court, the arresting officer failed to 'endorse upon the complaint a statement of his doings,' as required by G. L. (Ter. Ed.) \*296 c. 218, § 34. No warrant was issued, an arrest on which might have validated the continuance of a custody invalid before. *Kelly v. Griffin*, 241 U. S. 6, 36 S. Ct. 487, 60 L. Ed. 861; *Stallings v. Splain*, 253 U. S. 339, 343, 40 S. Ct. 537, 64 L. Ed. 940.

In the District Court, before pleading to the merits of the complaint, the defendant made a motion to quash the complaint and also filed a 'plea to the jurisdiction,' based on the alleged unlawfulness of the arrest and of the procedure in bringing him before the court.' These were overruled, and the defendant was convicted. On appeal to the Superior Court, he renewed the motion and the plea. These were again overruled, and after trial a verdict of guilty was returned.

A fine was imposed (see *Commonwealth v. McCan*, 277 Mass. 199, 200, 178 N. E. 633, 78 A. L. R. 1208 ; *Commonwealth v. Boston & Maine Transportation Co.*, 282 Mass. 345, 346, 185 N. E. 40; compare *Commonwealth v. Baldi*, 250 Mass. 528, 537, 146 N. E. 11), the execution of the sentence was suspended, and the judge reported the questions which the defendant sought to raise by the motion and the plea, namely, whether the arrest was unlawful and whether any illegality in the arrest and in the failure to indorse a return upon the complaint entitled the defendant to be discharged instead of being tried and convicted.

1 The defendant contended that the right of an officer to arrest without warrant for an offence relating to the operation or control of motor vehicles is limited by G. L. (Ter. Ed.) c. 90, § 21, to the arrest of an operator who does not have in his possession a license to operate motor vehicles; and that only an investigator or examiner appointed by the registrar of motor vehicles may arrest without a warrant, for the offence of operating a motor vehicle while under the influence of intoxicating liquor, one who possesses such a license .

We think, however, that the statute relied on does not by implication, cut down the common law authority of an officer. State police officers have throughout the Commonwealth 'all the powers of constables, except the service of civil process, and of police officers and watchmen.' G.L. (Ter. Ed.) c. 22, § 9A. Constables have common \*297 law power as peace officers to make arrests without warrant in cases in which such arrests are permitted by law. *Hartley v. Inhabitants of Granville*, 216 Mass. 38, 102 N. E. 942, 48 L. R. A. (N. S.) 392, Ann. Cas. 1915A, 725; *Commonwealth v. Hastings*, 9 Metc. 259. In *Sharrock v. Hannemer*, Cro. Eliz. 375, 376, Beaumont [Beaumont], J., said, 'A constable and sheriff are conservators of the peace at the common law.'

The offence of operating a motor vehicle while under the influence of intoxicating liquor is classified by our statute as a misdemeanor, G. L. (Ter. Ed.) c. 274, § 1; chapter 90, § 24, as amended by St. 1932, c. 26. For the common law, see *Commonwealth v. Carey*, 12 Cush. 246, 252; *Jones v. Robbins*, 8 Gray, 329, 347-350 ; *Kurtz v. Moffitt*, 115 U. S. 487, 499, 6 S. Ct. 148, 29 L. Ed. 458. A peace officer, in the absence of statute (*Commonwealth v. Wright*, 158 Mass. 149, 159, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475; *Creeden v. Boston & Maine Railroad*, 193 Mass. 280, 79 N. E. 344, 9 Ann. Cas. 1121), may arrest without warrant for a misdemeanor which (1) involves a breach of the peace (2) is committed in the presence or view

of the officer (*Commonwealth v. McLaughlin*, 12 Cush. 615; *McLennan v. Richardson*, 1k Gray, 74, 77 Am. Dec. 353; *Commonwealth v. Ruggless* 6 Allen, 588, 590; *Carroll v. United States*, 267 U. S. 132, 156, 157, 45 S. Ct. 280. 69 L. Ed. 543, 39 A. L. R. 790), and (3) is still continuing at the time of the arrest or only interrupted, so that the offence and the arrest form parts of one transaction (*Commonwealth v. Hastings*, 9 Mete. 259, 263; *Leddy v. Crossman*, 108 Mass. 237; *Scott v. Eldridge*, 154 Mass. 25, 27 N. E. 677, 12 L. R. A. 379; *Eldredge v. Mitchell*, 214 Mass. 480, 483, 102 N. E. 69; *Price v. Seeley*, 10 CL & F. 28; *R. v. Light*, 7 Cox C. C. 389. See, also, Am. Low Inst. Restatement, Torts, §§ 119, 121, 140, 141). In *R. v. Tooley*, 2 Ld. Ray. \*\*620 1296, 130 l; *Id.*, 11 Mod. 242, 250, Lord Holt states the rule as follows; A constable cannot arrest but where he sees an actual breach of the peace; and if the affray be over,\*\*\* he cannot arrest.' In the same case, reported in Holt 485, 490, sub-nomine. The Case of the Reforming Constables, his statement reads, 'A constable may arrest a man that breaks the peace in his view, but if it be done out of his view, he cannot.' In the present case the only point upon which there can be doubt as to the right to arrest without warrant, is whether the offence involves a breach of the peace.

298 The breach of the peace that justifies arrest for a misdemeanor without warrant must be something more than that which used to be alleged in indictments and complaints as a legal incident of every criminal offence. See *G. L. (Ter. Ed.) c. 277, § 33*. Not every misdemeanor involves a breach of the peace. For example, the possession of short lobster involves none, *Commonwealth v. Wright*, 158 Mass. 149, 159, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475; Voluntary drunkenness in private, though a crime (*Commonwealth v. Conlin*, 184 Mass. 195, 68 N. E. 207), is not of itself a breach of the peace (*Commonwealth v. O'Connor*, 7 Allen, 583). Compare statutory rights of arrest for drunkenness. *G. L. (Ter. Ed.) c. 272, § 44*; *Commonwealth v. Cheney*, 141 Mass. 102, 6 N. E. 724, 55 Am. Rep. 448; *Trebeck v. Croudace*, [1918] 1 K. B. 158. On the other hand, an affray or assault is a typical breach of the peace. *Commonwealth v. Tobin*, 108 Mass. 426, 429, 11 Am. Rep. 375; *Leddy v. Crossman*, 108 Mass. 237. In *Ford v. Breen*, 173 Mass. 52, 53 N. E. 136, violent, profane and obscene language used in a dwelling to the annoyance of persons outside was deemed a breach of the peace. See, also, *Commonwealth v. Foley*, 99 Mass. 497; *Commonwealth v. Oaks*, 113 Mass. 8. This case does not require us to draw the line among conflicting decisions in other jurisdictions for the purpose of classifying offences as involving a breach of the peace, or not. It is worth notice, however, that in *United States v. Hart*. Fed. Cas. No. 15,316, Pct. C. C. 390, Washington, J., held that driving a carriage at an immoderate rate of speed through a principal street was a breach of the peace, justifying an arrest by a constable without a warrant.

If there is a present criminal offence (*Quinn v. Heisel*, 40 Mich. 576), the breach of the peace that justifies arrest without a warrant may be a prospective or anticipated one. An officer, who sees a person committing a misdemeanor of such a sort that a breach of the peace is likely to follow unless the offender be restrained, need not delay an arrest until the harm has been done, nor limit his acts of restraint or detention to those which may be necessary merely to prevent the expected breach. *Commonwealth v. Hastings*, 9 Mctc. 259, 263. We think that the dictum of *Banks, L. J.*, in *Trebeck v. \*299 Croudace*, [1918] 1 K. B. 158, 166, states the common law. He said: 'From the very nature of things the arrest of a drunken person in the street may very frequently be justified on the ground of an anticipated breach of the peace, and particularly so when the alleged offender is in charge either of a loaded gun, or of a motor vehicle, both very dangerous instruments from the point of view of the public safety when in the hands of a drunken person.' The only difference between the case so stated, and the present case, is that the charge against the present defendant was not that he was intoxicated or in a drunken condition, but merely that he was under the influence of intoxicating liquor. *Commonwealth v. Lyseth*, 250 Mass. 555, 558, 146 N. E. 18; *State v. Rodgers*, 91 N. J. Law, 212, 215, 102 A. 433. But even that milder degree of alcoholic effect is likely to make an operator of a motor vehicle a public menace, and to induce in him such reckless conduct as may make him criminally responsible for unintended assault and even manslaughter. *Banks v. Braman*, 188 Mass. 367, 369, 74 N. E. 594; *Commonwealth v. Arone*, 265 Mass. 128, 163 N. E. 758. In our opinion, the offence involves a breach of the peace, and justifies an officer in arresting without a warrant a person whom he sees in the act of committing it.

Because of its public importance, we have dealt with the lawfulness of the arrest. But there is another answer.

Mr. Justice Holmes said, in *Michigan Trust Co. v. Ferry*, 228 U. S. 346, 353, 33 S. Ct. 550, 552, 57 L. Ed. 867: 'Ordinarily jurisdiction over a person is based on the power of the sovereign asserting it to seize that person and imprison him to await the sovereign's pleasure.' In criminal cases, an arrest, upon a warrant or without warrant, is the usual means of bringing defendants before the court, and the alternative method of summons in minor cases is comparatively new. St. 1881, c. 127, § 1, G. L. (Ter. Ed.) c. 276, § 24. In the eighteenth century, civil actions were regularly begun, in practice if not in theory, by arrest upon a *capias writ*. 9 Holdsworth, Hist.

Eng. Law, 250 et seq. In carefully restricted \*\*621 form this practice still survives. G.L. (Ter. Ed.) cc. 224, 226. When the court has jurisdiction over the case, and the defendant is physically \*300 before the court to answer to the plaintiff a possible view is that the unlawfulness of the arrest that brought the defendant there is immaterial in that case, and that the court will proceed to try the merits, leaving the defendant to the remedy of an action against the arresting officer. This view has been taken in some jurisdictions even in civil cases. *More v. Earl Rivers*, Style, 222; *O'Keefe v. Delaney*, 31 New Brunswick, 299, 303; *McNab v. Bennett*, 66 Ill. 157, 161; Compare, however, *Willington v. Steams*, 1 Pick. 497; *Illsley v. Nichols*, 12 Pick. 270, 275 et seq., 22 Am. Dec. 425; *Baker v. Copeland*, 140 Mass. 342, 4 N. E. 606. This view is not necessarily inconsistent with the doctrine that an arrest or other service obtained through the act of the plaintiff in bringing the defendant into the State by force or fraud will not give the court jurisdiction over him, the reason given being that the plaintiff will not be allowed to take advantage of his own wrong. *Ex parte Johnson*, 167 U.S. 120, 126, 17 S. Ct. 735, 42 L. Ed. 103; *Ex parte Taylor*, 29 R. I. 129, 69 A. 553. See, also, *Paine v. Kelley*, 197 Mass. 22, 83 N. E. 8; *Diamond v. Earle*, 217 Mass. 499, 105 N. E. 363, 51 L. R. A. (N. S.) 1178, Ann. Cas. 1915D, 984; *Lamb v. Schmitt*, 285 U. S. 222, 52 S. Ct. 317, 76 L. Ed. 720.

Even though the view just stated be not taken in civil cases, it may nevertheless be adopted in criminal cases. The latter concern directly the public peace and order, and are prosecuted by the Commonwealth, to which the wrongdoing of its officers cannot be attributed. It is true that earlier cases in this court are not fully decisive, for in them the defendant had waived the point by pleading to the merits and going to trial, instead of saving the point by a plea such as was filed in the present case. *Commonwealth v. Oakes*, 151 Mass. 59, 60, 23 N. E. 660, and cases cited. *Commonwealth v. Murphy*, 155 Mass. 284, 286, 29 N. E. 469; *Commonwealth v. Tay*, 170 Mass. 192, 48 N. E. 1086; *Commonwealth v. Conlin*, 184 Mass. 195, 68 N. E. 207; *Flito's Case*, 210 Mass. 33, 95 N. E. 971. See, also, *Ford v. United States*, 273 U.S. 593, 606, 47 S. Ct. 531, 71 L. Ed. 793; *State v. Rosenblum*, 102 N. J. Law, 125, 130 A. 614; *State v. Baker*, 102 N. J. Law, 349, 133 A. 785; *State v. McClung*, 104 W. Va. 330, 140 S. E. 56 A. L. R. 260. But it is intimated in *Commonwealth v. Wait*, 131 Mass. 417, 419, *Commonwealth v. Wright*, 158 Mass. 149, 155, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475, and *Commonwealth v. Tay*, 170 Mass. 192, 48 N. E. 1086, and we think it is the law, that where a defendant is physically before the court upon a complaint or indictment, \*301 either because he is held in custody after an arrest or because he has appeared in person after giving bail, the invalidity of his original arrest is

immaterial, even though seasonably raised. 2 Hawk. P. C., c. 27, § 102; Starkie, Crim. Pl. (2d Ed.) 297; Hawkins, J., in *R. v. Hughes*, 4 Q. B. D. 614, 625, et seq.; *People v. Eberspacher*, 79 Hun, 410, 29 N. Y. S. 796; *People v. Snell*, 216 N. Y. 527, 111 N. E. 50, Ann. Cas. 1917D, 222. Compare *Albrecht v. United States*, 273 U.S. 1, 8-11, 47 S. Ct. 250, 71 L. Ed. 505. It has even been held that a defendant brought within the jurisdiction by unlawful force or fraud may be tried for crime. *Pettibone v. Nichols*, 203 U. S. 192, 27 S. Ct. 111, 51 L. Ed. 148, 7 Ann. Cas. 1047; 18 A. L. R. 509, note. See, also, *Commonwealth v. Wright*, 158 Mass. 149, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475; *Lascelles v. State of Georgia*, 148 U.S. 537, 13 S. Ct. 687, 37 L. Ed. 549; *Morse v. United States*, 267 U. S. 80, 45 S. Ct. 209, 69 L. Ed. 522.

In reaching this result we have not relied upon any condition in the recognizance requiring the defendant to appear and abide the sentence. See *Brown v. Getchell*, 11 Mass. 11; *Baker v. Copeland*, 140 Mass. 342, 4 N. E. 606; *Lane v. Holman*, 145 Mass. 221, 223, 13 N. E. 602; *Everett v. Henderson*, 146 Mass. 89, 14 N. E. 932, 4 Am. St. Rep. 284; *Simmons v. Richards*, 171 Mass. 281, 50 N. E. 617; *Washington National Bank v. Williams*, 188 Mass. 103, 106, 74 N. E. 470; *Mann v. Cook*, 195 Mass. 440, 81 N. E. 286; *People v. Shaver*, 4 Park. Cr. R. (N. Y.) 45; *Sedgewick v. Houston*, 9 Houst. (Del.) 113, 32 A. 12, 43 Am. St. Rep. 165; *Dickinson v. Farwell*, 71 N. H. 213, 51 A. 624; *Albrecht v. United States*, 273 U. S. 1, 9, 47 S. Ct. 250, 71 L. Ed. 505.

5 The return which should be indorsed upon the complaint in the case of an arrest without a warrant (G. L. [Ter. Ed.] c. 218, § 34), is not essential to the validity of the complaint. It relates only to the service or means by which the defendant is brought before the court. Where, as in this case, the defendant is physically before the court for trial, an omission to make return of the arrest avails him no more than illegality in the arrest itself.

Verdict to stand.





# CONSTITUTIONAL LAW RECRUIT CLASS 59-19

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## **First Amendment**

### **United States Constitution Amendment I**

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances

### **Massachusetts Declaration of Rights**

#### **Article XVI**

The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth. The right to free speech shall not be abridged.

#### **Article XIX**

The people have the right, in an orderly and peaceable manner, to assemble to consult the common good: give instructions to their representatives, and request the legislative body, by way of addresses, petitions, or remonstrance's, redress the wrongs done them, and grievances they suffer.

The four freedoms guaranteed by the First Amendment are: speech, press, assembly and religion. In the course of their duties police officers generally deal with issues regarding freedom of speech, assembly and on a limited basis, press. Police Officers have the difficult duty of achieving the balance between protecting these rights and maintaining order in the community. In maintaining order in the community nothing can replace the sound judgment of a reasonable, prudent and well-trained police officer. Using this judgment the officer simply has to balance the context of the activity with its likely result. Therefore conduct that would fall short of death, injury or property damage should be tolerated. Riot, mob-rule and malicious destruction should not. Civil disobedience may be tolerated, but criminal disobedience is not.

## **FREEDOM OF SPEECH**

### **Protected Activity**

#### **Speech -**

Freedom of speech means that individuals have the right to advocate their ideas. No matter how unpopular that idea is, it is protected by the First Amendment. Case law has developed the proposition that speech alone, without more, is protected. Words which some may consider to be crude, offensive, abusive or vulgar, cannot be made the subject of criminal sanctions.<sup>1</sup> Although certain four-letter words may be distasteful, "one man's vulgarity is another man's lyric,"<sup>2</sup> and no arrest can be made for the use of such words. One of the hallmarks of a free society is tolerance for the expression of ideas that may seem undemocratic or even dangerous. So it is that "freedom to think as you will and speak as you think are means indispensable to the discovery of and spread of political truth."<sup>3</sup> The short of it is, if all we have is going on is "words" the speaker will be protected. Generally, a person cannot be arrested for making a speech, or for his choice of words. There are exceptions to this general rule, which will be discussed shortly. Additionally peaceful begging has been ruled a communicative activity protected by the First Amendment in Massachusetts.<sup>4</sup>

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<sup>1</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>2</sup> *Cohen v. California*, 91 S.Ct. 1780 (1971).

<sup>3</sup> *Whitney v. California*, 47 S.Ct. 641 (1927)

<sup>4</sup> *Benefit v. City of Cambridge*, 424 Mass 918 (1997).

**Symbolic Speech -** Symbolic speech is also protected. It has been defined as acts which communicate ideas.<sup>5</sup> Various hand gestures, such as thumbs up, thumbs down, raising the middle finger, etc. come to mind. The wearing of black armbands to protest a war,<sup>6</sup> swastikas,<sup>7</sup> and burning a flag<sup>8</sup> are all forms of protected of symbolic speech and are protected. The First Amendment protects not only speech itself, but also other expressive conduct that is "intended to convey a particular message" under circumstances in which "the likelihood is great that the message would be understood by those who view it".<sup>9</sup>

### **Unprotected Activity**

**Fighting Words -** One form of speech that is not protected is "fighting words."<sup>10</sup> This concept is defined as words, which by their very nature tend to inflict injury or tend to incite an immediate breach of the peace. The test for fighting words is the effect that they have on an ordinary citizen. They must be a personally abusive epithet which, when addressed to the ordinary citizen, are as a matter of common knowledge, likely to provoke a violent reaction.<sup>11</sup> In order to arrest a speaker under these circumstances an officer must be prepared to show that a violent reaction was likely. If a fight does occur, constitutional issues can be avoided by charging the combatants with assault and battery. An officer need not wait until the fight is in progress. When there is an immediate threat to public safety, peace or order, the power of the State to prevent or punish it is obvious.

The fighting word concept does not apply when they are addressed to a police officer. This is so because an officer is trained to exercise a higher degree of restraint than the average citizen.<sup>12</sup> On the other hand, conduct accompanied by speech directed to police officers that actually disrupts or obstructs them in the performance of their duty is not protected by the First Amendment.

<sup>5</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>6</sup> *Tinker v. Des Moines Independent Community School District*, 89 S. Ct. 733 (1969).

<sup>7</sup> *National Socialist Party v. Village of Shokie*, 97 S.Ct. 2205, (1977).

<sup>8</sup> *Texas v. Johnson*, 109 nS. Ct. 2533, (1989).

<sup>9</sup> *Spence v. Washington*, 94 S.Ct. 2727, (1974).

<sup>10</sup> *Chaplinsky v. New Hampshire*, 62 S.Ct. 766 (1942).

<sup>11</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>12</sup> *Lewis v. City of New Orleans*, 94 S.Ct. 970 (1974).

Speech Plus - Another form of speech not protected by the First Amendment is "speech plus." This is defined as speech, which will incite immediate criminal activity.<sup>13</sup> When words are used in such circumstances and are of a nature as to create a clear and present danger that they will bring about substantive evils, the government may act.<sup>14</sup> An officer must be able to show either that an immediate serious violence was to be expected or was advocated or that past conduct furnished reason to believe that such advocacy was then contemplated.<sup>15</sup> We are not talking about speech that causes unrest, dissatisfaction or that stirs people to anger. Such speech is protected. We are talking about speech that advocates violence. Such speech can be prohibited only when it is directed to inciting imminent lawless action and is likely to produce such action.<sup>16</sup> We are talking about speech that is likely to produce imminent disorder, speech that incites lawless action, speech that will result in violence. A spectator who says "we'll take the fucking streets later" is protected.<sup>17</sup> For his speech to reach the "speech plus" category, the speaker must be inciting lawless action.

## FREEDOM OF ASSEMBLY

When you think about it, the right to assembly is the right to free speech in a group. People have a right to gather and discuss their ideas and advocate those ideas jointly. As long as this is done in a peaceful manner, it is of no concern to the police. When the exercise of the right to assembly comes into conflict with the enjoyment of other well recognized rights: the police are often called to resolve the conflict. Some give and take is expected. Participants in the Boston Marathon, the Patriot' Super Bowl celebration, various parades and walks for charities , have all gathered and no doubt have annoyed non-participants. People also gather for political purposes.

City streets, sidewalks and parks are public forums. They are recognized as normal places for exchange of ideas. This does not mean that the freedom is beyond all control. Government may regulate the time, place and manner of assembly if there is a strong rational reason, unrelated to the suppression of free expression.<sup>18</sup> Such as traffic flow and public safety.

<sup>13</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>14</sup> *Schenck v. United States*, 39 S.Ct. 247, (1919).

<sup>15</sup> *Whitney v. California*, Ibid.

<sup>16</sup> *Brandenburg v. Ohio*, 89 S.Ct. 1827 (1969).

<sup>17</sup> *Hess v. Indiana*, 94 S.Ct. 326, (1973).

<sup>18</sup> *O'Brien v. United States*, 88 S.Ct. 1673, (1968).

Occasionally, a group will gather that is hostile to the speaker and/or his views. It is the duty of the police to protect him from imminent spectator violence with reasonable crowd control techniques. However, the police may suppress otherwise constitutionally protected speech if imminent spectator violence cannot be satisfactorily prevented or curbed by means of reasonable crowd control techniques and if the speech itself is the apparent cause of the impending disorder. It is not a constitutional principle that, in acting to preserve order, the police must proceed against the crowd whatever its size and temper and not against the speaker.<sup>19</sup> The danger must be real, not just generalized police fears of violence.

Public property, which is not a traditional forum for public discussion and which is used for government business can be regulated to a greater degree. In addition to time, place and manner regulations, the state may reserve the forum for its intended purposes. When government property is not dedicated to open communication the government may restrict its use to those on official business.<sup>20</sup> The state has the power to preserve the property under its control to the use for which it was lawfully dedicated. Thus, conduct which interferes with the activity of a draft board, welfare office, school or court proceeding can be prohibited. Obviously, there is no right to uninvited access to private property, even business property. The Massachusetts Supreme Judicial Court has stated that the Massachusetts Declaration of Rights allows limited access to common areas of shopping malls for election related activity (distribution of campaign literature, gathering signatures) only. The management of the shopping malls may place reasonable time, place and manner restrictions on this activity.<sup>21</sup>

Massachusetts General Law, Chapter 269, sections 1, 2, and 4 make it a crime for five or more persons, being armed with clubs or other dangerous weapons, or ten or more persons, whether armed or not, to unlawful, riotously or tumultuously assemble. If they do not immediately and peacefully disperse upon command of the police or other officials in the name of the commonwealth, they may be arrested and charged with unlawful assembly. These statutes have their origin in common law. They contemplate a meeting with intent to commit a crime by open force, or to execute a common design, lawful or unlawful, in an unauthorized manner likely to cause courageous people to apprehend a breach of the peace. It must be such to alarm reasonable persons.

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<sup>19</sup> *Niemotko v. Maryland*, 71 S.Ct. 328, (1951).

<sup>20</sup> *Adderly v. Florida*, 87 S.Ct. 242, (1966).

<sup>21</sup> *Batchelder v. Allied Stores International, Inc.*, 388 Mass 83, (1983).

## **DISTURBING THE PEACE, DISORDERLY PERSONS, RESISTING ARREST**

### **I. Introduction.**

The right of the people to express their views openly, no matter how unpopular they may be is undeniable. Freedom of speech is protected by the First Amendment to the U.S. Constitution, and Article 16 of the Massachusetts Declaration of Rights. Equally undeniable is the right of the people to assemble in an orderly and peaceable manner. Freedom of assembly is protected by the First Amendment to the U.S. Constitution, and Article 19 of the Massachusetts Declaration of Rights. When the right of the people to express their views openly comes into conflict with the enjoyment of other well recognized rights of individuals, however, the police are often called to the scene to resolve the conflict. Three options that may be used to resolve such conflicts are discussed below.

### **II. Disturbing the Peace.**

Disturbing the peace is a common law crime, which has an express statutory penalty under G.L. c. 272, s. 53. This crime prohibits activities which:

1. Most people find to be unreasonably disruptive; and
2. Which do in fact infringe on someone's right not to be disturbed.

This crime carries a right of arrest, if it occurs in the officer's presence and in a public place under G.L. c. 272, s. 54. Under common law, this crime is a misdemeanor, which amounts to a breach of peace, in either a public or private place, for which an officer would have an in presence right of arrest. This charge would be appropriate in every case in which a "disorderly" arrest could also be made, and would be the required charge when disruptive activity could not be properly charged as "disorderly."

**Example:** Those who block a public street or highway to which the public has an easement of passage, and thereby interfere with this easement are creating a nuisance. Those blocking the street would be considered disturbers of the peace under the common law, since their conduct tends to annoy anyone present and not favoring it, and they could be so charged. The fact that the police are called to the scene is indicative that citizens are annoyed.



### **III. Disorderly Persons.**

This crime is punishable under G.L. c. 272, s. 53. The elements of the crime of a disorderly person are defined as

Persons who, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating the risk thereof:

1. Engage in fighting or threatening, or in violent or tumultuous behavior, or
2. Create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

This statute carries both a common law, and statutory right of arrest under G.L. c. 272, s. 54. It must occur in the officer's presence **and** on a public way or other public place. A charge of disorderly person can only be applied to conduct which involves no lawful exercise of the federal or state constitutional rights noted above in Section I.

Generally speaking, if a person's activity consists of speech alone, it will be protected. However, speech might be prohibited if it consists of "fighting words" that by their very utterance inflict injury; or "speech plus" words that tend to incite an immediate breach of the peace.

### **IV. Resisting Arrest.**

Persons commit the crime of resisting arrest, under G.L. c. 268, s. 32B, if they knowingly prevent or attempt to prevent a police officer from effecting an arrest by:

1. Using or *threatening* to use physical force or violence against the police officer or another or:
2. Using any other means which creates a substantial risk of causing bodily injury to such police officer or another.

Those who physically interfere would also be subject to arrest as a Disorderly Person.

## **Fourth Amendment**

### **Amendment IV.**

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### **Article XIV, Declaration of Rights, Constitution of the Commonwealth of Massachusetts**

Every subject has a right to be secure from all unreasonable searches and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be nor previously supported by oath or affirmation; and if the order in the warrant to a Civil Officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

### **Introduction**

The Fourth Amendment comes into play daily as perform the functions of a police officer. The freedom against unreasonable searches and seizures will apply to almost every action that we take as a police officer. In the course of applying principles of criminal procedure we must analyze what course of action would be reasonable given all the facts of a certain situation.

### **Exclusionary Rule and Fruit of the Poisonous Tree**

The United States Supreme Court created the exclusionary rule in *Weeks v. United States*, 232 US 383 (1914) and applied the rule to the states in *Mapp v. Ohio*, 367 US 643 (1961). The exclusionary rule was created to deter improper police procedures and is used to remedy violations of the Fourth Amendment by police officers. Any evidence that is discovered by police in violation of an individual's rights granted by the Fourth Amendment is considered Fruit of the Poisonous Tree and will be suppressed in a court of law. In other words, any evidence obtained illegally by police officers will be excluded from use in the trial and prosecution of the arrested person.

## ARREST

The Fourth Amendment states "the right of people to be secure in their persons, house, papers and effect". The following discussions on Arrest and Threshold Inquiries will focus on that right of individuals to secure in their persons. When police officers seize an individual, either during an arrest or while conducting a threshold inquiry, the principles of the Fourth Amendment apply and must be followed.

During the Introduction to the Legal Process course an arrest was defined as the taking under real assumed authority, custody of another person for purposes of holding him to answer to a criminal charge or from preventing harm to himself or others. The Massachusetts Supreme Judicial Court has ruled that there are three elements that must be present in order for an arrest to occur (*Mass General Hospital v. Revere*, 385 Mass 772, 1982):

**Intent** - The court will use an objective test to determine if the police officer had the intent to arrest. Would a reasonable person feel free to leave under the circumstances? Based on the police officers words and actions if a reasonable person feels free to leave - there is no intention to arrest. If the reasonable person does not feel free to leave - there is an intention to arrest.

**Communication** - The second element in the definition of an arrest will be satisfied if based on the officer's words and actions that the person understands that he is being arrested. As human beings we communicate both verbally and non-verbally. Both forms of our communication process will be taken into account by the courts. Generally, we clearly state to the individual that they are under arrest. But our intent may be communicated non-verbally by placing the person in handcuffs and seating them in the back seat of our cruiser.

**Control** - There must be some type of physical restraint of the individual to satisfy the third element of an arrest. The physical constraints can be an actual seizure - some type of physical restraint (holding onto an individual, handcuffing, placing in the rear of the police cruiser). The control also can be constructive where an individual obeys the Officer's verbal commands and submits to their authority.

The exact moment of arrest is extremely important to police officers as certain rights may attach to the arrested person (right to use the telephone, right to know true grounds for the arrest, right to be examined for injuries, Jenkins hearing etc.). In order for an arrest to be lawful a police officer must have probable cause to believe that a crime has been committed, the offense must be arrestable and the officer must be within his jurisdiction.

Lawful Arrests consist of:

**I. Probable Cause** - Probable cause has been defined as the level of proof more than reasonable suspicion but less than proof beyond a reasonable doubt. Probable cause exists if a reasonable and prudent person would believe the arrested committed the crime charged. Police officers establish probable cause by personal observations and information received during the course of the investigation. In Massachusetts, police officers must satisfy a two prong test in order to use information received as a basis of probable cause - **RELIABILITY & BASIS OF KNOWLEDGE.**

In *Aguilar v. Texas*, 378 U.S. 108, (1964), and in *Spinelli v. United States*, 394 U.S. 410 (1969), the US Supreme Court stated that if an informant's tip is to be used as the basis for establishing probable cause, then two factors must be demonstrated.

First, the informant must be shown to be reliable. Some informants are considered to be reliable in themselves, i.e. police officers, known victims, or known witnesses to a crime. Another type of reliable informant is one who has given information in the past, which information has resulted in convictions, or an arrest and the seizure of contraband. Similarly, an informant who makes a declaration against penal interest (admits his own involvement in a crime) is also considered reliable.

Second, the informant must be shown to have a basis of knowledge concerning the information which he claims to possess. There must be facts to support his conclusions. These are the underlying facts upon which a neutral magistrate could determine the existence of probable cause.

If either "prong" of this two part test is missing, probable cause will not exist, unless the information is supplemented by other facts, such as corroboration by the officer's observations.

In *Illinois v. Gates*, 103 S.Ct. 2317 (1983), the US Supreme Court found this test to be too rigid, and adopted a "totality of the circumstances" test to determine probable cause. However, the Supreme Judicial Court of Massachusetts in *Commonwealth v. Upton*, 476 N.E.2d 548 (1985) held that the *Gates* test was "unacceptably shapeless and permissive" to satisfy the substantive protection required by article 14 of the Declaration of Rights of the Massachusetts Constitution.

Plainly speaking, officers in Massachusetts are required by the State Constitution to continue to apply the two-prong *Aguilar-Spinelli* test when using an informant's tip as the basis for probable cause. This test applies to arrest warrants and search warrants, as well as warrantless arrests, searches and/or seizures. If an officer is going to use an informant's tip as the basis for establishing probable cause, he must be prepared to show that the informant is reliable, and has a basis of knowledge.

2. **Arrestable Offenses** -As we learned in Intro to the Legal Process (Hogan's hand) a police officer has the right of arrest for:

- A. Felony - committed in his presence
- B. Felony - based on probable cause
- C. Misdemeanor - committed in his presence AND amounts to a breach of the peace
- D. Misdemeanor - the offense has a statutory right of arrest if committed in his presence
- E. Misdemeanor - the offense has a statutory right of arrest based on probable cause
- F. Arrest Warrant - An arrest warrant is an order by the court to arrest an individual and bring him to court to answer to a criminal charge. An arrest warrant must be based on probable cause - the judge or magistrate will make a probable cause determination after reviewing the written statement police officer applying for the warrant. The person's name, address, physical address and offense charged should be listed on the warrant. If the subject's name is not known, a detailed description must be included on the warrant. The suspect must be able to be identified with reasonable certainty. Officers do not need to have the warrant in their possession in order to make the arrest. Rather the officer must have knowledge that the warrant is in full force and effect. Police Officers must have an arrest warrant in order to enter a person's dwelling for a crime that has been completed. An officer must also have a reasonable belief that the location is the suspect's dwelling and that the suspect is present when the arrest warrant is executed. Exceptions to the requirement of an arrest warrant are: consent, fresh and continuous pursuit and exigent circumstances.

In order to fall under the fresh pursuit theory officer must be able to show the arrest in the dwelling resulted from pursuing the suspect into the dwelling and that getting an arrest warrant would not be practical. The pursuit must be part of a continuing investigation with no break

Exigent Circumstances are present if taking the time to get a warrant would be unreasonable and there is a necessity for immediate entry. Examples of exigent circumstances include injury, violence and destruction of evidence. The court has noted several factors when deciding on the issue of exigent circumstances (Comm v Vz iriyahiranpaiboon, 412 Mass 224, 1992 & Comm v. Forde, 367 Mass 798, 1975):

- 1. Crime involved violence/suspect was armed
- 2. Probable Cause has been established
- 3. Strong reason to believe suspect is in the dwelling
- 4. Suspect may escape if apprehension is delayed
- 5. Evidence will be destroyed, lost or moved

There may be situations that police officers have to enter a third party dwelling in order to arrest a person named in an arrest warrant. Without consent, exigency or fresh pursuit being present, officers must obtain a search warrant to enter the dwelling as well as the arrest warrant for the suspect.

3. **Jurisdiction** - Police officers may arrest a person named in an arrest warrant anywhere in Commonwealth. As a general rule police officer may exercise their police powers for warrantless arrests within their geographic boundaries. In order for a warrantless arrest to be valid outside these geographic boundaries it must fall within one of the following categories:
  - A. Fresh and continuous pursuit outside the Commonwealth - Mass General Law Chapter 276, Sections 10A-10D allows a police officer in fresh pursuit of a person wanted for a felony to continue into a bordering state to make the arrest. The person arrested must be brought in front of the court in the county where the arrest is made.
  - B. Fresh and continuous pursuit into other cities and towns - Mass General Law Chapter 41, Section 98A allows police officers to arrest an individual in any city or town for an offense that was committed in the officer's presence, occurred in his jurisdiction and was arrestable in his jurisdiction.
  - C. Boston, Brookline and Newton - Officers in Boston, Brookline and Newton have full police powers up to 500 yards into the territory of each others departments (Acts & Resolves of 1998, chapter 212).
  - D. Mutual Aid Agreements - Cities and towns may enter into mutual aid agreements (Mass General Laws Chapter 40, Section 8G). These agreements give the police officers the same powers of arrest that they have in their own municipality.
  - E. Request for Police Officers - Mass General Law Chapter 41, Section 99 authorizes the Chief or commander of a police department in one town to request that the Chief in another town send police officers to assist them. There does not have to be a written agreement in place between the two jurisdictions. The request for assistance must be made by the Officer-in-Charge to the Officer-in-Charge.
  - F. Transferred Authority - If an officer observes a crime being committed outside his jurisdiction he should contact the local police department and request and obtain permission to make the stop. (Comm v. Morrissey 422 Mass 1, 1996).

Use of Force - Police Officers are authorized to use a reasonable amount of force when effecting an arrest. The amount of force used must be reasonably necessary to make the arrest, overcome resistance and protect others present. Officers should be guided by their Department Policies governing the use of lethal and non-lethal force.

## THRESHOLD INQUIRY

One of the most valuable procedures available to police officers in performing their duties is the Threshold Inquiry. This procedure is a very useful tool, and when properly understood and utilized, it can be effective against the criminal suspect, yet protective of the citizen's state and federal Constitutional guarantees. Police Officers are authorized to conduct threshold inquiries by both statute and case law.

Mass General Law Chapter 41, Section 98 states in part "They may examine all persons abroad whom they have reason to suspect of unlawful design." "If a police officer stops a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon." The Massachusetts Supreme Judicial Court stated "we are of the opinion that MGL c 41, s. 98 constitutionally permits a brief threshold inquiry where suspicious conduct gives the officer reason to suspect the questioned person of unlawful design that is, that the person has committed, is committing, or about to commit a crime. What is reasonable within the principle of threshold inquiry must be decided in each case." (Comm v. Lehan, 347 Mass 197, 1964).

The United States Supreme Court addressed the issue in *Terry v. Ohio*, 392 U.S. 1 (1968). In *Terry* a 39 year veteran detective of the Cleveland Police Department was working in the downtown area, where he had worked for many years. He observed two men "that didn't look right." He continued to watch the men and saw walking back and forth looking in a jewelry store window several times. After one of the men looked in the window the men engaged in a conversation. After a while a third man entered the conversation. Believing they were about to rob the store the detective approached the men and asked some questions. Their responses to him were mumbled. He conducted a limited search of the outer clothing of each man and found a firearm on two of them. They were arrested and convicted of carrying concealed weapons. The Court stated in their opinion, "where a police officer observes unusual conduct which leads him reasonably to conclude in the light of his experience that criminal activity maybe afoot and that the persons whom he is dealing with may be armed and presently dangerous he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such person in an attempt to discover weapons which might be used to assault him.

## STOP

An officer may not stop every person whom he sees, but may stop those about whom he has a reasonable suspicion of unlawful design. Simply stated this means if an officer observes activity, which based on his training and experience, leads him to reasonable suspect that a person has, is, or is about to commit a crime, the officer may briefly detain that person to investigate.



This detention may be based on less than probable cause, but reasonable suspicion is more than a hunch or mere suspicion, or a good faith belief. Reasonable suspicion may be founded on an officer's personal observations, or may be based on information received, together with the reasonable inferences which may be drawn from those observations and/or information.

Because the stop is based on less than probable cause, it must be brief and not turn into a custodial situation normally associated with an arrest. There are no specific time limits as to how long a Threshold Inquiry may last. Such will be determined on a case by case basis as dictated by the total situation, what the courts call "the whole picture." The officer should make a common sense objective determination as to how he may quickly, yet thoroughly, confirm or dispel his suspicions.

An officer may use a reasonable amount of force while making the stop. The amount of force must only what is reasonably necessary to bring to suspect to a stop.

## **REASONABLE SUSPICION**

An officer may use the same facts and inferences in which he forms probable cause to form reasonable suspicion. The officer's suspicions must be based on specific and articulable facts. While one of the following examples alone is sufficient to rise to the level of reasonable suspicion, a combination of these examples may allow an officer to conduct a stop of a person.

- high crime area
- matches the description of a suspect
- in the area of a recently committed crime
- criminal record/reputation
- apprehension at the sight of police
- evasive answers
- flight from police
- unusual behavior
- time of day
- furtive gestures

## **FRISK**

Reasonable suspicion to conduct a threshold inquiry does not automatically allow police officers to conduct a frisk of the suspect. The officer must have objective articulable facts which lead him to believe that the person with whom he is dealing may be armed, and thus posed a threat to the officer or others, the officer may frisk that person. Generally, a frisk is limited to a pat down of the outer clothing, and the area within the immediate control of the person. The purpose of the frisk is for **PROTECTION**. It is done to discover weapons. A FRISK MAY NEVER BE CONDUCTED TO FIND EVIDENCE. During the course of a lawful frisk on officer feels an object and it is immediate apparent that the object is contraband, the officer may



seize it under the "plain feel" doctrine. If the officer has to manipulate the object in any way to determine what the object is, a search has taken place and will be judged on the higher level of proof - probable cause.

The frisk, like the initial stop, is based on a standard which is less than probable cause, it must not turn into a search. A frisk cannot extend into a pocket or inside articles carried by a person, except for unlocked hard containers (i.e. brief cases) which are incapable of being squeezed.

## **PURSUIT**

In Massachusetts "the stop starts when pursuit begins." Officers must have reasonable suspicion at the beginning of the pursuit in order to justify it. Officers cannot use any facts or evidence that are obtained after they have initiated pursuit of a suspect. A pursuit is the functional equivalent of a seizure if the officer asserts his authority and a reasonable person would not feel free to leave without answering the officer's inquiry.

Officers may not seize a person by running after him. "Observation without activation of sirens or flashers, without command to halt, without display of weapons and without operation of the police cruiser to block a citizen's course or otherwise control the direction or speed of his movement is not pursuit." (Michigan v. Chesternut, 486 U.S. 567, 1988). A Boston case provides further illustration of this point - officers responding to a gun call saw a suspect running from the area, he quickly turned around and ran back into a tunnel. The officer broadcast a description and ran after him. A second officer was at the other end of the tunnel and observed the suspect dropping a shotgun into the bushes and commanded him to stop. The SJC ruled that the first officer was merely following the suspect and made no show of authority that communicated to the suspect that he had to stop.

## **MOTOR VEHICLES**

The Threshold Inquiry may extend to people in motor vehicles, as long as an officer has reasonable suspicion that the occupants are of unlawful design. A vehicle, as well as its occupants may be frisked if the officer has articulable facts which lead him to believe that a weapon may be present. An officer must remember that he is looking only for weapons, and may not look inside containers which could not hold a weapon. Unlocked glove boxes and consoles may be opened. The trunk may not.

In Massachusetts, an officer must have a reasonable belief that his safety or the safety of others is at risk before he orders the occupant from the vehicle. Automatic exit orders are not permitted.

## SEARCH WARRANTS

1. **Definition:** A search warrant is an order in writing in the name of the Commonwealth, signed and issued by a duly authorized person. It is directed to a person authorized to serve search warrants, ordering him to search in the daytime and/or nighttime, designated premises or persons for described articles, and to bring those described articles or persons in whose possession they are found before a court having jurisdiction.
  
2. **Purpose of Search Warrant:** The purpose of a search warrant is to ensure that any government intrusion is justified by a careful prior determination of probable cause and necessity. Anytime an officer wishes to intrude into a place or thing in which a citizen has a *reasonable expectation of privacy*, he should obtain a search warrant prior to conducting the search. The bottom line is that courts allow more leeway when reviewing searches conducted pursuant to a warrant than they do when reviewing warrantless searches. Warrantless searches will be discussed in sections which follow.
  
3. **Curtilage:** The area around a dwelling house that is normally associated with domestic use is known as curtilage. A reasonable expectation of privacy exists within the curtilage. The curtilage generally includes garages, sheds or other areas used with the dwelling. In *United States v. Dunn*, 480 U.S. 294 (1987), the court listed four factors that they will use to determine if an area is considered part of the curtilage:
  - A. closeness to the home
  - B. is the area surrounded by a fence, wall etc.?
  - C. is the area used for domestic purposes?
  - D. Did the resident protect the area from view of others?
  
4. **Procedure to Obtain a Search Warrant:** The person seeking a search warrant must *personally appear* before a person authorized to issue search warrants. Only law enforcement officials may seek search warrants. The application must be made in writing in the form of an affidavit. The affidavit must contain *all* facts, information and circumstances upon which a finding of probable cause depends. The affidavit cannot be supplemented by oral testimony. All information that supports a probable cause determination must be contained within "the four corners of the affidavit." If the issuing party finds probable cause, the warrant will issue. The courts have found that it is not necessary to name an informant in order to establish probable cause. This protects the government's interest in encouraging communication with law enforcement agencies. Only in situations where non-disclosure would be totally unfair to the defendant would an informant have to be named.

**5. Issuing Authority:** Courts that are authorized to issue warrants in criminal cases may issue search warrants. This means that judges, and clerks of court of the **District Court**, as well as assistant and temporary district court clerks can issue search warrants. Only a **Judge** may issue a body cavity search warrant.

**6. The Affidavit:** To ensure that the Commonwealth can demonstrate in writing that any given search is reasonable and based on probable cause an affidavit is required. The affidavit is held by the issuing party, and within three days after issuance of the warrant, it is delivered to the court where the warrant is returned. When the warrant is returned, the affidavit is attached and becomes a public document.

**7a. Contents:** An affidavit must contain the facts, information and circumstances upon which the affiant relies to establish probable cause. It cannot be based on rumor, suspicion, or strong belief. It cannot merely state the conclusions of the affiant. The two-prong test, reliability and basis of knowledge, will be used by the issuing person to determine probable cause.

**b. Personal observations:** It is more desirable, when possible, for an officer to include his observations in the affidavit. When an officer's observations are included in an affidavit, the affidavit must so state.

**c. Description of Persons to be Searched:** If a person is to be searched, that person must be described as particularly as possible. In most cases warrants permitting the search of "any person present" will be invalid. Such searches are only valid where the underlying circumstances presented in the affidavit demonstrate probable cause to search the premises, and that all persons present are engaged in criminal activity.

**d. Description of Things to be Seized:** Items to be seized must be described with particularity. This is to prevent general searches. The items can either be spelled out in the warrant or incorporated by reference to an attached description. For example, if a search warrant reads "all papers and files", the court will determine whether or not the affidavit provides probable cause to seize all such evidence. A warrant describing "all stolen goods" will not be sufficient. A more detailed description will be required.

**e. Staleness:** Probable cause must exist at the time that the search warrant is issued. Officers cannot rely on old or "stale" information. The court will consider the type of crime involved, the type of evidence (perishable, transferable, disposable).

**8. Categories of Seizable Evidence:** M.G.L. Chapter 276 Section 1 identifies the types of evidence that may be seized pursuant to a search warrant.

- A. Contraband** - items that are not lawfully possessed (cocaine, heroin etc.)
- B. Instrumentalities** - items that are used to commit a crime (firearm used in a shooting, knife used in a robbery, etc.)
- C. Fruits** - property or articles that were obtained as a result of a crime
- D. Mere Evidence** - anything that may connect a suspect to the crime
- E. Living Person** - who has a current arrest warrant outstanding
- G. Dead Body of a Human Being**

**9. Seizure of Items Not Mentioned in Warrant:** As long as officers respect Scope and Intensity boundaries, any seizable evidence found in plain view will be admitted. Such evidence would consist of contraband, instrumentalities, fruits of a crime, mere evidence of a crime, the living person on whom there is an outstanding arrest warrant, and the dead body of a human being.

**10. Scope and Intensity:** Scope is the areas to be searched. Intensity is any place within the scope where the object being sought could be located.

**11. Service of the Search Warrant:** M.G.L. c. 276, s. 3A requires that search warrants must be served within a reasonable time, but never more than *seven days* after issuance. This time clock begins to run the *day after* the warrant issued. Officers must have the search warrant in hand when executing it. They must present it to the resident if requested.

**a. Knock and Announce Rule:** Generally, police officers are required to knock and announce their office and purpose before crossing the threshold. An exception to this rule would be in circumstances where officers have reason to fear for their own safety, or that of others. Another exception would be in situations where the person inside has knowledge of the officer's presence and purpose, and making an announcement would facilitate the destruction of evidence and/or escape. If officers anticipate either situation, they should request a "no-knock" warrant from the issuing authority at the time of application. Officers must conduct a reappraisal of the factors that led to the issuance of a "no-knock" warrant prior to executing the warrant. If they determine a "no-knock" entry is no longer necessary they must comply with the knock and announce requirement. The opposite may also occur. Officers may have no reason to apply for a "no-knock" warrant but be confronted with facts and circumstances at the scene that would justify a "no-knock" entry. Officers may also use a ruse or trick such as stating they are from the utility company or are collecting for a youth sports organization, in order to gain entry to the dwelling instead of using a forced entry. The use of a trick or ruse will be valid as long as the officers have a valid search warrant.

**b. Day or Nighttime Service:** Ordinarily, search warrants should be served in the daytime. Sometime officers will want to serve the warrant in the nighttime, either because that is the only time the evidence will be in a certain location or because of public safety reasons. Officers desiring to execute a search warrant at night must obtain prior judicial approval. For search warrant purposes, the Supreme Judicial Court has determined nighttime to be between the hours of 10:00PM to 6:00AM.

**c. Searching "All Persons Present":** On older versions of the search warrant form there is a section that authorizes searching "all persons present". Evidence that is discovered while searching all persons present will be suppressed unless probable cause exists that the person searched is involved in the criminal activity.

**12. Challenge to Facts in Affidavit:** If a defendant is able to make a substantial preliminary showing that an affidavit contained a false statement that was made either intentionally or with deliberate disregard for truth or falsity, the court will conduct a hearing. Innocent mistakes will not be enough to disallow the affidavit. Administrative or technical errors will not invalidate an affidavit. If an untruthful statement is discovered it will be redacted from the affidavit. If probable cause still exist without the untruthful statement, then the affidavit will stand. The officer's credibility will be in serious question.

**13. The Return:** Within seven days of the issuance of the warrant, it must be served. Officers must make a return of his doings, meaning an inventory of items seized must be submitted. The officer applying for the warrant need not be the one that executes it. It is preferable that an officer who served the warrant make the return. However, if the return is made by a non-executing officer the inventory from must reflect that fact.

**14. Anticipatory Warrants:** Police Officers may seek a search warrant if probable cause exists that seizable evidence will be at a certain place at the time the warrant will be executed.

**15. Body Cavity Warrants:** A search warrant must be obtained to search for evidence that is located in a body cavity. A body cavity warrant must be issued by a **JUDGE** and must be based on a "high degree" of probable cause. After a body cavity warrant is obtained, the search will be conducted by qualified medical personnel.

**16. Exceptions to Search Warrant Requirement:** No search warrant is required to conduct a search under the following recognized exceptions: consent; abandonment; plain view; incident to a lawful arrest; booking search; exigent circumstance; motor vehicle inventory; motor vehicle exception; fresh and continuous pursuit.

**17. The Search Warrant Form:** The Trial Court of Massachusetts has promulgated a form to be used when seeking a search warrant. The form is designed as a packet which consists of an instruction sheet, an affidavit, an application, and the search warrant. Each will be briefly discussed.

**a. Instruction Sheet:** Before an officer writes anything, the instruction sheet should be read in its entirety. The instructions are in simple straight-forward language. By carefully following these instructions, officers can avoid making clerical errors that have been subject to litigation.

**b. Affidavit in Support of Application for Search Warrant:** Simply stated, in order for an officer to obtain a search warrant, he must submit a written application. In order to show that he is entitled to get an application, the officer must show, in writing, that he has probable cause to believe that seizable evidence can be found in a specific location. This proof is provided by filling out the affidavit. It is here that the officer identifies himself, his assignment, and clearly lists all the facts and observations in chronological order, on which he relies to demonstrate his probable cause. It is in the affidavit that the officers list his source(s) of information. If his source is an informant, the officer must include facts and circumstances that show the informant's reliability and basis of knowledge. Use as many pages as necessary. The affidavit form is easily photocopied, and Boston Police Form 1.1.1 is readily adaptable for this purpose. Each page should be numbered, and while it is not required, it is advisable to initial or sign each page. The last page should be signed.

**c. Application for Search Warrant:** The form comes complete with carbon paper. By leaving the packet together, information is transferred from the application to the warrant itself, saving considerable time. Make sure that any corrections made on the application are also made on the warrant. To fill out the application, fill in the blanks. The numbers below correspond to the numbers on the form on the following page.

- #1--Superior, District, or Boston Municipal.
- #2--Your name.
- #3--Rank and assignment (i.e. specialized squad).
- #4--Filled in by Court personnel.
- #5--Self explanatory.
- #6--Check appropriate box.
- #7--Self explanatory.
- #8--As in #7.
- #9--through #13 self explanatory.

**d. Search Warrant:** The information from Items #1, 4, through 8, is already on the warrant, because the carbon transferred the information from the application. Check for any corrections.

At the bottom of the warrant are three blocks to be check by the issuing magistrate. Be sure that the appropriate blocks are checked, and that you have provided probable cause to support these items in your affidavit. Be sure that the issuing magistrate signs the warrant.

**e. Return:** On the reverse s ide of the warrant is the Return. The date that the warrant was issued is listed here, as is the date that the search was made. Remember that a search warrant is valid only for seven (7) days. It is here that the executing officer makes his inventory. List all the items seized pursuant to the warrant. DO NOT INCLUDE items seized under plain view. List plain view items on a separate sheet of paper. Sign the Return in the presence of the clerk of court.



## WARRANTLESS SEARCHES

### Introduction

Neither the Fourth Amendment to the U.S. Constitution, nor article 14 of the Declaration of Rights of the Constitution of the Commonwealth of Massachusetts prohibit all searches and seizures. Both, however, prohibit ***unreasonable*** searches and seizures. Generally, searches and seizures conducted pursuant to a valid search warrant are presumed to be reasonable. Those not so conducted are presumed to be unreasonable, and, thus, prohibited. To overcome this presumption, a warrantless search must fall under one of the recognized exceptions to the warrant requirement. Some of these exceptions are discussed below.

Both the 4<sup>th</sup> Amendment and article 14 protect people against intrusions by the government and its agents into areas that have a reasonable expectation of privacy. "the 4<sup>th</sup> Amendment's origin and history show that it was intended as a restraint upon activities of sovereign authority." (*Burdeau v. McDowell*, 256 U.S. 465, 1921). "The 4<sup>th</sup> Amendment prohibition against unreasonable searches and seizures does not extend to a search and seizure conducted by a private party. (*Comm v. Jung*, 420 Mass 675, 1995). In other words - there must be some type of **state action**."

### The Inevitable Discovery Exception

If officers obtain evidence in violation constitutional requirements, this evidence may still be admitted under the so-called inevitable discovery exception. In order to invoke this exception the Commonwealth must prove by a preponderance of the evidence that the material in question would have been certainly discovered by lawful means as a particle matter. For example statements obtained from a suspect in violation of *Miranda* requirements led to the discovery of the body of a murder victim. Because the police were able to show that a search team **already in the area** would have found the body without the statements, the body's discovery was admissible. Similarly, drugs which were illegally seized could be admitted, because they would have been found during a routine booking search. If the constitutional violation is egregious, the evidence will not be admitted. Bad faith on the part of the officer shown by such activities as conducting an unlawful search in order to accelerate the discovery of evidence will be relevant in assessing the constitutional violation.



## Consent

The consent search is an effective and efficient tool that is available to aid an officer in the performance of his duties. It is effective because it enables an officer to conduct a search for a suspect and/or evidence, generally, in the same manner as if he had a search warrant. It is efficient in that there is no probable cause requirement, and the time needed to obtain a warrant is saved.

The consent search is reasonable, because it is obtained as a result of a voluntary waiver of a known right. Any constitutional right may be waived by the person possessing that right. In order for consent to be valid it must be *voluntarily, intelligently, and knowingly* given. Police officers are not required to inform the person that he has the right to refuse consent, but the better practice is to do so. Any evidence of coercion will invalidate the consent. The courts will look at the totality of the circumstances surrounding the interaction with the police. Officers should also factor in the age, intelligence, understanding, and mental condition of the person giving consent.

Consent must be granted by the person who has the reasonable expectation of privacy in the place or thing to be searched. Usually, this will be the owner, but this is not a requirement. The person in control, the one who has apparent authority over the subject matter, the one who could lawfully admit or exclude others, is the person from whom the consent must be obtained. If there are two people who have joint access and control of an area present at the scene and one gives consent and the other objects to the search and denies consent to search, officers must consider this a denial of consent.

The person who gives the consent can limit the scope. Intensity is always governed by the size of the object sought. Consent can be revoked at any time, absent some exigency.

Consent may be given orally or in writing. Written consent is not required, but may assist an officer later in court when trying to prove the waiver was voluntary, knowingly and intelligently given. The burden of proving voluntary consent rests with the Commonwealth by clear and convincing evidence. This can be a difficult task in the face of a subsequent denial. This risk should be considered, and in a doubtful case, a search warrant should be obtained.

## Abandonment

When an individual voluntarily gives up possession or control of their property they have also given up a reasonable expectation of privacy for that property. With no reasonable expectation of privacy, police may examine that property without a warrant without the examination being considered a search for constitutional purposes.

In order to determine if an item has been abandoned police should consider the suspect's words and actions. A denial of ownership can be an indication that the item has

been abandoned. Throwing or discarding items during a pursuit in a public place will also indicate the voluntary abandonment of property. When a police pursuit is involved the courts will begin the analysis by determining whether or not the police had reasonable suspicion to pursue the suspect (remember the stop starts when pursuit begins). If reasonable suspicion existed any items discarded during the pursuit will be admissible under the theory of abandonment. If there was not sufficient proof to make the stop any items discarded will be suppressed.

Another time abandonment comes into the picture is with searching an individual's trash to obtain evidence. The main question here is the location of the trash. If the trash has been placed on the sidewalk for pick up - outside the curtilage - then a reasonable expectation of privacy does not exist. Any person walking past could examine the contents of the trash. However, if the trash is still located within the curtilage of a person's dwelling then the reasonable expectation of privacy exists and a search warrant must be obtained prior to the search.

## **Plain View**

Police Officers may use information that comes to them through their own senses, most frequently through direct observations. Anything within the officer's view can be used by police under the plain view theory as long as the following three elements are satisfied:

**Lawful Presence:** In order for an officer to use the information that he has observed he must be lawfully present where he made the observations. The suspect's reasonable expectation of privacy cannot be compromised. For example, if an officer enters a third-party dwelling without consent or a search warrant to execute an arrest warrant and observes evidence of illegal narcotics on the table the drugs will be suppressed in court because the officers were not legally present inside the home.

**Inadvertence:** The Massachusetts Declaration of Rights requires that the discovery of the evidence is inadvertent or simply stated that police did not have prior probable cause that evidence was present and did not obtain a search warrant.

**Seizable Evidence:** An officer must be reasonably certain upon making the observation that the item is a form of seizable evidence - contraband, instrumentality, fruit or mere evidence.

Police Officers may use devices that extend or enhance their observation abilities such as flashlights, binoculars, alley lights and police dogs. Additionally, random checking of license plates by an officer on patrol does not violate constitutional principles and is an accepted practice.

## Search Incident to Lawful Arrest

One of the most commonly used warrantless searches is the search incident to a lawful arrest. The reason that this type of search is reasonable is because the probable cause to arrest the prisoner supplies the probable cause to conduct the search.

Three questions should come to mind whenever discussing this type of search. When? An officer who has developed probable cause to arrest has at that same moment concurrent cause to search. Who? An officer may **always** search **every** person whom he arrests. Where? In addition to the prisoner, the officer may also search the area under the person's control. That area is sometimes referred to as the "lunging distance". This is anyplace to which a prisoner could lunge to get a weapon and/or evidence.

**M.G.L. c. 276, s.1:** Massachusetts officers are more limited in conducting this type of search because of this statute. Under the provisions of this statute, officers may conduct a search incident to a lawful arrest to discover weapons, which could be used to avoid arrest or effect an escape. They may also search for evidence of the crime for which the arrest was made. Thus, a person arrested for a simple assault and battery could only be searched for weapons, since there is usually no physical evidence associated with a simple assault and battery. Containers and places which could hold a weapon/evidence could also be searched, if they are open, closed, or unlocked. Locked items may not be searched because the prisoner could not obtain control of the contents. Due to the strict construction of this part of the statute by the Supreme Judicial Court, this search must be done at a time when a prisoner is in a position to obtain a weapon and/or destroy evidence. Once a prisoner has been adequately secured or removed from the scene, a search under the "incident to arrest" exception to the warrant requirement can no longer be made. If a prisoner has been handcuffed and placed in a cruiser, or taken to the station, the room or vehicle in which he was arrested could not now be searched under this exception. To avoid this problem, the search of the area immediately around the prisoner should be made about the same time that other officers are securing the prisoner. Of course, if the officers have developed probable cause that the vehicle contains seizable evidence, and the vehicle is on a public way, then the vehicle may be searched under the "motor vehicle exception". To date the Supreme Judicial Court has not addressed the ninth paragraph of c. 276, s. 1, which reads: "Nothing in this section shall be construed to abrogate, impair or limit powers of search and seizure granted under other provisions of the General Laws or under common law". This provision appears to negate the strict construction given to the previous part of the section by the Supreme Judicial Court. In an appropriate case this provision should be brought to the attention of the prosecuting Assistant District Attorney in order that the issue may be addressed. The reader's attention is also directed to the "inevitable discovery" section.

## Booking Searches

The purpose of a booking search is **NOT TO FIND EVIDENCE** but to conduct a proper inventory of the arrested persons property in order to protect their property, prevent against false claims against officers, to prevent suicides and to assist in the identification of the offender. Boston Police Officers should refer to BPD Rule 318 for specific guidelines. A booking search will be conducted on any person being placed in police custody. Any seizable evidence found during the course of the booking procedure would be admissible under the theory of plain view. Strip searches at the booking desk cannot be part of the "routine" booking procedure. In order to strip search and arrested person the officer must have probable cause to believe evidence is concealed under the last layer of clothing. If the Duty Supervisor determines probable cause exists the search will be done by an officer of the same gender. (Please refer to BPD Rule 318D).

## Exigent Circumstances

When there is a compelling need for immediate action, then exigent circumstances exist. Due to the emergency nature of the event, there is no time to obtain a search warrant and/or an arrest warrant. Officers may respond and make an initial entry to the emergency situation when they reasonably believe that immediate aid is needed. After entering, they may make a prompt warrantless search for suspects or victims. Evidence in plain view may be seized. The suspect, if any, may be searched as well as the area within his control. Once the exigency ends, so should the search. Any further search must be conducted pursuant to a search warrant. Contrary to the belief of some, there is no such thing as a "murder scene exception" which justifies a prolonged warrantless search.. Exigent circumstances could justify fire officials to enter a burning building without a warrant. They may remain there for a reasonable time to determine the cause of the blaze. Entries at a later date must be supported by a warrant or consent.

## Protective Sweeps

There are times when a police officers enters a building or residence (fresh pursuit, arrest warrant etc.) that they make a limited search of other areas if there is reason to believe that there are other person present that would present a danger to themselves or assist the offender in avoiding arrest and effecting an escape. The protective sweep should be limited to areas in which an accomplice could be.

## School Searches

Police officers routinely respond to incidents at schools which involve IV Amendment issues relative to search and seizure. Generally, the usual procedures regarding searches apply. In order for a search to be reasonable under the IV Amendment, it must be conducted pursuant to a search warrant which is supported by probable cause. The usual exceptions to the warrant requirement discussed earlier apply, as well as a unique exception in the public school environment. Two exceptions will be discussed here.

Consent can be given by either the owner, or the person in apparent control of the property. If two students share a locker, desk, school bag, etc., then either may give valid consent. Similarly, if the school administration has assigned lockers and given the keys and/or combination numbers, and retained a key and/or combination number, then the school administration can give valid consent to a search by law enforcement personnel

A special situation applies to searches of students in a school environment. If school administrators have reasonable suspicion that a student is in violation of a statute or school rule, the administrators may conduct a warrantless search to obtain evidence of the infraction. Any evidence of a crime discovered during such a search may be turned over to the police and may be admitted in evidence during a criminal trial. The Supreme Court has accorded deference to the school environment due to the need to maintain order and discipline in order to foster education. The search must be reasonable at its beginning, and must be conducted in a manner reasonably related to its purpose. It must take into account the age and sex of the student, and the nature of the infraction. NOTE: This should be an administrative search conducted by school authorities without police involvement. If the police conduct the search, normal IV Amendment factors would then be in force.

## **MOTOR VEHICLE SEARCHES**

### **The Motor Vehicle Inventory Search:**

The Fourth Amendment to the U.S. Constitution, Article XIV of the Constitution of the Commonwealth of Massachusetts permit law enforcement officers to conduct searches and seizures only if they are reasonable. Generally, this means only with a search warrant. Both Constitutions consider some warrantless searches and seizures to be reasonable. One such search is the Motor Vehicle Inventory Search. The reason that this is so is because the purpose of the inventory search is one of protection and not one of criminal investigation.

Officers engaged in such a search are performing their community caretaking function of protecting the vehicle owner's property, preventing false claims against the officers and their department, and protecting the public from dangerous instrumentalities (weapons, dynamite, propane gas, etc.) often left in vehicles. The courts will recognize the validity of such a search, if the officers can show that they had lawful custody of the vehicle, and that they were acting pursuant to written department guidelines.

### **CUSTODY OF THE MOTOR VEHICLE.**

Motor vehicles come into police custody in many ways. Vehicles might be involved in accidents, towed for parking violations, or following the arrest of the owner. Whether the vehicle is towed or secured on the street, once it has come under the control of the officer, it is in his custody, and he is responsible for the safekeeping of it, and its valuables. If the vehicle is left with a person having apparent authority to assume control over, no inventory search is necessary, because the officer never had custody of the vehicle.

### **WRITTEN DEPARTMENT PROCEDURES.**

In order to conduct a lawful inventory search, there must be written department procedures. Boston Police officers are referred to Special Order 05-013, dated April 19, 2005. This Order requires that all motor vehicles secured by Boston Officers be searched. In addition to looking for and noting any damage, officers are to search the passenger compartment and any containers therein, whether open or closed. Officers are to also search glove boxes, consoles, and the trunk of the vehicle, whether locked or unlocked, if they have the keys, or access to these areas by automatic opening devices. The reason for these instructions is that valuables are often kept in such places, and they must be accounted for to effectuate the purpose of the search.

Locked containers such as luggage, briefcases, etc., WILL NOT be searched. The reason for this is that the locked container protects any valuables inside such containers.

Therefore, securing the container itself, and recording that fact will effectuate the purpose of the search. In the course of conducting the Motor Vehicle Inventory Search, officers sometimes encounter criminal evidence. Such evidence may be seized and properly admitted into evidence in a criminal prosecution under the Plain View exception to the search warrant requirement. Officers faced with a challenge to the admissibility of such evidence should refer the Assistant District Attorney to the references listed below. Officers should give a copy of S.O. 05-013 to the Assistant District Attorney prosecuting a case involving an inventory search.

## **Search Incident to Arrest**

As stated above an officer can conduct a search incident to arrest of the arrested person and any area under his immediate control. This search extends to a motor vehicle when a person is arrested in or near a vehicle. The lunging distance has been defined as the passenger compartment and any container within the passenger compartment, open or closed (Comm v. Bongarzone, 390 Mass 326, 1983).

MGL 276 section 1 applies and limits the search to weapons that can be used to avoid arrest and effect escape or evidence of the crime for which the arrest was made.

## **Motor Vehicle Exception**

The motor vehicle exception search is similar to exigent circumstances. Due to the inherent mobility of vehicles often there is no time to get a warrant, the courts has recognized and has established a bright line rule of the motor vehicle exception. Two factors must be present in order to justify the exception search: **PROBABLE CAUSE AND PUBLIC WAY**. If an officer has probable cause that seizable evidence is located in a motor vehicle and that vehicle is on a public way, a warrantless search may be conducted. The scope of the search would be the entire vehicle, any container open or closed. Locked or unlocked. The intensity of the search will be limited to places within the vehicle that may contain that evidence.



## **Fifth Amendment**

### **Amendment V.**

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

### **Article XII. Declaration of Rights, Constitution of the Commonwealth of Massachusetts**

No subject shall be held to answer for any Crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be Compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself; or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.



## **MIRANDA WARNINGS**

Both the 5<sup>th</sup> Amendment and Article XII provide individuals protection against self-incrimination. No person can be compelled to give testimonial evidence against himself. In addition individuals have the right for counsel to be present at any custodial interrogation by law enforcement officer and their agents (state action).

Prior to "custodial interrogation" *Miranda* warnings must be administered to the suspect. The content of those warnings are now familiar to law enforcement personnel, and need not be repeated here. The law does not require that the warnings be given verbatim as long as the substance of each is explained to the suspect. It is not essential that the warnings be given orally. They can be administered in a variety of ways. The better practice is recitation by the officer, who reads the warnings from his card. If the suspect is able to read and write, a signed written copy could also be used in addition to the oral recitation. Police officers must be able to determine the exact moment at which the warnings must be given. The general rule requires that *Miranda* be given when a suspect is in **custody** and is to be subjected to **interrogation**. Both of these elements must be present.

**Custody:** Custody is defined as a significant deprivation of freedom. While a lawful arrest would certainly be custody, an arrest is not the test. Custody is determined by examining the whole picture. Based on location, degree of suspicion, number of officers, style of questioning, etc. If the suspect would feel that he was free to end the encounter and walk away, no custody exists. If, however, a reasonable person would feel that his freedom to leave has been *significantly* curtailed he is in custody.

**Interrogation:** Interrogation is defined as express questioning likely to result in an incriminating response. If the purpose of the question is to get the suspect to admit his own guilt, or involvement in a crime, then it is interrogation.

**Functional Equivalent:** Interrogation can also occur when police use any words or actions, which they know, or should be reasonably aware, are likely to elicit an incriminating response. This is what is known as the functional equivalent of interrogation.

**Waiver:** As with any other constitutional right, a suspect may waive those enumerated in the *Miranda* warnings. The normal standards apply to determine valid waiver. However, interrogations must be recorded to avoid a jury instruction that the jury may find that voluntariness was not proven beyond a reasonable doubt. (Boston Officers see BPD Rule 332)

**Invocation of Rights:** If a suspect invokes his right to silence, then all questioning must cease, unless the suspect initiates, or the attorney is present. Officer could, under certain conditions, question about other crimes. If the suspect invokes his right to counsel, then all questioning must cease, unless the suspect initiates, or the attorney is present. However, **no interrogation concerning any crime** may now be conducted while the suspect remains in custody.

#### CASE EXAMPLE

Suspect was arrested for indecent assault and battery and brought to an interrogation room. Suspect was given a Miranda Waiver form and began to sign it. Detective Smith stopped him saying that he wanted to review it with him first.

Commonwealth v. Clarke (2012)

**Juveniles:** Before custodial interrogation takes place of a child between the ages of seven and seventeen, police must provide for the presence of an interested adult. Both have to be informed of *Miranda*, both have to understand it, and there has to be a time for a meaningful consultation. If the juvenile is under fourteen, this process is a **must**. Once the juvenile reaches age fourteen, he may waive the presence of the adult.

**Booking the Deaf and Hearing Impaired:** Massachusetts General Law, Chapter 221, section 92A provides in part that whenever a deaf or hearing-impaired person is arrested for any crime, the arresting officer must arrange for a qualified interpreter to assist such person regarding any interrogation warning, notification of rights, or taking of a statement. Unless this procedure is complied with, or waived by the suspect, the fruits of any custodial interrogation will be suppressed. Additionally, M.G.L. c. 263, 5A requires advising prisoners charged with OUI: alcohol of the right to an independent physical examination, and c. 276, s. 33A requires the notification of the prisoner of his right to use the telephone. To satisfy the requirements of these statutes, a qualified interpreter must be obtained, unless validly waived by the suspect. Boston officers should contact the Duty Supervisor, Operations Division, at 4680 to request an interpreter.

**Massachusetts Six Hour Interrogation Rule.** After being informed of the right to use the telephone (M.G.L. c. 276, s. 33A) and the usual *Miranda* warnings, a person who has been arrested, with or without an arrest warrant, but not yet arraigned, may only be interrogated during a six-hour period. This six hour "time clock" begins to tick at the time of arrest. This rule applies without regard to the crime or crimes being discussed. It also applies whether or not court is in session. A violation of this rule will result in the suppression of the statement and its fruits. A valid written or recorded waiver, a self-induced disability, a natural disaster or emergency will provide exceptions.

## **Sixth Amendment**

### **Amendment VI.**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The Sixth Amendment guarantees a person accused of a crime the right to counsel if law enforcement officers are going to interrogate them (i.e. attempt to obtain a confession). As stated in the previous section, the right to counsel is also guaranteed by the Fifth Amendment. However, there is a significant difference between the two of them. As a review, the right to counsel under the Fifth Amendment attaches to an individual when they are subject to custodial interrogation. The Sixth Amendment right to counsel has nothing to do with whether a person is in custody. It attaches to an individual at a critical stage. The Massachusetts Supreme Judicial Court has defined "critical stage" as **at and after arraignment or after indictment by the Grand Jury.**

If the accused has been arraigned or indicted the Sixth Amendment right to counsel has attached. As with any other constitutional right the accused may waive or invoke it. One the accused invokes his right to counsel, police officers, or their agents, may not interrogate him unless his attorney is present. The accused invokes his right to counsel at the arraignment when he accepts the appointment of counsel. If an individual gets indicted by the Grand Jury, they may not be aware of the indictment. When police officers come across this situation and want to conduct an interrogation, they must inform the suspect of the indictment and inform the suspect of his right to counsel in order to obtain a voluntary, intelligent and knowing waiver of this right.

The Sixth Amendment right to counsel is offense specific and applies only to charges for which the accused has been arraigned or indicted. This does not preclude police officers from asking questions about another crime that is under investigation (5<sup>th</sup> Amendment right to counsel may apply if individual is in custody). The Sixth Amendment right to counsel remains with the accused from arraignment or indictment until the judicial proceedings are finished.

## **Entrapment**

Because entrapment is a complete defense to a criminal prosecution, officers must be aware of activities which could result in such a defense being raised and subsequently allowed by the court. The defense merely has the burden of producing enough facts to raise the issue. At that point the prosecution must prove, beyond a reasonable doubt, that entrapment did not occur.

In order to understand entrapment, three basic definitions must be understood.

- 1. Entrapment:** The inducement by a government agent of an otherwise innocent person to commit a crime.
- 2. Innocent Person:** One who has no predisposition to commit a crime.
- 3. Predisposition:** The suspect is ready and willing to commit a crime, whenever the opportunity presents itself. It does not mean that the suspect might commit the crime under some conceivable set of circumstances.

If the defendant can show that he had committed all the elements of the offense, but would not have done so but for the inducement of the government agent, then he will prevail with the defense of entrapment.

If the prosecution can show that the defendant has prior convictions for similar crimes; or had a reputation for the commission of similar crimes; or made statements indicating that he had been involved in similar crimes; or made first contact in reference to this crime; or had prepared for this crime, before police involvement, then the prosecution will prevail.

Officers assigned to undercover operations should be acutely aware of the pitfall of entrapment and avoid it. The use of decoys, false pretenses, ruses, tricks, etc. is permissible. Mere solicitation to commit a crime is not entrapment. It is also not entrapment to provide contraband or the opportunity to commit a crime. There must be **predisposition** before these activities occur. Even if there is predisposition, the police may not engage in conduct that is "shocking and outrageous." In other words, the government cannot involve itself directly and continuously over a long period of time in criminal activity. The police cannot corrupt the defendant and then arrest him.



# BOSTON POLICE DEPARTMENT

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## Massachusetts Criminal Law 2020 Edition



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Lieutenant John N. Flynn

Class 59-19



## Acknowledgements

Created by:

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Lieutenant John N. Flynn has been a Boston Police Officer for over 23 years working in different areas of the city including Dorchester, Mattapan, West Roxbury and Brighton.

He has been assigned to the Boston Police Academy for the past 11 years teaching in the areas of Criminal Law, Constitutional Law, Court Procedures, Breath Test Operation, as well as managing the Boston Police E-Learning Program.

In 1991, Lieutenant Flynn received his Law Degree from the New England School of Law as well as the American Jurisprudence Award in his Criminal Law Class. He is a former Suffolk County Assistant District Attorney serving in Roxbury, South Boston and Boston Juvenile Court.

In 2008, Lt. Flynn was a finalist of the Herman Goldstein Award in recognition of Excellence in Problem-Oriented Policing for his Breaking and Entering Solution Plan in District 14. The project reduced residential burglaries within the Allston / Brighton section of Boston by over 60% during a two year span.

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#### Resources:

Massachusetts Training Council Legal Updates  
Criminal Law by John S. Scheft, Esquire  
Police Officer's Law Manual, Lt. Justin Handrahan  
Massachusetts Jury Instructions

**Superintendent Winifred Cotter, Chief, Bureau of Professional Development  
Captain Phillip Terenzi, Commander of the Boston Police Academy**





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*“The credit belongs to man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes short again and again, who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who at best, knows the triumph of high achievement; and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.”*

*-Theodore Roosevelt*

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*“The difference between a successful person and others is not a lack of strength, not a lack of knowledge, but rather a lack of will.”*

*-Vince Lombardi*

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## CRIMINAL LAW CLASS

Instructor: Lieutenant John N. Flynn

Course: Criminal Law  
56 hours (4-6 hours a week for 12 weeks – 2 hour sessions)

Books: 2019 Police Officer's Law Manual-Hanrahan  
2020 Criminal Law Book – Lieutenant Flynn

Handouts: Massachusetts Case Law  
Massachusetts Jury Instructions

### CLASSES

#### **Introduction to Criminal Law**

2-4 Hours

#### **Crimes Against the Person**

8-12 Hours

Covering approximately 40 Criminal Laws including Sexual Assaults

#### **Crimes Against Property**

8-12 Hours

Covering approximately 50 Criminal Laws

#### **Controlled Substances**

4-6 Hours

Covering approximately 12 Criminal Laws

#### **Alcoholic Beverages**

4-6 Hours

Covering approximately 10 Criminal Laws

#### **Firearms**

6-8 Hours

Covering approximately 35 Criminal Laws

#### **Public Order Crimes**

4-6 Hours

Covering approximately 30 Criminal Laws

#### **Conclusion**

4-6 Hours

Review of Criminal Laws

Recruits are Responsible for all Criminal Laws



## **MURDER**

### **Chapter 265, Section 1**

#### **Definition:**

Murder committed with deliberately premeditated malice aforethought or with extreme cruelty or atrocity, or in the commission or attempted commission of a crime punishable by death or life imprisonment = MURDER 1.

Any murder that does not appear to be murder in the first degree is murder in the second degree = MURDER 2

#### **Com. v. Fleury, 64 Mass. App. Ct. 282, 832 N.E.2d 1145 (2005)**

Second-degree murder was unlawful killing with malice aforethought, but without deliberate premeditation. M.G.L.A. c. 265, § 1

**Malice** aforethought includes any unexcited intent to kill, to do grievous bodily harm or to do any act creating plain and strong likelihood that death or grievous harm will follow and it may be inferred from intentional use of a deadly weapon.

#### **Elements:MURDER 1.**

1. Death of another human being.
2. No legal excuse or justification
3. Deliberately premeditated malice aforethought (knowledge of such circumstances that according to common experience, there is a plain and strong likelihood that death will follow the contemplated act), or
4. Extreme atrocity or cruelty (use of means which are extreme as compared with ordinary means of producing death), or
5. Committed in the commission or attempted commission of a crime punishable by death or life imprisonment.

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or on PROBABLE CAUSE

#### **Com. v. Gibson, 424 Mass. 242, 675 N.E.2d 776 (1997)**

Deliberate premeditation for purposes of first-degree murder offense requires either specific intent to kill that equates with express malice or intent to kill, combined with planning how to effectuate that desire and evaluation of the pros and cons of proceeding.

#### **Com. v. Linton, 456 Mass. 534, 924 N.E.2d 722 (2010)**

To convict a defendant of murder in the first degree based on extreme atrocity or cruelty, a jury is to consider the following factors: (1) whether defendant was indifferent to or took pleasure in victim's suffering; (2) consciousness and degree of suffering of victim; (3) extent of victim's physical injuries; (4) number of blows inflicted on the victim; (5) manner and force with which the blows were delivered; (6) nature of the weapon, instrument, or method used in the killing; and (7) the disproportion between the means needed to cause death and those employed.

#### **Com. v. Gunter, 427 Mass. 259, 692 N.E.2d 515 (1998)**

To make out case of felony murder, prosecutor need only establish that defendant committed a homicide while engaged in commission of felony; effect of felony murder rule is to substitute intent to commit underlying felony for the malice aforethought required for murder, and thus rule is one of constructive malice. M.G.L.A. c. 265, § 1.





## **Manslaughter**

### **Chapter 265, Section 13**

#### **Definition:**

Unlawful killing of another human being which is caused by an act which constitutes such disregard of probable harmful consequences to another as to constitute wanton or reckless conduct.

**VOLUNTARY MANSLAUGHTER:** A killing occurring in sudden transport of passion upon reasonable provocation and without malice or upon sudden combat. It is characterized by a real design or purpose to kill but without malice.

#### **Com. v. Kane, 388 Mass. 128, 133, 445 N.E.2d 598, 601 (1983)**

Murder is the unlawful killing of a human being with malice aforethought, and the distinction between murder and manslaughter is the presence or absence of malice

#### **Elements:**

1. Death of another person.
2. By an act which constitutes such disregard of probable harmful consequences to another as to constitute wanton and reckless conduct although not committed with the intention of causing death.

OR

1. Death of another person
2. In a sudden transport of passion or heat of blood
3. Upon reasonable provocation
4. Without malice

#### **Right of Arrest:**

Whoever commits manslaughter shall, except as hereinafter provided, be punished by imprisonment in the state prison for not more than twenty years or by a fine of not more than one thousand dollars and imprisonment in jail or a house of correction for not more than two and one half years. Whoever commits manslaughter while violating the provisions of sections 102 to 102C, inclusive, of chapter 266 shall be imprisoned in the state prison for life or for any term of years.

#### **Com. v. Life Care Centers of Am., Inc., 456 Mass. 826, 926 N.E.2d 206 (2010)**

“Involuntary manslaughter” is an unlawful homicide unintentionally caused by an act which constitutes such a disregard of probable harmful consequences to another as to amount to wanton or reckless conduct. M.G.L.A, c. 265, § 13.

Wanton or reckless conduct for purposes of involuntary **manslaughter** generally involves a wilful act that is undertaken in disregard of the probable harm to others that may result.

Reckless conduct for purposes of involuntary **manslaughter** does not require that the actor intend the specific result of his or her conduct, but only that he or she intended to do the reckless act



## **INVOLUNTARY MANSLAUGHTER:**

So called involuntary manslaughter is unlawful homicide unintentionally caused by an act which constitutes such a disregard and probable harmful consequences to another as to constitute wanton and reckless conduct.

### **•MANSLAUGHTER –**

#### **Com. v. Acevedo, 446 Mass. 435, 845 N.E.2d 274 (2006)**

Voluntary manslaughter” is an unlawful killing arising not from malice, but from sudden passion induced by reasonable provocation, sudden combat, or excessive force in self-defense.

Reasonable provocation” such as would support instruction on **voluntary manslaughter** is provocation that would have been likely to produce in an ordinary person such a state of passion, anger, fear, fright, or nervous excitement as would eclipse his capacity for reflection or restraint.

- Unlawful -- without justification or excuse
- There is no statutory definition of manslaughter.
- Malice either expressed or implied, distinguishes murder from manslaughter.
- While manslaughter requires an intentional act of omission, it is not necessary to prove that the defendant intended to kill. It is sufficient that the defendant intended the act that resulted in death.
- Defendant is guilty of manslaughter if victim of robbery dies from fright inflicted in robbery.
- There is no distinction between "voluntary" or "involuntary" manslaughter by statute.
- Manslaughter is also the unlawful killing without malice in the commission of an unlawful act, malum in se, which is not a felony.
- A lawful act accomplished in a wanton or reckless manner and resulting in death is sufficient basis for manslaughter.
- **Comm. v. Persampieri** - A husband who taunted his wife, already under the influence of depression, to commit suicide, who told her where the gun was located, loaded it for her and instructed her in its operation, was properly convicted of manslaughter.
- **Comm. v. Atencio** -- participants in a game of Russian Roulette in which the victim killed himself, were convicted of manslaughter.
- No manslaughter in a drag race where one of the participants was killed without collision with the other because much was left to the skill of the competitors. In "Russian Roulette", it is a matter of pure chance.
- **Comm. v. Mink** -- defendant was attempting suicide -- her boyfriend attempted to intervene and was killed. The court upheld her conviction for manslaughter because the defendant's act which caused the homicide was an act malum in se.



## Assault-Common Law

Section 13A. (a) Whoever commits an assault or an assault and battery upon another shall be punished by imprisonment for not more than 2 1/2 years in a house of correction or by a fine of not more than \$1,000.

### **Right of Arrest:**

This misdemeanor is arrestable IN PRESENCE since it amounts to a breach of the peace.  
(There is no statutory right of arrest.)

### Two types of Assault

1. In the case of an **Attempted Battery** type of assault, although the commonwealth must prove that the defendant attempted to do bodily harm, there is no requirement that the victim be aware of the attempt or be put in fear by it.

EXAMPLE-THROWING A PUNCH AT SOMEONE

2. In the case of a **Threatened Battery** type of assault, the commonwealth must prove that the defendant engaged in objectivity menacing conduct with the intent to put the victim in fear of immediate bodily harm.

EXAMPLE SHAKING A FIST AT SOMEONE AND SAYING I GOING TO  
PUNCH YOU IN THE FACE

### **JURY INSTRUCTIONS-ASSAULT**

An assault may be committed in either of two ways. It is either an attempted battery or an immediately threatened battery. A battery is a harmful or an unpermitted touching of another person. So an assault can be either an attempt to use some degree of physical force on another person — for example, by throwing a punch at someone — or it can be a demonstration of an apparent intent to use immediate force on another person — for example, by coming at someone with fists flying. The defendant may be convicted of assault if the Commonwealth proves either form of assault. In order to establish the first form of assault — an attempted battery — the Commonwealth must prove beyond a reasonable doubt that the defendant intended to commit a battery — that is, a harmful or an unpermitted touching — upon [alleged victim], took some overt step, and came reasonably close to doing so.

With this form of assault, it is not necessary for the Commonwealth to show that [alleged victim] was put in fear or was even aware of the attempted battery.

In order to prove the second form of assault — an imminently threatened battery — the Commonwealth must prove beyond a reasonable doubt that the defendant intended to put [alleged victim] in fear of an imminent battery, and engaged in some conduct toward [alleged victim] which [alleged victim] reasonably perceived as imminently threatening a battery



## **COMMONWEALTH vs PURRIER**

As to attempted battery, it is established that the defendant must undertake "some overt step towards accomplishing [a harmful or an unpermitted touching] and [that he] came reasonably close to doing so." Model Jury Instructions for Use in the District Court § 5.402 (1997). See *Commonwealth v. Dixon*, 34 Mass. App. Ct. 653, 655 (1993) (elements of an attempted crime consist, in part, of "some overt act towards its commission, and failure or interruption"). Put somewhat differently, the evidence must establish that the defendant's conduct "approach[ed] the achievement of the substantive crime attempted near enough to warrant criminal liability in view of such circumstances as the gravity of the crime, the uncertainty of the result, and the seriousness of any threatened danger." *Commonwealth v. Gosselin*, 365 Mass. 116, 121 (1974). It is immaterial whether or not the victim was put in fear.

## **COMMONWEALTH v RUMKIN**

Argument about a minor collision between an automobile and the defendant's cab burst into violence. A Boston police officer happened on the defendant, kicking the driver's door and side mirror of the automobile, now stopped on School Street in Boston near the Omni Parker House Hotel. In the driver's seat was Nancy Bulger, whose husband, William, had just left the car to call the police. Their teenaged son sat in the back. According to the officer's testimony at a bench trial in the Boston Municipal Court, Nancy was screaming and upset. William quickly returned to assist his wife and wrestled the defendant to the hood of the car. The officer intervened, separated the combatants, and after assessing the situation, arrested the defendant.

Commonwealth's proof that the defendant committed a simple assault.

On the evidence, the judge, as trier of fact, was not solely confined to evidence of the kicking. There was unrefuted evidence that the defendant tried to open the door while Nancy sat in the driver's seat awaiting the return of her husband -- and that she was fearful -- screaming and trying to lock the doors. See *Commonwealth v. Richards*, 363 Mass. 299, 303 (1973). Of the two variations in the assault theme, e.g., an attempted battery or an imminently threatened battery, see *Commonwealth v. Gorassi*, 432 Mass. 244, 247-248 (2000); *Commonwealth v. Purrier*, 54 Mass. App. Ct. 397, 400-403 (2002), the evidence is more akin to the latter than the former.



## Assault and Battery(Misdemeanor)

### Chapter 265, Section 13A

## Two Types

1. INTENTIONAL A&B
2. RECKLESS A&B

### **Definition:**

#### **Misdemeanor portion:**

The intentional and unjustified use of force upon the person of another, however slight, or the intentional doing of a wanton or grossly negligent act causing personal injury to another.

### **Elements:**

1. Intent to place another in apprehension of an imminent battery
2. Intentional and unlawful use of force on the person of another
3. Lack of consent
4. Intent to touch

### **Right of Arrest:**

This misdemeanor is arrestable IN PRESENCE since it amounts to a breach of the peace.  
(There is no statutory right of arrest.)

#### JURY INSTRUCTION- INTENTIONAL A&B

*First:* That the defendant touched the person of *[alleged victim]* ,  
without having any right or excuse for doing so;

*Second:* That the defendant intended to touch *[alleged victim]* ; and

*Third:* That the touching was *either* likely to cause bodily harm to *[alleged victim]* , *or* was done without his (her) consent., to prove an intentional assault and battery, the Commonwealth must prove beyond a reasonable doubt that the defendant *intended* to touch *[alleged victim]* , in the sense that the defendant consciously and deliberately intended the touching to occur, and that the touching was not merely accidental or negligent. The Commonwealth is not required to prove that the defendant specifically intended to cause injury to *[alleged victim]*

#### JURY INSTRUCTION- RECKLESS A&B

In order to prove that the defendant is guilty of having committed an assault and battery by reckless conduct, the Commonwealth must prove two things beyond a reasonable doubt:

*First:* That the defendant intentionally engaged in actions which caused bodily injury to victim. The injury must be sufficiently serious to interfere with the alleged victim's health or comfort. It need not be permanent, but it must be more than trifling. For example, an act that only shakes up a person or causes only momentary discomfort would not be sufficient.

And *second:* The Commonwealth must prove that the defendant's actions amounted to reckless conduct.



## COMMONWEALTH V. COHEN

A District Court jury found the defendant guilty of assault and battery for intentionally spitting on a young woman with whom he had a disagreement outside a convenience store. See G. L. c. 265, § 13A. On appeal, the defendant contends that spitting on another, intentionally and without consent, does not amount to a prohibited touching under the statute. To the contrary, we conclude that such conduct does constitute an assault and battery.

"Assault and battery is a common law crime now set forth in G. L. c. 265, § 13A. An assault is an offer or attempt to do a battery. See *Commonwealth v. Shaffer*, 367 Mass. 508, 515 (1975). Every battery includes an assault. *Commonwealth v. Stratton*, 114 Mass. 303 (1873). Hence we need only consider the elements of criminal battery.

"The law of criminal battery protects society's interest in ensuring that its members are free from harmful and offensive touchings. Because there are harmful batteries and offensive batteries, there is a bifurcation in the law of battery. . . . In short, a physically harmful touching is so regardless of consent. But an offensive touching is so only because of lack of consent. . . . A consensual, offensive touching is a contradiction in terms. Hence consent is always at issue, and evidence thereof is material, when the alleged battery is not of the physically harmful type."

## COMMONWEALTH v. BURKE

Here, the Commonwealth needed to prove that, without justification or excuse, and without consent, the defendant intentionally committed a touching, however slight, that was offensive to the victim. See *id.* at 481; *Commonwealth v. Pease*, 49 Mass. App. Ct. 539, 543 (2000). The Commonwealth presented sufficient evidence to establish that the defendant had intentionally spat on the victim without her consent, and that she found it offensive.

The absence of such a decision speaks to the self-evident nature of the conclusion. "The offensive touching may be direct, as by striking another, or it may be indirect, as by setting in motion some force or instrumentality with the intent to cause injury." *Commonwealth v. Dixon*, 34 Mass. App. Ct. 653, 654 (1993). "The affront to the victim's personal integrity is what makes the touching offensive." *Commonwealth v. Burke*, 390 Mass. at 483. It cannot be gainsaid that intentionally spitting on someone is an indirect touching that is repulsive, physically offensive, and violates the victim's personal integrity. We are in accord with other jurisdictions holding that an intentional and unconsented spitting on another constitutes a criminal battery.



## **Assault and Battery(Felony)**

### **Chapter 265 Section 13A**

(b) Whoever commits an assault or an assault and battery:

1. upon another and by such assault and battery causes serious bodily injury;
2. upon another who is pregnant at the time of such assault and battery, knowing or having reason to know that the person is pregnant; or
3. upon another who he knows has an outstanding temporary or permanent vacate, restraining or no contact order or judgment issued pursuant to section 18, section 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 or 20 of chapter 209C, in effect against him at the time of such assault or assault and battery; shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) For the purposes of this section, “serious bodily injury” shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.



### **Commonwealth v Jean-Pierre**

Loss or impairment of bodily function did not have to be permanent to meet definition of serious bodily injury, under statute defining and providing penalties for assault and battery causing “serious bodily injury,” and thus defendant who landed blow to victim's jaw which broke jaw and required victim to be fed through tube for six weeks pending recovery could be convicted of assault and battery causing serious bodily injury. M.G.L.A. c. 265, § 13A.Com. v. Jean-Pierre, 65 Mass. App. Ct. 162, 837 N.E.2d 707 (2005)

### **Commonwealth v Marinho**

Evidence was sufficient to establish that victim suffered serious bodily injury as result of his altercation with defendant, thus supporting conviction for assault and battery causing serious bodily injury; medical records stated that victim presented with “blurred vision” and “vision changes,” victim testified that he had to return to the hospital multiple times after undergoing facial reconstruction surgery to ensure that his vision kept improving, and stated that he experienced double vision for three or four months following the altercation and that he still was having trouble seeing at the time of trial, which was over a year after the fight. M.G.L.A. c. 265, § 13A(c).Com. v. Marinho, 464 Mass. 115 (2013)

### **Commonwealth v Scott**

Evidence that victim had suffered a “grade II” laceration of her liver as a result of assault by defendant in itself was insufficient to allow jury to conclude that victim had suffered an impairment of an organ, as required to support defendant's conviction for assault and battery causing serious bodily injury, as medical evidence concerning relative severity of injury was required for jury to determine effect of injury on victim without speculation. M.G.L.A. c. 265, § 13A(b)(i), (c).Com. v. Scott, 464 Mass. 355 (2013)

### **Commonwealth v Johnson-2017 Appeals Court**

We conclude that the grand jury readily could have found probable cause that the victim suffered serious bodily injury. Indeed, probable cause was established for all of the “three distinct routes for establishing serious bodily injury.” *Scott*, supra at 357. First, the grand jury could have found probable cause that the attack caused the victim to have a permanent disfiguring scar on his head. Second, the grand jury could have found probable cause that the victim suffered impairment of a bodily function, such as the vision problems that the victim was experiencing. See *Commonwealth v. Marinho*, 464 Mass. 115, 118-119 (2013) (recognizing that significant vision impairment can constitute serious bodily injury). Third, in light of the evidence that the victim bled so profusely from his injuries, the grand jury could have found probable cause that the injury caused a substantial risk of death.





# Legal Terms

## **Misdemeanor**

No State Prison Time

## **Felony**

State Prison Time eligible

## **Statutes**

The legislature enacts laws

Statutory Right

## **Breach of Peace**

Disruption

## **In Presence**

Five Senses(See Hear Feel Smell Touch)

## **Right of Arrest**

Warrant

Warrantless Arrest

Breach of Peace

Statutory Right

Probable Cause

Complaint-summons

## **Probable Cause**

Level of Proof

## **Elements**

Components of a crime

## **Common Law/Case Law**

Judges decisions

## **Actus Reus**

The act itself

## **Mens Rea**

Mental State



## **Intent-6 Different types**

- **General Intent**

- Intend your Actions
- Most crimes are general intent crimes
- Example-Assault and Battery

- **Specific Intent**

- Intentionally or Knowingly
- Example Assault with Intent to Rob

## **Conspiracy**

Agreement between two or more people to commit a crime

## **Statute Of Limitations**

Typically Six Years

## **Transferred Intent**

Com. v. Pitts, 403 Mass. 665, 532 N.E.2d 34 (1989)

Evidence showed that defendant intended to kill one or both of his attackers when he accidentally killed victim, and mere fact that Commonwealth failed to prove identity of defendant's intended victim did not preclude instruction on transferred intent; after defendant was beaten by three men, defendant fired into automobile in which two of the men were seated along with victim, killing victim.

## **Joint Venture/Aiding or Abetting**

When there is evidence that more than one person may have participated in the commission of the crime.

## **Multiple Charges**

Com. v. Jackson, 80 Mass. App. Ct. 528, (2011)

When making the determination of whether a defendant's actions constitute separate and distinct acts or must be considered a single crime, the fact finder must decide whether the acts are so closely related in fact as to constitute in substance but a single crime.

## **Lesser Included Offense**

One crime is a lesser included offense of another if each of its elements is also an element of the other crime.



**Indecent Assault and Battery on a  
Child Under 14 Years  
Chapter 265, Section 13B**

**Definition:**

Indecently committing an assault and battery on a child under 14 years.

**Elements:**

Same elements as:

1. Assault and battery [where battery is defined as the intentional and unjustified use of force, however slight, upon the person of another] (touch - grope)
2. On a child under 14 years

**Right of Arrest:**

This ten year felony is arrestable IN PRESENCE or on PROBABLE CAUSE.

**Note:**

This type of assault and battery involves intentional acts which are indecent. The main focus here is defining the term "indecent."

The general interpretation of indecent is: any touching that involves the **breasts, buttocks, and genital areas**.

“In a prosecution under this section, a child under the age of fourteen years shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.” Com. v. Davidson, 68 Mass. App. Ct. 72,(2007)



## COMMONWEALTH vs. MIOZZA

The complainants were sisters. During the period alleged in the amended complaints (1997 to 1999), Mary [FN2] was between eight and ten years of age, and Jane [FN3] was between six and eight years of age. Mary testified that she was between ten and eleven when the incidents occurred, while Jane did not testify specifically regarding the time frame. The defendant was a friend of the complainants' parents. He visited often with the complainants' family and, on more than one occasion, had lived with the family for several months in their Fall River apartment. \*569 The defendant would occasionally babysit for the complainants, at which times they were allowed to play with the family's PlayStation video game console. When the defendant began babysitting, the PlayStation was located in the living room of the family's apartment; by the time that most of the alleged incidents occurred, the family had moved to another apartment where the PlayStation was kept in the complainants' parents' bedroom. When babysitting at the second apartment, the defendant often entered the parents' bedroom because he was permitted to smoke there.

During the period in question, Mary, the older sister, would on occasion ask the defendant for permission to play with the PlayStation in her parents' bedroom, and in reply the defendant would ask Mary to kiss him. At these times, the defendant would lie on the bed and hold Mary on top of him as he kissed her on the lips. As they kissed, the defendant placed his hands on Mary's back or buttocks, or sometimes on the back of her head. The defendant often asked Mary to kiss him with an open mouth, but she refused and pushed him away.

Likewise, the defendant asked Jane, the younger sister, for kisses when she asked to play with the PlayStation. He put Jane on top of him while he lay on the bed and kissed her on the lips with a closed mouth. In one instance, the defendant held the door to the bedroom closed with his foot while he held Jane on top of him. On another occasion, he locked the bedroom door while he was inside the room with Jane; Mary was able to pick the lock with her thumbnail and observed the defendant holding Jane on top of him with his hands on her back.

When Jane was in the fourth grade, she attended a program at her school where physical and sexual abuse were discussed. After the last class, Jane wrote a note that disclosed the defendant's conduct with her. The program's director then contacted Sally, [FN4] the complainants' mother, and told her what Jane had reported. Sally approached each of her children separately and received confirmation directly from each.

After talking to her daughters, Sally called the police, who brought the defendant to the police station for an interview. The \*570 defendant signed a Miranda waiver and admitted to asking the girls for hugs and kisses before they could use the PlayStation. He stated that he was wrestling with Jane when Mary saw her on top of him in the bedroom. He admitted to drinking four to five beers while babysitting, and stated that if he were drinking alcohol, there was a seventy-five percent chance that he did ask the girls whether he could put his tongue in their mouths because, when he drinks, "he does stupid things" that he later regrets.

3. Sufficiency of the evidence. The defendant argues separately that, assuming that the statute defines the crime adequately, the evidence was insufficient to convict him. He contends first that the touchings of which he is accused do not constitute indecent assault and battery. Case law on the subject of indecent assault and battery has established that "[a] touching is indecent when, judged by the 'normative standard' of societal mores, it is 'violative of social and behavioral expectations,' in a manner 'which [is] fundamentally offensive to contemporary moral values . . . [and] which the common sense of society would regard as immodest, immoral and improper.'" Commonwealth v. Rosa, 62 Mass. App. Ct. at 625, quoting from Commonwealth v. Lavigne, 42 Mass. App. Ct. 313, 314-315 (1997)



Applying this definition, we have held that the "intentional, unjustified touching of private areas such as 'the breasts, abdomen, buttocks, thighs, and pubic area of a female' " is "indecent" as contemplated by the statute. *Commonwealth v. Mosby*, 30 Mass. App. Ct. at 184-185, quoting from *Commonwealth v. De La Cruz*, 15 Mass. App. Ct. 52, 59 (1982). However, a touching need not be confined to these listed areas of the body to be deemed indecent. See *Commonwealth v. Vazquez*, 65 Mass. App. Ct. 305, 307 (2005). "In certain circumstances, the touching of other intimate parts -- including the mouth and its interior -- may violate contemporary views of personal integrity and privacy." *Ibid*.

We have held that an unwanted kiss on the mouth may constitute indecent conduct, where it involves forced insertion of the tongue. See *Commonwealth v. Castillo*, 55 Mass. App. Ct. 563, 566-567 & n.2 (2002). While a brief kiss not involving the insertion of the tongue is not generally criminally indecent, see *Commonwealth v. Vazquez*, 65 Mass. App. Ct. at 309, we do not "requir[e] that there always be tongue involvement for an act that might be characterized as a kiss to be found indecent, [as the attendant circumstances] may allow the trier of fact rationally to determine that the kiss was an indecent act." *Id.* at 307.

In the present case, the evidence, if believed, demonstrates both suggestive touchings and behavior with sexual overtones that together warranted the jury's finding that indecent assault and battery had taken place. Improper sexual overtones "violative of social and behavioral expectations" can explain physical contact that may otherwise be ambiguous. See *Commonwealth v. Vazquez*, 65 Mass. App. Ct. at 309. As in the *Vazquez* case, the defendant in this case was an adult in his thirties, while the complainants were children; the defendant, as a close family friend, sometime resident of the complainants' house, and babysitter, occupied a position of authority with respect to the children; and the defendant's kissing and fondling was surreptitious, occurring only when he was alone with either complainant and sometimes behind a locked or held-closed door. The evidence showed also that the defendant attempted to entice Mary into kissing him with an open mouth, thus transforming what in another context could be seen as an innocent expression of affection into a sexual overture. Compare *Commonwealth v. Rosa*, 62 Mass. App. Ct. at 625-627.

Com. v. Davidson, 68 Mass. App. Ct. 72, 74-75, 860 N.E.2d 24, 26 (2007)

In those less frequent situations, however, our cases do not require that the defendant himself perform the touching. Thus in *Commonwealth v. Nuby*, 32 Mass.App.Ct. 360, (1992), we held that a defendant who forced the victims "to fondle their mother's breasts" was guilty of indecent assault and battery upon two children under the age of fourteen under G.L. c. 265, § 13B. We also held adequate the judge's instruction that the perpetrator need not himself perform the indecent touching if he directs or commands the victim to touch a third person in a manner that would be offensive.

**MGL 265 Section 13B1/2:** Commission of indecent assault and battery on a child under the age of 14 during commission of certain offenses or by mandated reporters; penalties

**MGL 265 Section 13B3/4:** Commission of indecent assault and battery on a child under the age of 14 by certain previously convicted offenders; penalties



## **Assault and Battery to Collect Money**

### **Chapter 265, Section 13C**

#### **Definition:**

Whoever commits an assault and battery upon another for the purpose of collecting a loan shall for the first offense be punished by imprisonment in the state prison for not less than three nor more than five years or by imprisonment for not more than two and one-half years in a jail or house of correction; and for a second or subsequent offense, by imprisonment in the state prison for not less than five nor more than ten years. Except in the case of a conviction for the first offense for violation of this section, the imposition or execution of the sentence shall not be suspended and no probation or parole shall be granted until the minimum imprisonment herein provided for the offense shall have been served.

#### **Elements:**

1. Same as assault and battery
2. Specific purpose of collecting a loan

#### **Right of Arrest:**

This is (for the first offense) a five year felony arrestable in presence or upon probable cause.

#### **Note:**

The key here is that there is an actual battery with the purpose of collecting money. Because this involves collecting on a loan, it changes from a simple misdemeanor charge of assault and battery to a felony, which of course gives the officer a right of arrest. A closely related crime is Extortion.

#### **Com. v. Thompson, 56 Mass. App. Ct. 710 (2002)**

In essence, what happened here is that Luciano purchased the drugs on “credit”: “G” gave Luciano drugs on the understanding that Luciano would pay him back with money. Perfectly legal transactions along the same lines, where goods are provided on the understanding that payment will later be made for them, are everyday occurrences. Such credit transactions, we think, fall squarely within the established meaning of “loan.” See *In re \*\*98 DePasquale*, 225 B.R. 830, 832 (Bankr.1st Cir.1998), quoting from *In re Johnson*, 215 B.R. 750, 752 (Bankr.E.D.Mo.1997), aff’d, 218 B.R. 449 (Bankr.8th Cir.1998) (test for loan is “whether the creditor extended credit to the [d]ebtor ... and whether the [d]ebtor promised to repay the amount of credit advanced”). See also *Firststar Eagan Bank, N.A. v. Marquette Bank Minneapolis, N.A.*, 466 N.W.2d 8, 11 (Minn.Ct.App.1991) (loan requires “an actual delivery of something to another and a promise of repayment”).

Providing another with drugs on the condition that payment for those drugs be made at a later date surely fits within these definitions. Accordingly, the statute encompasses the transaction shown by sufficient evidence to have occurred and we affirm the defendant's conviction of assault and battery for the purpose of collecting a loan.



## **Assault and Battery Upon Public Employees**

### **Chapter 265, Section 13D**

### **Attempt to Disarm(F)**

#### **Definition:**

Whoever commits an assault and battery upon any public employee when such person is engaged in the performance of his duties at the time of such assault and battery, shall be punished by imprisonment for not less than ninety days nor more than two and one-half years in a house of correction or by a fine of not less than five hundred nor more than five thousand dollars.

An officer authorized to make arrests may arrest any person upon probable cause and without a warrant if the person has committed an offense under this section upon a public employee when the public employee was operating a public transit vehicle and the officer may keep the person in custody during which period the officer shall seek the issuance of a complaint and request a bail determination with all reasonable promptness.

#### **NEW-Attempt to Disarm(F)**

**Whoever commits an offense under this section and which includes an attempt to disarm a police officer in the performance of the officer's duties shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$1,000 and imprisonment in a jail or house of correction for not more than 2 1/2 years.**

#### **Elements:**

1. Assault **and** battery
2. on **any** public employee
3. must be engaged in the performance of duty at the time of the assault and battery

#### **Right of Arrest:**

This is a misdemeanor that carries no statutory right of arrest. However, this would be arrestable **in presence** because it amounts to a **breach of the peace**.

Com. v. Correia, 50 Mass. App. Ct. 455, 737 N.E.2d 1264 (2000)

Conviction for assault and battery on a public employee does not require a showing of specific intent to strike a public employee, and may be based on either the intentional and unjustified use of force upon the person of another, however slight, or the intentional commission of a wanton or reckless act causing physical or bodily injury to another. M.G.L.A. c. 265, § 13D.

St.1983, c. 100, approved May 17, 1983, substituted "firefighter, correction officer, sheriff, deputy sheriff, court officer, parole officer, parole supervisor, constable, an **employee** of the registry of motor vehicles having police powers, a **public** school teacher, a **public** school administrator or any person in a **public** school system having duties similar to a teacher or administrator when any such person is engaged in the performance of his duty at the time of such assault and battery," for "a fire fighter, a correction officer or an **employee** of the registry of motor vehicles having police powers, or a **public**...



Court officer's testimony that he had seen defendant in prisoner's dock in district court on numerous occasions was relevant to proving that defendant attacked court officer in his capacity as **public employee**, in trial for assault and battery on **public employee**, especially since officer had testified that he was wearing winter coat over uniform....

**Notes:**

Officers should be aware that although this covers any public employee, many times it involves a police officer, firefighter, and/or teacher. REMEMBER: in order for this statute to apply, the employee must be performing their official duties at the time of the assault. The suspect **must be aware** that he is assaulting a public employee. An example of this would be an officer verbally identifying himself. FYI: E.M.T's and Corrections officers are covered under a separate statute.

- This only covers assault and battery. The appropriate charge for assault is still under c. 265, s. 13A.
- This statute replaces assault and battery on a police officer, etc.
- According to *Com. v. Moreira*, 447 N.E. 2d 244, a person has no right to resist arrest, even a false arrest. A person does have a right to resist the use of excessive force.

## Injury to Firefighter Resulting from Property Crime

### Chapter 265, Section 13D 1/2

**Definition:**

Whoever commits an offense set forth in section one, two, five or seven of Chapter Two Hundred and Sixty-six where said offense results in injury to a firefighter in the performance of his duty, shall be punished by imprisonment in the state prison for not more than ten years, or by a fine of not more than one thousand dollars and imprisonment in a jail or house of correction for not more than two and one-half years.

**Elements:**

1. commits one of the offenses under 266: 1, 2, 5 or 7
2. resulting in an injury
3. to a **Firefighter**
4. in the performance of his duty

**Result of Arrest:**

This is a ten year felony. Therefore it is arrestable in presence or on probable cause.

**Note:**

- Ch. 266: 1 Arson/Dwelling
- Ch. 266: 2 Arson/other buildings, etc.
- Ch. 266: 5 Arson/motor vehicle, personal property valued over \$25, etc.
- Ch. 266: 7 Injury or destruction of woods by fire





**Indecent Assault and Battery on a Mentally Retarded Person and  
Assault and Battery on a Mentally Retarded Person  
Chapter 265, Section 13F**

Chapter 265, Section 13F has been amended to include simple assault and battery on a mentally retarded person, *effective April 13, 1993*.

**INDECENT ASSAULT AND BATTERY ON A MENTALLY RETARDED PERSON**

**Elements:**

1. commits an indecent assault and battery
2. on a mentally retarded person
3. knowing such person is mentally retarded

**Right of Arrest:**

This is a ten year felony arrestable in presence or upon probable cause

**SIMPLE ASSAULT AND BATTERY ON A MENTALLY RETARDED PERSON**

**Elements:**

1. commits an assault and battery
2. on a mentally retarded person
3. knowing such a person to be mentally retarded

**Right of Arrest:**

This is a five year felony arrestable in presence or upon probable cause.

**Note:**

This section shall not apply to the commission of an indecent assault and battery or a simple assault and battery by a mentally retarded person upon another mentally retarded person.

Chapter 123, Section 1 defines "mentally retarded person" as a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the Department of Mental Health is substantially limited in his ability to learn or adapt, as judged by established standards available for the evaluation of a person's ability to function in the community.

Com. v. Aitahmedlamara, 63 Mass. App. Ct. 76, 823 N.E.2d 408 (2005)

Sufficient evidence supported conviction for indecent assault and battery on a mentally retarded person; service coordinator from Department of Mental Retardation (DMR) testified that victim had been eligible to receive services from DMR, and that only persons with an IQ level below 76 were so eligible, victim's IQ was significantly below that threshold, victim required assistance with virtually all basic life skills, and defendant knew that victim was retarded, given that he worked at group home managed by DMR where victim lived.



**Indecent Assault and Battery**  
**Person who has attained Age Fourteen**  
**Chapter 265, Section 13H**

**Definition:**

Whoever commits an indecent assault and battery on a person who has attained age fourteen shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment for not more than two and one-half years in a jail or house of correction.

**Elements:**

1. Same as assault and battery only done indecently (touch-grope)
2. Upon a person (either male or female)
3. Victim is age 14 or older

**Right of Arrest:**

This is a five-year felony arrestable in presence or upon probable cause.

**Note:**

This type of assault and battery involves intentional acts which are indecent. The main focus here is defining the term "indecent." The general interpretation of indecent is: any touching that involves the **breasts, buttocks, and genital areas**.

**Com. v. Mosby, 30 Mass. App. Ct. 181 (1991)**

The type of conduct that constitutes indecent assault and battery on a person over fourteen years of age is not defined in G.L. c. 265, § 13H. A definition adopted by this court provides: "[a]n indecent assault and battery is essentially an act or series of acts which are fundamentally offensive to contemporary moral values.... [I]t is behavior which the common sense of society would regard as immodest, immoral and improper.... Thus, in order to prove indecent assault and battery, the Commonwealth must prove beyond a reasonable doubt that the defendant committed an intentional, unprivileged and indecent touching of the victim." *Commonwealth v. Perretti*, 20 Mass.App.Ct. 36, 43–44, 477 N.E.2d 1061 (1985). It has been held that the intentional, unjustified touching of private areas such as "the breasts, abdomen, buttocks, thighs, and pubic area of a female" constitutes an indecent assault and battery. *Commonwealth v. De La Cruz*

**Com. v. Lavigne, 42 Mass. App. Ct. 313, 316, 676 N.E.2d 1170, 1173 (1997)**

The judge was entitled to find, on the evidence he heard and viewed, that the defendant's touching had not merely involved the inner thigh but, because of the proximity of the defendant's fingers to Erik's genitals, had actually extended to the "genital area," the "pubic area," or the "groin" area, as commonly understood.

The judge weighed both the manner of the physical contact—a pressing of the thigh with the defendant's entire hand that felt to Erik like an intimate massage rather than a fleeting, casual, innocuous brush or bump—and the defendant's sexually suggestive inquiries accompanying the contact, which were immediately understood by Erik to be an invitation to a sexual encounter.



**Com. v. Lavigne, 26 Mass. App. Ct. 262 (1988)**

The conduct engaged in by the defendant falls within the boundaries of conduct found to constitute an unnatural and lascivious act by decisions prior to the dates of the incidents in this case. See Commonwealth v. LaBella, [364 Mass. 550](#) , 551 (1974) ("oral contact with . . . genital area"); Commonwealth v. Balthazar, [\[Note 4\]](#)366 Mass. at 303 ("mouth on . . . genitals and on . . . buttocks or anus"). The conduct also conforms to lexical definitions of the term cunnilingus, [\[Note 5\]](#) which Massachusetts decisions include in the term unnatural and lascivious act. See Commonwealth v. Manning, [367 Mass. 605](#) , 609, 611 (1975); Commonwealth v. Hill, [377 Mass. 59](#) (1979); Commonwealth v. Deschamps, [1 Mass. App. Ct. 1](#) , 2 (1972). Moreover, as stated above, general mores condemn engaging in this act with a child under sixteen. Therefore, "[w]e find it impossible to believe that any competent adult would be surprised at the conclusion that the conduct . . . found [by the jury in this case] was prohibited." Commonwealth v. Hill.

**(F) Indecent Assault and Battery on Elder with a Disability**

Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2 1/2 years, and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for not more than 20 years. A prosecution commenced under this paragraph shall not be placed on file nor continued without a finding.

**Assault or Assault and Battery on E.M.T.  
Chapter 265, Section 13I**

**Definition:** Section 13I.

Whoever commits an assault or assault and battery on an emergency medical technician, an ambulance operator, or an ambulance attendant, while said technician, operator or attendant is treating, transporting, in the line of duty, a person, shall be punished by imprisonment in the house of correction for not less than ninety days nor more than two and one-half years, or by a fine of not less than five hundred dollars, or both.

**Elements:**

1. assault or assault and battery
2. committed on an E.M.T., an ambulance driver or an ambulance attendant
3. while treating or transporting a person
4. in the line of duty

**Right of Arrest:**

This is a misdemeanor that would be arrestable only if committed in your presence.

**Note:**

This involves both an assault and an assault and battery on an E.M.T. You can distinguish this crime from A & B on a public employee, for example, because you can use this statute based on an assault alone. For instance, a man takes a swing at an EMT, but misses. He can still be charged under this statute.



## **Abuse of a Child under Fourteen**

### **Chapter 265, Section 13j**

#### **JURY INSTRUCTION**

#### **ASSAULT AND BATTERY ON A CHILD UNDER 14 CAUSING BODILY INJURY**

**First:** That [the alleged victim] was a person under 14 years of age;

**Second:** That the defendant touched the person of [the alleged victim] , without having any right or excuse for doing so;

**Third:** That the defendant intended to touch [the alleged victim] ; to prove an intentional assault and battery, the Commonwealth must prove beyond a reasonable doubt that the defendant intended to touch [the alleged victim] , in the sense that the defendant consciously and deliberately intended the touching to occur, and that the touching was not merely accidental or negligent. The Commonwealth is not required to prove that the defendant specifically intended to cause injury to [the alleged victim] .

**Fourth** element, the Commonwealth must prove that [the alleged victim] suffered a bodily injury. Under the law, a bodily injury is a substantial impairment of the physical condition, including: (a burn) (a fracture of any bone) (a subdural hematoma) (any injury to any internal organ) (any injury which occurs as the result of repeated harm to any bodily function or organ including human skin)

#### **Definition:**

Whoever commits an assault and battery upon a child and by such assault and battery causes **bodily injury** shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. commits an assault and battery upon a child
2. such assault and battery causes bodily injury

#### **Right of Arrest:**

This 5 year felony is arrestable **IN PRESENCE** and on **PROBABLE CAUSE**

#### **Definition:**

Whoever commits an assault and battery upon a child and by such assault and battery causes **substantial bodily injury** shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. Commits an assault and battery upon a child
2. such assault and battery causes substantial bodily injury

#### **Right of Arrest:**

This 15 year felony is arrestable **IN PRESENCE** and on **PROBABLE CAUSE**

For the purposes of this section the following words shall, unless the context indicates otherwise, have the following meanings:



Bodily Injury is substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as a result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

Substantial bodily injury is bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

Child any person under fourteen years of age.

## **Allowing or Permitting Abuse of a Child Under Fourteen**

### **Chapter 265, Section 13j**

#### **Definition:**

Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.

#### **Elements:**

Whoever

1. having care and custody of a child
2. wantonly or recklessly
3. **permits bodily injury** to such child or
4. wantonly or recklessly permits another
5. to commit an assault and battery upon such child
6. such assault and battery causes bodily injury

#### **Right of Arrest:**

This statute is a misdemeanor with **NO STATUTORY RIGHT OF ARREST**

Whoever

1. having care or custody of a child
2. wantonly or recklessly
3. **permits substantial bodily injury** to such child or
4. wantonly or recklessly permits another
5. to commit an assault and battery upon such child
6. such assault and battery causes substantial bodily injury

#### **Right of Arrest:**

**This 5 year felony** is arrestable **IN PRESENCE** and on **PROBABLE CAUSE**

**Note:** Persons having care and custody - a parent, guardian, employee of a home or institution or any person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.

**Com. v. Robinson, 74 Mass. App. Ct. 752, 910 N.E.2d 911 (2009)**

Evidence was sufficient to support conviction for recklessly permitting substantial bodily injury to a child; defendant's 13-year-old daughter became sick, she lost 34 pounds during her illness, she stopped eating and was dehydrated, her abdomen was swollen and pus and stool oozed from a hole in her abdomen below her navel, she had bed sores, she could no longer walk to the bathroom and had to wear diapers, and defendant failed to get medical attention for her daughter until daughter was unresponsive. M.G.L.A. c. 265, § 13J(a, b).



## **Abuse of the Elderly or Disabled**

### **Chapter 265, Section 13K**

#### **Definition:**

Whoever commits an assault and battery upon an elder or person with a disability and by such assault and battery causes **bodily injury** shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. commits an assault and battery upon an elder person or person with a disability
2. such assault and battery causes bodily injury

#### **Right of Arrest:**

This 5 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE

---

#### **Definition:**

Whoever commits an assault and battery upon an elder or a person with a disability and by such assault and battery causes **substantial bodily injury** shall be punished by imprisonment in the state prison for not more than ten years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. Commits an assault and battery upon an elder or person with a disability
2. such assault and battery causes substantial bodily injury

#### **Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE

**NOTE:** For the purposes of this section the following words shall, unless the context indicates otherwise, have the following meanings:

**Bodily Injury** is substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as a result of repeated harm to any bodily function or organ including human skin.

**Serious bodily injury** is bodily injury which creates a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death. any person under fourteen years of age.

Elder is a person sixty years of age or older.

Person with a disability is a person between the ages of 18 and 59 inclusive. Who is mentally retarded as defined by Ch.123 B,S1.or who is otherwise mentally or physically disabled and as a result is wholly or partially dependent on another person(s) to meet his daily living needs.



**Terms:**

**"caretaker"**, A person with responsibility for the physical care of an elder or person with a disability, which responsibility may arise as a result of a family relationship, or by a fiduciary duty imposed by law, or by voluntary or contractual duty undertaken on behalf of such elder or person with a disability. A person may be found to be a caretaker under this section only if a reasonable person would believe that such person's failure to fulfill such responsibility would adversely affect the physical health of such elder or person with a disability. Minor children and adults adjudicated incompetent by a court of law may not be deemed to be caretakers under this section.

**Definition:**

Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits bodily injury to such elder person or person with a disability or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability, which assault and battery causes **bodily injury**, shall be punished by imprisonment in the state prison for not more than five years or in the house of correction for not more than two and one-half years or by a fine of not more than five thousand dollars or both.

**Elements:**

- Whoever
1. being the caretaker of an elder person or a person with a disability
  2. wantonly or recklessly
  3. permits bodily injury to such person or
  4. wantonly or recklessly permits another
  5. to commit an assault and battery upon such elder or person with a disability
  6. such assault and battery causes bodily injury

**Right of Arrest:**

This 5 year felony is arrestable IN PRESENCE OR ON PROBABLE CAUSE.

**Definition:**

Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits serious bodily injury to such elder or person with a disability, or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability which assault and battery causes serious bodily injury, shall be punished by imprisonment in the state prison for not more than ten years, or by imprisonment in a jail or house of correction for not more than two and one-half years or by a fine of not more than ten thousand dollars or by both such fine and imprisonment.

**Elements:**

- Whoever
1. having care or custody of an elder or person with a disability
  2. wantonly or recklessly
  3. permits serious bodily injury to such elder or person with a disability or
  4. wantonly or recklessly permits another
  5. to commit an assault and battery upon such elder or person with a disability
  6. such assault and battery causes substantial bodily injury

**Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE  
Com. v. Cruz, 88 Mass. App. Ct. 206, 208–10, 37 N.E.3d 626, 629–30 (2015)





## Reckless Endangerment to a Child 265, Section 13L

### JURY INSTRUCTION RECKLESS ENDANGERMENT OF A CHILD UNDER 18

A person may violate G.L. c. 265, § 13L either (I.) by wanton or reckless conduct creating a substantial risk to a child or (II.) by wantonly and recklessly failing to take reasonable steps to alleviate such a risk. The defendant is charged with wanton or reckless conduct creating a substantial risk of (serious bodily injury) (sexual abuse) to a child under the age of eighteen. In order to prove the defendant guilty of this offense, the Commonwealth must prove three things beyond a reasonable doubt:

- First:** That the defendant engaged in conduct which created a substantial and unjustifiable risk of (serious bodily injury) (sexual abuse) to [alleged victim] ;  
**Second:** That the defendant's conduct was wanton or reckless; and  
**Third:** That [alleged victim] was under the age of eighteen years.

### COMMONWEALTH v. David A. COGGESHALL 473 Mass 665(2016)

On August 19, 2013, at about 2:15 p.m., two Halifax police officers were sent to investigate a report of two individuals walking on the Massachusetts Bay Transportation Authority (MBTA) train tracks. They saw the defendant and his eleven year old son walking along the train tracks. The MBTA was notified, and it slowed the scheduled train to allow the police time to get the defendant and his son off the tracks.

The defendant was holding his son's hand for balance. The boy made several efforts to keep his father from falling, but at one point the defendant fell on his back and landed between the tracks. The officers noted that the defendant was visibly intoxicated. A heavy odor of alcohol was detected on his breath.

There is no dispute that the defendant was adequately identified, or that his son was under age eighteen at the time. The disputed issues are the sufficiency of the evidence of a substantial risk of serious bodily injury, and the sufficiency of the evidence that the defendant wantonly or recklessly engaged in conduct that created such substantial risk.

We conclude that the evidence supports probable cause to believe that the defendant exposed his son to a risk that no reasonable person would have permitted, namely, a substantial risk of serious personal injury.

## Domestic Assault and Battery-Intimate Partner Violence 265, Section 13M

Section 13M. (a) Whoever commits an assault or assault and battery on a family or household member shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or both such fine and imprisonment.

For the purposes of this section, "family or household member" shall mean persons who (i) are or were married to one another, (ii) have a child in common regardless of whether they have ever married or lived together or (iii) are or have been in a substantive dating or engagement relationship; provided, that the trier of fact shall determine whether a relationship is substantive by considering the following factors: the length of time of the relationship; the type of relationship; the frequency of interaction between the parties; whether the relationship was terminated by either person; and the length of time elapsed since the termination of the relationship.

This 2014 law does not override 209A but should be used for Intimate Partners





## **Mayhem**

### **Chapter 265, Section 14**

#### **Elements:**

1. Whoever with malicious intent to maim or disfigure,
2. cuts
3. tears
4. slits, or
5. mutilates the tongue, or an eye, ear, nose, lip, or limb or member of another  
or
6. whoever is privy to such intent,  
or
7. is present and aids in the commission of such crime,  
or
8. whoever assaults another person with a dangerous weapon, substance or chemical,
9. and by such assault disfigures, cripples, or inflicts serious or permanent physical injury upon such person,  
or
10. whoever is privy to such intent, or is present and aids in the commission of such crime.

#### **Right of Arrest:**

This is a 20 year felony arrestable IN PRESENCE or on PROBABLE CAUSE

#### **Com. v. Drew, 67 Mass. App. Ct. 261, 853 N.E.2d 215 (2006)**

Evidence was sufficient to show that defendant intended to maim or disfigure victim during course of sustained attack, as required to support conviction for mayhem; defendant struck victim repeatedly with baseball bat even after victim became unconscious and fell to floor, defendant could have appreciated that blows he inflicted were causing victim's face to move closer to space heater, attack continued until victim's face pressed against space heater and burned face, and defendant then left victim in that position, pausing only to kick him before he left. M.G.L.A. c. 265, § 1

Specific intent to maim the victim, as required to support a charge for mayhem, may be inferred from the nature of the injuries as well as evidence that the injuries arose from a sustained or atrocious attack. M.G.L.A. c. 265, § 14

Although assault and battery by means of a dangerous weapon is a lesser included offense of second branch mayhem, this is not the case when the two offenses derive from separate and distinct acts. M.G.L.A. c. 265, § 14



## **Assault with Intent to Murder or Maim**

### **Chapter 265, Section 15**

#### **DEFINITION:**

Whoever assaults another with intent to commit murder or to maim or disfigure his person in any way described in Chapter 265, Section 14, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two and one half years.

#### **Elements:**

1. Assaults another,
2. With intent to commit murder, or
3. to maim, or
4. Disfigure his person
5. in any manner described in Chapter 265 Section 14.

#### **Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE or on PROBABLE CAUSE.

## **Attempted Murder**

### **Not Assault**

### **Chapter 265, Section 16**

#### **Definition:**

Attempting to commit murder by poisoning, drowning, or strangulation of another person, or by any means not constituting an assault with intent to commit murder.

#### **Elements:**

1. attempting to commit murder
2. by poisoning
3. by drowning
4. by strangling
5. by any means not constituting an assault with intent to commit murder

#### **Right of Arrest:**

This 20 year felony is arrestable IN PRESENCE or on PROBABLE CAUSE.



Com. v. Ormonde, 55 Mass. App. Ct. 231, 231–37, 770 N.E.2d 36, 37–41 (2002)

David Ormonde was convicted by a jury of attempted murder (G.L. c. 265, § 16<sup>1</sup>), assault with intent to commit (G.L. c. 265, § 24), kidnapping (G.L. c. 265, § 26), and three other crimes.<sup>2</sup>

On September 11, 1998, a Friday, Sally Paine was on duty, alone, as night auditor at a Susse Chalet motel in Seekonk. In that capacity, she attended to the reception desk. At about 11:50 p.m., a man, dried blood on his face, walked in and asked for an inexpensive room. Paine registered the guest, who was the defendant David Ormonde; he had presented a driver's license as identification. Paine assigned Ormonde to room 121, and gave him a plastic card key to that room. Paine gave Ormonde instructions on how to use the key and demonstrated its use as well.

Moments later, Ormonde returned to the front desk to say he could not make the key open the door to his room. Paine demonstrated a second time how the card key worked. Ormonde \*233 asked Paine to come and show him how to open the door. She declined. Soon thereafter, Ormonde reappeared in the lobby, complaining that he still could not get the key to work and importuning Paine once again to go down to his room to show him how the key worked. Again Paine declined to leave her post to accompany Ormonde. Instead, she switched him to a different room, room 201, closer to the reception lobby, and issued him a new key.

Ormonde apparently found his way into his newly assigned room because, before long, a telephone call from room 201 lit up on Paine's switchboard. Paine told Ormonde, whose voice she recognized, that she could not leave her work station to help him. After a second, similar phone call, Ormonde resurfaced in the lobby. His television set was not working, he complained, and he was having fresh trouble with his card key. Vexed by Ormonde's repeated interruptions of her work, Paine walked in front of him to room 201, demonstrated use of the card key, and opened the door for him. Ormonde said he could not remember where the light switch was. Paine pointed to where it was and, at that, Ormonde put his hands around her throat and tightened them to a chokehold. While choking her, Ormonde dragged Paine into the room and forced her onto a bed.

As Paine struggled, Ormonde murmured, “You're going to be good. You're going to be nice. You're going to give me what I want.” Paine could not scream because her “throat was totally closed off.” For a brief period, Paine lost consciousness. She reawakened to a beating around the head, particularly the ears. Ormond then forced Paine on the floor by pulling on her throat. With his pants pushed down, Ormonde tore off Paine's pantyhose. He made contact with his penis against her buttocks and vaginal area. He continued saying, “Be good” and “You're going to be nice.” There was no penetration. After concluding this sexual assault, Ormonde warned Paine, “You're not going to tell anybody. I'll let you go if you don't tell anybody.” He repeated that demand several times. Just as Paine thought her assailant was leaving, he seized her pantyhose and, using it as a ligature, choked her. Again Paine lost consciousness. When she awoke, Ormonde was gone. Paine made her way to her work station in the lobby and called 911.



Missing from the record, Ormonde argues, is any evidence that warrants a finding that he had formed the specific intent to rape Paine or to kill her. Intent, of course, is a factor that a jury more often than not must find by making inferences. *Commonwealth v. LaPerle*, 19 Mass.App.Ct. 424, 427, 475 N.E.2d 81 (1985). A defendant seldom accommodates the finder of fact with a declaration that he intended to rape or kill. Contrast *Commonwealth v. Beattie*, 29 Mass.App.Ct. 355, 357, 560 N.E.2d 714 (1990), *S.C.* 409 Mass. 458, 567 N.E.2d 206 (1991) (defendant told his girl friend that he was going to kill his wife). The inferences that jurors may draw need not be inescapable; it is sufficient if they are reasonable in the sense of being rationally derived from the evidence. *Commonwealth v. Beckett*, 373 Mass. 329, 341, 366 N.E.2d 1252 (1977). *Commonwealth v. Russell*, 46 Mass.App.Ct. at 308, 705 N.E.2d 1144.

As to Ormonde's intent to rape, that inference on the basis of the circumstantial evidence was not only reasonable, it verges on the inescapable: the dragging of Paine to the bed and to the floor; the pulling up of her skirt; Ormonde's lowering his pants; the pulling off of Paine's pantyhose; and the contact of his genitalia with hers. What Ormonde said to Paine as he dragged and choked her was verbal confirmation of his intent to rape her.

In the case of the attempted murder, Ormonde's intent to kill Paine is less obvious, but, on the record, may nevertheless be fairly inferred. There was evidence that, after warning Paine to say nothing, Ormonde choked her with the pantyhose until she lapsed into unconsciousness, and then left her in a locked room. Jurors could rationally and reasonably have inferred that Ormonde wanted Paine silent—therefore dead—and left her for dead. See *Commonwealth v. Grogan*, 11 Mass.App.Ct. 684, 686–687, 418 N.E.2d 1276 (1981) (evidence that defendant had put hands around victim's neck, with thumbs on the front of her neck, “in itself would warrant the jury in concluding that he intended to strangle her”); *Commonwealth v. Shea*, 38 Mass.App.Ct. 7, 14, 644 N.E.2d 244 (1995) (intent to kill could be inferred from throwing women overboard five miles off-shore). How to weigh the evidence was for the jury. *Commonwealth v. Beattie*, 409 Mass. at 460, 567 N.E.2d 206. *Commonwealth v. Lydon*, 413 Mass. at 312, 597 N.E.2d 36. *Commonwealth v. Coleman*, 434 Mass. 165, 169, 747 N.E.2d 666 (2001). Inferring Ormonde's intent to kill, given the circumstances, was not just conjecture.



## **Assault and Battery by Means of A Dangerous Weapon**

### **Chapter 265, Section 15A**

#### **Definition:**

Assaulting and beating another by means of a dangerous weapon.

#### **Elements:**

1. A + B -- i.e., the intentional and unjustified use of force.  
The law recognizes an alternative form of assault and battery in which proof of a willful, wanton, and reckless act that results in personal injury to another can substitute for intentional conduct.  
Commonwealth v. Welch
2. Through the instrumentality of a dangerous weapon, by means of a dangerous weapon, not with a dangerous weapon.

#### **Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE

#### **NOTE:**

Jury instructions given to jurors regarding dangerous weapons: the definition of a dangerous weapon also includes any instrument or instrumentality which, because of the manner in which it is used or attempted to be used, endangers the life or inflicts great bodily injury, or is reasonably capable of causing death or serious bodily injury. Thus, even if an instrument in its ordinary use is not designed to produce death or serious bodily injury, it may qualify as a dangerous weapon if it is so used as to be likely to produce death or great bodily harm.

An instrumentality is not dangerous when used for the purposes for which it was intended but may become a dangerous weapon by the manner in which it is used.

Comm. v. Farrel -- DW: lighted cigarette

Comm. v. Tarant -- DW: a dog

Comm. v. Barrett -- DW: aerosol spray when sprayed in face of automobile driver

\*No part of the human body is a dangerous weapon (including human teeth).

#### **Com. v. Lednum(75 Mass.App.Ct. 722)**

The term "dangerous weapon" encompasses two categories:

(1) weapons that are dangerous per se, "instrumentalities designed and constructed to produce death or great bodily harm,"

e.g., firearms, daggers, and brass knuckles; and

(2) objects that are dangerous as used.



## COMMONWEALTH v CRUZADO

Appeal from his convictions of unarmed robbery and assault and battery by means of a dangerous weapon and from his sentence of life in prison on the charge of unarmed robbery, imposed as a habitual criminal under G. L. c. 279, § 25. He argues that the Commonwealth failed to prove all essential elements of the unarmed robbery and the assault and battery by means of a dangerous weapon charges

Facts. We summarize the facts the jury could have found. See *Commonwealth v. Latimore*, 378 Mass. 671, 678-679 (1979). Christopher Adams, an employee of Jack's Gas, a gasoline station in Cambridge, was not on duty at the time of the events in question, but was at the station working on his own vehicle. Tommy Tompkins, also an employee, had parked his white Honda Civic automobile in front of the station on Massachusetts Avenue. A sign indicating that Jack's Gas performed State vehicle inspections was leaning against the rear of Tompkins's Honda. Adams was eating lunch inside the station with other employees when he heard a loud slapping noise that turned out to be the sign falling over. As Adams and others ran out of the station they saw that Tompkins's Honda had been taken and that it was two blocks away. Adams and another employee jumped in a truck and gave chase.

The driver of the Honda, the defendant, stopped at a traffic light, and Adams jumped out of the truck, ran up to the Honda, and "ripped" the door open. The defendant stepped on the acceleration pedal and drove through the red light. After proceeding through the intersection, the Honda was traveling thirty to forty miles per hour. Adams's foot was stuck next to the seat, and he held onto the Honda by putting one hand on the inside of the roof of the Honda and holding onto the door with the other.

While driving, the defendant kept trying to grab Adams's hands to push him off the Honda. As the defendant proceeded through the intersection, another vehicle pulled in front of the Honda, and the defendant swerved out into oncoming traffic, crossing the solid double yellow line in the road. When the Honda swerved, the door swung completely open and then swung back. Adams's foot became dislodged, and he could only hold onto the door. The defendant traveled three to four blocks with Adams continuing to hold onto the Honda. Seeing a gap between vehicles in the oncoming traffic lane, Adams jumped from the Honda to the side of the road, slid across the pavement, hit the front left tire of a parked vehicle, and spun around. [FN1] Police were called and gave chase. The defendant was apprehended after he drove in the wrong direction around a rotary, struck an automobile, and crashed into a guardrail.

Unarmed robbery. The unarmed robbery statute draws substantially from the common law of robbery and requires a showing of a larceny from a person by force and violence or by assault and putting in fear. Robbery is distinguished from larceny by its requirement of actual or constructive force.

The defendant claims that the Honda was not taken from Adams's person or from an area within his control, and thus no robbery was established. In essence he alleges that he was not in the "presence" of Adams until "well after the theft was complete" when Adams "ripped" open the door to the Honda after pursuit.



"While the statute . . . speaks of a taking from the victim's 'person,' the offense is understood 'to include the common law conception of taking in a victim's 'presence' . . . and . . . cover[s] cases where the victim could have prevented the taking had he not been intimidated.' " Commonwealth v. Lashway, 36 Mass. App. Ct. 677, 679-680 (1994), quoting from Commonwealth v. Rajotte, 23 Mass. App. Ct. 93, 95-96 (1986). A larceny may be converted to a robbery where the assault is committed on a victim who has a protective concern for the goods and where the victim interferes with the completion of the theft. See Commonwealth v. Mavredakis, 430 Mass. 848, 854-855 (2000). Here, a rational jury could have found that the Honda was taken from Adams's person as the robbery was not complete when the defendant was still fleeing the scene while being pursued by Adams. The defendant accelerated the car and pushed at Adams's hands to attempt to remove the car from Adams's grasp and to complete the theft.

We also reject the defendant's argument that the element of force was not proved beyond a reasonable doubt. "Robbery includes all of the elements of larceny and in addition requires that force and violence be used against the victim or that the victim be put in fear." Commonwealth v. Goldstein, 54 Mass. App. Ct. 863, 867 (2002). In Goldstein, the defendant argued that \*806 because a knife was brandished after control of the shopping cart holding the stolen merchandise had been relinquished, only larceny could be established. As we said there, "[a] larceny may be converted into a robbery where . . . a person who has protective concern for the goods taken interferes with the completion of the robbery." Ibid. See Commonwealth v. Rajotte, supra at 94. "[T]he nexus between the force or fear and the taking may be relatively loose and yet encompass a robbery." Commonwealth v. Goldstein, supra at 868, quoting from Commonwealth v. Lashway, supra at 680. See Model Penal Code § 222.1 & comment 2 (1980) (robbery includes force or threat of force occurring "in the course of committing a theft," as well as period of flight after commission).

The jury here could have found that Adams's chase of the defendant and his attempt to recover the Honda by jumping onto it occurred in the course of the theft. Accordingly, the defendant's use of force -- by accelerating the Honda with Adams still holding on and by attempting to dislodge Adams's hands from the Honda -- was employed to perpetrate that theft.

We also reject the defendant's argument that the Commonwealth failed to show that Adams had a "protective interest" in the Honda. "The essence of robbery is the exertion of force, actual or constructive, against another in order to take personal property of any value whatsoever, with the intention of stealing it, from the protection which the person of that other affords. . . . It is not affected by the state of the legal title to the goods taken." Adams had an adequate protective concern for Tompkins's car, which was stolen from outside their place of employment.

2. Assault and battery by means of a dangerous weapon. As provided by G. L. c. 265, § 15A(b), as appearing in St. 2002, c. 35, § 2:

"Whoever commits assault and battery upon another by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than ten years or in a house of correction for not more than 2 1/2 years, \*807 or by a fine of not more than \$5,000, or both such fine and imprisonment."





A weapon can be dangerous per se -- "an instrumentality designed and constructed to produce death or great bodily harm" -- or dangerous as used, where the object is capable of inflicting serious bodily injury or causing death. *Commonwealth v. Appleby*, 380 Mass. 296, 303-304 (1980). See *People v. Buford*, 69 Mich. App. 27, 30 (1976) (automobile may be dangerous weapon as used). It is a question for the fact finder whether an instrument is used as a dangerous weapon. *Commonwealth v. Appleby*,

The defendant argues that his conviction of assault and battery by means of a dangerous weapon, the Honda, must be reversed as the Commonwealth did not prove all elements of the offense beyond a reasonable doubt. "[T]he offense of assault and battery by means of a dangerous weapon under G. L. c. 265, § 15A, requires that the elements of assault be present, that there be a touching, however slight, that that touching be by means of the weapon, and that the battery be accomplished by use of an inherently dangerous weapon, or by use of some other object as a weapon, with the intent to use that object in a dangerous or potentially dangerous fashion." *Id.* at 308 (citations omitted). The second theory of assault and battery is that it is "the intentional commission of a wanton or reckless act (something more than gross negligence) causing physical or bodily injury to another." *Commonwealth v. Burno*, 396 Mass. 622, 625 (1986). The jury were instructed on both theories.

The defendant contends the battery was not accomplished because it was Adams who brought himself into contact with the Honda. The evidence was sufficient to sustain the conviction of assault and battery by means of a dangerous weapon under either theory.

Supporting conviction under the intentional theory of battery, the jury could have found that the defendant intended to use both the Honda and his hands in a dangerous or potentially dangerous fashion. While driving he intentionally accelerated the Honda as Adams was holding onto it, drove the Honda through a red light, swerved in traffic, and traveled several **\*808** blocks at a speed of thirty to forty miles per hour. At the same time, the defendant used his hands to attempt to dislodge Adams from the Honda.

Alternatively, the defendant's conviction can be upheld under a wanton and reckless theory of battery. The jury could have found that the defendant's decision to accelerate with a person holding onto the door and frame of the Honda was heedless of the potential danger to Adams. Not only was the defendant driving the Honda in a dangerous fashion, but he was also attempting to push Adams from the Honda with his hands. The reckless conduct resulted in Adams jumping from the moving Honda and suffering injuries. [FN2]

Adams suffered "road rash" to his ankles, hands, palms, and left leg; the skin on the palms of his hands was peeled back and his left leg was bleeding.

Because we decide as we do, we reject the defendant's claim that the asserted failure of the Commonwealth to prove all elements of unarmed robbery and assault and battery with a dangerous weapon beyond a reasonable doubt deprived him of his due process rights.





COMMONWEALTH v. Kenneth A. APPLEBY.  
Com. v. Appleby, 380 Mass. 296, 402 N.E.2d 1051 (1980)

On November 22, 1978, a Superior Court jury convicted Kenneth A. Appleby of assault and battery with a dangerous weapon, to wit: a riding crop. G.L. c. c. 265, s 15A.1 The judge sentenced Appleby to eight to ten years in the Massachusetts Correctional Institution at Walpole. Appleby appealed pursuant to G.L. c. 278, ss 33A-33G, and we granted his petition for direct appellate review. He alleges error in (1) the judge's denial of a directed verdict, and (2) the judge's instructions to the jury on the issues of consent and intent. We affirm the conviction.

Kenneth Appleby and Steven Cromer were engaged in a homosexual, sadomasochistic relationship for over two years, during most of which period they lived together. Appleby frequently beat Cromer. Appleby's general defense to the indictments was that Cromer had consented to the beatings, and that he, Appleby, had intended them for Cromer's sexual gratification. In addition to pressing his arguments on consent and intent in this appeal, he maintains that he should have had a directed verdict because the Commonwealth failed to present a prima facie case of assault and battery by means of a dangerous weapon as set forth in G.L. c. 265, s 15A.

By far the major portion of the Commonwealth's case consisted of the testimony of the alleged victim, Steven Cromer. There follows a summary of his testimony; material from other sources is so noted. The summary continues to the point where we first mention Appleby's motion for a directed verdict.

Cromer lived with Appleby during most of the period from June, 1974, until August 31, 1976 (the date of the incident for which Appleby was convicted). His entire relationship \*298 with Appleby, including the homosexual acts, was forced upon him; he lived with Appleby as a "servant," performing household and other duties. Appleby beat him when he was dissatisfied with Cromer's performance of these duties. Their residence was like a "military camp," with Appleby owning a variety of weapons and employing them on persons in his "torture chamber," which Cromer was forced to help design.

In October, 1975, an enraged Appleby beat Cromer badly with a bullwhip and baseball bat, fracturing his kneecap. Cromer was hospitalized for this injury until December 4. He received surgery to repair the kneecap, and he spent several weeks on crutches thereafter.

En route to the hospital, Appleby suggested to Cromer that they tell hospital personnel that Cromer had had an epileptic seizure and fallen down some stairs, and Cromer, who had had seizures before, agreed and maintained the story throughout the hospital stay. They fabricated the story "(t)o cover things up." When he left the hospital, Cromer returned to Appleby's residence in West Springfield, where he resumed his "duties" as best he could.

When asked what distinguished this October, 1975, incident from other beatings, Cromer stated that it was "going a little over what I was used to." The October, 1975, incident formed the basis of the first indictment, on which the jury acquitted Appleby.

A second incident, the subject of the second indictment, allegedly occurred on February 28, 1976, when Appleby beat Cromer with a bullwhip because of displeasure with a sandwich Cromer had prepared. A friend of Appleby was outside at the time, and Appleby called to this person to bring snow to apply to Cromer's wounds. Cromer liked this "attention": "Other beatings I had, nothing came. No attention was made to me like that. It was unusual in that respect." The jury acquitted Appleby on this indictment as well.

The third incident occurred on August 31, 1976. Cromer served Appleby some ice cream which had melted. This enraged \*299 Appleby, who reached for a riding crop with which he hit Cromer. Cromer described the blow as follows: "He just connected on the back. . . . He was sitting down.



(H)e just lashed with it like that (Indicates.) And it just barely connected with my back. There were some thongs at the end and I just felt them hit me, and he was losing his temper. . . . I felt the whip hit me. A glancing blow.” Cromer, in his underwear, ran from the house and to a monastery, where a priest encouraged him to telephone his relatives. His brother and sister-in-law came to the monastery for him, and later helped him to remove his personal belongings from Appleby's residence. Cromer never returned to Appleby's place thereafter. The jury convicted Appleby on the indictment involving the riding crop incident.

Cromer maintained that Appleby was sadistic, but denied that he was engaged in a sadomasochistic relationship with Appleby. He denied that he was a homosexual, and he claimed the homosexual acts were forced upon him from the beginning. He said he could not recall whether violence and sexual activity with Appleby occurred close in time. Cromer said “Mr. Appleby explained later that he delighted in violence to an extent that he said it was almost sexual or sexual.”

Cromer acquiesced in this relationship because Appleby “took me over in a way . . . . He had convinced me that people were constantly following me and observing my every action and reporting to him.” Cromer told no one about the relationship, and sought aid from no one, because Appleby told him no one would believe him, that he was a “hippie,” a “weirdo,” and on drugs. He thought that even the police could not “stop” Appleby. He was under “duress” the entire time because he feared that Appleby would harm him or members of his family if he did not continue in their relationship.

At one point Cromer stated that he never protested or told Appleby to stop, because he was afraid to do so. At \*300 another point he stated that he did protest Appleby's sadistic activity.

Cromer had a low opinion of himself for having got into the situation, and he “lost” himself in his functions at the Appleby residence. He said that after the bullwhip incident, “I felt that I was just a joke that I had taken the beating and had done nothing about it. Just took the beating, and when he told me to clean up the food off the floor after that, I did, and Jay Robbins \*\*1055 (Appleby's friend) came in and saw me on my hands and knees doing this.”

At the close of the Commonwealth's case in chief, which covered almost 700 pages of the trial transcript, Appleby moved for a directed verdict on the basis that the Commonwealth had failed to establish a prima facie case. The judge denied the motion. The defendant then presented evidence which, including his own testimony, covered almost 600 pages of the transcript. The defendant renewed his motion for a directed verdict at the end of the trial, and it was again denied.

Since the principal question for the jury was one of the credibility of the two main witnesses, Cromer and Appleby, we also summarize Appleby's account of his relationship with Cromer. This summary will continue to the point where we refer to the defense witness Webster.

Appleby's general defense to the three charges was that Cromer had consented to their sadomasochistic relationship. He admitted that he had whipped or beaten Cromer almost daily. He denied, however, that the fractured kneecap was caused by a beating; rather, he asserted the truth of the story of the epileptic seizure and fall down the stairs. (He also testified to witnessing a prior seizure and presented medical evidence of Cromer's epilepsy.) As to the second incident, he denied that he ever beat Cromer severely and said that February 28, 1976, did not stick out in his mind as involving any incident different from the usual daily whippings. Regarding the riding crop incident, Appleby testified that Cromer ran out of the house in his underwear on a rainy night, but said that this occurred on July 24, \*301 1976, after a conversation, and that there was no beating or whipping of any kind that evening.

Appleby trained attack dogs for a living, and kept whips in his house for that purpose. He ascribed the initiation of the sadomasochistic activities entirely to Cromer. He met Cromer while the latter was “hustling” sex for money on a Springfield street. At that time Appleby was a “conventional” homosexual. The first night they met, Cromer showed him a braided rope he had



made from clothesline, and said he liked to be beaten with that. Appleby refused to engage in beatings. Cromer beat himself with the clothesline, and Appleby told him not to use it. In the months before Cromer moved in, their “regular sexual ritual” consisted solely of fellatio and anal intercourse. Cromer told Appleby that he took drugs, and Appleby saw Cromer injecting himself and taking pills.

One evening, Cromer asked to go home with Appleby; the latter assented on the condition that Cromer not bring any drugs. Shortly after they arrived, Cromer spotted one of the whips Appleby used to train dogs. Cromer asked Appleby to beat him with the whip, but the latter refused.

The next day, Cromer telephoned Appleby and asked if he could come to live with him, because some people were following him and trying to kill him. Appleby told Cromer he had taken too many pills. Shortly thereafter, Cromer arrived at Appleby's home and begged to be let in. Appleby told him he could move in if he fulfilled four conditions; Cromer balked at the condition that he give up drugs, but finally acquiesced, and moved all of his belongings into Appleby's home. One of the other conditions was that there would be no beatings, but within two weeks Appleby reneged on this condition and agreed to strike Cromer for the latter's sexual fulfillment.<sup>2</sup> He did this because Cromer begged for it, and because he, Appleby, had a sexual reaction to the sexual effect of the beatings on Cromer.

After this, their relationship became a sadomasochistic one, as well as homosexual, and involved daily beatings of Cromer. At first, Cromer was able to attain sexual satisfaction with only a few strokes of a whip, but gradually he began to require more variety. Together they acquired or constructed \*\*1056 leg irons, handcuffs, a torture rack, several other implements of torture, and a room which Cromer liked to call the “torture chamber.”

When shown the riding crop on direct examination, Appleby denied ever using it on Cromer. On cross-examination, however, he admitted that the riding crop “was employed many times,” and said that Cromer “favored” the crop, that “he would be whipped until he reached sexual orgasm.” The riding crop never caused “welts,” but only “redness;” in fact none of the beatings caused more than “redness.” Appleby never enjoyed whipping Cromer; he enjoyed the sexual effect it had on Cromer and the fact that Cromer allowed him to have anal intercourse after each beating. When asked if he intended to strike Cromer, he said, “I did it with the intent to turn him on sexually.” Appleby had several other sadomasochistic relationships after Cromer left, and used the implements he had purchased or made for Cromer. All of the implements, including the riding crop, were found at Appleby's house in 1978.

Appleby presented as part of his case expert testimony of Dr. John Peter Webster, a minister and psychotherapist. Webster, who had counseled Appleby after his arrest, also had some knowledge of sadomasochism. We summarize his testimony. He defines sadomasochism as involving a fusion of the sexual and aggressive drives, and said the masochist may need to be “punished” in order to release inhibited sexual feelings. He said that the beatings are generally inseparable from the sexual part of the relationship, and that typically the masochist needs to feel helpless and dependent. Cromer's staying with Appleby under fear of harm to himself or his family “would certainly fit the pattern of masochism.”

The propriety of the denial of the motions for a directed verdict and the correctness of the judge's instructions to the jury both turn on certain questions of law, and we therefore address them first. Those questions are: (1) whether the riding crop was a “dangerous weapon” for purposes of G.L. c. 265, s 15A, (2) what sort of criminal intent is required by said s 15A, and (3) what role Appleby's consent defense should play in this case.

1. General Laws c. 265, s 15A reads: “Whoever commits assault and battery upon another by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars or imprisonment in jail for not more than two and one half years.” Courts have classified dangerous weapons into two



categories: those dangerous per se and those dangerous as used. See *Commonwealth v. Farrell*, 322 Mass. 606, 615, 78 N.E.2d 697 (1948).

1 (a) A “dangerous weapon per se” is an instrumentality designed and constructed to produce death or great bodily harm. *State v. Luckey*, 69 Ohio Op.2d 111, 113, 322 N.E.2d 354 (Ohio App.1974). See also *Farrell*, supra. Thus, for example, firearms, daggers, stilettos and brass knuckles are usually classified as dangerous per se, because they are designed for the purpose of bodily assault or defense. On the other hand, pocket knives, razors, hammers, wrenches and cutting tools are not so classified. *People v. Vaines*, 310 Mich. 500, 505, 17 N.W.2d 729 (1945) (dictum). In one case dealing with a “driving whip,” the court held that the whip was not dangerous per se because it was not designed for the offense or defense of persons.

2 A riding crop is not designed to inflict death or serious bodily harm upon either persons or animals. It is designed \*304 to inflict temporary pain in order to cause an animal to move. Therefore it is not dangerous per se.

3 (b) Weapons which are not dangerous per se, but which may be used in a dangerous fashion, may also be “dangerous weapons.” See *Farrell*, supra (lighted cigarette); *Commonwealth v. LeBlanc*, 3 Mass.App. 780, 780, 334 N.E.2d 647 (1975) (automobile door used to strike police officer); *Commonwealth v. Tarrant*, 2 Mass.App. 483, 486-487, 314 N.E.2d 448 (1974) ( “kitchen-type” knife and German shepherd dog may both be used as “dangerous weapons”), S.C., 367 Mass. 411, 326 N.E.2d 710 (1975); *United States v. Loman*, 551 F.2d 164, 169 (7th Cir.) (walking stick used with enough force to break it), cert. denied, 433 U.S. 912, 97 S.Ct. 2982, 53 L.Ed.2d 1097 (1977); *United States v. Johnson*, 324 F.2d 264, 266 (4th Cir. 1963) (chair brought down upon victim's head); *Bennett v. State*, 237 Md. 212, 216, 205 A.2d 393 (1964) (microphone cord tied around victim's neck, causing inability to speak and marks on throat); *Vaines*, supra at 505-506, 17 N.W.2d 729 (ordinary jackknife); *People v. Buford*, 69 Mich.App. 27, 30, 244 N.W.2d 351 (1976) (dictum) (automobile, broomstick, flashlight and lighter fluid may all be dangerous as used); *State v. Howard*, 125 N.J.Super. 39, 45, 308 A.2d 366 (1973) (straight razor). Generally it is held to be a question for the fact finder whether the instrument was so used in a particular case. *Farrell*, supra at 614-615, 78 N.E.2d 697. *Tarrant*, 2 Mass.App. at 487, 314 N.E.2d 448. *Vaines*, supra at 505, 17 N.W.2d 729. *Buford*, supra at 32, 244 N.W.2d 351. *Howard*, supra at 47, 308 A.2d 366.

A riding crop, such as the one involved in this case, is capable of being used to inflict serious bodily harm, and possibly even to cause death. The riding crop Cromer identified as that which Appleby used on August 31, was admitted in evidence. We have examined it. It is approximately eighteen inches in length, and constructed of heavy braided leather wrapped around a solid leather core. At its thickest point, it is slightly less than one inch in diameter, tapering off to a diameter of about one-third of an inch. Cromer and Appleby both testified that leather thongs were missing from the end by the time of the trial. The riding crop is more substantial than one might anticipate an ordinary riding crop to be. It resembles instead a short whip. We \*305 are satisfied that it could be employed to inflict serious bodily harm. Therefore, we cannot hold as a matter of law that it can never be a dangerous weapon as used.

(c) The jury in this case had to find that the riding crop was in fact dangerous as used in order to convict Appleby under s 15A. Whether they could lawfully have done so depends on the gravamen of the offense of assault and battery by means of a dangerous weapon as set forth in s 15A. The meaning of “dangerous weapon” depends to a certain extent on the context in which it is used. We have held that the thrust of the offense of assault with a dangerous weapon, for example, is the outward demonstration of force which breaches the peace, and therefore even an unloaded gun (known only by the defendant to be unloaded) may be a dangerous weapon in that context. *Commonwealth v. Henson*, 357 Mass. 686, 692, 259 N.E.2d 769 (1970). See also *United States v. Maynard*, 452 F.2d 1087, 1088 (1st Cir. 1971) (assault with dangerous weapon does not require proof gun was loaded). The gist of the offense of armed robbery is robbery “while armed,” and





thus there is no need to prove the defendant used a weapon other than to threaten. Henson, *supra* at 690, 259 N.E.2d 769. Commonwealth v. Tarrant, 367 Mass. 411, 415-416, 418, 326 N.E.2d 710 (1975) (dog may be “dangerous weapon” for armed robbery, G.L. c. 265, s 17, and Commonwealth need not prove actually dangerous or used in harm-inflicting manner).

4 Thus the relevant behavior for the offense of assault with a dangerous weapon, G.L. c. 265, s 15B, is an outward demonstration of force, and s 15B requires only apparent ability to injure. Henson, *supra* at 692-693, 259 N.E.2d 769. The behavior for robbery while armed with a dangerous weapon, G.L. c. 265, s 17, which distinguishes it from unarmed robbery, G.L. c. 265, s 19, is the objectively menacing behavior of the defendant with the instrumentality \*\*1058 causing fear in his victims. Tarrant, 367 Mass. at 415, 326 N.E.2d 710. Whether a weapon not dangerous per se qualifies for either of these statutory crimes is a question of fact to be decided “by objective standards \*306 and not by the victim's subjective apprehension.” Tarrant, 367 Mass. at 416, 326 N.E.2d at 714. Henson, *supra* at 693, 259 N.E.2d 769.

One of the principal distinctions between assault by means of a dangerous weapon and assault and battery by means of a dangerous weapon is in the punishment. The maximum penalty for the former is five years, G.L. c. 265, s 15B, and for the latter is ten years, G.L. c. 265, s 15A. We must therefore ask what behavior distinguishes the two crimes, and whether the meaning of “dangerous weapon” is different.

5/6 “The definition of an assault is, an attempt or offer with force and violence to do injury to a person either from malice or wantonness; and a battery is where an injury is actually inflicted under such circumstances.” Commonwealth v. Ruggles, 6 Allen 588, 590-591 (1863). “An assault and battery is the intentional and unjustified use of force upon the person of another, however slight . . .” (emphasis supplied). Commonwealth v. McCan, 277 Mass. 199, 203, 178 N.E. 633, 635 (1931).<sup>4</sup> Under s 15A, the battery must be accomplished by means of the dangerous weapon, and not merely while possessing the weapon. Salemme v. Commonwealth, 370 Mass. 421, 424, 348 N.E.2d 799 (1976). Commonwealth v. Manning, —Mass.App. —, — - —, —a, 376 N.E.2d 885 (1978). Commonwealth v. Jacobs, — Mass.App. —, —b, 381 N.E.2d 1109 (1978).

Therefore, s 15A requires an assault by means of a dangerous weapon, see Henson, *supra*, and also an intentional, unjustified touching, however slight, by means of that dangerous weapon. The criminal law of assault and battery by means of a dangerous weapon expresses society's desire to punish \*307 the use of an instrument which is capable of producing serious bodily harm. We hold that there was sufficient evidence for the jury to find that the riding crop, used as it was by Appleby in this case, was a dangerous weapon.<sup>5</sup> The law need not wait until the instrument actually does cause serious bodily harm in order to classify the weapon as dangerous. Any touching with a potentially dangerous weapon can be assault and battery by means of a dangerous weapon for purposes of s 15A, provided that the assault element and the intentional application of force are established. Commonwealth v. Hawkins, 157 Mass. 551, 553, 32 N.E. 862 (1893), and cases cited.

78 2. We next examine the type of criminal intent necessary for the crimes punishable under G.L. c. 265, s 15A. It has been held that assault and battery by means of a dangerous weapon (G.L. c. 265, s 15A) is a general intent crime in Massachusetts. See \*\*1059 Commonwealth v. Randall, 4 Gray 36, 38-39 (1855); Commonwealth v. Jones, — Mass.App. —, — n.8c, 383 N.E.2d 527 n.8 (1978). Compare G.L. c. 265, s 15A, with G.L. c. 265, s 14 (mayhem: “with malicious intent to maim or disfigure” and “by such assault disfigures . . .”) and G.L. c. 265, s 15 (assault with intent to murder or maim); cf. Commonwealth v. Hogan, — Mass. —, —d, 396 N.E.2d 978 (1979). Section 15A does not require specific intent to injure; it requires only general intent to do the act causing injury. Hawkins, *supra*. See generally, W. Lafave & A. Scott, Criminal Law s 28 (1972).<sup>6</sup> \*308 910 The required intent is satisfied by proof of intent to commit the lesser included crime of assault with a dangerous weapon. See Henson, *supra*; Commonwealth v. Slaney, 345 Mass. 135, 137-139, 141, 185 N.E.2d 919 (1962). Once an actor intends to commit assault with an object capable of causing bodily harm,<sup>7</sup> he is threatening to use the instrumentality in a dangerous



fashion. The offense of assault and battery by means of a dangerous weapon is complete once the threat is consummated by the application of any force upon the victim by means of the instrumentality. Hawkins, supra. This effectuates the policy of s 15A to deter the use of “neutral” objects in a dangerous fashion.

11 In sum, the offense of assault and battery by means of a dangerous weapon under G.L. c. 265, s 15A, requires that the elements of assault be present (see Henson, supra; Slaney, supra ), that there be a touching, however slight (McCan, supra ), that that touching be by means of the weapon (Salemme, supra ), and that the battery be accomplished by use of an inherently dangerous weapon, or by use of some other object as a weapon, with the intent to use that object in a dangerous or potentially dangerous fashion.

3. The evidence in this case must be viewed in a strained manner in order to support Appleby's argument that the jury were required to find that Cromer consented to be hit with the riding crop. Cromer testified that he did not consent to any of the beatings, that the riding crop incident occurred \*309 after an argument over melted ice cream, and that he immediately ran from the house when Appleby “lost his temper” and struck him. Appleby did not testify that there was any beating that evening which related to sexual activity or to which Cromer otherwise consented; he flatly denied that a beating had occurred on the night Cromer ran to the monastery. He further said this night was July 24, but Father Murray (from the monastery), Leon Cromer (Cromer's brother), and Mary Cromer (Cromer's sister-in-law) all testified that the monastery incident occurred on August 31. Furthermore, the riding crop incident was remote in time from the earlier alleged incidents, when a claim that Cromer consented to the relationship might have received more support in the evidence.

The only conceivable way that consent by Cromer on August 31 could be raised by the evidence is by inferences that a) Cromer consented to the relationship generally, and b) Appleby subjectively believed on the night in question that Cromer would consent \*\*1060 to be hit with the crop on the basis of his past behavior. Giving Appleby the benefit of this rather strained construction, we shall briefly discuss the legal viability of Appleby's contention that as a matter of law Cromer could consent to their sadomasochistic relationship.

(a) Assuming that the riding crop incident occurred in relation to sexual behavior, the question is whether the State can regulate, by the law of assault and battery, violent behavior which occurs in private, consensual sexual relationships.

We held in Commonwealth v. Balthazar, 366 Mass. 298, 302, 318 N.E.2d 478 (1974), that G.L. c. 272, s 35, prohibiting “unnatural and lascivious” acts, “must be construed to be inapplicable to private, consensual conduct of adults. We do so on the ground that the concept of general community disapproval of specific conduct, which is inherent in s 35, requires such an interpretation. We do not decide whether a statute which explicitly prohibits sexual conduct, even if consensual and private, would be constitutionally infirm.”

\*310 After Balthazar, consent is a defense to a charge of “unnatural and lascivious” acts under c. 272, s 35. See also Commonwealth v. Hill, —Mass. —, — - —e, 385 N.E.2d 253 (1979) (applying Balthazar retroactively); Balthazar v. Superior Court, 573 F.2d 698, 699 (1st Cir. 1978) (dictum); New York v. Onofre, App.Div.2d, 424 N.Y.S.2d 566 (1980).f Appleby has cited no case, and we are aware of none, extending protection on either statutory or constitutional grounds beyond the sexual acts and to accompanying force or violence by means of dangerous weapons. See generally Cotner v. Henry, 394 F.2d 873 (7th Cir.), cert. denied, 393 U.S. 847, 89 S.Ct. 132, 21 L.Ed.2d 118 (1968); Towler v. Peyton, 303 F.Supp. 581 (W.D.Va.1969) (defendant may constitutionally be convicted of forced acts of sodomy with wife). Any right to sexual privacy that citizens enjoy, and we do not here decide what the basis for such a right would be if it exists,8 would be outweighed in the constitutional balancing scheme by the State's interest in preventing violence by the use of dangerous weapons upon its citizens under the claimed cloak of privacy in sexual relations. See generally Balthazar v. Superior Court, supra at 701 (dictum) (sadomasochistic behavior “universally condemned”); Onofre, supra (dictum) (privacy right not



absolute; State may regulate conduct which “has the potential for working harm”; prevention of “physical violence and disorder” probably valid State interest).

General Laws c. 265, s 15A, is not aimed at regulating sexual conduct. Appleby was in no way charged with a crime for committing homosexual acts. Rather he was tried for violating a statute that implies, as a matter of public policy, that one may not consent to become a victim of an assault and battery with a dangerous weapon. Farrell, *supra* at 620-621, 78 N.E.2d 697. See also *Commonwealth v. Collberg*, 119 Mass. 350 (1876).

\*311 1213 (b) The fact that violence may be related to sexual activity (or may even be sexual activity to the person inflicting pain on another, as Appleby testified) does not prevent the State from protecting its citizens against physical harm. The invalidity of the victim's consent to a battery by means of a dangerous weapon would be the same, however, whether or not the battery was related to sexual activity. The general rule is: “It is settled that to commit a battery upon a person with such violence that bodily harm is likely to result is unlawful, and consent thereto is immaterial.” Farrell, *supra* at 620, 78 N.E.2d at 705.9 \*\*1061 Regardless of whether sexual activity was involved in the incident in question, Cromer's consent to assault and battery upon him by Appleby by means of a dangerous weapon cannot absolve Appleby of the crime charged punishable under G.L. c. 265, s 15A.

4. Appleby alleges that the judge erred in denying his motions for a directed verdict.<sup>10</sup> The standard we apply is whether there was enough evidence in the case-in-chief, when taken in the light most favorable to the Commonwealth, “that could have satisfied a rational trier of fact of each (essential element of the offense) beyond a reasonable doubt.” *Commonwealth v. Latimore*, — Mass. —, —g, 393 N.E.2d 370, 375 (1979). *Commonwealth v. Rosenberg*, — Mass. —, —h, 398 N.E.2d 451 (1979).

14 We hold that the Commonwealth presented in its case-in-chief enough evidence of the elements of assault and battery \*312 with a dangerous weapon, to which Cromer by law could not consent, to support the denial of the motion. We have already said that an assault with a dangerous weapon coupled with slight, intentional touching can qualify for assault and battery by means of a dangerous weapon under G.L. c. 265, s 15A. Even if Appleby subjectively intended to use the crop for his own sexual purposes, the evidence was sufficient to permit the jury to find that he possessed the requisite intent to use the riding crop in a dangerous manner and thereby commit a battery.

The evidence both at the close of the Commonwealth's case and after both sides had rested, supports a jury finding that Appleby intentionally placed Cromer in fear and struck him with the riding crop, an instrumentality which was then being used as a dangerous weapon. There was no error in the denial of the directed verdict.

1516 5. Appleby alleges error in the jury instructions, and in the denial of his request for instructions that (a) intent to cause sexual gratification precludes a finding of guilty of the offense charged, and (b) private, consensual sadomasochistic behavior is an “absolute defense to the charge of assault and battery with a dangerous weapon.” We have reviewed the judge's charge, and find no error. Appleby's requested instructions squarely conflict with our holdings today and with the holdings of Farrell, *supra*.

For all the foregoing reasons, we affirm Appleby's conviction. While we express some reservation on the severity of the sentence imposed for the particular assault and battery on August 31, 1976, as established by the jury verdict, albeit an assault and battery by means of a dangerous weapon, that subject is not open to review by this tribunal. See G.L. c. 278, ss 28A-28C.

Judgment affirmed.

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HENNESSEY, Chief Justice (concurring).

I concur with the result and the reasoning of the court's opinion. I add these few \*313 words to bring emphasis to the court's expressed “reservation” as to the severity of the sentence imposed. The only incident which resulted in a guilty verdict was minor. It was a blow which “barely



connected” with the victim's back; it was a “glancing blow,” with no evidence of visible injury or after effects. We may speculate that the sentencing process was perhaps influenced by the indictments as to two more serious episodes of violence. However, the \*\*1062 jury, by their not guilty verdicts, rejected those charges, and as a consequence they would have no proper bearing on the sentence. Perhaps the sentence here was unduly influenced by knowledge of other charges pending against the defendant at the time of this trial. Perhaps, also, the sentence was influenced by certain related circumstances which are abhorrent to most persons, but the defendant was not charged with those circumstances in any indictment. In sum, the sentencing result here is one which focuses on the compelling need for reasoned application of the broad sentencing discretion ordinarily available to our trial court.

#### Footnotes

The jury acquitted Appleby on two other indictments charging assault and battery with a dangerous weapon, to wit: a bat; and assault and battery with a dangerous weapon, to wit: a whip. The two other conditions were that Cromer (a) attend church every Sunday with Appleby, and (b) not engage in any “hustling.”

The judge in Appleby's case charged the jury that a battery “is the intentional and unjustified use of force, however slight, upon the person of another. Now, not every touching or brushing is a battery. It must be intentional touching or brushing. Everyday social intercourse of urban and suburban life in shopping and public assemblies, in sporting events, persons in crowds are subject to a certain amount of jostling, pushing and shoving while these contacts may be somewhat offensive, they do not constitute battery because they enjoy a measure of justification if they're not excessive. So there can be a touching or brushing and that can be a battery if it's intentional.”

Of course, the question whether a weapon is dangerous as used is always one for the fact finder. “In resolving this issue the jury may consider the nature, size, and shape of the object as well as the way in which it is handled or controlled.” *Commonwealth v. Tarrant*, 367 Mass. 411, 416, 326 N.E.2d 710, 714 (1975). Thus the holding of the present case should not be construed to mean that any intentional unjustified touching with an object previously held in a different case to have been capable of being a dangerous weapon constitutes a crime under G.L. c. 265, s 15A. A reasonable jury might well reach a different conclusion as to a riding crop when used in different circumstances.

Weapons which are dangerous per se will qualify for s 15A convictions when used to commit an assault and a battery of any kind, and without a jury determination that the weapon was dangerous as used. This is because public policy discourages the use of such weapons, and persons are charged with knowledge of their inherently dangerous nature. See *Commonwealth v. Smith*, 312 Mass. 557, 558-560, 45 N.E.2d 742 (1942); *Commonwealth v. Jones*, — Mass.App. —, — (Mass.App.Ct.Adv.Sh. (1978) 1218, 1229-1230), 383 N.E.2d 527 (1978). See also *Tarrant*, 367 Mass. at 416, 326 N.E.2d 710 (for armed robbery, where weapon not dangerous per se, potential danger must be assessed by fact finder using objective standards and not victim's subjective apprehension).

“Bodily harm” is defined as “any hurt or injury calculated to interfere with the health or comfort of the (victim).” *Commonwealth v. Farrell*, 322 Mass. 606, 621, 78 N.E.2d 697, 705 (1948), quoting from *Rex v. Donovan*, 2 K.B. 498, 507 (1934).

*Farrell* involved a female victim who had gone to a hotel room with the defendant, apparently for the purpose of having sexual intercourse, although this is not clearly stated in the review of the evidence. The defendant cut her with a razor and disfigured her body with lighted cigarettes. It appears from the facts that she neither knew this would occur nor consented to it, but this court held that as a matter of law she could not have consented.

The Commonwealth argues that the classification of the riding crop as a dangerous weapon is not properly before this court because Appleby did not state grounds for his motion for directed verdict and the thrust of his defense was consent. The motion for a directed verdict raises the question of the sufficiency of the evidence as to all essential elements of the offense, however.





## **Assault by Means of a Dangerous Weapon**

### **Chapter 265, Section 15B**

#### **Definition:**

Assaulting another by means of a dangerous weapon.

#### **Elements:**

1. Assaulting another (outward gesture menacing no fear needed)
2. By means of a dangerous weapon

#### **Right of Arrest:**

This 5 year felony is arrestable upon PROBABLE CAUSE or IN PRESENCE.

#### **NOTE:**

#### **Com. v. Lednum(75 Mass.App.Ct. 722)**

The term “dangerous weapon” encompasses two categories:

- (1) weapons that are dangerous per se, “instrumentalities designed and constructed to produce death or great bodily harm,” e.g., firearms, daggers, and brass knuckles; and
- (2) objects that are dangerous as used.



**COMMONWEALTH v. Lajuan MELTON**

The defendant was convicted of unlawful possession of a firearm and ammunition, malicious damage to a motor vehicle, and four counts of assault by means of a dangerous weapon. On appeal, he contends that the evidence was insufficient to convict him of all four assaults because the perpetrator, \*292 by firing only a single shot into a vehicle occupied by four persons, could not have intended to commit more than a single battery by means of that shot. He also contends that there was insufficient evidence to convict him either as a joint venturer or as a principal for the assaults and the malicious damage to a motor vehicle.<sup>1</sup> The Appeals Court affirmed the convictions. *Commonwealth v. Melton*, 50 Mass.App.Ct. 637, 741 N.E.2d 69 (2001). We granted the defendant's application for further appellate review. For the following reasons, we affirm the convictions.

1. Facts. Viewing the evidence in the light most favorable to the Commonwealth, see *Commonwealth v. Latimore*, 378 Mass. 671, 677-678, 393 N.E.2d 370 (1979), the jury could have found as follows. On the evening of April 1, 1998, David Benedict, the defendant and two other companions were standing outside a bar on Main Street in Brockton. Another group of young men drove by in a Honda Accord. Among that group was Daniel Marcellus, who had had previous disputes with both the defendant and Benedict. The defendant's group gestured at the passing vehicle in a manner that suggested a desire to fight. The vehicle turned around; Marcellus and his companions got out; and ultimately it was decided that Marcellus and the defendant would fight "one on one." The defendant then removed a gun from his pants. Marcellus recognized the gun as one that he had seen Benedict use during a confrontation a few weeks earlier. The defendant wrapped the gun in his sweatshirt, went into the bar or an adjacent alley momentarily, and then returned \*\*1095 without the bundled clothing (and presumably without the gun). No one saw Benedict with a gun.

The defendant and Marcellus proceeded with their fight while the others watched. After some period, the two combatants separated. The defendant was "winded" and "tired," but his friends were encouraging him to resume the fight. He appeared reluctant to do so. At that point, the police arrived. The participants were questioned, but no one was arrested. After the police advised the young men to go their separate ways, Marcellus and his group left in their car, with Marcellus seated in the back seat, behind the driver.

\*293 Marcellus and his companions dropped off one member of their group at his home. At that point, Marcellus took over driving. One passenger was seated in the front seat, and the other two were in the back seat. The driver's side rear passenger seat, which Marcellus had occupied when they left the scene of the fight, was now occupied by his brother.

Driving along, approximately twenty minutes after the conclusion of the fight, Marcellus noticed another vehicle, an older model blue Chrysler, approaching rapidly. (The same vehicle had been seen at the site of the earlier fight.) The Chrysler pulled alongside, and a hand reached out the rear passenger side window pointing a gun at the Honda. Marcellus described the hand as "light-skinned." He recognized the weapon as the one that the defendant had possessed at the start of their fight.

A single shot was fired, shattering the rear driver's side window of the Honda. None of the occupants of the vehicle was hit by the bullet. They were hit by fragments of broken glass. Marcellus looked over at the Chrysler and saw Benedict in the rear driver's side seat and the defendant in the rear passenger side seat. The driver and the front seat passenger were the other two young men who had been with the defendant at the time of the earlier fight. After the one gunshot, the Chrysler sped away. Marcellus attempted pursuit, but was convinced by his companions to go to the police instead. They proceeded to the police station, where Marcellus told the police that he thought the defendant was the shooter.

At school the next day, Marcellus spoke with the defendant's girl friend. She told him that Benedict was the shooter, not the defendant. Marcellus heard similar rumors from other classmates. Marcellus then began to doubt his identification of the defendant as the shooter because the hand he had seen holding the gun out the window was "light-skinned," whereas the defendant was more "dark-skinned." By the time of his grand jury testimony, Marcellus told the investigating officers that he was not sure of the identity of the shooter, but that it probably was Benedict, not the defendant. At trial, Marcellus testified that what he heard from others concerning Benedict's identity as the shooter made "more sense" to him, and he opined that it "probably really wasn't" the defendant who shot at the car. He \*294 did, however, confirm that he had initially identified the defendant as the shooter.

1 2. Intent to batter four victims. The defendant was charged with a separate count of assault by means of a dangerous weapon committed on each of the four occupants of the Honda. The defendant argues that he cannot be found guilty of four counts of assault by means of a dangerous weapon because there was not



sufficient evidence of any intent to batter all four alleged victims. Because it would have been physically impossible to hit all four victims with a single shot, he contends that the perpetrator could not have had \*\*1 the intent to batter four people.<sup>2</sup> The defendant's argument misapprehends our jurisprudence on the element of intent.

Under the common law, an assault may be perpetrated in either of two ways.<sup>3</sup> The crime may consist of "an attempted battery" or "an immediately threatened battery." *Commonwealth v. Gorassi*, 432 Mass. 244, 247, 733 N.E.2d 106 (2000), and cases cited. *Commonwealth v. Musgrave*, 38 Mass.App.Ct. 519, 521, 649 N.E.2d 784 (1995), S.C., 421 Mass. 610, 659 N.E.2d 284 (1996). The crime of assault by means of a dangerous weapon adds one additional element, namely, that the assault was perpetrated by means of a dangerous weapon. G.L. c. 265, § 15B (b ). The judge instructed the jury on both types of assault, and, if the defendant were found guilty, the judge's instructions required the jury to specify on the verdict slip which type of assault had been proved. See *Commonwealth v. Accetta*, 422 Mass. 642, 646-647, 664 N.E.2d 830 (1996). On each of the four indictments for assault by means of a dangerous weapon, the jury returned a verdict that the defendant was guilty, specifying \*295 that they had based each verdict on the "attempted battery" form of assault.<sup>4</sup>

<sup>567</sup> Under the attempted battery theory, the Commonwealth must prove that the defendant intended to commit a battery, took some overt step toward accomplishing that intended battery, and came reasonably close to doing so. See *Commonwealth v. Musgrave*, supra at 520 n. 2, 649 N.E.2d 784, quoting Model Jury Instructions for Criminal Offenses Tried in the District Court Department § 5.402 (1988). The defendant concedes, as he must, that a single act can result in multiple convictions if there are multiple victims. "[T]he appropriate 'unit of prosecution' for such crimes [of violence] is the person assaulted or killed, not the underlying criminal act." *Commonwealth v. Crawford*, 430 Mass. 683, 686-687, 722 N.E.2d 960 (2000), quoting *Commonwealth v. Donovan*, 395 Mass. 20, 31, 478 N.E.2d 727 (1985). See *Commonwealth v. Gordon*, 41 Mass.App.Ct. 459, 465, 671 N.E.2d 972 (1996); *Commonwealth v. Dello Iacono*, 20 Mass.App.Ct. 83, 89-90, 478 N.E.2d 144 (1985).

<sup>8</sup> Rather, the defendant challenges the sufficiency of the evidence only with respect to the element of intent. He contends \*\*1097 that the single shot could not hit all the occupants of the car, and asks us to hold that his intent cannot have exceeded what the laws of physics would permit that single shot to accomplish.<sup>5</sup> Of course, while the laws of physics may determine the extent of injury or physical damage accomplished by a person's act, the perpetrator's intent is not necessarily so constrained. A \*296 person can intend things that are hopelessly unrealistic or even absurd. In that sense, we reject the fundamental premise of the defendant's argument. The impossibility of particular consequences may be argued as a basis for concluding that a defendant did not harbor the requisite intent, but it does not compel the jury to reach that conclusion.<sup>6</sup> More fundamentally, however, the defendant's argument erroneously assumes that the intent element requires the Commonwealth to prove an intent to batter each and every one of the victims in order for there to be multiple assaults. That assumption is inconsistent with our treatment of intent in other contexts. We have never required that a defendant's intent be directed at the precise victim of the crime. Rather, we have long recognized the concept of "transferred intent" in situations where the defendant's conduct harms a person other than the intended victim. See *Commonwealth v. Fisher*, 433 Mass. 340, 345-346, 742 N.E.2d 61 (2001), and cases cited.

In most other jurisdictions, the same principle of transferred intent applies to satisfy the element of intent when a defendant harms both the intended victim and one or more additional but unintended victims. See, e.g., *United States v. Sampol*, 636 F.2d 621, 674 (D.C.Cir.1980) (evidence sufficient to support two convictions of murder in the first degree where defendant killed two people, even though defendant only intended to kill one of them, noting that "[t]here are even stronger grounds for applying the principle [of transferred intent] where the intended victim is killed by the same act that kills the unintended victim"); *State v. Worlock*, 117 N.J. 596, 616-617, 569 A.2d 1314 (1990) (same); *State v. Hinton*, 227 Conn. 301, 306-311, 630 A.2d 593 (1993) (transferred intent doctrine applicable to support three counts of murder even if defendant only intended to kill one victim); *State v. Fennell*, 340 S.C. 266, 276, 531 S.E.2d 512 (2000) (where defendant shot and killed intended victim but one bullet struck and seriously \*297 injured an unintended victim, doctrine of transferred intent supported convictions of both murder of intended victim and assault and battery with intent to kill unintended victim); *Ochoa v. State*, 115 Nev. 194, 981 P.2d 1201, 1205 (1999) (same); *State v. Gillette*, 102 N.M. 695, 705, 699 P.2d 626 (N.M.App.1985) (defendant, who delivered poisoned drink to one intended victim, guilty of three counts of \*\*1098 attempted murder when intended victim and two others consumed it); *State v. Henley*, 141 Ariz. 465, 467, 687 P.2d 1220 (1984) (transferred intent doctrine would support two counts of aggravated assault where single shot intended for



one victim struck two persons); *Mordica v. State*, 618 So.2d 301, 303 (Fla.Dist.Ct.App.1993) (where defendant kicked fellow inmate and inadvertently kicked officer who was attempting to break up fight, defendant's convictions of two batteries upheld); *State v. Livingston*, 420 N.W.2d 223, 229 (Minn.Ct.App.1988) (where defendant commanded his dog to bite intended victim and dog attacked two other persons as well, transferred intent applicable to support three counts of assault). See also *State v. Wilson*, 125 Wash.2d 212, 217-218, 883 P.2d 320 (1994) (where defendant shot at and missed both intended victims but struck and injured two unintended victims, he committed four assaults because he met the statutory requirement that he act "with intent to inflict great bodily harm" and statute did not require that "the specific intent match a specific victim").<sup>7</sup>

910 Thus, a defendant's intent is deemed to extend to others \*298 beyond the actual intended victim. It is not exhausted or depleted based on the perpetration of the crime on the intended victim, but encompasses completely unintended victims (including victims of whom the defendant was unaware) who happen to suffer along with the intended victim. See *State v. Hinton*, supra at 306 n. 8, 630 A.2d 593 (defendant's intent to harm one victim "is not regarded as a limited commodity that, once satisfied, is totally expended"). Thus, the requisite mens rea must be shown, but it does not need to be shown separately or independently for each victim. Rather, once established as to any victim, it satisfies that element with respect to all other victims, even if those victims are unintended or even unknown to the defendant.

We recognize that, in most of the cases cited above, the unintended victims were actually struck, injured, or killed by the defendant.<sup>8</sup> That fact, however, has nothing to do with intent or with transferred \*\*1099 intent. It merely affects whether the crime is one of assault and battery or only assault. If the bullet apparently intended for Marcellus had struck one of the other occupants of the car, either in addition to or instead of Marcellus himself, the doctrine of transferred intent would have made the unintended victim a victim of assault and battery by means of a dangerous weapon. Where, as it happened, the bullet narrowly missed Marcellus and the other occupants, they are victims of assault by means of a dangerous weapon. Both crimes require a showing of intent, and the doctrine of transferred intent applies without regard to whether the attempted battery was successful.

There was abundant evidence of an intent to batter at least one person, most likely Marcellus.<sup>9</sup> An overt act was taken in furtherance of that intent, and it came reasonably close to \*299 succeeding. All persons within close proximity to that shot suffered equally with the intended victim. All four were imperiled by the shot, to at least the same extent as the intended victim. While the Commonwealth does not have to prove that an attempted battery actually instilled fear in the victim, see *Commonwealth v. Gorassi*, 432 Mass. 244, 248, 733 N.E.2d 106 (2000), all four victims here were aware of the shot, several of them were struck by shattered glass from the bullet piercing the rear window, and all suffered at least the same fear as the intended victim.<sup>10</sup> They were all victims of the attempted battery, even if the perpetrator's intent focused on only one of them.<sup>11</sup> Beyond the metaphysics of transferred intent, we note that treating the defendant's actions as four assaults by means of a dangerous weapon is consistent with the purposes underlying the common law of assault. An attempted but unsuccessful battery is criminal not because it actually harms the victim—indeed, the victim can be completely unaware of the attempt—but rather because it imperils the victim. The conduct here (a shot into a car full of people, fired at point blank range from a passing vehicle traveling at high speed) placed four people in equally grave peril. Limiting the number of convictions to the precise number of victims the defendant intended to hit ignores the additional persons whose lives were placed at risk by the defendant's attempt to batter his intended victim. The suggestion that they were not victims of any crime, when they all suffered the very peril that the crime of assault by means of a dangerous weapon is intended to address, is contrary to common sense.

Similarly, it would be anomalous to hold that, had the \*300 defendant merely waved the gun in the direction of the Honda with \*\*1100 a menacing gesture or remark, he would be guilty of four assaults by means of a dangerous weapon (because his intentionally menacing conduct would have been directed at and instilled fear in four people), but that an actual shot at those same four people could only constitute a single assault. Rather, a person is a victim of assault if he is at risk of battery from the defendant's attempted battery on anyone, just as the person would be a victim of assault if he were placed in fear of battery from the defendant's intentionally threatened battery on anyone. The peril and the fear inflicted by such conduct is what makes one a victim of assault, and, as long as the defendant has the requisite mens rea with regard to any person, the defendant may be convicted of as many separate assaults as there are victims.

Therefore, we conclude that there was sufficient evidence to prove four counts of assault by means of a dangerous weapon on a theory of attempted battery.



11 3. Sufficiency of the evidence as to principal or joint venturer liability. The defendant contends that, in light of Marcellus's effective retraction of his earlier identification of the shooter, there was not sufficient evidence to convict him as the principal. We agree with the Appeals Court's analysis on this point. See *Commonwealth v. Melton*, 50 Mass.App.Ct. 637, 643-646, 741 N.E.2d 69 (2001). Marcellus acknowledged that he had originally identified the defendant as the shooter; he acknowledged that his retraction of that identification was based at least in part on rumor and hearsay from persons who were partial to the defendant; and the jury could have been skeptical of his claimed ability to distinguish subtle differences in skin tone (the ostensible basis for his retraction) when he had seen only the perpetrator's hand briefly as the car sped by on a foggy night. Meanwhile, there was circumstantial evidence pointing to the defendant as the likely perpetrator. He had the strongest motive to attack Marcellus (hostility from the earlier fight); the weapon used to perpetrate the assaults had been seen in his possession earlier that evening; and he was seated closest to the window from which the shot was fired.

12 We also agree with the Appeals Court that there was sufficient evidence to submit the case to the jury on the alternative \*301 theory of joint venture. *Id.* at 646-647, 741 N.E.2d 69. The defendant was present at the scene; the jury could infer the requisite shared intent from both Benedict's and the defendant's hostility toward Marcellus; and, based on the defendant's supplying a weapon to Benedict (if Benedict were in fact the shooter), the jury could infer the defendant's willingness to assist Benedict in perpetrating the crimes.

Judgments affirmed.

All Citations

436 Mass. 291, 763 N.E.2d 1092

Footnotes

1

The defendant raises no issue with respect to the convictions of unlawful possession of a firearm and ammunition.

2

The argument now raised by the defendant was not presented below in support of his motion for required finding of not guilty. We therefore review to determine whether there was error and, if so, whether such error created a substantial risk of a miscarriage of justice. Convictions based on insufficient evidence "are inherently serious enough to create a substantial risk of a miscarriage of justice." *Commonwealth v. McGovern*, 397 Mass. 863, 867-868, 494 N.E.2d 1298 (1986).

3

The statute sets forth the punishment for the crime of assault by means of a dangerous weapon, but does not define the crime. G.L. c. 265, § 15B (b ). *Commonwealth v. Slaney*, 345 Mass. 135, 138, 185 N.E.2d 919 (1962). *Commonwealth v. Musgrave*, 38 Mass.App.Ct. 519, 521, 649 N.E.2d 784 (1995), S.C., 421 Mass. 610, 659 N.E.2d 284 (1996). Therefore, we look to the common law for the definition of the crime of assault. *Commonwealth v. Slaney*, *supra*.

4

The defendant concedes that the evidence was sufficient to establish the "immediately threatened battery" form of assault as to all four victims. To establish that form of assault, the Commonwealth must prove that the defendant intentionally engaged in menacing conduct that reasonably caused the victim to fear an imminent battery. *Commonwealth v. Musgrave*, *supra* at 520 n. 2, 649 N.E.2d 784, quoting Model Jury Instructions for Criminal Offenses Tried in the District Court Department § 5.402 (1988). A single shot in the direction of a group of people is intentionally menacing conduct that can cause each person reasonably to fear an imminent battery.

5

While the defendant is correct that the single shot could not have hit all four occupants, he is incorrect in his assertion that the single shot could not have hit more than one occupant. The apparent path of the bullet was straight across the back seat, entering at one rear window and continuing out the opposite rear window. Two persons were in that back seat at the time. Both could have been hit by a single bullet traveling along that path. The defendant's argument, even if correct, would reduce the number of assault convictions to two, not to one.

6

Here, an intention to harm persons in addition to Marcellus could be inferred from the evidence, notwithstanding the physical impossibility of hitting all of them with a single shot. While Marcellus was presumably the principal object of the defendant's vengeance, the jury could infer that the defendant bore ill





will to Marcellus's companions as well. They were affiliated with Marcellus, and all of them had just witnessed the defendant's unwillingness to continue fighting Marcellus.

7

A minority of jurisdictions refuse to apply the doctrine of transferred intent if the defendant has succeeded in perpetrating the intended crime on the intended victim. See *People v. Birreuta*, 162 Cal.App.3d 454, 460, 208 Cal.Rptr. 635 (1984); *Ford v. State*, 330 Md. 682, 710-715, 625 A.2d 984 (1993). Under that analysis, the doctrine of transferred intent is used only to prevent a defendant from obtaining a windfall due to his own poor aim or other miscalculation, and its sole purpose "is to insure the adequate punishment of those who accidentally kill innocent bystanders, while failing to kill their intended victims." *People v. Birreuta*, supra. Thus, as long as the crime is completed against the intended victim, the minority is of the view that "there is no need for such an artificial doctrine" in order to obtain a conviction. *Id.* Like the majority of courts that have considered the issue, we are not persuaded by this analysis. The doctrine of transferred intent is not simply a pragmatic device to make sure that a culpable defendant does not avoid all prosecution. Rather, it also serves to recognize that everyone injured or killed by the defendant, whether they were the intended object of his intentional crime or not, are in fact victims. The defendant has acted with the requisite intent as to at least one person, but all persons injured or killed are appropriately viewed as victims of that crime. To hold that a defendant who succeeds in perpetrating a crime on his intended victim cannot commit any form of intentional crime against anyone who is not his actual intended victim fails to recognize the harm perpetrated on others who are unfortunate enough to be injured or killed by the defendant's criminal conduct.

8

The doctrine has been applied to purely attempt crimes in at least one case. See *State v. Gillette*, 102 N.M. 695, 705, 699 P.2d 626 (Ct.App.1985) (three counts of attempted murder even though defendant only intended to poison one person).

9

Although the shot was fired into the back seat when Marcellus was in the driver's seat, Marcellus had been sitting in the back seat at the time the defendant and his companions had seen Marcellus leave the scene of the fight. Driving up rapidly from behind on what some witnesses described as a misty night, the perpetrator may well not have realized that it was Marcellus's brother, not Marcellus, in the back seat.

10

The passengers in the car advised Marcellus not to follow the defendant's car because they were afraid that another shot would be fired if Marcellus maintained the pursuit.

11

The judge did not instruct the jury on transferred intent. There was no objection by either side. The absence of such an instruction did not create a substantial risk of a miscarriage of justice. To the contrary, the absence of an instruction on transferred intent can only help a defendant, as the jury may then mistakenly assume that the Commonwealth has to prove intent specifically directed at each actual victim. An instruction on transferred intent clarifies that the Commonwealth need only prove intent as to one of the victims.

## **Assault by means of Hypodermic Syringe or Needle**

### **Chapter 265, Section 15C**

Section 15C. (a) Whoever commits an assault upon another, by means of a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of controlled or other substances by injection, shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$1,000, or by both such fine and imprisonment.

(b) Whoever commits an assault and battery upon another, by means of a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of controlled or other substances by injection, shall be punished by imprisonment in the state prison for not more than 15 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.



## **Armed Robbery**

### **Chapter 265, Section 17**

#### **Definition:**

##### **Section 17**

Whoever, being armed with a dangerous weapon, assaults another and robs, steals or takes from his person money or other property which may be the subject of larceny shall be punished by imprisonment in the state prison for life or for any term of years; provided, however, that any person who commits any offence described herein **while masked** or disguised or while having his features artificially distorted shall, for the first offence be sentenced to imprisonment for not less than five years and for any subsequent offence for not less than ten years. Whoever commits any offense described herein while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years. Any person who commits a subsequent offense while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than 15 years.

#### **Elements:**

1. armed with a dangerous weapon
2. larceny
3. from the person of another
4. by force and violence or by putting in fear

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or on PROBABLE CAUSE.

#### **Note:**

Officers should remember the definition of dangerous weapon for the first element. In order to use the armed robbery statute, a larceny must occur. (A larceny is defined as an unlawful taking of the property of another.) The last element involves force and violence which, even if slight, will be enough. See Comm. v. Zingari, 42 Mass. App. Ct. 931.) It also may involve putting the victim in fear.

Armed robbery may be made out by proof that defendant was in possession of weapon in course of robbery, although he did not display or use it.

#### **Com. v. Tarrant, 367 Mass. 411, 326 N.E.2d 710 (1975)**

It is not only actual use of weapon in sense of harm in fact inflicted that makes crime of armed robbery aggravated; rather it is more importantly potential for injury and tendency toward resistance, conflict, and violence in result which exists where robbery is perpetrated with use of dangerous weapon. M.G.L.A. c. 265 § 17.

Evidence in **armed robbery** prosecution, including fact that German shepherd dog entered victim's bedroom with defendant, roamed around room while defendant searched for goods, moved within close proximity to victim and answered to defendant's orders, supported finding that dog was dangerous weapon within purview of **armed robbery** statute. M.G.L.A. c. 265 § 17.



# COMMONWEALTH vs. KING

## Robbery & Intimidation of Witness.

The defendant, Michael King, was convicted by a Superior Court jury of one count of armed robbery, G. L. c. 265, § 17 [FN1]; one count of assault and battery, G. L. c. 265, § 13A; \*114 and one count of intimidation of a witness, G. L. c. 268, § 13B, following the robbery of a convenience store. On appeal, he argues that the judge erred in denying his motion for a required finding of not guilty because the evidence was insufficient to establish either that he was armed with a dangerous weapon at the time of the robbery, or that he interfered with the victim's furnishing of information to a criminal investigator. we affirm the convictions.

1. Facts. We summarize the evidence presented at trial in a light most favorable to the Commonwealth. See *Commonwealth v. Latimore*, 378 Mass. 671, 676-677 (1979). On September 9, 2003, the victim, Michael Jacques, was working alone on a 5:00 P.M. to 12:00 A.M. shift as a clerk at the DB Mart, a convenience store located in Springfield. At approximately 11:30 P.M., the defendant, a frequent patron of the store, entered and left without incident. At midnight, the victim closed the store and began the tasks that had to be completed before he could leave.

Moments later, the defendant returned. He knocked on the locked doors and requested that he be let in to retrieve a pager he had misplaced in the store during his earlier visit. After a brief discussion, the victim allowed the defendant to enter to search for the item. Both men scoured the aisles for several minutes to no avail. When the search proved fruitless, the victim requested that the defendant leave for the night and return in the morning to consult with the store's manager.

Suddenly the defendant struck the victim on the left side of the face with his fist. He followed by tackling the victim and placing him in a "choke hold." The defendant then knocked the victim to the floor and up against his bicycle, which the victim had parked inside the store. With the victim subdued, the defendant proceeded to the cash register.

As the defendant attempted to open the cash register, the victim began to get up from the floor. The defendant warned immediately, "I'm going to blow a hole in your head if you get up and move." Believing the defendant had a gun, the victim heeded the warning and returned to the floor. He did not, however, actually see the defendant with a weapon at any time.

The defendant then demanded that the victim tell him how to open the cash register. The victim complied, and the defendant removed approximately \$1,400. He then took the victim's bicycle but, before leaving, inquired as to the location of the videotapes from the store security camera. The victim replied that the videotapes were maintained in the manager's office, and he did not have access to them. The defendant then stated that, "[i]f he saw [the victim] on 22 News [a Springfield television program] he was going to come back and kill [him], [his] whole family, [his] buddy Ben, all of that. The defendant again ordered the victim to remain on the floor, and departed the premises.





A few minutes after, the victim got up from the floor and contacted the police. Responding officers searched the store's immediate surrounding area, but could not locate an individual matching the victim's description of the defendant. An investigation led to apprehension of the defendant on September 11, 2003, one day after the robbery. No weapon was found in his possession or in the vicinity of his person at the time of his arrest.

2. Armed robbery. To obtain a conviction of armed robbery under G. L. c. 265, § 17, the Commonwealth must prove beyond a reasonable doubt that the defendant committed a robbery while "armed with a dangerous weapon." *Commonwealth v. Smiley*, 431 Mass. 477, 490 (2000). Convictions are not limited to instances in which a defendant actually uses or displays the weapon. "In the Massachusetts decisions to date applying G. L. c. 265, § 17, armed robbery may be made out *\*116* by proof that the defendant was in possession of a weapon in the course of a robbery but did not display or use it." *Commonwealth v. Simpson*, 54 Mass. App. Ct. 477, 479 (2002). This does not mean, however, that the Commonwealth may satisfy its burden merely by showing that a defendant was "apparently armed." *Commonwealth v. Howard*, 386 Mass. 607, 608 (1982). There must instead be evidence from which a jury could permissibly conclude that the defendant was actually armed at the time of the robbery with some instrumentality which presents an objective threat of danger. *Id.* at 611.

Applying these criteria, we conclude that a jury finding that the defendant actually possessed a gun at the time of the robbery was warranted.

The defendant relies on *Commonwealth v. Howard*, *supra*, in which a defendant approached the victim on the street, did not display a weapon, but, with his hand in his right pocket, stated: "Walk straight, look down, and don't try anything foolish or I'll pull the trigger." No weapon was visible. The police arrested the defendant at the scene, but a search of his person and the immediate vicinity disclosed that he in fact carried no weapon. A divided Supreme Judicial Court reversed his conviction, concluding that "where a robber had no instrumentality at all, although he said he had a gun, a conviction of armed robbery is not warranted." *Howard*, 386 Mass. at 608. The court stated further that G. L. c. 265, § 17, "should not be read as including *\*117* a robbery while apparently armed with a dangerous weapon when in fact the defendant was unarmed." *Ibid.*

The defendant argues correctly that the *Howard* case stands for the proposition that an armed robbery conviction requires that the jury find that the defendant actually carried a dangerous weapon at the time of the robbery and, further, that the burden of proof is not satisfied by the defendant's statement that he is armed without more. However, in deciding what evidence additional to the defendant's statement is necessary, *Howard* must be read in conjunction with *Commonwealth v. Delgado*, 367 Mass. 432, 436-437 (1975), decided seven years earlier.

In *Delgado*, as a robbery of a convenience store was in progress, the defendant stated to an accomplice, "[h]old him [the store manager] or I'm going to shoot him." *Id.* at 436. The victim never observed a weapon. At the conclusion of the robbery, the thieves fled. The defendant was arrested away from the crime scene at a later date. No weapon was found on his person or nearby. Although the Supreme Judicial Court acknowledged that "as a general rule words are not sufficient to constitute an assault, simple or aggravated, and would therefore not usually be sufficient to meet the robbery requirement," *ibid.*, the court affirmed the armed robbery conviction.



The court clarified the apparent inconsistency by explaining that, in the Howard case, there "is the absence of any basis to infer that the defendant may have had a gun that distinguishes [Howard] from [Delgado]." *Commonwealth v. Howard*, 386 Mass. at 610. In the Delgado case, on the other hand, the defendant, unlike the defendant in Howard, was arrested and searched some time after the robbery and away from the crime scene. "In those circumstances, it was possible that Delgado had a gun and disposed of it. . . . [T]he jury would have been warranted in finding beyond a reasonable doubt that Delgado had a gun." *Ibid*.

It remains a requirement that the Commonwealth prove actual possession of a weapon at the material time, and it remains the law that that burden is not satisfied merely by evidence that the robber said he was armed. Reading Delgado and Howard together, however, the Commonwealth may obtain a verdict by proof of such a statement together with evidence that the \*118 defendant had an opportunity to dispose of the weapon prior to his arrest. It is that latter evidence that permits the jury to draw the inference that the defendant should be taken at his word. See *Commonwealth v. Delgado*, 367 Mass. at 437. Such a case is distinguished from a case in which the defendant is apprehended at the scene and found to have no weapon. In such a situation, there is no basis on which a juror could rationally conclude that the defendant was armed.

The distinction has been criticized. In a concurring opinion in Howard, Justice O'Connor stated, "we have never held, and we should not announce now, that a defendant's statement, in the course of a robbery, that he has a gun, together with evidence that he could have disposed of one, warrants a finding that he actually had a gun." *Commonwealth v. Howard*, 386 Mass. at 615. This is so, he reasoned, because the subsequent apprehension of the defendant without a weapon in his possession is as consistent with the fact that he never had one as it is with the fact that he had one and disposed of it. Whatever the merit of this analysis, it has not been adopted, and the distinction based on an opportunity to dispose of a weapon has governed proceedings in the twenty-five years since Howard was decided. See *Commonwealth v. Jackson*, 419 Mass. 716, 723-725 (1995); *Commonwealth v. Powell*, 433 Mass. 399, 403 n.3 (2001); *Commonwealth v. Johnson*, 27 Mass. App. Ct. 746, 748-749 (1989).

In the light of these decisions, we conclude that the jury's inference that the defendant actually carried a dangerous weapon at the time of the robbery was permissible. The evidence supported findings that the defendant threatened to shoot the victim, and that he was arrested a day later without a weapon. Thus, the jury could, if they wished, find that he in fact had a weapon when he made the threat. Contrary to the defendant's argument, the making of a threatening or menacing gesture is not required in order to permit an inference that the defendant carried a dangerous weapon at the time of the robbery. The defendant relies on cases in which gestures or objects consistent with the possession of weapons were involved. [FN4] None of these cases state that such evidence is necessary for a finding that a defendant possessed a dangerous weapon at the material time.



### Intimidation of Witness.

Intimidation of a witness. The defendant was convicted of intimidating a witness pursuant to G. L. c. 268, § 13B. At the time of the armed robbery, [FN5] that section provided for criminal penalties with respect to two different forms of witness intimidation. In the present case, the Commonwealth proceeded under that portion of the statute that prohibits wilful interference "with any person furnishing information to a criminal investigator relating to a violation of a criminal statute of the commonwealth." G. L. c. 268, § 13B, as amended by St. 1970, c. 177. A "criminal investigator" is defined in the same section as "an individual or a group of individuals lawfully authorized by a department or agency of the commonwealth or any political subdivision thereof to conduct, or engage in, an investigation of, or prosecution for, a violation of the laws of the commonwealth in the course of his official duties." [FN6] "The purpose of the statute, rather obviously, is to protect witnesses from being bullied or harried so that they do not become reluctant to testify or to give truthful evidence in investigatory or judicial proceedings." *Commonwealth v. McCreary*, 45 Mass. App. Ct. 797, 799 (1998).

The defendant challenges his conviction on grounds of sufficiency of the evidence. He argues first that his statement that he did not wish to see the victim on television news relates only to the possibility that the victim might describe the events of the robbery to the news media, and does not qualify as interference with the "furnishing [of] information to a criminal \*120 investigator." He contends also that there was no evidence that he interfered with a present or ongoing intention or effort on the part of the victim to provide information with respect to the robbery. In a related argument, he challenges as erroneous, and likely to cause a substantial risk of a miscarriage of justice, the judge's failure to instruct that the victim must, at a minimum, actually be in the process of furnishing information to a criminal investigator or have expressed an intention to do so.

In aid of his first argument on the subject, the defendant construes his statement that, "[i]f he saw [the victim] on 22 News he was going to come back and kill [him], [his] whole family, [his] buddy Ben, all of that," as an attempt to interfere only with the victim's contact with the news media. If so, his argument continues, the evidence is insufficient to convict because the statute requires that there be interference with a person's communication with a criminal investigator, and the news media are not criminal investigators (either as defined in G. L. c. 268, § 13B, or in common parlance). The argument divorces the statement from its context, and assigns it an eccentric interpretation.

General Laws c. 268, § 13B, does not require that a defendant specifically articulate a threat not to speak to the police or other criminal investigator. See *Commonwealth v. Burt*, 40 Mass. App. Ct. 275, 277 (1996). A fact finder may evaluate the circumstances in which the statement was made, including its timing, to determine whether the defendant in fact intended to intimidate the victim. See *Commonwealth v. Robinson*, 444 Mass. 102, 109 (2005). Doing so, this jury could reasonably infer that the defendant's reference to television news was a shorthand recognition that a broadcast featuring the victim would most likely come about if the victim reported the robbery to the police. That it was the defendant's purpose to prevent that communication on the part of the victim by means of a threat seems clear, and such a finding by the jury was plainly warranted. See *Commonwealth v. Henault*, 54 Mass. App. Ct. 8, 11-13 & n.6 (2002) (intent can be gleaned from reasonable inferences drawn from circumstantial evidence).

The defendant contends also that the evidence was insufficient to permit a finding that the victim was presently engaged in furnishing information to a criminal investigator or attempting to do so. He argues in this regard that the statute does not proscribe conduct that may only theoretically interfere with a person's communications to law enforcement personnel in the future. Thus, there being no evidence that, at the time of the defendant's statement, the victim was engaged in such a communication, or making an attempt to communicate, the jury could not reasonably find that there was an attempt on the defendant's part to interfere in the sense contemplated by G. L. c. 268, § 13B.



The defendant construes the statute too narrowly, thereby frustrating its purpose of "detering interference with future communication of information." *Commonwealth v. Burt*, 40 Mass. App. Ct. at 278, quoting from *United States v. San Martin*, 515 F.2d 317, 320 (5th Cir. 1975). A criminal investigation need not have commenced. See *Commonwealth v. Belle Isle*, 44 Mass. App. Ct. 226, 229 (1998). Nor must the victim be furnishing information on the day that the intimidating action is taken or statement made. *Commonwealth v. Burt*, supra. It is enough that the jury reasonably conclude from the surrounding circumstances that it was likely that the victim would furnish to an official investigating authority information pertaining to the crime and that the defendant intended to discourage such communication

We are not persuaded by the defendant's application of *Commonwealth v. Belle Isle*, supra. There, the defendant was convicted under G. L. c. 268, § 13B, and his conviction was affirmed, after he attacked his brother-in-law in the presence of other family members. The victim's wife announced that she was going to call the police, whereupon the defendant cut the telephone wire. That evidence supported a finding that the defendant forcibly and intentionally interfered with an attempt to provide information to a criminal investigator. *Id.* at 230. The decision was not intended to suggest that an attempt to communicate to authorities must be underway in order for there to be a violation of G. L. c. 268, § 13B, a proposition that we rejected in *Commonwealth v. Burt*, 40 Mass. App. Ct. at 277-278. Here, the jury could rationally find that the victim, once \*122 assured that the defendant had left, would report the robbery, thus qualifying under the statute as a "person 'furnishing information' to a criminal investigator" (a purpose of statute is to deter interference with future communication of information). *Ibid.*

He argues, as before, that a conviction under G. L. c. 268, § 13B, cannot be predicated upon a possibility that a victim will provide information in the future. As we stated above, the statute does not require that a victim actually be in the process of furnishing information (enough that evidence indicated that the witness's furnishing of additional information would be "forthcoming"). It follows that there was no error and consequently no ineffective assistance of counsel for failure to object.

Judgments affirmed.



**Assault while Armed with  
Intent to Rob or Murder**  
Chapter 265, Section 18

**Definition:**

*While* being armed with a dangerous weapon, assaulting another with intent to rob or murder.

**Elements:**

1. Being armed
2. Assault
3. Another person
4. Specific intent to rob or murder

**Right of Arrest:**

Felony is arrestable IN PRESENCE and on PROBABLE CAUSE

If the victim is 60 years of age or older and the individual is armed with a firearm, shotgun, rifle, machine gun or assault weapon, the punishment is increased to include a mandatory minimum of 10 years imprisonment.

**Com. v. Rivera, 445 Mass. 119, 833 N.E.2d 1113 (2005)**

The elements of armed assault with intent to rob are that the defendant, armed with a dangerous weapon, assaults a person with a specific or actual intent to rob the person assaulted. M.G.L.A. c. 265, § 18.

**Assault to Rob, Unarmed**  
Chapter 265, Section 20

**Definition:**

Being unarmed, assaulting another with intent to rob or steal.

**Elements:**

1. unarmed
2. forceful and violent assault
3. specific intent to rob

**Right of Arrest:**

This ten year felony is arrestable IN PRESENCE or upon PROBABLE CAUSE

**Com. v. Correia, 17 Mass. App. Ct. 233, 457 N.E.2d 648 (1983)**

Intent generally can be proven only by inferences from facts and those inferences need only be reasonable.



## **Armed Assault in Dwelling House**

### **Chapter 265, Section 18A**

#### **Definition:**

Being armed with a dangerous weapon, enters a dwelling house and while therein assaults another with intent to commit a felony.

#### **Elements:**

1. Being armed with a dangerous weapon
2. Entering a dwelling house
3. *While therein* assaults another
4. With intent to commit a felony

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

#### **Note:**

The suspect must be armed prior to entering the dwelling. Additionally, the suspect must intend to commit a felony.

#### **Com. v. Fleming, 46 Mass. App. Ct. 394, 706 N.E.2d 1138 (1999)**

Conviction for armed assault in a dwelling requires government to prove (1) entry of a dwelling while armed, (2) an assault on someone in the dwelling, and (3) a purpose accompanying the assault to commit a felony. M.G.L.A. c. 265, § 18A.

A “dwelling”, for purposes of crime of **armed assault** in a dwelling, is a place of habitation. [M.G.L.A. c. 265, § 18A](#).

Entry by **armed** person into a dwelling in response to an invitation from person living there is not an “**armed** entry” which may sustain conviction for **armed assault** in a dwelling

An entry, i.e., going in, by an **armed** person into a dwelling<sup>4</sup> in response to an invitation from a person living there rather obviously is not a violation of the statute. Similarly, an **armed** policeman with probable cause to think that a crime has been committed in a dwelling who enters it to go about his policing duties has not violated the statute because the entry is privileged. Inherent in the idea of criminal trespass is an unwarranted intrusion, one that the actor was not privileged or licensed to make. *Commonwealth v. Ricardo*, 26 Mass.App.Ct. 345, 355, 526 N.E.2d 1340 (1988). *Commonwealth v. Dunn*, 43 Mass.App.Ct. 58, 60, 680 N.E.2d 1178



## COMMONWEALTH v. PUTNAM

Home Invasion. Armed Assault in a Dwelling. Practice, Criminal, Instructions to Jury, Duplicative convictions.

Having been convicted by a Superior Court jury of home invasion, in violation of G.L. c. 265, § 18C; and **armed assault** in a dwelling, in violation of G.L. c. 265, § 18A, the defendant Steven M. **Putnam** now appeals.<sup>1</sup> He contends \*473 that the convictions must be reversed because the evidence was insufficient to prove that he entered the alleged victim's home unlawfully, and because the instruction on consent to enter was erroneous. He also claims that his conviction of **armed assault** in a dwelling must be reversed because it was duplicative of the home invasion conviction. We affirm.

We view the evidence in the light most favorable to the **Commonwealth**. *Commonwealth v. Nolin*, 448 Mass. 207, 215, 859 N.E.2d 843 (2007). The victim, a self-employed counseling psychologist, lived on Old Mill Road in Harvard. Old Mill Road is a two-lane road with fields and woods, as well as isolated houses in the surrounding area. The victim's nearest neighbors were Anne Marie Arnold and Hank Emerson, who lived together about one-eighth of one mile down the road, on a working farm. The defendant lived on Arnold's property in an apartment across from the main house. He worked on the farm as a handyman and a helper.

The victim first met the defendant in 2001 at a block party. In 2002, the victim paid the defendant to clean leaves from her roof and her gutters. Around the same time, they had a few brief conversations. The victim occasionally saw the defendant on Arnold's property.

The day after Thanksgiving in 2003, in the early evening, the defendant knocked on the victim's front door and asked to come into her house. He appeared upset and intoxicated. After she allowed him in, the defendant asked the victim for help; he told her that he had been drinking and doing drugs and that he was not taking his medication. The victim told the defendant to stop drinking, to stop doing drugs, and to take his medication. The defendant then rambled on for about one-half hour; the victim thought the defendant was asking for her professional opinion but she did not give him one. The victim tried to bring the conversation to a close; the defendant eventually left. The next day, the victim called Emerson and told him that she was concerned about the defendant, that she thought he was in bad shape and doing drugs, and that he seemed mentally unstable.

On January 18, 2004, Arnold asked the defendant to leave the property because he had not performed any work on the farm for the prior two months. Arnold suspected that the defendant was drinking and doing drugs.

On January 26, 2004, around 8:30 p.m., while the victim was on the telephone, the defendant knocked on her door. The victim opened the door a few inches and saw the defendant. The defendant said that he wanted to come in and speak with her. She told him to go home and to telephone her in one-half hour, and she would speak to him on the telephone. She then closed the door and returned to her telephone conversation. Around 8:55 p.m., the victim finished her conversation and telephoned Emerson to inform him that the defendant had been to her house and that "he might be in bad shape." She also told Emerson that if he received a telephone call from her that evening, he should telephone the police and have them come to her house no matter what she said.

Shortly after speaking with Emerson, the victim heard a knock on her door. When she went to the door, the defendant was standing there and appeared distressed. She opened the door because the door had glass in it and she "thought it would be better to open the door than to try and keep him on the other side."

The defendant came into the house and the victim told him to sit at the dining room table. She sat at the table with him and noticed that he was disturbed, and that he had blood on his left hand. She asked the defendant if he was suicidal, to which he replied that he was not. The defendant began to talk to the victim, mumbling to the point that she "had trouble understanding him."





During this conversation, the victim got up, picked up the telephone, and told the defendant that she did not think he was all right, that she thought they should telephone Emerson, and that she thought he needed some help. The defendant then grabbed her around her back, shoved her, punched her face, and violently knocked the telephone out of her hand, throwing it on the floor where it broke. He then began to punch the victim, pull her hair, and maneuver her around. As he was beating the victim, he asked, "Why did you call Hank?"

At some point, the defendant pulled a knife out of his pocket. He said, "You can make this hard or you can make this easy." He then tried to force the victim to go upstairs. When they got to the bottom of the stairs, the victim sat "heavily" and resisted. \*475 After the defendant's attempts to push the victim up the stairs failed, he threw her on a couch located \*\*972 near the stairs in her living room and ripped off the clothing she wore on the bottom of her body.<sup>3</sup> He then pulled his pants down and lay on top of the victim. He put his finger into the victim's vagina and began thrusting.<sup>4</sup> The victim kept telling the defendant that "this ... was not good," that it was "not going to happen," and that it was something she "didn't want to do." Nonetheless, the defendant continued raping her.

The defendant then sat up and told the victim to take her top off. She sat up and made a gesture as though she was going to comply. When the defendant began to pull his own shirt over his head, the victim ran toward the front door. She ran outside, naked from the waist down and not wearing shoes, towards Arnold's farmhouse. Arnold and Emerson let her into their house and the victim, who was hysterical and sobbing, told them that the defendant "had tried to rape" her. Emerson immediately called the police and they arrived at the house within ten minutes. The police proceeded to the victim's residence and conducted a preliminary search. The police found a knife outside the victim's house.

The defendant testified in his own defense. He admitted to having had a long-term alcohol problem. When he moved into Arnold's apartment in 2000 he had been sober for eleven years; however, he did not remain sober. The defendant testified that he came to the victim's house on the day of the incident because he knew that the victim was a doctor and he thought she could help him in some way, such as getting him into a detoxification program. When he came to the victim's home, she invited him into the house. After some conversation, the victim told the defendant that she was going to telephone Emerson, and that Emerson would telephone the police. The defendant became afraid; he recently had been involved in two "DUI" (driving under the influence) cases and had been warned that if he was convicted of a third offense he would go to jail for six months.

The defendant testified that he then grabbed the victim and tried to persuade her not to telephone Emerson. Next, he kissed her, and he thought that she kissed him back. The defendant then offered to the victim to go upstairs but she refused. Next, they were on the couch; the defendant thought that the victim went to the couch willingly. He thought they were engaged in a consensual activity until the victim asked the defendant to stop. In response, the defendant stopped. He then sat up, the victim sat up, and, then, the victim ran out the door.

The defendant denied putting his finger in the victim's vagina. Although the defendant had a knife, he did not threaten the victim with it. He tried to give the victim his knife because he was afraid that he was going to cut his wrists.

A few minutes after the victim ran out of her house, the defendant returned to his apartment, grabbed "a bunch of beers," and walked out into the woods. The next day, he found himself in Leominster, walking down the railroad tracks. His mother picked him up at the Leominster Public Library and brought him to Emerson Hospital, where he was arrested.





A. *Convictions of home invasion and of armed assault in a dwelling.* The defendant claims that there was insufficient evidence of an unlawful entry to sustain convictions of home invasion and of **armed assault** in a dwelling. The crime of home invasion, G.L. c. 265, § 18C, requires that the defendant “(1) ‘knowingly enter[ed] the dwelling place of another’; (2) ‘knowing or having reason to know that one or more persons are present within’ (or entered without such knowledge but then remained in the dwelling place after acquiring or having reason to acquire such knowledge); (3) ‘while **armed** with a dangerous weapon’; and (4) ‘use[d] force or threaten [ed] the imminent use of force upon any person within such dwelling place whether or not injury occur[red], or intentionally cause[d] any injury to any person within such dwelling place.’ ” *Commonwealth v. Doucette*, 430 Mass. 461, 465–466, 720 N.E.2d 806 (1999), quoting from G.L. c. 265, § 18C. See *Commonwealth v. Brown*, 451 Mass. 200, 205, 884 N.E.2d 488 (2008). See also *Commonwealth v. Stokes*, 440 Mass. 741, 746–747, 802 N.E.2d 88 (2004). “Conviction under G.L. c. 265, § 18A, of **armed assault** in a dwelling requires proof of three elements: (1) entry of a dwelling while **armed**[:]; (2) an **assault** on someone in the dwelling; and \*477 (3) a specific intent, accompanying the **assault**, to commit a felony.” *Commonwealth v. Donoghue*, 23 Mass.App.Ct. 103, 111–112, 499 N.E.2d 832 (1986).

In short, entry is an element that must be proven by the **Commonwealth** for the offenses of both home invasion and **armed assault** in a dwelling. An entry into a dwelling is not unlawful if it is consensual, in response to an invitation, or privileged. See *Commonwealth v. Mahar*, 430 Mass. 643, 646–647, 722 N.E.2d 461 (2000). See also *Commonwealth v. Dunn*, 43 Mass.App.Ct. 58, 60, 680 N.E.2d 1178 (1997); *Commonwealth v. Fleming*, 46 Mass.App.Ct. 394, 396, 706 N.E.2d 1138 (1999). “A consensual entry, however, does not always correlate with a lawful entry.... [P]urported consent [to entry] cannot be considered legally significant unless the occupant has been made aware that the person at the door is **armed** with a dangerous weapon and is about to commit an **assault** once inside.” *Mahar*, *supra* at 652–653, 722 N.E.2d 461. See *Commonwealth v. Morris*, 64 Mass.App.Ct. 51, 54, 831 N.E.2d 338 (2005). Thus, the *Mahar* court affirmed the defendant's home invasion conviction, concluding that the entry was unlawful where the defendant was admitted into the home by a person who was unaware that the defendant entered the home while **armed**, with the intent to commit an **assault** upon that person in the dwelling. *Mahar*, *supra* at 647, 651–653, 722 N.E.2d 461.

In this case, the jury's determination was based largely on a credibility evaluation of the testimony of the victim and of the defendant. While the crime of home invasion “is not intended to encompass situations where an invited guest in a home suddenly turns violent,” *id.* at 652 n. 6, 722 N.E.2d 461, this is not the evidence here. Here, the victim became disturbed and frightened by the defendant's visit earlier on the day of the incident; she telephoned her neighbor to warn him of the defendant's “bad shape” and instructed him to telephone the police if she telephoned him back. As in *Mahar*, while the victim initially permitted the defendant's entry, a jury permissibly could find that she did not know he was **armed** with a knife and that he intended to attack her once inside. Additionally, here, when the defendant arrived at the victim's house, she let him in her house because she “thought it would be better to open the door than to try and keep him on the other side.” From all this evidence, the jury could infer that the defendant \*\*974 had instilled fear in the victim, who only allowed \*478 him into her house because she felt that she had no other choice. Moreover, there was no evidence that the defendant was a frequent visitor at the victim's house, that he was accustomed to entering without explicit permission, or that the defendant and the victim were in any type of ongoing relationship. See generally *id.* at 647, 722 N.E.2d 461. Contrast *Commonwealth v. Fleming*, 46 Mass.App.Ct. at 396–397, 706 N.E.2d 1138 (defendant entitled to jury instruction on consensual entry where defendant was frequent visitor at facility); *Commonwealth v. Simmarano*, 50 Mass.App.Ct. 312, 314–316, 737 N.E.2d 488 (2000) (defendant entitled to jury instruction on consent where there was evidence that defendant and victim had been in some form of ongoing relationship and that defendant was frequent visitor at



victim's house). The evidence showed that, once inside the house, the defendant pulled out a knife, and ultimately dragged the victim to the couch and raped her. The totality of the evidence warranted the jury's determination that the defendant's entry into the victim's dwelling was unlawful.

*Jury instructions.* In defining home invasion, the judge first read to the jury the pertinent text of G.L. c. 265, § 18C, and then gave an almost verbatim recital of the model jury instruction on home invasion. See Massachusetts Superior Court Criminal Practice Jury Instructions § 2.31 (Mass. Continuing Legal Educ.1999 & Supp.2003). Because an issue in the case was whether the defendant lawfully entered the victim's home, in keeping with *Morris*, 64 Mass.App.Ct. at 54, 831 N.E.2d 338, the judge included in his instruction guidance regarding consensual entry. The judge instructed:

“The first element which the **Commonwealth** must prove beyond a reasonable doubt is that the defendant entered the dwelling of another. An entry is the unlawful, unconsented making of one's way into a dwelling.... The **Commonwealth** must also prove beyond a reasonable doubt that the defendant had no right of habitation or occupancy at the time of entry, that the defendant made a nonconsensual entry into the dwelling place. While consent to enter may be considered as evidence that the entry was lawful, consent may be negated if the person giving consent is unaware of the defendant's being **armed** with a dangerous weapon or of an intent to commit a crime while inside

The defendant asserts that the judge erred and that the error created a substantial risk of a miscarriage of justice when he instructed that consent to enter a dwelling “may be negated if the person giving consent is unaware of the defendant's being **armed** with a dangerous weapon *or* of an intent to commit a crime while inside” (emphasis supplied).<sup>5</sup> He points to the court's holding in *Mahar*, 430 Mass. at 652–653, 722 N.E.2d 461, that “consent [to entry] cannot be considered legally significant unless the occupant has been made aware that the person at the door is **armed** with a dangerous weapon and is about to commit an **assault** once inside.” The defendant claims that the jury should have been instructed that consent may be negated if the person giving consent is unaware that the defendant is **armed** and intends to commit a crime once inside the dwelling.

The defendant's argument is unpersuasive because the judge's instruction is indeed consistent with *Mahar*, which requires both elements for consent to be valid. The instruction, conversely, properly informs the jury, that the absence of either element will *negate* consent. *Mahar* does not require that the **Commonwealth** prove that the occupant has been made aware *both* that defendant was **armed** with a dangerous weapon and that he intended to commit an **assault** once inside the dwelling. That is to say, if the **Commonwealth** shows that either element was not present, then there was no consent. Consistent with a commonsense understanding, the law protects the sanctity and the safety of the occupant within her dwelling, and reflects the view that the entry by an



outsider can be considered permissive only if the occupant, with relevant information, is aware of the risks to her safety, yet freely allows the entry. Thus, permissive entry, premised on consent to enter, is negated if the occupant purportedly giving consent is not aware that the person who is entering is **armed**. Alternatively, if the occupant is aware that the person is **armed**, but unaware that he intends to commit a crime once inside, permissive entry also is negated. “[A]s a matter of public policy, ... an occupant of a dwelling cannot consent to allow an **armed** intruder ... inside to \*480 commit an **assault**.” *Id.* at 653, 722 N.E.2d 461. See *Morris*, 64 Mass.App.Ct. at 54 n. 4, 831 N.E.2d 338. There was no error here.<sup>6</sup>

*Duplicative convictions.* Finally, the defendant asserts that while **armed assault** in a dwelling is not a lesser included offense of home invasion, because the defendant was convicted of both offenses on the basis of the same act, and the two crimes are so closely related, the defendant should not be subject to punishment for both

The traditional rule, embodied in *Morey v. Commonwealth*, 108 Mass. 433, 434 (1871), and employed by Massachusetts courts on the issues of double jeopardy and duplicative offenses, provides that “a defendant may properly be punished for two crimes arising out of the same course of conduct provided that each crime requires proof of an element that the other does not.”

*Commonwealth v. Keohane*, 444 Mass. 563, 574, 829 N.E.2d 1125 (2005), quoting from *Commonwealth v. Arriaga*, 44 Mass.App.Ct. 382, 385–386, 691 N.E.2d 585 (1998).<sup>7</sup> The vitality of that elements-based rule was affirmed in *Commonwealth v. Vick*, 454 Mass. 418, 910 N.E.2d 339 (2009). There, the Supreme Judicial Court stated, “This elements-based approach remains the standard for determining whether multiple convictions stemming from one criminal transaction are duplicative. See \*\*976 *Commonwealth v. Cabrera*, 449 Mass. 825, 827, 874 N.E.2d 654 (2007); *Commonwealth v. Gallant*, 65 Mass.App.Ct. 409, 413, 840 N.E.2d 998 (2006); ... *Arriaga*, *supra* at 386–389, 691 N.E.2d 585.” *Vick*, *supra* at 431, 910 N.E.2d 339. “It bears repeating that, where ... neither crime is a lesser included offense of the other, multiple punishments are permitted \*481 even where the offenses arise from the very same criminal event. See *Morey v. Commonwealth*, [*supra* ].” *Vick*, *supra* at 436, 910 N.E.2d 339.<sup>8</sup>

Here, the two crimes in question have mutually exclusive elements; specifically, the requirement of scienter distinguishes these two offenses. *Commonwealth v. Ruiz*, 426 Mass. 391, 393 & n.3, 688 N.E.2d 963 (1998).<sup>9</sup> As such, and under the *Morey* rule, the defendant can be prosecuted for, and convicted of, both offenses simultaneously, even though they arise from the single course of conduct. The convictions of **armed assault** in a dwelling and of home invasion are not duplicative, and, therefore, the defendant properly is subject to punishment for both offenses.

The defendant does not appeal his convictions of rape, in violation of G.L. c. 265, § 22(a ); and **assault** and battery, in violation of G.L. c. 265, § 13A.



After hanging up with the victim, Emerson telephoned the police, alerted them to the situation, and provided the victim's address, in case he telephoned back with an emergency.

A chemist at the Massachusetts State police crime laboratory analyzed the victim's pants and located several tears on the exterior and the interior crotch area. The chemist testified that the pants were torn in a manner different from normal wear and tear such as when a person sits down and tears her pants.

The defendant was unable to penetrate the victim with his penis.

Because the defense counsel did not object to the jury instructions at trial, we examine the alleged error, if any, for whether it created a substantial risk of miscarriage of justice. See *Commonwealth v. Noble*, 429 Mass. 44, 45–47, 707 N.E.2d 819 (1999).

Even if the instruction were erroneous, as discussed, *supra*, there was ample evidence to warrant the jury's conclusion that the entry was not consented to, and therefore was unlawful. Hence, even if error, the error did not create a substantial risk of a miscarriage of justice.

Regarding entry as relating to **armed assault** in a dwelling, the judge instructed: “The second element which the **Commonwealth** must prove beyond a reasonable doubt is that the defendant entered the dwelling. It is not necessary, as I said before, that the entry be complete. It would be sufficient if any part of the defendant's body physically enters the building.” The instruction was not error.

“So long as each offense includes an additional element that the other does not, ‘neither crime is a lesser-included offense of the other, and convictions on both are deemed to have been authorized by the Legislature and hence not duplic[ative].’ ” *Arriaga, supra* at 386, 691 N.E.2d 585, quoting from *Commonwealth v. Jones*, 382 Mass. 387, 393, 416 N.E.2d 502 (1981).

Discussing cases relied on by the defendant here, including *Commonwealth v. Keohane, supra* at 574–575, 829 N.E.2d 1125, the *Vick* court noted, *supra* at 433–434, that “it may appear that our well-established, elements-based approach to analyzing purported duplicative convictions, as first articulated in *Morey*, has been expanded over the years to permit a conduct-based analysis of the facts of a particular case to determine whether a defendant's acts in one criminal event are so closely related as to constitute in substance a single crime such that the defendant can be punished only for the greater offense.... That was not our intention.”

“Both §§ 18A and 18C require the **Commonwealth** to prove that the defendant was **armed** with a dangerous weapon at the time of entry into a dwelling house. If the **Commonwealth** seeks, however, to impose the more severe penalties of § 18C it must establish either that a defendant knew or had reason to know that one or more persons were present within the dwelling house at the time of entry or that the defendant gained such knowledge after entry but nevertheless remained there for some period of time prior to attacking or threatening the person. These scienter requirements distinguish § 18C from § 18A.” *Commonwealth v. Ruiz, supra* (footnote omitted).



## **Home Invasion**

### **Chapter 265, Section 18c**

#### **Definition:**

“Whoever knowingly enters the dwelling place of another knowing or having reason to know that one or more persons are present within or knowingly enters the dwelling place of another and remains in such dwelling place knowing or having reason to know that one or more persons are present within while armed with a dangerous weapon, uses force or threatens the imminent use of \*\*794 force upon any person within such dwelling place whether or not injury occurs, or intentionally causes any injury to any person within such dwelling place shall be punished by imprisonment in the state prison for life or for any term of not less than twenty years.” G.L. c. 265, § 18C, as amended through St.2004, c. 150, § 17. Notably, the 2004 amendment removed all references to probation \*534 in the section, even the one that was in § 18C as originally enacted in 1993. See St.1993, c. 333.

#### **Elements:**

1. knowingly enters the dwelling of another
2. knowing person(s) present within or
3. knowingly enters and remains
4. knowing person(s) present within
5. while armed with a dangerous weapon
6. uses force or threatens the imminent use of force
7. whether or not injury occurs, or
8. intentionally causes any injury

#### **Right of Arrest**

This is a life felony arrestable in presence or upon probable cause.

#### **Note:**

The suspect must be armed prior to entering the dwelling. Unlike "Armed Assault in a Dwelling", there is no requirement that entry into the dwelling be made with specific intent to commit a felony.

#### **Com. v. Marshall, 65 Mass. App. Ct. 710, 843 N.E.2d 685 (2006)**

Evidence was sufficient in home invasion action to support finding that defendant did not have a right of habitation or occupancy in victim's apartment at time when alleged crime was committed, although he had spent the previous night there and had contributed to household expenses; previous overnight stay was one of only several such instances in the prior three months, all of defendant's clothes and most of his personal effects had been removed months earlier, with the exception of clothes he no longer wore and one tie, there was evidence that victim had asked defendant to leave the apartment months earlier and that he complied with her request when he packed up his things, gave victim his keys, and moved in with his brother, and there was evidence that defendant thereafter visited the apartment only with victim's permission or at her request. M.G.L.A. c. 265, § 18C.



## **Unarmed Robbery**

### **Chapter 265, Section 19**

#### **Definition:**

By force and violence, or by assault and putting in fear, robbing, stealing, and taking from the person of another, money or other property which may be the subject of larceny.

#### **Elements:**

1. not being armed with a dangerous weapon
2. larceny
3. from the person of another
4. by force and violence or by putting in fear

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

#### **Com. v. Zangari, 42 Mass. App. Ct. 931, 677 N.E.2d 702 (1997)**

Force that defendant applied in snatching victim's purse was sufficient to satisfy "force and violence" prong of offense of unarmed robbery of person over age of 65. M.G.L.A. c. 265, § 19(a).





## **RAPE**

### Chapter 265, Section 22

#### **Definition:**

(a) Whoever has sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise, or is committed during the commission or attempted commission of an offense defined in section fifteen A, fifteen B, seventeen, nineteen or twenty-six of this chapter, section fourteen, fifteen, sixteen, seventeen, or eighteen of chapter two hundred and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

For the purpose of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).

Subparagraph (a) of this section deals with aggravated rape.

#### **Com. v. Lopez, 433 Mass. 722, 745 N.E.2d 961 (2001)**

For purposes of a rape prosecution, sexual intercourse is defined as penetration of the victim, regardless of degree. M.G.L.A. c. 265, § 22(b). Unless the putative **rape** victim has been rendered incapable of consent, the prosecution must prove that the defendant compelled the victim's submission by use of physical force, nonphysical, constructive force, or threat of force. M.G.L.A. c. 265, § 22(b).

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Com. v. McCourt, 438 Mass. 486, 781 N.E.2d 808 (2003)

GREANEY, J.

The defendant was tried before a jury in the Superior Court on indictments charging him<sup>1</sup> with aggravated rape, attempted murder, assault and battery by means of a dangerous weapon (a shod foot), and indecent assault and battery. The charges stemmed from a rape and beating that occurred in Chicopee in the early morning hours of February 1, 1997. The jury found the defendant guilty on all charges.

The Appeals Court vacated the defendant's conviction of aggravated rape, concluding that the statute punishing aggravated rape, G.L. c. 265, § 22 (a), requires that the aggravating factors that transform rape into aggravated rape must play a facilitating role in the rape, and that the Commonwealth's evidence showed that the defendant had savagely beaten the victim after the rape occurred, but not before.<sup>2</sup> See *Commonwealth v. McCourt*, 54 Mass.App.Ct. 673, 681, 767 N.E.2d 1067 (2002). We allowed the Commonwealth's application for further appellate review solely to decide whether proof of the offense of aggravated rape requires a causal or facilitating connection between the aggravating act or acts and the rape.<sup>3</sup> We conclude that such proof is not required. Consequently, we affirm the defendant's conviction of aggravated rape.

We set forth the facts that could have been found by the jury based on the Commonwealth's evidence, in slightly more detail than did the Appeals Court. A few minutes after midnight on February 1, 1997, the victim drove to an American Legion Post in Chicopee (post), to see a man, the post's bartender (whose first name was Steve), whom she had dated during the preceding month. Outside, snow had begun to fall. At about 1:30 a.m., the defendant, whom Steve knew, but whom the victim had never met, entered the post and sat down at the bar near to where the victim was seated. Steve, the defendant, and the victim conversed briefly, and the defendant showed the victim a game involving finding an owl on a five dollar bill. The victim was polite to the defendant, but found his behavior "odd." \*488 After about twenty minutes, the defendant got up and left the post. The victim remained with Steve while he closed up. At about 2:15 a.m., Steve and the victim said goodbye in the post's parking lot and the victim got in her automobile to drive home. By that time it was snowing hard, and a substantial amount of snow had accumulated. The victim, who lived in a different part of Chicopee from where the post was located, soon became confused on the unfamiliar streets and took a wrong turn. She eventually found herself at the end of a cul-de-sac in a residential neighborhood, her car stuck in the snow at the end of a driveway. It was now snowing heavily. Stepping out of her automobile intending to push it out of the snow, the victim saw the defendant walking around the back of her vehicle. The defendant chuckled and said, "What's the matter, you're stuck." Feeling slightly afraid, the victim asked the defendant whether he lived there, and the defendant responded affirmatively.<sup>4</sup> The victim then asked the defendant to help free her vehicle. She testified that \*\*811 she "just wanted to get the hell out of there and leave." The defendant approached the passenger's side and began to push, although, in the victim's view, without a great deal of effort. The victim moved to open the driver's side door, telling the defendant that she was going to shift into a forward gear (but really intending to get in for her safety), when the defendant ran over, grabbed her arm, and instructed her to unlock the vehicle's back door.

Frightened, the victim stood still. The defendant moved his hand up to her shoulder, blocked the victim's entrance to the vehicle, and repeated his order to unlock the back door. This time, the victim obeyed. Still grasping the victim, the defendant opened the back door and pushed her into the rear seat. Her daughter's car seat was in the way, and the defendant yelled at the victim to remove it. The victim unbuckled the car seat, but did not remove it. The defendant became angry and threw the car seat into the front seat. He then grabbed the victim, hit her chest, forced her into





the back seat, squeezed her breasts hard, and tried to kiss her. The victim was crying and begged him, "Why are you doing this? What are you doing?"

Certain that the defendant was going to rape her, and uncertain whether he had a weapon, the victim felt frightened for her life. She testified that, aware that he was becoming angry, she "just turned to jelly, and ... let him do what he wanted to do." As the victim lay crying, the defendant first inserted snow into her vagina, and then had sexual intercourse with her. Afterward, the defendant looked at the victim with an "evil look that just came over his face" and said, "You don't expect me to let you leave now, do you, not after I just raped you? You have all the evidence on me.... You can get me arrested in a heartbeat.... I can't let you go."

At that point, the defendant put his hands together in a fist and hit her on the back of her head, knocking her to the side of the road. When the victim asked why he had hit her, the defendant became extremely angry, made a "growling noise," and charged at the victim's throat. He grabbed the victim's windpipe, completely cutting off her air. While holding her throat, the defendant told the victim, "Since I just got out of jail, I can't expect you to live. I'm not going back, so I'm not going to let you live." The victim struggled and managed to get the defendant's hands off her throat, but he soon regained his grip and squeezed again. He immobilized the victim on her back on the ground by holding her throat and grabbing her hair, all the while making growling noises. The victim repeatedly begged the defendant to let her go, so that she could see her daughter "one more time." Repeatedly, the defendant responded that he could not let her go home. He finally released her and the victim was able to roll over and stand up.

Playing for time, she walked slowly down the street. She again said to the defendant, "Please let me go home." When the victim told the defendant that her daughter was in Springfield, he became enraged, charged at her, and accused her of lying, because the victim earlier had told him that she lived in Chicopee.<sup>5</sup> He grabbed her by the hair and throat and, twisting her neck, threw her to the ground. The victim testified that \*490 she "was screaming for [her] life." Each time the victim attempted to stand up, the defendant \*\*812 knocked her to the ground. The victim eventually remained on her knees and looked up. At this point, the defendant "twirled his boot" and kicked her in the face four times.<sup>6</sup> As the victim begged for her life, the defendant told her, "Quit crying." Still on her knees, the victim held snow to her face because she felt hot. When she pulled the snow away, she saw that her hand was full of blood. The defendant found her pack of cigarettes lying in the snow and tossed it to her. As she put a cigarette to her lips, the defendant again kicked her in the face. The victim asked, "What the hell did you do that for? ... I thought you were going to let me have a cigarette," to which the defendant replied, "You don't deserve anything." He then tossed the victim to the ground on her stomach and began pounding on her back "like [she] was a piece of dirt."

In an effort to pacify the defendant, the victim looked him right in the eye and spoke softly, saying, "Somebody must have hurt you in your past [and o]bviously, you don't know me. Why are you taking it out on me?" The defendant finally calmed down and began crying. He helped her free her automobile, and the victim quickly got in. Immediately, the defendant moved to the driver's side, stuck his arm through the partially opened front window, and pressed an electronic button to open the window fully. He then leaned through the window and asked, "Why are you leaving?" Fearful that he might hurt her again, the victim replied that she had to go to work and gave the defendant her telephone number. To appease his concerns about her bloody clothing or that she would notify the police, the victim told the defendant that she would "go home and throw [her sweater] in the wash, and my mother will be sleeping. No one will know." At this point, the defendant said he was sorry, that the victim was "a nice person," and that he "shouldn't have done it." At the moment the defendant stepped away from the car, the victim drove away. She arrived home ten minutes \*491 later, at approximately 5 a.m., and immediately told her mother what had happened. Her mother telephoned 911, and the victim was taken by ambulance to the emergency room of a hospital. The victim's injuries included swelling of her lips and face; an abrasion or laceration on her lower lip; a two-inch laceration on her chin; bruising on the upper part of her throat and neck; a four-



inch abrasion on the right side of her neck; bruising on her upper front chest and neck and across the top of her back; abrasions on her left knee and the back of her calf; and swelling of her left wrist; swelling and redness of her external genitalia; mild swelling of her anus; and a possible tear in the vaginal wall. Her clothing was wet and stained with blood. Blood covered her face and there were flecks of dried blood on her inner thighs.

The defendant was arrested later that same day. At trial, at the close of the Commonwealth's evidence and again after the close of all the evidence, the defendant moved for a required finding of not guilty on the indictment charging him with aggravated rape, asserting that any physical violence that occurred, "occurred after, separate and distinct from the issue of the sexual intercourse," and, as a consequence, the Commonwealth had failed to show an aggravating factor in the rape itself, as \*813 required by G.L. c. 265, § 22 (a ). The trial judge denied the motions, stating that "a rational trier of the fact could conclude ... that in the entire transaction, which included sexual assault as well as a physical assault at the same location and within a relatively discrete period of time without any intervening additional events, that all elements of [aggravated rape] had been proven beyond any reasonable doubt."

The judge instructed the jury, along the lines of G.L. c. 265, § 22 (a ), that, in order to convict the defendant of aggravated rape, they must find beyond a reasonable doubt that the rape either was "committed along with or resulted in serious bodily injury" to the victim, or that it was "committed during the commission of the crime of assault and battery by means of a dangerous weapon." With respect to the first basis for conviction, the judge advised the jury that the acts that result in serious bodily injury need not occur at the precise moment of vaginal penetration, but that they must occur as part of "one \*492 continuous episode and course of conduct during the course of the rape."

With respect to the second basis, the judge instructed that the rape and the assault and battery by means of a dangerous weapon need not occur at the same time, but that the offenses must constitute "one continuous episode and course of conduct." At the defendant's request, the judge further instructed the jury that they could find the defendant guilty of rape, and of assault and battery by means of a dangerous weapon, without finding him guilty of aggravated rape, if they determined the offenses constituted "two separate events that [were] not part of a continuous episode." The jury convicted the defendant of aggravated rape on the basis of both theories on which the judge had instructed.

The defendant concedes, for purposes of this appeal, that he committed the offenses of rape and of assault and battery by means of a dangerous weapon.<sup>7</sup> He argues, nevertheless, that his conduct did not constitute aggravated rape because the acts constituting the assault and battery (and which resulted in the victim's injuries) did not begin until after the rape. The defendant asserts that "the essence of the crime of rape is the use of force or threat of bodily injury in order to overcome the victim's will to resist and to compel the victim to submit to nonconsensual sexual intercourse."

Thus, the defendant reasons, the elements that transform the crime of rape into the crime of aggravated rape under G.L. c. 265, § 22 (a ), must be used to facilitate the rape or to overcome the victim's will to resist being raped. This analysis is incorrect.

General Laws c. 265, § 22 (a ), set forth below,<sup>8</sup> on its face, does not require that the aggravating factor or factors be used to \*493 facilitate the unlawful sexual intercourse. When a rape victim sustains serious bodily injury, the pertinent statutory language requires only that the intercourse have been "committed with" the acts that resulted in the victim's injuries.

While the language "committed with," of course, implies some logical nexus between time and place, the words do not specifically require that the physical force precede the rape or that the injuries be inflicted to overcome a victim's will to resist. If this were true, a person who savagely beat his victim following a sexual attack, as here, would be punished less severely than one who inflicted the beating before penetration, even though both rape victims sustained identical injuries.



There is no indication that the Legislature intended such an anomalous result. In 1974, the Legislature revised G.L. c. 265, § 22, defining the crime of rape as “sexual intercourse or unnatural sexual intercourse with a person” who is compelled to submit either “by force and against his will” or “by threat of bodily injury.” St.1974, c. 474, § 1. In 1980, the Legislature again revised § 22, leaving unchanged the description of rape, but setting forth, in § 22 (a ), a heightened penalty when specified aggravating factors are present. See St.1980, c. 459, § 6. See also *Aldoupolis v. Commonwealth*, 386 Mass. 260, 267 n. 10, 435 N.E.2d 330, cert. denied, 459 U.S. 864, 103 S.Ct. 142, 74 L.Ed.2d 120 (1982). The Legislature's choice of the flexible terms “committed with” and “committed during,” rather than terms indicating a restrictive causal relationship, such as “accomplished by” or “facilitated by,” demonstrates its intent to avoid a limiting temporal distinction.

This commonsense interpretation of G.L. c. 265, § 22 (a ), is consistent with the manner in which we have interpreted other \*494 statutes punishing violent crimes. For example, under G.L. c. 265, § 19, a person may be convicted of robbery, even though the use of force occurred after the taking of the property. See *Commonwealth v. Sheppard*, 404 Mass. 774, 778, 537 N.E.2d 583 (1989); *Commonwealth v. Jones*, 362 Mass. 83, 89–90, 283 N.E.2d 840 (1972). See also Model Penal Code § 222.1 and comment 2 (Official Draft 1980) (force or threat of force may occur “in the course of committing a theft,” even in the period of flight after the commission). Likewise, the felony-murder rule applies to killings that occur “in the commission of” the underlying felony, regardless whether the killing occurs before or after that felony. G.L. c. 265, § 1. See *Commonwealth v. Ortiz*, 408 Mass. 463, 466, 560 N.E.2d 698 (1990) (“It would be enough if the homicide[ ] occurred as part of the defendant's effort to escape responsibility for the underlying felony”). The two offenses must be linked, but the timing is not critical, because “[a]s a matter of logic and policy, those who inflict bodily injury on their victims before they complete their crimes are not treated more leniently than those who do not.” *Commonwealth v. Christian*, 430 Mass. 552, 557, 722 N.E.2d 416 (2000). See also G.L. c. 265, § 18B (imposing heightened penalties for felonies committed while in possession of firearm [regardless whether firearm was used to commit felony] ).

Our interpretation also is consistent with the approach taken by the Model Penal Code, the provisions of which have guided our interpretation of our rape statutes in the past. See *Commonwealth v. Gallant*, 373 Mass. 577, 588–589, 369 N.E.2d 707 (1977). The Model Penal Code divides the offense of rape into three felony levels, with the most serious category (corresponding to the offense of aggravated rape) reserved for those instances in which the victim is “not a voluntary social companion” of the defendant and “had not previously permitted him sexual liberties,” or when the actor inflicts serious bodily injury on anyone “in the course thereof.” Model Penal Code, *supra* at § 213.1.9

We repeatedly have stated that “[t]he essence of the crime of rape, whether aggravated or unaggravated, is sexual intercourse with another compelled by force and against the victim's will or compelled by threat of bodily injury.” *Commonwealth v. Guisti*, 434 Mass. 245, 248, 747 N.E.2d 673 (2001), quoting *Commonwealth v. Sherry*, 386 Mass. 682, 687, 437 N.E.2d 224 (1982). See *Commonwealth v. Lopez*, 433 Mass. 722, 726–729, 745 N.E.2d 961 (2001); *Commonwealth v. Caracciola*, 409 Mass. 648, 651, 569 N.E.2d 774 (1991); *Commonwealth v. Helfant*, 398 Mass. 214, 220, 496 N.E.2d 433 (1986). It does not follow, however, as the defendant contends, that the conduct that raises the felony of rape to one of aggravated rape must also be used to overcome the victim's will to resist the rape. As stated in the opinion of the Appeals Court, rape is “a crime involving not simply sex but ‘violence and domination ‘calculated to humiliate, injure and degrade.’ ” ” *Commonwealth v. McCourt*, *supra* at 681, 767 N.E.2d 1067, quoting *People v. McKenna*, 196 Colo. 367, 372, 585 P.2d 275 (1978).<sup>10</sup> The Legislature's clear purpose in creating the offense of aggravated rape was to protect victims of violent sex offenders, by punishing more severely perpetrators (i) who inflict serious bodily injury on a victim, in addition to the bodily harm from the act of rape itself; (ii) who commit rape by joint venture; or (iii) who



commit other felonies against the victim in addition to the rape.<sup>11</sup> The critical point is not whether the aggravating acts served to compel a victim's submission, but whether the rape victim sustained serious bodily injuries, or was subjected to other felonious conduct, <sup>\*\*816</sup> during the same criminal episode. The <sup>\*496</sup> Legislature, by enacting G.L. c. 265, § 22 (a ), intended that rapists who inflict serious bodily injury or commit other crimes against their victims, will be dealt with severely. It is neither appropriate nor consistent with the Legislature's purpose to draw an artificial bright line between the ending of the sexual offense and aggravating conduct that occurs immediately thereafter. We conclude that the language of G.L. c. 265, § 22 (a ), is sufficiently broad to encompass a rape that precedes a brutal beating that inflicts serious bodily injury on the victim, so long as the rape and the beating “constituted one continuous episode and course of conduct.” See *Commonwealth v. Moreschi*, 38 Mass.App.Ct. 562, 569–570, 649 N.E.2d 1132 (1995).<sup>12</sup>

It remains for the jury to consider each case on its own facts and to determine whether there is an adequate nexus between the unlawful sexual intercourse and the serious bodily injury or the acts constituting one of the enumerated offenses. This is a task jurors commonly are called to make. The jury are entitled to consider the entire sequence of events in making their determination whether the aggravating acts occurred in the course of the rape, or whether, because of intervening time or events, the rape and the aggravating acts cannot be viewed as one continuous course of criminal conduct directed at the victim, and so may find the defendant guilty of two separate offenses, but not of aggravated rape.

<sup>78</sup> <sup>\*497</sup> Applying our interpretation of G.L. c. 265, § 22 (a ), to the evidence, we conclude that there was ample proof for a jury to conclude beyond a reasonable doubt that the physical assault and the sexual assault constituted one calculated and continuous episode.<sup>13</sup> The evidence shows that the defendant followed the victim in the snowstorm; approached her when she became stranded; forced her into the backseat of her automobile; raped her; informed her that he could not let her live; began striking her in the head and back and, finally, kicked her with his boot as she lay on the ground. The facts also indicate that the defendant inflicted the serious bodily injuries with the explicit goal of killing the victim, thereby concealing the rape and avoiding punishment for his crime. While penal statutes are to be strictly construed, “that maxim ‘does not <sup>\*\*817</sup> require “that language be strained to reach a result favorable to the defendant.” ’ ” *Commonwealth v.*

*Caracciola*, supra at 654, 569 N.E.2d 774, quoting *Commonwealth v. McMenimon*, 295 Mass. 467, 470, 4 N.E.2d 246 (1936). No reasonable person reading G.L. c. 265, § 22 (a ), in light of the Commonwealth's evidence, would claim surprise on learning that the defendant was guilty of aggravated rape. See *Perry v. Commonwealth*, 438 Mass. 282, 288, 780 N.E.2d 53 (2002); *Commonwealth v. Gallant*, 373 Mass. 577, 580–581, 369 N.E.2d 707 (1977).

2. The judgment of conviction of aggravated rape is affirmed.

So ordered.



## **AGGRAVATED RAPE**

### **Elements:**

1. having sexual intercourse or unnatural sexual intercourse\*
  2. with a person (can be male or female)
  3. and compels such person to submit by force and against his will
- OR
4. by threat of bodily injury

### **AND**

This rape is combined with one of the three following conditions:

1. the rape results in serious bodily injury (NOT mental.)
  2. is committed by a joint enterprise (more than one assailant)
- OR
3. during the commission or attempted commission of one of the following crimes:

Ch. 265:15A Assault and Battery by means of a Dangerous Weapon

Ch. 265:15B Assault by means of a Dangerous Weapon

Ch. 265:17 Armed Robbery

Ch. 265:19 Unarmed Robbery

Ch. 265:26 Kidnapping

Ch. 266:14 Armed Breaking and Entering of a Dwelling House

Ch. 266:15 Unarmed Breaking and Entering of a Dwelling in the Nighttime (burglary)

Ch. 266:16 Breaking and Entering, a Building or Ship; Intent to Commit a Felony

Ch. 266:17 Building or Ship; Nighttime Entry; Daytime Breaking and Entering

Ch. 266:18 Dwelling House; Nighttime Entry; Daytime Breaking and Entering

Ch. 269:10 Dangerous Weapons, Unlawfully Carrying

### **Punishment:**

Aggravated rape is punishable by life or any term of years.

### **Com. v. McCourt, 438 Mass. 486, 781 N.E.2d 808 (2003)**

The legislature's clear purpose in creating the offense of aggravated rape was to protect victims of violent sex offenders, by punishing more severely perpetrators who (1) inflict serious bodily injury on a victim, in addition to the bodily harm from the act of rape itself; (2) commit rape by joint venture; or (3) commit other felonies against the victim in addition to the rape. M.G.L.A. c. 265, § 22(a). Evidence supported conclusion that the sexual assault and the subsequent physical assault were one calculated and continuous episode and that defendant committed aggravated **rape**; the defendant followed the victim in a snowstorm, approached her when she became stranded, forced her into the backseat of her automobile, **raped** her, informed her of need to kill her, began striking her in the head and back, and, finally, kicked her with his boot as she lay on the ground, and the defendant inflicted the serious bodily injuries with the explicit goal of killing the victim, thereby concealing the **rape** and avoiding punishment for his crime. M.G.L.A. c. 265, § 22(a).



## **RAPE**

Subparagraph (b) of this section deals with rape.

### **Elements:**

1. having sexual intercourse or unnatural sexual intercourse\*
2. with a person  
and compels such person to submit
3. by force and against his will
- OR
4. by threat of bodily injury

### **Punishment:**

Rape is punishable by a term in the state prison for not more than twenty years. Second and subsequent offense punishable by state prison for life or any term of years.

"Unnatural sexual intercourse" includes the following:

1. oral intercourse
  - a. fellatio -- oral sex performed on a man
  - b. cunnilingus -- oral sex performed on a woman
2. anal (rectal)intercourse
3. digital penetration
  - a. placing of a finger in the anal or vaginal orifice
  - b. placing of an object in the anal or vaginal orifice

### **Notes:**

Corroboration of victim's testimony is not required by law.

Penetration is required, but emission is not required. There is no requirement that the suspect perform the penetration. The charge of rape is appropriate even if the suspect forces two other individuals to engage in sexual penetration.

There is no common law spousal exclusion; a husband can be convicted of raping his wife.

If the victim is under the disabilities of intoxication, helplessness, unconsciousness, idiocy, stupification or sleep, the only force necessary is the minimal force for penetration.





## Rape of a Child

### Chapter 265, Section 22A

#### **Definition:**

Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for life or for any term of years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

#### **Elements:**

1. Having sexual intercourse or unnatural sexual intercourse
2. against the will
3. of a child UNDER sixteen (16)
4. by force or threat of bodily injury

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

Proof of the force element of rape under G.L. c. 265, § 22A, may be established by physical force or constructive force. “[I]n this Commonwealth, unless the putative victim has been rendered incapable of consent, the prosecution must prove that the defendant compelled the victim's submission *by use of physical force; nonphysical, constructive force; or threat of force*” (emphasis added). *Commonwealth v. Lopez*, 433 Mass. 722, 728–729, 745 N.E.2d 961 (2001). See *Commonwealth v. Helfant*, 398 Mass. 214, 220–222, 496 N.E.2d 433 (1986); *Commonwealth v. Caracciola*, 409 Mass. 648, 653, 569 N.E.2d 774 (1991). In this case, the rape convictions are sustainable on both the physical **\*\*113** force and constructive force theories of proof.

8 a. *Physical force*. The evidence demonstrated actual physical force inflicted upon the victim by the defendant in those digital rapes during which the physical intrusion of penetration was perpetrated while the young victim was asleep. “[I]t has been held that, if a man has carnal intercourse, using so much force as is necessary, with a woman who is incapable of consenting, by reason of sleep ... he may be convicted of rape.”

*Commonwealth v. Roosnell*, 143 Mass. 32, 40, 8 N.E. 747 (1886). Accord *Commonwealth v. Fionda*, 33 Mass.App.Ct. 316, 321–323, 599 N.E.2d 635 (1992) (correct jury instruction that if, by reason of sleep, victim is incapable of **\*255** consenting, then sexual act is done without valid consent of victim); *Commonwealth v. Moniz*, 43 Mass.App.Ct. 913, 913–914, 683 N.E.2d 703 (1997) (sufficient force where penetration was accomplished without opportunity for victim to resist). See *Commonwealth v. Feijoo*, 419 Mass. 486, 493, 646 N.E.2d 118 (1995); *Commonwealth v. Vasquez*, 55 Mass.App.Ct. 523, 534–536, 772 N.E.2d 60 (2002).

Actual force was also present in the oral rapes, where the defendant pulled the victim's legs apart and positioned himself against her spread legs while he engaged in oral sex.



910 b. *Constructive force*. The convictions would be sustainable in any event under the alternative theory of proof of nonphysical constructive force. See *Commonwealth v. Lopez, supra*. Among the spectrum of factors which may be considered on the question of the sufficiency of the evidence proving constructive force in accomplishing a rape against a child is the historical and contextual relationship between the victim and the defendant, as well as the manner and means by which the rape is perpetrated, which factors, among others, bear on whether the victim's ability to resist the rape was overborne or negated. In essence, the focus is on the circumstances "in which the victim is placed, the impact of those circumstances ... on the victim's power to resist and the defendant's conduct[,] all [of which] are relevant to the determination whether conduct complained of by the victim was accomplished *by force* and against the victim's will." *Caracciola*, 409 Mass. at 651, 569 N.E.2d 774.

In this case, a confluence of circumstances yielded sufficient evidence of constructive force upon the vulnerable victim who was the object of the defendant's digital and oral intercourse against her will and without any meaningful power to resist. The defendant took advantage of the young victim as she slept in his house, where the defendant was an authority figure, and the victim was in the care of the defendant and his wife. The defendant gained an additional advantage over the victim because the victim was his step-niece, and she trusted him. There was a great disparity in age between the defendant and the young victim, and the defendant, a much larger person than the victim, would have a commanding physical presence. "By looking to the child's age and size, a [fact finder] could reasonably have inferred that the sexual intercourse took place by force and against her consent." *Commonwealth v. Melchionno*, 29 Mass.App.Ct. 939, 941, 558 N.E.2d 18 (1990).

**\*256** The defendant argues that such factors still do not add up to the level of constructive force, because the victim stated that she was not threatened by the defendant and was not scared by him. However, that the young victim denied fear, and instead sought to suppress the effects of the rapes by pretending to sleep during the rapes, professing to accept the **\*\*114** continual assaults as acts which "didn't affect me" because she was so young that she "didn't think anything was wrong with it [and] just accepted it," does not mean that the evidence was not sufficient to show that the rapes were committed against the victim's will, or that her power to resist was not overborne by the defendant. See *Commonwealth v. Sherry*, 386 Mass. 682, 688, 437 N.E.2d 224 (1982); *Commonwealth v. Caracciola, supra*. Indeed, that the victim endured the rapes with resignation and with no will to resist the defendant's sexual exploitation is reflective of the very nature of the application of constructive force with respect to the crime of rape of a young person.

**Com. v. Armstrong, 73 Mass. App. Ct. 245, 254-56, 897 N.E.2d 105, 112-14 (2008)**





## **Rape of a Child/Statutory Rape**

### **Chapter 265, Section 23**

#### **Definition:**

Section 23. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term in a jail or house of correction. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

#### **Elements:**

The elements of statutory rape are:

- (1) sexual intercourse or unnatural sexual intercourse with
- (2) a child under 16 years of age. M.G.L.A. c. 265, § 23

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

#### **Notes:**

Provides a second and subsequent offense punishment.

NO FORCE -- "STATUTORY RAPE"

Mistaken belief as to the age of the victim in no defense to statutory rape.

Statutory rape is a strict liability crime. M.G.L.A. c. 265, § 23

#### **Com. v. Knap, 412 Mass. 712, 592 N.E.2d 747 (1992)**

*Reasonable mistake of fact as to identity.* We have held that a reasonable mistake as to the age of the victim is not a defense to the crime of statutory rape. *Commonwealth v. Miller*, 385 Mass. 521, 522, 432 N.E.2d 463 (1982). The defendant argues that a reasonable mistake of fact as to identity, unlike a reasonable mistake of fact as to age, should be a defense to a charge of statutory rape and indecent assault and battery with a child under fourteen because if the facts were as the defendant believed, he would have committed no crime. We see no reason to differentiate between a mistake as to age, and a mistake as to identity. As we stated in *Miller, supra*, a "mistake of fact will not avail the defendant here. Strict criminal liability is not necessarily a denial of due process of law, and in the case of statutory rape it is not. The defendant argues that ... a reasonable mistake ... should be a valid defense to a charge of statutory rape.... This argument should be addressed to the Legislature."

*Strict liability.* The defendant argues that neither statutory rape nor indecent assault and battery on a child under fourteen are strict liability crimes. We pass over the question whether this issue is properly preserved merely by the defendant's objection to the judge's refusal to charge as requested. Statutory rape is a \*\*749 strict liability crime.

*Commonwealth v. Miller, supra.* The only elements the Commonwealth must prove are (1) sexual intercourse or unnatural sexual intercourse with (2) a child under sixteen years of age



## **Aggravated Rape and Abuse of Child**

### **Chapter 265, Section 23A**

Section 23A. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and:

(a) there exists more than a 5 year age difference between the defendant and the victim and the victim is under 12 years of age;

(b) there exists more than a 10 year age difference between the defendant and the victim where the victim is between the age of 12 and 16 years of age; or

(c) at the time of such intercourse, was a mandated reporter as defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Com. v. Simmons, 88 Mass. App. Ct. 1114 (2016)

Based on the testimony of the victim, a reasonable juror would be entitled to infer the penetrations necessary to constitute the rapes. The Supreme Judicial Court has stated that, “when young children testify about sexual assault, their description of penetration need not be precise.” *Commonwealth v. King*, 445 Mass. 217, 224 (2005), citing *Commonwealth v. Moniz*, 43 Mass.App.Ct. 913, 914 (1997) (jury could find penetration from seven year old victim's testimony that defendant “licked her pee pee”), *Commonwealth v. Nylander*, 26 Mass.App.Ct. 784, 785–787 (1989) (jury could infer penetration from evidence including testimony of young child that defendant touched her “bum” and “private spot” with his “private spot”), and *Commonwealth v. Thomas*, 19 Mass.App.Ct. 1, 5 (1984) (jury entitled to infer penetration from six year old's testimony that defendant made her “privacy” feel bad by lying on top of her). The defendant's motions were properly denied.



## **Assault with Intent to Commit Rape**

### **Chapter 265, Section 24**

#### **Definition:**

Assaulting a person with intent to commit rape.

#### **Elements:**

1. Commits assault (actually touching)
2. a person
3. specific intent (to commit rape)

#### **Right of Arrest:**

This 20 year felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

Com. v. Oliveira, 53 Mass. App. Ct. 480, 480–81, 760 N.E.2d 308, 309 (2002)

Following a two-day jury trial, the defendant was convicted on charges of indecent exposure, lewd and lascivious behavior, indecent assault and battery of a person fourteen or over, and assault with intent to rape. On appeal he claims (i) that the judge failed to give timely instructions to the jury regarding the permissible use of fresh complaint testimony, and (ii) that there occurred violations of the defendant's Federal \*481 constitutional right not to be subjected to double jeopardy<sup>1</sup> and his common law right not to be sentenced on both the assault with intent to rape charge and the indecent assault and battery charge.<sup>2</sup> We affirm the judgments.

The material facts which the jury could have found are these: the victim, then seventeen years old, was employed at Burger King in North Dartmouth. On April 24, 1996, she was walking to work on Route 6. A stranger in a black vehicle offered her a ride; she accepted. The defendant drove five miles past Burger King, down a dirt road, parked the car, shut off the ignition, and took a condom out of his wallet. The victim protested, but her effort to exit the vehicle was frustrated by a power lock on the passenger door controlled by the defendant.

The defendant persisted, but the victim rejected his advances and insisted that she had to get to work. The defendant offered money; that, too, was rejected. Then the defendant reclined the victim's seat and succeeded in "leaning" on top of her. He attempted to unbutton her pants, and eventually succeeded in doing so. At that point the victim told the defendant that she would have her uncle kill him.

The defendant, frightened, backed off. He returned to his own seat, unzipped his pants, exposed his penis, and proceeded to masturbate. Then he drove the victim to work, telling her that he was sorry and asking that she not tell anybody. When the victim finally left the defendant's vehicle, she noted the defendant's license plate number. She gave that information, together with a complete statement of events, to the police, and she called her mother.



## COMMONWEALTH v. BERENDSON

### Assault with Intent to Rape.

The defendant, Jamie P. Berendson, was convicted of two counts of unarmed robbery, G. L. c. 265, § 19B; aggravated rape, G. L. c. 265, § 22; kidnapping, G. L. c. 265, § 26; and assault and battery. The defendant was also convicted of assault with intent to rob, G. L. c. 265, § 20; assault with intent to rape, G. L. c. 265, § 24; and assault and battery arising\*396 from a separate incident involving a different victim that occurred on the same day.

On appeal, the defendant argues that (1) his motion for a required finding of not guilty on the charge of assault with intent to rape should have been allowed; (2) the trial judge committed reversible error because he prevented the defendant from cross-examining one of the victims to determine whether she had taken her prescribed methadone medication; and (3) the prosecutor's argument that rape is a crime of violence and not sexual pleasure was impermissible and not based on expert testimony. We affirm.

Facts. The convictions arose from two separate incidents on the same day, first at Cumberland Farms in Pittsfield and later at the Lipton Mart in Lee. A lone female clerk at each store was assaulted during the respective events.

The evidence presented at trial showed that the defendant entered the Pittsfield Cumberland Farms around 4:30 A.M. on September 22, 2002. After using the restroom, the defendant left the store, returning a short while later through a back door to wait for the victim in the back room. The victim testified at trial that she heard a noise in the back of the store and went to investigate. When she walked into the back hallway, she testified that the defendant attacked her, choked her until she became unconscious, locked her in the store bathroom, and then beat and sexually assaulted her. A surveillance videotape from Cumberland Farms presented at trial shows, in part, the defendant entering the camera's view from the rear of the store, briefly interacting with a female patron, and then returning toward the rear of the store and out of view, where he was again alone with the victim in the bathroom. The videotape then shows the defendant returning to the register, emptying the cash, and leaving the store with the victim's pocketbook shortly after 5:00 A.M. Police officers testified that when they arrived on the scene, the victim's pants were undone and she appeared to be in shock.

The second victim testified that the defendant entered the \*397 Lipton Mart in Lee roughly twelve hours following the Cumberland Farms incident and remained there for about an hour as he bought gasoline, filled out an employment application using a false name, and talked with the clerk. The defendant then left. The victim testified that a few hours later, at about 10:30 P.M., she was ambushed by the defendant as she was wringing out a mop in the rear of the store. As the defendant choked her and pulled her to the ground, the victim grabbed the alarm which alerted the police. When she informed the defendant that the police were on their way, he immediately let her go and ran out of the store.

In his testimony at trial, the defendant conceded that he had robbed or attempted to rob both convenience stores. He admitted to choking and beating the Pittsfield victim but denied that he sexually assaulted or intended to sexually assault either victim.

Assault with intent to rape. The defendant first argues that his motion for a required finding on the charge of assault with intent to rape the Lee victim should have been allowed because the evidence, even including evidence that the defendant raped the Pittsfield victim, was insufficient to prove that he intended to rape the Lee victim. In considering such an argument, the court must examine the evidence in the light most favorable to the Commonwealth to determine whether any rational jury could have found the essential elements of the crime beyond a reasonable doubt. Commonwealth v. Latimore, 378 Mass. 671, 676-677 (1979).



The essential elements of the crime of assault with intent to rape are "(1) an assault upon the victim, and (2) a specific intent by the defendant at the time of the assault to rape the victim." *Commonwealth v. Fulgham*, 23 Mass. App. Ct. 422, 427 (1987), quoting from *Commonwealth v. Nickerson*, 388 Mass. 246, 253 (1983). See G. L. c. 265, § 24.

To establish specific criminal intent, the Commonwealth may rely wholly on circumstantial evidence. *Commonwealth v. Degro*, 432 Mass. 319, 325 (2000). The inferences drawn need only be "reasonable and possible." *Commonwealth v. O'Laughlin*, 446 Mass. 188, 198-199 (2006), quoting from *Commonwealth v. \*398 Longo*, 402 Mass. 482, 487 (1988). In *Commonwealth v. Martin*, 447 Mass. 274, 291 (2006), the Supreme Judicial Court concluded that an attack on a teenage girl coupled with violent sexual notes found on the defendant at the time of his arrest were sufficient evidence to support the defendant's conviction for assault with intent to rape. While there was no evidence that the victim was actually touched in a sexual manner, the testimony of witnesses who observed the defendant grab the victim from behind and drag her off a beach path, and the discovery of sexually explicit notes on the defendant's person, allowed the jury to reasonably infer that the attack was sexual in nature. *Ibid.* Similarly, in the instant case, the Commonwealth relied on evidence of the prior rape of the Pittsfield victim, coupled with evidence of the interrupted assault of the Lee victim, to support its theory that the defendant intended to rape the Lee victim. [FN3]

It is well settled that while the prosecution may not rely on evidence of prior "bad acts" for the purposes of showing the defendant's bad character or propensity to commit the crime charged, such evidence may be admissible for some other purpose. *Commonwealth v. Helfant*, 398 Mass. 214, 224 (1986). For example, such evidence may be admissible to show a "common scheme, pattern of operation, . . . intent, or motive." *Ibid.* In *Helfant*, the defendant appealed from convictions of rape and drugging a person for unlawful sexual intercourse. *Id.* at 215. The trial judge allowed testimony from previous patients of the defendant who allegedly were offered the same drug as the victim in *Helfant* prior to having been sexually assaulted. *Id.* at 224. The evidence was admissible to show "the existence of a plan or scheme or state of mind on the part of the defendant" in order to prove an "intent to stupefy or overpower [the complainant]" with drugs, an essential element of the crime. *Id.* at 219, 226. Similarly, in *Commonwealth v. Rancourt*, 399 Mass. 269, 276 (1987), the Supreme Judicial Court upheld the admission of a prior act in which the defendant attempted, and failed, to forcibly enter a car in which two women were riding shortly before he entered the rape victim's car. The evidence was admissible because "[t]he defendant's attempt to enter forcibly the two women's automobile a half hour prior to the incident . . . bears on the issues of intent, the defendant's state of mind, and consent." *Id.* at 276 n.9.

Based on the totality of evidence, we agree with the trial judge that the similar behavior of the defendant prior to and during each incident allowed the jury to reasonably infer the defendant intended to rape the Lee victim. In both instances the defendant selected convenience stores with lone, female clerks. Prior to each assault, the defendant examined the layout of the store before returning to commit the crime. Each time, the defendant hid in the back of the store, away from the register, waiting for the victim to leave the view of customers and surveillance. Each assault began with the defendant placing the victim in a choke hold. The two attacks were virtually identical and only seventeen hours apart. The defendant had ample opportunity to immediately demand cash from the register when the store had no customers and the clerk was alone at the counter, but he instead hid and waited in the rear of the store, away from the cash register. The Lee assault only ended because the victim was able to pull the alarm. The evidence supports the existence of a "distinctive pattern of conduct" where the defendant investigated, isolated, and then sexually attacked his victims. See *Commonwealth v. Helfant*, 398 Mass. at 227.



## **Assault of a Child with Intent to Commit Rape**

### **Chapter 265, Section 24B**

**Definition:**

Assaulting a child UNDER (16) with intent to commit rape.

**Elements:**

1. Assault (actual touching)
2. a child under (16)
3. specific intent to commit rape

**Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

## **Withholding Rape Victim's Name**

### **From Public Disclosure**

Chapter 265, Section 24C

**Definition:**

That portion of the records of a court or any police department of the Commonwealth or any of its political subdivision, which contains the name of the victim in an arrest, investigation or complaint for rape or assault with intent to rape under Section thirteen B, twenty-two, twenty-two A, twenty-three, twenty-four or twenty-four B, inclusive, of chapter two hundred and sixty-five, shall be withheld from public inspection, except with the consent of a justice of such court where the complaint or indictment is or would be prosecuted.

Said portion of such court record or police record shall not be deemed to be a public record under the provisions of section seven of chapter four.

Except as otherwise provided in this section, it shall be unlawful to publish, disseminate or otherwise disclose the name of any individual identified as an alleged victim of any of the offenses described in the first paragraph. A violation of this section shall be punishable by a fine of not less than two thousand five hundred dollars nor more than ten thousand dollars.

**Elements:**

1. published, disseminates, or otherwise discloses
2. the name of the victim of
3. C. 265, 13B, Indecent A&B, child under 14  
C. 265, 22, Rape or Aggravated Rape  
C. 265, 22A, Rape of Child  
C. 265, 23, Rape & Abuse of a Child  
C. 265, 24, Assault with Intent to Rape  
C. 265, 24B, Assault of a Child with Intent to Rape
4. Except with the consent of a judge of the court where the complain or indictment is or would be prosecuted.

**Right of Arrest:**

This is a non-arrestable misdemeanor punishable by a fine.

*Doe v. Lyons*, No. CIV. A. 96-0341, 1996 WL 751531, at \*3 (Mass. Super. Dec. 23, 1996)  
*G.L. c. 41, § 97D and G.L. c. 265, § 24C* G.L. c. 41, § 97D

provides that "[a]ll reports of rape and sexual assault ... and all conversations between police officers and victims of said offenses shall not be public reports and shall be maintained by the police departments in a manner which will assure their confidentiality



## **Carjacking**

### **Chapter 265, Section 21A**

#### **Definition:**

Whoever, with intent to steal a motor vehicle, assaults, confines, maims or puts any person in fear for the purpose of stealing a motor vehicle shall, whether he succeeds or fails in the perpetration of stealing the motor vehicle shall be punished by imprisonment in the state prison for not more than fifteen years or in a jail or house of correction for not more than two and one-half years and a fine of not less than one thousand nor more than fifteen thousand dollars; provided, however, that any person who commits any offense described herein while being armed with a dangerous weapon shall be punished by imprisonment in the state prison for not more than twenty years or in a jail or house of correction for not less than one year nor more than two and one-half years and a fine of not less than five nor more than fifteen thousand dollars.

#### **Elements:**

1. with specific intent to steal a MOTOR VEHICLE
2. assaults or confines or maims or puts any person in fear
3. whether he succeeds or fails in the perpetration of stealing a MOTOR VEHICLE
4. unarmed

#### **Right of Arrest:**

This "unarmed carjacking" is a 15 year felony arrestable in presence or upon probable cause.

#### **Elements:**

1. with specific intent to steal a MOTOR VEHICLE
2. assaults or confines or maims or puts any person in fear
3. whether he succeeds or fails in the perpetration of stealing a MOTOR VEHICLE
4. while being armed with a dangerous weapon

#### **Right of Arrest:**

This "armed carjacking" is a twenty year felony arrestable in presence or upon probable cause.

#### **Notes:**

This statute applies to MOTOR VEHICLE as defined in c. 90, s.1, not just automobiles

The "armed" portion states "while being armed with a dangerous weapon." The case law that applies to the armed robbery statute is applicable here. The suspect can violate the being armed portion without ever showing the victim the weapon.

Com. v. Kemp, 46 Mass. App. Ct. 902, 702 N.E.2d 817, 818 (1998)

The defendant appeals from convictions of armed robbery, G.L. c. 265, § 17; assault and battery by means of a dangerous weapon, G.L. c. 265, § 15A(b); carjacking, G.L. c. 265, § 21A; and larceny of a motor vehicle, G.L. c. 266, § 28. The jury could have found that the defendant, acting with others, lured the victim by chicanery to an unfamiliar place in Brockton and then pulled him from his vehicle while simultaneously beating him with a metal object with the intent to steal the vehicle. The defendant continued to beat the victim severely, and, after the victim complied with the defendant's order to give him money, the defendant hit the victim with a metal object again before driving away in the victim's vehicle





## **Threats to Extort**

### **Chapter 265, Section 25**

#### **Definition:**

Whoever, verbally or by a written or printed communication, maliciously threatens to accuse another of a crime or offense, or by verbal or written or printed communication maliciously threatens an injury to the person or property of another, or any police officer or person having the powers of a police officer, or any officer, or employee of any licensing authority who verbally or by written or printed communication maliciously and unlawfully uses or threatens to use against another person the power of authority vested in him, with intent thereby to extort money or any pecuniary advantage, or with intent to compel any person to do any act against his will, shall be punished by imprisonment in the state prison for not more than fifteen years, or in the house of correction for not more than two and one half years, or by a fine of not more than five thousand dollars or both.

#### **Elements:**

Whoever,

1. verbally, or by written or printed communication
2. maliciously threatens an injury
3. to the person or property of another
4. or any police officer, or persons having the powers of a police officer, or any officer, or employee of any licensing authority
5. who verbally, or by written or printed communication
6. maliciously and unlawfully uses or threatens to use against another the power of authority vested in him,
7. with intent to extort money, or compel a person to do any act against his will.

#### **Right of Arrest:**

This fifteen-year felony is arrestable in presence or upon probable cause.

#### **Closely related issue**

##### **Threats to Commit a Crime**

Evidence was sufficient to support finding that juvenile's drawing depicted juvenile pointing a gun at teacher constituted a "threat," for purposes of threat statute. M.G.L.A. c.275, § 2. Com. v. Milo M., 433 Mass. 149, 740 N.E.2d 967 (2001) Defendant who left a message on victim's voicemail implying a threat against victim's daughter could be convicted on threatening to commit a crime, even though threat did not convey a threat against victim herself, since statute governing offense did not require that threat be conveyed to intended victim of threatened crime. M.G.L.A. c. 275, § 2. Com. v. Hamilton, 459 Mass. 422, 945 N.E.2d 877 (2011)





**Com. v. Miller, 385 Mass. 521, 525–27, 432 N.E.2d 463, 466–67 (1982)**

**Extortion**

The Commonwealth introduced evidence of two threats by the defendant. One was to expose his sexual relationship with the victim to her parents and the other was to circulate in her neighborhood pictures of her in a posture of dishabille unless she gave him money. The defendant argues that neither of these threats brings his behavior within the extortion statute, G.L. c. 265, s 25,<sup>6</sup> and \*526 that therefore the judge should have allowed his motion for a directed verdict on the extortion indictments. We do not agree.

9 The elements of the crime are (1) a malicious threat (2) made to a named person (3) to accuse someone of a crime or to injure someone's person or property (4) with intent to extort money. *Commonwealth v. DeVincent*, 358 Mass. 592, 595, 266 N.E.2d 314 (1971), quoting from *Commonwealth v. Snow*, 269 Mass. 598, 608, 169 N.E. 542 (1930); *Commonwealth v. Pelligrini*, 283 Mass. 300, 303, 186 N.E. 552 (1933); *Commonwealth v. Corcoran*, 252 Mass. 465, 483-484, 148 N.E. 123 (1925). The defendant maintains that there was no evidence that he threatened to accuse anyone of a crime or to injure anyone's person or property.

Neither of these threats amounts to a threat to accuse another of a crime. The Commonwealth presented no evidence that the victim may have reasonably understood the threats “to embrace criminal prosecution.” See *Commonwealth v. Bacon*, 135 Mass. 521, 525-526 (1883). Nor did the defendant threaten to go to a prosecuting or police authority. See \*\*467 *Commonwealth v. Corcoran*, supra, 252 Mass. at 478-481, 148 N.E. 123; *Commonwealth v. Dorus*, 108 Mass. 488 (1871). In fact, no threat to accuse another of a crime was ever made.

We turn to the other type of threat embraced in the statute-injury to another's person or property. The Commonwealth argues that, as a result of publication of her sexual activities and the photograph of her, the victim would have suffered a blow to her reputation of such magnitude as to cause her severe mental anguish which would constitute injury to the person. We agree.

In construing a predecessor to G.L. c. 265, s 25, this court held that a “threat to injure the person of another \*527 naturally means a threat to use actual physical force upon the person of another.” *Commonwealth v. Mosby*, 163 Mass. 291, 294, 39 N.E. 1030 (1895). Similarly, several jurisdictions have held that a threat to expose another to disgrace and to injure his reputation was not a threat of “injury to the person or property of another” which was made unlawful by a State extortion statute.



## Kidnapping

### Chapter 265, Section 26

#### **Definition:**

Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this Commonwealth against his will, or forcibly carries or sends such person out of this Commonwealth or forcibly seizes and confines or inveigles or kidnaps another person, with intent to cause him to be secretly confined or imprisoned in this Commonwealth against his will, or to cause him to be sent out of this Commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two years. The provisions of the preceding sentence shall not apply to the parent of a child under eighteen years of age who takes custody of such child. Whoever commits any offense described in this section with the intent to extort money or other valuable thing thereby shall be punished by imprisonment in the state prison for life or any term of years.

#### **Elements:**

1. Without lawful authority
  2. Forcibly or secretly confines or imprisons
  3. Another person
  4. Within the Commonwealth
  5. Against his (the victim's) will
- OR
1. Forcibly carries or sends
  2. Another person
  3. Out of this Commonwealth
- OR
1. Forcibly seizes and confines
  2. Or inveigles (lead astray or win over by deceitful flattery: entices)
  3. Or kidnaps
  4. Another person
  5. With the specific intent
  6. Either to cause him to be sent out of this Commonwealth against his will or in any way held to service against his will

#### **Right of Arrest:**

This is ordinarily a 10 year felony arrestable in presence or upon probable cause. If a violation of this section is committed with the specific intent to extort money or other valuable thing (ransom), then this felony is punishable by imprisonment for up to life.

#### **Notes:**

THIS SECTION DOES NOT APPLY to the parent of a child under 18 years of age. (Chapter 265, Section 26A would apply in that case.)

Evidence that defendant showed victim a gun, placing her in fear as result, and also pulled victim by her jacket and constrained her by holding on to her backpack while they walked toward his truck, demonstrated that victim's movements were restrained and was sufficient to permit inference that defendant forcibly confined victim against her will, as required to support conviction for **kidnapping**. [M.G.L.A. c. 265, § 26](#).



Com. v. Colon, 431 Mass. 188, 726 N.E.2d 909 (2000)

IRELAND, J.

The defendant, Antonio Colon, was indicted for **kidnapping** a twelve year old girl in violation of G.L. c. 265, § 26. He moved to dismiss the indictment, contending that the Commonwealth failed to present evidence that the **kidnapping** was “against her will.” A Superior Court judge denied the motion and concluded that a twelve year old has “no authority or capacity, as a matter of law,” to leave the legal custody of her parents without their consent. At the parties' request, the judge reported questions to the Appeals Court. Mass. R.Crim. P. 34, 378 Mass. 905 (1979). We transferred the case to this court on our own motion.<sup>1</sup> The reported questions asked whether the judge's ruling was correct and, if so, whether the evidence presented to the grand jury was sufficient to support the indictment.<sup>2</sup> We conclude that the judge was correct and affirm that a twelve year old is unable to consent to **kidnapping** as a matter of law, answering both questions “Yes.”

We summarize the stipulated facts. The thirty year old defendant first met the then eleven year old girl in the summer of 1996. After a few months, the defendant began to spend a considerable amount of time alone with her. He bought presents for her, and she developed a “little crush” on him. The girl's father became concerned and confronted his daughter about her relationship with the defendant. She broke down in tears and told her father she had had sexual relations with the defendant, but recanted the next day and has subsequently denied the existence of any such relationship.

On September 19, 1997, the girl's parents contacted the Springfield police department to report that she was missing. On that same date, the twelve year old and the defendant separately purchased bus tickets to Ormond Beach, Florida. The girl claimed that she traveled alone and that the first time she saw the defendant was in the parking lot of a Florida motel as the bus passed by. On December 5, 1997, agents of the Federal Bureau of Investigation found the defendant and the twelve year old in a motel room in Ormond Beach, where they had been staying since the girl's disappearance. In subsequent testimony, the twelve year old has always maintained that she left her parents' custody of her own free will and that the defendant did not force her or promise her anything to entice her to follow him.

On April 21, 1998, the defendant was indicted for **kidnapping** in violation of G.L. c. 265, § 26. He moved to dismiss the indictment, claiming that the Commonwealth had failed to present evidence that the twelve year old girl was **kidnapped** against her will. After arguments, a Superior Court judge denied the motion. The judge ruled that the Commonwealth did not have to present such evidence because a twelve year old “had no authority or capacity, as a matter of law,” to leave the legal custody of her parents without their consent.

#### **1. Capacity to consent.**



1 Question A asks us to determine whether the judge was correct in concluding that a twelve year old lacks the capacity to “consent” to **kidnapping**. Ordinarily, the Commonwealth must prove that a victim was **kidnapped** “against [her] will”; in other words, without consent. \*\*911 G.L. c. 265, § 26.<sup>3</sup> The statute is silent, however, on whether, or when, children can form the will to be able to consent to **kidnapping**.

The defendant concedes that very young children are incapable, as a matter of law, of consenting to leave their parents' custody.<sup>4</sup> Citing to cases interpreting other criminal statutes, the defendant argues that when a statute does not specify an age of consent, whether a child can consent is a question of fact for \*191 children seven years and older. See *Commonwealth v. Burke*, 390 Mass. 480, 457 N.E.2d 622 (1983); note 7, *infra*. We disagree.

23 Criminal statutes are to be strictly construed. See *Commonwealth v. George*, 430 Mass. 276, 278, 717 N.E.2d 1285 (1999). However, statutes are to be construed in light of preexisting common law, and we frequently look to the common-law definition of crimes to construe criminal statutes. See *Commonwealth v. Cass*, 392 Mass. 799, 801–802, 467 N.E.2d 1324 (1984) (adopting common-law definition of “person” in vehicular homicide statute); *Commonwealth v. Burke*, 392 Mass. 688, 690, 467 N.E.2d 846 (1984) (common-law roots of “breaking and entering”); *Commonwealth v. Slaney*, 345 Mass. 135, 138, 185 N.E.2d 919 (1962) (“For definition of the crime of assault, resort must be had to the common law”); *Commonwealth v. Correia*, 17 Mass.App.Ct. 233, 235, 457 N.E.2d 648 (1983) (“burglary” at common law meant invasion of place of habitation).

The roots of the common law of **kidnapping** provide guidance here as well, in light of the absence of legislative history of G.L. c. 265, § 26, or a clearly expressed legislative intent to abrogate the common law. See, e.g., *Commonwealth v. Burke*, *supra*.

At common law, a child of “tender years,” defined as a child under fourteen years of age, was incapable of consenting to **kidnapping**. See *Chatwin v. United States*, 326 U.S. 455, 461, 66 S.Ct. 233, 90 L.Ed. 198 (1946), citing 9 J. Wigmore, Evidence § 2514 (3d ed.). We have long recognized that a child of tender years is “incapable of assenting to forcible removal” from the legal custody of his or her parents. *Commonwealth v. Nickerson*, 87 Mass. 518, 5 Allen 518, 526 (1863). In that case the defendants, acting on behalf of the mother, were convicted of **kidnapping** a nine year old boy.<sup>5</sup> In affirming the convictions, we recognized the tender years doctrine and held that a nine year old did not have the capacity to consent to being taken from his father's custody against his father's will.<sup>6</sup> *Id.* at 527. We \*\*912 concluded that such a taking “away from the lawful custody and against the will of his rightful custodian ... is in law deemed to be forcible and against the will of the child.” *Id.* at 526. See \*192 *Commonwealth v. Moyles*, 45 Mass.App.Ct. 350, 354, 698 N.E.2d 408 (1998) (three year old cannot consent to **kidnapping** as a matter of law).



In light of this common-law background, we hold today that twelve year old children fall within the tender years doctrine and, as a matter of law, cannot consent to leaving the custody of their parents or legal guardians. This rule recognizes the importance of protecting young children who are particularly vulnerable to **kidnappings**, and acknowledges the parents' role as the legal custodians of their children.

The defendant argues that *Commonwealth v. Burke*, 390 Mass. 480, 457 N.E.2d 622 (1983), expressly rejects the “dictum” of *Commonwealth v. Nickerson*, *supra*. In *Commonwealth v. Burke*, *supra* at 487, 457 N.E.2d 622, we declined to establish a specific age of consent for indecent assault and battery because there was no age of consent for that crime at common law. In contrast, common-law **kidnapping** did have an age of consent.<sup>7</sup>

We conclude that the motion judge ruled properly in holding that a twelve year old lacks the capacity, as a matter of law, to consent to a **kidnapping**, and we therefore answer question A, “Yes.”<sup>8</sup>

## 2. Sufficiency of the evidence.

456 In reported question C, we are asked whether the evidence presented to the grand jury was sufficient to support the indictment.<sup>9</sup>] \*193 In general, “a court will not review the competency or sufficiency of the evidence before a grand jury.” *Commonwealth v. O'Dell*, 392 Mass. 445, 451, 466 N.E.2d 828 (1984). We have reviewed the evidence before the grand jury and dismissed indictments, however, when the grand jury have not heard at least “sufficient evidence to establish the identity of the accused ... and probable cause to arrest him.” *Commonwealth v. McCarthy*, 385 Mass. 160, 163, 430 N.E.2d 1195 (1982). This standard is considerably less exacting than the sufficiency of evidence required to warrant a guilty finding. See *Commonwealth v. O'Dell*, *supra*, and cases cited.

\*\*913 In addition to presenting evidence that the girl was twelve years old and that she had left her parents custody without their consent, the Commonwealth presented evidence to the grand jury that the defendant spent a great deal of time with her; that he bought her numerous and expensive gifts; that the girl admitted to her father that she had had sexual relations with the defendant; that the defendant left for Florida on the same day as the girl; and that law enforcement officials found the defendant and the girl in a Florida motel room where the two had been living for nearly three months. Moreover, the defendant was evasive with his sister about his location and had taken steps to alter his and the girl's appearances, including cutting and dyeing their hair, in order to avoid detection. This evidence is sufficient to sustain the indictment, and we therefore answer question C, “Yes.”

We answer reported questions A and C in the affirmative.

## All Citations



431 Mass. 188, 726 N.E.2d 909

### Footnotes

The trial judge has discretion to report questions of law that are deemed to be “so important or doubtful” as to require the decision of the Appeals Court. [Mass. R.Crim. P. 34](#), 378 Mass. 905 (1979).

The reported questions were as follows:

“A. Whether this Court's Memorandum Decision and Order on the Defendant's Motion to Dismiss is correct as a matter of law?

“B. If not, given the recent case of [Commonwealth v. Moyles](#), 45 Mass.App.Ct. 350, 354, 698 N.E.2d 408 (1998) in which the court stated: ‘if the **kidnapping** victim is of such an age as to be incapable of having a “recognizable will,” the confinement must then be against the will of the parents or legal guardian of the victim’, is there, as a matter of law, an age below which a **minor** is incapable of having a recognizable will and which would thus require, as a matter of law, that any confinement or inveigling be against the will of the parents or legal guardian?

“C. If so, was the Commonwealth's presentation of evidence to the grand jury sufficient to support the indictment?”

Because we answer question A in the affirmative, we need not reach question B.

[General Laws c. 265, § 26](#), reads: “Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this commonwealth against his will, or forcibly carries or sends such person out of this commonwealth, or forcibly seizes and confines or inveigles or **kidnaps** another person, with intent either to cause him to be secretly confined or imprisoned in this commonwealth against his will, or to cause him to be sent out of this commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two years.”

Alternatively, the defendant has argued that, because nonconsent is an element of the crime of **kidnapping**, reading any age of consent into the statute would, in effect, strike the element of consent from the statute and create a strict liability crime. By concluding that a twelve year old cannot consent to **kidnapping** as a matter of law, however, we do not “strike” the element of consent from the **kidnapping** statute. Instead, we merely substitute the parents' consent for that of a twelve year old child.

With **minor** exceptions, [G.L. c. 265, § 26](#), contains language identical to its predecessor Gen. St. 1860, c. 160, § 30, under which the defendants in [Commonwealth v. Nickerson](#), 87 Mass. 518, 5 Allen 518 (1863), were convicted.

Though in *Commonwealth v. Nickerson*, *supra* at 527, we discussed the tender years doctrine in the context of forcible removal, the crucial part of our holding was that the taking was against the





father's will and deemed in law to be against the will of the child. The same principle applies to **kidnapping** by “inveiglement” without the use of force.

The other cases that the defendant cites may be distinguished in a similar manner. Three of the cited cases, *Commonwealth v. Feijoo*, 419 Mass. 486, 646 N.E.2d 118 (1995); *Commonwealth v. Maloney*, 23 Mass.App.Ct. 1016, 505 N.E.2d 552 (1987); and *Commonwealth v. Askins*, 18 Mass.App.Ct. 927, 465 N.E.2d 1224 (1984), all involve the crime of indecent assault and battery. As in *Commonwealth v. Burke*, 390 Mass. 480, 457 N.E.2d 622 (1983), these cases rest on the absence of a common-law age of consent for indecent assault and battery. The other cases cited by the defendant are equally inapplicable. In *Commonwealth v. Benoit*, 26 Mass.App.Ct. 641, 644, 531 N.E.2d 262 (1988), the Appeals Court declined to establish nonconsent as an element of G.L. c. 272, § 35A, unnatural and lascivious acts with a child under sixteen years, where the statute made no mention of consent and in the absence of clear common-law history. Here, though nonconsent is established as an element of **kidnapping**, the common law provides an age at which a child is incapable of consenting. Similarly, *Matter of Rena*, 46 Mass.App.Ct. 335, 705 N.E.2d 1155 (1999), does not apply because its holding applies only to a **minor's** competence to refuse medical treatment.

The defendant also argues that if the court affirms that a twelve year old cannot consent to **kidnapping** as a matter of law, such a rule should be applied only prospectively. Because we merely restate the long-standing tender years doctrine, there is no injustice worked on the defendant by applying it today.

It is ordinarily “improvident for a judge to report to the Appeals Court pursuant to rule 34 the issue of what inferences a finder of fact would be entitled to draw from the evidence.” *Commonwealth v. Giang*, 402 Mass. 604, 608, 524 N.E.2d 383 (1988). However, when the parties have fully briefed and argued the matter before this court, and when an interlocutory appeal has delayed a defendant's criminal trial, we have addressed the reported questions. See *id.* Both parties here have fully briefed and argued question C and, in the interest of the efficient administration of justice, we answer the question.



## **Kidnapping of Minor or Incompetent by Relative**

### **Chapter 265, Section 26A**

#### **Definition:**

Whoever, being a relative of a child less than eighteen (18) years old, without lawful authority, holds or intends to hold such a child permanently or for a protracted period, or takes or entices such a child from his lawful custodian, or takes, or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution, shall be punished by imprisonment in the house of correction for not more than one year or by a fine of up to one thousand dollars, or both. Whoever commits any offense described in this section by taking or holding said child outside the Commonwealth or under circumstances which expose the person taken or enticed from the lawful custody to a risk which endangers his safety, shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the state prison for not more than five years, or by both such fine and imprisonment.

#### **Elements: (Misdemeanor portion)**

1. Being a **relative** of a child less than eighteen (18)
  2. Without lawful authority
  3. Holds or intends to hold such a child permanently or for a protracted period
  4. Or takes or entices such a child from his lawful custodian
- OR
1. Takes or entices from lawful custody
  2. Any incompetent person or other person
  3. Entrusted by authority of law to the custody of
  4. Another person or institution

#### **Right of Arrest:**

This portion of the statute is a misdemeanor with no statutory right of arrest provided. If a violation of this section was committed in your presence and amounted to a breach of the peace, then you would have a right to arrest.

#### **Elements: (FELONY PORTION)**

1. Commit any offense described in this section
2. By taking or holding said child outside of the Commonwealth
3. Or under circumstances which expose the person taken or enticed from lawful custody to a risk that endangers his safety.

#### **Right of Arrest:**

This portion of the statute is a felony which would be arrestable in presence or upon probable cause.

#### **NOTE:**

"Relative" is defined by Black's Law Dictionary as "a kinsman; a person connected with another by blood or affinity."





## **Com. v. Decosta, 78 Mass. App. Ct. 1107, 936 N.E.2d 452 (2010)**

The defendant was convicted by a jury of violating G.L. c. 274, § 6 (the attempt statute), by attempting to commit parental kidnapping, G.L. c. 265, § 26A (the custodial interference statute). On appeal, the defendant raises four arguments: (1) that the indictment was insufficient to charge attempted parental kidnapping under the “felony branch” of the custodial interference statute; (2) that police officers violated her statutory right, pursuant to G.L. c. 276, § 33A, to make a telephone call; (3) that the trial judge erred in admitting excessive evidence of prior bad acts; and (4) that she was entitled to an instruction on the necessity defense. We affirm.

1. *Sufficiency of the indictment.* The custodial interference statute, G.L. c. 265, § 26A, has two “branches.” The “misdemeanor branch” requires proof of the basic elements of custodial interference and permits incarceration for no more than one year in a house of correction. The “felony branch” permits imprisonment for up to five years in a State prison if the crime was committed “by taking or holding [the] child outside the commonwealth or under circumstances which expose the person taken or enticed from lawful custody to a risk which endangers his safety.” G.L. c. 265, § 26A, as amended by St. 1983, c. 175. Relying largely on *Commonwealth v. Williams*, 73 Mass.App.Ct. 833, 903 N.E.2d 222 (2009), the defendant argues that, if the Commonwealth seeks to prosecute an individual for committing a felony branch violation of the custodial interference statute, the Commonwealth is required to so state in the indictment and also to specify the felonious act relied on. The defendant’s argument rests on a flawed premise. She was not charged with violating the custodial interference statute; rather, she was charged with attempt.

A criminal attempt has two elements, both of which must be specified in the indictment: (1) a specific intent to commit the substantive offense, see *Commonwealth v. Ware*, 375 Mass. 118, 120, 375 N.E.2d 1183 (1978), and (2) an overt act towards its commission. *Commonwealth v. Gosselin*, 365 Mass. 116, 121, 309 N.E.2d 884 (1974). “The overt act is a requirement of the attempt statute, G.L. c. 274, § 6, and the overt act relied on must be set out in the indictment or complaint.” *Commonwealth v. Foley*, 24 Mass.App.Ct. 114, 115, 506 N.E.2d 1160 (1987).

### **COMMONWEALTH v. Mohammad BACHIR.**

A jury found the defendant guilty of **parental kidnapping** and of violating G.L. c. 209A, and not guilty of intimidation of a witness. The defendant was sentenced to M.C.I., Cedar Junction, on the **parental kidnapping** conviction. On the conviction of violating the G.L. c. 209A order, the defendant received a sentence to a house of correction, to be served on and after the other sentence. He filed a timely notice of appeal. Later, he filed a motion to vacate his convictions and sentences, pursuant to [Mass.R.Crim.P. 30\(a\)](#), 378 Mass. 900 (1979), claiming that his convictions were duplicative. The trial judge denied the motion, and the defendant filed a notice of appeal from the denial. The defendant’s two appeals have been consolidated.

On appeal, the defendant claims that the judge committed error in denying his motion to suppress. He also contends that his conviction and sentence for violating the G.L. c. 209A order should be vacated because the elements of that crime were included in the **parental kidnapping** indictment. Finally, the defendant claims that he was denied the effective assistance of counsel because his trial attorney failed to file a motion for a required finding of not guilty on both indictments.

We summarize, as background, the facts introduced by the Commonwealth, reserving further details for discussion with the relevant issues. Molly Scharlach and the defendant are the **parents** of Michael, born on April 21, 1986. The defendant and Molly moved constantly during their



relationship, including several moves to Lebanon, as well as to Egypt, Yugoslavia, Turkey, Greece, and various locations in the United States. In September, 1992, while they lived in Cambridge, Molly left the defendant and she and Michael moved to Quincy.

On September 24, 1992, Molly obtained a restraining order against the defendant pursuant to G.L. c. 209A. Molly received temporary custody of Michael, and the defendant was ordered to refrain from contacting Michael or Molly, either in person or by telephone, at home or at work. The order was extended on October 2, 1992, for a year, until September 28, 1993.

After Molly left the defendant, he repeatedly telephoned Molly's mother in California in an attempt to learn where Molly was living. Because the defendant called as many as thirty times a day, Molly's mother installed an answering machine. \*206 The mother gave law enforcement officers tapes from the answering machine which had been recorded immediately preceding Michael's disappearance. On a tape recorded November 12, 1992 (one day before Michael's abduction), the defendant called Molly's mother and asked what Molly's intentions were. The mother told him that there was a restraining order against him and that Molly was not going back to him. The defendant replied, "I don't know what I'm going to do. I'm going to do something very bad. I'm not going to let nobody take my son...."

The next day (November 13, 1992), the defendant hired a taxi driver whom he directed to drive to Quincy. There, they stopped at a Dunkin Donuts and waited for fifteen to \*\*950 twenty minutes. A school bus then drove by, and the defendant directed the taxi driver to follow the bus. When the bus stopped at an elementary school, the defendant got out and told the driver that he was going to pick up his son. A short time later, he returned with a child who was holding his hand. The child was Michael, then six years old.

The defendant directed the taxi driver to proceed to Rhode Island. There, the defendant telephoned Molly's aunt. He told her that he was taking Michael "to where people love him." He allowed Michael to talk to her. After stops in Connecticut and New York, the defendant directed the driver on to Atlantic City. Upon arrival, he discharged the taxi driver, who returned to Massachusetts and later identified the defendant as the person who had hired him and had taken the child from school. The Federal Bureau of Investigation, the State Department, the Immigration and Naturalization Service, and Interpol became involved in the investigation into the abduction of Michael. Despite their efforts, neither the defendant nor the child were located for a number of months. At the time of trial, the son was living in a Palestinian refugee camp in southern Lebanon.

On December 4, 1992, Molly's mother received two telephone calls from the defendant, who said he was in Lebanon with Michael. The defendant said Michael was in a Palestine Liberation Organization refugee camp. In February, 1993, the defendant called Molly to say that their son was



seriously ill and could not walk. Molly went to Lebanon with the goal of bringing her son home, but the defendant's family stopped her. After a year of living in Lebanon, Molly returned home without her son.

\*207 On August 29, 1994, the defendant arrived at John F. Kennedy (JFK) airport in New York and was arrested on a Massachusetts fugitive warrant for **parental kidnapping**. A New York Port Authority police officer transported the defendant to the JFK airport police station. The officer read the defendant the Miranda warnings and the defendant responded that he understood those warnings and was willing to answer questions. The defendant admitted that he had taken his son to Lebanon and that he was making arrangements with the FBI to return him.<sup>1</sup>

At trial, the defendant testified in his own defense and denied that he had taken his son from school. He testified that, instead, he was in California on the day that his son disappeared and that he later travelled to Lebanon, where he found the boy.

1. *Denial of the defendant's suppression motion.* The defendant filed a motion requesting, among other things, that certain statements he made to two Massachusetts State troopers be suppressed. The defendant argued that admission of his statements violated his right to have counsel present as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights. After an evidentiary hearing, a Superior Court judge allowed the motion in part<sup>2</sup> and denied it in regard to his statements to the troopers.

We summarize the judge's findings of fact. After the defendant was arrested at JFK airport, two State troopers were sent from Massachusetts to bring the defendant back to the Commonwealth. At his rendition hearing in New York, the defendant was represented by counsel who advised him not to speak to the troopers about the case on \*\*951 the ride to Massachusetts. \*208 The judge presiding at the rendition hearing also ordered the troopers not to discuss the case with the defendant while transporting him.

After the hearing the troopers brought the defendant by automobile to Massachusetts. While travelling through Connecticut, the defendant began conversing with the troopers. First, he asked them why he was being transported by automobile rather than by air. One of the troopers responded that the defendant was not a candidate to fly because of his recent suicide attempt and his resulting admission to Bellevue Hospital for a psychiatric examination.<sup>3</sup>

When the defendant proceeded to give the details of his hospitalization, one of the troopers immediately stopped him and told the defendant that they could not speak to him about his case. The defendant informed the troopers that he did not have any problems talking about the case and that anything he was going to tell them would be the same "thing" he would testify to in court. At this point, one of the troopers repeated the Miranda warnings to the defendant. The defendant indicated that he understood the warnings and that he wished to talk. One of the troopers asked the defendant where Michael was, and the defendant replied that his son was fine and that



arrangements were being made for Michael to be sent to California. The defendant also told the troopers that he was not aware that a restraining order was in effect when he left Massachusetts. When asked why he had not informed anyone that he was taking the child from the school, the defendant replied that he had told the school principal.

In denying the defendant's suppression motion, the judge ruled that the defendant had been informed of his Miranda rights, that he had made a voluntary, knowing waiver of those \*209 rights, and that his waiver of his Miranda rights did not result in a violation of his Sixth Amendment rights.

On appeal, the defendant argues that the judge's ruling was erroneous, because (1) the defendant, through his New York lawyer and the New York State judge, had invoked his right to counsel; (2) the troopers deliberately created a situation (by transporting him by automobile rather than airplane) designed to give them an opportunity to confront the defendant without counsel; and (3) the defendant did not validly waive his right to counsel. Accordingly, the defendant claims that his right to counsel guaranteed by the Sixth Amendment and by art. 12 of the Declaration of Rights was violated.

1 Some of the statements made by the defendant to the troopers were voluntary and, therefore, admissible, see *Maine v. Moulton*, 474 U.S. 159, 176, 106 S.Ct. 477, 88 L.Ed.2d 481 (1985), while others were made as a result of questions from the troopers. We need not sort out which statements were admissible and which were not, because, even if we assume that the defendant's Sixth Amendment rights were violated, the admission of his statements was harmless beyond a reasonable doubt. *Chapman v. California*, 386 U.S. 18, 24, 87 S.Ct. 824, 17 L.Ed.2d 705 (1967). The statements were “merely cumulative” of the far more incriminating statements the defendant made to Molly's mother, her aunt, and to the New York Port Authority police officer, all of which were properly before the jury. See *Commonwealth v. Perrot*, 407 Mass. 539, 548–549, 554 N.E.2d 1205 (1990).



## **Enticement of a Child**

### **Chapter 265, Section 26C**

Section 26C. (a) As used in this section, the term "entice" shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite. (b) Any one who entices a child under the age of 16, or someone he believes to be a child under the age of 16, to enter, exit or remain within any vehicle, dwelling, building, or other outdoor space with the intent that he or another person will violate section 13B, 13B1/2, 13B3/4, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265, section 4A, 16, 28, 29, 29A, 29B, 29C, 35A, 53 or 53A of chapter 272, or any offense that has as an element the use or attempted use of force, shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 1/2 years, or by both imprisonment and a fine of not more than \$5,000.

#### **Right of Arrest:**

This is a felony arrestable in presence or upon probable cause.

## ***Enticement***

### ***Commonwealth v. Michael D. Buswell, 468 Mass 92 (2014)***

We conclude in this case that there was sufficient similarity in act and pattern of Internet chat between this other conduct evidence and the indicted crimes being tried. The defendant's other sexually based online communications and his transmission of sexually explicit images demonstrated an abiding intent and desire on the defendant's part to engage in sexual acts with young girls and a willingness to act on that desire, if given the opportunity. For example, in one online chat, the defendant asked a fifteen year old female for a "good bj" (meaning blow job by oral sex, the same act referred to by the defendant in Internet chat in the instant case). In another Internet chat, the defendant told a sixteen year old female that he was sexually excited by her because she was under the age of legal consent. The defendant also told the sixteen year old that he would send her a vibrator and that he would come to her house naked. The defendant offered to let the sixteen year old watch him masturbate via a Webcam transmission. The defendant then conducted a role play, wherein the sixteen year old played an eight year old girl and the defendant played her "horny father." In an online chat, the defendant told a seventeen year old girl that he became sexually excited by the age of girls when it was illegal for



them to have sex. The defendant also made other evocative references to sexual activity with the seventeen year old, including references to her "tight virgin pussyness," and his own "rock-hard cock." In addition, the defendant sent the seventeen year old images of himself masturbating in the nude.

The case of Commonwealth v. Disler, supra, further supports admission of the other bad act evidence in this case. In Disler, a woman reported the forty-three year old defendant to the police after an online conversation with him, during which the defendant admitted to having had sexual contact with children in the past and invited the woman to participate in sexual acts with young children. An undercover officer then entered the chat room, pretended to be a fourteen year old girl, and initiated a conversation with the defendant. Over multiple conversations, the defendant discussed provocative sexual topics, including the specific sexual acts he intended to perform on her once they met. 451 Mass. at 218-220. On appeal, the court held that the Commonwealth's burden of proving predisposition was "easily met" because "[t]he defendant's Internet exchanges with the woman who brought him to the attention of police, in which the defendant admitted to molesting children and invited the woman to share in his sexual exploits with children, was enough to show that the defendant had a predilection for the crime."

4. Conclusion. The judgments on the indictments charging enticement of a child under age sixteen, attempted rape of a child, and attempted indecent assault and battery on a child under age fourteen are affirmed. The judgments on the indictments charging attempted dissemination of materials harmful to a minor are reversed, the verdicts are set aside, and the indictments on those counts shall be dismissed.

So ordered.



**Interfering with any Right or Privilege  
Secured by Constitution or Laws of Commonwealth  
Chapter 265, Section 37**

**CIVIL RIGHTS VIOLATIONS-JURY INSTRUCTIONS**

The defendant is charged with having violated the Massachusetts Civil Rights Act, which is found as section 37 of chapter 265 of our General Laws. It provides that:

“No person . . . shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him [or her] by the constitution or laws of the commonwealth or by the constitution or laws of the United States.”

In order to prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

First: That [alleged victim] was exercising a right or privilege protected by the Constitution or laws of the Commonwealth of United States;

Second: That the defendant either injured, intimidated, interfered with, oppressed or threatened the exercise or enjoyment of that legally protected right by [alleged victim] , or attempted to do so;

Third: That the defendant did so by using force or by threatening to use force; and

Fourth: That the defendant did so wilfully.

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempting to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the Commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than \$1,000.00 or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine or not more than ten thousand dollars or by imprisonment for not more than ten years, or both.

**Elements:**

1. Whether or not acting under color of law
2. by force or threat of force
3. willfully injures, intimidates or interferes with
4. or attempts to do so
5. any other person
6. in the free exercise or enjoyment of
7. any right or privilege
8. secured by the constitution or laws of the commonwealth
9. or by the laws or constitution of the U.S..

**Right of Arrest:**

If no bodily injury, this is one (1) year misdemeanor with no right of arrest (could however, amount to a breach of the peace).

If bodily injury results, then this is a ten year felony.





## **Assault and Battery due to Race, Color, Religion or National Origin**

### **Chapter 265, Section 39**

#### **Definition:**

Whoever commits an assault or a battery upon a person or damages the real or personal property of another for the purpose of intimidation because of said person's race, color, religion, or national origin, shall be punished by a fine of not more than five thousand dollars or not more than three times the value of the property destroyed or damaged, whichever is greater, or by imprisonment in a house of correction for not more than two and one-half years, or both.

#### **Elements:**

1. Same as simple assault and battery, or
2. Damages real or personal property of another
3. Specific intent to intimidate
4. Because of victim's race, color, religion or national origin.

#### **Right of Arrest:**

This is a misdemeanor, arrestable IN THE PRESENCE since it amounts to a breach of peace.

#### **Note:**

Clearly, an assault and battery committed in your presence would amount to a breach of the peace, however, not every destruction of property would be a breach of the peace.

If bodily injury results, this statute is a felony.

#### **Com. v. Barnette, 45 Mass. App. Ct. 486, 699 N.E.2d 1230 (1998)**

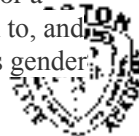
Essential elements of the crime of assault and battery for purpose of intimidation are: (1) the commission of an assault or battery (2) with the intent to intimidate (3) because of a person's race, color, religion, or national origin. M.G.L.A. c. 265, § 39. In general, a "hate crime" is a crime in which the defendant's conduct was motivated by hatred, bias, or prejudice, based on the actual or perceived **race, color, religion, national origin**, ethnicity, gender, or sexual orientation of another individual or group of individuals.

Defendant's repetition of phrase "damn Mexican" accompanied by his request that Mexican-American victims "Get out of here," during confrontation in which defendant threatened to kill and beat up victims, was sufficient to establish that defendant had intent to intimidate because of victims' **national origin**, so as to sustain conviction for **assault** and **battery** for purpose of intimidation. [M.G.L.A. c. 265, § 39](#).

## **Transgender Bill**

### **Chapter 121 of the Acts of 2016**

An owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement that lawfully segregates or separates access to such place of public accommodation, or a portion of such place of public accommodation, based on a person's sex shall grant all persons admission to, and the full enjoyment of, such place of public accommodation or portion thereof consistent with the person's gender identity.





## **The Crime of Stalking**

### **Chapter 265, Section 43**

#### **STALKING-Jury Instruction**

The defendant is charged with stalking [alleged victim] . Section 43 of chapter 265 of our General Laws provides as follows:

“Whoever . . . willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking . . . .”

In order to prove the defendant guilty of stalking, the Commonwealth must prove five things beyond a reasonable doubt:

First: That over a period of time the defendant knowingly engaged in acts, involving at least three incidents, directed at [alleged victim] ;

Second: That those acts were of a kind that would cause a reasonable person to suffer substantial emotional distress;

Third: That those acts did cause [alleged victim] to become seriously alarmed or annoyed;

Fourth: That the defendant took those actions wilfully and maliciously.

An act is “willful” if it is done intentionally and by design, and not out of mistake or accident.

An act is done with “malice” if the defendant’s conduct was intentional and without justification or mitigation, and any reasonable prudent person would have foreseen the actual effect on [the alleged victim] .

And Fifth: The Commonwealth must prove beyond a reasonable doubt that the defendant also made a threat with the intention of placing [alleged victim] in imminent fear of death or bodily injury.

#### **RIGHT OF ARREST:**

Five year felony arrestable in presence or upon probable cause.

*Discussion.* 1. *Stalking.* A person is guilty of stalking if he or she “(1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury”; the conduct, acts, or threats may be accomplished by means of electronic communication. G.L. c. 265, § 43 (a ). The defendant challenges the sufficiency of the evidence presented with respect to both the “threat” and “pattern of conduct or series of acts” components of stalking. We focus on the threat component.



The Commonwealth contends that the defendant's Facebook page containing the photograph of himself holding a gun, and, in a space labeled “[f]avorite [q]uotations,” the words, “Make no mistake of my will to succeed in bringing you two idiots to justice,” satisfied the threat element set out in § 43 (a ) (2).<sup>25</sup> The defendant disagrees, arguing that because the Facebook page was ambiguous and temporally remote from the alleged harassment, the First Amendment to the United States Constitution dictates that the page could not qualify as a “threat” under § 43 (a ) (2), but was instead protected speech. We agree with the defendant's contention that there was insufficient evidence for a rational jury to find that the defendant made such a threat.

Finally, although communication of a threat to its intended victim is not expressly required under § 43 (a ) (2), we agree with the Appeals Court that evidence of the defendant's intent to communicate the threat through direct or indirect means is necessary. See *Commonwealth v. Hughes*, 59 Mass.App.Ct. 280, 281–282, 795 N.E.2d 594 (2003). Where communication of the threat is indirect—for example, through an intermediary—the Commonwealth must prove beyond a reasonable doubt that the defendant intended the threat to reach the victim. See *id.* at 283, 795 N.E.2d 594 (jury could have found that defendant intended his brother to convey threat to victim). Compare *Commonwealth v. Meier*, 56 Mass.App.Ct. 278, 279–282, 776 N.E.2d 1034 (2002) (defendant's \*\*994 letter to victim indicating belief that victim was responsible for recent collection efforts against defendant, combined with threatening statement to collection attorney regarding victim, supported inference that defendant intended statement to reach victim), with *Commonwealth v. Troy T.*, 54 Mass.App.Ct. 520, 527–528, 766 N.E.2d 519 (2002) (where third party overheard putative threat, but there was no evidence of defendant's intent that third party would hear threat, jury could not infer \*694 intent to communicate threat to target). Applying these principles to the defendant's Facebook profile page, although the victim testified that she was terrified when she viewed the page, her subjective reaction is not the crux of the inquiry. Rather, it is necessary to focus on the content of the page in the context of the past and present relationship between the defendant and the victim to determine whether there was sufficient evidence of the defendant's intent to threaten the victim and whether the victim's fear was reasonable.

Com. v. Walters, 472 Mass. 680, 689–90, 37 N.E.3d 980, 990–91 (2015)



## **Criminal Harassment**

### **Chapter 265, Section 43A**

#### **CRIMINAL HARASSMENT-JURY INSTRUCTION**

##### **Elements**

First: That the defendant engaged in a knowing pattern of conduct or speech, or series of acts, on at least three separate occasions;

Second: That the defendant intended to target [the alleged victim] with the harassing conduct or speech, or series of acts, on each occasion;

Third: That the conduct or speech, or series of acts, were of such a nature that they seriously alarmed [the alleged victim] ;

Fourth: That the conduct or speech, or series of acts, were of such a nature that they would cause a reasonable person to suffer substantial emotional distress; and

Fifth: That the defendant committed the conduct or speech, or series of acts, willfully and maliciously.

Commonwealth v. McDonald, 462 Mass. 236, 240, 967 N.E.2d 1101 (2012:

##### **Right of arrest**

Non-arrestable misdemeanor

Note:

The elements of this crime are the same as Stalking without the Threat

##### **Com. v. O'Neil, 67 Mass. App. Ct. 284, 853 N.E.2d 576 (2006)**

To establish offense of criminal harassment, Commonwealth must prove that the defendant committed not less than three separate incidents of wilful and malicious conduct specifically directed at the victim, that the victim was seriously alarmed by this conduct, and, finally, that a reasonable person would have suffered substantial emotional distress as a consequence of this conduct. M.G.L.A. c. 265, § 43A(a).



# Boston Police Academy

PO Sophia Vega-Jones

Training Bulletin 6-10  
(Issued: October 1, 2010)



## **M.G.L c. 258E: An Act Relative to Harassment Prevention Orders**

### **Officer's Obligations Under M.G.L. c. 258E:**

**Officers should make every effort to do the following as part of the emergency response:**

- ➤ Assess the immediate physical danger to the victim and provide assistance reasonable to mitigate the safety risk;
- ➤ If there is visible injury or the victim is complaining of injury, encourage the victim to seek medical attention or request an ambulance to transport the victim to a hospital;
- ➤ If a sexual assault has occurred, notify the victim that there are time sensitive medical or forensic options that may be available and encourage the victim to seek medical attention and request an ambulance for transport;
- ➤ Provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place;
- ➤ Provide adequate notice to the victim of his/her rights including but not limited to, obtaining a harassment prevention order;
- ➤ Assist the victim by activating the emergency judicial system when the court is closed for business (Instruction packets for recording Harassment Prevention Orders when the courts are closed are available at each district); and
- ➤ Inform the victim that abuser will be eligible for bail and may be promptly released.

**Only a portion of this Training Bulletin has been included on this page**



## Human Trafficking

### Chapter 265, Section 51

*[ Text of section added by 2011, 178, Sec. 23 effective February 19, 2012.]*

Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for forced services upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence.

(c) A business entity that commits trafficking of persons for forced labor services shall be punished by a fine of not more than \$1,000,000.

(d) A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred, where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venturer in trafficking of person for forced labor or services shall be civilly liable for an offense under this section.



Com. v. McGhee, 472 Mass. 405, 406–12, 35 N.E.3d 329, 333–37 (2015)

In this case, we are asked to consider, for the first time, the constitutionality of the Massachusetts sex trafficking statute. On November 21, 2011, the Legislature approved “An Act relative to the commercial exploitation of people,” which criminalized sexual servitude, forced labor, and organ trafficking as of its effective date of February 19, 2012. St. 2011, c. 178, §§ 1–31. The portions of the enactment at issue here, pertaining to the \*407 trafficking of persons for sexual servitude, were codified at G.L. c. 265, §§ 49, 50. See St. 2011, c. 178, § 23.

General Laws c. 265, § 50 (a ), states, in relevant part:

“Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means ... another person to engage in commercial sexual activity ... or causes a person to engage in commercial sexual activity ... or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not less than [five] years but not more than [twenty] years and by a fine of not more than \$25,000.”

The phrase “[c]ommercial sexual activity” is defined as “any sexual act on account of which anything of value is given, promised to or received by any person.” G.L. c. 265, § 49.

On December 19, 2012, a Suffolk County grand jury indicted each defendant, Tyshaun McGhee and Sidney McGee, on nine counts of aggravated rape, G.L. c. 265, § 22 (a ), three counts of trafficking persons for sexual servitude, G.L. c. 265, § 50, and two counts of deriving support from the earnings of a prostitute, G.L. c. 272, § 7. The charges arose from allegations by three women (C.C., S.E., and B.G.<sup>2</sup>) that the defendants approached them, took their photographs to post as advertisements on a Web site called Backpage.com, drove them to various locations to have sex with men who responded to the advertisements, and then retained some or all of the money that the women received as payment from these men. The defendants filed a joint pretrial motion to dismiss the sex trafficking charges on the grounds that G.L. c. 265, § 50, is unconstitutionally vague and overbroad, both on its face and as applied to them. A judge of the Superior \*\*334 Court denied the motion. Following a jury trial, Tyshaun was convicted on all three indictments charging him with trafficking persons for sexual servitude (C.C., S.E., and B.G.),<sup>3</sup> and both indictments charging him with deriving support from the earnings \*408 of a prostitute (C.C. and S.E.). He was found not guilty on the indictments charging him with aggravated rape. Sidney was convicted on all three indictments charging him with trafficking persons for sexual servitude (C.C., S.E., and B.G.),<sup>4</sup> and he was found not guilty on the remaining indictments. Each defendant filed a timely notice of appeal, and we granted their subsequent applications for direct appellate review.

The defendants contend on appeal that (1) G.L. c. 265, § 50, is unconstitutionally vague as applied to them and, therefore, violated their rights to due process under the Fifth and Fourteenth Amendments to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights; (2) G.L. c. 265, § 50, is unconstitutionally overbroad on its face in violation of their right to freedom of association under the First Amendment to the United States Constitution; (3) the phrase “commercial sexual activity” is unconstitutionally overbroad; (4) the judge erred in allowing the substantive admission of grand jury testimony from one of the Commonwealth's witnesses; and (5) the judge violated their right to confrontation by hindering their cross-examination of C.C. with respect to several pending criminal charges against her and her purported history of prostitution. In addition, Tyshaun contends that the sentences imposed for his convictions of deriving support from the earnings of a prostitute were illegal. For the reasons that follow, we conclude that G.L. c. 265, § 50, is constitutional, that the sentences challenged by Tyshaun were illegal, and that the defendants' remaining claims of error have no merit.

Accordingly, the judgments are affirmed. As to the indictments charging Tyshaun with deriving



support from the earnings of a prostitute, those cases are remanded for resentencing in accordance with this opinion.<sup>5</sup>

1. *Factual background.* We summarize the facts the jury could have found, reserving certain details for our discussion of the issues raised. As mentioned, the charges against the defendants arose from their interactions with three women in the fall of \*409 2012.<sup>6</sup> C.C., then approximately twenty-four years old, had a history of drug and alcohol use, and she had spent time in several treatment facilities. On September 7, 2012, as she left Boston Medical Center after having been treated for two drug overdoses within one twenty-four hour period, she encountered the defendants, who were standing outside the hospital. The defendants asked C.C. what she was doing, and she told them that she was interested in “party[ing].” After offering to give her a ride, the defendants walked C.C. to an apartment on Eustis \*\*335 Street in Boston, where C.C. observed an older man standing outside. Tyshaun gave the man some money, and then Tyshaun proceeded inside with C.C. and Sidney. They went upstairs to a bedroom where all three drank from a bottle of alcohol, C.C. smoked some “crack” cocaine that had been given to her by Tyshaun, and the defendants purportedly raped C.C. as she cried.<sup>7</sup> Afterward, C.C. got dressed, all three individuals walked to an apartment on Dudley Street where Tyshaun's mother lived, and C.C. fell asleep on a couch. She did not attempt to run away because she was afraid of what might happen to her.

The next morning, the defendants and C.C. walked to a fast food restaurant where Tyshaun purchased some heroin from a friend and gave it to C.C., who proceeded to inject it into her foot. As they walked away from the restaurant, the defendants started talking with C.C. about a business arrangement whereby she could “make a lot of money,” “have a nice car,” and “have a nice apartment.” It was C.C.'s understanding that the defendants were talking about prostitution. They continued this conversation until they reached the Dudley Street apartment.

At the apartment, the defendants prepared to take photographs of C.C., which they planned to post as advertisements on the Web site Backpage.com. Tyshaun told C.C. that there would be a “rate,” which she understood as meaning that she would be having sex with people in exchange for money. Although “definitely hesitant,” C.C. agreed to proceed because she was “broke and homeless, and having a nice apartment and car and money seemed like the best option.” Tyshaun gave C.C. lingerie to wear, and he took photographs of her with a digital camera in the bathroom of the \*410 apartment. C.C. started feeling “uncomfortable” and did not want to be in the situation in which she found herself. Nonetheless, the defendants transferred the photographs to Sidney's laptop computer and then posted them on Backpage.com. Tyshaun included his cellular telephone number with the photographs, and the name indicated on them was “Jamie Lynn.”

After about thirty minutes, Tyshaun's telephone started to ring. He answered it and handed the telephone to C.C., having told her what to say to the callers. C.C. would ask them “if they were a cop of any sort,” what they wanted, and whether they could meet at a particular location that had been chosen by Tyshaun and Sidney. Tyshaun established prices of one hundred dollars for thirty minutes of sex, and \$150 for one hour of sex. When C.C. arranged to meet a man at the Eustis Street apartment for thirty minutes of sex, the defendants walked with her to that location, and Tyshaun again gave some money to the same older man who had been standing outside that location the previous day. C.C. was directed to a room, she had sex with the man she had arranged to meet, she was paid one hundred dollars, and she handed the money over to Tyshaun, keeping none of it for herself.

Over the course of the next three to four days, C.C. had sex with five or six other men in various locations. The defendants always accompanied C.C. to the designated meeting place and would wait for her until she had finished. She gave all of the money that she was paid to Tyshaun, who arranged the accommodations. At some point, Tyshaun stopped providing drugs and alcohol to C.C., telling her that she \*\*336 was not making enough money to support her habits.

On September 12, 2012, roughly five days after having met the defendants, C.C. woke up alone in a hotel room. Although neither defendant was there, Tyshaun's cellular telephone was in the





room. C.C. telephoned her father. He told her to leave the hotel room, and she jogged to a nearby pharmacy, where she telephoned her father again to pick her up. On the drive to her parents' home, C.C. told her father in response to his questioning that she had been raped. After she arrived home, C.C.'s mother took her to Brockton Hospital where she was interviewed by a sexual assault nurse examiner and diagnosed with pneumonia and cellulitis. During her examination, C.C. told the nurse that over the past several days she had engaged in sex with multiple men. At some point shortly thereafter, C.C. told Boston police officers that she had been sexually assaulted, but she did not disclose her \*411 involvement in prostitution. On October 2, 2012, C.C. was shown a photographic array, and she identified the photograph of Sidney. Approximately one month later, C.C. told the police about her involvement with prostitution. On December 12, 2012, C.C. went to Boston police headquarters to view a live lineup, and she identified Tyshaun.

In the fall of 2012, S.E., then approximately twenty-six years old, was homeless, and had a history of drug use. S.E. met Sidney around September 18, when she was standing in line outside a homeless shelter near the Boston Medical Center. After asking S.E. several questions, Sidney told her that he could help her, and that she could earn enough money working as an "escort" to live a better life. S.E. accompanied Sidney to meet Tyshaun, and then the three of them went to the apartment on Dudley Street where Tyshaun's mother lived. Once there, the defendants told S.E. that they were going to take photographs of her and post them on the Web site Backpage.com. S.E. agreed, but "wasn't comfortable" with the arrangement. Tyshaun took the photographs using his cellular telephone, Sidney showed her how to pose, and the defendants posted the photographs online. Tyshaun included his cellular telephone number with the photographs, and the name indicated on them was "Natalia."

After a short period of time, calls and text messages started arriving on Tyshaun's telephone. S.E. realized that Tyshaun was conversing about sex, not merely escorting, only when she questioned him about the prices for her "services." Tyshaun told the callers that it would be \$150 for "full service," which meant oral and vaginal sex, and fifty dollars for just oral sex. Shortly thereafter, a man arrived at the Dudley Street apartment, he and S.E. "engaged in sexual behavior," the man paid her some cash, and she gave it to Tyshaun so he could "put gas in the car," "rent a hotel room," and "keep posting the ad." S.E. subsequently met another individual at a different location that was a few blocks away from the Dudley Street apartment. She was unable to remember what happened at this second location. S.E. returned to the Dudley Street apartment with the defendants at around 3 a.m., she performed oral sex on each defendant at their behest because she "didn't want to get hurt," she had sexual intercourse with Tyshaun, and then the defendants fell asleep.

The next morning, after the defendants took S.E. to a methadone clinic, they proceeded to check Tyshaun's telephone for responses to the photographs they had posted on Backpage.com. \*412 Over the next twenty-four hours, the defendants drove S.E. to different locations where she engaged \*\*337 in various sexual acts with several different men. The defendants always remained nearby in their parked motor vehicle and, once S.E. had finished, Tyshaun demanded all of the cash that she had received.

On her third day with the defendants, Tyshaun again took S.E. to a methadone clinic where she chatted with B.G., a woman she had met during prior visits to the clinic. After their conversation, B.G. went outside and spoke with the defendants, whom she already had met. Eventually, all four of them returned to the Dudley Street apartment, where B.G. used a computer to repost photographs of herself that had been submitted to Backpage.com on an earlier occasion. The defendants also took new photographs of B.G. and posted them on the Web site. Later that same day, the defendants drove S.E. and B.G. some distance to a hotel where each woman had sex with two men for money. The defendants waited outside in their car. S.E. and B.G. received \$250, which was split evenly, and S.E. gave her share to Tyshaun when he asked for it. B.G. kept some, if not all, of the money she had received. Eventually, the group drove back to Boston. Tyshaun and B.G. had an argument about sex and money; Tyshaun pulled the vehicle over to the side of





the road, and the women got out. B.G. removed some personal belongings from the trunk, and the two women walked away. The defendants drove off.

S.E. and B.G. went to Boston Medical Center, and the police were called to the scene. In the waiting room, the women met with Officer Edward Fleming and told him that they had been forced into prostitution. Boston police officers subsequently interviewed S.E. and B.G. regarding the events that had transpired with the defendants. On September 26, 2012, S.E. went to a police station to view a photographic array. She identified Tyshaun, and he was arrested the next day. On September 28, 2012, S.E. returned to the police station to view another photographic array. She identified Sidney, and he was arrested that same day.

**Possession of a Deceptive Weapon during a Violent Crime**  
Chapter 265, Section 58

Section 58. Any person who is in possession of a deceptive weapon device as defined in section 121 of chapter 140 during the commission of a violent crime as defined in said section 121 of said chapter 140 shall be deemed to be armed and shall be punishable by penalties set forth in this chapter.



## **Burning or Aiding to Burn A Dwelling**

### **Chapter 266, Section 1**

#### **Elements:**

1. Malicious intent
2. To set fire or burn certain buildings
3. Or aiding in such burning
4. Building occupied or not
5. Property of himself or another

#### **Right of Arrest:**

This 20 year felony is arrestable in presence or upon probable cause.

#### **Notes:**

Dwelling -- Tenements  
Hotels  
Institutions  
Sanitariums  
Boarding Houses  
Apartment Houses  
Dormitories  
Hospitals  
Or any other place where people are domiciled

There must be some burning evidence, charring is sufficient.

Occupied or not . . . your own house or someone else's. The building need not be occupied. There must, however, at least be proof that the structure is capable of being occupied as a dwelling.

Willfulness and malice may be formed AFTER as well as before the fire started.



## **Burning or Aiding to Burn Other Buildings**

### **Chapter 266, Section 2**

#### **Elements:**

1. Malicious intent
2. Set fire or aid or burn other buildings, ships, railway cars, etc. not described in Section 1
3. Whether property of himself or another
4. Occupied or not

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

## **Burning or Aiding to Burn Wood, Produce or Personal Property**

### **Chapter 266, Section 5**

#### **Elements:**

1. Malicious intent
2. Sets fire or burns or aids
3. (See list of properties in law book) and personal property of another or a boat or a MOTOR VEHICLE valued at over \$25.

#### **Right of Arrest:**

This 3 year felony is arrestable in presence or upon probable cause.



## **Attempting to Burn or Aid in Burning**

### **Chapter 266, Section 5A**

#### **Definition:**

Willfully and maliciously attempts to set fire to, or attempts to burn, or aids, counsels or assists in such attempt any buildings, structures or property mentioned in the foregoing sections or committing any act preliminary thereto or in furtherance thereof.

#### **Elements:**

1. Willfully and maliciously
2. attempts to burn
3. or aids, counsels, assists
4. any buildings, structures or property
5. or committing any preliminary act

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause

#### **NOTE:**

The placing or distributing of any flammable, explosive or combustible material in or against any such property in preparing to set it on fire shall constitute an attempt under this section.

## **Burning Insured Property with Intent to Defraud**

### **Chapter 266, Section 10**

#### **Definition:**

Willfully and with intent to defraud or injure the insurer, sets fire to, or attempts to set fire to, or whoever causes to be burned, or whoever aids, counsels, or procures the burning of a building or any goods, wares, merchandise or other chattels, belonging to himself or another, and which are at the time insured against loss or damage by fire.

#### **Elements:**

1. willfully
2. specific intent
3. set fire to or aids, etc.
4. property of himself or another
5. the property carrying fire insurance at the time

#### **Right of Arrest:**

This 5 year felony is arrestable in presence or upon probable cause.



## **Burglary, Armed or Making an Assault**

### **Chapter 266, Section 14**

#### **Definition:**

Breaking and entering a dwelling house in the nighttime, with intent to commit a felony, or after having entered with such intent, breaks such dwelling house in the nighttime, any person being lawfully therein, and the offender being armed with a dangerous weapon at the time of such B & E, or so arming himself in such a house OR making an actual assault on a person lawfully therein.

#### **Elements:**

1. Breaking
2. Entry
3. Dwelling
4. Of another
5. Nighttime (that time between one hour after sunset and one hour before sunrise)
6. Felonious intent
7. Armed or arming oneself
8. OR making an actual assault on a person therein

#### **Right of Arrest:**

This life felony is arrestable in presence or upon probable cause.

#### **Note:**

Both the break and the entering must occur in the nighttime not necessarily the same night -- could enter without breaking (through an open door) and then break once inside (like opening a bedroom door).

No felony need be committed, but rather the intent to commit a felony.

If he does B&E, it may be presumed in the absence of evidence to the contrary, that his intent is to steal.

A motel constituted a "dwelling house" within the purview of this section prohibiting breaking and entering a dwelling in nighttime. Comm. v. Correia

Com. v. Gordon, 42 Mass. App. Ct. 601, 678 N.E.2d 1341 (1997)

There can be only one conviction for one act of armed burglary that includes assault of persons within dwelling, regardless of how many people the perpetrator assaults once inside the dwelling; multiple indictments based on number of assault victims are duplicative and all but one indictment must be dismissed. M.G.L.A. c. 266, § 14.



## COMMONWEALTH v. MITCHELL 67 Mass. App. Ct. 556, (2006)

Burglary. Statute, Construction. Assault and Battery

This case requires us to examine G.L. c. 266, § 14 (armed burglary), to determine whether it covers a breaking and entering of a dwelling with intent to commit a felony and a subsequent assault on a person lawfully therein even though that person arrived home after the break while the intruder was still present. We hold that it does.<sup>1</sup>

**\*557 Facts.** The jury could have found the following facts. The victim and the defendant, Rudolph C. Mitchell, Jr., had an intermittent romantic relationship beginning in February, 2001. On October 8, 2002, the defendant telephoned the victim and asked her to pick him up from the mall. She refused, hung up the telephone, and left her home. While she was out, the defendant entered her home through the front door, which was locked. When she returned around 10:45 p.m., the victim and the defendant became involved in a violent struggle. The defendant repeatedly hit and kicked the victim. During the struggle, the defendant threw the victim's head against the refrigerator and cabinet doors, causing visible dents to both. The victim testified that the defendant repeatedly threatened to kill her. The defendant stood over the victim, began to strangle her, and pulled a telephone cord around her neck. When the police arrived, they found the defendant approximately fifteen feet from the victim. She was lying on the floor with her face and clothes covered in blood; her eyes were swollen and her nose appeared to be broken. In response to an officer's question, the victim told the police that the defendant had beaten her. The police arrested the defendant after a struggle, and he was subsequently indicted for, inter alia, armed burglary, assault with intent to murder, attempted murder, assault and battery by means of a dangerous weapon, assault and battery on a police officer, and violation of a restraining order, all based on the October 8, 2002, incident. The defendant was convicted of assault and battery by means of a dangerous weapon, assault and battery on a police officer, violation of a restraining order, and armed burglary. He appeals the armed burglary conviction.

<sup>1</sup> *Armed burglary.* The relevant part of the armed burglary statute, G.L. c. 266, § 14, amended by St.1998, c. 180, § 65, provides:

"Whoever breaks and enters a dwelling house in the night time, with intent to commit a felony, or whoever, after having entered with such intent, breaks such dwelling house in the night time, any person being then lawfully **\*558** therein, and the offender being armed with a dangerous weapon at the time of such breaking or entry, or so arming himself in such house, or making an actual assault on a person lawfully therein, shall be punished...."<sup>2</sup>

To interpret this statute it is also helpful to have in mind the terms of the unarmed burglary statute, G.L. c. 266, § 15:

**\*\*408** "Whoever breaks and enters a dwelling house in the night time, with the intent mentioned in the preceding section, or, having entered with such intent, breaks such dwelling house in the night time, the offender not being armed, nor arming himself in such house, with a dangerous weapon, nor making an assault upon a person lawfully therein, shall be punished...."

The defendant argues that his motion for a required finding of not guilty should have been allowed since the victim was not at home when he entered the dwelling. Thus, he argues, she was not, in the words of G.L. c. 266, § 14, "then lawfully therein." She was of course lawfully in her dwelling while the defendant was still there pursuant to his breaking and entering and subsequent assault on her, although she arrived after his entry. The simple answer to this argument is that the phrase "any person being then lawfully therein" does not refer to the moment of entry (or breaking, or becoming armed), but rather to the time during which the intruder is in the premises pursuant to his felonious entry.

We note that the Legislature distinguished two time periods when referring to the possession of a dangerous weapon: "at the time of such breaking or entry" or "so arming himself in such house." The Legislature could have similarly stated, "any person being lawfully therein at the time of such breaking or entry," but did not. Cf. *Commonwealth v. Galvin*, 388 Mass. 326, 330, 446 N.E.2d 391 (1983) (when a statute employs specific language in one portion, and excludes it in another, the language should not be implied where it is missing); 2A Singer, Sutherland Statutory **\*559** Construction § 46.06 (6th ed.2000). This implies a more general meaning for the indefinite reference "then," to include the span of time that follows the entry.



Although the point does not appear to have been specifically decided until now, there were similar facts in *Commonwealth v. Goldoff*, 24 Mass.App.Ct. 458, 510 N.E.2d 277 (1987). There, the defendant had entered the relevant space before the victim arrived, and then assaulted the victim as the defendant was making his escape. We only discussed the issue whether a common hallway in an apartment building was part of a dwelling for the purposes of burglary statutes, and concluded that it was. *Id.* at 462–464, 510 N.E.2d 277. We did not note any additional difficulties presented by the fact that the defendant arrived some time before the victim.

In *Commonwealth v. Hallums*, 61 Mass.App.Ct. 50, 53, 806 N.E.2d 965 (2004), we assumed that the armed burglary statute required that the victim be present at the time of entry, but held that the evidence permitted the jury to find that the victim was in his home at the time the defendant entered, even though the defendant gained entry by pushing the victim ahead of him through the door into the victim's house. Thus, it was not necessary to consider whether it would make any difference if the defendant had stepped through the door first.

Although it is possible to interpret the word “then” in our statute to refer to the moment of breaking or entering, the more logical reference is to the time during which the burglar is present in the dwelling as a result of his felonious breaking and entering. The aggravation of the crime is based on the lawful presence of a person in the dwelling during the time the burglar is present. Cf. *Commonwealth v. Dunn*, 43 Mass.App.Ct. 58, 64, 680 N.E.2d 1178 (1997) (home invasion statute, G.L. c. 265, § 18C, carries a harsher penalty than the armed burglary statute because of the additional element that “intruder knows, or should know, that an occupant is present before he enters the dwelling” and the presence of an occupant “heightens the risk of a potentially deadly encounter”). Where the crime is committed by one who has armed himself, before or after entering, the aggravation is based on the inherent threat to the occupant during the \*\*411 event. See *Commonwealth v. Claudio*, 418 Mass. 103, 109, 634 N.E.2d 902 (1994) (“unlawful entry during the night time into a dwelling ... inevitably poses a high degree of danger to any and all occupants”). It should not depend on whether the occupant happens to arrive in the premises before or after the entry of the intruder. See *State v. Reed*, 8 Kan.App.2d at 616, 663 P.2d 680.

The case is even stronger where the aggravation is based upon an actual assault on a lawful occupant. See 12A C.J.S. Burglary § 8, at 175 (2004) (physical injury inflicted during the commission of the burglary elevates the burglary to first degree).<sup>11</sup> It makes no sense to regard an assault by a burglar on someone in her home as less of an aggravation merely because the victim happened to arrive home during the course of the burglary, and the statute should not be interpreted to require that result.

2 The point is made even clearer by observing that the defendant on these facts could not be convicted of unarmed \*563 burglary. A plain reading of G.L. c. 266, § 15, specifically excludes the case (which we have here) in which an assault actually takes place. See *Sullivan v. Brookline*, 435 Mass. 353, 360, 758 N.E.2d 110 (2001) (“statutory language should be given effect consistent with its plain meaning”). Furthermore, the relationship between §§ 14 and 15 of G.L. c. 266 indicates that they should be interpreted together.<sup>12</sup> When “two or more statutes relate to the same subject ..., they should be construed together so as to constitute a harmonious whole consistent with the legislative purpose.” *Board of Educ. v. Assessor of Worcester*, 368 Mass. 511, 513–514, 333 N.E.2d 450 (1975). Evaluating §§ 14 and 15 together, it seems clear that the Legislature intended that when an assault takes place during a burglary, the offense should be charged as armed burglary, not as simple burglary. See *Devoe v. Commonwealth*, 44 Mass. 316, 3 Met. 316, 327 (1841). See also *Commonwealth v. Powell*, 10 Mass.App.Ct. 57, 59, 405 N.E.2d 991 (1980) (where there was a dispute whether the intruder armed himself in the dwelling, a jury could have acquitted the defendant of the greater offense of armed burglary and instead convicted the defendant of unarmed burglary).

We conclude that the phrase “any person being then lawfully therein” does not preclude a defendant from being convicted under G.L. c. 266, § 14, merely because the victim came home after the defendant broke and entered her home. Although the victim was not present in the dwelling at the time of the defendant's breaking and entry, she was lawfully present during the course of the burglary. The victim of an assault is “present” at the time of the assault, and it is the time of the assault that is relevant, not the time of the entry.<sup>13</sup>



## **Burglary, Not Being Armed**

### **Chapter 266, Section 15**

#### **Definition:**

Breaking and entering of a dwelling house of another in the nighttime.

#### **Elements:**

1. Breaking
2. Entry
3. Dwelling
4. Of another
5. Nighttime
6. Felonious intent
7. Offender unarmed

#### **Right of Arrest:**

This 20-year felony is arrestable in presence or upon probable cause.

Dwelling -- Tenements

Hotels

Institutions

Sanitariums

Boarding Houses

Apartment Houses

Dormitories

Hospitals

Or any other place where people are domiciled

## **Breaking and Entering a Building or Ship**

### **Chapter 266, Section 16**

#### **Definition:**

Whoever, in the nighttime, breaks and enters a building, ship, vessel or vehicle, with intent to commit a felony, or who attempts to or does break, burn, blow up or otherwise injures or destroys a safe, vault or other depository of money, bonds or other valuables in any building, vehicle or place, with intent to commit a larceny or felony, shall be punished by imprisonment in the state prison for not more than twenty years or in a jail house of correction for not more than two and one-half years.

**Nighttime is defined by statute, (Ch. 278:10), as the time between one hour after sunset on one day and one hour before sunrise on the next day.**





This section further refers to anyone who attempts to or does break, burn, blow up or **otherwise injures** or destroys a safe, vault or other depository of money, bonds or other valuables in a building, **VEHICLE**, or place WITH INTENT TO COMMIT A LARCENY or FELONY. Unfortunately, in my opinion, this section is also governed by the phrase, IN THE NIGHTTIME.

The word depository has been defined by the Massachusetts Supreme Judicial Court to include:

- a) The trunk of an automobile -  
**Commonwealth v. Armenia**, 340 N.E. 2d 901 (1976)
- b) The passenger compartment of a motor vehicle -  
**Commonwealth v. Dreyer**, 468 N.E. 2d 862 (1984)

**Note:**

**Com. v. Cextary, 68 Mass. App. Ct. 752 (2007)**

Nonetheless, the statutory element of a “breaking” is broadly defined. *Commonwealth v. Burke*, 392 Mass. 688, 689–690, 467 N.E.2d 846 (1984). The classic requirement (relied on by the defendants) is proof of some physical act, however slight, to remove an obstacle to entry. See *Commonwealth v. Hall*, 48 Mass.App.Ct. 727, 730–731, 725 N.E.2d 247 (2000). Even at common law, however, an actual, physical breaking was not invariably required. There could be a breaking “either in fact or by implication,” a classic example of such an implied or constructive burglarious breaking was “to come down a chimney,” *id.* at 226. In response to hypertechnical quibbles that in such a case there was “no actual breaking,” Blackstone responded that “the law will not suffer itself to be trifled with by such evasions, especially under the cloak of legal process” (citation omitted). *Ibid.* Massachusetts law long has accepted the concept of “constructive breaking.” See *Commonwealth v. Labare*, 11 Mass.App.Ct. 370, 377–378, 416 N.E.2d 534 (1981) (involving entry gained through a false pretense). It also recognizes the so-called “open window” doctrine, which holds (analogously to the chimney situation) that entry through an opening not intended or ordinarily useable as a means of entry is within the scope of the statute. See *Commonwealth v. Tilley*, 355 Mass. 507, 509, 246 N.E.2d 176 (1969).

**Com. v. Rudenko, 74 Mass. App. Ct. 396**

After a jury-waived trial, a judge found the defendant guilty of breaking and entering in the nighttime with intent to commit a felony, see G.L. c. 266, § 16, and larceny over \$250, see G.L. c. 266, § 30. On appeal from those convictions, the defendant argues that the Commonwealth (1) presented insufficient evidence, and (2) failed to prove that he broke and entered a “building” within the meaning of the statute. We disagree and affirm the convictions.

1. *Sufficiency of the evidence.* As related in the Commonwealth’s case at trial, Gary Coleman, a Home Depot employee, arrived at the West Springfield store at approximately 4 a.m. on \*397 October 13, 2003, and soon noticed that two snow blowers were missing. Each weighed over 100 pounds and each was valued at \$1,200. Prior to the store’s closing the previous day, another worker, Eugene Lefebvre, had wrapped the snow blowers,



strapped them onto pallets, tagged and addressed them, and left them in the “delivery hall” where they were to be lifted by forklift onto delivery trucks the next day.

The delivery hall is a fenced-in storage area used to house overstocked items and items prepared for delivery; it connects directly with the roofed-in portion of the Home Depot store. An overhead door permits passage from the roofed-in portion of the store to the delivery hall, which is enclosed on its other three sides by a chain link fence of some height. Two gates on the fence provide access for delivery trucks to enter the delivery hall. The gates are secured by locks at all times except when opened for the delivery trucks. Home Depot's security procedures are strict and provide for perimeter checks of the entire facility when the store opens in the morning and closes at night. Likewise, security procedures regulate the opening and closing of the delivery hall gates, the entrance and exit of delivery trucks, and access by employees. The public is not permitted to access the delivery hall.

When the Home Depot store closed on October 12, the store and its contents were secure. The same appeared to be true when assistant manager Michael Masciadrelli performed the standard opening procedure on the morning of October 13. Masciadrelli did not initially observe anything suspicious as he drove around the \*\*256 perimeter of the building. However, soon after arriving at work that morning, Coleman and other Home Depot employees informed him that two snow blowers scheduled for delivery were missing from the delivery hall where they had been placed the night before. In their search for the snow blowers, they discovered that the lock to the north end delivery hall gate had been bypassed, allowing the gate to be opened.<sup>1</sup> Inside the delivery hall, they found the empty pallets, shrink wrap, and banding, which appeared to have been cut with a sharp object. Upon arriving at the store at 4 a.m., neither Coleman nor \*398 Masciadrelli had observed any vehicles in the parking lot. However, while searching for the snow blowers, some time after 4:30 a.m., Coleman and Lefebvre noticed a white pickup truck parked outside the gate in the parking lot next to a Pep Boys store. They notified Masciadrelli, who directed them to stay inside and not investigate further. Masciadrelli confirmed the presence of the white truck and called the police.

Officer Nelson Zayas of the West Springfield police arrived at the scene and saw a white pickup truck and a man, later identified as the defendant, standing between the truck and a tree. The truck's tailgate had been removed and was lying in the bed of the truck. As he walked behind the truck, Zayas observed a bright orange snow blower, partially wrapped in plastic, behind the tree that the defendant was standing next to. Zayas questioned the defendant, who appeared nervous.

The defendant initially claimed to be an employee of Home Depot, an assertion soon dispelled when Masciadrelli arrived. Masciadrelli also identified two snow blowers behind the tree as the property of Home Depot.

Zayas asked Oleg Yusenko, who appeared to be sleeping in the front passenger seat, to step out of the truck. When Yusenko complied, a small utility knife fell to the floor. Zayas also observed a “fresh trail” leading from the northern delivery hall gate (where the lock had been removed) to the location of the defendant. He also noticed that both the defendant and Yusenko had wet grass and dirt stuck to their shoes and pants.

<sup>1</sup> Viewed in the light most favorable to the Commonwealth, see *Commonwealth v. Latimore*, 378 Mass. 671, 677–678, 393 N.E.2d 370 (1979), the evidence and reasonable inferences were sufficient to establish that the defendant and Yusenko broke and entered



the fenced-in delivery hall that is part of the Home Depot store and stole two snow blowers, each valued at \$1,200. See *Commonwealth v. Cabrera*, 449 Mass. 825, 827, 874 N.E.2d 654 (2007); *Commonwealth v. Vickers*, 60 Mass.App.Ct. 24, 27, 798 N.E.2d 575 (2003). In the predawn hours, the defendant was found standing next to the empty flat bed of a truck capable of moving the heavy snow blowers that had been stolen some time the previous night; the truck's tailgate had been removed to facilitate loading. Inside the truck was a utility knife capable of cutting the strapping that bound the snow blowers to the pallets; \*399 and a trail of wet grass and mud on the defendant's clothing corresponded to the trail leading from the delivery hall to the truck. The defendant's false explanation to Zayas provided further evidence of his guilt. See *Commonwealth v. Stuckich*, 450 Mass. 449, 453, 879 N.E.2d 105 (2008). The inference was strong that the defendant and Yusenko were in the \*\*257 process of loading the snow blowers they had stolen onto the truck when the police arrived.<sup>2</sup> See *Commonwealth v. Ronayne*, 8 Mass.App.Ct. 421, 425–426, 395 N.E.2d 350 (1979).

2 2. “Building.” Whether the delivery hall is part of the Home Depot building is a closer question.

On the particular facts present, we conclude that the delivery hall is part of the Home Depot “building” for purposes of the first clause of G.L. c. 266, § 16.<sup>3</sup>

34 The crime of breaking and entering is an ancient one, and examination of its common-law roots provides guidance in discerning the reach of the statute in the instant case. See *Commonwealth v. Burke*, 392 Mass. 688, 690, 467 N.E.2d 846 (1984). The purpose of the burglary statutes is to protect the right of security in a place commonly associated with safety and refuge, the dwelling house. See *Commonwealth v. Goldoff*, 24 Mass.App.Ct. 458, 462, 510 N.E.2d 277 (1987). The statutes that prohibit the breaking and entering of a building serve a similar purpose, protecting the right of security in one's person and valuables, even when the building may not serve as a place of human habitation. The terms “dwelling” and “building” have generally been construed to further rather than frustrate these purposes. See *id.* at 459–460, 510 N.E.2d 277. See also *Commonwealth v. Burke*, *supra* at 689–690, 467 N.E.2d 846 (element of breaking broadly defined).

5 Where, as here, a statute does not define its terms, “we give them their usual and accepted meanings, as long as these meanings are consistent with the statutory purpose.” *Commonwealth v. Goldoff*, 24 Mass.App.Ct. at 460, 510 N.E.2d 277, quoting from *Commonwealth v. Zone Book, Inc.*, 372 Mass. 366, 369, 361 N.E.2d 1239 (1977).

“[U]nlike \*400 the term ‘dwelling house,’ which under certain criminal statutes has ‘acquired a peculiar and appropriate meaning in law,’ G.L. c. 4, § 6, ... the term ‘building’ carries no such baggage. Therefore, absent a contrary legislative intent, the term is to be given its common and accepted everyday meaning, ... as for example, ‘a *structure* or edifice inclosing a space within its walls and *usually* ... covered with a roof.’ Black's Law Dictionary 194–195 (6th ed. 1990).” (Emphasis added.) *Commonwealth v. Jackson*, 37 Mass.App.Ct. 940, 941, 641 N.E.2d 711 (1994). See *Commonwealth v. McKinnon*, 446 Mass. 263, 268, 843 N.E.2d 1020 (2006) (“dwelling” implies enclosed area).

With these principles in mind, we conclude that the locked, fenced-in delivery hall is part of the Home Depot building and under the protection of G.L. c. 266, § 16. See *Commonwealth v. Willard*, 53 Mass.App.Ct. 650, 654–655, 761 N.E.2d 971 (2002) (property secured within structure with expectation that it will be protected against theft is “under the protection of the building”). The delivery hall is an essential component of the



Home Depot building. It shares a wall with the roofed portion of the building and is enclosed on its other three sides by a gated and locked fence that restricts access. An overhead door provides direct access between the roofed and fenced-in portions of the building. \*\*258 The safety, security, and protection of valuable Home Depot merchandise is as much an issue in the delivery hall as in the roofed portion of the building, where customers complete their purchases.

The fact that the delivery hall lacks a roof is not determinative, where its other physical characteristics, including its contiguity to the roofed portion, shared wall, restricted access, and use for storage of valuable merchandise sold there, indicate that it is an integral part of the building proper. Nor should the protection of the statute turn on whether the defendant accomplished his breaking and entering of the building and larceny of the snow blowers by going through the front door of the roofed portion of the building rather than through the locked gate to the delivery hall.

Decisions from other States interpreting their burglary and breaking and entering statutes are of limited value given the differences in statutory expression. Supporting the view that we take is the decision in *Garrett v. State*, 259 Ga.App. 870, 578 S.E.2d 460 (2002). There, in similar circumstances, the Court of Appeals of Georgia \*401 concluded that the defendant violated Georgia's burglary statute when he cut a chain link fence topped with barbed wire and removed a commercial grade lawn mower from a storage shelter attached to the rear of a farm and lawn business.<sup>4</sup> The court reasoned “that the contiguous nature of the storage shelter, as well as its accessibility from the main building renders it ‘a part’ of the main building for purposes of [Ga.Code Ann. § 16–7–1(a) (2007), the burglary statute]. Further, the purpose of the shelter as a storage structure for valuable goods, its relevance to the business, and its inaccessibility to the public when the business is secured render the shelter a ‘building’ under the statute...” *Garrett v. State, supra* at 871, 578 S.E.2d 460.

Such a view is not shared universally, and other State decisions interpreting their particular statutes support a contrary view, albeit on different facts. See *In re E.S.*, 93 Ill.App.3d 171, 174, 48 Ill.Dec. 711, 416 N.E.2d 1233 (1981) (fenced-in area abutting automobile body shop containing customers' parked cars awaiting repair not “building”); *State v. Gamble*, 56 N.C.App. 55, 56, 59, 286 S.E.2d 804 (1982) (“partially” fenced area not “building” for purposes of statute prohibiting breaking and entering of building). In the particular factual context before us, we consider the conclusion that the delivery hall is part of the Home Depot building, notwithstanding its lack of a roof, to be more consonant with the purposes of G.L. c. 266, § 16, and accepted understanding.

At trial and in argument, the Commonwealth suggested as an alternative that the defendant was liable because the delivery hall is a “depository” within the meaning of the second clause of the statute that prohibits the breaking of a “depository of ... valuables in any building, vehicle or place, with intent to commit a larceny or felony.”<sup>5</sup> We view the facts as inapposite \*\*259 \*402 to such an interpretation. Because we have concluded that the delivery hall is *part of the building*, it follows that the delivery hall cannot also be a “depository of ... valuables in [a] building or place” (emphasis supplied). G.L. c. 266, § 16, as appearing in St.1985, c. 312, § 1.

*Judgments affirmed.*



## **Building or Ship; Nighttime Entry; Daytime Breaking and Entering**

### **Chapter 266, Section 17**

#### **Definition:**

Whoever, in the nighttime, enters without breaking, or breaks and enters in the daytime, a building, ship, vessel, or vehicle, with intent to commit a felony, the owner or any other person lawfully therein being put in fear, shall be punished by imprisonment in the state prison for not more than ten years.

#### **Note:**

To convict under this section, someone lawfully therein must be put in fear. Application of this could include the smashing of a car window and stealing a purse while the driver is stopped for a red light. The felony intended here would be robbery since there would be both force and violence and the driver placed in fear. Either of these elements would suffice for a robbery conviction. This statute would be applicable whether the suspect succeeds or fails in getting the purse since it's his intention at the time of the crime that prevails.

## **Breaking and Entering a Building or Ship**

### **With Intent to Commit a Misdemeanor**

#### **Chapter 266, Section 16A**

#### **Definition:**

In the nighttime or daytime, breaks and enters a building, ship, vessel or vehicle with intent to commit a misdemeanor.

#### **Elements:**

1. In the daytime or nighttime
2. breaks and enters
3. building, ship, vessel, or vehicle
4. with specific intent (to commit a misdemeanor\*.)

#### **Right of Arrest:**

This misdemeanor is **NON-ARRESTABLE**. There is no right of arrest given by statute and it does not normally amount to a breach of the peace.



**Dwelling House – Night-time Entry  
Daytime Breaking and Entering  
Chapter 266, Section 18**

**Definition:**

In the nighttime, enters a dwelling house without breaking OR breaks and enters in the daytime a building, ship, motor vehicle, or vessel, with intent to commit a felony, no person lawfully therein being put in fear.

**Elements:**

1. Enters a dwelling without breaking in the night
2. or breaks and enters in the daytime a building, ship, motor vehicle, or vessel
3. specific intent to commit a felony
4. no one put in fear.

**Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

**Notes:**

Larceny in a building is always a felony.

**Com. v. Cextary, 68 Mass. App. Ct. 752, 864 N.E.2d 1222 (2007)**

Defendant's jumping onto top of vehicle and entry into vehicle through open sunroof, after owner of vehicle took action to secure doors and hatches and activate alarm to prevent entry by any customary means, was a "breaking," as required to support conviction for breaking and entering a motor vehicle with intent to commit a felony. M.G.L.A. c. 266, § 18.

Massachusetts law long has accepted the concept of "constructive breaking." See *Commonwealth v. Labare*, 11 Mass.App.Ct. 370, 377–378, 416 N.E.2d 534 (1981) (involving entry gained through a \*757 false pretense). It also recognizes the so-called "open window" doctrine, which holds (analogously to the chimney situation) that entry through an opening not intended or ordinarily useable as a means of entry is within the scope of the statute. See *Commonwealth v. Tilley*, 355 Mass. 507, 509, 246 N.E.2d 176 (1969). See also *Commonwealth v. Hall*, 48 Mass.App.Ct. at 730–731, 725 N.E.2d 247 (involving entry through an open window almost five feet above the ground).<sup>7</sup> That doctrine finds clear and sensible application here. Scrambling onto the top of a car and slipping through an open sunroof<sup>8</sup> is as surreptitiously intrusive a violation of the security of one of the several physical spaces intended to be protected by G.L. c. 266, § 18, as is crawling down a chimney or scaling a wall to clamber through a window high above the ground.<sup>9</sup> Consequently the judge correctly submitted the breaking and entering charge to the jury.<sup>10</sup>





## **Breaking and Entering: Railroad Cars**

### **Chapter 266, Section 19**

#### **Definition:**

Whoever breaks and enters, or enters in the nighttime without breaking, a railroad car, with intent to commit a felony, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than five hundred dollars and imprisonment in the house of correction for not more than two years.

#### **Elements:**

1. enters in the nighttime without breaking or
2. breaks and enters
3. a railroad car
4. with intent to commit a felony

#### **Right of Arrest:**

This is a felony and arrestable if committed in presence or upon probable cause.

#### **Notes:**

The entering without breaking element is applicable only to the nighttime. Whereas the breaking and entering element would apply either daytime or nighttime.

Be aware of felony of stealing in a railroad car under Chapter 266:20

## **Stealing in Building, Ship or Railroad Car**

### **Chapter 266, Section 20**

#### **Definition:**

Whoever steals in a building, ship, vessel or railroad car shall be punished by imprisonment in the state prison for not more than five years or by a fine of not more than five hundred dollars or by imprisonment in jail for not more than two years.

#### **Elements:**

1. steals
2. in a building, ship, vessel or railroad car

#### **Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

#### **Notes:**

This is an "aggravated" larceny, therefore it is always a felony regardless of the value of the property stolen.



**Breaking and Entering;  
Truck, Tractor/Trailer Unit, Trailer, Semi-Trailer or Freight Container  
Chapter 266, Section 20A**

**Definition:**

Whoever, breaks and enters, or enters without breaking, a truck, tractor/trailer unit, trailer, semi-trailer or freight container with intent to commit a felony, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than five hundred dollars and imprisonment in the house of correction for not more than two years.

**Elements:**

1. breaks and enters, or
2. enters without breaking
3. truck, tractor/trailer unit, trailer, semi-trailer or freight container
4. with intent to commit a felony

**Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

**Note:**

The felony intended could be stealing in a truck (266:20B) among others.

**Stealing in a  
Truck, Tractor/Trailer Unit, Trailer, Semi-Trailer or Freight Container  
Chapter 266, Section 20B**

**Definition:**

Whoever steals in a truck, tractor/trailer unit, trailer, semi-trailer or freight container shall be punished by imprisonment in the state prison for not more than **five years** or by a fine of not more than five hundred dollars or by imprisonment in jail for not more than two years.

**Elements:**

1. stealing
2. in a truck, tractor/trailer, semi-trailer or freight container

**Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

**Notes:**

It is an "aggravated" larceny; it is always a felony regardless of the value of the property stolen.





## **Stealing in a Building on Fire**

### **Chapter 266, Section 24**

#### **Definition:**

Whoever steals in a building, which is on fire, or steals property, which has been removed in consequence of an alarm caused by fire, shall be punished by imprisonment in the state prison for not more than five years or by a fine of not more than five hundred dollars and imprisonment in jail for not more than two years.

#### **Elements:**

1. steals
2. in a burning building

**OR**

1. steals
2. property that has been removed in consequence of an alarm caused by fire.

#### **Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

#### **Note:**

This is an "aggravated" larceny, therefore it is always a felony regardless of the value of the property stolen.



## **Larceny From the Person**

### **Chapter 266, Section 25**

#### **Definition:**

Committing larceny by stealing from the person of another

#### **Elements:**

1. commit larceny
2. by stealing
3. from the person of another

#### **Right of Arrest:**

This 5 year felony is arrestable in presence or on probable cause.

#### **NOTE:**

Pickpockets and some handbag snatches are covered by this statute.

This is always a felony regardless of the value of the property taken.

Must be from the person

Comm. v. Otis Jones states that the amount of force used to snatch a purse (if the woman is aware of it) is enough to make the crime unarmed robbery.

Com. v. Davis, 7 Mass. App. Ct. 9, 385 N.E.2d 278 (1979)

Ordinary pickpocket is guilty of larceny from the person rather than robbery because there is neither violence nor intimidation involved in the perpetration of the theft

Com. v. Moran, 387 Mass. 644, 646, 442 N.E.2d 399, 401 (1982)

Robbery may be punished more severely than larceny from the person. Compare G.L. c. 265, § 19, with G.L. c. 266, § 25. The principal policy served by this greater punishment is deterrence of the use of force (and the accompanying risk to human life) to obtain money or other property



## **Stealing Tools**

### **Chapter 266, Section 27**

#### **Definition:**

Stealing any tool belonging to any contractor, builder or mechanic from any building during the course of its construction, completion, alteration or repair.

#### **Elements:**

1. stealing any tool
2. property of contractor, builder or mechanic
3. from any building
4. during the course of its construction, completion, alteration or repair

#### **Right of Arrest:**

This is a nonarrestable misdemeanor. What about larceny/building? B & E?

## **Removal of Motor Vehicle; Defrauding Insurer**

### **Chapter 266, Section 27A**

#### **Definition:**

With the intent to defraud the insurer, removes or conceals a motor vehicle or trailer belonging to himself or another which is at the time insured against theft or with the same intent aids or abets in such removal or concealment.

#### **Elements:**

1. specific intent to defraud the insurer
2. removes or conceals a motor vehicle or trailer
3. of himself or another
4. insured against theft at the time
5. OR aids or abets in same

#### **Right of Arrest:**

This 5-year felony is arrestable in presence or upon probable cause.



**Motor Vehicle or Trailer  
Theft, Malicious Damage or Concealment  
Chapter 266, Section 28**

**Elements (subparagraph a):**

1. whoever steals...or
2. whoever maliciously damages...or
3. whoever buys, receives, possesses, conceals or obtains control...of a motor vehicle or trailer
4. knowing or having reason to know the same to have been stolen

OR

1. whoever takes a motor vehicle without the authority of the owner and
2. steals from it any of its parts or accessories

**Right of Arrest (a):**

This is a fifteen year felony and is arrestable in presence or upon probable cause.

Evidence that an identifying number or numbers of a motor vehicle or trailer or part thereof has been intentionally and maliciously removed, defaced, altered, changed, destroyed, obliterated or mutilated shall be prima facie evidence that the defendant knew or had reason to know the motor vehicle or trailer or part thereof had been stolen.

This statute provides that a prosecution commenced under this subdivision shall not be placed on file or continued without a finding. It also provides for a mandatory minimum sentence of one year for a second and subsequent conviction.

**Elements (subparagraph b):**

1. whoever conceals
2. a motor vehicle or trailer thief
3. knowing him to be such

**Rights of Arrest (b):**

This is a ten (10) year felony and is arrestable in presence or upon probable cause.

**Commonwealth v. Youngworth, 55 Mass.App.Ct. 30**

“The elements of possession of a stolen motor vehicle under G.L. c. 266, § 28, require proof that (1) the vehicle is stolen, (2) the defendant possessed the vehicle, and (3) the defendant knew that the vehicle was stolen.”



## **LARCENY**

### **Chapter 266, Section 30**

#### **Definition:**

Trespassory taking and carrying away the personal property of another with intent to deprive the owner permanently of its use.

#### **Elements:**

1. Trespassory taking
2. Carrying away
3. Personal property of another
4. Intent to steal

#### **Right of Arrest:**

If the value of the property taken is \$250 or less the crime is a misdemeanor, if the value is **over** \$250 or if a firearm or a trade secret then larceny under this section is a felony.

The statutory right of arrest for the misdemeanor portion of the statute is found under Chapter 276, Section 28. It would be a lawful arrest if it occurred in a officer's presence.

The right of arrest for the felony portion: This 5 year felony is arrestable in presence or upon probable cause.

Trespassory = unlawful -- doing an unlawful act.

THE ATTEMPT TO COMMIT ANY LARCENY UNDER 266:30 IS ALWAYS A NON-ARRESTABLE MISDEMEANOR.

#### **Notes:**

Statute encompasses stealing, obtaining property by false pretenses, embezzlement, and converting or secreting the property of another whether such property is or is not in the victim's possession at the time of such conversion or secreting.

- A thief can steal from a thief. (see receiving stolen property)
- Removing or carrying away -- piling at back door. (abandoned property)
- Property -- where special statute covers, it governs (trees)



## **Shoplifting**

### **Chapter 266, Section 30A**

#### **Elements:**

Whoever

1. intentionally takes possession of, carries away, transfers or causes to be carried away or transferred, or
2. intentionally conceals upon his person or otherwise, or
3. intentionally alters, transfers or removes any label, price tag marking indicia of value or any other markings which aid in determining value affixed and to attempt to purchase personally or in consort with another (at less than full retail value), or
4. intentionally transfer from one container to another container (which obviously must be marked with a lower price), or
5. intentionally records a value which is less than the actual retail value (false ring-ups by salesperson), or

Each of the preceding five elements refer to merchandise displayed, held, or offered for sale by any store or other retail mercantile establishment with the intent to deprive the merchant of all or some part of the retail value of the merchandise.

6. intentionally removes a shopping cart without permission with intent to deprive the merchant permanently of said cart

#### **Right of Arrest:**

This section is a misdemeanor with an in presence and a past misdemeanor probable cause right of arrest.

#### **Note:**

- This statute further states that the statement of a merchant or his employee or agent that a person has violated a provision of this section shall constitute probable cause for arrest by any law enforcement officer authorized to make an arrest in such a jurisdiction; However, police officers should be guided by their training as to whether probable cause legally exists.
- In the case of *Com. v. Hudson*, 535 N.E. 2d 208 (1989), the Massachusetts Supreme Judicial Court stated that the shoplifting statutes did not impliedly repeal the larceny statute as it relates to the theft of merchandise offered for sale. In other words, if the value of the merchandise stolen is over \$250, the suspect could be charged with the felony section of the larceny statute (c. 226, Section 30) instead of the misdemeanor of shoplifting.

Com. v. Rogers, 459 Mass. 249, 945 N.E.2d 295 (2011)

Statute allows merchant's or innkeeper's employees with suspicion based on reasonable grounds to detain a suspected shoplifter for a reasonable time and by reasonable means; statute creates an affirmative defense to charges of false arrest and false imprisonment for merchants who detain suspected shoplifters in a reasonable manner. M.G.L.A. c. 231, § 94B.



## **Fraudulent Checks**

### **Chapter 266, Section 37**

#### **Elements:**

1. Specific intent to defraud
2. makes, draws, utters, or delivers
3. any check, draft or order
4. upon any bank or depository
5. with knowledge that there are insufficient funds or credit
6. shall if no money, property or services are received, be guilty of attempted larceny and if received, be guilty of larceny.

#### **Right of Arrest:**

The same as simple larceny -- no right for attempt -- over \$250 felony right of arrest -- \$250 even or under \$250 arrestable in **presence** under statute.

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#### **Com. v. Ryan, 79 Mass. App. Ct. 179,**

General Laws c. 266, §§ 37A–37C, render **unlawful** the misuse and fraudulent **use** of any instrument or device, however denominated, issued by a business organization or financial institution<sup>6</sup> to facilitate the movement of money, goods, services, or anything else of value without immediate payment. **Section 37B** prohibits the misuse of “**credit cards**” by applicants, holders, and those who furnish goods or other things of value to the holder of such a card, and § 37C prohibits the fraudulent **use** of such cards to obtain money, goods, or services or anything else of value. Overarching the statutory framework is the definition of “[c]**redit card**” in § 37A as “any instrument or device, whether known as a **credit card**, credit plate, *or by any other name*, issued with or without fee by an issuer for the **use** of the cardholder in obtaining money, goods, services \*184 or anything else of value *on credit*.” (emphasis supplied).

For purposes of statutes prohibiting misuse of **credit cards**, debit card was the functional equivalent of a “**credit card**,” and, thus, evidence that defendant **used** victim's debit card to make unauthorized purchases of clothing, a mobile telephone, telephone services, food, and Registry of Motor Vehicle services, in excess of \$250 was sufficient for fraudulent **use** of a **credit card** conviction; debit card transactions involved extension of credit at point of sale, at least until the funds were later deducted from victim's account by issuer and credited to merchant's account, debit cards and **credit cards** were virtually indistinguishable, and statute defined “**credit card**” as any instrument or device by any name issued for the procuring of goods on credit. *M.G.L.A. c. 266, §§ 37A, 37C(e)*.



## Identity Fraud

### Chapter 266, Section 37

Com. v. Catalano, 74 Mass. App. Ct. 580, 908 N.E.2d 842 (2009)

The Commonwealth must prove beyond a reasonable doubt the following four elements to support a conviction for identity fraud: specifically, that a defendant (1) posed as another person; (2) did so without that person's express authorization; (3) used the other person's identifying information to obtain, or attempt to obtain, something of value; and (4) did so with the intent to defraud

## Misuse of Credit Card

### Penalties; Multiple Possession, Presumption; Arrest

### Chapter 266, Section 37B

**Elements:**

1. With specific intent to defraud.

**Making false statements to obtain credit**

(a) makes or causes to be made, either directly or indirectly, any false statement as to a material fact in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, for the purpose of procuring the issuance or a credit card, or

**Uses another without consent**

(b) takes a credit card from the person, possession, custody or control of another without the cardholder's consent by any conduct which would constitute larceny, or who, with knowledge that it has been so taken receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or cardholder, or

**Uses a credit card known to have been lost**

(c) receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder, or

**Sells or buys another**

(d) being a person other than the issuer or his authorized agent, sells a credit card, buys a credit card from a person other than the issuer or his authorized agent, or

**Falsely signs**

(e) being a person other than the cardholder or a person authorized by him, signs a credit card, or

**Using another for purchase not in excess of \$250**

(f) uses, for the purpose of obtaining money, goods, services or anything else of value, a credit card obtained or retained in violation of clauses (b) to (e), inclusive, or a credit card which he knows is forged, expired or revoked, where the value of money, goods or services obtained in violation of this section is not in excess of two-hundred fifty dollars or

**Falsely representing to be the card holder**

(g) obtains money, goods, services or anything else of value by representing without the consent of the cardholder that he is said cardholder or by representing that he is the holder of a card and such card has not in fact been issued, where the value of money, goods or services obtained is not in excess of two-hundred and fifty dollars, or

**Merchants honoring fraudulent cards**

(h) being a person authorized by an issuer to furnish money, goods services or anything else of value upon presentation of a credit card which he knows was obtained or retained in violation of clauses (b) to (e), inclusive or a credit card which he knows is forged, expired or revoked where the value of the goods or services obtained is not in excess of two-hundred and fifty dollars, or

**Filing false sales receipts**





(i) being a person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished, and the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed two-hundred and fifty dollars, or

**Fine of \$500 imprisonment for 1 year**

(j) receives money, goods, service or anything else of value obtained in violation of clauses (f) to (i), inclusive of (k) makes a false statement in reporting a credit card to be lost or stolen. Whoever has in his possession or under his control stolen credit cards issued in the names of four or more other persons shall be presumed to have violated clause (b)

**Right of Arrest:**

This misdemeanor has a statutory right of arrest if committed in your presence.

**Com. v. Thompson, 89 Mass. App. Ct. 456, 50 N.E.3d 845 (2016)**

A conviction for credit card fraud over \$250 requires proof beyond a reasonable doubt that the defendant (1) represented himself as the person named on a credit card, (2) did so without the consent of the person named on the card, (3) by doing so obtained money, goods, or services or anything else of value in excess of \$250, and (4) did so with the intent to defraud. M.G.L.A. c. 266, § 37C(e).



**Fraudulently Obtaining Goods, Money or Services**  
**Use of Credit Card**  
**Chapter 266, Section 37C**

**Elements:**

1. Whoever, with specific intent to defraud
  - (a) obtains control over a credit card as security for debt, or
  - (b) receives a credit card which he knows was taken or retained under circumstances which constitute credit card theft or a violation of clauses (a) or (d) of section thirty-seven B or clause (a) of this section, or
  - (c) falsely makes or falsely embosses a purported credit card or utters such a credit card, or
  - (d) obtains money, goods, services or anything else of value by use of a credit card obtained or retained in violation of clauses (b) to (e) inclusive, or section thirty-seven B, or by use of a credit card which he knows is forged, expired or revoked, where the value of the money, goods, or services obtained in violation of this section is in excess of two-hundred and fifty dollars, or
  - (e) obtains money, goods, or services or anything else of value by representing without the consent of the cardholder that he is said cardholder, or by representing that he is the holder of the card and such card has not in fact been issued, where the value of money, goods or services obtained in violation of this section is in excess of two-hundred and fifty dollars, or
  - (f) being a person authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card which he knows was obtained in violation of subsections (b) to (e) inclusive, of section thirty-seven B, or a credit card which he knows is forged, expired or revoked, when the value of the money, goods or services obtained is in excess of two-hundred fifty dollars, or
  - (g) being a person authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder or any agent or employee of such person, fails to furnish money, goods or services or anything else of value which he has represented in writing to the issuer that he has furnished, and the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished exceeds two-hundred and fifty dollars, or
  - (h) receives money, goods, services or anything else of value obtained in violation of subsections (f) or (g) of section thirty-seven B, or
  - (i) possesses one or more incomplete credit cards, intending to complete them without the consent of the issuer, or
  - (j) possesses, with knowledge of its character, machinery, plates or any other contrivance designed to reproduce instruments purporting to be credit cards of an issuer who has not consented to the preparation of such credit cards.

Whoever has in his possession or under his control four or more credit cards which are falsely embossed shall be presumed to have violated clause (c).

**Right of Arrest:**

Violation of this section is a 5-year felony arrestable in presence or upon probable cause.



## **Making, Holding, Using Burglarious Instruments**

### **Chapter 266, Section 49**

#### **Elements:**

First: That the defendant knowingly possessed a tool or implement,

Second: That such tool or implement could reasonably be used in (room) (vault or safe) (place for keeping valuables);

Third: That the defendant knew that the tool or implement could reasonably be used for that purpose;

Fourth: That the defendant intended to use the tool or implement for that purpose;

Fifth: That the defendant had the specific intention

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

#### **Note:**

Two or more defendants may have common possession of burglarious tools and a common intent to use them.

- the term depository has been held to include the trunk of an automobile
- the offense is complete when the tools are procured with a design to use them for a criminal purpose
- the making of a battering ram with the intent to commit a trespass is within the statute prohibiting possession of burglarious instruments
- the other crime must be committed in the building, vault, safe or other depository

#### **Com. v. Faust, 81 Mass. App. Ct. 498**

Evidence supported finding that defendant intended to use tools in his possession, including three screwdrivers, two flashlights and a folding knife, to break into a car, thus supporting conviction for possession of burglarious instruments; there was evidence that victims' vehicles were broken into, numerous stolen items, including victims' property, were found in the car that defendant was driving, and a backpack was found in the trunk that contained four global positioning system (GPS) units, two still in car mounts, with car charging adapters attached. M.G.L.A. c. 266, § 49.

While burglarious intent can be inferred from mere possession of tools uniquely or very highly adapted to burglarious purposes, common items can be burglarious tools if they can be used and are possessed for burglarious



purposes. *Commonwealth v. Dellinger*, 10 Mass. App. Ct. 549, 561, 409 N.E.2d 1337, 1346 (1980), *aff'd* in part and *rev'd* in part on other grounds, 383 Mass. 780, 422 N.E.2d 1346 (1981). See *Commonwealth v. Jones*, 355 Mass. 170, 176-177, 243 N.E.2d 172, 176 (1969) (screwdriver and kitchen knife); *Commonwealth v. Tivnon*, 8 Gray 375, 380-381 (1857) (chisel). But see *Commonwealth v. Purcell*, 19 Mass. 1031, 1031, 477 N.E.2d 190, 192 (1985) (even if worn to facilitate burglary, gloves cannot be burglarious instruments). A burglarious instrument does not lose its character as such because it needs repair. *Aleo*, *supra*. Innocent tools are admissible in evidence when mixed with burglarious tools. *Commonwealth v. Williams*, 2 Cush. 582, 586 (1849).

#### NOTES:

1. Attempted break-in unnecessary. An attempted break-in is not a required element of this offense, since the offense is complete when tools are procured with a burglarious intent. *Tivnon*,

2. Breaking and entering is distinct offense. Possession of burglarious tools and breaking and entering (G.L. c. 266, § 18) are separate offenses, and neither is a lesser included offense of the other. *Commonwealth v. Johnson*, 406 Mass. 533, 535, 548 N.E.2d 1251, 1253 (1990).

3. "Depository". It is not necessary to prove that a depository was located within a building, *Commonwealth v. Tilley*, 306 Mass. at 412, 416, 28 N.E.2d 247, 247 (1940), or that the defendant intended to break into any particular depository, *Tivnon*, *supra*. A boat storage area open on one side is not a depository. *Commonwealth v. Schultz*, 17 Mass. App. Ct. 958, 458 N.E.2d 328 (1983). An auto trunk is a depository. *Tilley*, *supra*. A locked passenger automobile reasonably can be inferred to be a depository, even without proof that the particular vehicle was used to store valuables. *Commonwealth v. Dreyer*, 18 Mass. App. Ct. 562, 564-565, 468 N.E.2d 863, 865 (1984). A bolt cutter used to cut through a bicycle chain attaching a bicycle to a bicycle rack is not a burglarious tool, since it is not "adapted and designed for cutting through, forcing or breaking open a . . . depository." The chain itself cannot be a depository "as it has no capacity to hold property for safekeeping." Even if the rack is considered a depository, it is "highly implausible that a small pair of bolt cutters could be used to cut open the metal frames of a bicycle rack" and therefore the cutters were probably not intended for use on the rack. And "because the bicyclist furnishes the chain, . . . it requires a strained interpretation of the statute to conclude that the chain and rack together" constitute a depository. *Commonwealth v. Antonio Ortiz*, 38 Mass. App. Ct. 1107, 646 N.E.2d 435 (No.

4. Intended crimes. It is not necessary that burglary or theft be the intended crime. *Commonwealth v. Krasner*, 358 Mass.

*Tilley*, 306 Mass. at 414-415, 28 N.E.2d at 247 (stealing from auto trunk). However, if the complaint charges the defendant only with the first of the two intent alternatives in the statute ("to steal therefrom such money d therein") the Commonwealth is so limited in its proof, and may not convict upon proof of the second intent alternative ("to commit any other crime"). *Commonwealth v. Graud*, 8 Mass. App. Ct. 915, To satisfy the second intent alternative, the "any other crime" must be intended to be committed in the "building, room, vault, safe or other depository." *Krasner*, *supra*; *Schultz*, *supra*.

5. Motor vehicle master keys. Since the enactment of St. 1966, c. 269, the statute has also included a separate branch punishing possession of a motor vehicle master key, the effect of which is that possession of motor vehicle master keys can no longer be prosecuted under the generic branch of the statute. *Commonwealth v. Collardo*, 13 Mass. App. Ct. 1013, 1014, 433 N.E.2d 487, 489 (1982).



## **Buying, Receiving or Concealing Stolen Property**

### **Chapter 266, Section 60**

#### **Elements:**

First: That the property in question was stolen;

Second: That the defendant knew that the property had been stolen; and

Third: That the defendant knowingly (had the stolen property in his [her] possession) (bought the stolen property) (aided in concealing the stolen property).

The Commonwealth must establish that the property was stolen — that is, that someone had taken and carried it away without right and of the owner, while intending to deprive the owner of it permanently. The Commonwealth is not required to prove who it was who stole the property.

#### **Right of Arrest:**

If the value of the property is \$250 or less and it is the suspect's first offense, this is a NONARRESTABLE misdemeanor.

If the value of the property is over \$250 or if it is the suspect's second offense this is a 5 year felony, arrestable in presence or on probable a cause.

#### **Note:**

Prove knowledge, \$500 watch for \$50 or bought at night in an alley

#### **Com. v. Boris, 317 Mass. 309, 58 N.E.2d 8 (1944)**

Instruction that it was enough if the commonwealth proved that a person of reasonable intelligence and caution would have believed that the property had been stolen and that, if the circumstances were such that a reasonably cautious and prudent man would have been satisfied that it had been stolen and would have refused to buy it or would have made further inquiry, then the defendants must be found guilty, was erroneous. M.G.L.A. c. 266 § 60

#### **Com. v. Cromwell, 53 Mass. App. Ct. 662, 761 N.E.2d 530 (2002)**

In order to be guilty of the crime of receiving stolen goods, (1) one must buy, receive or aid in the concealment of property which has been stolen or embezzled, (2) knowing it to have been stolen. M.G.L.A. c. 266, § 60.:

A person's knowledge is a question of fact. Because you cannot look directly into someone's mind, a person's knowledge is normally shown by inferences from all the facts and circumstances surrounding the event. You may infer that the defendant knew that the goods were stolen if the Commonwealth has proved beyond a reasonable doubt that the defendant (possessed) (bought) (helped to conceal) recently stolen goods, and if the facts and circumstances in this case support an inference that the defendant knew that those goods were stolen. You should consider all the facts and circumstances surrounding the defendant's alleged (possessionment) of stolen goods in deciding whether or not it is reasonable for you to draw such an inference, and in determining whether the Commonwealth has proved beyond a reasonable doubt that the defendant knew that the goods he (she) allegedly (possessed) (bought) (concealed) were stolen. Remember: under such circumstances you may, but you are not required to, draw an inference that the defendant knew that the goods were stolen.)



## **Fraudulent Hiring of a Vehicle**

### **Chapter 266, Section 64**

#### **Definition:**

Whoever hires a horse, carriage or other vehicle and with intent to cheat or defraud the owner thereof, makes to him or his agent at the time of such hiring a false statement of the distance which he proposes to travel with such horse, carriage or other vehicle, or whoever, with such intent, makes to the owner or his agent, after the use of a horse, carriage or other vehicle, a false statement of the distance he has actually traveled with such horse, carriage or other vehicle, and whoever, with such intent, refuses to pay for the use of a horse, carriage or other vehicle the lawful fare established therefor by any town, shall be punished by a fine of not more than twenty dollars or by imprisonment for not more than two months, or both.

Commonly referred to as fare evasion.

#### **Elements:**

1. with intent to cheat or defraud
2. refuses to pay
3. for the use of a horse, carriage or other **vehicle**
4. the lawful fare established therefor by any town

#### **Right of Arrest:**

This is a misdemeanor with no statutory right to arrest. (Could amount to breach of the peace)

#### **Note:**

This is the statute that is applicable for taxi fare evasion.



**Explosion, Malicious**  
**(Destruction or Injury From Explosives)**  
**Chapter 266, Section 101**

**Element:**

1. willfully, intentionally and without right
2. by explosion of gunpowder or of any other explosive
3. unlawfully destroys or damages property
4. or injures a person

**Right of Arrest:**

This twenty (20) year felony is arrestable in presence or upon probable cause.

**Note:**

Committing manslaughter with this section is punishable by life.

**Explosives, Willfully Throwing or Placing of,**  
**At Property or Persons**  
**Chapter 266, Section 102**

**Elements:**

1. willfully and intentionally throws at or near any person
  2. and willfully, intentionally and without right
  3. throws into, against or upon
  4. any property real or personal
  5. or puts, places, or explodes or causes to explode in,
  6. upon or near such property
  7. or near any person
  8. gunpowder or other explosive
  9. or a bombshell, torpedo or other instrument filled or loaded with an explosive
  10. with intent to unlawfully destroy or damage any property or to injure any person
- OR
11. has in possession or under his control such an article with said intent

**Right of Arrest:**

This twenty (20) year felony is arrestable in presence or upon probable cause.

**Note:**

Manslaughter with this section is punishable by life.



## **Infernal Machines**

### **Chapter 266, Section 102A**

#### **Elements:**

WHOEVER (other than a police officer or other law enforcement officer acting in the discharge of his official duties)

1. Has in his possession
2. Or under his control
3. An infernal machine or a similar instrument, contrivance or device

#### **Right of Arrest:**

This is a ten year felony arrestable if committed in presence or upon probable cause.

#### **Note:**

"INFERNAL MACHINE" shall include any device for endangering life or doing unusual damage to property, or both, by fire or explosion, whether or not contrived to ignite or explode automatically and whether or not disguised so as to appear harmless.

Notice of the seizure of any such device, machine instrument or contrivance shall be sent forthwith to the commissioner of public safety and the article seized shall be subject to his order.

## **Bottle with Flammable Liquid**

### **Chapter 266, Section 102B**

#### **Elements:**

1. makes, sells, uses, has in his possession or under his control
2. a bottle or other breakable container
3. containing a flammable liquid
4. into which has been fixed or placed a wick or similar device
5. when ignited and thrown will cause a fire or explosion

#### **Right of Arrest:**

This is a 5 year felony arrestable if committed in presence or upon probable cause.

#### **NOTE:**

This section doesn't apply to flares, lanterns, fireworks or other such devices used for signal or illumination purposes of for any other lawful purpose. Manslaughter under this section is punishable by life imprisonment.





## **Trespass on Property After Prohibition**

### **Chapter 266, Section 120**

#### **Definition:**

Whoever, without right enters or remains in or upon the dwelling house, buildings, boats or improved or enclosed land, wharf, or pier of another, after having been forbidden to do so by the person who has lawful control of said premises, whether directly or by notice posted thereon, or in violation of a court order pursuant to section thirty-four B of chapter two hundred and eight or section three or four of chapter two hundred and nine A, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days or both such fine and imprisonment, etc..

#### **Elements:**

1. without right
2. enters or remains in or upon
3. dwelling house, buildings, boats or improved or enclosed land, wharf or pier of another
4. after having been forbidden
5. by person having lawful control of said premises
6. either directly or by notice posted thereon
7. or in violation of a court order pursuant to Ch. 208:34B, Ch. 209A:3 or Ch. 209A:4

#### **Right of Arrest:**

This is a 30 day misdemeanor with a statutory right of arrest in presence.

#### **NOTE:**

Comm. v. A Juvenile -- fences, walls, and locked gates are evidence that one is forbidden to enter.

Comm. v. Noffke -- trespass may arise out of labor union activity

This section shall not apply to tenants who, having rightfully entered at commencement of tenancy, remain after tenancy is alleged to be terminated.

#### **Sections mentioned above**

Ch. 208:34B -- Order to vacate marital home

Ch. 209A:3 -- Remedies person suffering abuse from adult or family member

Ch. 209A:4 -- Temporary order to protect victim from abuse



## **Graffiti Law/Destruction of Property**

### **Chapter 266, Section 126A**

#### **Definition:**

Whoever intentionally, willfully and maliciously or wantonly, paints, marks, scratches, etches or otherwise marks, mars, injures, defaces or destroys the real or personal property of another including but not limited to a wall, fence, building, sign, rock, monument, gravestone, or tablet, shall be punished by imprisonment in a state prison for a term of not more than three years or by imprisonment in a house of correction for not more than two years.

#### **Elements:**

- Whoever
1. intentionally, willfully and maliciously or wantonly
  2. paints, marks, scratches, etches or
  3. marks, mars, injures, defaces or
  4. destroys the real or personal property of another  
( wall, fence, building, sign, rock, monument, gravestone, tablet, etc. )

#### **Right of Arrest:**

This three year felony is arrestable in presence or upon probable cause.

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#### **Definition:**

Whoever sprays or applies paint or places a sticker upon a building, wall, fence, sign, tablet, gravestone, monument or other object or thing on a public way or adjoined to it, or in public view, or on private property, such person known or commonly known as "taggers" and such conduct or activity known or commonly known as "tagging", or other words or phrases associated to such persons, conduct or activity, and either as an individual or in a group, joins together with said group, with the intent to deface, mar, damage, mark or destroy such property, shall be punished by imprisonment in a house of correction for not more than two years . A police officer may arrest any person for commission of the offenses prohibited by this section without a warrant if said police officer has probable cause to believe that said person has committed the offense prohibited by this section.



## **Graffiti Law/ Destruction of Property**

### **Elements:**

Whoever

1. sprays or applies paint or
2. places a sticker upon
3. a building, wall, fence, sign, tablet, gravestone, monument or
4. other object or thing on
5. a public way or adjoined to it, or
6. or in public view, or on private property
7. such person known as taggers and such conduct known as tagging and
8. either as an individual or in a group, joins together with
9. intent to deface, mar, damage, mark, or
10. destroy such property

### **Right of Arrest:**

This section is a misdemeanor with a statutory right of arrest and a past misdemeanor probable cause right of arrest.

### **Note:**

This statute also penalizes those convicted by requiring them to pay for the removal of the damage as well as effecting their driving privileges.



## **Destruction or Injury of Personal Property**

### **Chapter 266, Section 127**

(Misdemeanor Portion)

**Elements:**

1. Wantonly
2. destroys or injures
3. personal property, dwelling house or building
4. of another
5. in any manner not described in Chapter 266
6. regardless of value

OR

1. willfully and maliciously
2. destroys or injures
3. personal property, dwelling house or building
4. of another
5. in any manner or by any means not particularly described or mentioned in this chapter
6. valued at \$250 even or less

**Right of Arrest:**

This is a misdemeanor with no statutory right of arrest.

Wanton: heedless, reckless, without regard



## **Destruction or Injury of Personal Property**

### **Chapter 266, Section 127**

#### **Elements:**

1. Willfully and maliciously
2. destroys or injures
3. personal property, dwelling house or building
4. of another
5. in any manner or by any means not particularly described or mentioned in this chapter
6. valued over \$250

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

#### **NOTE:**

Willful -- intentional or by design as contrasted to accidental.

Maliciously -- state of mind -- cruelty, hostility or revenge.

Comm. V. Hosman -- value alleged is total value of the property injured.



## **Giving a False Name upon Request**

### **Chapter 268 Section 34A**

Section 34A. Whoever knowingly and willfully furnishes a false name or Social Security number to a law enforcement officer or law enforcement official following an arrest shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than one year or by both such fine and imprisonment. Such sentence shall run from and after any sentence imposed as a result of the underlying offense. The court may order that restitution be paid to persons whose identity has been assumed and who have suffered monetary losses as a result of a violation of this section.

#### Elements

First: That the defendant was arrested;

Second: That the defendant then gave a false name to a police officer. A false name is one that a person has assumed for a dishonest purpose.and

Third: That the defendant did so knowingly and willfully; that is, he (she) intentionally gave the police a name

The law permits a person to change his (her) name at will, without resort to legal proceedings, merely by adopting another name, as long as he (she) is not using that name for a dishonest purpose. For purposes of this charge, a false name is one that a person has assumed for a dishonest purpose.



## **Forgery, Alteration, etc., of Lottery Tickets**

### **Chapter 10, Section 30**

Whoever, with intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a state lottery ticket or share shall be punished by imprisonment in the state prison for not more than three years or in a jail for not more than two years or by a fine of not less than one hundred nor more than five hundred dollars.

#### **Elements:**

With specific intent to defraud

1. falsely makes (or)
2. alters (or)
3. forges (or)
4. utters (or)
5. passes (or)
6. counterfeits a state lottery ticket or share

#### **Right of Arrest:**

This is a three (3) year felony that is arrestable in presence or upon probable cause.

#### **Note:**

**Uttering** is the offering as genuine an instrument known to be forged with intent to defraud.

**Forgery** is committed either by falsely creating or making a legal instrument or by materially altering it with intent to deceive.

**Counterfeiting**, historically, is the unlawful making, in the similitude of the genuine article, of any false money, or of any false obligation or other security of the United States or of any foreign government. At common law counterfeiting is restricted to money and government obligations, while forgery covers the false making of multifarious instruments both private and governmental. By statute, counterfeiting has been expanded to include among others things, state lottery tickets.



## **Controlled Substances Act**

### **Chapter 94C, Section 31**

Massachusetts law has categorized controlled substances into five separate classes. The classes are defined according to the chemical make up of the drug; Class A being the most harmful, those in Class E are the least harmful.

#### **CLASS A**

HEROIN  
MORPHINE  
FLUNITRAZEPAM (aka **Ruffies**)  
GAMMA HYDROXY BUTYIC ACID (aka **Georgia Home Boy**)  
KETAMINE HYDROCHLORIDE (aka **Special K**)  
FENTANYL (aka Designer Heroin)  
CARFENTANYL

#### **CLASS B**

COCAINE  
CODEINE  
ANGEL DUST . . . . PCP . . . . PHENCYCLIDINE  
METHADONE  
OXYCONTIN and OXYCODONE  
AMPHETAMINES  
METHAMPHETAMINE  
PHENACYCLIDINE  
LYSERGIC ACID DIETHYLAMIDE (aka LSD)  
OPIUM  
P2P  
PCH  
PCC  
MDMA (aka **Ecstasy**)  
PHENMETRAZINE  
PERCODAN  
DILAUDID  
QUALUDES . . . . METHAQUALONE





**Controlled Substances Act**  
**Chapter 94C, Section 31**

**CLASS C**

VALIUM (DIAZEPAM)  
LIBRIUM (CHLORDIAZEPOXIDE)  
FLAURAZEPAM  
PRAZEPAM  
HALLUCINOGENIC  
MESCALINE  
PEYOTE  
PSILOCYBIN (aka MEXICAN MUSHROOM)  
TETRAHYDROCANNABINOL (aka THC)  
SYNTHETIC MARIJUANA(Scooby Snacks/Rice)  
BATH SALTS

**CLASS D**

MARIJUANA  
BARBITAL  
PHENOBARBITAL

**CLASS E**

ALL **OTHER** PRESCRIPTION DRUGS NOT LISTED IN OTHER CLASS

Appeals Court of Massachusetts,  
Essex.  
COMMONWEALTH v Jesus VELASQUEZ, Jr.

No cocaine was found on the defendant's person. The government may, however, under the label "constructive possession," prove that the defendant had knowledge of the unlawful drugs found in the basement, coupled with the ability and intention to exercise dominion over them.

Here, the utility and rent receipts in the name of Velasquez proved his more than casual connection with the apartment.. As to the apartment, the traffic pattern that Detective Melanson had observed and the barricade at the rear door tended to establish that it was a drug trading post. See Velasquez's blocking Sergeant Leeman from the bathroom until drugs were beyond retrieval provides a basis for inferring that Velasquez was more than an unlucky occupant of the apartment but was himself involved in the drug selling operation. See Commonwealth v. James, supra at 497, 570 N.E.2d 168; Nor at the time of the bust did the defendant\*\*402 disassociate himself from the drugs in the basement; rather he said he was going to jail for two years, a remark that can be taken as an expression of consciousness of guilt. The defendant's access to the basement area speaks to his ability to exercise dominion over the cocaine hidden there. See Commonwealth v. Gonzalez, 42 Mass.App.Ct. 235, 237, 675 N.E.2d 1177 (1997). That others in the building also had access to the basement and might have hidden drugs in the basement does not require a finding of not guilty in favor of Velasquez. Commonwealth v. Montanez, 410 Mass. 290, 306, 571 N.E.2d 1372 (1991). Compare (defendant did not constructively possess drugs in a common area of her apartment when no other evidence warranted an inference of her control over them)



## Controlled Substances Act

### Chapter 94C, Section 32

The following Sections of Chapter 94C deal with unlawful manufacturing, distributing, or possession with intent of controlled substances.

**Manufacturing:** the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis.

**Distribution:** to deliver other than by administering or dispensing a controlled substance.

*Administer* is the direct application of a controlled substance whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject by – a practitioner or a nurse at the direction of a practitioner in the course of his professional practice or an ultimate user or researcher subject at the direction of a practitioner in the course of his professional practice.

*Dispensing* is to deliver a controlled substance to an ultimate user or research subject or to the agent of an ultimate user or research subject by a practitioner or pursuant to the order of a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling, or compounding necessary for such delivery.

**Possession with intent:** to possess drugs with the purpose to distribute.

Some of the factors to be considered include quantity of drugs, packaging material, currency and drug paraphernalia.

Section **32** **CLASS A:**

- (a) 10 year felony (first offense)
- (b) a second or subsequent offense of any class drug, State Federal Law - not less than 5 years (mandatory minimum = 5 years) nor more than 15 years.

Section **32A** **CLASS B:**

- (a) 10 year felony (first offense) **SPECIAL SUBSECTION FOR P.C.P. AND COCAINE** (Subsection C)
- (b) a second or subsequent offense not less than \*3 years nor more that 10 years.  
\*(Mandatory minimum = 3 years)
- (c) for P.C.P. and Cocaine (first offense), not less than \*1 year, nor more than 10 years.  
\*(Mandatory minimum = 1 year at House of Correction)
- (d) any conviction of subsection C after one or more prior convictions of distributing or possession with intent of any class controlled substance in violation of any law, state, federal, or territorial - state prison not less than five nor more than fifteen years.

Section **32B** **CLASS C:**

- (a) 5 year felony (first offense)

Section **32C** **CLASS D**(an ounce or more)

- (a) 2 year misdemeanor (includes cultivates)

Section **32D** **CLASS E:**

- (a) 9 month misdemeanor



Appeals Court of Massachusetts,  
Middlesex.  
COMMONWEALTH  
v.  
Walter G. SAUER.

Following denial of his motion to suppress evidence by the District Court Department, Middlesex County, Cambridge Division, Jonathan Brant, J., defendant was convicted in the same court, Mark S. Coven, J., of operating motor vehicle while under influence of drugs, operating with a suspended license and possession of class E substance with intent to distribute. Defendant appealed. The Appeals Court, Beck, J., held that: (1) defendant was not subjected to custodial interrogation for *Miranda* purposes during traffic stop; (2) there was sufficient evidence that pills found in defendant's pocket and in his car were not for personal use, but were to be distributed; and (3) there was sufficient evidence to support defendant's conviction for operating under influence of drugs.

Affirmed.

After the defendant was arrested, the police searched his car and found twenty-four bank envelopes in the middle of the front seats. One of the envelopes contained a pill identical to those the defendant had in his pocket. The pills were carisprodol, a Class E substance. The Commonwealth charged the defendant with possession with intent to distribute. The defendant claims there was insufficient evidence to prove beyond a reasonable doubt that the pills were for anything other than personal use. We disagree. The police officers testified that based on their training and experience, including hundreds of drug arrests, they had seen drugs packaged for distribution in envelopes. The defendant's possession of thirty-one\*\*13 loose pills in his pocket is at best an uncommon way to carry pills for personal use. The presence of one bank envelope with a pill identical to the other thirty-one is more than sufficient to support an inference that the defendant intended to place the rest of the pills in the remaining bank envelopes for distribution.

**Com. v. Sepheus, 82 Mass. App. Ct. 765**

The two basic elements for conviction of possession with the intent to distribute cocaine are (1) knowingly possessing the drug and (2) intending to transfer it physically to another person

Sufficient evidence supported defendant's conviction for possession of cocaine with intent to distribute; defendant was found by police with three individually wrapped rocks of crack cocaine, he had \$312 in cash in his pocket, he carried no paraphernalia for ingesting the drugs, police expert testified that several of these facts suggested that defendant intended to distribute the drugs he possessed, and it could be inferred from the evidence that defendant had been located in an area known for drug sales for at least an hour, and was in the company of an individual who conducted a drug transaction in his presence



**Trafficking in Controlled Substances**  
**Chapter 94C Section 32E**

- A. **Marijuana** or any mixture containing marijuana

**50 lbs.**

- B. **Cocaine** or any salt there of

**18 grams**

- C. **Heroin**, morphine, (or their salts) or opium (or any derivative) or any mixture containing one of these

**18 grams**

- D. **Fentanyl** and derivatives

**10 grams**

*Subsection (c1/2) inserted by 2015, 136 effective February 22, 2016*

(c1/2) Any person who trafficks in fentanyl, by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth a net weight of more than **10 grams of fentanyl** shall be punished by a term of imprisonment in state prison for not more than 20 years.

For purposes of this subsection, "fentanyl" shall include any derivative of fentanyl and any mixture containing more than 10 grams of fentanyl or a derivative of fentanyl.

**CARFENTANIL**-any amount is trafficking



# Boston Police Academy

Police Officer John W. Ezekiel, Jr.

Training Bulletin 5-07  
(October 30, 2007)



## City Ordinance Prohibiting the Sale and/or Possession of Crack Pipes

### 16-51.1 Prohibition Against Sale

No person shall sell or display for sale a devise used to smoke freebase or crack cocaine known as a "crack pipe." A crack pipe is generally made from a small glass tube that is, on average, four (4") inches to five (5") inches in length and approximately one quarter (1/4") in diameter.

### 16-51.2 Prohibition Against Possession

No person shall possess a devise used to smoke freebase or crack cocaine known as a "crack pipe." A crack pipe is generally made from a small glass tube that is, on average, four (4") inches to five (5") inches in length and approximately one quarter (1/4") in diameter.

### 16-51.3 Penalty

A violation of these sections shall be punished by a fine in the amount of three hundred (\$300.00) dollars. Each and every crack pipe shall be considered to be a separate and distinct violation.

M.G.L c. 94C § 32I prohibits possession of drug paraphernalia with the intent to sell. It does not prohibit mere possession. Commonwealth v. Jasmin, 396 Mass. 653 (1986). M.G.L. c. 40 § 21D allows the officer to summons the individual on the first offense. After the first offense, the officer may arrest for a subsequent, and thus willful, violation of the possession ordinance pursuant to M.G.L. c. 272 §59.



**An Act Providing For  
Drug Free School Zones  
Chapter 94C, Section 32J**

G.L. c. 94C, § 32J

Effective August 2, 2012, St. 2012, c. 192, §§ 30-31 amended G.L. c. 94C, § 32J by reducing the size of the school zone area from 1,000 feet to 300 feet and by limiting the scope of the statute to offenses that occur between the hours of 5:00 AM and midnight. These changes apply to school zone drug violations committed on or after August 2, 2012.

For use with Instruction 7.800 (Distribution of, or Possession with Intent to Distribute, a Controlled Substance) or Instruction 7.840 (Sale of, or Possession with Intent to Sell, Drug Paraphernalia) where the complaint alleges that the violation occurred within 300 feet of school property.

First: That the offense was committed within **300** feet of the real property comprising (a public preschool, headstart facility, elementary, vocational or secondary school) (a private accredited preschool or private accredited headstart facility) (a private elementary, vocational or secondary school); and

Second: That the offense was committed between five o'clock in the morning and twelve o'clock midnight.

It does not matter whether or not the school, preschool or headstart facility was in session, but the Commonwealth must prove beyond a at the offense occurred between five o'clock in the morning and twelve o'clock midnight.

It is not necessary for the Commonwealth to prove that the defendant knew that he (she) was within 300 feet of the real property of a school, preschool, or headstart facility.

Commonwealth v. Bell, 442 Mass. 118, 125-126, 810 N.E.2d 796, 801-802 (20

**Right of Arrest**

This is a fifteen year felony arrestable in presence or on probable cause.

**Note:**

- This section is only applicable if the defendant is found guilty of one of the listed drug offenses.
- The statute provides for mandatory minimum sentence to be served consecutively with whatever sentence is given for the other drug violation(s).
- The statute further provides that the district courts have jurisdiction over this section and clearly states that lack of knowledge of school boundaries shall not be a defense.

The Massachusetts Appeals Court in the case of Com. v. Gonzales, 604 N.E. 2d 1317, (Mass. App. Ct. 1992), The court stated that the Commonwealth is required to produce sufficient evidence to establish that the school is one of the types enumerated in the statute. They further held that whether a particular school is an elementary, vocational or secondary school, for the purposes of the school zone statute, is not a proper subject of judicial notice at trial level, as a matter of common knowledge. "The arresting officer or any other witness may testify that the school in question is an elementary, vocational or secondary school if he or she has personal knowledge of that fact. A principal of the school, an employee of the school, or anyone associated with the school may testify as to the type of school.



## **Drug Free Play Grounds & Parks**

### **Chapter 94C Section 32J**

#### **PARK ZONE DRUG VIOLATION**

G.L. c. 94C, § 32J

#### **Jury Instruction**

(Distribution of, or Possession with Intent to Distribute, a Controlled Substance) or (Sale of, or Possession with Intent to Sell, Drug Paraphernalia) where the complaint alleges that the violation occurred within 100 feet of a public park or playground.

If you find the defendant guilty of the charge of , you must go on to consider whether the Commonwealth has proven beyond a reasonable doubt that the offense was committed within 100 feet of a public park or playground.

It is not necessary for the Commonwealth to prove that the defendant knew that he (she) was within that distance from a public park or playground.

Commonwealth v. Taylor, 413 Mass. 243, 596 N.E.2d 333 (1992) (§ 32J creates distinct offense which can be charged separately from underlying drug offense, although § 32J seems to contemplate that it will normally be tried together with underlying charge); Commonwealth v. Lawrence, 69 Mass. App. Ct. 596, 600, 870 N.E.2d 636, 640 (2007) (defendant need not intend to distribute drugs within public park or playground); Commonwealth v. Davie, 46 Mass. App. Ct. 25, 703 N.E.2d 236, 238-239 (1998) (based on dictionary definitions, case law, and statutes, the word “park” as used in § 32J is sufficiently clear to permit a person of average intelligence to comprehend what conduct is made criminal); Commonwealth v. Ramos, 45 Mass. App. Ct. 1119, 708 N.E.2d 152 (1999) (No. 98-P-43, March 24, 1999) (unpublished opinion under Appeals Ct. Rule 1:28) (same as to “playground”).

#### Elements:

1. Any person
2. who violates:
3. sections
  - a. 32 to 32D inclusive ( distribution or possession with intent to distribute class A to class E controlled substances) or
  - b. 32E (trafficking) or
  - c. 32F (Distribution or possession with intent to distribute class A through class C controlled substances to persons under the age of 18 years) or
  - d. 32I ( sell or possess with intent to sell drug paraphernalia, c94C,s27)
4. in, on or within 100 feet of a public park or playground.

#### **Right of Arrest**

This is a fifteen year felony arrestable in presence or on probable cause.

#### **Note:**

**M. G. L. c45,s.1** states "In this chapter "park" shall include a city or town common dedicated to the use of the public, or appropriated to such use without interruption for a period of twenty years".



**Counterfeit Substances;  
Unlawful Creation, Distribution, Dispensing or  
Possession with Intent to Distribute or Dispense  
Chapter 94C, Section 32G.**

Any person who knowingly or intentionally creates, distributes, dispenses or possesses with intent to distribute or dispense a counterfeit substance shall be punished by imprisonment in a jail or house of correction for not more than one year or by a fine of not less than two hundred and fifty nor more than two thousand and five hundred dollars, or both such fine and imprisonment.

**Right of Arrest:** This is a misdemeanor with a statutory right of arrest. (In presence only)

**Note:** This does not include "simple" possession.

**Inducing Minors to Distribute Controlled Substances  
Chapter 94C, Section 32K**

**Definition:**

Any person who knowingly causes, induces or abets a person under the age of eighteen to distribute, dispense or possess with the intent to distribute or dispense any controlled substance as defined herein, or to accept, deliver or possess money used or intended for use in the procurement, manufacture, compounding, processing, delivery, distribution or sale of any such controlled substance shall be punished by imprisonment in the state prison for not less than five years nor more than fifteen years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of five years and a fine of not less than one thousand nor more than one hundred thousand dollars may be imposed but not in lieu of the mandatory minimum five year term of imprisonment established therein.

**Elements:**

1. Knowingly causes, induces, or abets
2. A person under the age of eighteen, to
  - a. distribute, dispense or possess with the intent to distribute or dispense any controlled substance as defined herein, or
  - b. to accept, deliver or possess money used or intended for use in the procurement, manufacture, compounding, processing, delivery, distribution or sale of any such controlled substance.

**Right of Arrest:**

This is a fifteen year felony that is arrestable in presence or on probable cause.

**Note:**

- Black's Law dictionary has several definitions of the word "procure". Besides to initiate a proceeding; to cause a thing to be done, etc." it also includes "to obtain, as to intoxicating liquor, for another" and "to bring the seller and the buyer together so that the seller has an opportunity to sell."
- Notice that this statute is applicable to minors, not just juveniles. The statute refers to persons under the age of eighteen.





## **Unlawful Possession of Particular Controlled Substances, Including Heroin and Marijuana Chapter 94C: Section 34**

Section 34. No person knowingly or intentionally shall possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the provisions of this chapter. Except as provided in Section 32L of this Chapter or as hereinafter provided, any person who violates this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. Any person who violates this section by possessing heroin shall for the first offense be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than two thousand dollars, or both, and for a second or subsequent offense shall be punished by imprisonment in the state prison for not less than two and one-half years nor more than five years or by a fine of not more than five thousand dollars and imprisonment in a jail or house of correction for not more than two and one-half years. Any person who violates this section by possession of more than one ounce of marihuana or a controlled substance in Class E of section thirty-one shall be punished by imprisonment in a house of correction for not more than six months or a fine of five hundred dollars, or both. Except for an offense involving a controlled substance in Class E of section thirty-one, whoever violates the provisions of this section after one or more convictions of a violation of this section or of a felony under any other provisions of this chapter, or of a corresponding provision of earlier law relating to the sale or manufacture of a narcotic drug as defined in said earlier law, shall be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than two thousand dollars, or both

### **Right of Arrest:**

A misdemeanor in presence and a past misdemeanor right to arrest.

### **Note:**

Possession must be knowingly OR intentionally, hence there must be evidence that the defendant knew:

1. that he possessed it unlawfully,  
AND
2. that it was a controlled substance

Two or more persons may be in joint possession of the same drugs.

Comm. vs. Dinnall 314 N.E. 2nd. 903 (1974).

Possession doesn't require a showing that the drugs were on the person of the defendant. It is sufficient if they are found under his control, in his home or vehicle.

Comm. vs. Williams 330 N.E. 2nd. 502 (1975)

A momentary possession is sufficient. Comm. vs. Harvard 253 N.E. 2nd. 346, 349 (1969)

### **Possession:**

implies control and power, exclusive or joint

### **Constructive Possession:**

Knowledge and ability and intention to exercise dominion and control. Knowledge is not equivalent to possession. Comm. vs. Deagle 409 N.E. 2nd. 1347 (1980).



# Boston Police Academy

Lt. Det. Stephen Meade  
Lt. Michael A. Chapman

## Training Bulletin 2-08



### Initial Guidelines for the Implementation of MGL 94C-32L Non-Criminal Possession of an Ounce or Less of Marijuana.

- The new law takes effect at **one second after midnight, 12:00am on Friday, January 2, 2009.**
- The law decriminalizes possession of an ounce or less of Marijuana (under 94C class D) or THC, which, as a Class C drug, would then include one ounce or less of Hash and Hash Oil, provided they contain THC.
- Nothing contained within the language shall be construed to repeal or modify:
  - ➤ Existing laws, practices or policies concerning the operation of motor vehicles or other actions taken while under the influence of marijuana or THC;
  - ➤ Laws concerning the unlawful possession of prescription forms of marijuana or THC; or
  - ➤ Possession of more than one ounce of marijuana or THC, or knowingly or intentionally manufacturing, distributing, dispensing, cultivating, or trafficking in marijuana or THC, regardless of quantity.

#### 1. Search Issues:

- • Police officers still have the right to search for evidence and contraband, the change in the disposition does not change the fact that it is still contraband.
- • Police have the authority to detain for a civil violation based on a reasonable suspicion.
- • Smell, smoke or vegetable matter constitutes reasonable suspicion in the ordinary sense re 94C or 90-24 (drugs).
- • Smell is probable cause where an officer can demonstrate familiarity with the smell of marijuana. (See *Comm. v. Garden*, 451 Mass. 43 (2008)).
- • If packaged for distribution, and if other evidence of distribution is present, then an arrest can still be made and charges for possession with intent to distribute, Distribution under 94C-32E, School Zone Violations would still apply. The seized marijuana would have to be submitted to the lab for analysis as criminal evidence.



- • Even small amounts of marijuana may still be the subject of a legitimate search warrant.
- • An encounter may occur when the offender is on foot, or in a vehicle.

## **2. Offender Identification Issues**

- • With regard to requiring an individual possessing a “Non-Criminal” amount of marijuana, the language in the proposed law is deficient, and will need legislative correction as soon as possible, however legislative modifications will not be made prior to implementation and Officers should be aware of the following:
- • There is currently no requirement in the law that a person positively identify themselves, through accepted forms of identification such as a Mass Driver’s License or Mass ID, or that the officer be able to confirm the identity of the person through record checks available through Operations or other means.
- • The new M.G.L. c. 94C, § 32L does not provide officers with any explicit enforcement authority concerning the civil encounter;
- • An offender who refuses to identify themselves for an officer cannot be arrested for failure to produce a form of identification;
- • There is no authority to search for identification, however officers have a reasonable amount of time to identify an offender;
- • An officer may query the given name and info through CJIS in an attempt to verify the provided information;
- • This lack of authority given to officers to identify offenders will in certain cases, prevent officers from properly issuing citations to offenders (especially juveniles).

## **3. Issuing the Citation**

- The current City of Boston Ordinance Violation ticket books issued under the guidelines of MGL Chapter 40, Section 21D will be utilized for issuing the \$100.00 citations for possession of an ounce or less of marijuana.
- The citation forms will be upgraded in the future to reflect the Non-Criminal Marijuana Possession charge, for the time being, officers issuing a civil citation under 94C-Sec 32L should check off the “Other Ordinance” box on the upper right corner of the citation. The “Application for Complaint” portion of the citation on the lower left should contain the basic facts of the incident to sustain the charge, for example, “Violator was found in possession of one plastic bag of marijuana”, etc.
- The citation can be issued in hand or mailed to the offender.
- The procedure for processing the marijuana civil citation will remain the same as the procedure for processing any other City Ordinance Violations.
- The Boston Municipal Court (BMC) will receive a copy of the citation as well as the BPD Licensing Unit.
- The Licensing Unit will track and notify the BMC when the citation has been paid. Likewise, the Licensing Unit will notify the BMC when the fine has not been paid, so that a civil hearing can be scheduled by the court and the offender notified of the hearing date.



- The offender has a right to request a hearing at the BMC on the non-criminal marijuana possession charge. The decision of the Clerk Magistrate is final. There is no further right of appeal.

#### **4. Issuing Citations to Youthful Offenders**

- If the offender is under the age of 18, the new law mandates that the youthful offender must complete an approved drug awareness program or community service program within a year, or be subject to a fine of \$1,000.00 that the youthful offender and his/her parents will be jointly liable for. DYS is to develop the drug awareness program.
- In addition to providing the youthful offender with a copy of the citation, the officer issuing a citation must also deliver or mail a copy of the citation to the parents of the youthful offender. The youthful offender is responsible for the initial \$100 fine. A copy of a form letter to accompany the citation for the parent/guardian is attached to this memo. (See attached Appendix A)

#### **5. Determining Weight of Seized Marijuana**

- The Police Academy will prepare instruction for officers as to the size and appearance of an ounce of marijuana. An ounce equals 28 grams. The weight does not include weight of any container the marijuana may be in (baggie, tin canister, aluminum foil, Tupperware container, etc.). Officers should familiarize themselves with the size and appearance of an ounce of marijuana.
- Digital scales will be obtained and maintained in all district stations. In the event that there is a question as to the weight during a seizure of marijuana, it is suggested that the offender's information be taken, the offender be released and the seized drugs be taken to the station and weighed. Should the weight exceed an ounce then a criminal complaint shall be sought, if not, a non-criminal citation shall be prepared and mailed.

#### **6. Processing Seized Marijuana**

- As of this time, non-criminal seizures of marijuana will be processed in the same manner as other drug seizures.
- A BPD 1.1 will be generated. The citing officer shall include in the report all pertinent information that clearly states the reasons why the officer believes the contraband to be marijuana.
- The seized drugs will be logged in at the station and deposited in the District drug drop-safe in the same manner as accorded in rules and regulations, except that the non-criminal contraband will not be forwarded by the Drug Depository to the State Lab for analysis, the drugs will be held for sixty (60) days, pending appeal. After such time, the drugs will be marked for destruction by Drug Depository personnel and held pending drug destruction procedures.
- It is the opinion of the Executive Office of Public Safety and Security (EOPSS) that neither a laboratory analysis nor expert testimony is necessary to prove, by a preponderance of the evidence standard, that a substance is marijuana. EOPSS further opined that a detailed police report including the circumstances in which the substance was seized, the violator's statements and the officer's training and experience, together with presentation of the evidence in court, should suffice to be successful at the district court hearing on the matter.
- A sticker will be created by the Drug Depository to place on the outside of the Drug Depository Manila Envelope to identify that the contents of the envelope are contraband from a non-criminal drug seizure. This sticker will make non-criminal drug seizures easily



identifiable for Drug Depository personnel and will prevent the drugs from being forwarded to the State Lab for analysis.

- Until these stickers are available, the officer should clearly mark the outside of the front of the manila envelope **“Non-Criminal Seizure,”** preferably with a black marker.
- If there are arrestable offenses as a result of a search pursuant to the seizure of marijuana, the non-criminal marijuana seized should be submitted to the State lab for analysis as evidence in support of the search that led to the arrestable charges. For example, if an officer seizes marijuana and a search for any other marijuana reveals the suspect in possession of a firearm, it will be important later in the criminal trial that the marijuana evidence be maintained and analyzed.

## Appendix A

### Notice to Parent/Guardian

A child under your guardianship, who is under 18 years old, has been cited as a civil offender for the possession of an ounce or less of marijuana pursuant to Section 32L of Chapter 94C. The civil penalty is \$100, as indicated on the enclosed citation form. In addition, within one year of the date of the offense listed on the citation, the child must complete a drug awareness program, consisting of a minimum of four hours classroom instruction or group discussion and ten hours of community service, and file a certificate of completion of the program with the Clerk of the District Court listed on the enclosed citation.

If a certificate of completion is not filed within one year of the offense, the Clerk shall notify the offender, parent, or guardian and the enforcing person who issued the original notice to the offender of a hearing to show cause why the civil penalty should not be increased to \$1000. **Both the offender and the parents/guardians will be jointly and severally liable to pay any increased penalty.**

Failure to complete a compliant drug awareness program and any required community service within one year may also lead to delinquency proceedings for offenders under the age of seventeen at the time of the offense. Please consult MGL 94C, sections 32L-32N for details.

For more information about drug awareness programs, please contact the Department of Youth Services at 617-727-7575.



**Commonwealth v Humberto 466 Mass 562(Nov. 2013)****Case Summary**

A juvenile had entered school late and a school administrator smelled a strong odor of marijuana. He was taken to school nurse where an administrative search was conducted. The administrator located five bags of marijuana in a “second pair of shorts under his pants”. Boston School police arrested the juvenile and charged him with Possession of Marijuana with intent to Distribute.

The defendant moved to dismiss the case at arraignment arguing the police lacked probable cause for Possession of Class D with Intent to Distribute. To establish probable cause, the complaint application must set forth “reasonably trustworthy information sufficient to warrant a reasonable or prudent person in believing that the defendant has committed the offense.”(*Commonwealth v. Roman*). The question was not whether they had probable cause for possession but probable cause for intent to distribute. Officers must keep in mind that the report writing is critical for probable cause regarding each element for each crime charged as well as courtroom testimony. The Massachusetts Supreme Court dismissed this case for lack of probable cause.

*Take Home Points*

Police Officer must answer the question in their police reports why the suspect is being charged with Possession with Intent to Distribute. This case is a good reminder that just a specific number of bags of marijuana may not make it past probable cause. Remember be specific because details are the most important aspect of a police report. For distribution of drugs make sure that certain items are included like the suspect’s actions prior to arrest. For example the suspect was in and out of an ally, walking up to several cars, the amount of drugs, the street value of the drugs recovered, drug paraphernalia like a scale, cutting agents, baggies, the amount of money recovered and communication methods like cellphones. The list can be extensive but officer must show why the suspect was intending to distribute the drugs in his possession.

Officers should also keep in mind that Possession with Intent to Distribute Heroin or Cocaine is different because straight possession of those substances are arrestable. Straight Possession of less than an ounce of marijuana is not an arrestable offense but a civil citation should be issued.

- Weight of the drugs
- Street value of the drugs \*(include a value estimation in report)
- Possession of large amount of cash
- Packaging of the drugs
- Lack of personal use of paraphernalia
- Possession of scales
- Possession of multiple cell phones
- Air fresheners
- Books, ledgers, notes, records indicating sales, customers,
- Where the drugs are found
- Actions of the suspect



## **Medical Marijuana**

### **Chapter 369**

### **Medical Marijuana**

Massachusetts voters approved the legal cultivation, processing, distribution, sale, and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana.

The Act protects doctors, health care professionals, qualifying patients, caregivers, and dispensary agents from prosecution under state law.

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

## **Legalization of Marijuana**

### **Question 4-November 2016**

### **Personal use of Marijuana**

(a), a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

- (1) possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate
- (2) within the person's primary residence, possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and possessing, cultivating or processing not more than 6 marijuana plants for personal use so long as not more than 12 plants are cultivated on the premises at once





**A Police Officer shall have the Authority to Arrest without a Warrant:**  
**Chapter 94C: Section 41**

- (a) any person committing in his presence any offense set forth in this chapter.
- (b) any person committing a felony in this chapter in presence or on probable cause (naturally).
- (c) any person whom he has probable cause to believe has committed or is committing a violation of the provisions of sections:
  - 27 - unlawful sale or possession of hypodermic needle, or syringe(misdemeanor).
  - 32 - knowingly or intentionally, unlawfully manufactures, distributes, or possesses with such intent. Class A - 10 year felony.  
second & subsequent offense, not less than 5 years nor more than 15 years and a fine may be imposed.
  - 32A - knowingly or intentionally manufactures, distributes, dispenses, or possesses with such intent Class B substances, OTHER THAN P.C.P.
    - (a) 10 year felony.
    - (b) second & subsequent offense, not less than 3 years, nor more than 10 year fine  
MANDATORY MINIMUM 3 years.
    - (c) dispense etc. & possess with intent P.C.P. 10 year felony.  
no sentence shall be less than MANDATORY MINIMUM OF ONE YEAR.
  - 32B - (a) knowingly, or intentionally manufactures, distributes, dispenses, or possesses with such intent Class C substances - 5 year felony.  
(b) second & subsequent offense, not less than 2 1/2 years to not more than 10 years.  
no less than 2 years MANDATORY MINIMUM SENTENCE.
  - 32C - (a) knowingly or intentionally manufactures, distributes, dispenses, or possesses with such intent Class D 2 year misdemeanor. Statutory right of arrest and past misdemeanor right.  
(b) second & subsequent offense not less than 1 year, nor more than 2 1/2 years, OR fine of not less than \$1,000.00 nor more than \$10,000.00 OR by BOTH
  - 32D - (a) knowingly & intentionally manufactures, distributes, dispenses or possesses with such intent Class E substances, 9 month misdemeanor or fine of \$250.00 - \$2,500.00. Statutory right & past misdemeanor right of arrest.  
(b) second & subsequent offense, jail or House of Correction, not more than 1 1/2 years OR fine of not less than \$500.00 nor more than \$5,000.00, OR BOTH.
  - 32E - Trafficking - LARGE AMOUNTS
  - 32F - (a) any person knowingly or intentionally manufactures, dispenses, distributes or possesses with such intent . . . to a person under 18 years:
    - Class A - not less than 5 nor more than 15 years & fine.
    - Class B - not less than 3 nor more than 15 years & fine.
    - Class C - not less than 2 1/2 nor more than 15 years & fine.
  - 33 - (a) knowingly & intentionally using a registration number which is fictitious, revoked, suspended or issued to another person.  
(b) uttering a false prescription for a controlled substance by means of forgery, fraud, deception subterfuge, including but not limited to the forgery or falsification of a prescription or the non disclosure of a material fact in order to obtain a





controlled substance from a practitioner.

THIS SECTION IS A 4 YEAR FELONY

second & subsequent becomes an EIGHT YEAR FELONY.

Chapter 94c: 34 PARTICULAR CONTROLLED SUBSTANCES: INCLUDING  
HEROIN AND MARIJUANA - UNLAWFUL POSSESSION  
Chapter 94c: 35 UNLAWFULLY PRESENT AT A PLACE WHERE HEROIN IS  
KEPT OR BEING IN COMPANY OF PERSON IN POSSESSION  
THEREOF

Elements:

1. Knowingly present at a place where heroin is kept or deposited  
OR
2. KNOWINGLY in the company of a person who unlawfully possesses heroin

Rights of Arrest

1 year misdemeanor in presence or on probable cause for HEROIN ONLY.

Chapter 94c: 37 WHOEVER STEALS A CONTROLLED SUBSTANCE FROM:  
(a) registered manufacturer  
(b) wholesale druggist  
(c) pharmacy OR  
(d) person authorized to dispense or possess any controlled substance

THIS IS A TEN YEAR FELONY

Chapter 94c: 40 WHOEVER CONSPIRES WITH ANOTHER PERSON TO  
VIOLATE ANY PROVISIONS OF THIS CHAPTER:  
Punishable by up to the same punishment of whichever section is  
conspired against.

CONSPIRACY:

An agreement by two or more persons to do an unlawful act or to accomplish a  
lawful act by unlawful means. The crime is complete when the agreement or  
conspiracy is made.



## **Protective Custody(Alcohol)**

### **Chapter 111B**

#### **Definition:**

Incapacitated is the condition of an intoxicated person, who by reason of the consumption of intoxicating liquor is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage to property, or (4) disorderly.

Any person who is incapacitated may be ASSISTED by a police officer WITH or WITHOUT his consent to

1. his residence
2. a facility
3. police station.

For the purpose of this chapter only, the officer may request the person to submit to reasonable tests of coordination, coherency of speech and breath.

If taken to the station, shall have the right and be informed in writing of said right to request and be administered a breathalyzer test. Results as follows:

- .00 - .05 Released forthwith
- .06 - .09 no presumption
- .10 and up presumption of drunkenness

1. Any person held - has the right and be informed of right to 1 phone call.
2. Officer in charge of station must notify nearest facility and if available, provide transport.
3. Upon arrival at facility, the transporting officer must inform of right to one phone call at other person's expense.
4. If incapacitated person is UNDER 18 and is to be held at station, parent or guardian must be notified forthwith upon arrival, or as soon as possible.
5. If no facility is available, the incapacitated person may be held up to 12 hours or until he is no longer incapacitated.
6. A record of custody kept with specified data. The record is not to be treated as an arrest or criminal record.

Chapter 111B Section 10 provides that if the parent or guardian of a person under 18 years of age that is being held requests his release, he must be released. This is also required by Rule 318A Section 7 of the Boston Police Rules and Regulations . . . All rights afforded any person under this chapter shall apply to juveniles.

#### **Note:**

The P.C. Law does not apply to persons incapacitated as a result of using drugs.



## **Protective Custody(Drugs)**

### **Chapter 111E**

**Section 9A: Incapacitated persons placed into protective custody without consent for transport to appropriate emergency medical treatment**

Text of section added by 2016, 161, Sec. 1 effective July 1, 2016. See 2016, 161, Sec. 2.

Section 9A. For purposes of this section, "incapacitated" shall mean the condition of a person who, by reason of the consumption of a controlled substance or toxic vapor or other substance other than alcohol is: (i) unconscious; (ii) in need of medical attention; (iii) likely to suffer or cause physical harm or damage property; or (iv) disorderly.

Any person who is incapacitated may be placed into protective custody by a police officer without the person's consent for the purpose of immediately transporting the person to an acute care hospital or satellite emergency facility as defined in section 51 1/2 of chapter 111 or otherwise immediately obtaining appropriate emergency medical treatment. For the purposes of this section, to determine whether or not a person is incapacitated, a police officer may request the person to submit to reasonable tests of coordination, coherency of speech and breath. A police officer may place the person into protective custody when such tests or other information or observations indicate that the person is incapacitated. Whenever a police officer places into protective custody a person under the age of 18 in accordance with this section, the police officer shall notify the parent or guardian of that person forthwith.

A person may not be held in protective custody against the person's will beyond the time required to complete the person's immediate transport to an acute care hospital or satellite emergency facility as defined in section 51 1/2 of chapter 111, or to otherwise immediately obtain appropriate emergency medical treatment.

A police officer acting in accordance with this section may use such force as is reasonably necessary to carry out the officer's authorized responsibilities. If the police officer reasonably believes that there may be a risk to the safety of the incapacitated person, the safety of the officer or the safety of other persons present, the police officer may search the person and the immediate surroundings of the person placed into protective custody but only to the extent necessary to discover and seize any items or weapons which may pose a danger. Any item taken shall be inventoried and, unless the item is contraband or otherwise unlawfully possessed, shall be returned to the person when the person is no longer incapacitated.

A person placed under protective custody in accordance with this section shall not be considered to have been arrested or to have been charged with any crime. An entry of custody shall be made indicating the date, time, place of custody, the name of the assisting officer and the name of the officer in charge. No such entry shall be treated as an arrest or criminal record for any purpose.



**Restraint; Licensed Physician, Qualified Psychologist (in part)**  
**Chapter 123: Section 12**

- (a) Any physician who is licensed pursuant to section two of chapter one hundred and twelve or a qualified psychologist licensed pursuant to sections one hundred and eighteen to one hundred and twenty-nine, inclusive of said chapter one hundred and twelve, who after examining a person has reason to believe that failure to hospitalize such a person would create a likelihood of serious harm by reason of mental illness, may restrain or authorize the restraint of such person and apply for the hospitalization of such person for a ten day period at a public facility or at a private facility authorized for such purposes by the department. If an examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to such an examination, the physician or qualified psychologist on the basis of the facts and circumstances may determine that hospitalization is necessary and may apply therefore, in an emergency situation, if a physician or qualified psychologist is not available, a police officer, who believes that failure to hospitalize a person would create a likelihood of serious harm by reason of mental illness may restrain such person and apply for the hospitalization of such person for a ten day period at a public facility or a private facility authorized for such purpose by the department. An application for hospitalization shall state the reasons for the restraint of such person and any other relevant information which may assist the admitting physician or physicians. Whenever practicable, prior to transporting such person, the applicant shall telephone or otherwise communicate with a facility to describe the circumstances and known clinical history and to determine whether the facility is the proper facility to receive such person and also to give notice of any restraint to be used and to determine whether such restraint is necessary.

**NOTE:**

This is the section that covers what is commonly known as the "PINK SLIP" commitment. In modern times, the chance of a physician or qualified psychologist not being available is remote. Officers should make themselves aware of the policy of their own department relative to this situation.



## **Alcoholic Beverages**

### **Chapter 138, Section 1**

#### **Definition:**

Any liquid intended for human consumption as a beverage and containing 1/2 of 1 percent or more of alcohol by volume at 60 degrees Fahrenheit.

## **Alcoholic Beverages; Transportation of**

### **Chapter 138, Section 22**

#### **Elements:**

Authorized transporting

1. any person may
2. for his own use or for that of his family and guests
3. transport without license
4. **1** gallon of straight alcohol  
**3** gallons of alcoholic beverage (whiskey)  
**20** gallons of malt beverage (beer)

#### **WHEN MOVING**

Person may from old residence to new transport alcoholic beverage made by him for his own use.

#### **Right of Arrest**

For unlawfully and knowingly transporting alcohol or alcoholic beverages, fine of not more than \$2,500 or by imprisonment for not more than 6 months or both.

Statutory Right of Arrest and Seizure c 138, s 56

Licensees for the sale of alcohol may transport and deliver if each vehicle used for such transportation and delivery is covered by a permit issued by Alcohol Beverage Control Commission.



**Alcoholic Beverages; Procuring for Person under 21 Years of Age**  
**Chapter 138, Section 34**

**Elements:**

1. sale or delivery of any alcoholic beverages
2. to any person under 21
3. OR procure for same not being his child, ward, or spouse in establishment licensed under Section:  
15 -- package store  
19B -- farmer, winery  
19C -- farmer, brewery

**Right of Arrest:**

This is a six month misdemeanor with a statutory right of arrest under Chapter 138, Section 56.

**Note:**

Person 18 years or older may be employed for the direct handling or selling of alcoholic beverages.

**Alcoholic Beverages; Procuring by**  
**False Representation / Sale or Delivery to Person**  
**Under 21 Years of Age**  
**Chapter 138, Section 34A**

**Elements:**

1. person under 21
2. purchases, attempts to purchase, makes arrangement to procure, willfully misrepresents his age or alters or otherwise falsifies his identification for such intent
3. for his own use or the use of any other person

OR

1. whoever knowingly makes a false statement of age of person under 21
2. or induces person under 21 to make a false statement

**Right of Arrest:**

This is a \$300.00 misdemeanor with no statutory right of arrest



## **Liquor Purchase Identification Cards**

### **Chapter 138, Section 34B**

#### **Elements:**

1. any person 21 years or older may apply
2. issued by registry
3. fee of \$5.00
4. shall bear name, signature, date of birth, address and photograph

Any person working in a licensed premise relying on this ID. or valid driver's license shall not suffer.

ANY PERSON who transfers, alters or defaces such card or license

OR

whoever makes, uses, carries, sells or distributes a false ID. card or license or used the ID. card or motor vehicle license of another or furnished false information in obtaining such card or license shall be guilty of a misdemeanor punishable by 3 months or \$200.00 fine.

#### **Right of Arrest:**

This misdemeanor is arrestable in presence by statute.

This is punishable by a fine of not more than \$200.00 or by imprisonment for not more than 3 months.

#### **NOTE:**

Upon conviction of this statute, the court shall notify the registrar, who shall immediately revoke the license, right to operate or registration of the defendant one year.



## **Alcoholic Beverages-Possession by Person Underage**

### **Chapter 138, Section 34C**

#### **Definition:**

Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses, transports or carries on his person, any alcohol or alcoholic beverages, shall be punished by a fine of not more than fifty dollars for a first offense and not more than one hundred and fifty dollars for a second or subsequent offense; provided, however, that this section shall not apply to a person between the ages of eighteen and twenty-one who knowingly possesses, transports or carries on his person, alcohol or alcoholic beverages in the course of his employment. A police officer may arrest without a warrant any person who violates this section. A conviction of a violation of this section shall be reported forthwith to the registrar of motor vehicles by the court if, at the time of the violation, the defendant was operating a motor vehicle upon a public way or a way to which the public had a right of access as invitees or licensees, and said registrar may suspend for not more than three months the license of such person to operate a motor vehicle.

#### **Elements:**

First: That the defendant knowingly or intentionally supplied, gave, or provided a beverage to someone, or allowed someone to possess a beverage on premises or property owned or controlled by the defendant;

Second: That the person to whom the beverage was furnished was under 21 years of age;

Third: That the beverage in question was alcohol or an alcoholic beverage; and

Fourth: That the defendant knew that the beverage was alcohol or an alcoholic beverage.

Statute does not criminalize parent giving alcohol to own child in parent's own home. The legislative intent of G.L. c. 138, § 34 was to allow parents the freedom to decide whether they wish to provide alcohol to their own children without fear of criminal liability, "regardless whether that act is characterized as furnishing or delivering." Commonwealth v. Parent, 465 Mass. 395, 410 (2013).

#### **Right of Arrest:**

This misdemeanor has a statutory right of arrest, (in presence).

#### **Note:**

This section shall not apply to persons between the ages of 18 and 21 who knowingly possesses, transports or carries on his person, alcohol or alcoholic beverages in the course of his employment.





Alcohol as mentioned in this section would refer to drinking alcohol a.k.a. ethyl alcohol or ethanol. Alcoholic beverages are defined in section 1 of Chapter 138 "as any liquid intended for human consumption as a beverage and containing one half of one percent or more of alcohol by volume at sixty degrees Fahrenheit.

2. Defendant under age of 21 may be prosecuted under this statute. See *Commonwealth v. Kneram*, 63 Mass. App. Ct. 371, 375 (2005).

3. Knowledge of age is not required. "Generally, when age is a factor in an offense, the government is not required to prove that the offender knew the age of the person to whom age is relevant, whether that person be victim or collaborator." *Commonwealth v. Montalvo*, 50 Mass. App. Ct. 85, 87 (2000) (citing G.L. c. 138, § 34). The Supreme Judicial Court has held that the earlier versions of G.L. c. 138, § 34 imposed strict criminal liability with respect to the age of the person obtaining alcohol. *Commonwealth v. Corey*, 351 Mass. 331, 333 (1966); *Commonwealth v. Gould*, 158 Mass. 499, 507 (1893) ("Knowledge that the purchaser was a minor was not essential to the offense.").

4. "Furnish." This term is defined in G.L. c. 138, § 34 as "to knowingly or intentionally supply, give, or provide to or allow a person under 21 years of age except for the children and grandchildren of the person being charged to possess alcoholic beverages on premises or property owned or controlled by the person charged. Nothing in this section shall be construed to prohibit any person licensed under this chapter from employing any person 18 years of age or older for the direct handling or selling of alcoholic beverages or alcohol. Notwithstanding the provisions of clause (14) of section 62 of chapter 149, a licensee under this chapter may employ a person under the age of 18 who does not directly handle, sell, mix or serve alcohol or alcoholic beverages."

5. "Alcohol." This term is defined in G.L. c. 138, § 1 as "all alcohol other than denatured alcohol or alcohol described in section three hundred and three A of chapter ninety-four." Section 303A of G.L. c. 94 provides:

"No person other than a registered druggist shall engage in the business of manufacturing, buying, selling, transporting, importing, exporting or dealing in methyl alcohol, or wood alcohol, so called, or any preparation, other than shellac varnish or shellac solvent or paint remover or varnish remover, used for manufacturing or commercial purposes which contains more than three per cent of methyl alcohol and is intended for use other than as a beverage, without being licensed so to do as provided in section three hundred and three B" (emphasis added).

6. "Alcoholic beverages." This term is defined in G.L. c. 138, § 1 as "any liquid intended for human consumption as a beverage and containing one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit."



## **Alcoholic Beverages; Rights of Arrest Under**

### **Chapter 138, Section 56**

Police Officer may arrest without a warrant any person he finds in the act of illegally:

**Selling**

**Exposing for sale**

**Exporting**

**Keeping for sale**

**Manufacturing**

**Importing**

**Storing**

**Transportation**

and seize the said beverages or alcohol and any vessels and implements of manufacture or sale in the possession of such person and detain them until warrants can be procured against such person, and for the seizure of said beverages or alcohol, vessels and implements, under this chapter.

## **Sales or Deliveries of Alcoholic Beverages**

### **in Times of Riot or Great Public Excitement**

#### **Chapter 138, Section 68**

The mayor of a city and the selectmen of a town may, in cases of riot or great public excitement, order licensees under this chapter not to sell, give away or deliver any alcoholic beverages on the licensed premises for a period not exceeding three days at any one time. Whoever, himself or by his agents or servants, sells, gives away or delivers any such beverages in violation of an order given under the provisions of this section shall be punished by a fine of two hundred dollars, and upon conviction, his license shall be revoked by the licensing authority.



## Definitions of a Firearm

### Chapter 140, Section 121

**"Firearm", a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured;** provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk- through metal detectors.

A *"sawed-off shotgun"* shall mean any weapon made from a shotgun whether by alteration, modification or otherwise, if such a weapon, as modified has one or more barrels less than 18 inches in length or as modified has an overall length of less than 26 inches.

A *rifle* is a weapon having a rifled bore with a barrel length equal to or greater than 16 inches, capable of discharging a shot or bullet for each pull of the trigger.

A *shotgun* is a weapon having a smooth bore with a barrel equal to or greater than 18 inches with an overall length equal to or greater than 26 inches, capable of discharging a shot or bullet for each pull of the trigger.

"Ammunition", cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term "ammunition" shall also mean tear gas cartridges.

An *"Assault weapon"*, shall have the same meaning as a semiautomatic assault weapon as defined in the Federal public safety and Recreational Firearms Use Protection Act, 18 USC section 921 (a) (30), and shall include, but not limited to, any of the weapons, or copies or duplicates of the weapons, of any caliber, known as: Avtomat *Kalashnikov (AK) all models* Action Arms Israeli Military *Industries UZI* and *Galil* Beretta Ar70 (SC-70) Colt AR- 15 Fabrique National FN/FAL, FN/LAR and FNC SWD M-10, M-11, M-1 1/9, and M-12 Steyr AUG Intratec TEC-9, TEC-DC9 and TEC-22 and

"Large capacity feeding device", (i) a fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five shotgun shells; or (ii) a large capacity ammunition feeding device as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(31) as appearing in such section on September 13, 1994. The term "large capacity feeding device" shall not include an attached tubular device designed to accept, and capable of operating only with,.22 caliber ammunition.



"Large capacity weapon", any firearm, rifle or shotgun: (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (iii) that employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or firearm and more than five shotgun shells in the case of a shotgun or firearm; or (iv) that is an assault weapon. The term "large capacity weapon" shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and shall not include: (i) any weapon that was manufactured in or prior to the year 1899; (ii) any weapon that operates by manual bolt, pump, lever or slide action; (iii) any weapon that is a single-shot weapon; (iv) any weapon that has been modified so as to render it permanently inoperable or otherwise rendered permanently unable to be designated a large capacity weapon; or (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable large capacity weapon.

**NOTE:**

The term Large capacity feeding device shall not include an attached tubular device designed to accept, and capable of operating only with a .22 caliber ammunition.

A "Large capacity weapon" any rifle, firearm, or shotgun:

That is semiautomatic with a fixed large capacity feeding device;

That is a semiautomatic and capable of accepting or readily modifiable to accept, any detachable large capacity feeding device;

That employs a rotating cylinder capable of accepting more than (10) ten rounds of ammunition in a rifle and more than (5) five shotgun shells in the case of a shotgun or firearm; or, That is an assault weapon

*The term large capacity weapon shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and SHALL NOT include:*

**Any weapon that was manufactured in or prior to the year 1899; Any weapon that operates by manual bolt, pump, lever, or slide action . Any weapon that is a single-shot weapon. Any weapon that has been modified so as to render it permanently inoperable or otherwise rendered**



## COMMONWEALTH vs. CHEVASSE WHITE

452 Mass. 133

A jury in the Superior Court convicted the defendant, Chevasse White, of unlawful possession of a firearm in violation of G. L. c. 269, § 10 (a).

**Background.** The charges against the defendant arose in connection with an apparent gun battle outside a building in the Jamaica Plain section of Boston that housed a laundromat and a car wash. Since sufficiency of the evidence is in issue and affects the challenged instruction as well, we summarize the trial testimony. An eyewitness, Alice McLaughlin, who was standing across the street from the building, heard numerous gunshots coming from the area of the car wash and saw people "diving on the ground, running for cover, hiding behind things." When the gunfire had died down, she saw two young black men in front of the laundromat. One of the men was holding a gun that she saw him put in the waistband of his pants. She described this man as wearing a "black Fubu jacket with white lettering on it." The men then walked toward the rear of the laundromat and car wash. At the time she saw the man with the gun, the witness was approximately twenty-five feet from the men, and her view of them was unobstructed.

Officer Edwin Guzman and his partner arrived at the scene in the immediate aftermath of the gunfire. They had been traveling on Washington Street in a police cruiser when they observed a man outside the car wash crouching down, nervously trying to signal them. When they stopped, the man told them that a shooting had just taken place and that the persons involved had run to the rear of the car wash. Guzman reported the shooting to the police operations division, and he and his partner headed on foot in the direction in which the men had fled. When they got to the rear of the car wash, they encountered the defendant and his cousin coming out of an exit door. The door was at the end of a narrow hallway that ran the length of the building.

The defendant was wearing a black jacket with the letters "FB" on the back. A pat-down of the defendant revealed that he was unarmed. The defendant and his cousin were brought to the front of the car wash, where McLaughlin, who by then had been interviewed by another officer, identified the man with the Fubu jacket as the man she had seen with the gun.

Approximately twenty minutes later, a working firearm was recovered from an air vent in the hallway from which the defendant and his cousin had exited. Another working firearm was found on a street near the car wash. No fingerprints were recovered from the weapons, however, and none of the bullets, bullet fragments, or shell casings from the scene could be linked to either weapon.

To sustain a conviction under G. L. c. 269, § 10 (a), the Commonwealth must prove that the defendant knowingly possessed a firearm without either being present in his residence or place of business or having in effect a license to carry firearms or a firearm identification card. The Commonwealth must prove that the gun the defendant possessed met the definition of a working firearm set forth in G. L. c. 140, § 121, that is, that it had a barrel less than sixteen inches long and was capable of discharging a bullet. G. L. c. 269, § 10 (a). Since McLaughlin did not describe the gun (and thereby potentially establish that the barrel was of the requisite length) or see the defendant fire it (and thereby potentially establish that it was capable of firing), the defendant could not be convicted unless the evidence was sufficient to establish that he had possessed one of the firearms recovered from the scene and later tested by the Commonwealth.

The evidence, and the reasonable inferences to be drawn therefrom, were sufficient to convict the defendant. An eyewitness observed a man, later identified as the defendant, holding a gun; the same man was seen coming from the hallway of the car wash, without the gun; a gun was discovered shortly thereafter in the area from which the defendant had recently emerged. A jury could reasonably infer that the defendant had placed the gun in the air vent while he was in the hallway.



**License to Carry Class "A" and Class "B"**  
Chapter 140, Section 131

**(a) A Class A license** shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) firearms, including large capacity firearms, and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of firearms as the licensing authority deems proper; and (ii) rifles and shotguns, including large capacity weapons, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as it deems proper. A violation of a restriction imposed by the licensing authority under the provisions of this paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

The colonel of state police may, after an investigation, grant a Class A license to a club or facility with an on-site shooting range or gallery, which club is incorporated under the laws of the commonwealth for the possession, storage and use of large capacity weapons, ammunition therefor and large capacity feeding devices for use with such weapons on the premises of such club; provided, however, that not less than one shareholder of such club shall be qualified and suitable to be issued such license; and provided further, that such large capacity weapons and ammunition feeding devices may be used under such Class A club license only by such members that possess a valid firearm identification card issued under section 129B or a valid Class A or Class B license to carry firearms, or by such other persons that the club permits while under the direct supervision of a certified firearms safety instructor or club member who, in the case of a large capacity firearm, possesses a valid Class A license to carry firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B license to carry firearms. Such club shall not permit shooting at targets that depict human figures, human effigies, human silhouettes or any human images thereof, except by public safety personnel performing in line with their official duties.

No large capacity weapon or large capacity feeding device shall be removed from the premises except for the purposes of: (i) transferring such firearm or feeding device to a licensed dealer; (ii) transporting such firearm or feeding device to a licensed gunsmith for repair; (iii) target, trap or skeet shooting on the premises of another club incorporated under the laws of the commonwealth and for transporting thereto; (iv) attending an exhibition or educational project or event that is sponsored by, conducted under the supervision of or approved by a public law enforcement agency or a nationally or state recognized entity that promotes proficiency in or education about semiautomatic weapons and for transporting thereto and therefrom; (v) hunting in accordance with the provisions of chapter 131; or (vi) surrendering such firearm or feeding device under the provisions of section 129D. Any large capacity weapon or large capacity feeding device kept on the premises of a



lawfully incorporated shooting club shall, when not in use, be secured in a locked container, and shall be unloaded during any lawful transport. The clerk or other corporate officer of such club shall annually file a report with the colonel of state police and the commissioner of the department of criminal justice information services listing all large capacity weapons and large capacity feeding devices owned or possessed under such license. The colonel of state police or his designee, shall have the right to inspect all firearms owned or possessed by such club upon request during regular business hours and said colonel may revoke or suspend a club license for a violation of any provision of this chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons or large capacity feeding devices.

**(b) A Class B license** shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as the licensing authority deems proper; provided, however, that a Class B license shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way or place; and provided further, that a Class B license shall not entitle the holder thereof to possess a large capacity firearm, except under a Class A club license issued under this section or under the direct supervision of a holder of a valid Class A license at an incorporated shooting club or licensed shooting range; and (ii) rifles and shotguns, including large capacity rifles and shotguns, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as he deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed by the licensing authority under the provisions of this paragraph, shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.





## **Carrying of Firearm in Motor Vehicle**

### **Chapter 140, Section 131C**

Section 131C. (a) No person carrying a loaded firearm under a Class A license issued under section 131 or 131F shall carry the same in a vehicle unless such firearm while carried therein is under the direct control of such person. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(b) No person carrying a firearm under a Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(c) No person possessing a large capacity rifle or shotgun under a Class A or Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

(d) The provisions of this section shall not apply to (i) any officer, agent or employee of the commonwealth or any state or the United States; (ii) any member of the military or other service of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.

(e) A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the licensing authority who shall immediately revoke the card or license of the person so convicted. No new such card or license may be issued to any such person until one year after the date of revocation.





## Carrying of Firearm in Motor Vehicle

### Chapter 140, Section 131C

Chapter 140: Section 131C. Carrying of firearms in a vehicle

*[Text of section as amended by 2014, 284, Sec. 58 effective January 1, 2021. See 2014, 284, Sec. 112. For text effective until January 1, 2021, see above.]*

Section 131C. (a) No person carrying a loaded firearm under a license issued pursuant to section 131 or 131F shall carry the loaded firearm in a vehicle unless the loaded firearm while carried in the vehicle is under the direct control of the person. Whoever violates this subsection shall be punished by a fine of \$500.

(b) No person possessing a large capacity rifle or shotgun under a license issued pursuant to section 131 or 131F shall possess the large capacity rifle or shotgun in a vehicle unless the large capacity rifle or shotgun is unloaded and contained within the locked trunk of the vehicle or in a locked case or other secure container. Whoever violates this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

(c) This section shall not apply to: (i) an officer, agent or employee of the commonwealth, any state or the United States; (ii) a member of the military or other service of any state or of the United States; (iii) a duly authorized law enforcement officer, agent or employee of a municipality of the commonwealth; provided, however, that a person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of the person's official duties.

(d) A conviction of a violation of this section shall be reported immediately by the court or magistrate to the licensing authority. The licensing authority shall immediately revoke the firearm identification card or license of the person convicted of a violation of this section. No new firearm identification card or license may be issued to a person convicted of a violation of this section until 1 year after the date of revocation of the firearm identification card or license.

**Right of arrest:** *No statutory right of arrest for any section of this misdemeanor [\$500.00 fine], however, if convicted under this section, it shall be reported forthwith by the court to the licensing authority who shall immediately revoke the license. No new license may issue until after 1 year of such revocation.*

#### **Exemptions:**

Any officer, agent or employee of the commonwealth or any state or United States.

Any member of the military or other service of any state or of the United States.

Any duly authorized law enforcement officer, agent or employee of any municipality of the Commonwealth; provided, however, that any such person described above, Is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.



## Electrical Weapons-Sale or Possession

### Chapter 140, Section 131J

The United States Supreme Court remanded the *Caetano* case from Massachusetts that and found that an absolute ban on stun guns was unlawful. The SJC in *Ramirez* found that an absolute ban on stun guns violated the Second Amendment. On July 3, 2018, the Governor enacted the “Red Flag” legislation which establishes that stun guns will be regulated like firearms. The provisions related to these new regulations are contained in in the section under “Red Flag” legislation.

### **Electronic Control Weapons**

*Commonwealth v. Jorge Ramirez*, 479 Mass. 331 (2018): The SJC held the absolute prohibition against civilian possession of stun guns pursuant to G.L. c. 140, § 131J, violates the Second Amendment and therefore the complaint against the defendant must be dismissed. **The SJC also determined that the possession of stun guns may be regulated, but not absolutely banned.** “Because this will invalidate the Legislature's absolute ban and leave no lesser restriction on the possession of stun guns in its place, and because the SJC recognizes that the Legislature may wish to do what it cannot (revise the statute in a manner that will preserve its constitutionality), the SJC will stay the judgment shall be stayed for sixty days after the date of the issuance of the rescript in this case in order to allow the Legislature adequate time to amend the statute in light of this opinion, if it so chooses.”

### **Elements:**

#### **NO person shall:**

1. Sell, offer for sale, or possess
2. Portable device or weapon from which an electrical current, impulse, wave or beam may be directed
3. Which current, impulse, wave or beam is designed to incapacitate temporarily, injure or kill.

### **Right of arrest:**

**This statute is a misdemeanor with a statutory right of arrest.**

### **Note:**

The use of this weapon on a person would be assault and battery by means of a dangerous weapon, a 10 year. Felony under Chapter 265 Section 15A.



**Security of Weapons: Criminal penalties:**  
**Chapter 140, Section 131L:**

Section 131L. (a) It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(b) A violation of this section shall be punished, in the case of a firearm, rifle or shotgun that is not a large capacity weapon, by a fine of not less than \$1000 nor more than \$7,500 or by imprisonment for not more than 11/2 years or by both such fine and imprisonment and, in the case of a large capacity weapon or machine gun, by a fine of not less than \$2,000 nor more than \$15,000 or by imprisonment for not less than 1 1/2 years nor more than 12 years or by both such fine and imprisonment.

(c) A violation of this section shall be punished, in the case of a rifle or shotgun that is not a large capacity weapon and the weapon was stored or kept in a place where a person younger than 18 years of age who does not possess a valid firearm identification card issued under section 129B may have access without committing an unforeseeable trespass, by a fine of not less than \$2,500 nor more than \$15,000 or by imprisonment for not less than 11/2 years nor more than 12 years or by both such fine and imprisonment.

(d) A violation of this section shall be punished, in the case of a rifle or shotgun that is a large capacity weapon, firearm or machine gun that was stored or kept in a place where a person younger than 18 years of age may have access without committing an unforeseeable trespass, by a fine of not less than \$10,000 nor more than \$20,000 or by imprisonment for not less than 4 years nor more than 15 years or by both such fine and imprisonment.

(e) A violation of the provisions of this section shall be evidence of wanton or reckless conduct in any criminal or civil proceeding if a person under the age of 18 who was not a trespasser or was a foreseeable trespasser acquired access to a weapon, unless such person possessed a valid firearm identification card issued under section 129B and was permitted by law to possess such weapon, and such access results in the personal injury to or the death of any person.

(f) This section shall not apply to the storage or keeping of any firearm, rifle or shotgun with matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or prior to the year 1899, or to any replica of any such firearm, rifle or shotgun if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.



## **Security of Weapons: Criminal penalties:**

### **Chapter 140, Section 131L:**

### **JURY INSTRUCTION**

#### **IMPROPER STORAGE OF A FIREARM**

G.L. c. 140, § 131L

The defendant is charged with improperly storing a (firearm) (rifle)(shotgun).

In order to prove the defendant guilty of this offense, the

Commonwealth must prove three things beyond a reasonable doubt:

First: That the defendant stored or kept a (firearm) (rifle) (shotgun);

Second: That the defendant was not carrying the (firearm) (rifle) (shotgun) or did not have the (firearm) (rifle) (shotgun) under (his) (her) immediate control; and

Third: That the (firearm) (rifle) (shotgun) was not secured in one of two ways — either by storing the (firearm) (rifle) (shotgun) in a locked container, or with a properly engaged tamper-resistant mechanical lock by any person other than the owner or other lawfully authorized user.

To qualify as a securely locked container, the container must be capable of being unlocked only by means of a key, combination, or other similar means.

Examples of securely locked containers may include safes, (firearm) (rifle) (shotgun) boxes, locked cabinets, gun cases, and lock boxes. In determining whether a particular storage container is a securely locked container, you may consider all the circumstances presented by the evidence including the nature of the locking mechanism, whether the container was itself within a place, a compartment, or a container that was itself locked and alarmed, and whether under all the circumstances it was secured adequately to deter all but the most persistent persons from gaining access.

#### **NOTES:**

1. A weapon not stored if “carried” or “under the control.” The weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user. G.L. c. 140, § 131L(a).

“Carried” requires actual physical possession of the firearm, and “under the control” requires that a person be sufficiently nearby the firearm to prevent immediately its unauthorized use.

Commonwealth v. Reyes, 464 Mass. 245, 258 n.19 (2013), citing Commonwealth v. Patterson, 79 Mass. App. Ct. 316, 319 (2011).

### **Com. v. Reyes, 464 Mass. 245, 982 N.E.2d 504 (2013)**

Statute governing offense of unlawful storage of a firearm, stating that it was unlawful to store or keep any firearm in any place unless such weapon is secured in a locked container, was not unconstitutionally vague, although term “locked container” was not defined; legislative history, purpose of statute to prevent accidental injuries and deaths, and secondary materials such as Massachusetts and Federal statutes regulating the storage of firearms, showed existence of a common understanding of acceptable containers, including safes, weapon boxes, locked cabinets, gun cases, lock boxes, and locked trunks of vehicles.



*It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container\*\*508 or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.”* to be secure, “guns [must] be maintained in locked containers in a way that will deter all but the most persistent from gaining access.” *Commonwealth v. Parzick, supra* (door lock that was easily defeatable by using “bobby pin” did not prevent access to unauthorized persons other than owner and therefore was “not secure”

## REYES-PATTERSON

Statutory and regulatory references to acceptable containers include safes, weapon boxes, locked cabinets, gun cases, lock boxes, and locked trunks of vehicles. Municipal Police Institute, Inc., states that a securely locked container can include a soft gun case secured with a padlock, “as well as an expensive gun safe,” and that even “glass front furniture style gun cabinets are acceptable providing that they are capable of being locked.”

Witness testimony, that defendant failed to lock glove compartment when he placed his handgun in the glove compartment and left the vehicle, was sufficient to show that defendant stored his loaded firearm in an unlocked container within a motor vehicle, as required to support conviction for unlawfully storing a firearm.

**Approved Firearm Safety / Locking Devices M.G.L. c. 140, § 131K requires** that any firearm or large capacity weapon sold within the Commonwealth must be sold with a safety device designed to prevent the discharge of such weapon by unauthorized users. **The following safety/locking devices have been approved by the Colonel of the Department of State Police as complying with the provisions of M.G.L. c. 140, § 131K:** 1 CCL Sesamee Gun Blok Combination Lock 2 Master Lock: Cable Key Lock or Trigger Guard Lock 3 Outer/Cease Fire Trigger Lock 4 Shot Lock Corp. Keyed Cable Lock or Trigger Guard Lock 5 Speed Release Gun Lock 6 Dominion Group Trigger Lock 7 Remington Trigger Lock 8 Mossberg Cable Lock 9 American Firearms Council Cable Lock 10 Rocky Mountain Tool and Armory Chamber-Safe 11 Saf T Lock’s Magazine Lock 12 Franzen Trigger Combination Lock 13 Noble Guard Wall Mount Gun Lock 14 Noble Trigger Lock 15 Noble Double Security Cable Gun Lock 16 Central Specialties Trigger Lock Model 9311 17 Crown Trigger Lock 18 Miltex Inc. Trigger Lock 19 Concept Development Corp. / Law Lock Key Cuff Trigger Lock 20 Concept Development Corp. / Trigger Block Safety in Conjunction with the Saf-T-Block Combination Lock 21 A. Rifkin Company Arcolock – 7 Keyed Lock Model 22 Armloc Magnum (Handgun Safety System) Combination Lock Container 23 Franzen Model 6.0 Combination Cable Lock 24 Franzen Keyed Trigger Lock 25 Concept Development Corp. Law Lok III, Key Cuff Trigger Lock 26 Bell Trigger Lock Model B100KA 27 Bellock Model #B300-8ka Cable Key Lock 28 Bellock Economy Trigger Lock Model #B200-3 29 CCL Security Products Model K-39 Trigger Blok (keyed) 30 CCL Security Products Model CA12 Sesamee Cablelock (combination) 31 Palmer Security Products Model/Series 5000, 54500, 6000, 7000, 8100, 9000, Push Button Lock / Key Systems 32 Steyer M-Series Integrated Limited Access Lock with Key 33 Armadillo Gun Trigger Lock (keyed) 34 Master Lock: Combination Gunlock 35 Taurus International – Hammer Key Lock 36 Mossberg Safe Systems Inc. Portable Electronic Firearm Safe 37 Life Jacket by Mogul Company 38 Saf-T-Trigger 39 DAC Technologies Items: MTL, LHL, TVP, GL001, CL200, CL100 40 UNEX Keyed Trigger Lock and Keyed Cable Lock 41 Alarm It w/ Cable Lock 42 Smart Trigger Lock with Alarm 43 Maximum Security Cable Lock 44 Regal Keyed Cable Lock Model SL14-4PTACA 45 Project HomeSafe Cable Lock 46 Omega Safety Systems Internal Chamber Lock 47 Project Child Safe Cable Lock w/ Key 48 Regal Keyed Cable Lock Model DCSC-5-DTACA14 49 VisualLock (Special Keyed Lock) 50 CABLE LOCK (NAD Corporation, Worcester, MA) 51 CHILD GUARD (Child Guard LLC, Lancaster, PA)



**Assault Weapons Ban:**  
**Chapter 140 Section 131M:**  
Also City of Boston Ordinance

No person *shall sell, offer for sale, transfer or possess* an assault or a large capacity feeding that was not otherwise lawfully possessed on September 13, 1994.

**Right of arrest:**

Whomever not being licensed under section 122 violates the provisions of this section shall be punished

1st offense-NLT \$1,000.00 NMT \$10,000.00 or by imprisonment for NLT 1 year NMT 10 years or both.

**This provision does not apply to:**

Law enforcement officer for law enforcement purposes Individuals retired from service with a law enforcement agency who are not otherwise prohibited from receiving the weapon or feeding device from such agency upon retirement.

**Disguised Firearms:**  
**Chapter 140 Section 131N:**

No person shall sell, offer for sale, transfer or possess any weapon, capable of discharging a bullet or shot that is: Constructed in a shape that does not resemble a handgun, short-barreled rifle or shot-barreled shotgun including but not limited to, covert weapons that resemble key chains, pens, cigarette lighters, cigarette packages or

> Not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk through metal detectors.

**Right of arrest:**

**Felony:** whoever violates the provisions of this section shall be punished:

1<sup>st</sup> offense-NLT \$1,000.00 NIVIT \$10,000-00 or by imprisonment for NLT 1 year NIVIT 10 years

2<sup>nd</sup> offense-NLT \$5,000.00 NIVIT \$15,000-00 or by imprisonment for NLT 5 years NIVIT 15 years, or both.



## **Fireworks**

### **Chapter 140, Section 39**

#### **Definition:**

“Fireworks” shall include compositions, substances or other articles and shall also include blank cartridges or toy cannons in which explosives are used, the type of toy balloon which requires fire underneath to propel the same, firecrackers, *cherry bombs*, *silver salutes*, *M-80's*, *torpedoes*, *sky rockets*, *roman candles*, sparklers, rockets, wheels, colored fires, fountains, mines, serpents, or other fireworks of like construction or any fireworks containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance.

#### **Simple possession or use of Fireworks:**

Whoever shall have in possession or under his control, or whoever shall use or explode or cause to explode any fireworks in violation of this section shall be punished by a fine of NLT \$10-00, NMT \$100.00. Any officer qualified to serve criminal process shall seize all of the fireworks mentioned herein without a warrant, and the fireworks seized shall, upon conviction of such violation, be forfeited to the Commonwealth.

**NOTICE: this is a non-arrestable misdemeanor.** An officer may seize the fireworks (since they are contraband) and later seek complaints. This does not mean that in extreme cases officers are precluded from using other charges such as disorderly or disturbing the peace.

#### **Selling or offering for sale:**

Who ever shall sell or keep for sale or offer for sale any fireworks in violation of this section shall be punished by a fine of NLT \$100.00, NMT \$1,000.00 or by imprisonment for NMT 1 year or both. Any officer qualified to serve criminal process may arrest without a warrant any person who shall sell or keep for sale or offer for sale any fireworks in violation of this section.

**This is a misdemeanor with a statutory right of arrest.**





## **Dispersing Unlawful Assembly**

### **Chapter 269, Section 1**

#### **Elements:**

1. five (5) or more armed persons or ten or more unarmed persons
2. unlawfully, riotously or tumultuously assembled
3. in a city or town
4. fail to disperse peacefully after being so ordered by a police officer or other authorized official

#### **Right of Arrest:**

This misdemeanor has a statutory right of arrest

## **Refusal to Disperse**

### **Chapter 269, Section 4**

#### **Elements:**

1. persons unlawfully assembled
2. have been commanded to disperse
3. refusing or neglecting to disperse without necessary delay
4. any 2 magistrates or officers may
5. require aid of sufficient number of persons or arms
6. in a manner they deem excellent, to forthwith disperse and suppress such assembly
7. and to seize and secure the persons composing same
8. so that they may be proceeded with according to the law





False Report of a Crime  
Chapter 269, Section 13A

Section 13A. Whoever intentionally and knowingly makes or causes to be made a false report of a crime to police officers shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**False Written Report by a Public Official**  
Chapter 268, Section 6

Section 6A. Whoever, being an officer or employee of the commonwealth or of any political subdivision thereof or of any authority created by the general court, in the course of his official duties executes, files or publishes any false written report, minutes or statement, knowing the same to be false in a material matter, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.



**Possession of a Firearm, Rifle, or Shotgun,  
Not at Home or Office  
Chapter 269, Section 10(a)**

**JURY INSTRUCTION**

**POSSESSION OF A FIREARM WITHOUT A LICENSE OUTSIDE HOME OR BUSINESS**

The offense found in G.L. c. 269, § 10(a) is commonly referred to as “carrying” a firearm, to distinguish it from the offense of “possession” of a firearm without a firearm ID card, found in § 10(h). The name is no longer really accurate, since St. 1990, c. 511 (effective January 2, 1991) eliminated movement of the firearm as an element of § 10(a).

**I. FIREARM WITH BARREL UNDER 16 INCHES**

The defendant is charged under section 10(a) of chapter 269 of our General Laws with knowingly possessing a firearm unlawfully. In order to prove the defendant guilty of this offense, the Commonwealth must prove the following (three) (four) things beyond a reasonable doubt:

First: That the defendant possessed a firearm (or) (that he [she] had a firearm under his [her] control in a vehicle);

Second: That what the defendant (possessed) (or) (had under his [her] control in a vehicle) met the legal definition of a “firearm”; (and)

Third: That the defendant knew that he (she) (possessed a firearm) (or) (had a firearm under his [her] control in a vehicle).

evidence of one of the statutory exceptions, use one of the following:

A. If there is evidence that it was in the defendant’s residence or place of business.  
and

Fourth: that the defendant possessed the firearm outside of his (her) residence or place of business. A person’s “residence” or “place of business” does not include common areas of an apartment or office building, but only areas that are under that person’s exclusive control.

B. If there is evidence that the defendant had a license to carry firearms.

and Fourth: that the defendant did not have a valid license to possess a firearm outside his (her) home or office.

C. If there is evidence that the defendant was exempt from the licensing requirements of our General Laws c. 278, § 7 places on the defendant the burden of producing evidence of one of these exemptions; the Commonwealth must then disprove beyond a reasonable doubt the applicability of the claimed exemption. Until there is such evidence, the exemptions are not at issue. *Commonwealth v. Seay*, 376 Mass. 735, 738, 383 N.E.2d 828, 830 (1978) (former statute); *Commonwealth v. Jones*, 372 Mass. 403, 406-407, 361 N.E.2d 1308, 1310-1311 (1977) (same); *Commonwealth v. Davis*, 359 Mass. 758, 270 N.E.2d 925 (1971) (same); *Commonwealth v. Baker*, 10 Mass. App. Ct. 852, 853, 407 N.E.2d 398, 399 (1980) (lack of license need not be charged in complaint).



A “firearm” is defined in our law as: “a pistol, revolver or other weapon . . . loaded or unloaded, from which a shot or bullet can be discharged and . . . the length of [whose] barrel is less than sixteen inches . . .”

That definition can be broken down into three requirements: First, it must be a weapon; Second, it must be capable of discharging a shot or bullet; and Third, it must have a barrel length of less than 16 inches. The term “barrel length” refers to “that portion of a firearm . . . through which a shot or bullet is driven, guided or stabilized, and [includes] the chamber.”

G.L. c. 140, § 121. *Commonwealth v. Williams*, 422 Mass. 111, 120, 661 N.E.2d 617, 624 (1996) (not necessary that firearm be loaded); *Commonwealth v. Bartholomew*, 326 Mass. 218, 219, 93 N.E.2d 551, 552 (1950) (same); *Commonwealth v. Tuitt*, 393 Mass. 801, 810, 473 N.E.2d 1103, 1110 (1985) (jury can determine from inspection that “firearm”); *Commonwealth v. Fancy*, 349 Mass. 196, 204, 207 N.E.2d 276, 282 (1965) (same); *Commonwealth v. Sampson*, 383 Mass. 750, 753, 422 N.E.2d 450, 452 (1981); *Commonwealth v. Sperrazza*, 372 Mass. 667, 670, 363 N.E.2d 673, 675 (1977) (testimony about “revolver” or “handgun” will support inference that barrel was under 16 inches) to prove that the defendant knew that the item met the legal definition of a firearm.

#### Right of Arrest:

This is a five (5) year felony arrestable in presence or upon probable cause.

#### **FIREARM RIFLE SHOTGUN NOT HOME OR WORK**

##### Note:

- A conviction under this section has a one year mandatory minimum sentence..
- No person having in effect a license to carry firearms for any purpose (such as hunting, target, employment, etc.) issued under c. 140, sec. 131 or sec. 131F shall be deemed to be in violation of this section.
- The provisions of this subsection shall not affect the licensing requirements of c. 140, 129C.
- The burden of proof relative to being licensed is on the defendant, c. 278, sec. 7.

This subsection is not applicable to:

- Flare Pistols - Comm. v. Samson, 422 N.E. 2d 450
- BB Pistols - Comm. v. Rhodes, 451 N.E. 1151
- CO2 Powered Pellet Pistols - Comm. v. Fenton, 478 N.E. 2d 949

## **II. RIFLE OR SHOTGUN**

The defendant is charged under section 10(a) of chapter 269 of our General Laws with knowingly possessing a rifle or shotgun unlawfully. In order to prove the defendant guilty of this offense, the Commonwealth must prove the following (three) (four) things beyond a reasonable doubt:

First: That the defendant possessed a rifle or shotgun (or) (that he [she] had a rifle or shotgun under his [her] control in a vehicle);

Second: That what the defendant (possessed) (or) (had under his [her] control in a vehicle) met the legal definition of a “rifle” or a “shotgun”; (and)

Third: That the defendant knew that he (she) (possessed a rifle or shotgun) (or) (had a rifle or shotgun under his [her] control in a vehicle.

If there is evidence of one of the statutory exceptions, use one of the following:



- A. If there is evidence that it was in the defendant's residence or place of business.  
and Fourth: that the defendant possessed the rifle or shotgun outside of his (her) residence or place of business. A person's "residence" or "place of business" does not include common areas of an apartment or rtment or office building, but only areas that are under that person's exclusive control.
- B. If there is evidence that the defendant had a license to carry firearms.  
and Fourth: that the defendant did not have a valid license to carry a firearm.
- C. If there is evidence that the defendant was exempt from the licensing requirement.  
and Fourth: that the defendant did not qualify for one of the exemptions in the law that are a substitute for having a license to carry a firearm.

***Commonwealth v. Chukwunoso Obiora*** 2013

**Constructive Possession**

:The Court found that defendant could be charged with **constructive possession** of the firearm and ammunition. The defendant argued the vehicle belonged to his girlfriend and that Trooper Mansi did not recover the firearm from his person. Trooper Mansi observed the firearm before she entered the vehicle and recovered the ammunition under the front passenger seat where the defendant was sitting. Although the car belonged to the defendant's girlfriend, there was sufficient evidence to support that Obiora had possession of the car for the previous twenty-four hours. Based on all these factors, it is reasonable for a fact finder to infer that Obiora, "had knowledge of the weapon [and ammunition], coupled with the ability and intention to exercise dominion and control over it."

Com. v. Powell, 459 Mass. 572, 573–74, 946 N.E.2d 114, 118 (2011)

On January 30, 2009, after a jury-waived trial in the Central Division of the Boston Municipal Court Department, the defendant, Aaron Powell,<sup>2</sup> was convicted of possession of a firearm<sup>3</sup> without a firearm identification card (FID card), in violation of G.L. c. 269, § 10 (h ); carrying a loaded firearm without a license, in violation of G.L. c. 269, § 10 (n ); carrying a firearm without a license, in violation of G.L. c. 269, § 10 (a ); and \*574 resisting arrest, in violation of G.L. c. 268, § 32B.<sup>4</sup> He appeals from the denial of his pretrial motion to suppress evidence,<sup>5</sup> contending that the firearm recovered was the result of an unlawful seizure of his person under art. 14 of the Massachusetts Declaration of Rights.<sup>6</sup> In addition, he contends that there was insufficient evidence to support his convictions of resisting arrest and unlawful possession of a firearm, and that his counsel furnished him with constitutionally ineffective representation by failing to file a motion to suppress a statement made by him. Last, the defendant challenges his firearm convictions under the Second Amendment to the United States Constitution. We transferred the case here on our own motion. We affirm the denial of the defendant's motion to suppress and affirm his convictions.



## **Unlawfully Carrying Dangerous Weapons**

### **Chapter. 269: Section 10(b)**

#### **Definition:**

Whoever, except as provided by law carries on his person or under his control in a motor vehicle:

1. Stiletto
2. Dagger
3. A device or case which enables a knife with locking blade to be drawn at a locked position
4. Any ballistic knife
5. Any knife with a detachable blade capable of being propelled by any mechanism
6. Dirk knife
7. Any knife having a double edged blade
8. Switchblade with a blade over 1 1/2 inches
9. slung shot
10. Blackjack
11. Metallic knuckles of any substance which could be used with the same or similar effect
12. Nanchaku, zoobow klackers or jung foo sticks or two sticks of wood, plastic or metal connected at one end with rope, chain, wire or leather
13. Shuriken or any similar pointed star-like object intended to injure a person when thrown
14. Manrikigusari or similar length of chain having weighted ends
15. Cestus
16. Armband with studs
17. BLOW GUN

OR

1. whoever, is arrested upon a warrant or for a breach of the peace
2. has on person or under control in a vehicle
3. a billy or other dangerous weapon **other** than herein mentioned

#### **Right of Arrest:**

This section is a 5-year felony arrestable in presence or upon probable cause.



# Boston Police Academy

Police Officer John W. Ezekiel, Jr. Training Bulletin 5-09  
(Issued July 13, 2009)



## City Ordinance Prohibiting the Carrying of Knives or Similar Weapons

### 16-45.1 Carrying of Weapons Prohibited

No person, except as provided by law, shall

- ➤ Carry on his person or carry under his control in a vehicle any knife having any type of blade ***in excess of two and one-half (2 ½") inches***, ice picks, dirks or similar weapons that are likely to penetrate through police officers' ballistic vests, or other object or tool so redesigned, fashioned, prepared or treated that the same may be used to inflict bodily harm or injury to another **except:**
  - a. a. When actually engaged in hunting or fishing or any employment, trade or lawful recreational or culinary activity which customarily involves the carrying of any type of knife  
or
  - b. b. In going directly to and/or returning directly from such activities  
or
  - c. c. If the knife is being transported directly to or from a place of purchase, sharpening, or repair, and if packaged in such a manner as not to allow easy access to the knife while it is being transported.

### 16-45.4 Penalty/Fines

- • Fine of not more than \$300.00 per offense

**NOTE:** As with all City Ordinances, **a warning must first be given** and the individual must **"remain in willful violation"** before an arrest can be made. See M.G.L. c. 272 s. 59



**Possession of Firearm (etc.)  
Without A Firearm Identification Card  
Chapter 269, Section 10 (h)**

**POSSESSION OF A FIREARM**

The defendant is charged with unlawfully possessing a firearm.

Section 10(h) of chapter 269 of our General Laws provides as follows:

“Whoever . . . possesses . . . a firearm . . .

without complying with the requirements [of law]

relating to [a] firearm identification card . . .

shall be punished . . . .”

In order to prove the defendant guilty of this offense, the

Commonwealth must prove (three) (four) things beyond a reasonable doubt:

First: That the defendant possessed an item;

Second: That the item meets the legal definition of a “firearm”; (and)

Third: That the defendant knew that he (she) possessed that firearm.

If there is evidence of one of the statutory exceptions, use one of the following:

And Fourth: A. If there is evidence that the defendant had a firearm ID card.

that the defendant did not have a valid firearm ID card.

And Fourth: that the B. If there is evidence that the defendant was exempt.

defendant did not qualify for one of the exemptions in the law

that are a substitute for having a valid firearm ID card.

See Instruction 3.160 (License or Authority).

G.L. c. 278, § 7; Commonwealth v. Jones, 372 Mass. 403, 406-407, 361 N.E.2d

1308, 1310-1311 (1977). The issuance of firearm identification cards is governed

by G.L. c. 140, §§ 129B-129D. Section 129B also lists a number of exemptions from

the requirement of a firearms identification card. See also Op. A.G. No. 86/87-4

(October 31, 1986) (18 U.S.C. § 926A provides a defense to a charge under §10[h]

for a non-resident traveling through the Commonwealth with an unloaded and

inaccessible handgun who is in compliance with the firearms laws of the states of

origin and destination).

**Elements:**

Whoever,

1. Owns, or
2. possesses, or
3. transfers possession of a
4. firearm or a
5. rifle or a
6. shotgun or
7. ammunition
8. without complying with c. 140, sec. 129C relative to the F.I.D. card
9. (or without being the holder of a valid license to carry firearms)

**Right of Arrest:**

This is a misdemeanor with a **statutory right of arrest in presence.**



### **Commonwealth v Truong**

The dictionary definitions of “cartridge” and “shell” indicate that the terms “cartridge case” and “shell casing” are both used to describe the item that contains the primer and charge for firearms ammunition

The statute criminalizes possession of cartridges and their component parts, including “cartridge cases, primers (igniter), bullets or propellant powder.”

### **Commonwealth v Johnson, 461 Mass. 44 (2011)**

Defendant's conviction of unlawful possession of ammunition was duplicative of his conviction of unlawful possession of a loaded firearm arising from same conduct of possessing ammunition loaded inside handgun, in violation of prohibition on double jeopardy, requiring vacation of lesser included offense of unlawful possession of ammunition; to convict defendant of unlawful possession of a loaded firearm, commonwealth was required to prove that defendant knowingly possessed firearm loaded with ammunition and met legal requirements of a firearm, and to convict defendant of unlawful possession of ammunition, commonwealth was required to prove that defendant knowingly possessed ammunition that met legal definition of ammunition

### **COMMONWEALTH v BROWN, 91 Mass. App. Ct. 286 (2017)**

During an inventory search of the car that the defendant had been driving, a State trooper discovered a loaded handgun. Based on this, the defendant was indicted on two related counts: unlawful possession of a firearm, and unlawful possession of a loaded firearm. See G. L. c. 269, § 10(a) & (n). A Superior Court jury convicted him of those charges.

His appeal primarily focuses on a question of law that the Supreme Judicial Court flagged without answering: "whether, to be convicted of unlawful possession of a loaded firearm, a defendant must know that the firearm he possessed was loaded." Commonwealth v. Jefferson, [461 Mass. 821](#) (2012). The Commonwealth maintains that proof of such knowledge is not required. Although we are not unsympathetic to the textual arguments on which the Commonwealth relies, existing case law requires us to conclude that the Commonwealth must prove that the defendant knew that the gun was loaded. We further conclude that the evidence here was legally insufficient to establish such knowledge, and that the defendant therefore is entitled to a judgment of acquittal on the indictment for unlawfully possessing a loaded firearm.





## Firearms on School Property

### Chapter 269: Section 10 (j)

#### **Definition:**

(j) For the purposes of this paragraph, "firearm" shall mean any pistol, revolver, rifle or smoothbore arm from which a shot, bullet or pellet can be discharged.

Whoever, not being a law enforcement officer and notwithstanding any license obtained by the person pursuant to chapter 140, carries on the person a firearm, loaded or unloaded, or other dangerous weapon in any building or on the grounds of any elementary or secondary school, college or university without the written authorization of the board or officer in charge of the elementary or secondary school, college or university shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years or both. A law enforcement officer may arrest without a warrant and detain a person found carrying a firearm in violation of this paragraph.

Any officer in charge of an elementary or secondary school, college or university or any faculty member or administrative officer of an elementary or secondary school, college or university that fails to report a violation of this paragraph shall be guilty of a misdemeanor and punished by a fine of not more than \$500.

#### **Elements:**

1. Not a law enforcement officer
2. regardless of license or firearms identification card
3. carries **on his person** a loaded or unloaded firearm\* or other dangerous weapon
4. in any building or on the grounds of
5. any elementary or secondary school, college or university
6. without the **written** authorization of the board or officer-in-charge of such school, college or university.

#### **Right of Arrest:**

A law enforcement officer may arrest without a warrant and detain a person found carrying a **firearm** in otherwise it is a misdemeanor with not statutory right of arrest. This act could, however, amount to a breach of the peace in certain circumstances.

#### **Note:**

Clearly if the suspects were carrying a handgun without a license to carry, OR carrying a rifle or shotgun without a license to carry or a firearms identification card, we would arrest and charge him with the felony of Chapter 269: Section 10 (a)

Notice also that it is a misdemeanor if the officer-in-charge fails to report any violation of this sub-paragraph.

COMMONWEALTH vs. DOUGLAS T. SAYERS 438 Mass. 238

CORDY, J. In this case we hold that the prohibition against carrying a firearm on school grounds, set forth in G. L. c. 269, § 10 (j), applies to BB guns as well as other firearms. The only other element of § 10 (j) at issue in this case is whether the BB gun that the defendants possessed was a firearm as defined in § 10 (j). It was. As noted above, that definition of "firearm" includes any pistol or smoothbore arm "from which a shot, bullet or *pellet* can be discharged by whatever means" (emphasis added). G. L. c. 269, § 10 (j). This definition clearly includes a BB gun regardless whether it is specifically identified by name.



## **Large Capacity Weapons**

### Chapter 269, Section 10 [m]:

Any person knowingly has in his possession, or knowingly has under his control in a vehicle, a large capacity weapon or large capacity feeding device therefor, who does not possess a valid Class "A" or "B" LTC shall be punished by imprisonment in the state prison for NLT 2 Y2years NMT 10 years. Anyone holding a valid FID card shall not be subject to the mandatory minimum. The sentence imposed shall not be reduced to less than 1 year.

**Exemptions:** The provisions in section 10 (m) do not apply to the possession of large capacity weapons or large capacity feeding devices by:

1. an officer or agent of the Commonwealth or any state;
2. a member of the U.S. Military
3. a law enforcement officer or agent of any municipality;
4. provided that a person in 1,2, or 3 is authorized to carry possess the weapon and is acting within the scope of his duties.
5. Any federal, state or local historical society, museum, or institutional collection open to the public;
6. or any gunsmith licensed under federal law.



## **Use Of Certain Devices**

### **Chapter 269, Section 10C**

#### **Elements:**

1. Using
2. tear gas cartridges or any device or instrument which contains liquid, gas, powder, or any other substance
3. designed to incapacitate
4. for the purpose of committing a crime

#### **Right of Arrest:**

This seven (7) year felony is arrestable in presence or upon probable cause.

## **Body Armor: Commission of Felonies**

### **Chapter 269, Section 10D**

#### **Definition:**

Whoever, while in the commission of a felony, or attempted commission of a felony, uses or wears any body armor, so-called, or any protective covering for the body or any parts thereof, made of resin-treated glass-fiber cloth, or any other material or combination of materials, designed to prevent, deflect or deter the penetration thereof by ammunition, knives or other weapons, shall be punished by imprisonment in the state prison for not less than two and one-half nor more than five years, or for not less than one year nor more than two and one-half years in a jail or house of correction.

#### **Elements:**

- Whoever
1. Commits or attempts to commit
  2. any felony
  3. while using or wearing any body armor or parts thereof
  4. that is designed to prevent, deflect or deter penetration
  5. by ammunition, knives or other weapons

#### **Right of Arrest:**

This is a five year felony arrestable in presence or upon probable cause.

#### **Note:**

This charge would be brought in addition to whatever felony he committed or attempted to commit.



**Unlawful Sale of Large Capacity -Weapon:**  
Chapter 269, Section 10 F

Any person is prohibited from:

- Selling, keeping for sale, or offering or exposing for sale, giving or otherwise transferring any large capacity weapon or feeding device to a person 18 years or over, except as permitted by law. This offense is punishable by imprisonment in the state prison for NLT 2 V2years NMT 10 years. Subsequent offenses: punishable by NLT 5 years NMT 15 years.
- Transferring, selling, lending, or giving a large capacity weapon or feeding device to a person under the age of 18, except as permitted by law, shall be punished by imprisonment in the state prison for NLT 5 years NIVIT 15 years.

**Carrying a Loaded Firearm While Under the  
Influence of Alcohol or Drugs:**  
Chapter 269, Section 10H

Whoever, having in effect a LTC, carries on his person, or has under his control in a motor vehicle a loaded firearm, while under the influence of liquor, marijuana, narcotic drugs, depressants or stimulant substances, or the vapors of glue.

**Right of arrest:**

Misdemeanor with no right of arrest. Shall be punished by a fine of NMT \$5,000.00 or by imprisonment in the house of correction for NMT 2 '1/2years or both.



## **Firearm with Altered Serial Numbers: Possession**

### **Chapter 269, Section 11B**

#### **Elements:**

1. While in the commission or attempted commission of a felony
2. has in possession or under his control
3. a firearm
4. the serial number or ID number of which has been removed, defaced, altered obliterated, or mutilated in any manner.

#### **Right of Arrest:**

This five (5) year felony is arrestable in presence or on probable cause.

## **Removing Firearm Identification Number**

### **Chapter 269, Section 11C**

#### **Elements:**

1. By himself or another
2. removes, defaces, alter, obliterates, or mutilates in any manner
3. serial number or identification number of a firearm
4. or in any way participates therein
5. and whoever receives a firearm **with knowledge** that its serial number or ID number is removed, defaced, etc. . .

#### **Right of Arrest:**

This 2 1/2 year misdemeanor provides no statutory right of arrest. However the mere possession of the firearm would be a misdemeanor with a statutory right of arrest ( Chapter 269, Sec. 10h).



## **Sale of Air Rifle to Minor**

### **Chapter 269, Section 12A**

#### **Elements:**

1. Sells to a minor
2. under the age of eighteen OR
3. not being parent, guardian or adult teacher or instructor
4. furnishes to a minor
5. under 18
6. an air rifle or so-called BB gun

#### **Right of Arrest:**

This is a six (6) month misdemeanor with no statutory right of arrest.

## **Minor Possessing Air Rifle**

### **Chapter 269, Section 12B**

#### **Elements:**

1. No minor under 18
2. possesses
3. an air rifle or BB gun
4. in any place where public has a right of access
5. unless accompanied by an adult OR
6. holding a sporting or hunting license
7. AND has on his person a permit from Chief of Police of the town in which he resides giving permission

#### **ALSO UNDER THIS SECTION**

1. **No person**
  2. discharge
  3. BB, pellet or shot from such
  4. into, from or across any street, alley, public way, railroad or railroad right of way
- AND
1. No minor
  2. under 18
  3. shall discharge BB, pellet or shot
  4. unless accompanied by an adult or is the holder of a sporting or hunting license

#### **Right of Arrest:**

This \$100 fine misdemeanor provides no statutory right of arrest.

#### **Note:**

The BB gun or air rifle shall be confiscated.  
Upon conviction, gun goes to public safety for destruction.



## Carrying a Rifle or Shot Gun on a Public Way

### Chapter 269, Section 12D

Elements:

1. Carry on a public way
2. Loaded rifle or shot gun
3. Unless engaged in hunting
4. And holds a valid license under Chapter 131, sections 6,7,8,9, or 51.

Misdemeanor with a statutory right of arrest in presence.

Or

1. If rifle or shotgun is a large capacity weapon
2. The person shall be punished by a fine of NLT \$1,000.00 NMT \$10,000.00 or
3. By imprisonment NLT 1 year NMT 10 years or **both and may** be arrested without a warrant-Felony

Or

1. No person shall:
2. Carry on any public way
3. An unloaded rifle or shotgun
4. Unless such person is engaged in hunting and has a
5. Valid hunting license, or unless such rifle or shotgun
6. is enclosed in a case
7. Violations are punishable by a fine of NLT \$100.00 NMT \$1,000.00. Violators may be arrested without a warrant. Misdemeanor.

Or

1. If the rifle or shotgun is a large capacity weapon and is carried simultaneously with a fully or partially loaded large capacity feeding device
2. The person shall be punished by a fine of NLT \$1,000.00 NMT \$10,000.00 or by imprisonment for NLT 1 year NMT 10 years or both and may be arrested without a warrant. Felony

Note:

This section does not apply to licensed shooting gallery or to persons using the same or drills, parades, military, police etc.



## **Firearm Discharged within 500 Feet of Dwelling**

### **Chapter 269, Section 12E**

#### **Elements:**

1. Discharging a firearm under C. 140, S. 121
2. or rifle or shotgun
3. within 500 feet of dwelling or OTHER BUILDING in use
4. without consent of owner or legal occupant

#### **Right of Arrest:**

This 3 month misdemeanor has no statutory right of arrest (breach of the peace?)

This law doesn't pertain to:

- a) lawful defense of life and property
- b) law enforcement officer in the lawful performance of duties
- c) underground or indoor test or target range
- d) outdoor skeet, trap, target or test ranges
- e) persons using licensed shooting galleries
- f) shoot blanks for theatrical, athletic, ceremonial, firing squad, or other purposes under 148:39.

## **Annoying or Harrassing Phone Calls**

### **Chapter 269, Section 14A**

#### **Elements:**

1. Telephones or causes to be telephoned
2. another person
3. repeatedly (**three or more times**)
4. to harass, annoy or molest such person or his family
5. OR telephoning another person
6. repeatedly (**three or more times**)
7. and uses indecent or obscene language

#### **Right of Arrest:**

This is a three month misdemeanor with no right of arrest.





## **False Fire Alarm**

### **Chapter 269, Section 13**

#### **Elements:**

1. Without reasonable cause
2. by outcry or the ringing of bells or otherwise
3. makes or circulates or causes to be made or circulated
4. a false alarm of fire

#### **Right of Arrest:**

This one (1) year misdemeanor has no statutory right of arrest. **However**, this usually amounts to a breach of the peace and would be arrestable in that case.

## **False Report of a Crime**

### **Chapter 269, Section 13A**

#### **ELEMENTS**

First: That the defendant reported a crime to a police officer, or caused such a report to be made;

Second: That the report was false;

Third: That the defendant intended to make the false report to a police officer and it was not made merely by accident or through negligence; and

Fourth: That the defendant knew that the report (he) (she) was making or causing to be made was false.

Commonwealth v. Salyer, 84 Mass. App. Ct. 346, 351-352 (2013).

#### **Right of Arrest:**

This one (1) year misdemeanor has no statutory right of arrest.

## **False Report of Bomb**

### **Chapter 269, Section 14**

#### **Elements:**

1. Knowing the same to be false
2. transmits or causes to be transmitted
3. by telephone or by other means of communication
4. falsely reporting the location of bomb or other dangerous substance by contrivance
5. thereby causing anxiety, unrest, fear or personal discomfort
6. to any person or group of persons

#### **Right of Arrest:**

This twenty (20) year felony is arrestable in presence or on probable cause.



## Witness Intimidation/Lying to an Investigator

### Chapter 268: Section 13B

#### Definitions – G.L. c. 268 § 13B (a):

**“Investigator”**, an individual or group of individuals lawfully authorized by a department or agency of the federal government, or any political subdivision thereof, or a department or agency of the commonwealth or any political subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of such individual’s or group’s official duties.

**“Harass”**, to engage in an act directed at a specific person or **group of** persons that seriously alarms or annoys such person or group of persons and would cause a reasonable person or group of persons to suffer substantial emotional distress including, but not limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, a device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system including, but not limited to, electronic mail, internet communications, instant messages and facsimile communications.

#### Elements – G. L. c. 268, §13B (b):

(a) Whoever willfully, either directly or indirectly:

- a. threatens, attempts or causes physical, emotional or economic injury or property damage to;
- b. conveys a gift, offer or promise of anything of value to; **or**
- c. misleads, intimidates or harasses another person who is a:
  - i. witness or potential witness;
  - ii. person who is or was aware of information, records, documents or objects that relate to a violation of a criminal law or a violation of conditions of probation, parole, bail or other court order;
  - iii. judge, juror, grand juror, attorney, victim witness advocate, police officer, **correction officer**, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer;



- iv. person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or
- v. family member of a person described in this section.

With the intent to or with reckless disregard for the fact that it may:

- (1) impede, obstruct, delay, prevent or otherwise interfere with: a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or an administrative hearing or a probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type;  
**or**
- (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person's family member's participation in any of the proceedings described in this section.

For this charge in the county where there is criminal investigation, trial or other proceeding or in county in where the alleged conduct constituting the offense occurred.

**Right of Arrest:** (Felony)

**Penalty:** State prison for not more than 10 years or HOC for not more than 2½ years or by a fine of not less than \$1,000 or more than \$5,000 or by both such fine and imprisonment.

If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for not more than 20 years or by imprisonment in the house of corrections for not more than 2½ years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

**Jurisdiction:** District Court and Boston Municipal Court



## **Tampering with Police Signal or Fire Alarm Box**

### **Chapter 268, Section 32**

#### **Elements:**

1. opens police signal box to give false alarm OR
  2. interferes in any way with such box by breaking, cutting, injuring or defacing same
- OR
3. without authority opens, tampers or meddles with such box or with any parts or wires or with anything connected therewith OR
  4. with such purpose, wantonly and without cause tampers with fire signal box or any part or anything therewith

#### **Right of Arrest:**

This two (2) year misdemeanor provides a statutory right of arrest, in presence.

#### **P A R T   T W O**

#### **Elements:**

1. opens a motorist highway emergency aid call box for a false call for aid
2. or breaks, etc.
3. or tampers, etc.
4. defaces

#### **Right of Arrest:**

This portion of the statute provides no right of arrest. It carries a fine of not less than \$100 nor more than \$500

## **Hindering a Firefighter**

### **Chapter 268, Section 32A**

#### **Elements:**

1. willfully
2. obstructs, interferes with or hinders a firefighter
3. or fire fighting force
4. in the lawful performance of its duty

#### **Right of Arrest:**

This five (5) felony is arrestable in presence or upon probable cause.



## **Resisting Arrest**

### **Chapter 268, Section, 32B**

#### **Definition:**

A person commits the crime of resisting arrest if he knowingly prevents or attempts to prevent a police officer, acting under color of his official authority, from effecting an arrest of the actor or another, by (1) Using or threatening to use physical force or violence against the police officer or another; or (2) Using any other means which creates a substantial risk of causing bodily to such police officer or another. Whoever violates this section shall be punished by imprisonment in a jail or house of correction for not more than two and one-half years or a fine of not more than five hundred dollars, or both.

#### **Elements:**

1. Knowingly prevents, or
2. attempts to prevent
3. A police officer, acting in his official capacity
4. from effecting an arrest, by
5. using or threatening to use physical violence
6. against the police officer or another, or
7. Uses any means which creates a substantial risk of bodily injury to the officer, OR
8. another

#### **Right of Arrest:**

This is a misdemeanor with NO statutory right of arrest. A Police Officer can use this statute only when he already has another arrestable offense. A violation of this section would most likely amount to a breach of the peace which would be arrestable IN PRESENCE.

#### **NOTE:**

It shall not be a defense to a prosecution under this section that the police officer was attempting to make an arrest which was unlawful, if he was acting under color of his official authority, and in attempting to make the arrest he was not resorting to unreasonable or excessive force.

This statute prohibits physical not verbal resistance

"In the face of verbal challenges to police action, officers and municipalities must respond with restraint. The First Amendment recognizes, that a certain amount of expressive disorder not only is inevitable in a society committed to individual freedom, but must be protected if that freedom would survive." *City of Houston , Texas v. Hill*, 482 U.S. 451, 107 S. Ct. 2502 (1987).

This statute could be used in conjunction with other charges such as Assault & Battery on a Public Employee, Chapter 265, Section 13D, or Attempting to Rescue a Prisoner, Chapter 268, Section 17. There may be some pursuit situations which create a substantial risk of causing bodily injury to a police officer where this statute could be applicable.



## **Impersonation a Police Officer or Other Officers**

### **Chapter 268, Section 33**

#### **Elements:**

1. Falsely assumes or pretends to be a justice of the peace, notary public, sheriff, deputy sheriff, medical examiner, associate M.E., constable, police officer, probation officer or examiner, investigator or officer appointed by the registrar of motor vehicles, or inspector, investigator or examiner of the department of public utilities or investigator or other officer of the alcoholic beverages control commission, or examiner, investigator or other officer of the department of revenue.
2. AND ACTS as such
3. or requires a person to aid or assist him in a matter pertaining to the duty of such officer

#### **Right of Arrest:**

There is no statutory right of arrest for this one (1) year misdemeanor. However, this crime is often accompanied with the felony of extortion.



## **Tobacco; Sale or Gifts to Minors**

### **Chapter 270, Section 6**

#### **Definition:**

Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, gives a cigarettes, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen shall be punished by a fine of not less than one hundred dollars for the first offense, not less than two hundred dollars for a second offense and not less than three hundred dollars for any third or subsequent offense.

#### **Elements:**

1. **Sells**
2. cigarettes, chewing tobacco, snuff or **any** tobacco in **any** of its forms
3. **any** person **under** the age of eighteen

OR

1. **not being parent or guardian**
2. **gives**
3. cigarette, chewing tobacco, snuff or tobacco in any of its forms to
4. any person **under** the age of eighteen

#### **Punishment:**

This is a non-arrestable misdemeanor punishable by the following fines:

First Offense: not less than \$100.00

Second Offense: not less than \$200.00

Third or subsequent Offenses: not less than \$300.00

Chapter 270, Section 7 A copy of the preceeding section must be posted conspicuously by the owner or person in charge. Fiftey dollar fine for a violation of this section.



## **Substance Releasing Toxic Vapor**

### **Chapter 270, Section 18**

#### **Definition:**

No person shall intentionally smell or inhale the fumes of any substance having the property of releasing toxic vapors, for the purpose of causing a condition of intoxication, euphoria, excitement, stupefaction, or dulled senses or nervous system, nor possess, buy or sell any such substance for the purpose of violating or aiding another to violate this section.

This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

Whoever violates the provisions of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months, or both.

Any person who is discovered by a police officer or special police officer in the act of violating this section may be arrested without a warrant by such police officer or special police officer, and held in custody, in jail, or otherwise, until a complaint is made against him for such offense which complaint shall be made as soon as practicable and in any case within twenty-four hours, Sunday and legal holidays excepted.

#### **Elements:**

1. smell or inhale the fumes
2. of any substance
3. that releases toxic vapors
4. to cause intoxication, etc.

OR

1. possess, or buy or sell
2. any such substance
3. to violate or aid another to violate this section

#### **Right of Arrest:**

This is a misdemeanor with a statutory right of arrest in presence.

#### **NOTE:**

This is the applicable statute for glue sniffing.





## **Gaming or Betting in Public Conveyance**

### **Chapter 271, Section 2**

#### **Definition:**

Whoever, in a public conveyance or public place, or in a private place upon which he is trespassing, plays at cards, dice or any other game for money or other property, or bets on the sides or hands of those playing, shall forfeit not more than fifty dollars or be imprisoned for not more than three months; and whoever sets up or permits such a game shall be punished by a fine or not more than three nor more than twelve months. If discovered in the act, he may be arrested without a warrant by a sheriff, deputy sheriff, constable or any officer qualified to serve criminal process, and held in custody, in jail or otherwise, for not more than twenty-four hours, Sunday and legal holidays excepted, until complaint may be made against him for such offense.

#### **Elements:**

1. in a public conveyance or a public place
  2. or in a private place upon which he is trespassing
  3. plays at cards, dice or any other game
  4. for money or other property
  5. or bets on the sides or hands of those playing
- OR**
6. whoever sets up or permits such a game

#### **Right of Arrest:**

This is a misdemeanor with a statutory right of arrest in presence.

#### **NOTE:**

This is the statute that you would use for the crap games on the Common or the three card monte players.

## **Person Drugged for Intercourse**

### **Chapter 272, Section 3**

#### **Definition:**

Applying, administering to or causing to be taken by a person any drug, matter or thing with intent to supply or overpower such person so as to thereby enable any person to have unlawful sexual intercourse with such person.

#### **Elements:**

1. applying, administering or causing to be taken
2. by a **person**
3. any drug, matter or thing
4. specific intent to stupefy
5. for unlawful sexual intercourse

#### **Right of Arrest:**

This 3 year felony is arrestable in presence or on probable cause

#### **NOTE:**

Intercourse not necessary, corroboration is required by statute. If intercourse, then it is also rape.



## Open and Gross Lewdness

### Chapter 272, Section 16

#### **Definition:**

A man or woman, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than two years or by fine for not more than three hundred dollars. (chgd. by L. 1987, chap. 43, eff. 8/3/87)

#### **Right of Arrest:**

This is a three year felony and therefore would be arrestable in presence or upon probable cause.

#### **Note:**

Black's Law Dictionary defines lascivious as "tending to excite lust" or "lewd." It defines lewd as "obscene."

This crime is closely similar to indecent exposure and has been applied primarily to indecent exposure in front of, and sexual conduct with children. Further, the court has held that the defendant's act must be committed "in such a manner as to produce alarm or shock.":

In Comm. v. Fitta, 461 N.E. 2nd 820 (1984), the court held that if the defendant "intentionally, indecently, and offensively exposed himself . . . to a child of tender (**under 12 years of age**) years, without necessity or reasonable excuse, and in such a way as to produce alarm . . . (the defendant would be) guilty.

Chapter 272, s. 53 = **misdemeanor**.

#### JURY INSTRUCTION

#### OPEN AND GROSS LEWDNESS AND LASCIVIOUS BEHAVIOR

##### Elements

First: That the defendant exposed his (her) (genitals) (buttocks) (or)(female breasts) to one or more persons;

Second: That the defendant did so intentionally; In a prosecution for intentional exposure to a single person in a private setting, the following element may be rephrased by deleting the word "public" and replacing the word "others" with "another person."

Third: That the defendant did so "openly," that is, either he (she) intended public exposure, or he (she) recklessly disregarded a public exposure, to others who might be offended by such conduct;

Fourth: That the defendant's act was done in such a way as to produce alarm or shock; and

Fifth: That one or more persons were in fact alarmed or shocked by the defendant's thus exposing himself (herself).



**Commonwealth v. Fitta**, 391 Mass. 394, (1984)

At approximately 9:25 P.M., the defendant was sitting in his parked car. Two ten-year-old boys were playing nearby. The defendant called out to one of them, "You have nice legs," and then asked what he was doing. When the children approached the defendant's vehicle, the defendant exposed his penis to the boys. To convict a defendant of open and gross lewdness and lascivious behavior, the Commonwealth must prove that the conduct is committed in "such a way as to produce alarm" or shock. This element of the crime of open and gross lewdness and lascivious behavior is not required for indecent exposure. Thus, if the Commonwealth were to prove beyond a reasonable doubt that the defendant "intentionally, indecently, and offensively expos[ed] himself . . . to [a child] of tender years, without necessity or reasonable excuse, and in such a way as to produce alarm . . . [the defendant would be] guilty of gross lewdness and lascivious behavior." See *Commonwealth v. Adams*, [389 Mass. 265](#), 271 (1983); The defendant argues that, since G. L. c. 272, Section 53 ("indecent exposure"), and G. L. c. 272, Section 16 ("open and gross lewdness and lascivious behavior"), could, on the facts of this case, be used to punish identical conduct, the disparity of their sentencing provisions makes them "constitutionally vague." [\[Note 4\]](#) Since Section 16 requires proof of an element not required for indecent exposure, the defendant's argument fails.

**Commonwealth v. Maguire**, 476 Mass. 156 (2017):

A MBTA detective observed the defendant rub his penis with his hand over the outside of his pant for about 30 seconds while sitting across from a college age female on the train. There were about 25 people on the platform and three women were sitting on a bench about five feet away from the defendant. The MBTA detective moved to see what the defendant was doing and from his vantage point he saw the defendant, who was still facing the women with his penis exposed. The detective stated that he was "disgusted and concerned that the women on the bench were being victimized." The issue on appeal concerned whether there was sufficient evidence to establish open, gross, lewd and lascivious behavior.

Pursuant to G.L. c. 272, § 16, open, gross, lewd and lascivious behavior requires the following elements:

1. Exposed genitals, breasts or buttocks
2. Intentionally
3. Openly or with reckless disregard of public exposure
4. In a manner to produce shock or alarm
5. Thereby actually shocking or alarming one or more persons.

The SJC found that there was insufficient evidence to establish that the defendant's conduct caused any person shock and alarm. As a result, the open and gross, lewdness and lascivious conviction was reversed. The SJC clarified in this decision the "shock" or "alarm" requirement in G.L. c. 272, § 16. With regard to the first part of its decision, the SJC held that the defendant's actions in this case do not rise to the level of open, gross, lewd and lascivious behavior. Rather the MBTA detective was the person who observed the defendant expose himself and he testified that he was 'disgusted' and concerned for others." However, there is no indication that anyone else personally experienced shock or alarm," key requirements to satisfy this charge. There was insufficient evidence that the police detective himself was "in fact" subjectively alarmed or shocked by the defendant's conduct. See *Commonwealth v. Botev*, 79 Mass. App. Ct. 281, 287 (2011).

The SJC announced that in future cases, it will be incumbent on the Commonwealth to demonstrate not only subjective "shock" or "alarm" on the part of a victim, but also that the victim's reaction was objectively reasonable. "A person's particular reaction — or the particular words used to characterize his or her emotional response — to the misconduct will not suffice to support a conviction under G.L. c. 272, § 16.



## Dissemination of Obscenity to Minors

### Chapter 272, Section 28

Section 28. Whoever disseminates to a minor any matter harmful to minors, as defined in section thirty-one, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than one thousand nor more than ten thousand dollars for the first offense, not less than five thousand nor more than twenty thousand dollars for the second offense, or not less than ten thousand nor more than thirty thousand dollars for the third and subsequent offenses, or by both such fine and imprisonment. A prosecution commenced under this section shall not be continued without a finding nor placed on file. It shall be a defense in any prosecution under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense in any prosecution under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

*Commonwealth v. Mienkowski*, 91 Mass. App. Ct. 668 (2017): After a jury trial, the defendant was convicted of two counts of aggravated rape of a child, G. L. c. 265, c. § 23A, and one count each of posing a child in a state of nudity, G. L. c. 272, § 29A(a), and dissemination of matter harmful to minors, G. L. c. 272, § 28. The victim was thirteen when the rapes occurred and fourteen at the time of the incidents underlying the posing and dissemination charges. On appeal, the defendant argued that the dissemination conviction was based on a video the defendant recorded of himself masturbating and sent to the victim. The defendant challenges the conviction and argues that he cannot be convicted of disseminating "a video of something that the legislature has determined a minor is permitted to see and do in person." Additionally, he argues that the video qualifies as free speech.

The Legislature has defined "harmful to minors" as follows:

"matter is harmful to minors if it is obscene or, if taken as a whole, it (1) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (2) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors; and (3) lacks serious literary, artistic, political or scientific value for minors."

The masturbation video unmistakably depicts both "nudity" and "sexual conduct." The video thus meets the just-stated statutory test if it "appeal[s] predominantly to the prurient interest of minors" and "is patently contrary to prevailing standards."

The court concluded that rational jurors could find that the video "appeal[s] predominantly to the prurient interest of minors" and "is patently contrary to prevailing standards."

The record illustrates how such material can be harmful to minors.



**Posing a Child for Sexual Photos**  
Chapter 272, Section 29A

Section 29A. (a) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, and with lascivious intent, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to pose or be exhibited in a state of nudity, for the purpose of representation or reproduction in any visual material, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(b) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of representation or reproduction in any visual material, or to engage in any live performance involving sexual conduct, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(c) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(d) For the purposes of this section, the determination whether the person in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such person, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, or by expert medical testimony as to the age of the person based upon the person's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.



**Disseminating Child Pornography**  
Chapter 272, Section 29B

Section 29B. (a) Whoever, with lascivious intent, disseminates any visual material that contains a representation or reproduction of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(b) Whoever with lascivious intent disseminates any visual material that contains a representation or reproduction of any act that depicts, describes, or represents sexual conduct participated or engaged in by a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or whoever has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(c) For the purposes of this section, the determination whether the child in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such child, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, by testimony of a person who observed the visual material, or by expert medical testimony as to the age of the child based upon the child's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.

(d) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(e) Pursuant to this section, proof that dissemination of any visual material that contains a representation or reproduction of sexual conduct or of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age was for a bona fide scientific, medical, or educational purpose for a bona fide school, museum, or library may be considered as evidence of a lack of lascivious intent.



**Possession of Child Pornography**  
Chapter 272, Section 29C

Section 29C. Whoever knowingly purchases or possesses a negative, slide, book, magazine, film, videotape, photograph or other similar visual reproduction, or depiction by computer, of any child whom the person knows or reasonably should know to be under the age of 18 years of age and such child is:

- (i) actually or by simulation engaged in any act of sexual intercourse with any person or animal;
- (ii) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus or sex organs of the child and the sex organs of another person or animal;
- (iii) actually or by simulation engaged in any act of masturbation;
- (iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal;
- (v) actually or by simulation engaged in any act of excretion or urination within a sexual context;
- (vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or
- (vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks or, if such person is female, a fully or partially developed breast of the child; with knowledge of the nature or content thereof shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than \$1,000 nor more than \$10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than \$5,000 nor more than \$20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than \$10,000 nor more than \$30,000, or by both such fine and imprisonment for the third and subsequent offenses.

A prosecution commenced under this section shall not be continued without a finding nor placed on file.

The provisions of this section shall not apply to a law enforcement officer, licensed physician, licensed psychologist, attorney or officer of the court who is in possession of such materials in the lawful performance of his official duty. Nor shall the provisions of this section apply to an employee of a bona fide enterprise, the purpose of which enterprise is to filter or otherwise restrict access to such materials, who possesses examples of computer depictions of such material for the purposes of furthering the legitimate goals of such enterprise.



## **Disturbing an Assembly of People**

### **Chapter 272, Section 40**

#### **Elements:**

1. Willfully
2. interrupts or disturbs
3. a school or other assembly of people
4. met for a lawful purpose

#### **Right of Arrest:**

There is no statutory right of arrest. However, with a complaint this would be a breach of the peace.

## **Alcohol on Public School Premises**

### **Chapter 272, Section 40A**

#### **Elements:**

1. Gives, sells, delivers, or has in his possession
2. any alcoholic beverage
3. except for medicinal purposes
4. in any public school building or any premises used for public school purposes or under the charge of school committee or other public board or officer.

#### **Right of Arrest:**

This is a thirty (30) day misdemeanor with no statutory right of arrest.

#### **Note:**

This can be authorized during non-school hours by a school committee if the public or nonprofit organization is properly licensed under C. 138, s. 14.





## **Disturbing the Peace**

### **Chapter 272, Section 53**

Disturbing the peace is one of the crimes listed in Chapter 272, section 53.

The elements of the crime have been loosely defined by case law. In the case of Commonwealth v. David Orlando, 359 N.E. 2d 310, (1977) the court said, "Disturbing the peace thus imposes a two-pronged test by proscribing activities which most people would find to be unreasonably disruptive and which do infringe on some one's right to be undisturbed; the first prong is normative and protects potential defendants from prosecutions based on individual sensitivities and the second prong that the crime has a victim and thus subjects potential defendant to criminal prosecution only when their activities have impact. A more specific standard is impractical because the conduct proscribed by this law necessarily varies according to its location and time."

As a result of that decision, most people that dealt with this section of the law felt that a civilian complainant or witness was required to successfully prosecute a disturbing the peace charge.

That requirement, if it ever existed, clearly ended with the case of Commonwealth v. Piscopo, 11 Mass. App. Ct., 414 N.E. 2d 630, (1981). In that case, the court said, "There was evidence that . . . the defendant was one of the group of twelve to fifteen people, male and female, who participated in yelling loudly and throwing beer bottles and cans on a public street in a residential neighborhood and that those acts were such as would tend to annoy all good citizens. The jury could also have inferred from the testimony that the police were called to the scene that residents of the neighborhood were annoyed."

There was no civilian complainant or witness involved in the Piscopo decision.

Police officers are often required to answer repeat radio calls of the group disturbance type.

Disturbing the peace could be the appropriate charge in many cases.

Disturbing the peace, like most misdemeanors, must be committed in the officer's presence to be arrestable. It has a statutory right to arrest under c. 272 sec. 54, if the offense is in a public way or other public place (and of course in the officer's presence). However, disturbing the peace is by definition a breach of the peace and would be arrestable in an officer's presence without the public way or other public place requirement. People have lawfully been arrested for disturbing the peace in their own home see Comm. v. Mullins, 31 Mass App Ct 954 (1991).



# Boston Police Academy

SGT. John N. Flynn

Training Bulletin 14-09  
December 22, 2009



The purpose of this training bulletin is to update officers on recent changes to Massachusetts General Laws, Chapter 272, §53 involving the crimes of Disorderly Conduct and Disturbing the Peace.

The changes in the law only relate to fines and imprisonment and distinguish between first time offenders and second or subsequent offenders.

The punishment for violating G.L. c. 272, §53 Disorderly Conduct or Disturbing the Peace is as follows:

- • **First Offense:**
  - ○ No longer punishable by imprisonment;
  - ○ First time offenders shall be punished by a fine of not more than \$150
- • **Second or Subsequent Offense:**
  - ○ Punishable by imprisonment in a jail or house of correction for not more than 6 months, or
  - ○ By a fine of not more than \$200, or
  - ○ By both such fine and imprisonment

These changes do not alter rights of arrest for the officer pursuant to G.L. 272 s54 which allows officers to arrest without a warrant any individual who commits the crime of Disorderly Conduct or Disturbing the Peace in a public way or other public place.

Officers should charge Disorderly Conduct Subsequent Offense and Disturbing the Peace Subsequent Offense for individuals who have prior convictions for these offenses and should specify the date of the prior conviction.



# Boston Police Academy

LT James A. Moore, Esquire

Training Bulletin 10-03  
(Issued April 29, 2003)



## DISORDERLY CONDUCT: A TOUR OF THE JUDICIAL CONSTRUCTION SITE

A frequently used, but constitutionally weak statute, M.G.L. c. 272, s. 53, can be traced to colonial and provincial acts. It is in need of legislative revision, but has been saved by judicial construction. This Training Bulletin is a tour of that construction site.

The definition of disorderly includes only those individuals who,

- "with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof...engage in fighting or threatening, or in violent or tumultuous behavior; or
- create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor."

Public is defined as "affecting or likely to affect persons in a place to which the public or a substantial group has access." The public element of the offense is readily satisfied where the prohibited conduct takes place on a public street or by the side of a highway. It may also be satisfied where the disturbance takes place in a more secluded environment, but only if members of the public are likely to be affected. Such a place would include the public area of a police station, or a public alley, but not in a car parked fifty feet from the street, up a driveway and on a lawn of a house. It would include stores, apartment houses, or theaters, a dormitory and abutting plaza, but not a backyard in a single-family house surrounded by an opaque fence. It may occur on purely private property, however, it must be shown that the conduct affected or was likely to affect persons on an adjacent or nearby place to which the public or a substantial group has access. Nothing less than a conscious disregard of a substantial and unjustifiable risk of public nuisance will suffice for liability. The "lewd, wanton, and lascivious" offense of s. 53 requires the public element to be proven. The "accosting and annoying" provision has been held to extend to conduct or language amounting to threatening activity that has only a personal and private impact, as well as a public one. Activity that involves protest or other expressive activities with a legitimate purpose cannot be prosecuted as disorderly.

In order to arrest for disorderly under s. 54, the crime must occur in and officer's presence, and in a public way or other public place.

**References:** Commonwealth v. Chou, 433 Mass. 229, 741 N.E.2d 17 (2001), Commonwealth v. Mulvey, 57 Mass.App.Ct. 579, 784 N.E.2d 1138 (2003), and cases cited therein.



## **Disorderly Person**

### **Chapter 272, Section 53**

#### **Elements:**

Whoever

1. with purpose to cause public annoyance or alarm, or recklessly creating a risk thereof, he:
  - a. engages in fighting or threatening, or in violent or tumultuous behavior or
  - b. creates a hazardous or physically offensive condition by any act **which serves no legitimate purpose of the actor**

#### **Right of Arrest:**

If committed in an officer's presence **AND** on a public way or other public place then there is a statutory right of arrest under ch. 272, section 54.

Disorderly person is also arrestable if committed in an officer's presence since it amounts to a breach of the peace.

#### **Note:**

The court has held that the only words that are considered criminal under this statute are "fighting words" which by their very utterance inflict injury or tend to excite an immediate breach of the peace.

If prosecution is under element (c), the Commonwealth must prove beyond a reasonable doubt that the hazardous or physically offensive condition was created by an act which **serves no legitimate purpose of the actor**. *Com. V. Feigenbaum*, 536 N.E. 2nd 325 (1989).



## **Indecent Exposure**

### **Chapter 272, Section 53**

#### **Definition:**

Exposing to the view of people the uncovered body in an indecent manner.

#### **Elements:**

1. Exposing to the view of people (if the intentional act of lewd exposure is offensive to one or more persons, it is sufficient)
2. the uncovered body
3. in an indecent manner

#### **Right of Arrest:**

This 6 month misdemeanor is arrestable (in public way or other public place) in presence. This crime has a statutory right of arrest -- Chapter 272, Section 54.

#### **Note:**

This crime may be committed in the defendant's home while he is alone if he intentionally exposes himself to a person outside his home.

### **Jury Instruction on INDECENT EXPOSURE**

The defendant is charged with indecent exposure. In order to prove the defendant guilty of this offense, the Commonwealth must prove three things beyond a reasonable doubt:

First: That the defendant exposed his (her) (genitals) to one or more persons;

Second: That the defendant did so intentionally; and

Third: That one or more persons were offended by the defendant's thus exposing himself

(herself).NOTE: 1. Limited to exposure of genitalia. The misdemeanor of indecent exposure (G.L. c. 272, § 53) is applicable only to exposure of the genitalia, and not to exposure of the genital area, pubic hair, buttocks, or female breasts. Commonwealth v. Arthur, 420 Mass. 535, 650 N.E.2d 787 (1995). By contrast, the separate felony offense of open and gross lewdness and lascivious behavior (G.L. c. 272, § 16), includes the intentional exposure of genitalia, buttocks, or female breasts, but has the additional element that it must be done in such a way as to produce actual alarm or shock. See Commonwealth v. Quinn, 439 Mass 492, 789 N.E.2d 138 (2003); Commonwealth v. Fitta, 391 Mass. 394, 396, 461 N.E.2d 820, 822 (1984) (unlike open and gross lewdness, the crime of indecent exposure does not require that it be done in such a way as to produce alarm or shock); Commonwealth v. Broadland, 315 Mass. 20, 21-22, 51 N.E.2d 961, 962 (1943) (indecent exposure involves "an intentional act of lewd exposure, offensive to one or more persons"); Commonwealth v. Bishop, 296 Mass. 459, 462, 6 N.E.2d 369, 370 (1937) (offense need not be in public place or involve exposure to more than one person)



**COMMONWEALTH vs. RAYMOND L. BLACKMER, III.**  
**77 Mass. App. Ct. 474 (2009)**

Lewdness. Open and Gross Lewdness and Lascivious Behavior. Practice, Criminal, Required finding, Instructions to jury. Evidence, Prior misconduct, Identity, Relevancy and materiality.

At the trial of indictments charging open and gross lewdness and lascivious behavior, in violation of G.L. c.272, § 16, and lewd, wanton, and lascivious behavior, in violation of G. L. c.272, § 53, evidence that the defendant masturbated in public without undressing was insufficient to sustain his conviction of open and gross lewdness and lascivious behavior, where a conviction of violating G. L. c. 272, § 16, requires exposure of the genitals or buttocks; the evidence, however, was sufficient to support the defendant's conviction of lewd, wanton, and lascivious behavior, where conviction of a violation of G. L. c. 272, § 53, does not require such exposure [477-480]; and where there was sufficient proof of the defendant's identity [483-484].

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**HANLON, J.** The defendant appeals from his conviction after a Superior Court jury trial of one count of open and gross lewdness and lascivious behavior, G. L. c. 272, § 16, and one count of being lewd, wanton, and lascivious in behavior, G. L. c. 272, § 53, for an incident that occurred on the Smith College campus. We are asked to consider whether public masturbation, without exposure of the defendant's genitalia or buttocks, is punishable under G. L. c. 272, § 16. Because we hold that it is not, we reverse the defendant's conviction for open and gross lewdness and lascivious behavior only, and affirm his conviction for being lewd, wanton, and lascivious in behavior.

Background. The jury would have been warranted in finding the following facts. On February 15, 2007, a student at Smith College, a women's college in Northampton, was crossing the street at an intersection near the campus. She noticed a dark green van, which she described as being the same model as her parents' car, a Dodge Caravan, parked awkwardly and holding up traffic in a crosswalk on the other side of the intersection. As the student approached the car, she noticed the driver was moving "his arm and hand . . . up and down against his groin." He appeared to be masturbating; however, she did not observe that either his genitals or buttocks were exposed. [\[Note 1\]](#)

The victim continued walking toward the car so that she could describe it and the man to campus security officials. At the trial, she described the driver as a white male between the ages of thirty-five and forty with sandy brown hair, glasses, and a mustache. He was staring in her direction and appeared to be trying to make eye contact with her; he also spoke to her but she did not pay attention to what he said. She said that she was "shocked and alarmed" and immediately went to the campus center to report the incident to the campus police. At trial, she did not identify the defendant as the man she saw.

Five days later, on February 20, 2007, a second student was walking in the middle of the Smith College campus when she observed a middle-aged white male sitting in his car, masturbating, with his exposed penis in his hand. His car was parked in the crosswalk and he was looking in her direction. She called the campus public safety office to report the incident and the license plate number of the car.

Shortly afterwards, a campus police officer observed a brown sedan with the same license plate number. The officer testified that the driver of the car he observed was a white male in his mid-forties or early fifties who appeared to have graying hair and a beard. Information from the Registry of Motor Vehicles (RMV) indicated that a brown sedan with that license number was owned by the defendant, Raymond L. Blackmer, III. At the trial, the officer identified the defendant as the man he had seen, although he also described differences in his appearance.

Armed with a name, the campus police obtained a photograph of the defendant wearing glasses and a mustache, and included it in a photographic array shown to the second victim. At first, she did not recognize any of the photographs but, as she was leaving, "something clicked" and she identified the



defendant's photograph as that of the man she had seen. (At trial, she did not make an identification of the defendant.)

The campus police then searched the RMV database using the defendant's surname and discovered a Joyce Blackmer in a nearby town who owned a green Plymouth Voyager that had at one time been registered to a Raymond Blackmer, Jr. The police officer testified at trial that other than "some grill work," a Plymouth Voyager looks no different from a Dodge Caravan, the vehicle that the first victim had described from the incident on February 15. [\[Note 3\]](#)

The defendant pleaded guilty to one count of open and gross lewdness and lascivious behavior, G. L. c. 272, § 16, for the second, February 20, incident, and was sentenced to two and one-half to three years in prison. For the events of the first, February 15, incident, he was indicted on one count of open and gross lewdness and lascivious behavior, G. L. c. 272, § 16, [\[Note 4\]](#) and one count of being a lewd, wanton, and lascivious person in behavior, G. L. c. 272, § 53. [\[Note 5\]](#) After a jury trial, the defendant was found guilty of both charges. [\[Note 6\]](#) On appeal, the defendant challenges the judge's denial of his motion for a required finding of not guilty and alleges several other errors in the trial.

Discussion. "In reviewing the denial of a motion for a required finding, we must determine 'whether the evidence, in its light most favorable to the Commonwealth . . . is sufficient . . . to permit the jury to infer the existence of the essential elements of the crime charged [beyond a reasonable doubt] . . . .'"

a. General Laws c. 272, § 16: open and gross lewdness and lascivious behavior. The language of G. L. c. 272, § 16, does not define "open and gross lewdness and lascivious behavior." However, "decisional law requires proof of five elements to support a conviction, i.e., that the defendant (1) exposed genitals, breasts, or buttocks; (2) intentionally; (3) openly or with reckless disregard of public exposure; (4) in a manner so 'as to produce alarm or shock'; (5) thereby actually shocking or alarming one or more persons."

In this case, the judge denied the defendant's motion for a required finding of not guilty, and instructed the jury that the first element that the Commonwealth was required to prove in establishing a violation of § 16 was that "Mr. Blackmer engaged in lewd and lascivious behavior. What is meant by lewd and lascivious behavior is conduct which involves touching of the buttocks or genitals, for the purposes of sexual arousal, gratification, or offense; *or* conduct which involves exposing one's genitals or buttocks to one or more persons" (emphasis added). [\[Note 7\]](#) The jury instruction thus added to the established definition an additional theory of guilt, one where the defendant touches his genitals or buttocks "for the purposes of sexual arousal, gratification, or offense." [\[Note 8\]](#)

The Commonwealth argues that the instruction was appropriate in light of the language in *Commonwealth v. Quinn*, [439 Mass. 492](#), 495 (2003), stating that "exposure of genitalia is not an essential element of the crime of open and gross lewdness." In *Quinn*, the court held that exposure of the buttocks, combined with the other elements listed above, was sufficient to sustain a conviction for open and gross lewdness, *ibid.*, and certain language in *Quinn* appears to leave open the question whether unexposed masturbation may also be punished under § 16. See *Commonwealth v. Quinn*, [439 Mass. at 501 n.15](#). In addition, the *Quinn* court's citation to *State v. Maunsell*, 170 Vt. 543, 547 (1999), [\[Note 9\]](#) could also suggest that unexposed masturbation would constitute open and gross lewdness in Massachusetts. *Commonwealth v. Quinn*, [439 Mass. at 497 & n.10, 501 n.15](#).

Nevertheless, all of the other case law on the issue, including, as the defendant notes, cases decided subsequent to *Quinn*, indicates the necessity of exposure by the defendant of some body part to sustain a conviction under § 16. See *Commonwealth v. Adams*, [389 Mass. 265](#), 271 (1983) (defendant convicted of open and gross lewdness for driving down a public way, masturbating with penis exposed); *Commonwealth v. Quinn*, [439 Mass. at 498](#) ("A woman approaching a group of school children suddenly opening her blouse to expose her breasts may alarm or shock just as a man masturbating in a passing automobile might"); *Commonwealth v. Kessler*, [442 Mass. 770](#), 772-773 & n.4 (2004)





(utilizing Instruction 5.42 of the Model Jury Instructions for Use in the District Court [1988]); Commonwealth v. Ora, 451 Mass. at 126 ("conviction under the statute requires the display of nudity to be intentional, done in a manner to produce alarm or shock, and actually producing alarm or shock"); Commonwealth v. Swan, 73 Mass. App. Ct. at 261.

Despite the Commonwealth's contention, Commonwealth v. Perretti, [20 Mass. App. Ct. 36](#) (1985), is not to the contrary. In Perretti, we held that there was probable cause to arrest the defendant for open and gross lewdness where "he was standing at a rear, uncurtained, apartment window, at an early morning hour, with his trousers open, wearing no underwear, and his hands at his groin." Id. at 41. In the first place, those facts permit an inference that the defendant was intentionally exposing his genitals at the time of his arrest. Second, the issue in Perretti, supra, was whether those facts were sufficient to provide probable cause for arrest for the offense, not whether they were sufficient to sustain a conviction under § 16.

Finally, the Commonwealth argues that the defendant's public, unexposed masturbation, which shocked and alarmed the victim, was punishable conduct under § 16 in light of the legislative goal of G. L. c. 272 to create a "comprehensive and integrated approach" to the related offenses set out in its provisions. Commonwealth v. Sefranka, [382 Mass. 108](#), 116 (1980). In fact, however, the opinion in Sefranka makes it clear that the statute prohibiting the behavior that the Commonwealth was able to prove here, was the "lewd, wanton and lascivious persons" provision of G. L. c. 272, § 53. As construed in Sefranka, that provision prohibits "the commission of conduct in a public place . . . when the conduct committed . . . involves the touching of the genitals, buttocks, or female breasts, for purposes of sexual arousal, gratification, or offense, by a person who knows or should know of the presence of a person or persons who may be offended by the conduct." Commonwealth v. Sefranka, 382 Mass. at 117-118. Thus, unlike in § 16, exposure of the relevant anatomy is not required under § 53.

The defendant's motion for a required finding of not guilty on the charge of open and gross lewdness and lascivious behavior under § 16 should have been allowed. His conviction on the charge of lewd, wanton, and lascivious behavior under § 53 is clearly supported by the evidence, see Commonwealth v. Nebel, [59 Mass. App. Ct. 316](#), 318-319 (2003), and he does not contend otherwise, except as described below.

b. Identity. The defendant also argues that the judge erred in denying his motion for a required finding of not guilty [\[Note 10\]](#) based on the Commonwealth's failure to prove that the man in the green van on February 15, seen masturbating by the first victim, was the defendant who had committed -- and pleaded guilty to -- the act alleged to have occurred on February 20.

As a preliminary question, we first consider the defendant's contention that the "bad act" evidence relating to the incident five days later was improperly admitted in the trial of the earlier incident. Then we turn to whether the Commonwealth sufficiently identified the defendant present in the courtroom as the person who committed the lewd, wanton, and lascivious behavior on February 15, the behavior for which he was on trial. [\[Note 11\]](#)

Conclusion. We reiterate the requirement that, in order to sustain its burden of proof for a conviction under G. L. c. 272, § 16, the prosecution must establish, in addition to the other elements enumerated in Quinn and described above, that "the defendant exposed his or her genitals, buttocks, or breasts to one or more persons." Commonwealth v. Quinn, 439 Mass. at 501. See Commonwealth v. Ora, 451 Mass. at 127. As a result, regarding so much of the indictment that charges this defendant with open and gross lewdness and lascivious behavior on February 15, 2007, the judgment is reversed, the verdict is set aside, and judgment shall enter for the defendant. On the indictment charging the defendant with being a lewd, wanton, and lascivious person in behavior under G. L. c. 272, § 53, the judgment is affirmed.

So ordered.





## **Annoying and Accosting Persons of the Opposite Sex**

### **Chapter 272, Section 53**

#### **ELEMENTS-JURY INSTRUCTION**

First: That the defendant knowingly engaged in an offensive and disorderly act (or acts), or offensive and disorderly language;

Second: That the defendant intended to direct that conduct to [alleged victim] ;

Third: That [alleged victim] was aware of the defendant's offensive and disorderly conduct;

Fourth: That this conduct was offensive to a reasonable person; and

Fifth: That [alleged victim] was a person of the opposite sex.

To prove the first element of the offense, the Commonwealth must prove beyond a reasonable doubt either that the defendant committed a disorderly act (or acts) or that (he) (she) used disorderly language. To be disorderly, the defendant's act (or acts) or language must involve one of the following four things without a legitimate reason:

- it must involve fighting or violent or tumultuous behavior; or
- it must create a hazardous condition; or
- it must create a physically offensive condition that amounts to an invasion of personal privacy; or
- it must be threatening.

A threat may take many forms. It may be an explicit threat, a comment, or an act that would make a reasonable person fearful, not just uncomfortable. The Commonwealth is not required to prove that the defendant intended any threat to be immediately followed by actual violence or the use of physical force. You may consider all of the evidence and any reasonable inferences you choose to draw from the evidence to determine whether any act or language was reasonably viewed as truly threatening.



## Common Nightwalker Chapter 272, Section 53

### **JURY INSTRUCTION**

#### **COMMON NIGHTWALKER**

Section 53 of chapter 272 of our General Laws provides that “common nightwalkers . . . shall be punished . . . .”

A common nightwalker is someone who is abroad at night, soliciting others to engage in unlawful sexual acts. Often it is a prostitute who solicits potential customers on the street.

Whether a continuing offense. The statutory charging language for this offense suggests that it maybe a continuing offense. G.L. c. 277, § 79 (sufficient form of complaint is “[t]hat A.B., during the three months next before the making of this complaint, was a common nightwalker, habitually walking in the streets in the night time for the purpose of prostitution”). Historically, cases of a similar nature have been viewed as continuing offenses. See Commonwealth v. McNamee, 112 Mass. 285 (1873) (common drunkard); Commonwealth v. Gardner, 73 Mass. 494 (1856) (common seller of spiritous and intoxicating liquor); Stratton v. Commonwealth, 51 Mass. 217 (1845) (common railer and brawler). This issue has not arisen in the nightwalking cases cited above. Conviction does not require multiple acts. Conviction does not require past or multiple acts. King, *supra* (this “is not a statute directed against recidivism and does not require proof of past convictions for prostitution to sustain a conviction for common night walking”). See Commonwealth v. Nellie Cruz, 30 Mass. App. Ct. 1113, 571 N.E.2d 435 (No. 90-P-894, May 9, 1991) (“where, as here, there is direct evidence of solicitation to engage in illicit sexual acts, additional evidence of ‘habitual’ activity is not necessary to establish guilt”



COMMONWEALTH  
v.  
Deborah A. PROCTOR.

April 17, 1986.  
June 10, 1986.

Defendant was convicted in the District Court, Worcester County, of being a **common night walker**, habitually walking streets in nighttime for purpose of **prostitution**. The Appeals Court held that circumstantial evidence was sufficient to support defendant's conviction.

Affirmed.

Deborah Proctor was convicted in a District Court of being a **common night walker**, habitually walking the streets in the nighttime for the purpose of **prostitution**. [G.L. c. 272, § 53](#).

[1] Here the attack is not on the statute's validity or unconstitutional application. Rather, the defendant urges that evidence of a specific and express act of solicitation is required to prove the offense. In the absence of such evidence, the defendant says she was entitled to a required finding of not guilty, an order for which she made timely motion. We read [Commonwealth v. King, 374 Mass. at 14, 372 N.E.2d 196](#), as accepting circumstantial evidence to make out a case under [§ 53](#), and not requiring evidence of solicitation through testimony of the person propositioned or of someone who heard a proposition made. In *King* the court said that “[t]he time, place, and frequency of King's conduct warrant an inference that on each occasion observed by the police King was soliciting men for illicit sexual intercourse.” *Ibid*. That the court did not require evidence of a soliciting conversation with a prospective customer is established by note 7 appearing on page 14 of the *King* opinion. There the court noted that “[a]fter one arrest King's client apparently informed the arresting officer that King had solicited him for sex for hire. The other arrest had no evidence corroborating the solicitation aspect of this offense.” *Ibid*. The second arrest was determined, nevertheless, to be lawful.

[2] It is not, after all, extraordinary to have a charge of criminal conduct proved by circumstantial evidence. [See Commonwealth v. Donovan, 395 Mass. 20, 25, 478 N.E.2d 727 \(1985\); Commonwealth v. Walter, 10 Mass.App.Ct. 255, 257, 406 N.E.2d 1304 \(1980\)](#). The evidence received in the case at bar was that on repeated occasions, over a period of two or three months, the arresting officer had seen the defendant on the corner of Piedmont Street and Jacques Avenue in Worcester, an area frequented by prostitutes. Regularly, the officer testified, the defendant stands on the corner at **\*\*881** night, converses with male motorists, and gets into their vehicles. On the night of her arrest, the defendant was at the usual location; a car driven by a man pulled up and stopped by her; the defendant talked to the man and started to enter his car; as the police officer approached, she began to walk away. We think that evidence meets the time, place, and frequency criteria of [Commonwealth v. King, 374 Mass. at 14, 372 N.E.2d 196](#).

It may well be that consistent failure of the police to produce, as witnesses or as defendants on a related charge, the men who have been approached is constitutionally offensive and would require dismissal of the complaints, as in [Commonwealth v. An Unnamed Defendant, 22 Mass.App. 230, 492 N.E.2d 1184](#). In the instant case, however, that claim was not made, nor was that relief sought. On the record of this case, we have no basis for a disposition on the *An Unnamed Defendant* principle.



Supreme Judicial Court of Massachusetts, Suffolk.

COMMONWEALTH

v.

Diane KING (and six companion cases [FN1]).

FN1. Of the companion cases four are against Diane King, one is against Barbara Astrofsky, and one is against Rebecca Jones.

Argued Feb. 7, 1977.

Decided Dec. 12, 1977.

After appealing their convictions in Municipal Court, defendants were convicted before the Superior Court, Suffolk County, Steele and Morrissey, JJ., of prostitution and one of the defendants was convicted of common night walking, and defendants appealed. After consolidation of the appeals, the Supreme Judicial Court, Hennessey, C. J., held that: (1) statute proscribing prostitution is intended to apply to conduct consisting of common indiscriminate sexual activity for hire, and, as so construed, statute is not unconstitutionally vague; (2) such statute was not unconstitutionally vague on its face in regard to its application to defendants; (3) evidence was sufficient to sustain the convictions of common night walking; (4) prostitution convictions did not implicate any constitutionally protected rights of privacy; (5) statute which proscribes prostitution but does not proscribe the conduct of persons who hire or seek to hire another to engage in sexual activity does not deny equal protection; (6) evidence failed, for purposes of proving discriminatory enforcement of the law, to establish that male prostitutes were not prosecuted for criminal offenses, but (7) statute proscribing prostitution cannot be enforced solely against female prostitutes unless Commonwealth can demonstrate a compelling interest requiring that it not be enforced against male prostitutes.

Exceptions overruled.

HENNESSEY, Chief Justice.

We have before us a broad scale attack on the Massachusetts law against prostitution. The defendants, Rebecca Jones, Barbara Astrofsky, and Diane King, all were convicted for violations of G.L. c. 272, s 53. Jones and Astrofsky were convicted in a Municipal Court, appealed, and then were tried and convicted by a judge in the \*7 Superior Court on complaints of prostitution. \*\*199 King, after appealing her Municipal Court convictions, was tried and convicted by judges in the Superior Court on three complaints of prostitution and two complaints of common night walking, all pursuant to s 53. Fines and thirty-day suspended sentences, with periods of probation, were imposed in all cases except one case against King, wherein a six-month sentence was imposed.

In each of the seven cases below, before conviction in the Superior Court, the defendant filed motions to dismiss the complaint and for the entry of a finding of not guilty on the complaint, alleging that c. 272, s 53, is unconstitutional on its face and as applied to the defendant in that case. The judge in each case denied both motions, and the defendant in each case took exceptions to the denial of her motions. Because the motions and exceptions in all the cases raise common issues, the defendants consolidated their cases for the purposes of appeal.[FN2] This court took jurisdiction of the consolidated appeal which is before us on bills of exceptions. Execution of the defendants' sentences was stayed pending appeal. We find no error and overrule the exceptions in all cases.



FN2. In addition, this court has before it a brief of *amicus curiae*, Boston University Student Defender Program. The facts underlying each conviction can be summarized as follows.

Jones.

In July, 1975, Officer McNelley of the Boston police department telephoned Jones, informing her that he had obtained her name from a male friend. When she said she could not remember this person, they arranged an appointment for the same afternoon. At that meeting, Jones informed Officer McNelley that she would perform various sexual acts with him for \$50. He then arrested her and filed a complaint that "Rebecca Jones . . . , a female, was a prostitute offering her body to indiscriminate intercourse with men for hire." Officer McNelley testified that he has never \*8 brought a similar complaint against a man and that it is the practice of the vice squad division of the Boston police department to file such complaints against only females.

Astrofsky.

In November, 1975, Officer Flemming of the Boston police department observed Astrofsky with another woman in a hotel bar being approached by men. He engaged them in conversation. According to his testimony, her companion asked him, in Astrofsky's absence, whether he "was interested in going out for \$75.00 each." She informed Astrofsky of his interest in "going out" for this price, and Astrofsky volunteered the information that fellatio and sexual intercourse would be included. Officer Flemming then arrested both women. He filed a complaint that "Barbara Astrofsky . . . (b)eing a female, was a prostitute offering her body to indiscriminate intercourse with men for hire."

King Cases 1, 2, and 3 (prostitution).

In April, 1975, according to the testimony of Officer Milan of the vice control unit of the Boston police department, he observed King conversing with the operator of a motor vehicle. She entered the car; it drove away. Then he and a fellow officer stopped the car. The operator of the car informed the officers that King had solicited him for sexual intercourse for \$20 and that the act was to take place in his car.[FN3] Thereupon the officers arrested King and filed a complaint that "Diane King . . . , being a female, was a prostitute offering her body to indiscriminate intercourse with men for hire." The record does not show whether the officers also arrested the operator of the car.

FN3. No objection was made in this case or case No. 3, at trial or on appeal, to the prosecutor's use of what appears to be hearsay evidence to convict King.

In May, 1975, Detective DeLuca of the Boston police department was approached by one Debbie Wilson, who offered to engage in fellatio and sexual intercourse for \*\*200 \$25. After he agreed to Wilson's terms, King approached the couple and offered, for an additional \$25, to join Wilson in \*9 performing sexual acts with Detective DeLuca. He then arrested both women and filed a complaint that "Diane King . . . , being a female, was a prostitute offering her body to indiscriminate intercourse with men for hire."

In July, 1975, Detective McCormick of the Boston police department observed King getting into a car, followed the car, and stopped it. The male occupant of the car informed Detective McCormick that King had offered to perform sexual intercourse with him for \$25, and that they were en route to her apartment. Detective McCormick then arrested King and filed a complaint charging her



with prostitution in language identical to Detective DeLuca's. The record does not show whether Detective McCormick also arrested the male occupant of the car.

King Cases 4 and 5 (common night walking).

**On July 13, 1975, at approximately 11:30 P.M. Patrolman Fee of the Boston police department observed King on a Boston street corner approaching and conversing with males who were on foot and in cars. He ordered her to stop this activity and she complied. On two subsequent nights he observed King engaging in similar activity. On the first such occasion he ordered her to leave the area. On the second such occasion he arrested her and filed a complaint that "Dianne (sic ) King . . . was and now is a common night walker." After this arrest, Patrolman Fee in King's presence conversed with an unidentified male who informed him that King had asked whether he wanted to go out and whether he could spend \$20.**

On June 9, 1975, at 3 A.M. Detective Powers of the Boston police department observed King on a Boston street corner approaching cars with male occupants. He warned her to leave the area and she complied. On June 21, 1975, at 3:55 A.M. Detective Powers observed King entering a car, stopped the car and told her to leave the area. At 4:35 A.M. he observed her at the same location, entering a car. He followed the car to Atlantic Avenue in Boston, where the driver parked the car. Detective Powers arrested King, \*10 charging her with common night walking in language identical to Patrolman Fee's.

1. The defendants assert that G.L. c. 272, s 53, in so far as it prohibits prostitution is facially unconstitutional because its definition of proscribed conduct is vague; because it prohibits the status of being a prostitute; because it discriminates against women; and because the statute proscribes conduct which is protected by the right of privacy. In addition, they argue that the s 53 proscription of prostitution was unconstitutionally applied in each of the five cases below because s 53 is enforced against female prostitutes but not against male prostitutes; because s 53 is enforced against female prostitutes but not against their male customers; because the Commonwealth failed to prove the necessary elements of the offense of prostitution in these cases; and because application of s 53 in these cases invaded the defendant's rights to privacy. Finally, the defendants maintain that s 53, in so far as it prohibits common night walking, is unconstitutionally vague as applied to King.[FN4]

FN4. General Laws c. 272, s 53, as amended through St.1973, c. 1073, s 20, reads as follows, in its entirety: "Common night walkers, both male and female, common railers and brawlers, persons who with offensive and disorderly act or language accost or annoy persons of the opposite sex, lewd, wanton and lascivious persons in speech or behavior, idle and disorderly persons, prostitutes, disturbers of the peace, keepers of noisy and disorderly houses and persons guilty of indecent exposure may be punished by imprisonment in a jail or house of correction for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment."

We hold that the prostitution provision of G.L. c. 272, s 53, as construed in this opinion, is not facially unconstitutional. In addition, we hold that the records do not show unconstitutional application of that provision\*\*201 to the defendants. We also hold that the common night walking provision of s 53 was not unconstitutionally vague in its application to King. Finally, we hold that the Commonwealth here proved the essential elements of the charge of prostitution, since proof of solicitation by the defendants for such acts is sufficient.



**Lewd Wanton and Lascivious Acts**  
Chapter 272, Section 53

***JURY INSTRUCTION***

This provision of our law is intended to punish the performance or solicitation of a sexual touching which does not rise to the level of a completed sexual act, and which is performed or intended to be performed in a public place where others may be offended by it.

In order to prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

First: That the defendant (committed) (publicly solicited another person to commit) a sexual act;

Second: That the sexual act involved touching the genitals or buttocks, or the female breasts;

Third: That the defendant did this either for the purpose of sexual gratification, or for the purpose of offending other people; and

Fourth: That the sexual act (was) (was to be) committed in a public place; that is, a place where the defendant either intended public exposure, or recklessly disregarded a substantial risk of public exposure at that time and under those circumstances, to others who might be offended by such conduct.

The defendant cannot be found guilty of this offense if he (she) desired privacy for a sexual act with another consenting adult. If relevant to evidence, and took reasonable measures in order to secure that privacy. Therefore the Commonwealth must prove that in choosing that particular locale, the defendant either intended public exposure or recklessly disregarded a substantial risk of public exposure at that place and time. *Commonwealth v. Roy*, 420 Mass. 1, 647 N.E.2d 1179 (1995) (statute cannot be applied to solicitation for sexual conduct where unclear whether it was to occur in a public or private place); *Commonwealth v. Beauchemin*, 410 Mass. 181, 183-184, 571 N.E.2d 395, 397 (1991) (statute cannot be applied to sexual conduct in location where little likelihood of being observed by casual passersby); *Commonwealth v. Sefranka*,



## **Engaging in Sexual Conduct for a Fee**

### **Chapter 272, Section 53A**

#### **Definition:**

Any person who engages, agrees to engage, or offers to engage in sexual conduct with another person in return for a fee, or any person who pays, agrees to pay or offers to pay another person to engage in sexual conduct, or to agree to engage in sexual conduct with another natural person may be punished by imprisonment in a jail or house of correction for not more than one year or by a fine of not more than five hundred dollars, or both such fine and imprisonment.

#### **Elements:**

1. Any person (can be male or female)
  2. engages, agrees to engage or offers to engage in sexual conduct
  3. with another person (male or female)
  4. in return for a fee
- OR
1. Any person
  2. who pays, agrees to pay, offers to pay to engage in sexual conduct
  3. with another person
- OR
1. To agree to engage in sexual conduct with another natural person

#### **Right of Arrest:**

Statutory Right of arrest in presence





## Cruelty to Animals

### Chapter 272, Section 77

#### CRUELTY TO ANIMALS-JURY INSTRUCTION

(A) that the defendant (overdrove) (overloaded) (drove when overloaded) (overworked) (tortured) (tormented) (deprived of necessary sustenance) (cruelly beat) (mutilated) or (killed) an animal;  
or

(B) that the defendant caused or procured an animal to be (overdriven) (overloaded) (driven when overloaded) (overworked) (tortured) (tormented) (deprived of necessary sustenance) (cruelly beaten) (mutilated) or (killed); or

(C) that the defendant used a live animal in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait (except an animal if used as lure or bait in fishing); or

(D) that the defendant had the charge or custody of an animal, either as owner or otherwise, and (inflicted unnecessary cruelty upon it) or (unnecessarily failed to provide it with proper food, drink, shelter, t, or protection from the weather); or

(E) that the defendant was the owner, possessor, or person having the charge or custody of an animal, and (cruelly drove or worked it when unfit for labor) or (willfully abandoned it) or (carried it or caused it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon); or

(F) that the defendant knowingly and willfully authorized or permitted an animal to be subjected to unnecessary torture, suffering, or cruelty of any kind.

#### Right of Arrest:

Felony

#### **Section 174E: Chaining or tethering dog to stationary object** *Subsection (a) effective until November 17, 2016. For text effective November 17, 2016, see below.*

Section 174E. (a) No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours. A tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time



## UPSKIRTING

### Chapter 272, Section 105B

#### *An Act Relative to Unlawful Surveillance*

Section 105. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

“Electronically surveils” or “electronically surveilled”, to view, obtain or record a person’s visual image by the use or aid of a camera, cellular or other wireless communication device, computer, television or other electronic device.

“Partially nude”, the exposure of the human genitals, buttocks, pubic area or female breast below a point immediately above the top of the areola.

(b) Whoever willfully photographs, videotapes or electronically surveils another person who is nude or partially nude, with the intent to secretly conduct or hide such activity, when the other person in such place and circumstance would have a reasonable expectation of privacy in not being so photographed, videotaped or electronically surveilled, and without that person’s knowledge and consent, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) Whoever willfully disseminates the visual image of another person who is nude or partially nude, with knowledge that such visual image was unlawfully obtained in violation of subsection (b) and without consent of the person so depicted, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or in the state prison for not more than 5 years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(d) This section shall not apply to a merchant that electronically surveils a customer changing room, provided that signage warning customers of the merchant’s surveillance activity is conspicuously posted at all entrances and in the interior of any changing room electronically surveilled.

(e) This section shall not apply to a law enforcement officer acting within the scope of the officer’s authority under applicable law, or by an order or warrant issued by a court.

**(f) A sheriff, deputy sheriff or police officer may arrest without a warrant, a person whom he has probable cause to believe has violated this section.**

(g) A photograph, videotape or other recorded visual image, depicting a person who is nude or partially nude that is part of any court record arising from a prosecution under this section, shall not be open to public inspection and shall only be made available by court personnel to a law enforcement officer, prosecuting attorney, defendant’s attorney, defendant, or victim connected to such prosecution for inspection, unless otherwise ordered by the court.

(h) In a prosecution under this section, a justice of the superior court or district court may issue appropriate orders to restrain or prevent the unlawful dissemination of a person’s visual image in violation of this section.

*Commonwealth v. Valdeir Aguiar Do Nascimento*, 91 Mass. App. Ct. 665 (2017): The Court concluded that two teenage girls riding the ferry to Nantucket had a reasonable expectation of privacy in not having a stranger use his cell phone to secretly videotape under their sundresses.



## **Accessory Before the Fact**

### **Chapter 274, Section 2**

#### **Definition:**

Aiding in the commission of a felony, or being an accessory thereto before the fact by counseling, fixing or otherwise procuring such felony to be committed.

#### **Elements:**

1. aid, hire or procure such felony to be committed
2. completion of the felony
3. principal need not be already tried or on trial
4. although the procuring or counseling occurred outside of the county or state, it can be tried where the principal could be indicted

#### **Right of Arrest:**

This is a felony punishable the same as whatever felony they were the accessory to, therefore you can arrest on probable cause or in presence.

## **Accessory After the Fact**

### **Chapter 274, Section 4**

#### **Elements:**

- 1.felony has been committed
- 2.assist or conceal the principal or the accessory before the fact
- 3.knowledge that the person who is being assisted committed the felony or was an accessory before the fact
- 4.intend that the principal or accessory before the fact avoid arrest or prosecution
- 5.not be a spouse or be related by consanguinity, affinity or adoption, as parent, grandparent, child, brother, grandchild or sister to the principal or accessory before the fact.

#### **Right of Arrest:**

This 7 year felony is arrestable in presence or on probable cause



## **Attempting to Commit Crimes**

### **Chapter 274, Section 6**

#### **ATTEMPT-JURY INSTRUCTION**

**First: That the defendant had a specific intent to commit \_\_\_\_\_; and**

**Second: That the defendant took an overt act toward committing that crime, which was part of carrying out the crime, and came reasonably close to actually carrying out the crime.**

**The essence of the crime of attempt is that a person has a specific intent to commit a crime and takes a specific step toward committing that crime.**

Doing any act toward the commission of a crime, but failing in its perpetration or is intercepted or prevented.

#### **Right of Arrest:**

Felony portion arrestable in presence or upon probable cause.

Misdemeanor portion arrestable in presence.

The attempt to commit any larceny under Chapter 266, Section 30 is always a **non-arrestable misdemeanor**.

- Not every act done toward the commission of a crime qualifies as an attempt. Mere preparation is not enough.
- Impossibility of achievement is not a defense. Picking an empty pocket is attempted larceny from the person.
- However intent alone cannot be punished. Hence, if a man shoots a telephone pole thinking he's shooting a man, he can't be found guilty of attempted murder.

#### **Note:**

**First**, if the attempt is to commit a crime punishable by death, the penalty is imprisonment in the state prison for not more than ten years.

**Second**, if the attempt is to commit a crime, except any larceny under c.266s.30, punishable by imprisonment in the state prison for life or for five years or more.

**Third**, if the attempt is to commit a crime, except any larceny under c.266s.30, punishable by imprisonment in the state prison for less than five years or by imprisonment in a jail or house of correction or a fine.

**Fourth**, if the attempt is to commit a crime of any larceny punishable under c.266s.30 the penalty is imprisonment for not more than two and one half years in a jail or house of correction.



## **Conspiracy**

### **Chapter 274, Section 7**

#### **CONSPIRACY-JURY INSTRUCTION**

First: That the defendant joined in an agreement or plan with one or more other persons;

Second: That the purpose of the agreement was to do something unlawful

If raised by the evidence: (or to do something that was itself lawful, but by unlawful means);and

Third: That the defendant joined the conspiracy knowing of the help carry it out.

It is not necessary that the conspirators formulated a formal agreement among themselves, or that they agreed on every detail of the conspiracy, or even that they met together. But the Commonwealth must prove that there was a joint plan among them, and that the defendant joined in that plan.

It is not always possible to prove a conspiracy by direct evidence. The law allows you, where it seems reasonable, to infer that there was a conspiracy from all of the circumstances. For example, if people who know each other or have been in communication with each other are shown to have been involved in concerted actions which all seem designed to accomplish a specific purpose, then it may be reasonable to conclude that those actions were not coincidental but were taken pursuant to a joint plan. However, remember that it is not enough that the defendant knew about the conspiracy or associated with conspirators. To be liable as a conspirator, the defendant must have actually joined in the conspiracy as something that he (she) wished to bring about.



## Threats to Commit A Crime

### Chapter 275, Section 2

#### THREAT TO COMMIT CRIME-JURY INSTRUCTION

The defendant is charged with having threatened to commit a crime against the person or property of another. Threatening [a person with a crime against his or her person or property] [a person by threatening a crime against someone else or their property] is itself a crime.

First: That the defendant expressed an intent to injure a person, or property of another, now or in the future;

Second: That the defendant intended that his (her) threat be conveyed to a particular person;

Third: That the injury that was threatened, if carried out, would constitute a crime; and

Fourth: That the defendant made the threat under circumstances which could reasonably have caused the person to whom it was conveyed to fear that the defendant had both the intention and the ability to carry out the threat. See *Commonwealth v. Chalifoux*, 362 Mass. 811, 816-817, 291 N.E.2d 635, 639 (1973) (victim's testimony of prior assault relevant to issue of apprehension); *Commonwealth v. DeVincent*, 358 Mass. 592, 594-595, 266 N.E.2d 314, 315-316 (1971); *Commonwealth v. Maiden*, 61 Mass. App. Ct. 433, 436, 810 N.E.2d 1279, 1281 (2004) (actual receipt by victim of threat not a necessary element; intent that threat be conveyed to target is sufficient, whether or not it was successfully communicated); *Commonwealth v. Hughes*, 59 Mass. App. Ct. 280, 283, 795 N.E.2d 594, 596 (2003); *Commonwealth v. Ditsch*, 19 Mass. App. Ct. 1005, 475 N.E.2d 1235 (1985) (immediate or personal ability to carry out threat unnecessary, only "intention and ability in circumstances which would justify apprehension on the part of the recipient"); *Commonwealth v. Daly*, 12 Mass. App. Ct. 338, 424 N.E.2d 1138 (1981) (under Mass. R. Crim. P. 4[b], others beside victim may bring complaint). See also *Wagenmann v. Adams*, 829 F.2d 196, 207 (1st Cir. 1987); *Robinson v. Bradley*, 300 F.Supp. 665, 668 (D. Mass. 1969) (3-judge court); *Commonwealth v. Kerns*, 449 Mass. 641, 871 N.E.2d 433 (2007).

#### Right of Arrest:

The defendant, if convicted, can be sentenced up to 6 months or pay a fine of up to \$100.00



# Boston Police Academy

LT James A. Moore, Esquire

Training Bulletin 15-03  
(Issued September 4, 2003)



## THREATS AND ASSAULTS

### THREATS

The statutory law concerning threats may be found in Chapter 275, sections 2-6. The term “threat” is not statutorily defined, but its elements have been held to include an expression of intention to inflict a injury or damage on another and an ability to do so in circumstances that would justify apprehension on the part of the recipient of the threat. Words must be viewed in the context of the actions and demeanor, which accompanied them in order to determine if they are objectively threatening. Not all noxious and disturbing remarks are criminal threats. The threat must be communicated in some manner, it need not be oral, verbal, or face to face. It may be communicated to the intended victim in writing, or by a third party, provided it can be proven that the person making the threat intended the third party to communicate the threat to the victim. Intent can be proven by circumstantial evidence. When a person utters a threat to a third party who would likely communicate it to the ultimate target, that action constitutes evidence of intent to communicate the threat to the intended victim. The Commonwealth need not show the suspect’s immediate ability to carry out the threat if the suspect might be able to carry out the threat at a later time.

A threat to commit a crime is a crime itself, but it is not arrestable without an arrest warrant. (M.G.L. c. 275, ss. 2, 3).

However, threatening behavior with purpose to cause public inconvenience, annoyance, or alarm, or recklessly creating the risk thereof, is disorderly conduct. (M.G.L. c. 272, s. 53). If committed in public and in an officer’s presence, it is arrestable. (M.G.L. c. 272, s. 54).

Threats may serve as the basis of a conviction under the accosting and annoying provision of c. 272, s. 53, whether the resulting harm is suffered in public by the public or in private by an individual. If committed in public and in an officer’s presence, it is arrestable. (M.G.L. c. 272, s. 54).



## ASSAULTS

The statutory law concerning assault may be found in Chapter 265, section 13A.

The crime of assault has been variously described as an attempt (or offer) to do bodily harm to another by force and violence, or attempt to commit a battery. The principal element of the crime of assault is an overt, threatening or menacing gesture. Mere words generally, do not constitute assault unless accompanied by an overt act. It is not necessary to prove that the victim was actually apprehensive or fearful of immediate physical harm. It is sufficient to prove that the victim was placed in reasonable apprehension that force may be used. The court will look to the actions and words of the defendant in light of the attendant circumstances.

An assault is a misdemeanor that amounts to a breach of the peace. If it is committed in an officer's presence, it is arrestable.

In a 209A situation, an assault amounts to abuse. If a domestic assault occurs when no protective orders are in effect, this is a misdemeanor with a statutory right of arrest, either in presence or on probable cause. (M.G.L. c. 209A, s. 6(7)). However, whoever commits an assault upon another who he knows has protective orders under Chapter 208, sections 18, 34B or 34C; or Chapter 209, section 32; or Chapter 209A, section 3, 4, or 5; or Chapter 209C, sections 15 or 20 issued against him, commits a five-year felony, and may be arrested in presence or on probable cause.

Whoever commits an assault upon another who he knows, or has reason to know, is pregnant, commits a five-year felony, and may be arrested in presence or on probable cause.

## THE DIFFERENCE

The difference between a threat to commit a crime, and an assault, is that a threat to commit a crime can be mere words about a present or future intent to commit a crime, coupled with the ability to carry out a crime. An arrest warrant is always required to arrest for threats. An assault requires that a person take either some overt step to commit a battery (a swing and a miss), or showing that a battery is imminent (words plus an overt threatening or menacing gesture). An assault, under certain conditions, may be arrestable without a warrant.

**References:** *Commonwealth v. Slaney*, 345 Mass. 135, 185 N.E.2d 919 (1962); *Commonwealth v. Delgado*, 367 Mass. 432, 326 N.E.2d 716 (1975); *Commonwealth v. Ditsch*, 19 Mass.App.Ct. 1005, 475 N.E.2d 1235 (1985); *Commonwealth v. Jacobsen*, 419 Mass. 269, 644 N.E.2d 213 (1995); *Commonwealth v. Robicheau*, 421 Mass. 176, 654 N.E.2d 1196 (1995); *Commonwealth v. Sholley*, 432 Mass. 721, 739 N.E.2d 236 (2000); *Commonwealth v. Milo*, 433 Mass. 149, 740 N.E.2d 967 (2001); *Commonwealth v. Chou*, 433 Mass. 229, 741 N.E.2d 17 (2001); *Commonwealth v. Troy T.*, 54 Mass.App.Ct. 520, 766 N.E.2d 519 (2002); *Commonwealth v. Furst*, 56 Mass.App.Ct. 283, 776 N.E.2d 1032 (2002); *Commonwealth v. Meier*, 56 Mass.App.Ct. 278, 776 N.E.2d 1034 (2002); Nolan & Sartorio, *Criminal Law*, Massachusetts Practice, Volume 32.





## Arrest Without A Warrant

### Chapter 276, Section 28

Any officer authorized to serve criminal process may arrest, without a warrant, and detain a person found in the act of stealing property in the presence of the officer regardless of the value of the property stolen and may arrest, without a warrant and detain a person whom the officer has **probable cause** to believe has committed a misdemeanor by violating a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B, or thirty-four C of chapter two hundred and eight, section three, four or five of chapter two hundred and nine A, section thirty-two of chapter two hundred and nine and section fifteen or twenty of chapter two hundred and nine C.

Said officer may arrest and detain a person charged with a misdemeanor, without having a warrant for such arrest in his possession, if the officer making such arrest and detention shall have actual knowledge that a warrant then in full force and effect for the arrest of such person has in fact been issued.

#### **NOTE:**

This section gives an officer a right of arrest for any larceny committed in his presence regardless of value **and** a past misdemeanor right of arrest for violating a temporary or permanent vacate, restraining, or no-contact order issued pursuant to:

#### **c.208 Divorce**

- sec. 18 -- Authorizes Restraint Order, Divorce Pending
- sec. 34B -- Authorizes Order to Vacate Marital Home
- sec. 34C -- procedures for Orders to Vacate or of Restraint

#### **c.209 Husband and Wife**

- sec. 32 -- Authorizes Restraint, Support, Custody and Maintenance Orders

#### **c.209A Abuse Prevention**

- sec. 3 -- Remedies; Period of Relief
- sec. 4 -- Temporary Orders; Notice; Hearing
- sec. 5 -- Granting Relief When Court Closed; Certification

#### **c.209C Children Born Out of Wedlock**

- sec. 15 -- Authorizes Temporary Restraint Orders
- sec. 20 -- Modification of Judgments; Jurisdiction



## **Examination of Person Arrest**

### **Chapter 276, Section 33**

#### **Elements:**

1. When a person is arrested for a crime and taken to a jail or police station
2. officer in charge shall immediately examine the prisoner
3. if the officer finds any bruises, cuts or other injuries he shall immediately make a written report

#### **NOTE:**

1. The requirement that the prisoner be examined shall not be deemed to compel the removal of his clothing.
2. The written report must be given to the chief of police of the town. In Boston, the report is to be given to the Police Commissioner. If the place of confinement is under control of MDC, the report shall be made to it.
3. The requirement for examination shall be taken after his arrest. When a prisoner is later transferred from one place of confinement to another further examinations are not required.
4. Violation of this section is punishable by a fine of not more than ten dollars.



## **Use of the Telephone by Arrested Person**

### **Chapter 276, Section 33A**

#### **Elements:**

1. Police official in charge of station or place of detention
2. when a person is held in custody
3. Shall permit that person use of the telephone at his expense
4. Upon his arrival at the station and shall be permitted within one hour thereafter

#### **NOTE:**

- Use of the telephone is to allow the arrested person to communicate with his family or friends to arrange for release on bail or to engage the services of an attorney.

## **Affray- Common Law**

### **Chapter 277, Section 39**

#### **AFFRAY-JURY INSTRUCTION**

**First: That the defendant fought with one or more other persons;**

**Second: That the fighting took place in a public place; and**

**Third: That at least one person who was lawfully present in the public place was put in fear as a result of the fighting that occurred.**

**With regard to the first element, fighting is the use of physical force or violence or any threat to immediately use such force or violence. Definition:**

Two or more person fighting together in a public place to the terror of persons lawfully there.

#### **Right of Arrest:**



## **Failing to Register as a Sex Offender**

### **Chapter 6, Section 178H**

Section 178H. (a) A sex offender required to register pursuant to this chapter who knowingly: (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice of a change of address; or (iv) who knowingly provides false information shall be punished in accordance with this section.

(1) A first conviction under this subsection shall be punished by imprisonment for not less than six months and not more than two and one-half years in a house of correction nor more than five years in a state prison or by a fine of not more than \$1,000 or by both such fine and imprisonment.

A person convicted under this paragraph, who has been adjudicated or convicted of any of the offenses set forth in sections 13B, 13B1/2, 13B3/4, 13F, 22A, 22B, 22C, 23, 23A, 23B, 24B and 26 of chapter 265 or for conspiracy to commit any of these offenses, or as an accessory thereto, or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority shall, in addition to the term of imprisonment authorized by this section, be punished by a term of community parole supervision for life, to be served under the jurisdiction of the parole board, as set forth in section 133D of said chapter 127. The sentence of community parole supervision for life shall commence immediately upon the expiration of the term of imprisonment imposed upon such person by the court or upon such person's release from probation or parole supervision or upon the expiration of a continuance without a finding or upon discharge from commitment to the treatment center pursuant to section 9 of chapter 123A, whichever first occurs.



# Boston Police Academy

Lt. Michael A. Chapman  
Sgt. John N. Flynn

Training Bulletin 15-10  
(Issued: November 18,  
2010)



## WIRETAP STATUTE Interception of Wire and Oral Communications M.G.L Chapter 272 Section 99

*The Wiretap Statute is a 12 page document, the purpose of this training bulletin is to give a quick summary for your review. Please see the actual Statute for further details.*

### Definitions

Interception – means to **secretly** hear or record or aid another to secretly hear or secretly record the contents of any oral communication through the use of any intercepting device by any person (other than a person given prior authority by all parties to such communication).

Oral Communication – means speech, except such speech as is transmitted over the public air waves by radio or other similar device.

General law description: This law is designed to prohibit secret recordings of oral communication.

### Elements

Any person who:

- Willfully commits an interception OR
- Attempts to commit an interception OR
- Procures another person to commit an interception
- or attempt to commit an interception

Of any wire or oral communication

**Right of Arrest: In Presence or Probable Cause  
FELONY**



## CASE LAW

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### **Commonwealth v. Hyde (434 Mass. 594)**

On October 26, 1998, an Abington police officer conducted a traffic stop of the defendant's white Porsche, because the automobile had an excessively loud exhaust system and an unlit rear registration plate light. Several other Abington police officers responded and the stop quickly became confrontational. Several days later, the defendant went to the Abington police station to file a formal complaint based on his unfair treatment during the stop. To substantiate his allegations, he produced the secret tape recordings he had made of the conversations that had taken place between the defendant and the police officers. The defendant was tried and convicted of violating the wiretap statute under G. L. c. 272, § 99.

The Supreme Court of Massachusetts affirmed the defendant's conviction and stated the "defendant was not prosecuted for making the recording; he was prosecuted for doing so secretly". The court further stated "the problem here could have been avoided if, at the outset of the traffic stop, the defendant had simply informed the police of his intention to tape record the encounter, or even held the tape recorder in plain sight. Had he done so, his recording would not have been secret, and so would not have violated G. L. c. 272, § 99. See *Commonwealth v. Jackson*, (no "interception" when defendant was aware his voice was being recorded). Secret tape recording by private individuals has been unequivocally banned, and, unless and until the Legislature changes the statute, what was done here cannot be done lawfully".

### **Commonwealth v. Manzelli (68 Mass. App. Ct. 691)**

During a political rally, the defendant secretly recorded his conversation with several MBTA officers as they had a discussion about the defendant taking pictures of the officers. This is how the Appeals Court described the event when the officer asked if the defendant was tape recording their conversation. "The defendant immediately took the microphone, along with a black bag containing a tape recorder and cassette tapes, and threw them among a nearby group of protestors. The defendant shouted for people to take the tapes. (Officer) Riel attempted to retrieve the recorder and tapes, but was thwarted by the crowd, which began to throng Riel. (Officer) Harer came to Riel's aid, and the two of them managed to recover an empty bag, the microphone, and a few tapes. Riel was punched in the eye by a protestor as she attempted to collect the items. Harer then attempted to arrest the defendant, who, by that time, had fled into a nearby subway station. After a brief chase, Harer took the defendant into custody". After trial, the jury convicted the defendant of unlawful electronic interception of an oral communication under G.L. c. 272, § 99.

The Appeals Court in Massachusetts stated "that despite the lack of a tapes, there was ample circumstantial evidence that the defendant made an unlawful secret recording, including (1) his possession of a device, together with the microphone secreted in his jacket, (2) the fact that the microphone was pointed in the direction of the officers during their conversation with the defendant, (3) the odd manner in which the defendant put his questions to police, and (4) the tapes he discarded into the crowd".

**Public and open recordings are allowed under the Wiretap statute. There is no right of arrest for public and open recordings under this statute.**





**Police Commissioner's Memo**

Number: CM 19-002

Date: 1/4/19

Post/Mention: Indefinite

**SUBJECT: COURT DECISION REGARDING SECRET RECORDING OF POLICE OFFICERS**

On December 10, 2018 the U.S. District Court for the District of Massachusetts issued an order in the case of Martin v. Gross ruling that the First Amendment protects the right of individuals to **openly or secretly** record audio and/or video of government officials, including police officers, performing their duties in public spaces. The Court also held that the Massachusetts Wiretap Statute (Mass. Gen. Laws c. 272, §99) is unconstitutional when enforcement infringes upon this right.

This ruling applies only to the recording of government officials and law enforcement officers. The Wiretap Statute remains constitutional when enforced against individuals who secretly record conversations of private citizens.

The Court's decision does acknowledge certain exceptions. Officers may issue orders to restrict recording where they reasonably conclude the recording interferes or is about to interfere with their duties. Officers may take reasonable steps to preserve public safety. Officers may take all reasonable steps to maintain safety and control, secure crime scenes and accident sites, and protect the integrity and confidentiality of investigations. Moreover, if an officer needs to protect the safety of an informant or fellow officer, or seeks to preserve a victim's privacy, the officer may order the recording to stop or may conduct the conversation at a safe distance removed from the bystanders or in a private (i.e. non-public) location. However, officers are advised that the Court took the view that traffic stops generally take place in public spaces.

This Commissioner's Memo is to ensure that the Boston Police Department complies with the Court's decision. Therefore, all officers are advised NOT to enforce the Massachusetts Wiretap Statute against individuals for openly or secretly recording police officers or other government officials who are performing their duties in public spaces. This memo is also intended to make sure all officers are aware that they may be recorded openly or secretly while performing their duties in public spaces.

The Department will update its training materials to reflect the Court's holding in this case.

William G. Gross  
Police Commissioner



# LEGAL TERMS

## **Misdemeanor**

No State Prison Time

## **Felony**

State Prison Time eligible

## **Statutes**

The legislature enacts laws

## **Common Law/Case**

Decisions by Judiciary

## **Right of Arrest**

Warrant

Warrantless Arrest

Complaint-Summons

## **Elements**

Components of a crime

## **Executive Branch**

Responsible for carrying out and enforcing the state laws.





# LEGAL TERMS

## **Actus Reus**

The act itself

## **Mens Rea**

Mental State

- **Specific Intent**

- Intentionally or Knowingly
- Example Assault with Intent to Rob

- **Malicious Intent**

- Express or Implied-not accidental

- **General Intent**

- Intend your Actions
- Most crimes are general intent crimes
- Example-Assault and Battery

- **Reckless Intent**

- Disregard risk

- **Negligent**

- Unreasonable Behavior

- **Strict Liability**

- Intent is irrelevant
- Example-Statutory Rape



**“We are what we repeatedly do, Excellence, then, is not an act, but a habit.”**

**-Aristotle**



**From:** James Blake <james.blake@pd.boston.gov>

**Sent:** Monday, April 11, 2022 5:33 PM EDT

**To:** jharrigan.5@comcast.net <jharrigan.5@comcast.net>

**Subject:** Training

**Attachment(s):** "3 - Reinstatement Training Checklist.pdf", "61-21 Motor Vehicle Law.pdf", "61-21 Domestic Violence Law Textbook.pdf", "59-19 Criminal Law.pdf", "59-19 Constitutional Law.pdf"

Hi Jerry,

Here you go. Let me know if you need anything else.

Jim

Sergeant James Blake

Registrar

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*"First in the Nation"*

# **Boston Police Academy Recruits Class 59-19**

## **CONSTITUTIONAL LAW**



Originally Prepared by: Lieutenant (Ret.) James A. Moore

Updated by: Lieutenant Michael A. Chapman

Instructors: Police Officer Ciro Feliciano and Police Officer Yong Lee

INTRODUCTION  
TO THE  
LEGAL PROCESS  
RECRUIT CLASS 59-19

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## **INTRODUCTION**

This course, Introduction to the Legal Process, is brief in comparison to other courses at the Academy. Although it is brief, it is vital that you master its subject matter. This course forms the basis of many other courses a Recruit Officer will study. The concepts discussed here will be repeated constantly in other subject areas in the weeks to come. You will be required to memorize basic definitions in order to be able to comprehend the legal principles addressed in other courses.

This course was revised and compiled by Lieutenant James A. Moore, and members of the Academy Staff past and present. Sources of some of the material are *Criminal Law for Policeman*, Chamelin & Evans, Prentice Hall, 1977; *Constitutional Law for Police Officers*, Attorney James A. Moore, 1996; and the work of Deputy Superintendent William J. Hogan.

Learn as much as you can each day. Take advantage of all study time available, whether at the Academy or at home. Be attentive. Be respectful to yourself, your fellow recruits, and the Academy Staff. This will enable you to acquire one of the most important tools a police officer can have: knowledge.

## **INSTRUCTOR INTRODUCTION(S)**

My name is Police Officer Yong Lee and I have been with the Boston Police Department since 2006. Prior to my assignment at the academy, I held assignments in District D14 (Brighton), District B2 (Roxbury) and M.O.P (Mobile Operations Patrol) as a member of the BPD Special Weapons and Tactics Team (S.W.A.T. Team). I am excited to be teaching Constitutional Law to you and to help you understand everything we do as police officers. From making an arrest to the use of lethal force, it is all shaped by the U.S. Constitution.

My name is Police Officer Ciro Feliciano. I have been with the Boston Police Department since 2008. I started my career with the department as a Boston Police Cadet prior to becoming a Police Officer in 2010. Prior to my assignment at the academy, I held assignments in District E13 (Jamaica Plain), District C11 (Dorchester) and the District B2 Drug Control Unit (Roxbury). I am a veteran of the United States Armed Forces. I have a strong passion for teaching and hope to become a college professor in the near future. The U.S Constitution is the foundation of everything we do as Police Officers.

## **BASIC DEFINITIONS TO BE COMMITTED TO MEMORY**

### **1. ARREST**

The taking under real or assumed authority, custody of another person for the purpose of holding him to answer to a criminal charge, or to prevent harm to himself or others.

### **2. CRIME**

An act committed or omitted in violation of public law, either forbidding it or commanding it to be done.

### **3. FELONY**

Any crime punishable by death or imprisonment in the state prison.

### **4. MISDEMEANOR**

Any crime less than a felony.

### **5. PROBABLE CAUSE**

That level of proof that is more than reasonable suspicion, yet less than proof beyond a reasonable doubt.

#### **A. Probable Cause to Arrest**

That level of proof, based on facts sufficiently strong in themselves, to cause a reasonable and prudent person to believe that the accused committed the crime with which he is charged.

#### **B. Probable Cause to Search**

That level of proof, based on facts sufficiently strong in themselves, to cause a reasonable person to believe seizable evidence is located in a particular place.

### **6. SEARCH**

Implies a quest or examination. A prying into hidden places for that which is concealed.

### **7. SEIZURE**

A forceful taking or dispossession of property of another, not accompanied by a search.

### **8. FRISK**

The patting down of the outer clothing of a person, or area under his control, to determine by the sense of touch the presence of a weapon. In specific instances a frisk may include a motor vehicle.



**9. REASONABLE SUSPICION**

That level of proof that is less than probable cause but more than mere suspicion.

**10. UNLAWFUL DESIGN**

That a suspect has committed, is committing, or is about to commit a crime.

## **I. HISTORICAL BACKGROUND OF CRIMINAL LAW**

### **A. The Nature of Law**

The question "what is law?" invites many answers, for "law" is a broad concept with many definitions. For the purposes of this course, law can be defined as a group of rules governing interactions. Law is a set of regulations governing the relationship between man and his fellow men, and between man and the state. Law is a necessary means of social control attempting to either alleviate conflicts or settle them in a manner most advantageous to the group.

### **B. Law as Language**

Law is nothing more than language. Just as a carpenter uses a hammer, a police officer uses his ability to communicate. Communication is the ability to make another understand one's self. Law strives for uniformity of interpretation. It is important that both the sending and receiving parties to a communication use terms that mean the same thing to both parties. Throughout this course, the student will be presented with terms that require memorization. This will assure uniformity of interpretation as much as humanly possible.

### **C. Crime Defined**

Not all violations of the law are crimes. Some violations of the law are civil infractions. They are private in nature, involving only the parties and not the state. A police officer has no power in civil matters in Massachusetts. The legislature makes some violations of the law criminal in nature. It is these violations with which a police officer must concern himself. A crime is an act committed or omitted in violation of public law, either forbidding it or commanding it to be done. Crimes are prosecuted in the name of the Commonwealth. The state is a party to the action. There are two purposes of criminal law. First, it attempts to control behavior of human beings. Second, it attempts to sanction uncontrolled behavior by punishing the violator.

### **D. Early Developments of Criminal Law**

Criminal law developed from the personal vendetta. When one individual harmed another, it became the responsibility of the victim or his family to seek redress. Eventually society began to treat certain offenses as crimes against the sovereign, and that state began to punish violators. This practice developed into modern criminal law.

## **E. Common Law**

Common law began as a result of habits of individuals and the customs of groups. They became accepted as norms of behavior. When courts developed violations of these customs produced the cases heard. As the courts recorded their decisions, other judges looking for assistance followed previous court decisions, and precedents developed. The English colonists who settled Massachusetts brought with them a large part of the body of law to which they were accustomed. Common law has been defined as that body of law that derives its authority from judicial decision and ancient statutes and usage, as distinguished from statute law that is enacted by the legislature or congress. Common law derives its authority solely from the usage and customs of antiquity, or from judgements and decrees of the courts recognizing, affirming, and enforcing such uses and customs. Massachusetts embraced this unwritten law of England. Examples of common law crimes, which still exist today are: affray and criminal libel. They have never been made punishable by statute. If no punishment is provided by statute, "the court shall impose such sentence according to the nature of the crime, as conforms to the common usage and practice of the Commonwealth." **M.G.L. C. 279, S.5.**

## **F. Statute Law**

Statute law has been defined as that law effected by legislative enactment. The reading of a statute must be construed strictly. If a statute sets forth a series of acts and proscribes their commission, the wording is critically important. Some examples of statutes are: armed robbery, breaking and entering, and motor vehicle violations.

### **1. Ordinance**

An ordinance is an enactment by a legislative body of a municipal corporation. A rule proposed by a city, establishing when properly enacted. An ordinance has the full force and effect of law.

### **2. By-Laws**

Laws, rules, or regulations adopted by a town for its government are known as by-laws.

### **3. Rules & Regulations**

Park rules, traffic rules, etc. are laws that are a formal means of social control that are interpreted and enforced by the courts of a political community.

## **G. Case Law**

The role of court decisions and their relationship to the law is known as case law. It is a term commonly used to describe the rule of law announced in court decisions. The rule announced in a court decision will reflect the court's reading of a constitutional, statutory, or administrative action. Thus case law merges with other forms of law. Although the wording of a statute may suggest a different meaning to the ordinary reader, it is the interpretation of the courts, the case law, that governs.

### **Points to remember**

Rules of conduct at the different levels of government are known as the following:

1. Federal. ....laws
2. State ..... statutes
3. City .....ordinances, rules & regulations
4. Town .....by-laws, rules & regulations

## **II. FUNDAMENTALS OF CRIMINAL LAW**

Students beginning the study of criminal law must be able to approach the subject with an open mind. They must be objective as possible. Very often there is a difference between what is morally wrong and what is legally prohibited. Personal emotion can play no part in influencing an officer's decision in settling legal problems. Those who resort to emotion will not solve the problem correctly.

An act, which may obviously be wrong to most people, may be committed, but there is no legal penalty. If an officer responded with emotion and made an arrest in such a Situation, the arrest would be unlawful. This would result in the officer's exposure to civil liability. Officers must approach each situation with an analytical mind, and make judgments based on his training.

### **A. Classifications of Crimes**

Crimes are classified in many ways. There is a distinction made between crimes that are *mala in se* and *mala prohibita*. Those classified as *mala in se* are those that are bad in themselves, murder and rape for example. Those classified as *mala prohibita* are those that are wrong simply because the legislature has prohibited them. Examples would be: operating a motor vehicle without being licensed or selling alcohol to a minor.

States are free to classify crimes in any way they choose, and to impose any punishment it desires. However, the punishment cannot violate the Eighth Amendment by being cruel and unusual. In Massachusetts crimes are classified in two categories: felonies and misdemeanors. A felony is any crime punishable by death or imprisonment in the state prison. A misdemeanor is any crime less than a felony.

It is important to know the distinction between a felony and a misdemeanor. Whether or not to arrest may be made, whether or not an arrest warrant is required, how much force may be used, are a few of the questions that can only be determined by the maximum penalty that can be imposed as stated by statute. It does not depend on the sentence actually handed out by the court. For example, Anthony commits a larceny from the person, a crime punishable by five years in state prison. He has committed a felony. This is so even if the court only sentences him to six months in the House of Correction.

## **B. Role of the Court**

By establishing the Federal and State Constitutions, the people have both granted and forbidden the legislatures of both governments the power to do certain things. When the legislature acts, it is the role of the courts to determine if this action is in accordance with the constitutions. Any law that is contrary to the provisions of either constitution will be declared unconstitutional. In addition, since people are entitled to know what conduct is prohibited, statutes cannot be written in broad terms so that they become unclear. In our system of government, the benefit of the doubt goes to the defendant. Criminal laws are construed strictly, when they work against the defendant and they are construed liberally when they work in his favor. In the law, as in baseball, the tie goes to the runner.

## **III. A BRIEF HISTORY OF THE UNITED STATES CONSTITUTION**

The Constitution of the United States is the political foundation of our nation. It was written and adopted after careful consideration, and after experiments had been made with other forms of alliances among the colonies. The main body of the Constitution is composed of seven articles. The first three define the legislative, executive and judicial branches of government and outline their duties. Shortly after this segment of the Constitution was written, leaders decided that it placed too much power in a central government. It was this type of government that the colonies originally rebelled against.

A solution to this concern was reached on December 15, 1791, when the first ten Amendments, popularly known as the Bill of Rights, were adopted and added to the Constitution. At that time, the Amendments only applied to the federal government. It was not until 1858 that the Fourteenth Amendment was adopted. It provides that due process standards apply to the states.

In order to understand the applicability of the Bill of Rights to law enforcement, one must first grasp the concept of "due process." In a simplistic way, it means that no person may be deprived of any rights unless law enforcement action is in accordance with the proper criminal procedures.

Those failing to respect these Constitutional standards are subject to severe criminal and civil penalties. Police Officers must operate within certain boundaries. They can accomplish this task by using proper criminal procedure. Concepts of arrest, search and seizure, the privilege against self-incrimination, and the right to counsel are included in this body of law.

The United State constitution is the supreme law of the land and it prevails over all other kinds of law, both federal and state. States may grant citizens greater protection under the state constitution than may be granted under the federal, but may not grant less. Any law in conflict with the federal constitution is without legal force, and will not be enforced by the courts. At the state level, the state constitution rules are supreme as compared to rules coming from other state sources (e.g., state statutes), and prevail over such laws in cases of conflict.

In order to avoid government tyranny, the founding fathers decided to implement a series of checks and balances by putting executive, legislative and judicial powers in separate departments. These checks and balances are included in the U.S. Constitution. There are three (3) distinct branches of government: legislative, executive and judicial. The executive branch is the enforcement branch, and police are part of the executive branch.

The judicial branch may check the other two branches by ruling on the constitutionality of their actions. The legislative branch can check the other two by using its power to appropriate funds. The executive branch can check the other two by using its power of veto.

## IV. IMPORTANT LEGAL CONCEPTS

### A. Probable Cause to Arrest

Probable cause is a level of proof. It is the amount of proof necessary to justify an arrest. Probable cause exists if, based on facts sufficiently strong in themselves, it causes a reasonable and prudent person to believe that the accused committed the crime with which he is charged. It is **reasonable grounds** for belief in guilt.

Whether an arrest is valid or not depends upon, if at the moment of arrest, the officer had probable cause to make it, that is whether, at the moment the facts within the arresting officer's knowledge and of which he had reasonable trustworthy information, were sufficient to warrant a prudent man in believing that the defendant had committed, was committing the offense. The officer's knowledge is the sum total of what he learns through his five senses. The Fourth Amendment requires that probable cause exist for an arrest with or without a warrant, if it is to be a legal arrest.

Arrest on just suspicion is **illegal**. The amount of evidence needed to establish probable cause for an arrest need not be sufficient to establish guilt; but it must be more than mere suspicion.

Example: A robbery took place and one of the suspects was described as a black male, wearing a trench coat; black male fled from a taxi; a black male was walking down the street 1 ½ miles from where the robbery took place. Is there probable cause to arrest?

Good faith on the part of an officer is not sufficient to withstand the attack on lack of probable cause. A police officer must have probable cause at **the exact moment of arrest**. However, it is not necessary for the officer to make an arrest at the moment he has the minimum amount of evidence to establish probable cause, unless a delay in executing an arrest warrant deprives the defendant of a constitutional right.

An exception for the arresting officer to have probable cause can occur when the collective knowledge of the organization as a whole can be imputed to the individual. An example would be if an officer is authorized or requested by his supervisors to arrest.

If three are three police officers, one with probable cause, and he points out a suspect to the other two officers to make the arrest, then there is probable cause for the arrest, because the knowledge of one was the knowledge of all when engaged in a joint effort. *Commonwealth v. McDermott*, 347 Mass 246, 197 N.E.2d 668 (1964), *Commonwealth v. Zirpolo* 37 Mass App Ct. 307, 639 N.E. 2d 1083 (1994).

Example: An officer transmits over the radio that two white males in tan suits, driving a brown Ford, license number 123456 have just committed an armed robbery. This information could provide probable cause to arrest.

Factors for probable cause must be determined by the facts of a particular case. Generally, no one factor circumstance is enough to establish probable cause, unless the officer observed the offense. On many occasions, probable cause is established by a series of facts, some innocent in themselves, which are known to the arresting officer, and of which he has reliable knowledge at the time of arrest. Prior criminal record, reputation for criminal activity, flight, furtive gestures, evasive answers, conflicting stories, are all factors to be considered. No one factor alone is sufficient to establish probable cause, but a combination of them or other specific knowledge on the part of police officers relating the accused to evidence of a crime are proper factors to be considered in the decision to make an arrest. (See *Lawton* case).

The word "arrest" is derived from the French word "arreter" meaning to stop or stay; it signifies the restraint of a person. Arrest has been defined a taking under real or assumed authority, custody of another person for the purpose of holding him to answer to a criminal charge, or to prevent harm to himself or others. Clearly, police officers must be guided by the intent and the purpose of the law. There are however, limited circumstances in the discretion of the officer involved. When public interest would be

better served by not making an arrest, even though the officer could lawfully make the arrest.

In Massachusetts a police officer has the right of arrest in the following circumstances:

FELONY ..... IN PRESENCE

FELONY ..... PROBABLE CAUSE

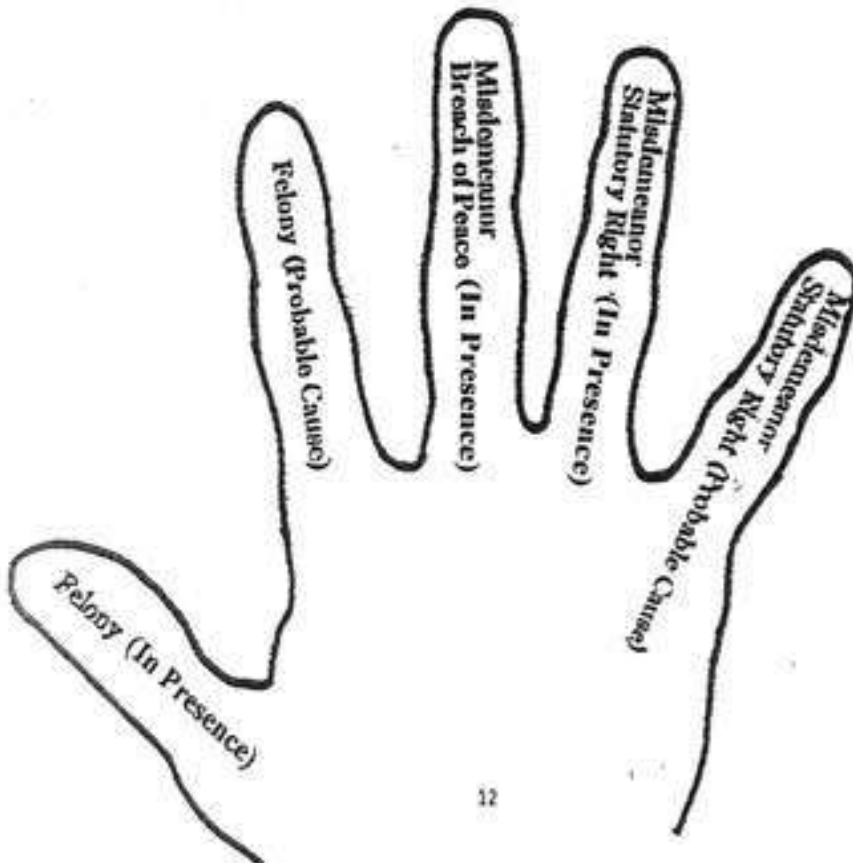
MISDEMEANOR ..... IN PRESENCE AND A BREACH OF THE PEACE

MISDEMEANOR ..... IN PRESENCE – STATUTORY RIGHT

MISDEMEANOR ..... PROBABLE CAUSE – STATUTORY RIGHT

ARREST WARRANT

**RIGHTS OF ARREST (WARRANTLESS) FOR A POLICE OFFICER IN MASSACHUSETTS (HOGAN'S HAND)**





## B. Breach of the Peace

The term "Breach of the Peace" has been troublesome, and in some instances, misinterpreted by police officers. For one thing **it is not the name of a crime**, but rather may be referred to as a "descriptive term" one that describes criminal offenses that effect public peace, for example, the common type of misdemeanor offense of "assault and battery." There is no statutory right of arrest for Assault and Battery, as indicated by item #4 or #5 on the arrest chart. However, every crime of violence against another is by tradition and practice a "Breach of the Peace." Therefore, it is arrestable under item #3 on the arrest chart, if committed in the officer's presence.

You will find that most misdemeanor offense do not provide for an arrest without a warrant, even if committed in the officer's presence additionally, the commission of any offense, whether it is a felony or misdemeanor is a "Breach of the Law," that is breaking the law, but not necessarily a breaking of the peace. On the other hand, certain offenses such as a riot, unlawful assembly, disturbing a public assembly, etc. would by their very nature, amount to a breach of the peace, and thus be arrestable, if committed in the officer's presence. There is no problem with factor of Breach of the Peace in matters concerned with felony arrests under either item #1 and #2 on the arrest chart if probable cause exists for such warrantless arrests. No doubt most felonies would also be breaches of the peace, but the right to make an arrest under either item #1 or #2 on the arrest chart is completely devoid of any reference to Breach of the Peace as a prerequisite thereof.

The police student should at this point concentrate on items #3, #4, and #5 on the arrest chart. The police student will be amazed no doubt to learn, that there are practically hundreds of misdemeanor offenses that are not arrestable without a warrant, even if committed in the officer's presence. From day one you will be exposed to the definition of a misdemeanor. Now project your thinking to #3, #4 and #5 misdemeanor arrests. The occasions under which you may lawfully arrest without a warrant as follows:

- a. Item #3 - Misdemeanor Arrests, when the offense amounts to a Breach of the Peace, and is committed in the officer's presence, or there is a present criminal offense, the Breach of the Peace may be in the future. Item # 3 is the old common law right of arrest for Misdemeanor arrest, developed in early England and is not found in Massachusetts statutes. It should be remembered as well, that the term "Breach of the Peace" does not have to be alleged in the formal complaint in court. It is merely the legal means of making an arrest, however, it should be explained fully in an officer' s complaint in court to justify the arrest, as no statutory right of arrest exists under item #3.
- b. Items #4 & #5 - Statutory Right of Arrest. This is the most common type of warrantless arrest made in practice. It is purely a right given by the legislature, and

has no relation to the common law rule previously covered. Not to confuse the sensitive area of warrantless arrest, but we do have a few isolated examples of instances whereby there are actually two authorities for making misdemeanor arrests, one of which is, the case of *Commonwealth v. Gorman*, 288 Mass 294 (1934). The Supreme Judicial Court ruled that operating a motor vehicle while under the influence of intoxicating liquor, was offense amounting to a breach of the peace, thus immediately creating a new right of arrest under item #3. In later years the Legislature created new statutory right of arrest for operating a motor vehicle under the influence of intoxicating liquor under section 21 of Chapter 90 of the general laws. This is a rarity of course, and the statutory right of arrest is used more commonly.

As an added reminder, the term "Breach of the Peace" is not the specific name of a crime in the Commonwealth, as it may be in some other states. Most of the misunderstanding of this subject in the past stemmed from this area. A person is not arrested and formally charged with a "Breach of the Peace", although this has been frequently quoted as such in news media. It is not the subject of a criminal charge, but the reasons justifying a warrantless arrest, when these facts are present. Not all misdemeanor offenses involve a "Breach of the Peace," because if they did, all would be arrestable, and we would not use item #4.

As a final example, the term "Breach of the Peace" may be equated with terms "vandalism," "white collar crime," "corruption," etc., which in and of themselves do not spell out a crime, but rather are descriptive of acts that, in fact, do spell out crimes. The rationale of the *Gorman* case clearly indicates that it is not only loud, boisterous action that may involve "Breach of the Peace." Gorman was arrested for operating under the influence of liquor, while seated at the wheel of a parked motor vehicle, and the major thrust of the decision was that if he continued to operate the motor vehicle, he could create a "Breach of the Peace" by endangering lives and safety of the public. The Breach of the Peace may be prospective and/or anticipated, as long as there is present criminal activity.

### **C. In Presence of an Officer**

The term "in presence of an officer" is of great importance to police officers particularly in the matter of lawful warrantless arrests for offense in the misdemeanor class. With very limited exceptions, misdemeanors must be committed in the presence of an officer to justify a warrantless arrest.

The substance of various court decisions on the subject of "in presence" is that it means what comes to an officer's attention through one or more of his five senses (sight, hearing, touch, taste, smell). An offense is committed "in presence" or "in view" of an officer, within the rule authorizing an arrest without a warrant, when an officer sees an act constituting the offense,

though at a distance, or when circumstances with his observation give probable cause for belief that the defendant has committed an offense, or when he hears a disturbance created by the offense, and proceeds at once to the scene, or if the offense is continuing, or has not been fully consummated when the arrest is made. An offense is taking place within the "view" of an officer so as to authorize an arrest without a warrant, when the officer's senses afford him knowledge that the offense is being committed. What is required is that the officer, by use of his senses, has reason to believe the misdemeanor is now occurring before him. The offense must be occurring while the officer is on the scene. Officers who are working together on a case may combine their collective perception so that if the composite otherwise satisfies the presence requirement that requirement is deemed satisfied although the arresting officer does not himself witness all the elements of the offense. (See *W.LaFave, Search and Seizure. A Treatise on the Fourth Amendment*, s.5.1 © at 28 (1996); *Commonwealth v. Zirpolo*, 37 Mass App. Ct. 307, 639 N.E. 2d 1083 (1994).

This of course does not mean arriving at the scene and being told about some misdemeanor that happened before your arrival. In the old English case of *Regina v. Tooley*, 2 Ld. Haynes 296(1301), Lord Chief Justice Holt states the rule as follows: A constable cannot arrest, but when he sees an actual breach of the peace, and, if the affray be over, he cannot arrest."

The case of *Commonwealth v. Thomas R. Conway*, 316 N.E. 2d 757 (1974) illustrates this point. The defendant was arrested for knowingly using a motor vehicle without authority of the owner. The court ruled the arrest unlawful because the officers arrived on the scene fifteen minutes after the automobile had been in use, the officers did not see the defendant in the vehicle, and the offense is a misdemeanor.

## V. POWERS & DUTIES OF POLICE OFFICERS

Chapter 41, Section 98 of the Massachusetts General Laws (M.G.L.), is that part of the law where police officers obtain their powers and duties.

### **M.G.L. Chapter 41 Section 98.**

The chief and other police officers of all cities and towns shall have all the powers and duties of constables except serving and executing civil process. They shall suppress and prevent all disturbances and disorder. They may carry within the commonwealth such weapons as the chief of police or the board or officer having control of the police in a city or town shall determine; provided, that any law enforcement officer of another state or territory of the United States may, while on official business within the commonwealth, carry such weapons as are authorized by

his appointing authority. They may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more persons, and may enter any building to suppress a riot or breach of peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled and who do not disperse when ordered, and persons making, aiding and abetting in a riot or disturbance may be arrested by the police, and may thereafter be safely kept by imprisonment or otherwise unless released in the manner provided by law, and taken before a district court to be examined and prosecuted.

Whoever is arrested and charged with any offense committed during a riot, disturbance or mass demonstration may be fingerprinted, in accordance with the protocol of the identification system of the department of the state police and may be photographed.

If a police officer stops a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If he finds such weapon or any other thing the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall return it, if lawfully possessed, or he shall arrest such person.

**M.G.L. Chapter 41 Section 98A.**

A police officer of a city or town who is empowered to make arrests within a city or town may, on fresh and continued pursuit, exercise such authority in any other city or town for any offence committed in his presence within his jurisdiction for which he would have the right to arrest within his jurisdiction without a warrant. Said officer may return any person so arrested to the jurisdiction wherein said offence was committed. Nothing contained in this section shall be construed as limiting the powers of a police officer to make arrests and in so far as possible this section shall be deemed to be declaratory of the common law of the commonwealth.

**M.G.L. Chapter 41 Section 98C.**

In any city or town which accepts the provisions of this section no uniformed police officer, and no other uniformed person empowered to make arrests, employed by such city or town shall be required to wear a badge, tag or label of any kind which identifies him by name, but any such officer or other person employed by such city or town who does not wear any such badge, tag or label shall wear a badge, tag or label which identifies him by number.

**M.G.L. Chapter 41 Section 98D.**

Each city or town shall issue to every full-time police officer employed by it an identification card bearing the officer's photograph and identifying information. The secretary of public safety and security may adopt regulations relative to the form, content and issuance of such identification cards and to the carrying thereof by municipal police officers. Such identification card shall be carried on the officer's person and shall be exhibited upon lawful request for purposes of identification.

348 Mass. 129

Supreme Judicial Court of Massachusetts, Middlesex.  
COMMONWEALTH

v.

John D. LAWTON (and a companion case).

Argued Oct. 5, 1964. Decided Dec. 1, 1964.

Defendants were convicted of breaking and entering in the nighttime and possessing burglarious instruments. The Superior Court, Gourdin, J., entered judgments and defendant appealed. The Supreme Judicial Court, Wilkins, C. J., held that officer who had learned of recent break and at once went to house involved, was told that occupant had seen man in heavy dark coat run out of back door and onto and across adjacent golf links toward designated street, who soon afterwards came upon defendant attired in heavy dark coat when temperature was between 85 and 90 degrees and who was rebuffed by obscene replies and outright refusal to answer when he attempted to interrogate defendant by way of brief threshold inquiry had reasonable cause to arrest on charge of breaking and entering, and defendant was not entitled to have evidence obtained in incidental search suppressed.

Judgments affirmed.

Before \*129 WILKINS, C. J., and SPALDING, WHITTEMORE, CUTTER, KIRK, SPIEGEL and REARDON, JJ.

Opinion

WILKINS, Chief Justice.

These two indictments, respectively for breaking and entering in the nighttime and for possession of burglarious implements (G.L. c. 266, §§ 15, 49), were tried before a judge sitting without jury. At the trial, which was made subject to G.L. c. 278, §§ 33A-33G, as amended, the defendant was convicted of both crimes, and has appealed. The errors assigned and argued are (1) to the denial of a motion to suppress evidence made before trial and heard by the same judge who presided at the trial; (2) to the denial of the same motion when renewed at the trial; and (3) to the denial of the defendant's request in each case for a finding of not guilty on all the evidence as matter of law.

\* 131 1. We summarize the evidence at the hearing of the motion to suppress before trial. The only witness was Officer Fitzsimmons of the Newton Police. On July 24, 1963, about 10:30 P.M. he was in a cruising car when he received information that a break had taken place at 67 Dorset Road, Waban. He learned this from a police radio dispatch to the effect that a woman had just called and reported that, as she entered her house, a man wearing a dark jacket ran out the back door toward the Braeburn Golf Course, which was right in back of the house. Officer Fitzsimmons went to the house where inspectors were interviewing the occupants. Officer Fitzsimmons learned from other officers that the man had run across the golf course toward Fuller Street. About 11:20 P.M. Officer Fitzsimmons, alone in the cruising car, saw the defendant standing at a bus stop at the corner of Commonwealth Avenue and Washington Street,

West Newton. This was about two blocks from the Fuller Street entrance of the golf course and a mile from the house where the break occurred. The temperature was very hot, between eighty-five and ninety degrees. The defendant was wearing a heavy black jacket. Officer Fitzsimmons asked him why he was standing there. The defendant in obscene language replied that it was none of the officer's business. Upon being asked his name, the defendant made the same answer. To a question as to where he was coming from, the defendant said 'the Newton-Wellesley Hospital,' and that if the bus should come, he was going to get on it. Officer Fitzsimmons called by radio for the sergeant in charge at the station, who arrived in a 'cruiser' with another officer. Officer Fitzsimmons then arrested the defendant for being abroad in the nighttime. See G.L. c. 41, § 98, as amended through St. 1957, c. 688, § 1, entitled 'Powers and duties of police officers,' which reads \*\*826 in part: 'During the night time they may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whether they are going \* \* \*. Persons so suspected who do not give a satisfactory \*132 account of themselves\*\*\* maybe arrested \* \* \*.' The unlawful design of which Officer Fitzsimmons suspected the defendant was breaking and entering, but he was not charged with that until after he had been booked at the police station and searched. Officers there took from him a silver dollar in a plastic case which the lieutenant in charge knew had come from a break and was later identified as coming from 67 Dorset Road. The officers also took from the defendant a bag which contained a claw hammer, punch set, screw driver, chisel, a pair of gloves, a pair of rubber-soled shoes, and two flashlights, one a wink light identified as taken in a previous break in Waban. The defendant did not answer any of the 'regular booking questions,' and did not give his name until after two hours, namely, at 1:30 A.M.

12 The defendant argues that the denial of the motion was error, because G.L. c. 41, § 98, is unconstitutional in so far as it authorizes a police officer to make an arrest for being abroad in the nighttime. This, it is contended, is contrary to the Fourth Amendment to the Constitution of the United States, as permitting an arrest 'on suspicion.' It is also argued that § 98 is unconstitutionally vague 'as affording no guidance to the police officer, who is the sole judge as to whether a person gives a satisfactory account of himself. We shall not decide these questions because there was probable cause for arrest for breaking and entering. To be sure, the police officer, who was a layman and not a legal technician, did not state this to be the ground of arrest during the nighttime encounter on the city streets. But the citizens of the Commonwealth, whom the police are organized and exist to protect, and the Commonwealth should not be conclusively bound or limited by the officer's choice of words made subjectively in the active execution of his duties. A police officer in the solution of a crime and in the presence of one he thinks committed it is not a judge with time for mature consideration. On the contrary, his position more nearly resembles that of a sentry at his post in time of war. Upon his alertness and judgment depends the \*133 safety of the many. Officer Fitzsimmons was confronted by a practical problem calling for an immediate exercise of judgment. Without delay he had to reach a decision as to whether he had probable cause to hold the defendant or whether he must let the defendant go, an action which might finally and conclusively eliminate the defendant from the case. If the facts known to the officer reasonably permitted a conclusion that probable cause existed for a charge of breaking and entering, the arrest should be treated as legal even though he at first assigned another ground. *Sec Brinegar v. United States*, 338 U.S. 160, 174-176, 69 S.Ct. 1302, 93 L.Ed. 1879.



3 We are of opinion that the combination of facts known to Officer Fitzsimmons reasonably permitted such a conclusion. He had learned of a recent break from his superiors and at once went to the house. He was told that a female occupant had seen a man in a heavy dark coat run out of the back door and onto and across the adjacent golf links toward Fuller Street. Soon after, while searching in the vicinity of the Fuller Street entrance to the golf course, he had come upon the defendant attired in a heavy dark coat. He could reasonably conclude that not many men would be abroad that night in that vicinity attired in an article of clothing so unsuited to a temperature of eighty-five to ninety degrees. He followed the elementary and highly reasonable course of attempting to interrogate the defendant by way of a brief threshold inquiry. See \*\*827 Commonwealth v. Lehan, Mass., 196 N.E.2d 840.1 He was rebuffed by obscene replies and outright refusals to answer. This reception by the defendant was much more suspicious than that of the 'unconvincing reply' (p. 87) which was made to the police officer in Bell v. United States, 102 U.S.App.D.C. 383, 254 F.2d 82, cert. den. 358 U.S. 885, 79 S.Ct. 126, 3 L.Ed.2d 113. For other Federal cases of unsatisfactory replies to police officers, see Ellis v. United States, 105 U.S.App.D. C. 86, 264 F.2d 372, cert. den. 359 U.S. 998, 79 S.Ct. 1129, 3 L.Ed.2d 986; Robinson v. United States, 109 U.S.App.D.C. 22, 283 F.2d 508, cert. den. 364 U.S. 919, 81 S.Ct. 282, 5 L.Ed.2d 259, cert. den. sub nom. Dawson v. United States, 365 U.S. 827, 81 S.Ct. 716, 5 L.Ed.2d 707, cert. den. sub nom. Williams v. United States, 365 U.S. 830, 81 S.Ct. 718, 5 L.Ed.2d 708; Campbell v. United States, 110 U.S.App.D.C. 109, 289 F.2d 775.

\*134 2. The evidence at the trial was not substantially different from that at the hearing on the motion before trial. The defendant does not argue that it was. In fact he argues both motions simultaneously.

The renewed motion was rightly denied.

45 3. The bag, the articles in it, and the silver dollar were discovered in a reasonable search incident to a lawful arrest. Commonwealth v. Holmes, 344 Mass. 524, 525, 183 N.E.2d 279, and cases cited. They were admissible in evidence and with the other testimony were ample to prove the crimes charged.

6 4. The defendant contends that Marjory M. Alberts testified that the house and the articles taken were hers. The indictment for breaking and entering charges that the house and articles belonged to Sidney Alberts, her husband. This was not a variance. See G.L. c. 277, §§ 25, 35; c. 278, § 9. The property, both real and personal, could be found to have been in the actual or constructive possession of the husband. Commonwealth v. Binkiewicz, 342 Mass. 740, 748-749, 175 N.E.2d 473. See Commonwealth v. McLaughlin, 103 Mass. 435, 436.

5. The requests for findings of not guilty were rightly denied.

Judgments affirmed.

All Citations

348 Mass. 129, 202 N.E.2d 824

**COMMONWEALTH**

v.

**GORMAN**

288 Mass. 294

Supreme Judicial Court of Massachusetts, Worcester.

Nov. 2, 1934.

Report from Superior Court; Worcester County; Buttrick, Judge.

T. Francis Gorman was convicted of operating a motor vehicle on a way while under the influence of intoxicating liquor. On report by a judge of a district court sitting in the Superior Court under statutory authority.

Verdict to stand.

**Opinion**

LUMMUS, Justice .

The defendant, having in his possession a license to operate motor vehicles, was arrested without a warrant by a state police officer, who found the defendant in the act of operating a motor vehicle upon a way while under the influence of intoxicating liquor. G.L. (Ter. Ed.) c. 90, § 24, as amended by St. 1932, c. 26. After being committed to the lockup, the defendant gave bail for his appearance before the District Court. The recognizance, we assume, conformed to G. L. (Ter. Ed.) c. 276, § 65. After complaint against the defendant had been made to the District Court, the arresting officer failed to 'endorse upon the complaint a statement of his doings,' as required by G. L. (Ter. Ed.) \*296 c. 218, § 34. No warrant was issued, an arrest on which might have validated the continuance of a custody invalid before. *Kelly v. Griffin*, 241 U. S. 6, 36 S. Ct. 487, 60 L. Ed. 861; *Stallings v. Splain*, 253 U. S. 339, 343, 40 S. Ct. 537, 64 L. Ed. 940.

In the District Court, before pleading to the merits of the complaint, the defendant made a motion to quash the complaint and also filed a 'plea to the jurisdiction,' based on the alleged unlawfulness of the arrest and of the procedure in bringing him before the court. These were overruled, and the defendant was convicted. On appeal to the Superior Court, he renewed the motion and the plea. These were again overruled, and after trial a verdict of guilty was returned.



A fine was imposed (see *Commonwealth v. McCan*, 277 Mass. 199, 200, 178 N. E. 633, 78 A. L. R. 1208 ; *Commonwealth v. Boston & Maine Transportation Co.*, 282 Mass. 345, 346, 185 N. E. 40; compare *Commonwealth v. Baldi*, 250 Mass. 528, 537, 146 N. E. 11), the execution of the sentence was suspended, and the judge reported the questions which the defendant sought to raise by the motion and the plea, namely, whether the arrest was unlawful and whether any illegality in the arrest and in the failure to indorse a return upon the complaint entitled the defendant to be discharged instead of being tried and convicted.

1 The defendant contended that the right of an officer to arrest without warrant for an offence relating to the operation or control of motor vehicles is limited by G. L. (Ter. Ed.) c. 90, § 21, to the arrest of an operator who does not have in his possession a license to operate motor vehicles; and that only an investigator or examiner appointed by the registrar of motor vehicles may arrest without a warrant, for the offence of operating a motor vehicle while under the influence of intoxicating liquor, one who possesses such a license .

We think, however, that the statute relied on does not by implication, cut down the common law authority of an officer. State police officers have throughout the Commonwealth 'all the powers of constables, except the service of civil process, and of police officers and watchmen.' G.L. (Ter. Ed.) c. 22, § 9A. Constables have common \*297 law power as peace officers to make arrests without warrant in cases in which such arrests are permitted by law. *Hartley v. Inhabitants of Granville*, 216 Mass. 38, 102 N. E. 942, 48 L. R. A. (N. S.) 392, Ann. Cas. 1915A, 725; *Commonwealth v. Hastings*, 9 Metc. 259. In *Sharrock v. Hannemer*, Cro. Eliz. 375, 376, Beaumont [Beaumont], J., said, 'A constable and sheriff are conservators of the peace at the common law.'

The offence of operating a motor vehicle while under the influence of intoxicating liquor is classified by our statute as a misdemeanor, G. L. (Ter. Ed.) c. 274, § 1; chapter 90, § 24, as amended by St. 1932, c. 26. For the common law, see *Commonwealth v. Carey*, 12 Cush. 246, 252; *Jones v. Robbins*, 8 Gray, 329, 347-350 ; *Kurtz v. Moffitt*, 115 U. S. 487, 499, 6 S. Ct. 148, 29 L. Ed. 458. A peace officer, in the absence of statute (*Commonwealth v. Wright*, 158 Mass. 149, 159, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475; *Creeden v. Boston & Maine Railroad*, 193 Mass. 280, 79 N. E. 344, 9 Ann. Cas. 1121), may arrest without warrant for a misdemeanor which (1) involves a breach of the peace (2) is committed in the presence or view

of the officer (*Commonwealth v. McLaughlin*, 12 Cush. 615; *McLennan v. Richardson*, 1k Gray, 74, 77 Am. Dec. 353; *Commonwealth v. Ruggless* 6 Allen, 588, 590; *Carroll v. United States*, 267 U. S. 132, 156, 157, 45 S. Ct. 280. 69 L. Ed. 543, 39 A. L. R. 790), and (3) is still continuing at the time of the arrest or only interrupted, so that the offence and the arrest form parts of one transaction (*Commonwealth v. Hastings*, 9 Mete. 259, 263; *Leddy v. Crossman*, 108 Mass. 237; *Scott v. Eldridge*, 154 Mass. 25, 27 N. E. 677, 12 L. R. A. 379; *Eldredge v. Mitchell*, 214 Mass. 480, 483, 102 N. E. 69; *Price v. Seeley*, 10 CL & F. 28; *R. v. Light*, 7 Cox C. C. 389. See, also, Am. Low Inst. Restatement, Torts, §§ 119, 121, 140, 141). In *R. v. Tooley*, 2 Ld. Ray. \*\*620 1296, 130 l; *Id.*, 11 Mod. 242, 250, Lord Holt states the rule as follows; A constable cannot arrest but where he sees an actual breach of the peace; and if the affray be over,\*\*\* he cannot arrest.' In the same case, reported in Holt 485, 490, sub-nomine. The Case of the Reforming Constables, his statement reads, 'A constable may arrest a man that breaks the peace in his view, but if it be done out of his view, he cannot.' In the present case the only point upon which there can be doubt as to the right to arrest without warrant, is whether the offence involves a breach of the peace.

298 The breach of the peace that justifies arrest for a misdemeanor without warrant must be something more than that which used to be alleged in indictments and complaints as a legal incident of every criminal offence. See *G. L. (Ter. Ed.) c. 277, § 33*. Not every misdemeanor involves a breach of the peace. For example, the possession of short lobster involves none, *Commonwealth v. Wright*, 158 Mass. 149, 159, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475; Voluntary drunkenness in private, though a crime (*Commonwealth v. Conlin*, 184 Mass. 195, 68 N. E. 207), is not of itself a breach of the peace (*Commonwealth v. O'Connor*, 7 Allen, 583). Compare statutory rights of arrest for drunkenness. *G. L. (Ter. Ed.) c. 272, § 44*; *Commonwealth v. Cheney*, 141 Mass. 102, 6 N. E. 724, 55 Am. Rep. 448; *Trebeck v. Croudace*, [1918] 1 K. B. 158. On the other hand, an affray or assault is a typical breach of the peace. *Commonwealth v. Tobin*, 108 Mass. 426, 429, 11 Am. Rep. 375; *Leddy v. Crossman*, 108 Mass. 237. In *Ford v. Breen*, 173 Mass. 52, 53 N. E. 136, violent, profane and obscene language used in a dwelling to the annoyance of persons outside was deemed a breach of the peace. See, also, *Commonwealth v. Foley*, 99 Mass. 497; *Commonwealth v. Oaks*, 113 Mass. 8. This case does not require us to draw the line among conflicting decisions in other jurisdictions for the purpose of classifying offences as involving a breach of the peace, or not. It is worth notice, however, that in *United States v. Hart*. Fed. Cas. No. 15,316, Pct. C. C. 390, Washington, J., held that driving a carriage at an immoderate rate of speed through a principal street was a breach of the peace, justifying an arrest by a constable without a warrant.

If there is a present criminal offence (*Quinn v. Heisel*, 40 Mich. 576), the breach of the peace that justifies arrest without a warrant may be a prospective or anticipated one. An officer, who sees a person committing a misdemeanor of such a sort that a breach of the peace is likely to follow unless the offender be restrained, need not delay an arrest until the harm has been done, nor limit his acts of restraint or detention to those which may be necessary merely to prevent the expected breach. *Commonwealth v. Hastings*, 9 Mctc. 259, 263. We think that the dictum of *Banks, L. J.*, in *Trebeck v. \*299 Croudace*, [1918] 1 K. B. 158, 166, states the common law. He said: 'From the very nature of things the arrest of a drunken person in the street may very frequently be justified on the ground of an anticipated breach of the peace, and particularly so when the alleged offender is in charge either of a loaded gun, or of a motor vehicle, both very dangerous instruments from the point of view of the public safety when in the hands of a drunken person.' The only difference between the case so stated, and the present case, is that the charge against the present defendant was not that he was intoxicated or in a drunken condition, but merely that he was under the influence of intoxicating liquor. *Commonwealth v. Lyseth*, 250 Mass. 555, 558, 146 N. E. 18; *State v. Rodgers*, 91 N. J. Law, 212, 215, 102 A. 433. But even that milder degree of alcoholic effect is likely to make an operator of a motor vehicle a public menace, and to induce in him such reckless conduct as may make him criminally responsible for unintended assault and even manslaughter. *Banks v. Braman*, 188 Mass. 367, 369, 74 N. E. 594; *Commonwealth v. Arone*, 265 Mass. 128, 163 N. E. 758. In our opinion, the offence involves a breach of the peace, and justifies an officer in arresting without a warrant a person whom he sees in the act of committing it.

Because of its public importance, we have dealt with the lawfulness of the arrest. But there is another answer.

Mr. Justice Holmes said, in *Michigan Trust Co. v. Ferry*, 228 U. S. 346, 353, 33 S. Ct. 550, 552, 57 L. Ed. 867: 'Ordinarily jurisdiction over a person is based on the power of the sovereign asserting it to seize that person and imprison him to await the sovereign's pleasure.' In criminal cases, an arrest, upon a warrant or without warrant, is the usual means of bringing defendants before the court, and the alternative method of summons in minor cases is comparatively new. St. 1881, c. 127, § 1, G. L. (Ter. Ed.) c. 276, § 24. In the eighteenth century, civil actions were regularly begun, in practice if not in theory, by arrest upon a *capias writ*. 9 Holdsworth, Hist.

Eng. Law, 250 et seq. In carefully restricted \*\*621 form this practice still survives. G.L. (Ter. Ed.) cc. 224, 226. When the court has jurisdiction over the case, and the defendant is physically \*300 before the court to answer to the plaintiff a possible view is that the unlawfulness of the arrest that brought the defendant there is immaterial in that case, and that the court will proceed to try the merits, leaving the defendant to the remedy of an action against the arresting officer. This view has been taken in some jurisdictions even in civil cases. *More v. Earl Rivers*, Style, 222; *O'Keefe v. Delaney*, 31 New Brunswick, 299, 303; *McNab v. Bennett*, 66 Ill. 157, 161; Compare, however, *Willington v. Steams*, 1 Pick. 497; *Illsley v. Nichols*, 12 Pick. 270, 275 et seq., 22 Am. Dec. 425; *Baker v. Copeland*, 140 Mass. 342, 4 N. E. 606. This view is not necessarily inconsistent with the doctrine that an arrest or other service obtained through the act of the plaintiff in bringing the defendant into the State by force or fraud will not give the court jurisdiction over him, the reason given being that the plaintiff will not be allowed to take advantage of his own wrong. *Ex parte Johnson*, 167 U.S. 120, 126, 17 S. Ct. 735, 42 L. Ed. 103; *Ex parte Taylor*, 29 R. I. 129, 69 A. 553. See, also, *Paine v. Kelley*, 197 Mass. 22, 83 N. E. 8; *Diamond v. Earle*, 217 Mass. 499, 105 N. E. 363, 51 L. R. A. (N. S.) 1178, Ann. Cas. 1915D, 984; *Lamb v. Schmitt*, 285 U. S. 222, 52 S. Ct. 317, 76 L. Ed. 720.

Even though the view just stated be not taken in civil cases, it may nevertheless be adopted in criminal cases. The latter concern directly the public peace and order, and are prosecuted by the Commonwealth, to which the wrongdoing of its officers cannot be attributed. It is true that earlier cases in this court are not fully decisive, for in them the defendant had waived the point by pleading to the merits and going to trial, instead of saving the point by a plea such as was filed in the present case. *Commonwealth v. Oakes*, 151 Mass. 59, 60, 23 N. E. 660, and cases cited. *Commonwealth v. Murphy*, 155 Mass. 284, 286, 29 N. E. 469; *Commonwealth v. Tay*, 170 Mass. 192, 48 N. E. 1086; *Commonwealth v. Conlin*, 184 Mass. 195, 68 N. E. 207; *Flito's Case*, 210 Mass. 33, 95 N. E. 971. See, also, *Ford v. United States*, 273 U.S. 593, 606, 47 S. Ct. 531, 71 L. Ed. 793; *State v. Rosenblum*, 102 N. J. Law, 125, 130 A. 614; *State v. Baker*, 102 N. J. Law, 349, 133 A. 785; *State v. McClung*, 104 W. Va. 330, 140 S. E. 56 A. L. R. 260. But it is intimated in *Commonwealth v. Wait*, 131 Mass. 417, 419, *Commonwealth v. Wright*, 158 Mass. 149, 155, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475, and *Commonwealth v. Tay*, 170 Mass. 192, 48 N. E. 1086, and we think it is the law, that where a defendant is physically before the court upon a complaint or indictment, \*301 either because he is held in custody after an arrest or because he has appeared in person after giving bail, the invalidity of his original arrest is

immaterial, even though seasonably raised. 2 Hawk. P. C., c. 27, § 102; Starkie, Crim. Pl. (2d Ed.) 297; Hawkins, J., in *R. v. Hughes*, 4 Q. B. D. 614, 625, et seq.; *People v. Eberspacher*, 79 Hun, 410, 29 N. Y. S. 796; *People v. Snell*, 216 N. Y. 527, 111 N. E. 50, Ann. Cas. 1917D, 222. Compare *Albrecht v. United States*, 273 U.S. 1, 8-11, 47 S. Ct. 250, 71 L. Ed. 505. It has even been held that a defendant brought within the jurisdiction by unlawful force or fraud may be tried for crime. *Pettibone v. Nichols*, 203 U. S. 192, 27 S. Ct. 111, 51 L. Ed. 148, 7 Ann. Cas. 1047; 18 A. L. R. 509, note. See, also, *Commonwealth v. Wright*, 158 Mass. 149, 33 N. E. 82, 19 L. R. A. 206, 35 Am. St. Rep. 475; *Lascelles v. State of Georgia*, 148 U.S. 537, 13 S. Ct. 687, 37 L. Ed. 549; *Morse v. United States*, 267 U. S. 80, 45 S. Ct. 209, 69 L. Ed. 522.

In reaching this result we have not relied upon any condition in the recognizance requiring the defendant to appear and abide the sentence. See *Brown v. Getchell*, 11 Mass. 11; *Baker v. Copeland*, 140 Mass. 342, 4 N. E. 606; *Lane v. Holman*, 145 Mass. 221, 223, 13 N. E. 602; *Everett v. Henderson*, 146 Mass. 89, 14 N. E. 932, 4 Am. St. Rep. 284; *Simmons v. Richards*, 171 Mass. 281, 50 N. E. 617; *Washington National Bank v. Williams*, 188 Mass. 103, 106, 74 N. E. 470; *Mann v. Cook*, 195 Mass. 440, 81 N. E. 286; *People v. Shaver*, 4 Park. Cr. R. (N. Y.) 45; *Sedgewick v. Houston*, 9 Houst. (Del.) 113, 32 A. 12, 43 Am. St. Rep. 165; *Dickinson v. Farwell*, 71 N. H. 213, 51 A. 624; *Albrecht v. United States*, 273 U. S. 1, 9, 47 S. Ct. 250, 71 L. Ed. 505.

5 The return which should be indorsed upon the complaint in the case of an arrest without a warrant (G. L. [Ter. Ed.] c. 218, § 34), is not essential to the validity of the complaint. It relates only to the service or means by which the defendant is brought before the court. Where, as in this case, the defendant is physically before the court for trial, an omission to make return of the arrest avails him no more than illegality in the arrest itself.

Verdict to stand.



CONSTITUTIONAL LAW  
RECRUIT CLASS 59-19

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## **First Amendment**

### **United States Constitution Amendment I**

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances

### **Massachusetts Declaration of Rights**

#### **Article XVI**

The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth. The right to free speech shall not be abridged.

#### **Article XIX**

The people have the right, in an orderly and peaceable manner, to assemble to consult the common good: give instructions to their representatives, and request the legislative body, by way of addresses, petitions, or remonstrance's, redress the wrongs done them, and grievances they suffer.

The four freedoms guaranteed by the First Amendment are: speech, press, assembly and religion. In the course of their duties police officers generally deal with issues regarding freedom of speech, assembly and on a limited basis, press. Police Officers have the difficult duty of achieving the balance between protecting these rights and maintaining order in the community. In maintaining order in the community nothing can replace the sound judgment of a reasonable, prudent and well-trained police officer. Using this judgment the officer simply has to balance the context of the activity with its likely result. Therefore conduct that would fall short of death, injury or property damage should be tolerated. Riot, mob-rule and malicious destruction should not. Civil disobedience may be tolerated, but criminal disobedience is not.

## **FREEDOM OF SPEECH**

### **Protected Activity**

#### **Speech -**

Freedom of speech means that individuals have the right to advocate their ideas. No matter how unpopular that idea is, it is protected by the First Amendment. Case law has developed the proposition that speech alone, without more, is protected. Words which some may consider to be crude, offensive, abusive or vulgar, cannot be made the subject of criminal sanctions.<sup>1</sup> Although certain four-letter words may be distasteful, "one man's vulgarity is another man's lyric,"<sup>2</sup> and no arrest can be made for the use of such words. One of the hallmarks of a free society is tolerance for the expression of ideas that may seem undemocratic or even dangerous. So it is that "freedom to think as you will and speak as you think are means indispensable to the discovery of and spread of political truth."<sup>3</sup> The short of it is, if all we have is going on is "words" the speaker will be protected. Generally, a person cannot be arrested for making a speech, or for his choice of words. There are exceptions to this general rule, which will be discussed shortly. Additionally peaceful begging has been ruled a communicative activity protected by the First Amendment in Massachusetts.<sup>4</sup>

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<sup>1</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>2</sup> *Cohen v. California*, 91 S.Ct. 1780 (1971).

<sup>3</sup> *Whitney v. California*, 47 S.Ct. 641 (1927)

<sup>4</sup> *Benefit v. City of Cambridge*, 424 Mass 918 (1997).

**Symbolic Speech -** Symbolic speech is also protected. It has been defined as acts which communicate ideas.<sup>5</sup> Various hand gestures, such as thumbs up, thumbs down, raising the middle finger, etc. come to mind. The wearing of black armbands to protest a war,<sup>6</sup> swastikas,<sup>7</sup> and burning a flag<sup>8</sup> are all forms of protected of symbolic speech and are protected. The First Amendment protects not only speech itself, but also other expressive conduct that is "intended to convey a particular message" under circumstances in which "the likelihood is great that the message would be understood by those who view it".<sup>9</sup>

### **Unprotected Activity**

**Fighting Words -** One form of speech that is not protected is "fighting words."<sup>10</sup> This concept is defined as words, which by their very nature tend to inflict injury or tend to incite an immediate breach of the peace. The test for fighting words is the effect that they have on an ordinary citizen. They must be a personally abusive epithet which, when addressed to the ordinary citizen, are as a matter of common knowledge, likely to provoke a violent reaction.<sup>11</sup> In order to arrest a speaker under these circumstances an officer must be prepared to show that a violent reaction was likely. If a fight does occur, constitutional issues can be avoided by charging the combatants with assault and battery. An officer need not wait until the fight is in progress. When there is an immediate threat to public safety, peace or order, the power of the State to prevent or punish it is obvious.

The fighting word concept does not apply when they are addressed to a police officer. This is so because an officer is trained to exercise a higher degree of restraint than the average citizen.<sup>12</sup> On the other hand, conduct accompanied by speech directed to police officers that actually disrupts or obstructs them in the performance of their duty is not protected by the First Amendment.

<sup>5</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>6</sup> *Tinker v. Des Moines Independent Community School District*, 89 S. Ct. 733 (1969).

<sup>7</sup> *National Socialist Party v. Village of Shokie*, 97 S.Ct. 2205, (1977).

<sup>8</sup> *Texas v. Johnson*, 109 nS. Ct. 2533, (1989).

<sup>9</sup> *Spence v. Washington*, 94 S.Ct. 2727, (1974).

<sup>10</sup> *Chaplinsky v. New Hampshire*, 62 S.Ct. 766 (1942).

<sup>11</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>12</sup> *Lewis v. City of New Orleans*, 94 S.Ct. 970 (1974).

Speech Plus - Another form of speech not protected by the First Amendment is "speech plus." This is defined as speech, which will incite immediate criminal activity.<sup>13</sup> When words are used in such circumstances and are of a nature as to create a clear and present danger that they will bring about substantive evils, the government may act.<sup>14</sup> An officer must be able to show either that an immediate serious violence was to be expected or was advocated or that past conduct furnished reason to believe that such advocacy was then contemplated.<sup>15</sup> We are not talking about speech that causes unrest, dissatisfaction or that stirs people to anger. Such speech is protected. We are talking about speech that advocates violence. Such speech can be prohibited only when it is directed to inciting imminent lawless action and is likely to produce such action.<sup>16</sup> We are talking about speech that is likely to produce imminent disorder, speech that incites lawless action, speech that will result in violence. A spectator who says "we'll take the fucking streets later" is protected.<sup>17</sup> For his speech to reach the "speech plus" category, the speaker must be inciting lawless action.

## FREEDOM OF ASSEMBLY

When you think about it, the right to assembly is the right to free speech in a group. People have a right to gather and discuss their ideas and advocate those ideas jointly. As long as this is done in a peaceful manner, it is of no concern to the police. When the exercise of the right to assembly comes into conflict with the enjoyment of other well recognized rights: the police are often called to resolve the conflict. Some give and take is expected. Participants in the Boston Marathon, the Patriot' Super Bowl celebration, various parades and walks for charities , have all gathered and no doubt have annoyed non-participants. People also gather for political purposes.

City streets, sidewalks and parks are public forums. They are recognized as normal places for exchange of ideas. This does not mean that the freedom is beyond all control. Government may regulate the time, place and manner of assembly if there is a strong rational reason, unrelated to the suppression of free expression.<sup>18</sup> Such as traffic flow and public safety.

<sup>13</sup> James A. Moore, *Constitutional Law for Police Officers*, 2002.

<sup>14</sup> *Schenck v. United States*, 39 S.Ct. 247, (1919).

<sup>15</sup> *Whitney v. California*, Ibid.

<sup>16</sup> *Brandenberg v. Ohio*, 89 S.Ct. 1827 (1969).

<sup>17</sup> *Hess v. Indiana*, 94 S.Ct. 326, (1973).

<sup>18</sup> *O'Brien v. United States*, 88 S.Ct. 1673, (1968).

Occasionally, a group will gather that is hostile to the speaker and/or his views. It is the duty of the police to protect him from imminent spectator violence with reasonable crowd control techniques. However, the police may suppress otherwise constitutionally protected speech if imminent spectator violence cannot be satisfactorily prevented or curbed by means of reasonable crowd control techniques and if the speech itself is the apparent cause of the impending disorder. It is not a constitutional principle that, in acting to preserve order, the police must proceed against the crowd whatever its size and temper and not against the speaker.<sup>19</sup> The danger must be real, not just generalized police fears of violence.

Public property, which is not a traditional forum for public discussion and which is used for government business can be regulated to a greater degree. In addition to time, place and manner regulations, the state may reserve the forum for its intended purposes. When government property is not dedicated to open communication the government may restrict its use to those on official business.<sup>20</sup> The state has the power to preserve the property under its control to the use for which it was lawfully dedicated. Thus, conduct which interferes with the activity of a draft board, welfare office, school or court proceeding can be prohibited. Obviously, there is no right to uninvited access to private property, even business property. The Massachusetts Supreme Judicial Court has stated that the Massachusetts Declaration of Rights allows limited access to common areas of shopping malls for election related activity (distribution of campaign literature, gathering signatures) only. The management of the shopping malls may place reasonable time, place and manner restrictions on this activity.<sup>21</sup>

Massachusetts General Law, Chapter 269, sections 1, 2, and 4 make it a crime for five or more persons, being armed with clubs or other dangerous weapons, or ten or more persons, whether armed or not, to unlawful, riotously or tumultuously assemble. If they do not immediately and peacefully disperse upon command of the police or other officials in the name of the commonwealth, they may be arrested and charged with unlawful assembly. These statutes have their origin in common law. They contemplate a meeting with intent to commit a crime by open force, or to execute a common design, lawful or unlawful, in an unauthorized manner likely to cause courageous people to apprehend a breach of the peace. It must be such to alarm reasonable persons.

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<sup>19</sup> *Niemotko v. Maryland*, 71 S.Ct. 328, (1951).

<sup>20</sup> *Adderly v. Florida*, 87 S.Ct. 242, (1966).

<sup>21</sup> *Batchelder v. Allied Stores International, Inc.*, 388 Mass 83, (1983).

## **DISTURBING THE PEACE, DISORDERLY PERSONS, RESISTING ARREST**

### **I. Introduction.**

The right of the people to express their views openly, no matter how unpopular they may be is undeniable. Freedom of speech is protected by the First Amendment to the U.S. Constitution, and Article 16 of the Massachusetts Declaration of Rights. Equally undeniable is the right of the people to assemble in an orderly and peaceable manner. Freedom of assembly is protected by the First Amendment to the U.S. Constitution, and Article 19 of the Massachusetts Declaration of Rights. When the right of the people to express their views openly comes into conflict with the enjoyment of other well recognized rights of individuals, however, the police are often called to the scene to resolve the conflict. Three options that may be used to resolve such conflicts are discussed below.

### **II. Disturbing the Peace.**

Disturbing the peace is a common law crime, which has an express statutory penalty under G.L. c. 272, s. 53. This crime prohibits activities which:

1. Most people find to be unreasonably disruptive; and
2. Which do in fact infringe on someone's right not to be disturbed.

This crime carries a right of arrest, if it occurs in the officer's presence and in a public place under G.L. c. 272, s. 54. Under common law, this crime is a misdemeanor, which amounts to a breach of peace, in either a public or private place, for which an officer would have an in presence right of arrest. This charge would be appropriate in every case in which a "disorderly" arrest could also be made, and would be the required charge when disruptive activity could not be properly charged as "disorderly."

**Example:** Those who block a public street or highway to which the public has an easement of passage, and thereby interfere with this easement are creating a nuisance. Those blocking the street would be considered disturbers of the peace under the common law, since their conduct tends to annoy anyone present and not favoring it, and they could be so charged. The fact that the police are called to the scene is indicative that citizens are annoyed.

### **III. Disorderly Persons.**

This crime is punishable under G.L. c. 272, s. 53. The elements of the crime of a disorderly person are defined as

Persons who, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating the risk thereof:

1. Engage in fighting or threatening, or in violent or tumultuous behavior, or
2. Create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

This statute carries both a common law, and statutory right of arrest under G.L. c. 272, s. 54. It must occur in the officer's presence **and** on a public way or other public place. A charge of disorderly person can only be applied to conduct which involves no lawful exercise of the federal or state constitutional rights noted above in Section I.

Generally speaking, if a person's activity consists of speech alone, it will be protected. However, speech might be prohibited if it consists of "fighting words" that by their very utterance inflict injury; or "speech plus" words that tend to incite an immediate breach of the peace.

### **IV. Resisting Arrest.**

Persons commit the crime of resisting arrest, under G.L. c. 268, s. 32B, if they knowingly prevent or attempt to prevent a police officer from effecting an arrest by:

1. Using or *threatening* to use physical force or violence against the police officer or another or:
2. Using any other means which creates a substantial risk of causing bodily injury to such police officer or another.

Those who physically interfere would also be subject to arrest as a Disorderly Person.

## **Fourth Amendment**

### **Amendment IV.**

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### **Article XIV, Declaration of Rights, Constitution of the Commonwealth of Massachusetts**

Every subject has a right to be secure from all unreasonable searches and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be nor previously supported by oath or affirmation; and if the order in the warrant to a Civil Officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

### **Introduction**

The Fourth Amendment comes into play daily as perform the functions of a police officer. The freedom against unreasonable searches and seizures will apply to almost every action that we take as a police officer. In the course of applying principles of criminal procedure we must analyze what course of action would be reasonable given all the facts of a certain situation.

### **Exclusionary Rule and Fruit of the Poisonous Tree**

The United States Supreme Court created the exclusionary rule in *Weeks v. United States*, 232 US 383 (1914) and applied the rule to the states in *Mapp v. Ohio*, 367 US 643 (1961). The exclusionary rule was created to deter improper police procedures and is used to remedy violations of the Fourth Amendment by police officers. Any evidence that is discovered by police in violation of an individual's rights granted by the Fourth Amendment is considered Fruit of the Poisonous Tree and will be suppressed in a court of law. In other words, any evidence obtained illegally by police officers will be excluded from use in the trial and prosecution of the arrested person.



## ARREST

The Fourth Amendment states "the right of people to be secure in their persons, house, papers and effect". The following discussions on Arrest and Threshold Inquiries will focus on that right of individuals to secure in their persons. When police officers seize an individual, either during an arrest or while conducting a threshold inquiry, the principles of the Fourth Amendment apply and must be followed.

During the Introduction to the Legal Process course an arrest was defined as the taking under real assumed authority, custody of another person for purposes of holding him to answer to a criminal charge or from preventing harm to himself or others. The Massachusetts Supreme Judicial Court has ruled that there are three elements that must be present in order for an arrest to occur (*Mass General Hospital v. Revere*, 385 Mass 772, 1982):

**Intent** - The court will use an objective test to determine if the police officer had the intent to arrest. Would a reasonable person feel free to leave under the circumstances? Based on the police officers words and actions if a reasonable person feels free to leave - there is no intention to arrest. If the reasonable person does not feel free to leave - there is an intention to arrest.

**Communication** - The second element in the definition of an arrest will be satisfied if based on the officer's words and actions that the person understands that he is being arrested. As human beings we communicate both verbally and non-verbally. Both forms of our communication process will be taken into account by the courts. Generally, we clearly state to the individual that they are under arrest. But our intent may be communicated non-verbally by placing the person in handcuffs and seating them in the back seat of our cruiser.

**Control** - There must be some type of physical restraint of the individual to satisfy the third element of an arrest. The physical constraints can be an actual seizure - some type of physical restraint (holding onto an individual, handcuffing, placing in the rear of the police cruiser). The control also can be constructive where an individual obeys the Officer's verbal commands and submits to their authority.

The exact moment of arrest is extremely important to police officers as certain rights may attach to the arrested person (right to use the telephone, right to know true grounds for the arrest, right to be examined for injuries, Jenkins hearing etc.). In order for an arrest to be lawful a police officer must have probable cause to believe that a crime has been committed, the offense must be arrestable and the officer must be within his jurisdiction.

Lawful Arrests consist of:

**I. Probable Cause** - Probable cause has been defined as the level of proof more than reasonable suspicion but less than proof beyond a reasonable doubt. Probable cause exists if a reasonable and prudent person would believe the arrested committed the crime charged. Police officers establish probable cause by personal observations and information received during the course of the investigation. In Massachusetts, police officers must satisfy a two prong test in order to use information received as a basis of probable cause - **RELIABILITY & BASIS OF KNOWLEDGE.**

In *Aguilar v. Texas*, 378 U.S. 108, (1964), and in *Spinelli v. United States*, 394 U.S. 410 (1969), the US Supreme Court stated that if an informant's tip is to be used as the basis for establishing probable cause, then two factors must be demonstrated.

First, the informant must be shown to be reliable. Some informants are considered to be reliable in themselves, i.e. police officers, known victims, or known witnesses to a crime. Another type of reliable informant is one who has given information in the past, which information has resulted in convictions, or an arrest and the seizure of contraband. Similarly, an informant who makes a declaration against penal interest (admits his own involvement in a crime) is also considered reliable.

Second, the informant must be shown to have a basis of knowledge concerning the information which he claims to possess. There must be facts to support his conclusions. These are the underlying facts upon which a neutral magistrate could determine the existence of probable cause.

If either "prong" of this two part test is missing, probable cause will not exist, unless the information is supplemented by other facts, such as corroboration by the officer's observations.

In *Illinois v. Gates*, 103 S.Ct. 2317 (1983), the US Supreme Court found this test to be too rigid, and adopted a "totality of the circumstances" test to determine probable cause. However, the Supreme Judicial Court of Massachusetts in *Commonwealth v. Upton*, 476 N.E.2d 548 (1985) held that the *Gates* test was "unacceptably shapeless and permissive" to satisfy the substantive protection required by article 14 of the Declaration of Rights of the Massachusetts Constitution.

Plainly speaking, officers in Massachusetts are required by the State Constitution to continue to apply the two-prong *Aguilar-Spinelli* test when using an informant's tip as the basis for probable cause. This test applies to arrest warrants and search warrants, as well as warrantless arrests, searches and/or seizures. If an officer is going to use an informant's tip as the basis for establishing probable cause, he must be prepared to show that the informant is reliable, and has a basis of knowledge.

2. **Arrestable Offenses** -As we learned in Intro to the Legal Process (Hogan's hand) a police officer has the right of arrest for:

- A. Felony - committed in his presence
- B. Felony - based on probable cause
- C. Misdemeanor - committed in his presence AND amounts to a breach of the peace
- D. Misdemeanor - the offense has a statutory right of arrest if committed in his presence
- E. Misdemeanor - the offense has a statutory right of arrest based on probable cause
- F. Arrest Warrant - An arrest warrant is an order by the court to arrest an individual and bring him to court to answer to a criminal charge. An arrest warrant must be based on probable cause - the judge or magistrate will make a probable cause determination after reviewing the written statement police officer applying for the warrant. The person's name, address, physical address and offense charged should be listed on the warrant. If the subject's name is not known, a detailed description must be included on the warrant. The suspect must be able to be identified with reasonable certainty. Officers do not need to have the warrant in their possession in order to make the arrest. Rather the officer must have knowledge that the warrant is in full force and effect. Police Officers must have an arrest warrant in order to enter a person's dwelling for a crime that has been completed. An officer must also have a reasonable belief that the location is the suspect's dwelling and that the suspect is present when the arrest warrant is executed. Exceptions to the requirement of an arrest warrant are: consent, fresh and continuous pursuit and exigent circumstances.

In order to fall under the fresh pursuit theory officer must be able to show the arrest in the dwelling resulted from pursuing the suspect into the dwelling and that getting an arrest warrant would not be practical. The pursuit must be part of a continuing investigation with no break

Exigent Circumstances are present if taking the time to get a warrant would be unreasonable and there is a necessity for immediate entry. Examples of exigent circumstances include injury, violence and destruction of evidence. The court has noted several factors when deciding on the issue of exigent circumstances (Comm v Vz iriyahiranpaiboon, 412 Mass 224, 1992 & Comm v. Forde, 367 Mass 798, 1975):

- 1. Crime involved violence/suspect was armed
- 2. Probable Cause has been established
- 3. Strong reason to believe suspect is in the dwelling
- 4. Suspect may escape if apprehension is delayed
- 5. Evidence will be destroyed, lost or moved

There may be situations that police officers have to enter a third party dwelling in order to arrest a person named in an arrest warrant. Without consent, exigency or fresh pursuit being present, officers must obtain a search warrant to enter the dwelling as well as the arrest warrant for the suspect.

3. **Jurisdiction** - Police officers may arrest a person named in an arrest warrant anywhere in Commonwealth. As a general rule police officer may exercise their police powers for warrantless arrests within their geographic boundaries. In order for a warrantless arrest to be valid outside these geographic boundaries it must fall within one of the following categories:
  - A. Fresh and continuous pursuit outside the Commonwealth - Mass General Law Chapter 276, Sections 10A-10D allows a police officer in fresh pursuit of a person wanted for a felony to continue into a bordering state to make the arrest. The person arrested must be brought in front of the court in the county where the arrest is made.
  - B. Fresh and continuous pursuit into other cities and towns - Mass General Law Chapter 41, Section 98A allows police officers to arrest an individual in any city or town for an offense that was committed in the officer's presence, occurred in his jurisdiction and was arrestable in his jurisdiction.
  - C. Boston, Brookline and Newton - Officers in Boston, Brookline and Newton have full police powers up to 500 yards into the territory of each others departments (Acts & Resolves of 1998, chapter 212).
  - D. Mutual Aid Agreements - Cities and towns may enter into mutual aid agreements (Mass General Laws Chapter 40, Section 8G). These agreements give the police officers the same powers of arrest that they have in their own municipality.
  - E. Request for Police Officers - Mass General Law Chapter 41, Section 99 authorizes the Chief or commander of a police department in one town to request that the Chief in another town send police officers to assist them. There does not have to be a written agreement in place between the two jurisdictions. The request for assistance must be made by the Officer-in-Charge to the Officer-in-Charge.
  - F. Transferred Authority - If an officer observes a crime being committed outside his jurisdiction he should contact the local police department and request and obtain permission to make the stop. (Comm v. Morrissey 422 Mass 1, 1996).

Use of Force - Police Officers are authorized to use a reasonable amount of force when effecting an arrest. The amount of force used must be reasonably necessary to make the arrest, overcome resistance and protect others present. Officers should be guided by their Department Policies governing the use of lethal and non-lethal force.

## THRESHOLD INQUIRY

One of the most valuable procedures available to police officers in performing their duties is the Threshold Inquiry. This procedure is a very useful tool, and when properly understood and utilized, it can be effective against the criminal suspect, yet protective of the citizen's state and federal Constitutional guarantees. Police Officers are authorized to conduct threshold inquiries by both statute and case law.

Mass General Law Chapter 41, Section 98 states in part "They may examine all persons abroad whom they have reason to suspect of unlawful design." "If a police officer stops a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon." The Massachusetts Supreme Judicial Court stated "we are of the opinion that MGL c 41, s. 98 constitutionally permits a brief threshold inquiry where suspicious conduct gives the officer reason to suspect the questioned person of unlawful design that is, that the person has committed, is committing, or about to commit a crime. What is reasonable within the principle of threshold inquiry must be decided in each case." (Comm v. Lehan, 347 Mass 197, 1964).

The United States Supreme Court addressed the issue in *Terry v. Ohio*, 392 U.S. 1 (1968). In *Terry* a 39 year veteran detective of the Cleveland Police Department was working in the downtown area, where he had worked for many years. He observed two men "that didn't look right." He continued to watch the men and saw walking back and forth looking in a jewelry store window several times. After one of the men looked in the window the men engaged in a conversation. After a while a third man entered the conversation. Believing they were about to rob the store the detective approached the men and asked some questions. Their responses to him were mumbled. He conducted a limited search of the outer clothing of each man and found a firearm on two of them. They were arrested and convicted of carrying concealed weapons. The Court stated in their opinion, "where a police officer observes unusual conduct which leads him reasonably to conclude in the light of his experience that criminal activity maybe afoot and that the persons whom he is dealing with may armed and presently dangerous he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such person in an attempt to discover weapons which might be used to assault him.

## STOP

An officer may not stop every person whom he sees, but may stop those about whom he has a reasonable suspicion of unlawful design. Simply stated this means if an officer observes activity, which based on his training and experience, leads him to reasonable suspect that a person has, is, or is about to commit a crime, the officer may briefly detain that person to investigate.

This detention may be based on less than probable cause, but reasonable suspicion is more than a hunch or mere suspicion, or a good faith belief. Reasonable suspicion may be founded on an officer's personal observations, or may be based on information received, together with the reasonable inferences which may be drawn from those observations and/or information.

Because the stop is based on less than probable cause, it must be brief and not turn into a custodial situation normally associated with an arrest. There are no specific time limits as to how long a Threshold Inquiry may last. Such will be determined on a case by case basis as dictated by the total situation, what the courts call "the whole picture." The officer should make a common sense objective determination as to how he may quickly, yet thoroughly, confirm or dispel his suspicions.

An officer may use a reasonable amount of force while making the stop. The amount of force must only what is reasonably necessary to bring to suspect to a stop.

## **REASONABLE SUSPICION**

An officer may use the same facts and inferences in which he forms probable cause to form reasonable suspicion. The officer's suspicions must be based on specific and articulable facts. While one of the following examples alone is sufficient to rise to the level of reasonable suspicion, a combination of these examples may allow an officer to conduct a stop of a person.

- high crime area
- matches the description of a suspect
- in the area of a recently committed crime
- criminal record/reputation
- apprehension at the sight of police
- evasive answers
- flight from police
- unusual behavior
- time of day
- furtive gestures

## **FRISK**

Reasonable suspicion to conduct a threshold inquiry does not automatically allow police officers to conduct a frisk of the suspect. The officer must have objective articulable facts which lead him to believe that the person with whom he is dealing may be armed, and thus posed a threat to the officer or others, the officer may frisk that person. Generally, a frisk is limited to a pat down of the outer clothing, and the area within the immediate control of the person. The purpose of the frisk is for **PROTECTION**. It is done to discover weapons. A FRISK MAY NEVER BE CONDUCTED TO FIND EVIDENCE. During the course of a lawful frisk on officer feels an object and it is immediate apparent that the object is contraband, the officer may



seize it under the "plain feel" doctrine. If the officer has to manipulate the object in any way to determine what the object is, a search has taken place and will be judged on the higher level of proof - probable cause.

The frisk, like the initial stop, is based on a standard which is less than probable cause, it must not turn into a search. A frisk cannot extend into a pocket or inside articles carried by a person, except for unlocked hard containers (i.e. brief cases) which are incapable of being squeezed.

## **PURSUIT**

In Massachusetts "the stop starts when pursuit begins." Officers must have reasonable suspicion at the beginning of the pursuit in order to justify it. Officers cannot use any facts or evidence that are obtained after they have initiated pursuit of a suspect. A pursuit is the functional equivalent of a seizure if the officer asserts his authority and a reasonable person would not feel free to leave without answering the officer's inquiry.

Officers may not seize a person by running after him. "Observation without activation of sirens or flashers, without command to halt, without display of weapons and without operation of the police cruiser to block a citizen's course or otherwise control the direction or speed of his movement is not pursuit." (Michigan v. Chesternut, 486 U.S. 567, 1988). A Boston case provides further illustration of this point - officers responding to a gun call saw a suspect running from the area, he quickly turned around and ran back into a tunnel. The officer broadcast a description and ran after him. A second officer was at the other end of the tunnel and observed the suspect dropping a shotgun into the bushes and commanded him to stop. The SJC ruled that the first officer was merely following the suspect and made no show of authority that communicated to the suspect that he had to stop.

## **MOTOR VEHICLES**

The Threshold Inquiry may extend to people in motor vehicles, as long as an officer has reasonable suspicion that the occupants are of unlawful design. A vehicle, as well as its occupants may be frisked if the officer has articulable facts which lead him to believe that a weapon may be present. An officer must remember that he is looking only for weapons, and may not look inside containers which could not hold a weapon. Unlocked glove boxes and consoles may be opened. The trunk may not.

In Massachusetts, an officer must have a reasonable belief that his safety or the safety of others is at risk before he orders the occupant from the vehicle. Automatic exit orders are not permitted.

## SEARCH WARRANTS

1. **Definition:** A search warrant is an order in writing in the name of the Commonwealth, signed and issued by a duly authorized person. It is directed to a person authorized to serve search warrants, ordering him to search in the daytime and/or nighttime, designated premises or persons for described articles, and to bring those described articles or persons in whose possession they are found before a court having jurisdiction.
  
2. **Purpose of Search Warrant:** The purpose of a search warrant is to ensure that any government intrusion is justified by a careful prior determination of probable cause and necessity. Anytime an officer wishes to intrude into a place or thing in which a citizen has a *reasonable expectation of privacy*, he should obtain a search warrant prior to conducting the search. The bottom line is that courts allow more leeway when reviewing searches conducted pursuant to a warrant than they do when reviewing warrantless searches. Warrantless searches will be discussed in sections which follow.
  
3. **Curtilage:** The area around a dwelling house that is normally associated with domestic use is known as curtilage. A reasonable expectation of privacy exists within the curtilage. The curtilage generally includes garages, sheds or other areas used with the dwelling. In *United States v. Dunn*, 480 U.S. 294 (1987), the court listed four factors that they will use to determine if an area is considered part of the curtilage:
  - A. closeness to the home
  - B. is the area surrounded by a fence, wall etc.?
  - C. is the area used for domestic purposes?
  - D. Did the resident protect the area from view of others?
  
4. **Procedure to Obtain a Search Warrant:** The person seeking a search warrant must *personally appear* before a person authorized to issue search warrants. Only law enforcement officials may seek search warrants. The application must be made in writing in the form of an affidavit. The affidavit must contain *all* facts, information and circumstances upon which a finding of probable cause depends. The affidavit cannot be supplemented by oral testimony. All information that supports a probable cause determination must be contained within "the four corners of the affidavit." If the issuing party finds probable cause, the warrant will issue. The courts have found that it is not necessary to name an informant in order to establish probable cause. This protects the government's interest in encouraging communication with law enforcement agencies. Only in situations where non-disclosure would be totally unfair to the defendant would an informant have to be named.



**5. Issuing Authority:** Courts that are authorized to issue warrants in criminal cases may issue search warrants. This means that judges, and clerks of court of the **District Court**, as well as assistant and temporary district court clerks can issue search warrants. Only a **Judge** may issue a body cavity search warrant.

**6. The Affidavit:** To ensure that the Commonwealth can demonstrate in writing that any given search is reasonable and based on probable cause an affidavit is required. The affidavit is held by the issuing party, and within three days after issuance of the warrant, it is delivered to the court where the warrant is returned. When the warrant is returned, the affidavit is attached and becomes a public document.

**7a. Contents:** An affidavit must contain the facts, information and circumstances upon which the affiant relies to establish probable cause. It cannot be based on rumor, suspicion, or strong belief. It cannot merely state the conclusions of the affiant. The two-prong test, reliability and basis of knowledge, will be used by the issuing person to determine probable cause.

**b. Personal observations:** It is more desirable, when possible, for an officer to include his observations in the affidavit. When an officer's observations are included in an affidavit, the affidavit must so state.

**c. Description of Persons to be Searched:** If a person is to be searched, that person must be described as particularly as possible. In most cases warrants permitting the search of "any person present" will be invalid. Such searches are only valid where the underlying circumstances presented in the affidavit demonstrate probable cause to search the premises, and that all persons present are engaged in criminal activity.

**d. Description of Things to be Seized:** Items to be seized must be described with particularity. This is to prevent general searches. The items can either be spelled out in the warrant or incorporated by reference to an attached description. For example, if a search warrant reads "all papers and files", the court will determine whether or not the affidavit provides probable cause to seize all such evidence. A warrant describing "all stolen goods" will not be sufficient. A more detailed description will be required.

**e. Staleness:** Probable cause must exist at the time that the search warrant is issued. Officers cannot rely on old or "stale" information. The court will consider the type of crime involved, the type of evidence (perishable, transferable, disposable).

**8. Categories of Seizable Evidence:** M.G.L. Chapter 276 Section 1 identifies the types of evidence that may be seized pursuant to a search warrant.

- A. Contraband** - items that are not lawfully possessed (cocaine, heroin etc.)
- B. Instrumentalities** - items that are used to commit a crime (firearm used in a shooting, knife used in a robbery, etc.)
- C. Fruits** - property or articles that were obtained as a result of a crime
- D. Mere Evidence** - anything that may connect a suspect to the crime
- E. Living Person** - who has a current arrest warrant outstanding
- G. Dead Body of a Human Being**

**9. Seizure of Items Not Mentioned in Warrant:** As long as officers respect Scope and Intensity boundaries, any seizable evidence found in plain view will be admitted. Such evidence would consist of contraband, instrumentalities, fruits of a crime, mere evidence of a crime, the living person on whom there is an outstanding arrest warrant, and the dead body of a human being.

**10. Scope and Intensity:** Scope is the areas to be searched. Intensity is any place within the scope where the object being sought could be located.

**11. Service of the Search Warrant:** M.G.L. c. 276, s. 3A requires that search warrants must be served within a reasonable time, but never more than *seven days* after issuance. This time clock begins to run the *day after* the warrant issued. Officers must have the search warrant in hand when executing it. They must present it to the resident if requested.

**a. Knock and Announce Rule:** Generally, police officers are required to knock and announce their office and purpose before crossing the threshold. An exception to this rule would be in circumstances where officers have reason to fear for their own safety, or that of others. Another exception would be in situations where the person inside has knowledge of the officer's presence and purpose, and making an announcement would facilitate the destruction of evidence and/or escape. If officers anticipate either situation, they should request a "no-knock" warrant from the issuing authority at the time of application. Officers must conduct a reappraisal of the factors that led to the issuance of a "no-knock" warrant prior to executing the warrant. If they determine a "no-knock" entry is no longer necessary they must comply with the knock and announce requirement. The opposite may also occur. Officers may have no reason to apply for a "no-knock" warrant but be confronted with facts and circumstances at the scene that would justify a "no-knock" entry. Officers may also use a ruse or trick such as stating they are from the utility company or are collecting for a youth sports organization, in order to gain entry to the dwelling instead of using a forced entry. The use of a trick or ruse will be valid as long as the officers have a valid search warrant.

**b. Day or Nighttime Service:** Ordinarily, search warrants should be served in the daytime. Sometime officers will want to serve the warrant in the nighttime, either because that is the only time the evidence will be in a certain location or because of public safety reasons. Officers desiring to execute a search warrant at night must obtain prior judicial approval. For search warrant purposes, the Supreme Judicial Court has determined nighttime to be between the hours of 10:00PM to 6:00AM.

**c. Searching "All Persons Present":** On older versions of the search warrant form there is a section that authorizes searching "all persons present". Evidence that is discovered while searching all persons present will be suppressed unless probable cause exists that the person searched is involved in the criminal activity.

**12. Challenge to Facts in Affidavit:** If a defendant is able to make a substantial preliminary showing that an affidavit contained a false statement that was made either intentionally or with deliberate disregard for truth or falsity, the court will conduct a hearing. Innocent mistakes will not be enough to disallow the affidavit. Administrative or technical errors will not invalidate an affidavit. If an untruthful statement is discovered it will be redacted from the affidavit. If probable cause still exist without the untruthful statement, then the affidavit will stand. The officer's credibility will be in serious question.

**13. The Return:** Within seven days of the issuance of the warrant, it must be served. Officers must make a return of his doings, meaning an inventory of items seized must be submitted. The officer applying for the warrant need not be the one that executes it. It is preferable that an officer who served the warrant make the return. However, if the return is made by a non-executing officer the inventory from must reflect that fact.

**14. Anticipatory Warrants:** Police Officers may seek a search warrant if probable cause exists that seizable evidence will be at a certain place at the time the warrant will be executed.

**15. Body Cavity Warrants:** A search warrant must be obtained to search for evidence that is located in a body cavity. A body cavity warrant must be issued by a **JUDGE** and must be based on a "high degree" of probable cause. After a body cavity warrant is obtained, the search will be conducted by qualified medical personnel.

**16. Exceptions to Search Warrant Requirement:** No search warrant is required to conduct a search under the following recognized exceptions: consent; abandonment; plain view; incident to a lawful arrest; booking search; exigent circumstance; motor vehicle inventory; motor vehicle exception; fresh and continuous pursuit.

**17. The Search Warrant Form:** The Trial Court of Massachusetts has promulgated a form to be used when seeking a search warrant. The form is designed as a packet which consists of an instruction sheet, an affidavit, an application, and the search warrant. Each will be briefly discussed.

**a. Instruction Sheet:** Before an officer writes anything, the instruction sheet should be read in its entirety. The instructions are in simple straight-forward language. By carefully following these instructions, officers can avoid making clerical errors that have been subject to litigation.

**b. Affidavit in Support of Application for Search Warrant:** Simply stated, in order for an officer to obtain a search warrant, he must submit a written application. In order to show that he is entitled to get an application, the officer must show, in writing, that he has probable cause to believe that seizable evidence can be found in a specific location. This proof is provided by filling out the affidavit. It is here that the officer identifies himself, his assignment, and clearly lists all the facts and observations in chronological order, on which he relies to demonstrate his probable cause. It is in the affidavit that the officers list his source(s) of information. If his source is an informant, the officer must include facts and circumstances that show the informant's reliability and basis of knowledge. Use as many pages as necessary. The affidavit form is easily photocopied, and Boston Police Form 1.1.1 is readily adaptable for this purpose. Each page should be numbered, and while it is not required, it is advisable to initial or sign each page. The last page should be signed.

**c. Application for Search Warrant:** The form comes complete with carbon paper. By leaving the packet together, information is transferred from the application to the warrant itself, saving considerable time. Make sure that any corrections made on the application are also made on the warrant. To fill out the application, fill in the blanks. The numbers below correspond to the numbers on the form on the following page.

- #1--Superior, District, or Boston Municipal.
- #2--Your name.
- #3--Rank and assignment (i.e. specialized squad).
- #4--Filled in by Court personnel.
- #5--Self explanatory.
- #6--Check appropriate box.
- #7--Self explanatory.
- #8--As in #7.
- #9--through #13 self explanatory.

**d. Search Warrant:** The information from Items #1, 4, through 8, is already on the warrant, because the carbon transferred the information from the application. Check for any corrections.

At the bottom of the warrant are three blocks to be check by the issuing magistrate. Be sure that the appropriate blocks are checked, and that you have provided probable cause to support these items in your affidavit. Be sure that the issuing magistrate signs the warrant.

**e. Return:** On the reverse s ide of the warrant is the Return. The date that the warrant was issued is listed here, as is the date that the search was made. Remember that a search warrant is valid only for seven (7) days. It is here that the executing officer makes his inventory. List all the items seized pursuant to the warrant. DO NOT INCLUDE items seized under plain view. List plain view items on a separate sheet of paper. Sign the Return in the presence of the clerk of court.

## WARRANTLESS SEARCHES

### Introduction

Neither the Fourth Amendment to the U.S. Constitution, nor article 14 of the Declaration of Rights of the Constitution of the Commonwealth of Massachusetts prohibit all searches and seizures. Both, however, prohibit ***unreasonable*** searches and seizures. Generally, searches and seizures conducted pursuant to a valid search warrant are presumed to be reasonable. Those not so conducted are presumed to be unreasonable, and, thus, prohibited. To overcome this presumption, a warrantless search must fall under one of the recognized exceptions to the warrant requirement. Some of these exceptions are discussed below.

Both the 4<sup>th</sup> Amendment and article 14 protect people against intrusions by the government and its agents into areas that have a reasonable expectation of privacy. "the 4<sup>th</sup> Amendment's origin and history show that it was intended as a restraint upon activities of sovereign authority." (*Burdeau v. McDowell*, 256 U.S. 465, 1921). "The 4<sup>th</sup> Amendment prohibition against unreasonable searches and seizures does not extend to a search and seizure conducted by a private party. (*Comm v. Jung*, 420 Mass 675, 1995). In other words - there must be some type of **state action**.

### The Inevitable Discovery Exception

If officers obtain evidence in violation constitutional requirements, this evidence may still be admitted under the so-called inevitable discovery exception. In order to invoke this exception the Commonwealth must prove by a preponderance of the evidence that the material in question would have been certainly discovered by lawful means as a particle matter. For example statements obtained from a suspect in violation of *Miranda* requirements led to the discovery of the body of a murder victim. Because the police were able to show that a search team **already in the area** would have found the body without the statements, the body's discovery was admissible. Similarly, drugs which were illegally seized could be admitted, because they would have been found during a routine booking search. If the constitutional violation is egregious, the evidence will not be admitted. Bad faith on the part of the officer shown by such activities as conducting an unlawful search in order to accelerate the discovery of evidence will be relevant in assessing the constitutional violation.

## Consent

The consent search is an effective and efficient tool that is available to aid an officer in the performance of his duties. It is effective because it enables an officer to conduct a search for a suspect and/or evidence, generally, in the same manner as if he had a search warrant. It is efficient in that there is no probable cause requirement, and the time needed to obtain a warrant is saved.

The consent search is reasonable, because it is obtained as a result of a voluntary waiver of a known right. Any constitutional right may be waived by the person possessing that right. In order for consent to be valid it must be *voluntarily, intelligently, and knowingly* given. Police officers are not required to inform the person that he has the right to refuse consent, but the better practice is to do so. Any evidence of coercion will invalidate the consent. The courts will look at the totality of the circumstances surrounding the interaction with the police. Officers should also factor in the age, intelligence, understanding, and mental condition of the person giving consent.

Consent must be granted by the person who has the reasonable expectation of privacy in the place or thing to be searched. Usually, this will be the owner, but this is not a requirement. The person in control, the one who has apparent authority over the subject matter, the one who could lawfully admit or exclude others, is the person from whom the consent must be obtained. If there are two people who have joint access and control of an area present at the scene and one gives consent and the other objects to the search and denies consent to search, officers must consider this a denial of consent.

The person who gives the consent can limit the scope. Intensity is always governed by the size of the object sought. Consent can be revoked at any time, absent some exigency.

Consent may be given orally or in writing. Written consent is not required, but may assist an officer later in court when trying to prove the waiver was voluntary, knowingly and intelligently given. The burden of proving voluntary consent rests with the Commonwealth by clear and convincing evidence. This can be a difficult task in the face of a subsequent denial. This risk should be considered, and in a doubtful case, a search warrant should be obtained.

## Abandonment

When an individual voluntarily gives up possession or control of their property they have also given up a reasonable expectation of privacy for that property. With no reasonable expectation of privacy, police may examine that property without a warrant without the examination being considered a search for constitutional purposes.

In order to determine if an item has been abandoned police should consider the suspect's words and actions. A denial of ownership can be an indication that the item has



been abandoned. Throwing or discarding items during a pursuit in a public place will also indicate the voluntary abandonment of property. When a police pursuit is involved the courts will begin the analysis by determining whether or not the police had reasonable suspicion to pursue the suspect (remember the stop starts when pursuit begins). If reasonable suspicion existed any items discarded during the pursuit will be admissible under the theory of abandonment. If there was not sufficient proof to make the stop any items discarded will be suppressed.

Another time abandonment comes into the picture is with searching an individual's trash to obtain evidence. The main question here is the location of the trash. If the trash has been placed on the sidewalk for pick up - outside the curtilage - then a reasonable expectation of privacy does not exist. Any person walking past could examine the contents of the trash. However, if the trash is still located within the curtilage of a person's dwelling then the reasonable expectation of privacy exists and a search warrant must be obtained prior to the search.

## **Plain View**

Police Officers may use information that comes to them through their own senses, most frequently through direct observations. Anything within the officer's view can be used by police under the plain view theory as long as the following three elements are satisfied:

**Lawful Presence:** In order for an officer to use the information that he has observed he must be lawfully present where he made the observations. The suspect's reasonable expectation of privacy cannot be compromised. For example, if an officer enters a third-party dwelling without consent or a search warrant to execute an arrest warrant and observes evidence of illegal narcotics on the table the drugs will be suppressed in court because the officers were not legally present inside the home.

**Inadvertence:** The Massachusetts Declaration of Rights requires that the discovery of the evidence is inadvertent or simply stated that police did not have prior probable cause that evidence was present and did not obtain a search warrant.

**Seizable Evidence:** An officer must be reasonably certain upon making the observation that the item is a form of seizable evidence - contraband, instrumentality, fruit or mere evidence.

Police Officers may use devices that extend or enhance their observation abilities such as flashlights, binoculars, alley lights and police dogs. Additionally, random checking of license plates by an officer on patrol does not violate constitutional principles and is an accepted practice.



## Search Incident to Lawful Arrest

One of the most commonly used warrantless searches is the search incident to a lawful arrest. The reason that this type of search is reasonable is because the probable cause to arrest the prisoner supplies the probable cause to conduct the search.

Three questions should come to mind whenever discussing this type of search. When? An officer who has developed probable cause to arrest has at that same moment concurrent cause to search. Who? An officer may **always** search **every** person whom he arrests. Where? In addition to the prisoner, the officer may also search the area under the person's control. That area is sometimes referred to as the "lunging distance". This is anyplace to which a prisoner could lunge to get a weapon and/or evidence.

**M.G.L. c. 276, s.1:** Massachusetts officers are more limited in conducting this type of search because of this statute. Under the provisions of this statute, officers may conduct a search incident to a lawful arrest to discover weapons, which could be used to avoid arrest or effect an escape. They may also search for evidence of the crime for which the arrest was made. Thus, a person arrested for a simple assault and battery could only be searched for weapons, since there is usually no physical evidence associated with a simple assault and battery. Containers and places which could hold a weapon/evidence could also be searched, if they are open, closed, or unlocked. Locked items may not be searched because the prisoner could not obtain control of the contents. Due to the strict construction of this part of the statute by the Supreme Judicial Court, this search must be done at a time when a prisoner is in a position to obtain a weapon and/or destroy evidence. Once a prisoner has been adequately secured or removed from the scene, a search under the "incident to arrest" exception to the warrant requirement can no longer be made. If a prisoner has been handcuffed and placed in a cruiser, or taken to the station, the room or vehicle in which he was arrested could not now be searched under this exception. To avoid this problem, the search of the area immediately around the prisoner should be made about the same time that other officers are securing the prisoner. Of course, if the officers have developed probable cause that the vehicle contains seizable evidence, and the vehicle is on a public way, then the vehicle may be searched under the "motor vehicle exception". To date the Supreme Judicial Court has not addressed the ninth paragraph of c. 276, s. 1, which reads: "Nothing in this section shall be construed to abrogate, impair or limit powers of search and seizure granted under other provisions of the General Laws or under common law". This provision appears to negate the strict construction given to the previous part of the section by the Supreme Judicial Court. In an appropriate case this provision should be brought to the attention of the prosecuting Assistant District Attorney in order that the issue may be addressed. The reader's attention is also directed to the "inevitable discovery" section.

## Booking Searches

The purpose of a booking search is **NOT TO FIND EVIDENCE** but to conduct a proper inventory of the arrested persons property in order to protect their property, prevent against false claims against officers, to prevent suicides and to assist in the identification of the offender. Boston Police Officers should refer to BPD Rule 318 for specific guidelines. A booking search will be conducted on any person being placed in police custody. Any seizable evidence found during the course of the booking procedure would be admissible under the theory of plain view. Strip searches at the booking desk cannot be part of the "routine" booking procedure. In order to strip search and arrested person the officer must have probable cause to believe evidence is concealed under the last layer of clothing. If the Duty Supervisor determines probable cause exists the search will be done by an officer of the same gender. (Please refer to BPD Rule 318D).

## Exigent Circumstances

When there is a compelling need for immediate action, then exigent circumstances exist. Due to the emergency nature of the event, there is no time to obtain a search warrant and/or an arrest warrant. Officers may respond and make an initial entry to the emergency situation when they reasonably believe that immediate aid is needed. After entering, they may make a prompt warrantless search for suspects or victims. Evidence in plain view may be seized. The suspect, if any, may be searched as well as the area within his control. Once the exigency ends, so should the search. Any further search must be conducted pursuant to a search warrant. Contrary to the belief of some, there is no such thing as a "murder scene exception" which justifies a prolonged warrantless search.. Exigent circumstances could justify fire officials to enter a burning building without a warrant. They may remain there for a reasonable time to determine the cause of the blaze. Entries at a later date must be supported by a warrant or consent.

## Protective Sweeps

There are times when a police officers enters a building or residence (fresh pursuit, arrest warrant etc.) that they make a limited search of other areas if there is reason to believe that there are other person present that would present a danger to themselves or assist the offender in avoiding arrest and effecting an escape. The protective sweep should be limited to areas in which an accomplice could be.

## School Searches

Police officers routinely respond to incidents at schools which involve IV Amendment issues relative to search and seizure. Generally, the usual procedures regarding searches apply. In order for a search to be reasonable under the IV Amendment, it must be conducted pursuant to a search warrant which is supported by probable cause. The usual exceptions to the warrant requirement discussed earlier apply, as well as a unique exception in the public school environment. Two exceptions will be discussed here.

Consent can be given by either the owner, or the person in apparent control of the property. If two students share a locker, desk, school bag, etc., then either may give valid consent. Similarly, if the school administration has assigned lockers and given the keys and/or combination numbers, and retained a key and/or combination number, then the school administration can give valid consent to a search by law enforcement personnel

A special situation applies to searches of students in a school environment. If school administrators have reasonable suspicion that a student is in violation of a statute or school rule, the administrators may conduct a warrantless search to obtain evidence of the infraction. Any evidence of a crime discovered during such a search may be turned over to the police and may be admitted in evidence during a criminal trial. The Supreme Court has accorded deference to the school environment due to the need to maintain order and discipline in order to foster education. The search must be reasonable at its beginning, and must be conducted in a manner reasonably related to its purpose. It must take into account the age and sex of the student, and the nature of the infraction. NOTE: This should be an administrative search conducted by school authorities without police involvement. If the police conduct the search, normal IV Amendment factors would then be in force.

## **MOTOR VEHICLE SEARCHES**

### **The Motor Vehicle Inventory Search:**

The Fourth Amendment to the U.S. Constitution, Article XIV of the Constitution of the Commonwealth of Massachusetts permit law enforcement officers to conduct searches and seizures only if they are reasonable. Generally, this means only with a search warrant. Both Constitutions consider some warrantless searches and seizures to be reasonable. One such search is the Motor Vehicle Inventory Search. The reason that this is so is because the purpose of the inventory search is one of protection and not one of criminal investigation.

Officers engaged in such a search are performing their community caretaking function of protecting the vehicle owner's property, preventing false claims against the officers and their department, and protecting the public from dangerous instrumentalities (weapons, dynamite, propane gas, etc.) often left in vehicles. The courts will recognize the validity of such a search, if the officers can show that they had lawful custody of the vehicle, and that they were acting pursuant to written department guidelines.

### **CUSTODY OF THE MOTOR VEHICLE.**

Motor vehicles come into police custody in many ways. Vehicles might be involved in accidents, towed for parking violations, or following the arrest of the owner. Whether the vehicle is towed or secured on the street, once it has come under the control of the officer, it is in his custody, and he is responsible for the safekeeping of it, and its valuables. If the vehicle is left with a person having apparent authority to assume control over, no inventory search is necessary, because the officer never had custody of the vehicle.

### **WRITTEN DEPARTMENT PROCEDURES.**

In order to conduct a lawful inventory search, there must be written department procedures. Boston Police officers are referred to Special Order 05-013, dated April 19, 2005. This Order requires that all motor vehicles secured by Boston Officers be searched. In addition to looking for and noting any damage, officers are to search the passenger compartment and any containers therein, whether open or closed. Officers are to also search glove boxes, consoles, and the trunk of the vehicle, whether locked or unlocked, if they have the keys, or access to these areas by automatic opening devices. The reason for these instructions is that valuables are often kept in such places, and they must be accounted for to effectuate the purpose of the search.

Locked containers such as luggage, briefcases, etc., WILL NOT be searched. The reason for this is that the locked container protects any valuables inside such containers.

Therefore, securing the container itself, and recording that fact will effectuate the purpose of the search. In the course of conducting the Motor Vehicle Inventory Search, officers sometimes encounter criminal evidence. Such evidence may be seized and properly admitted into evidence in a criminal prosecution under the Plain View exception to the search warrant requirement. Officers faced with a challenge to the admissibility of such evidence should refer the Assistant District Attorney to the references listed below. Officers should give a copy of S.O. 05-013 to the Assistant District Attorney prosecuting a case involving an inventory search.

## **Search Incident to Arrest**

As stated above an officer can conduct a search incident to arrest of the arrested person and any area under his immediate control. This search extends to a motor vehicle when a person is arrested in or near a vehicle. The lunging distance has been defined as the passenger compartment and any container within the passenger compartment, open or closed (Comm v. Bongarzone, 390 Mass 326, 1983).

MGL 276 section 1 applies and limits the search to weapons that can be used to avoid arrest and effect escape or evidence of the crime for which the arrest was made.

## **Motor Vehicle Exception**

The motor vehicle exception search is similar to exigent circumstances. Due to the inherent mobility of vehicles often there is no time to get a warrant, the courts has recognized and has established a bright line rule of the motor vehicle exception. Two factors must be present in order to justify the exception search: **PROBABLE CAUSE AND PUBLIC WAY**. If an officer has probable cause that seizable evidence is located in a motor vehicle and that vehicle is on a public way, a warrantless search may be conducted. The scope of the search would be the entire vehicle, any container open or closed. Locked or unlocked. The intensity of the search will be limited to places within the vehicle that may contain that evidence.

## **Fifth Amendment**

### **Amendment V.**

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

### **Article XII, Declaration of Rights, Constitution of the Commonwealth of Massachusetts**

No subject shall be held to answer for any Crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be Compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself; or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

## **MIRANDA WARNINGS**

Both the 5<sup>th</sup> Amendment and Article XII provide individuals protection against self-incrimination. No person can be compelled to give testimonial evidence against himself. In addition individuals have the right for counsel to be present at any custodial interrogation by law enforcement officer and their agents (state action).

Prior to "custodial interrogation" *Miranda* warnings must be administered to the suspect. The content of those warnings are now familiar to law enforcement personnel, and need not be repeated here. The law does not require that the warnings be given verbatim as long as the substance of each is explained to the suspect. It is not essential that the warnings be given orally. They can be administered in a variety of ways. The better practice is recitation by the officer, who reads the warnings from his card. If the suspect is able to read and write, a signed written copy could also be used in addition to the oral recitation. Police officers must be able to determine the exact moment at which the warnings must be given. The general rule requires that *Miranda* be given when a suspect is in **custody** and is to be subjected to **interrogation**. Both of these elements must be present.

**Custody:** Custody is defined as a significant deprivation of freedom. While a lawful arrest would certainly be custody, an arrest is not the test. Custody is determined by examining the whole picture. Based on location, degree of suspicion, number of officers, style of questioning, etc. If the suspect would feel that he was free to end the encounter and walk away, no custody exists. If, however, a reasonable person would feel that his freedom to leave has been *significantly* curtailed he is in custody.

**Interrogation:** Interrogation is defined as express questioning likely to result in an incriminating response. If the purpose of the question is to get the suspect to admit his own guilt, or involvement in a crime, then it is interrogation.

**Functional Equivalent:** Interrogation can also occur when police use any words or actions, which they know, or should be reasonably aware, are likely to elicit an incriminating response. This is what is known as the functional equivalent of interrogation.

**Waiver:** As with any other constitutional right, a suspect may waive those enumerated in the *Miranda* warnings. The normal standards apply to determine valid waiver. However, interrogations must be recorded to avoid a jury instruction that the jury may find that voluntariness was not proven beyond a reasonable doubt. (Boston Officers see BPD Rule 332)

**Invocation of Rights:** If a suspect invokes his right to silence, then all questioning must cease, unless the suspect initiates, or the attorney is present. Officer could, under certain conditions, question about other crimes. If the suspect invokes his right to counsel, then all questioning must cease, unless the suspect initiates, or the attorney is present. However, **no interrogation concerning any crime** may now be conducted while the suspect remains in custody.

#### CASE EXAMPLE

Suspect was arrested for indecent assault and battery and brought to an interrogation room. Suspect was given a Miranda Waiver form and began to sign it. Detective Smith stopped him saying that he wanted to review it with him first.

Commonwealth v. Clarke (2012)

**Juveniles:** Before custodial interrogation takes place of a child between the ages of seven and seventeen, police must provide for the presence of an interested adult. Both have to be informed of *Miranda*, both have to understand it, and there has to be a time for a meaningful consultation. If the juvenile is under fourteen, this process is a **must**. Once the juvenile reaches age fourteen, he may waive the presence of the adult.

**Booking the Deaf and Hearing Impaired:** Massachusetts General Law, Chapter 221, section 92A provides in part that whenever a deaf or hearing-impaired person is arrested for any crime, the arresting officer must arrange for a qualified interpreter to assist such person regarding any interrogation warning, notification of rights, or taking of a statement. Unless this procedure is complied with, or waived by the suspect, the fruits of any custodial interrogation will be suppressed. Additionally, M.G.L. c. 263, 5A requires advising prisoners charged with OUI: alcohol of the right to an independent physical examination, and c. 276, s. 33A requires the notification of the prisoner of his right to use the telephone. To satisfy the requirements of these statutes, a qualified interpreter must be obtained, unless validly waived by the suspect. Boston officers should contact the Duty Supervisor, Operations Division, at 4680 to request an interpreter.



**Massachusetts Six Hour Interrogation Rule.** After being informed of the right to use the telephone (M.G.L. c. 276, s. 33A) and the usual *Miranda* warnings, a person who has been arrested, with or without an arrest warrant, but not yet arraigned, may only be interrogated during a six-hour period. This six hour "time clock" begins to tick at the time of arrest. This rule applies without regard to the crime or crimes being discussed. It also applies whether or not court is in session. A violation of this rule will result in the suppression of the statement and its fruits. A valid written or recorded waiver, a self-induced disability, a natural disaster or emergency will provide exceptions.

## **Sixth Amendment**

### **Amendment VI.**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The Sixth Amendment guarantees a person accused of a crime the right to counsel if law enforcement officers are going to interrogate them (i.e. attempt to obtain a confession). As stated in the previous section, the right to counsel is also guaranteed by the Fifth Amendment. However, there is a significant difference between the two of them. As a review, the right to counsel under the Fifth Amendment attaches to an individual when they are subject to custodial interrogation. The Sixth Amendment right to counsel has nothing to do with whether a person is in custody. It attaches to an individual at a critical stage. The Massachusetts Supreme Judicial Court has defined "critical stage" as **at and after arraignment or after indictment by the Grand Jury.**

If the accused has been arraigned or indicted the Sixth Amendment right to counsel has attached. As with any other constitutional right the accused may waive or invoke it. One the accused invokes his right to counsel, police officers, or their agents, may not interrogate him unless his attorney is present. The accused invokes his right to counsel at the arraignment when he accepts the appointment of counsel. If an individual gets indicted by the Grand Jury, they may not be aware of the indictment. When police officers come across this situation and want to conduct an interrogation, they must inform the suspect of the indictment and inform the suspect of his right to counsel in order to obtain a voluntary, intelligent and knowing waiver of this right.

The Sixth Amendment right to counsel is offense specific and applies only to charges for which the accused has been arraigned or indicted. This does not preclude police officers from asking questions about another crime that is under investigation (5<sup>th</sup> Amendment right to counsel may apply if individual is in custody). The Sixth Amendment right to counsel remains with the accused from arraignment or indictment until the judicial proceedings are finished.

## **Entrapment**

Because entrapment is a complete defense to a criminal prosecution, officers must be aware of activities which could result in such a defense being raised and subsequently allowed by the court. The defense merely has the burden of producing enough facts to raise the issue. At that point the prosecution must prove, beyond a reasonable doubt, that entrapment did not occur.

In order to understand entrapment, three basic definitions must be understood.

- 1. Entrapment:** The inducement by a government agent of an otherwise innocent person to commit a crime.
- 2. Innocent Person:** One who has no predisposition to commit a crime.
- 3. Predisposition:** The suspect is ready and willing to commit a crime, whenever the opportunity presents itself. It does not mean that the suspect might commit the crime under some conceivable set of circumstances.

If the defendant can show that he had committed all the elements of the offense, but would not have done so but for the inducement of the government agent, then he will prevail with the defense of entrapment.

If the prosecution can show that the defendant has prior convictions for similar crimes; or had a reputation for the commission of similar crimes; or made statements indicating that he had been involved in similar crimes; or made first contact in reference to this crime; or had prepared for this crime, before police involvement, then the prosecution will prevail.

Officers assigned to undercover operations should be acutely aware of the pitfall of entrapment and avoid it. The use of decoys, false pretenses, ruses, tricks, etc. is permissible. Mere solicitation to commit a crime is not entrapment. It is also not entrapment to provide contraband or the opportunity to commit a crime. There must be **predisposition** before these activities occur. Even if there is predisposition, the police may not engage in conduct that is "shocking and outrageous." In other words, the government cannot involve itself directly and continuously over a long period of time in criminal activity. The police cannot corrupt the defendant and then arrest him.



# BOSTON POLICE DEPARTMENT

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## Massachusetts Criminal Law 2020 Edition



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Lieutenant John N. Flynn

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## Acknowledgements

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Lieutenant John N. Flynn has been a Boston Police Officer for over 23 years working in different areas of the city including Dorchester, Mattapan, West Roxbury and Brighton.

He has been assigned to the Boston Police Academy for the past 11 years teaching in the areas of Criminal Law, Constitutional Law, Court Procedures, Breath Test Operation, as well as managing the Boston Police E-Learning Program.

In 1991, Lieutenant Flynn received his Law Degree from the New England School of Law as well as the American Jurisprudence Award in his Criminal Law Class. He is a former Suffolk County Assistant District Attorney serving in Roxbury, South Boston and Boston Juvenile Court.

In 2008, Lt. Flynn was a finalist of the Herman Goldstein Award in recognition of Excellence in Problem-Oriented Policing for his Breaking and Entering Solution Plan in District 14. The project reduced residential burglaries within the Allston / Brighton section of Boston by over 60% during a two year span.

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#### Resources:

Massachusetts Training Council Legal Updates  
Criminal Law by John S. Scheft, Esquire  
Police Officer's Law Manual, Lt. Justin Handrahan  
Massachusetts Jury Instructions

**Superintendent Winifred Cotter, Chief, Bureau of Professional Development  
Captain Phillip Terenzi, Commander of the Boston Police Academy**



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*“The credit belongs to man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes short again and again, who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who at best, knows the triumph of high achievement; and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.”*

*-Theodore Roosevelt*

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*“The difference between a successful person and others is not a lack of strength, not a lack of knowledge, but rather a lack of will.”*

*-Vince Lombardi*

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## CRIMINAL LAW CLASS

Instructor: Lieutenant John N. Flynn

Course: Criminal Law  
56 hours (4-6 hours a week for 12 weeks – 2 hour sessions)

Books: 2019 Police Officer's Law Manual-Hanrahan  
2020 Criminal Law Book – Lieutenant Flynn

Handouts: Massachusetts Case Law  
Massachusetts Jury Instructions

### CLASSES

#### **Introduction to Criminal Law**

2-4 Hours

#### **Crimes Against the Person**

8-12 Hours

Covering approximately 40 Criminal Laws including Sexual Assaults

#### **Crimes Against Property**

8-12 Hours

Covering approximately 50 Criminal Laws

#### **Controlled Substances**

4-6 Hours

Covering approximately 12 Criminal Laws

#### **Alcoholic Beverages**

4-6 Hours

Covering approximately 10 Criminal Laws

#### **Firearms**

6-8 Hours

Covering approximately 35 Criminal Laws

#### **Public Order Crimes**

4-6 Hours

Covering approximately 30 Criminal Laws

#### **Conclusion**

4-6 Hours

Review of Criminal Laws

Recruits are Responsible for all Criminal Laws



## **MURDER**

### **Chapter 265, Section 1**

#### **Definition:**

Murder committed with deliberately premeditated malice aforethought or with extreme cruelty or atrocity, or in the commission or attempted commission of a crime punishable by death or life imprisonment = MURDER 1.

Any murder that does not appear to be murder in the first degree is murder in the second degree = MURDER 2

#### **Com. v. Fleury, 64 Mass. App. Ct. 282, 832 N.E.2d 1145 (2005)**

Second-degree murder was unlawful killing with malice aforethought, but without deliberate premeditation. M.G.L.A. c. 265, § 1

**Malice** aforethought includes any unexcited intent to kill, to do grievous bodily harm or to do any act creating plain and strong likelihood that death or grievous harm will follow and it may be inferred from intentional use of a deadly weapon.

#### **Elements:MURDER 1.**

1. Death of another human being.
2. No legal excuse or justification
3. Deliberately premeditated malice aforethought (knowledge of such circumstances that according to common experience, there is a plain and strong likelihood that death will follow the contemplated act), or
4. Extreme atrocity or cruelty (use of means which are extreme as compared with ordinary means of producing death), or
5. Committed in the commission or attempted commission of a crime punishable by death or life imprisonment.

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or on PROBABLE CAUSE

#### **Com. v. Gibson, 424 Mass. 242, 675 N.E.2d 776 (1997)**

Deliberate premeditation for purposes of first-degree murder offense requires either specific intent to kill that equates with express malice or intent to kill, combined with planning how to effectuate that desire and evaluation of the pros and cons of proceeding.

#### **Com. v. Linton, 456 Mass. 534, 924 N.E.2d 722 (2010)**

To convict a defendant of murder in the first degree based on extreme atrocity or cruelty, a jury is to consider the following factors: (1) whether defendant was indifferent to or took pleasure in victim's suffering; (2) consciousness and degree of suffering of victim; (3) extent of victim's physical injuries; (4) number of blows inflicted on the victim; (5) manner and force with which the blows were delivered; (6) nature of the weapon, instrument, or method used in the killing; and (7) the disproportion between the means needed to cause death and those employed.

#### **Com. v. Gunter, 427 Mass. 259, 692 N.E.2d 515 (1998)**

To make out case of felony murder, prosecutor need only establish that defendant committed a homicide while engaged in commission of felony; effect of felony murder rule is to substitute intent to commit underlying felony for the malice aforethought required for murder, and thus rule is one of constructive malice. M.G.L.A. c. 265, § 1.



## **Manslaughter**

### **Chapter 265, Section 13**

#### **Definition:**

Unlawful killing of another human being which is caused by an act which constitutes such disregard of probable harmful consequences to another as to constitute wanton or reckless conduct.

**VOLUNTARY MANSLAUGHTER:** A killing occurring in sudden transport of passion upon reasonable provocation and without malice or upon sudden combat. It is characterized by a real design or purpose to kill but without malice.

#### **Com. v. Kane, 388 Mass. 128, 133, 445 N.E.2d 598, 601 (1983)**

Murder is the unlawful killing of a human being with malice aforethought, and the distinction between murder and manslaughter is the presence or absence of malice

#### **Elements:**

1. Death of another person.
2. By an act which constitutes such disregard of probable harmful consequences to another as to constitute wanton and reckless conduct although not committed with the intention of causing death.

OR

1. Death of another person
2. In a sudden transport of passion or heat of blood
3. Upon reasonable provocation
4. Without malice

#### **Right of Arrest:**

Whoever commits manslaughter shall, except as hereinafter provided, be punished by imprisonment in the state prison for not more than twenty years or by a fine of not more than one thousand dollars and imprisonment in jail or a house of correction for not more than two and one half years. Whoever commits manslaughter while violating the provisions of sections 102 to 102C, inclusive, of chapter 266 shall be imprisoned in the state prison for life or for any term of years.

#### **Com. v. Life Care Centers of Am., Inc., 456 Mass. 826, 926 N.E.2d 206 (2010)**

“Involuntary manslaughter” is an unlawful homicide unintentionally caused by an act which constitutes such a disregard of probable harmful consequences to another as to amount to wanton or reckless conduct. M.G.L.A, c. 265, § 13.

Wanton or reckless conduct for purposes of involuntary **manslaughter** generally involves a wilful act that is undertaken in disregard of the probable harm to others that may result.

Reckless conduct for purposes of involuntary **manslaughter** does not require that the actor intend the specific result of his or her conduct, but only that he or she intended to do the reckless act



## **INVOLUNTARY MANSLAUGHTER:**

So called involuntary manslaughter is unlawful homicide unintentionally caused by an act which constitutes such a disregard and probable harmful consequences to another as to constitute wanton and reckless conduct.

### **•MANSLAUGHTER –**

#### **Com. v. Acevedo, 446 Mass. 435, 845 N.E.2d 274 (2006)**

Voluntary manslaughter” is an unlawful killing arising not from malice, but from sudden passion induced by reasonable provocation, sudden combat, or excessive force in self-defense.

Reasonable provocation” such as would support instruction on **voluntary manslaughter** is provocation that would have been likely to produce in an ordinary person such a state of passion, anger, fear, fright, or nervous excitement as would eclipse his capacity for reflection or restraint.

- Unlawful -- without justification or excuse
- There is no statutory definition of manslaughter.
- Malice either expressed or implied, distinguishes murder from manslaughter.
- While manslaughter requires an intentional act of omission, it is not necessary to prove that the defendant intended to kill. It is sufficient that the defendant intended the act that resulted in death.
- Defendant is guilty of manslaughter if victim of robbery dies from fright inflicted in robbery.
- There is no distinction between "voluntary" or "involuntary" manslaughter by statute.
- Manslaughter is also the unlawful killing without malice in the commission of an unlawful act, malum in se, which is not a felony.
- A lawful act accomplished in a wanton or reckless manner and resulting in death is sufficient basis for manslaughter.
- **Comm. v. Persampieri** - A husband who taunted his wife, already under the influence of depression, to commit suicide, who told her where the gun was located, loaded it for her and instructed her in its operation, was properly convicted of manslaughter.
- **Comm. v. Atencio** -- participants in a game of Russian Roulette in which the victim killed himself, were convicted of manslaughter.
- No manslaughter in a drag race where one of the participants was killed without collision with the other because much was left to the skill of the competitors. In "Russian Roulette", it is a matter of pure chance.
- **Comm. v. Mink** -- defendant was attempting suicide -- her boyfriend attempted to intervene and was killed. The court upheld her conviction for manslaughter because the defendant's act which caused the homicide was an act malum in se.





## Assault-Common Law

Section 13A. (a) Whoever commits an assault or an assault and battery upon another shall be punished by imprisonment for not more than 2 1/2 years in a house of correction or by a fine of not more than \$1,000.

### **Right of Arrest:**

This misdemeanor is arrestable IN PRESENCE since it amounts to a breach of the peace.  
(There is no statutory right of arrest.)

### Two types of Assault

1. In the case of an **Attempted Battery** type of assault, although the commonwealth must prove that the defendant attempted to do bodily harm, there is no requirement that the victim be aware of the attempt or be put in fear by it.

EXAMPLE-THROWING A PUNCH AT SOMEONE

2. In the case of a **Threatened Battery** type of assault, the commonwealth must prove that the defendant engaged in objectivity manacing conduct with the intent to put the victim in fear of immediate bodily harm.

EXAMPLE SHAKING A FIST AT SOMEONE AND SAYING I GOING TO  
PUNCH YOU IN THE FACE

### **JURY INSTRUCTIONS-ASSAULT**

An assault may be committed in either of two ways. It is either an attempted battery or an immediately threatened battery. A battery is a harmful or an unpermitted touching of another person. So an assault can be either an attempt to use some degree of physical force on another person — for example, by throwing a punch at someone — or it can be a demonstration of an apparent intent to use immediate force on another person — for example, by coming at someone with fists flying. The defendant may be convicted of assault if the Commonwealth proves either form of assault. In order to establish the first form of assault — an attempted battery — the Commonwealth must prove beyond a reasonable doubt that the defendant intended to commit a battery — that is, a harmful or an unpermitted touching — upon [alleged victim], took some overt step, and came reasonably close to doing so.

With this form of assault, it is not necessary for the Commonwealth to show that [alleged victim] was put in fear or was even aware of the attempted battery.

In order to prove the second form of assault — an imminently threatened battery — the Commonwealth must prove beyond a reasonable doubt that the defendant intended to put [alleged victim] in fear of an imminent battery, and engaged in some conduct toward [alleged victim] which [alleged victim] reasonably perceived as imminently threatening a battery



## **COMMONWEALTH vs PURRIER**

As to attempted battery, it is established that the defendant must undertake "some overt step towards accomplishing [a harmful or an unpermitted touching] and [that he] came reasonably close to doing so." Model Jury Instructions for Use in the District Court § 5.402 (1997). See *Commonwealth v. Dixon*, 34 Mass. App. Ct. 653, 655 (1993) (elements of an attempted crime consist, in part, of "some overt act towards its commission, and failure or interruption"). Put somewhat differently, the evidence must establish that the defendant's conduct "approach[ed] the achievement of the substantive crime attempted near enough to warrant criminal liability in view of such circumstances as the gravity of the crime, the uncertainty of the result, and the seriousness of any threatened danger." *Commonwealth v. Gosselin*, 365 Mass. 116, 121 (1974). It is immaterial whether or not the victim was put in fear.

## **COMMONWEALTH v RUMKIN**

Argument about a minor collision between an automobile and the defendant's cab burst into violence. A Boston police officer happened on the defendant, kicking the driver's door and side mirror of the automobile, now stopped on School Street in Boston near the Omni Parker House Hotel. In the driver's seat was Nancy Bulger, whose husband, William, had just left the car to call the police. Their teenaged son sat in the back. According to the officer's testimony at a bench trial in the Boston Municipal Court, Nancy was screaming and upset. William quickly returned to assist his wife and wrestled the defendant to the hood of the car. The officer intervened, separated the combatants, and after assessing the situation, arrested the defendant.

Commonwealth's proof that the defendant committed a simple assault.

On the evidence, the judge, as trier of fact, was not solely confined to evidence of the kicking. There was unrefuted evidence that the defendant tried to open the door while Nancy sat in the driver's seat awaiting the return of her husband -- and that she was fearful -- screaming and trying to lock the doors. See *Commonwealth v. Richards*, 363 Mass. 299, 303 (1973). Of the two variations in the assault theme, e.g., an attempted battery or an imminently threatened battery, see *Commonwealth v. Gorassi*, 432 Mass. 244, 247-248 (2000); *Commonwealth v. Purrier*, 54 Mass. App. Ct. 397, 400-403 (2002), the evidence is more akin to the latter than the former.



## Assault and Battery(Misdemeanor)

### Chapter 265, Section 13A

## Two Types

1. INTENTIONAL A&B
2. RECKLESS A&B

### **Definition:**

#### **Misdemeanor portion:**

The intentional and unjustified use of force upon the person of another, however slight, or the intentional doing of a wanton or grossly negligent act causing personal injury to another.

### **Elements:**

1. Intent to place another in apprehension of an imminent battery
2. Intentional and unlawful use of force on the person of another
3. Lack of consent
4. Intent to touch

### **Right of Arrest:**

This misdemeanor is arrestable IN PRESENCE since it amounts to a breach of the peace.  
(There is no statutory right of arrest.)

#### JURY INSTRUCTION- INTENTIONAL A&B

*First:* That the defendant touched the person of *[alleged victim]* ,  
without having any right or excuse for doing so;

*Second:* That the defendant intended to touch *[alleged victim]* ; and

*Third:* That the touching was *either* likely to cause bodily harm to *[alleged victim]* , *or* was done without his (her) consent., to prove an intentional assault and battery, the Commonwealth must prove beyond a reasonable doubt that the defendant *intended* to touch *[alleged victim]* , in the sense that the defendant consciously and deliberately intended the touching to occur, and that the touching was not merely accidental or negligent. The Commonwealth is not required to prove that the defendant specifically intended to cause injury to *[alleged victim]*

#### JURY INSTRUCTION- RECKLESS A&B

In order to prove that the defendant is guilty of having committed an assault and battery by reckless conduct, the Commonwealth must prove two things beyond a reasonable doubt:

*First:* That the defendant intentionally engaged in actions which caused bodily injury to victim. The injury must be sufficiently serious to interfere with the alleged victim's health or comfort. It need not be permanent, but it must be more than trifling. For example, an act that only shakes up a person or causes only momentary discomfort would not be sufficient.

And *second:* The Commonwealth must prove that the defendant's actions amounted to reckless conduct.



## COMMONWEALTH V. COHEN

A District Court jury found the defendant guilty of assault and battery for intentionally spitting on a young woman with whom he had a disagreement outside a convenience store. See G. L. c. 265, § 13A. On appeal, the defendant contends that spitting on another, intentionally and without consent, does not amount to a prohibited touching under the statute. To the contrary, we conclude that such conduct does constitute an assault and battery.

"Assault and battery is a common law crime now set forth in G. L. c. 265, § 13A. An assault is an offer or attempt to do a battery. See *Commonwealth v. Shaffer*, 367 Mass. 508, 515 (1975). Every battery includes an assault. *Commonwealth v. Stratton*, 114 Mass. 303 (1873). Hence we need only consider the elements of criminal battery.

"The law of criminal battery protects society's interest in ensuring that its members are free from harmful and offensive touchings. Because there are harmful batteries and offensive batteries, there is a bifurcation in the law of battery. . . . In short, a physically harmful touching is so regardless of consent. But an offensive touching is so only because of lack of consent. . . . A consensual, offensive touching is a contradiction in terms. Hence consent is always at issue, and evidence thereof is material, when the alleged battery is not of the physically harmful type."

## COMMONWEALTH v. BURKE

Here, the Commonwealth needed to prove that, without justification or excuse, and without consent, the defendant intentionally committed a touching, however slight, that was offensive to the victim. See *id.* at 481; *Commonwealth v. Pease*, 49 Mass. App. Ct. 539, 543 (2000). The Commonwealth presented sufficient evidence to establish that the defendant had intentionally spat on the victim without her consent, and that she found it offensive.

The absence of such a decision speaks to the self-evident nature of the conclusion. "The offensive touching may be direct, as by striking another, or it may be indirect, as by setting in motion some force or instrumentality with the intent to cause injury." *Commonwealth v. Dixon*, 34 Mass. App. Ct. 653, 654 (1993). "The affront to the victim's personal integrity is what makes the touching offensive." *Commonwealth v. Burke*, 390 Mass. at 483. It cannot be gainsaid that intentionally spitting on someone is an indirect touching that is repulsive, physically offensive, and violates the victim's personal integrity. We are in accord with other jurisdictions holding that an intentional and unconsented spitting on another constitutes a criminal battery.



## **Assault and Battery(Felony)**

### **Chapter 265 Section 13A**

(b) Whoever commits an assault or an assault and battery:

1. upon another and by such assault and battery causes serious bodily injury;
2. upon another who is pregnant at the time of such assault and battery, knowing or having reason to know that the person is pregnant; or
3. upon another who he knows has an outstanding temporary or permanent vacate, restraining or no contact order or judgment issued pursuant to section 18, section 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 or 20 of chapter 209C, in effect against him at the time of such assault or assault and battery; shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) For the purposes of this section, “serious bodily injury” shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.



### **Commonwealth v Jean-Pierre**

Loss or impairment of bodily function did not have to be permanent to meet definition of serious bodily injury, under statute defining and providing penalties for assault and battery causing “serious bodily injury,” and thus defendant who landed blow to victim's jaw which broke jaw and required victim to be fed through tube for six weeks pending recovery could be convicted of assault and battery causing serious bodily injury. M.G.L.A. c. 265, § 13A.Com. v. Jean-Pierre, 65 Mass. App. Ct. 162, 837 N.E.2d 707 (2005)

### **Commonwealth v Marinho**

Evidence was sufficient to establish that victim suffered serious bodily injury as result of his altercation with defendant, thus supporting conviction for assault and battery causing serious bodily injury; medical records stated that victim presented with “blurred vision” and “vision changes,” victim testified that he had to return to the hospital multiple times after undergoing facial reconstruction surgery to ensure that his vision kept improving, and stated that he experienced double vision for three or four months following the altercation and that he still was having trouble seeing at the time of trial, which was over a year after the fight. M.G.L.A. c. 265, § 13A(c).Com. v. Marinho, 464 Mass. 115 (2013)

### **Commonwealth v Scott**

Evidence that victim had suffered a “grade II” laceration of her liver as a result of assault by defendant in itself was insufficient to allow jury to conclude that victim had suffered an impairment of an organ, as required to support defendant's conviction for assault and battery causing serious bodily injury, as medical evidence concerning relative severity of injury was required for jury to determine effect of injury on victim without speculation. M.G.L.A. c. 265, § 13A(b)(i), (c).Com. v. Scott, 464 Mass. 355 (2013)

### **Commonwealth v Johnson-2017 Appeals Court**

We conclude that the grand jury readily could have found probable cause that the victim suffered serious bodily injury. Indeed, probable cause was established for all of the “three distinct routes for establishing serious bodily injury.” *Scott*, supra at 357. First, the grand jury could have found probable cause that the attack caused the victim to have a permanent disfiguring scar on his head. Second, the grand jury could have found probable cause that the victim suffered impairment of a bodily function, such as the vision problems that the victim was experiencing. See *Commonwealth v. Marinho*, 464 Mass. 115, 118-119 (2013) (recognizing that significant vision impairment can constitute serious bodily injury). Third, in light of the evidence that the victim bled so profusely from his injuries, the grand jury could have found probable cause that the injury caused a substantial risk of death.



# Legal Terms

## **Misdemeanor**

No State Prison Time

## **Felony**

State Prison Time eligible

## **Statutes**

The legislature enacts laws

Statutory Right

## **Breach of Peace**

Disruption

## **In Presence**

Five Senses(See Hear Feel Smell Touch)

## **Right of Arrest**

Warrant

Warrantless Arrest

Breach of Peace

Statutory Right

Probable Cause

Complaint-summons

## **Probable Cause**

Level of Proof

## **Elements**

Components of a crime

## **Common Law/Case Law**

Judges decisions

## **Actus Reus**

The act itself

## **Mens Rea**

Mental State



## **Intent-6 Different types**

- **General Intent**

- Intend your Actions
- Most crimes are general intent crimes
- Example-Assault and Battery

- **Specific Intent**

- Intentionally or Knowingly
- Example Assault with Intent to Rob

## **Conspiracy**

Agreement between two or more people to commit a crime

## **Statute Of Limitations**

Typically Six Years

## **Transferred Intent**

Com. v. Pitts, 403 Mass. 665, 532 N.E.2d 34 (1989)

Evidence showed that defendant intended to kill one or both of his attackers when he accidentally killed victim, and mere fact that Commonwealth failed to prove identity of defendant's intended victim did not preclude instruction on transferred intent; after defendant was beaten by three men, defendant fired into automobile in which two of the men were seated along with victim, killing victim.

## **Joint Venture/Aiding or Abetting**

When there is evidence that more than one person may have participated in the commission of the crime.

## **Multiple Charges**

Com. v. Jackson, 80 Mass. App. Ct. 528, (2011)

When making the determination of whether a defendant's actions constitute separate and distinct acts or must be considered a single crime, the fact finder must decide whether the acts are so closely related in fact as to constitute in substance but a single crime.

## **Lesser Included Offense**

One crime is a lesser included offense of another if each of its elements is also an element of the other crime.





**Indecent Assault and Battery on a  
Child Under 14 Years  
Chapter 265, Section 13B**

**Definition:**

Indecently committing an assault and battery on a child under 14 years.

**Elements:**

Same elements as:

1. Assault and battery [where battery is defined as the intentional and unjustified use of force, however slight, upon the person of another] (touch - grope)
2. On a child under 14 years

**Right of Arrest:**

This ten year felony is arrestable IN PRESENCE or on PROBABLE CAUSE.

**Note:**

This type of assault and battery involves intentional acts which are indecent. The main focus here is defining the term "indecent."

The general interpretation of indecent is: any touching that involves the **breasts, buttocks, and genital areas**.

“In a prosecution under this section, a child under the age of fourteen years shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.” Com. v. Davidson, 68 Mass. App. Ct. 72,(2007)



## COMMONWEALTH vs. MIOZZA

The complainants were sisters. During the period alleged in the amended complaints (1997 to 1999), Mary [FN2] was between eight and ten years of age, and Jane [FN3] was between six and eight years of age. Mary testified that she was between ten and eleven when the incidents occurred, while Jane did not testify specifically regarding the time frame. The defendant was a friend of the complainants' parents. He visited often with the complainants' family and, on more than one occasion, had lived with the family for several months in their Fall River apartment. \*569 The defendant would occasionally babysit for the complainants, at which times they were allowed to play with the family's PlayStation video game console. When the defendant began babysitting, the PlayStation was located in the living room of the family's apartment; by the time that most of the alleged incidents occurred, the family had moved to another apartment where the PlayStation was kept in the complainants' parents' bedroom. When babysitting at the second apartment, the defendant often entered the parents' bedroom because he was permitted to smoke there.

During the period in question, Mary, the older sister, would on occasion ask the defendant for permission to play with the PlayStation in her parents' bedroom, and in reply the defendant would ask Mary to kiss him. At these times, the defendant would lie on the bed and hold Mary on top of him as he kissed her on the lips. As they kissed, the defendant placed his hands on Mary's back or buttocks, or sometimes on the back of her head. The defendant often asked Mary to kiss him with an open mouth, but she refused and pushed him away.

Likewise, the defendant asked Jane, the younger sister, for kisses when she asked to play with the PlayStation. He put Jane on top of him while he lay on the bed and kissed her on the lips with a closed mouth. In one instance, the defendant held the door to the bedroom closed with his foot while he held Jane on top of him. On another occasion, he locked the bedroom door while he was inside the room with Jane; Mary was able to pick the lock with her thumbnail and observed the defendant holding Jane on top of him with his hands on her back.

When Jane was in the fourth grade, she attended a program at her school where physical and sexual abuse were discussed. After the last class, Jane wrote a note that disclosed the defendant's conduct with her. The program's director then contacted Sally, [FN4] the complainants' mother, and told her what Jane had reported. Sally approached each of her children separately and received confirmation directly from each.

After talking to her daughters, Sally called the police, who brought the defendant to the police station for an interview. The \*570 defendant signed a Miranda waiver and admitted to asking the girls for hugs and kisses before they could use the PlayStation. He stated that he was wrestling with Jane when Mary saw her on top of him in the bedroom. He admitted to drinking four to five beers while babysitting, and stated that if he were drinking alcohol, there was a seventy-five percent chance that he did ask the girls whether he could put his tongue in their mouths because, when he drinks, "he does stupid things" that he later regrets.

3. Sufficiency of the evidence. The defendant argues separately that, assuming that the statute defines the crime adequately, the evidence was insufficient to convict him. He contends first that the touchings of which he is accused do not constitute indecent assault and battery. Case law on the subject of indecent assault and battery has established that "[a] touching is indecent when, judged by the 'normative standard' of societal mores, it is 'violative of social and behavioral expectations,' in a manner 'which [is] fundamentally offensive to contemporary moral values . . . [and] which the common sense of society would regard as immodest, immoral and improper.'" Commonwealth v. Rosa, 62 Mass. App. Ct. at 625, quoting from Commonwealth v. Lavigne, 42 Mass. App. Ct. 313, 314-315 (1997)



Applying this definition, we have held that the "intentional, unjustified touching of private areas such as 'the breasts, abdomen, buttocks, thighs, and pubic area of a female' " is "indecent" as contemplated by the statute. *Commonwealth v. Mosby*, 30 Mass. App. Ct. at 184-185, quoting from *Commonwealth v. De La Cruz*, 15 Mass. App. Ct. 52, 59 (1982). However, a touching need not be confined to these listed areas of the body to be deemed indecent. See *Commonwealth v. Vazquez*, 65 Mass. App. Ct. 305, 307 (2005). "In certain circumstances, the touching of other intimate parts -- including the mouth and its interior -- may violate contemporary views of personal integrity and privacy." *Ibid*.

We have held that an unwanted kiss on the mouth may constitute indecent conduct, where it involves forced insertion of the tongue. See *Commonwealth v. Castillo*, 55 Mass. App. Ct. 563, 566-567 & n.2 (2002). While a brief kiss not involving the insertion of the tongue is not generally criminally indecent, see *Commonwealth v. Vazquez*, 65 Mass. App. Ct. at 309, we do not "requir[e] that there always be tongue involvement for an act that might be characterized as a kiss to be found indecent, [as the attendant circumstances] may allow the trier of fact rationally to determine that the kiss was an indecent act." *Id.* at 307.

In the present case, the evidence, if believed, demonstrates both suggestive touchings and behavior with sexual overtones that together warranted the jury's finding that indecent assault and battery had taken place. Improper sexual overtones "violative of social and behavioral expectations" can explain physical contact that may otherwise be ambiguous. See *Commonwealth v. Vazquez*, 65 Mass. App. Ct. at 309. As in the *Vazquez* case, the defendant in this case was an adult in his thirties, while the complainants were children; the defendant, as a close family friend, sometime resident of the complainants' house, and babysitter, occupied a position of authority with respect to the children; and the defendant's kissing and fondling was surreptitious, occurring only when he was alone with either complainant and sometimes behind a locked or held-closed door. The evidence showed also that the defendant attempted to entice Mary into kissing him with an open mouth, thus transforming what in another context could be seen as an innocent expression of affection into a sexual overture. Compare *Commonwealth v. Rosa*, 62 Mass. App. Ct. at 625-627.

*Com. v. Davidson*, 68 Mass. App. Ct. 72, 74-75, 860 N.E.2d 24, 26 (2007)

In those less frequent situations, however, our cases do not require that the defendant himself perform the touching. Thus in *Commonwealth v. Nuby*, 32 Mass.App.Ct. 360, (1992), we held that a defendant who forced the victims "to fondle their mother's breasts" was guilty of indecent assault and battery upon two children under the age of fourteen under G.L. c. 265, § 13B. We also held adequate the judge's instruction that the perpetrator need not himself perform the indecent touching if he directs or commands the victim to touch a third person in a manner that would be offensive.

**MGL 265 Section 13B1/2:** Commission of indecent assault and battery on a child under the age of 14 during commission of certain offenses or by mandated reporters; penalties

**MGL 265 Section 13B3/4:** Commission of indecent assault and battery on a child under the age of 14 by certain previously convicted offenders; penalties



## **Assault and Battery to Collect Money**

### **Chapter 265, Section 13C**

#### **Definition:**

Whoever commits an assault and battery upon another for the purpose of collecting a loan shall for the first offense be punished by imprisonment in the state prison for not less than three nor more than five years or by imprisonment for not more than two and one-half years in a jail or house of correction; and for a second or subsequent offense, by imprisonment in the state prison for not less than five nor more than ten years. Except in the case of a conviction for the first offense for violation of this section, the imposition or execution of the sentence shall not be suspended and no probation or parole shall be granted until the minimum imprisonment herein provided for the offense shall have been served.

#### **Elements:**

1. Same as assault and battery
2. Specific purpose of collecting a loan

#### **Right of Arrest:**

This is (for the first offense) a five year felony arrestable in presence or upon probable cause.

#### **Note:**

The key here is that there is an actual battery with the purpose of collecting money. Because this involves collecting on a loan, it changes from a simple misdemeanor charge of assault and battery to a felony, which of course gives the officer a right of arrest. A closely related crime is Extortion.

#### **Com. v. Thompson, 56 Mass. App. Ct. 710 (2002)**

In essence, what happened here is that Luciano purchased the drugs on “credit”: “G” gave Luciano drugs on the understanding that Luciano would pay him back with money. Perfectly legal transactions along the same lines, where goods are provided on the understanding that payment will later be made for them, are everyday occurrences. Such credit transactions, we think, fall squarely within the established meaning of “loan.” See *In re \*\*98 DePasquale*, 225 B.R. 830, 832 (Bankr.1st Cir.1998), quoting from *In re Johnson*, 215 B.R. 750, 752 (Bankr.E.D.Mo.1997), aff’d, 218 B.R. 449 (Bankr.8th Cir.1998) (test for loan is “whether the creditor extended credit to the [d]ebtor ... and whether the [d]ebtor promised to repay the amount of credit advanced”). See also *Firstar Eagan Bank, N.A. v. Marquette Bank Minneapolis, N.A.*, 466 N.W.2d 8, 11 (Minn.Ct.App.1991) (loan requires “an actual delivery of something to another and a promise of repayment”).

Providing another with drugs on the condition that payment for those drugs be made at a later date surely fits within these definitions. Accordingly, the statute encompasses the transaction shown by sufficient evidence to have occurred and we affirm the defendant's conviction of assault and battery for the purpose of collecting a loan.



**Assault and Battery Upon Public Employees**  
**Chapter 265, Section 13D**  
**Attempt to Disarm(F)**

**Definition:**

Whoever commits an assault and battery upon any public employee when such person is engaged in the performance of his duties at the time of such assault and battery, shall be punished by imprisonment for not less than ninety days nor more than two and one-half years in a house of correction or by a fine of not less than five hundred nor more than five thousand dollars.

An officer authorized to make arrests may arrest any person upon probable cause and without a warrant if the person has committed an offense under this section upon a public employee when the public employee was operating a public transit vehicle and the officer may keep the person in custody during which period the officer shall seek the issuance of a complaint and request a bail determination with all reasonable promptness.

**NEW-Attempt to Disarm(F)**

**Whoever commits an offense under this section and which includes an attempt to disarm a police officer in the performance of the officer's duties shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$1,000 and imprisonment in a jail or house of correction for not more than 2 1/2 years.**

**Elements:**

1. Assault **and** battery
2. on **any** public employee
3. must be engaged in the performance of duty at the time of the assault and battery

**Right of Arrest:**

This is a misdemeanor that carries no statutory right of arrest. However, this would be arrestable **in presence** because it amounts to a **breach of the peace**.

Com. v. Correia, 50 Mass. App. Ct. 455, 737 N.E.2d 1264 (2000)

Conviction for assault and battery on a public employee does not require a showing of specific intent to strike a public employee, and may be based on either the intentional and unjustified use of force upon the person of another, however slight, or the intentional commission of a wanton or reckless act causing physical or bodily injury to another. M.G.L.A. c. 265, § 13D.

St.1983, c. 100, approved May 17, 1983, substituted “firefighter, correction officer, sheriff, deputy sheriff, court officer, parole officer, parole supervisor, constable, an **employee** of the registry of motor vehicles having police powers, a **public** school teacher, a **public** school administrator or any person in a **public** school system having duties similar to a teacher or administrator when any such person is engaged in the performance of his duty at the time of such assault and battery,” for “a fire fighter, a correction officer or an **employee** of the registry of motor vehicles having police powers, or a **public**...



Court officer's testimony that he had seen defendant in prisoner's dock in district court on numerous occasions was relevant to proving that defendant attacked court officer in his capacity as **public employee**, in trial for assault and battery on **public employee**, especially since officer had testified that he was wearing winter coat over uniform....

**Notes:**

Officers should be aware that although this covers any public employee, many times it involves a police officer, firefighter, and/or teacher. REMEMBER: in order for this statute to apply, the employee must be performing their official duties at the time of the assault. The suspect **must be aware** that he is assaulting a public employee. An example of this would be an officer verbally identifying himself. FYI: E.M.T's and Corrections officers are covered under a separate statute.

- This only covers assault and battery. The appropriate charge for assault is still under c. 265, s. 13A.
- This statute replaces assault and battery on a police officer, etc.
- According to *Com. v. Moreira*, 447 N.E. 2d 244, a person has no right to resist arrest, even a false arrest. A person does have a right to resist the use of excessive force.

## **Injury to Firefighter Resulting from Property Crime**

### **Chapter 265, Section 13D 1/2**

**Definition:**

Whoever commits an offense set forth in section one, two, five or seven of Chapter Two Hundred and Sixty-six where said offense results in injury to a firefighter in the performance of his duty, shall be punished by imprisonment in the state prison for not more than ten years, or by a fine of not more than one thousand dollars and imprisonment in a jail or house of correction for not more than two and one-half years.

**Elements:**

1. commits one of the offenses under 266: 1, 2, 5 or 7
2. resulting in an injury
3. to a **Firefighter**
4. in the performance of his duty

**Result of Arrest:**

This is a ten year felony. Therefore it is arrestable in presence or on probable cause.

**Note:**

- Ch. 266: 1 Arson/Dwelling
- Ch. 266: 2 Arson/other buildings, etc.
- Ch. 266: 5 Arson/motor vehicle, personal property valued over \$25, etc.
- Ch. 266: 7 Injury or destruction of woods by fire



**Indecent Assault and Battery on a Mentally Retarded Person and  
Assault and Battery on a Mentally Retarded Person  
Chapter 265, Section 13F**

Chapter 265, Section 13F has been amended to include simple assault and battery on a mentally retarded person, *effective April 13, 1993*.

**INDECENT ASSAULT AND BATTERY ON A MENTALLY RETARDED PERSON**

**Elements:**

1. commits an indecent assault and battery
2. on a mentally retarded person
3. knowing such person is mentally retarded

**Right of Arrest:**

This is a ten year felony arrestable in presence or upon probable cause

**SIMPLE ASSAULT AND BATTERY ON A MENTALLY RETARDED PERSON**

**Elements:**

1. commits an assault and battery
2. on a mentally retarded person
3. knowing such a person to be mentally retarded

**Right of Arrest:**

This is a five year felony arrestable in presence or upon probable cause.

**Note:**

This section shall not apply to the commission of an indecent assault and battery or a simple assault and battery by a mentally retarded person upon another mentally retarded person.

Chapter 123, Section 1 defines "mentally retarded person" as a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the Department of Mental Health is substantially limited in his ability to learn or adapt, as judged by established standards available for the evaluation of a person's ability to function in the community.

Com. v. Aitahmedlamara, 63 Mass. App. Ct. 76, 823 N.E.2d 408 (2005)

Sufficient evidence supported conviction for indecent assault and battery on a mentally retarded person; service coordinator from Department of Mental Retardation (DMR) testified that victim had been eligible to receive services from DMR, and that only persons with an IQ level below 76 were so eligible, victim's IQ was significantly below that threshold, victim required assistance with virtually all basic life skills, and defendant knew that victim was retarded, given that he worked at group home managed by DMR where victim lived.



**Indecent Assault and Battery**  
**Person who has attained Age Fourteen**  
**Chapter 265, Section 13H**

**Definition:**

Whoever commits an indecent assault and battery on a person who has attained age fourteen shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment for not more than two and one-half years in a jail or house of correction.

**Elements:**

1. Same as assault and battery only done indecently (touch-grope)
2. Upon a person (either male or female)
3. Victim is age 14 or older

**Right of Arrest:**

This is a five-year felony arrestable in presence or upon probable cause.

**Note:**

This type of assault and battery involves intentional acts which are indecent. The main focus here is defining the term "indecent." The general interpretation of indecent is: any touching that involves the **breasts, buttocks, and genital areas**.

**Com. v. Mosby, 30 Mass. App. Ct. 181 (1991)**

The type of conduct that constitutes indecent assault and battery on a person over fourteen years of age is not defined in G.L. c. 265, § 13H. A definition adopted by this court provides: "[a]n indecent assault and battery is essentially an act or series of acts which are fundamentally offensive to contemporary moral values.... [I]t is behavior which the common sense of society would regard as immodest, immoral and improper.... Thus, in order to prove indecent assault and battery, the Commonwealth must prove beyond a reasonable doubt that the defendant committed an intentional, unprivileged and indecent touching of the victim." *Commonwealth v. Perretti*, 20 Mass.App.Ct. 36, 43–44, 477 N.E.2d 1061 (1985). It has been held that the intentional, unjustified touching of private areas such as "the breasts, abdomen, buttocks, thighs, and pubic area of a female" constitutes an indecent assault and battery. *Commonwealth v. De La Cruz*

**Com. v. Lavigne, 42 Mass. App. Ct. 313, 316, 676 N.E.2d 1170, 1173 (1997)**

The judge was entitled to find, on the evidence he heard and viewed, that the defendant's touching had not merely involved the inner thigh but, because of the proximity of the defendant's fingers to Erik's genitals, had actually extended to the "genital area," the "pubic area," or the "groin" area, as commonly understood.

The judge weighed both the manner of the physical contact—a pressing of the thigh with the defendant's entire hand that felt to Erik like an intimate massage rather than a fleeting, casual, innocuous brush or bump—and the defendant's sexually suggestive inquiries accompanying the contact, which were immediately understood by Erik to be an invitation to a sexual encounter.





**Com. v. Lavigne, 26 Mass. App. Ct. 262 (1988)**

The conduct engaged in by the defendant falls within the boundaries of conduct found to constitute an unnatural and lascivious act by decisions prior to the dates of the incidents in this case. See Commonwealth v. LaBella, [364 Mass. 550](#) , 551 (1974) ("oral contact with . . . genital area"); Commonwealth v. Balthazar, [\[Note 4\]](#)366 Mass. at 303 ("mouth on . . . genitals and on . . . buttocks or anus"). The conduct also conforms to lexical definitions of the term cunnilingus, [\[Note 5\]](#) which Massachusetts decisions include in the term unnatural and lascivious act. See Commonwealth v. Manning, [367 Mass. 605](#) , 609, 611 (1975); Commonwealth v. Hill, [377 Mass. 59](#) (1979); Commonwealth v. Deschamps, [1 Mass. App. Ct. 1](#) , 2 (1972). Moreover, as stated above, general mores condemn engaging in this act with a child under sixteen. Therefore, "[w]e find it impossible to believe that any competent adult would be surprised at the conclusion that the conduct . . . found [by the jury in this case] was prohibited." Commonwealth v. Hill.

**(F) Indecent Assault and Battery on Elder with a Disability**

Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2 1/2 years, and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for not more than 20 years. A prosecution commenced under this paragraph shall not be placed on file nor continued without a finding.

**Assault or Assault and Battery on E.M.T.  
Chapter 265, Section 13I**

**Definition:** Section 13I.

Whoever commits an assault or assault and battery on an emergency medical technician, an ambulance operator, or an ambulance attendant, while said technician, operator or attendant is treating, transporting, in the line of duty, a person, shall be punished by imprisonment in the house of correction for not less than ninety days nor more than two and one-half years, or by a fine of not less than five hundred dollars, or both.

**Elements:**

1. assault or assault and battery
2. committed on an E.M.T., an ambulance driver or an ambulance attendant
3. while treating or transporting a person
4. in the line of duty

**Right of Arrest:**

This is a misdemeanor that would be arrestable only if committed in your presence.

**Note:**

This involves both an assault and an assault and battery on an E.M.T. You can distinguish this crime from A & B on a public employee, for example, because you can use this statute based on an assault alone. For instance, a man takes a swing at an EMT, but misses. He can still be charged under this statute.



## **Abuse of a Child under Fourteen**

### **Chapter 265, Section 13j**

#### **JURY INSTRUCTION**

#### **ASSAULT AND BATTERY ON A CHILD UNDER 14 CAUSING BODILY INJURY**

**First:** That [the alleged victim] was a person under 14 years of age;

**Second:** That the defendant touched the person of [the alleged victim] , without having any right or excuse for doing so;

**Third:** That the defendant intended to touch [the alleged victim] ; to prove an intentional assault and battery, the Commonwealth must prove beyond a reasonable doubt that the defendant intended to touch [the alleged victim] , in the sense that the defendant consciously and deliberately intended the touching to occur, and that the touching was not merely accidental or negligent. The Commonwealth is not required to prove that the defendant specifically intended to cause injury to [the alleged victim] .

**Fourth** element, the Commonwealth must prove that [the alleged victim] suffered a bodily injury. Under the law, a bodily injury is a substantial impairment of the physical condition, including: (a burn) (a fracture of any bone) (a subdural hematoma) (any injury to any internal organ) (any injury which occurs as the result of repeated harm to any bodily function or organ including human skin)

#### **Definition:**

Whoever commits an assault and battery upon a child and by such assault and battery causes **bodily injury** shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. commits an assault and battery upon a child
2. such assault and battery causes bodily injury

#### **Right of Arrest:**

This 5 year felony is arrestable **IN PRESENCE** and on **PROBABLE CAUSE**

#### **Definition:**

Whoever commits an assault and battery upon a child and by such assault and battery causes **substantial bodily injury** shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. Commits an assault and battery upon a child
2. such assault and battery causes substantial bodily injury

#### **Right of Arrest:**

This 15 year felony is arrestable **IN PRESENCE** and on **PROBABLE CAUSE**

For the purposes of this section the following words shall, unless the context indicates otherwise, have the following meanings:



Bodily Injury is substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as a result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

Substantial bodily injury is bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

Child any person under fourteen years of age.

## **Allowing or Permitting Abuse of a Child Under Fourteen**

### **Chapter 265, Section 13j**

#### **Definition:**

Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.

#### **Elements:**

Whoever

1. having care and custody of a child
2. wantonly or recklessly
3. **permits bodily injury** to such child or
4. wantonly or recklessly permits another
5. to commit an assault and battery upon such child
6. such assault and battery causes bodily injury

#### **Right of Arrest:**

This statute is a misdemeanor with **NO STATUTORY RIGHT OF ARREST**

Whoever

1. having care or custody of a child
2. wantonly or recklessly
3. **permits substantial bodily injury** to such child or
4. wantonly or recklessly permits another
5. to commit an assault and battery upon such child
6. such assault and battery causes substantial bodily injury

#### **Right of Arrest:**

**This 5 year felony** is arrestable **IN PRESENCE** and on **PROBABLE CAUSE**

**Note:** Persons having care and custody - a parent, guardian, employee of a home or institution or any person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.

**Com. v. Robinson, 74 Mass. App. Ct. 752, 910 N.E.2d 911 (2009)**

Evidence was sufficient to support conviction for recklessly permitting substantial bodily injury to a child; defendant's 13-year-old daughter became sick, she lost 34 pounds during her illness, she stopped eating and was dehydrated, her abdomen was swollen and pus and stool oozed from a hole in her abdomen below her navel, she had bed sores, she could no longer walk to the bathroom and had to wear diapers, and defendant failed to get medical attention for her daughter until daughter was unresponsive. M.G.L.A. c. 265, § 13J(a, b).



## **Abuse of the Elderly or Disabled**

### **Chapter 265, Section 13K**

#### **Definition:**

Whoever commits an assault and battery upon an elder or person with a disability and by such assault and battery causes **bodily injury** shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. commits an assault and battery upon an elder person or person with a disability
2. such assault and battery causes bodily injury

#### **Right of Arrest:**

This 5 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE

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#### **Definition:**

Whoever commits an assault and battery upon an elder or a person with a disability and by such assault and battery causes **substantial bodily injury** shall be punished by imprisonment in the state prison for not more than ten years or imprisonment in the house of correction for not more than two and one-half years.

#### **Elements:**

Whoever

1. Commits an assault and battery upon an elder or person with a disability
2. such assault and battery causes substantial bodily injury

#### **Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE

**NOTE:** For the purposes of this section the following words shall, unless the context indicates otherwise, have the following meanings:

**Bodily Injury** is substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as a result of repeated harm to any bodily function or organ including human skin.

**Serious bodily injury** is bodily injury which creates a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death. any person under fourteen years of age.

Elder is a person sixty years of age or older.

Person with a disability is a person between the ages of 18 and 59 inclusive. Who is mentally retarded as defined by Ch.123 B,S1.or who is otherwise mentally or physically disabled and as a result is wholly or partially dependent on another person(s) to meet his daily living needs.



**Terms:**

**"caretaker"**, A person with responsibility for the physical care of an elder or person with a disability, which responsibility may arise as a result of a family relationship, or by a fiduciary duty imposed by law, or by voluntary or contractual duty undertaken on behalf of such elder or person with a disability. A person may be found to be a caretaker under this section only if a reasonable person would believe that such person's failure to fulfill such responsibility would adversely affect the physical health of such elder or person with a disability. Minor children and adults adjudicated incompetent by a court of law may not be deemed to be caretakers under this section.

**Definition:**

Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits bodily injury to such elder person or person with a disability or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability, which assault and battery causes **bodily injury**, shall be punished by imprisonment in the state prison for not more than five years or in the house of correction for not more than two and one-half years or by a fine of not more than five thousand dollars or both.

**Elements:**

- Whoever
1. being the caretaker of an elder person or a person with a disability
  2. wantonly or recklessly
  3. permits bodily injury to such person or
  4. wantonly or recklessly permits another
  5. to commit an assault and battery upon such elder or person with a disability
  6. such assault and battery causes bodily injury

**Right of Arrest:**

This 5 year felony is arrestable IN PRESENCE OR ON PROBABLE CAUSE.

**Definition:**

Whoever, being a caretaker of an elder or person with a disability , wantonly or recklessly permits serious bodily injury to such elder or person with a disability, or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability which assault and battery causes serious bodily injury, shall be punished by imprisonment in the state prison for not more than ten years, or by imprisonment in a jail or house of correction for not more than two and one-half years or by a fine of not more than ten thousand dollars or by both such fine and imprisonment.

**Elements:**

- Whoever
1. having care or custody of an elder or person with a disability
  2. wantonly or recklessly
  3. permits serious bodily injury to such elder or person with a disability or
  4. wantonly or recklessly permits another
  5. to commit an assault and battery upon such elder or person with a disability
  6. such assault and battery causes substantial bodily injury

**Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE  
Com. v. Cruz, 88 Mass. App. Ct. 206, 208–10, 37 N.E.3d 626, 629–30 (2015)



## Reckless Endangerment to a Child 265, Section 13L

### JURY INSTRUCTION RECKLESS ENDANGERMENT OF A CHILD UNDER 18

A person may violate G.L. c. 265, § 13L either (I.) by wanton or reckless conduct creating a substantial risk to a child or (II.) by wantonly and recklessly failing to take reasonable steps to alleviate such a risk. The defendant is charged with wanton or reckless conduct creating a substantial risk of (serious bodily injury) (sexual abuse) to a child under the age of eighteen. In order to prove the defendant guilty of this offense, the Commonwealth must prove three things beyond a reasonable doubt:

- First:** That the defendant engaged in conduct which created a substantial and unjustifiable risk of (serious bodily injury) (sexual abuse) to [alleged victim] ;  
**Second:** That the defendant's conduct was wanton or reckless; and  
**Third:** That [alleged victim] was under the age of eighteen years.

### COMMONWEALTH v. David A. COGGESHALL 473 Mass 665(2016)

On August 19, 2013, at about 2:15 p.m., two Halifax police officers were sent to investigate a report of two individuals walking on the Massachusetts Bay Transportation Authority (MBTA) train tracks. They saw the defendant and his eleven year old son walking along the train tracks. The MBTA was notified, and it slowed the scheduled train to allow the police time to get the defendant and his son off the tracks.

The defendant was holding his son's hand for balance. The boy made several efforts to keep his father from falling, but at one point the defendant fell on his back and landed between the tracks. The officers noted that the defendant was visibly intoxicated. A heavy odor of alcohol was detected on his breath.

There is no dispute that the defendant was adequately identified, or that his son was under age eighteen at the time. The disputed issues are the sufficiency of the evidence of a substantial risk of serious bodily injury, and the sufficiency of the evidence that the defendant wantonly or recklessly engaged in conduct that created such substantial risk.

We conclude that the evidence supports probable cause to believe that the defendant exposed his son to a risk that no reasonable person would have permitted, namely, a substantial risk of serious personal injury.

## Domestic Assault and Battery-Intimate Partner Violence 265, Section 13M

Section 13M. (a) Whoever commits an assault or assault and battery on a family or household member shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or both such fine and imprisonment.

For the purposes of this section, "family or household member" shall mean persons who (i) are or were married to one another, (ii) have a child in common regardless of whether they have ever married or lived together or (iii) are or have been in a substantive dating or engagement relationship; provided, that the trier of fact shall determine whether a relationship is substantive by considering the following factors: the length of time of the relationship; the type of relationship; the frequency of interaction between the parties; whether the relationship was terminated by either person; and the length of time elapsed since the termination of the relationship.

This 2014 law does not override 209A but should be used for Intimate Partners



## **Mayhem**

### **Chapter 265, Section 14**

#### **Elements:**

1. Whoever with malicious intent to maim or disfigure,
2. cuts
3. tears
4. slits, or
5. mutilates the tongue, or an eye, ear, nose, lip, or limb or member of another  
or
6. whoever is privy to such intent,  
or
7. is present and aids in the commission of such crime,  
or
8. whoever assaults another person with a dangerous weapon, substance or chemical,
9. and by such assault disfigures, cripples, or inflicts serious or permanent physical injury upon such person,  
or
10. whoever is privy to such intent, or is present and aids in the commission of such crime.

#### **Right of Arrest:**

This is a 20 year felony arrestable IN PRESENCE or on PROBABLE CAUSE

#### **Com. v. Drew, 67 Mass. App. Ct. 261, 853 N.E.2d 215 (2006)**

Evidence was sufficient to show that defendant intended to maim or disfigure victim during course of sustained attack, as required to support conviction for mayhem; defendant struck victim repeatedly with baseball bat even after victim became unconscious and fell to floor, defendant could have appreciated that blows he inflicted were causing victim's face to move closer to space heater, attack continued until victim's face pressed against space heater and burned face, and defendant then left victim in that position, pausing only to kick him before he left. M.G.L.A. c. 265, § 1

Specific intent to maim the victim, as required to support a charge for mayhem, may be inferred from the nature of the injuries as well as evidence that the injuries arose from a sustained or atrocious attack. M.G.L.A. c. 265, § 14

Although assault and battery by means of a dangerous weapon is a lesser included offense of second branch mayhem, this is not the case when the two offenses derive from separate and distinct acts. M.G.L.A. c. 265, § 14



## **Assault with Intent to Murder or Maim**

### **Chapter 265, Section 15**

#### **DEFINITION:**

Whoever assaults another with intent to commit murder or to maim or disfigure his person in any way described in Chapter 265, Section 14, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two and one half years.

#### **Elements:**

1. Assaults another,
2. With intent to commit murder, or
3. to maim, or
4. Disfigure his person
5. in any manner described in Chapter 265 Section 14.

#### **Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE or on PROBABLE CAUSE.

## **Attempted Murder**

### **Not Assault**

### **Chapter 265, Section 16**

#### **Definition:**

Attempting to commit murder by poisoning, drowning, or strangulation of another person, or by any means not constituting an assault with intent to commit murder.

#### **Elements:**

1. attempting to commit murder
2. by poisoning
3. by drowning
4. by strangling
5. by any means not constituting an assault with intent to commit murder

#### **Right of Arrest:**

This 20 year felony is arrestable IN PRESENCE or on PROBABLE CAUSE.





Com. v. Ormonde, 55 Mass. App. Ct. 231, 231–37, 770 N.E.2d 36, 37–41 (2002)

David Ormonde was convicted by a jury of attempted murder (G.L. c. 265, § 16<sup>1</sup>), assault with intent to commit (G.L. c. 265, § 24), kidnapping (G.L. c. 265, § 26), and three other crimes.<sup>2</sup>

On September 11, 1998, a Friday, Sally Paine was on duty, alone, as night auditor at a Susse Chalet motel in Seekonk. In that capacity, she attended to the reception desk. At about 11:50 p.m., a man, dried blood on his face, walked in and asked for an inexpensive room. Paine registered the guest, who was the defendant David Ormonde; he had presented a driver's license as identification. Paine assigned Ormonde to room 121, and gave him a plastic card key to that room. Paine gave Ormonde instructions on how to use the key and demonstrated its use as well.

Moments later, Ormonde returned to the front desk to say he could not make the key open the door to his room. Paine demonstrated a second time how the card key worked. Ormonde \*233 asked Paine to come and show him how to open the door. She declined. Soon thereafter, Ormonde reappeared in the lobby, complaining that he still could not get the key to work and importuning Paine once again to go down to his room to show him how the key worked. Again Paine declined to leave her post to accompany Ormonde. Instead, she switched him to a different room, room 201, closer to the reception lobby, and issued him a new key.

Ormonde apparently found his way into his newly assigned room because, before long, a telephone call from room 201 lit up on Paine's switchboard. Paine told Ormonde, whose voice she recognized, that she could not leave her work station to help him. After a second, similar phone call, Ormonde resurfaced in the lobby. His television set was not working, he complained, and he was having fresh trouble with his card key. Vexed by Ormonde's repeated interruptions of her work, Paine walked in front of him to room 201, demonstrated use of the card key, and opened the door for him. Ormonde said he could not remember where the light switch was. Paine pointed to where it was and, at that, Ormonde put his hands around her throat and tightened them to a chokehold. While choking her, Ormonde dragged Paine into the room and forced her onto a bed.

As Paine struggled, Ormonde murmured, “You're going to be good. You're going to be nice. You're going to give me what I want.” Paine could not scream because her “throat was totally closed off.” For a brief period, Paine lost consciousness. She reawakened to a beating around the head, particularly the ears. Ormond then forced Paine on the floor by pulling on her throat. With his pants pushed down, Ormonde tore off Paine's pantyhose. He made contact with his penis against her buttocks and vaginal area. He continued saying, “Be good” and “You're going to be nice.” There was no penetration. After concluding this sexual assault, Ormonde warned Paine, “You're not going to tell anybody. I'll let you go if you don't tell anybody.” He repeated that demand several times. Just as Paine thought her assailant was leaving, he seized her pantyhose and, using it as a ligature, choked her. Again Paine lost consciousness. When she awoke, Ormonde was gone. Paine made her way to her work station in the lobby and called 911.



Missing from the record, Ormonde argues, is any evidence that warrants a finding that he had formed the specific intent to rape Paine or to kill her. Intent, of course, is a factor that a jury more often than not must find by making inferences. *Commonwealth v. LaPerle*, 19 Mass.App.Ct. 424, 427, 475 N.E.2d 81 (1985). A defendant seldom accommodates the finder of fact with a declaration that he intended to rape or kill. Contrast *Commonwealth v. Beattie*, 29 Mass.App.Ct. 355, 357, 560 N.E.2d 714 (1990), *S.C.* 409 Mass. 458, 567 N.E.2d 206 (1991) (defendant told his girl friend that he was going to kill his wife). The inferences that jurors may draw need not be inescapable; it is sufficient if they are reasonable in the sense of being rationally derived from the evidence. *Commonwealth v. Beckett*, 373 Mass. 329, 341, 366 N.E.2d 1252 (1977). *Commonwealth v. Russell*, 46 Mass.App.Ct. at 308, 705 N.E.2d 1144.

As to Ormonde's intent to rape, that inference on the basis of the circumstantial evidence was not only reasonable, it verges on the inescapable: the dragging of Paine to the bed and to the floor; the pulling up of her skirt; Ormonde's lowering his pants; the pulling off of Paine's pantyhose; and the contact of his genitalia with hers. What Ormonde said to Paine as he dragged and choked her was verbal confirmation of his intent to rape her.

In the case of the attempted murder, Ormonde's intent to kill Paine is less obvious, but, on the record, may nevertheless be fairly inferred. There was evidence that, after warning Paine to say nothing, Ormonde choked her with the pantyhose until she lapsed into unconsciousness, and then left her in a locked room. Jurors could rationally and reasonably have inferred that Ormonde wanted Paine silent—therefore dead—and left her for dead. See *Commonwealth v. Grogan*, 11 Mass.App.Ct. 684, 686–687, 418 N.E.2d 1276 (1981) (evidence that defendant had put hands around victim's neck, with thumbs on the front of her neck, “in itself would warrant the jury in concluding that he intended to strangle her”); *Commonwealth v. Shea*, 38 Mass.App.Ct. 7, 14, 644 N.E.2d 244 (1995) (intent to kill could be inferred from throwing women overboard five miles off-shore). How to weigh the evidence was for the jury. *Commonwealth v. Beattie*, 409 Mass. at 460, 567 N.E.2d 206. *Commonwealth v. Lydon*, 413 Mass. at 312, 597 N.E.2d 36. *Commonwealth v. Coleman*, 434 Mass. 165, 169, 747 N.E.2d 666 (2001). Inferring Ormonde's intent to kill, given the circumstances, was not just conjecture.



## **Assault and Battery by Means of A Dangerous Weapon**

### **Chapter 265, Section 15A**

#### **Definition:**

Assaulting and beating another by means of a dangerous weapon.

#### **Elements:**

1. A + B -- i.e., the intentional and unjustified use of force.  
The law recognizes an alternative form of assault and battery in which proof of a willful, wanton, and reckless act that results in personal injury to another can substitute for intentional conduct.  
Commonwealth v. Welch
2. Through the instrumentality of a dangerous weapon, by means of a dangerous weapon, not with a dangerous weapon.

#### **Right of Arrest:**

This 10 year felony is arrestable IN PRESENCE and on PROBABLE CAUSE

#### **NOTE:**

Jury instructions given to jurors regarding dangerous weapons: the definition of a dangerous weapon also includes any instrument or instrumentality which, because of the manner in which it is used or attempted to be used, endangers the life or inflicts great bodily injury, or is reasonably capable of causing death or serious bodily injury. Thus, even if an instrument in its ordinary use is not designed to produce death or serious bodily injury, it may qualify as a dangerous weapon if it is so used as to be likely to produce death or great bodily harm.

An instrumentality is not dangerous when used for the purposes for which it was intended but may become a dangerous weapon by the manner in which it is used.

Comm. v. Farrel -- DW: lighted cigarette

Comm. v. Tarant -- DW: a dog

Comm. v. Barrett -- DW: aerosol spray when sprayed in face of automobile driver

\*No part of the human body is a dangerous weapon (including human teeth).

#### **Com. v. Lednum(75 Mass.App.Ct. 722)**

The term "dangerous weapon" encompasses two categories:

- (1) weapons that are dangerous per se, "instrumentalities designed and constructed to produce death or great bodily harm,"  
e.g., firearms, daggers, and brass knuckles; and
- (2) objects that are dangerous as used.



## COMMONWEALTH v CRUZADO

Appeal from his convictions of unarmed robbery and assault and battery by means of a dangerous weapon and from his sentence of life in prison on the charge of unarmed robbery, imposed as a habitual criminal under G. L. c. 279, § 25. He argues that the Commonwealth failed to prove all essential elements of the unarmed robbery and the assault and battery by means of a dangerous weapon charges

Facts. We summarize the facts the jury could have found. See *Commonwealth v. Latimore*, 378 Mass. 671, 678-679 (1979). Christopher Adams, an employee of Jack's Gas, a gasoline station in Cambridge, was not on duty at the time of the events in question, but was at the station working on his own vehicle. Tommy Tompkins, also an employee, had parked his white Honda Civic automobile in front of the station on Massachusetts Avenue. A sign indicating that Jack's Gas performed State vehicle inspections was leaning against the rear of Tompkins's Honda. Adams was eating lunch inside the station with other employees when he heard a loud slapping noise that turned out to be the sign falling over. As Adams and others ran out of the station they saw that Tompkins's Honda had been taken and that it was two blocks away. Adams and another employee jumped in a truck and gave chase.

The driver of the Honda, the defendant, stopped at a traffic light, and Adams jumped out of the truck, ran up to the Honda, and "ripped" the door open. The defendant stepped on the acceleration pedal and drove through the red light. After proceeding through the intersection, the Honda was traveling thirty to forty miles per hour. Adams's foot was stuck next to the seat, and he held onto the Honda by putting one hand on the inside of the roof of the Honda and holding onto the door with the other.

While driving, the defendant kept trying to grab Adams's hands to push him off the Honda. As the defendant proceeded through the intersection, another vehicle pulled in front of the Honda, and the defendant swerved out into oncoming traffic, crossing the solid double yellow line in the road. When the Honda swerved, the door swung completely open and then swung back. Adams's foot became dislodged, and he could only hold onto the door. The defendant traveled three to four blocks with Adams continuing to hold onto the Honda. Seeing a gap between vehicles in the oncoming traffic lane, Adams jumped from the Honda to the side of the road, slid across the pavement, hit the front left tire of a parked vehicle, and spun around. [FN1] Police were called and gave chase. The defendant was apprehended after he drove in the wrong direction around a rotary, struck an automobile, and crashed into a guardrail.

Unarmed robbery. The unarmed robbery statute draws substantially from the common law of robbery and requires a showing of a larceny from a person by force and violence or by assault and putting in fear. Robbery is distinguished from larceny by its requirement of actual or constructive force.

The defendant claims that the Honda was not taken from Adams's person or from an area within his control, and thus no robbery was established. In essence he alleges that he was not in the "presence" of Adams until "well after the theft was complete" when Adams "ripped" open the door to the Honda after pursuit.



"While the statute . . . speaks of a taking from the victim's 'person,' the offense is understood 'to include the common law conception of taking in a victim's 'presence' . . . and . . . cover[s] cases where the victim could have prevented the taking had he not been intimidated.' " Commonwealth v. Lashway, 36 Mass. App. Ct. 677, 679-680 (1994), quoting from Commonwealth v. Rajotte, 23 Mass. App. Ct. 93, 95-96 (1986). A larceny may be converted to a robbery where the assault is committed on a victim who has a protective concern for the goods and where the victim interferes with the completion of the theft. See Commonwealth v. Mavredakis, 430 Mass. 848, 854-855 (2000). Here, a rational jury could have found that the Honda was taken from Adams's person as the robbery was not complete when the defendant was still fleeing the scene while being pursued by Adams. The defendant accelerated the car and pushed at Adams's hands to attempt to remove the car from Adams's grasp and to complete the theft.

We also reject the defendant's argument that the element of force was not proved beyond a reasonable doubt. "Robbery includes all of the elements of larceny and in addition requires that force and violence be used against the victim or that the victim be put in fear." Commonwealth v. Goldstein, 54 Mass. App. Ct. 863, 867 (2002). In Goldstein, the defendant argued that \*806 because a knife was brandished after control of the shopping cart holding the stolen merchandise had been relinquished, only larceny could be established. As we said there, "[a] larceny may be converted into a robbery where . . . a person who has protective concern for the goods taken interferes with the completion of the robbery." Ibid. See Commonwealth v. Rajotte, supra at 94. "[T]he nexus between the force or fear and the taking may be relatively loose and yet encompass a robbery." Commonwealth v. Goldstein, supra at 868, quoting from Commonwealth v. Lashway, supra at 680. See Model Penal Code § 222.1 & comment 2 (1980) (robbery includes force or threat of force occurring "in the course of committing a theft," as well as period of flight after commission).

The jury here could have found that Adams's chase of the defendant and his attempt to recover the Honda by jumping onto it occurred in the course of the theft. Accordingly, the defendant's use of force -- by accelerating the Honda with Adams still holding on and by attempting to dislodge Adams's hands from the Honda -- was employed to perpetrate that theft.

We also reject the defendant's argument that the Commonwealth failed to show that Adams had a "protective interest" in the Honda. "The essence of robbery is the exertion of force, actual or constructive, against another in order to take personal property of any value whatsoever, with the intention of stealing it, from the protection which the person of that other affords. . . . It is not affected by the state of the legal title to the goods taken." Adams had an adequate protective concern for Tompkins's car, which was stolen from outside their place of employment.

2. Assault and battery by means of a dangerous weapon. As provided by G. L. c. 265, § 15A(b), as appearing in St. 2002, c. 35, § 2:

"Whoever commits assault and battery upon another by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than ten years or in a house of correction for not more than 2 1/2 years, \*807 or by a fine of not more than \$5,000, or both such fine and imprisonment."



A weapon can be dangerous per se -- "an instrumentality designed and constructed to produce death or great bodily harm" -- or dangerous as used, where the object is capable of inflicting serious bodily injury or causing death. *Commonwealth v. Appleby*, 380 Mass. 296, 303-304 (1980). See *People v. Buford*, 69 Mich. App. 27, 30 (1976) (automobile may be dangerous weapon as used). It is a question for the fact finder whether an instrument is used as a dangerous weapon. *Commonwealth v. Appleby*,

The defendant argues that his conviction of assault and battery by means of a dangerous weapon, the Honda, must be reversed as the Commonwealth did not prove all elements of the offense beyond a reasonable doubt. "[T]he offense of assault and battery by means of a dangerous weapon under G. L. c. 265, § 15A, requires that the elements of assault be present, that there be a touching, however slight, that that touching be by means of the weapon, and that the battery be accomplished by use of an inherently dangerous weapon, or by use of some other object as a weapon, with the intent to use that object in a dangerous or potentially dangerous fashion." *Id.* at 308 (citations omitted). The second theory of assault and battery is that it is "the intentional commission of a wanton or reckless act (something more than gross negligence) causing physical or bodily injury to another." *Commonwealth v. Burno*, 396 Mass. 622, 625 (1986). The jury were instructed on both theories.

The defendant contends the battery was not accomplished because it was Adams who brought himself into contact with the Honda. The evidence was sufficient to sustain the conviction of assault and battery by means of a dangerous weapon under either theory.

Supporting conviction under the intentional theory of battery, the jury could have found that the defendant intended to use both the Honda and his hands in a dangerous or potentially dangerous fashion. While driving he intentionally accelerated the Honda as Adams was holding onto it, drove the Honda through a red light, swerved in traffic, and traveled several **\*808** blocks at a speed of thirty to forty miles per hour. At the same time, the defendant used his hands to attempt to dislodge Adams from the Honda.

Alternatively, the defendant's conviction can be upheld under a wanton and reckless theory of battery. The jury could have found that the defendant's decision to accelerate with a person holding onto the door and frame of the Honda was heedless of the potential danger to Adams. Not only was the defendant driving the Honda in a dangerous fashion, but he was also attempting to push Adams from the Honda with his hands. The reckless conduct resulted in Adams jumping from the moving Honda and suffering injuries. [FN2]

Adams suffered "road rash" to his ankles, hands, palms, and left leg; the skin on the palms of his hands was peeled back and his left leg was bleeding.

Because we decide as we do, we reject the defendant's claim that the asserted failure of the Commonwealth to prove all elements of unarmed robbery and assault and battery with a dangerous weapon beyond a reasonable doubt deprived him of his due process rights.





COMMONWEALTH v. Kenneth A. APPLEBY.  
Com. v. Appleby, 380 Mass. 296, 402 N.E.2d 1051 (1980)

On November 22, 1978, a Superior Court jury convicted Kenneth A. Appleby of assault and battery with a dangerous weapon, to wit: a riding crop. G.L. c. c. 265, s 15A.1 The judge sentenced Appleby to eight to ten years in the Massachusetts Correctional Institution at Walpole. Appleby appealed pursuant to G.L. c. 278, ss 33A-33G, and we granted his petition for direct appellate review. He alleges error in (1) the judge's denial of a directed verdict, and (2) the judge's instructions to the jury on the issues of consent and intent. We affirm the conviction.

Kenneth Appleby and Steven Cromer were engaged in a homosexual, sadomasochistic relationship for over two years, during most of which period they lived together. Appleby frequently beat Cromer. Appleby's general defense to the indictments was that Cromer had consented to the beatings, and that he, Appleby, had intended them for Cromer's sexual gratification. In addition to pressing his arguments on consent and intent in this appeal, he maintains that he should have had a directed verdict because the Commonwealth failed to present a prima facie case of assault and battery by means of a dangerous weapon as set forth in G.L. c. 265, s 15A.

By far the major portion of the Commonwealth's case consisted of the testimony of the alleged victim, Steven Cromer. There follows a summary of his testimony; material from other sources is so noted. The summary continues to the point where we first mention Appleby's motion for a directed verdict.

Cromer lived with Appleby during most of the period from June, 1974, until August 31, 1976 (the date of the incident for which Appleby was convicted). His entire relationship \*298 with Appleby, including the homosexual acts, was forced upon him; he lived with Appleby as a "servant," performing household and other duties. Appleby beat him when he was dissatisfied with Cromer's performance of these duties. Their residence was like a "military camp," with Appleby owning a variety of weapons and employing them on persons in his "torture chamber," which Cromer was forced to help design.

In October, 1975, an enraged Appleby beat Cromer badly with a bullwhip and baseball bat, fracturing his kneecap. Cromer was hospitalized for this injury until December 4. He received surgery to repair the kneecap, and he spent several weeks on crutches thereafter.

En route to the hospital, Appleby suggested to Cromer that they tell hospital personnel that Cromer had had an epileptic seizure and fallen down some stairs, and Cromer, who had had seizures before, agreed and maintained the story throughout the hospital stay. They fabricated the story "(t)o cover things up." When he left the hospital, Cromer returned to Appleby's residence in West Springfield, where he resumed his "duties" as best he could.

When asked what distinguished this October, 1975, incident from other beatings, Cromer stated that it was "going a little over what I was used to." The October, 1975, incident formed the basis of the first indictment, on which the jury acquitted Appleby.

A second incident, the subject of the second indictment, allegedly occurred on February 28, 1976, when Appleby beat Cromer with a bullwhip because of displeasure with a sandwich Cromer had prepared. A friend of Appleby was outside at the time, and Appleby called to this person to bring snow to apply to Cromer's wounds. Cromer liked this "attention": "Other beatings I had, nothing came. No attention was made to me like that. It was unusual in that respect." The jury acquitted Appleby on this indictment as well.

The third incident occurred on August 31, 1976. Cromer served Appleby some ice cream which had melted. This enraged \*299 Appleby, who reached for a riding crop with which he hit Cromer. Cromer described the blow as follows: "He just connected on the back. . . . He was sitting down.



(H)e just lashed with it like that (Indicates.) And it just barely connected with my back. There were some thongs at the end and I just felt them hit me, and he was losing his temper. . . . I felt the whip hit me. A glancing blow.” Cromer, in his underwear, ran from the house and to a monastery, where a priest encouraged him to telephone his relatives. His brother and sister-in-law came to the monastery for him, and later helped him to remove his personal belongings from Appleby's residence. Cromer never returned to Appleby's place thereafter. The jury convicted Appleby on the indictment involving the riding crop incident.

Cromer maintained that Appleby was sadistic, but denied that he was engaged in a sadomasochistic relationship with Appleby. He denied that he was a homosexual, and he claimed the homosexual acts were forced upon him from the beginning. He said he could not recall whether violence and sexual activity with Appleby occurred close in time. Cromer said “Mr. Appleby explained later that he delighted in violence to an extent that he said it was almost sexual or sexual.”

Cromer acquiesced in this relationship because Appleby “took me over in a way . . . . He had convinced me that people were constantly following me and observing my every action and reporting to him.” Cromer told no one about the relationship, and sought aid from no one, because Appleby told him no one would believe him, that he was a “hippie,” a “weirdo,” and on drugs. He thought that even the police could not “stop” Appleby. He was under “duress” the entire time because he feared that Appleby would harm him or members of his family if he did not continue in their relationship.

At one point Cromer stated that he never protested or told Appleby to stop, because he was afraid to do so. At \*300 another point he stated that he did protest Appleby's sadistic activity.

Cromer had a low opinion of himself for having got into the situation, and he “lost” himself in his functions at the Appleby residence. He said that after the bullwhip incident, “I felt that I was just a joke that I had taken the beating and had done nothing about it. Just took the beating, and when he told me to clean up the food off the floor after that, I did, and Jay Robbins \*\*1055 (Appleby's friend) came in and saw me on my hands and knees doing this.”

At the close of the Commonwealth's case in chief, which covered almost 700 pages of the trial transcript, Appleby moved for a directed verdict on the basis that the Commonwealth had failed to establish a prima facie case. The judge denied the motion. The defendant then presented evidence which, including his own testimony, covered almost 600 pages of the transcript. The defendant renewed his motion for a directed verdict at the end of the trial, and it was again denied.

Since the principal question for the jury was one of the credibility of the two main witnesses, Cromer and Appleby, we also summarize Appleby's account of his relationship with Cromer. This summary will continue to the point where we refer to the defense witness Webster.

Appleby's general defense to the three charges was that Cromer had consented to their sadomasochistic relationship. He admitted that he had whipped or beaten Cromer almost daily. He denied, however, that the fractured kneecap was caused by a beating; rather, he asserted the truth of the story of the epileptic seizure and fall down the stairs. (He also testified to witnessing a prior seizure and presented medical evidence of Cromer's epilepsy.) As to the second incident, he denied that he ever beat Cromer severely and said that February 28, 1976, did not stick out in his mind as involving any incident different from the usual daily whippings. Regarding the riding crop incident, Appleby testified that Cromer ran out of the house in his underwear on a rainy night, but said that this occurred on July 24, \*301 1976, after a conversation, and that there was no beating or whipping of any kind that evening.

Appleby trained attack dogs for a living, and kept whips in his house for that purpose. He ascribed the initiation of the sadomasochistic activities entirely to Cromer. He met Cromer while the latter was “hustling” sex for money on a Springfield street. At that time Appleby was a “conventional” homosexual. The first night they met, Cromer showed him a braided rope he had





made from clothesline, and said he liked to be beaten with that. Appleby refused to engage in beatings. Cromer beat himself with the clothesline, and Appleby told him not to use it. In the months before Cromer moved in, their “regular sexual ritual” consisted solely of fellatio and anal intercourse. Cromer told Appleby that he took drugs, and Appleby saw Cromer injecting himself and taking pills.

One evening, Cromer asked to go home with Appleby; the latter assented on the condition that Cromer not bring any drugs. Shortly after they arrived, Cromer spotted one of the whips Appleby used to train dogs. Cromer asked Appleby to beat him with the whip, but the latter refused.

The next day, Cromer telephoned Appleby and asked if he could come to live with him, because some people were following him and trying to kill him. Appleby told Cromer he had taken too many pills. Shortly thereafter, Cromer arrived at Appleby's home and begged to be let in. Appleby told him he could move in if he fulfilled four conditions; Cromer balked at the condition that he give up drugs, but finally acquiesced, and moved all of his belongings into Appleby's home. One of the other conditions was that there would be no beatings, but within two weeks Appleby reneged on this condition and agreed to strike Cromer for the latter's sexual fulfillment.<sup>2</sup> He did this because Cromer begged for it, and because he, Appleby, had a sexual reaction to the sexual effect of the beatings on Cromer.

After this, their relationship became a sadomasochistic one, as well as homosexual, and involved daily beatings of Cromer. At first, Cromer was able to attain sexual satisfaction with only a few strokes of a whip, but gradually he began to require more variety. Together they acquired or constructed \*\*1056 leg irons, handcuffs, a torture rack, several other implements of torture, and a room which Cromer liked to call the “torture chamber.”

When shown the riding crop on direct examination, Appleby denied ever using it on Cromer. On cross-examination, however, he admitted that the riding crop “was employed many times,” and said that Cromer “favored” the crop, that “he would be whipped until he reached sexual orgasm.” The riding crop never caused “welts,” but only “redness;” in fact none of the beatings caused more than “redness.” Appleby never enjoyed whipping Cromer; he enjoyed the sexual effect it had on Cromer and the fact that Cromer allowed him to have anal intercourse after each beating. When asked if he intended to strike Cromer, he said, “I did it with the intent to turn him on sexually.” Appleby had several other sadomasochistic relationships after Cromer left, and used the implements he had purchased or made for Cromer. All of the implements, including the riding crop, were found at Appleby's house in 1978.

Appleby presented as part of his case expert testimony of Dr. John Peter Webster, a minister and psychotherapist. Webster, who had counseled Appleby after his arrest, also had some knowledge of sadomasochism. We summarize his testimony. He defines sadomasochism as involving a fusion of the sexual and aggressive drives, and said the masochist may need to be “punished” in order to release inhibited sexual feelings. He said that the beatings are generally inseparable from the sexual part of the relationship, and that typically the masochist needs to feel helpless and dependent. Cromer's staying with Appleby under fear of harm to himself or his family “would certainly fit the pattern of masochism.”

The propriety of the denial of the motions for a directed verdict and the correctness of the judge's instructions to the jury both turn on certain questions of law, and we therefore address them first. Those questions are: (1) whether the riding crop was a “dangerous weapon” for purposes of G.L. c. 265, s 15A, (2) what sort of criminal intent is required by said s 15A, and (3) what role Appleby's consent defense should play in this case.

1. General Laws c. 265, s 15A reads: “Whoever commits assault and battery upon another by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars or imprisonment in jail for not more than two and one half years.” Courts have classified dangerous weapons into two



categories: those dangerous per se and those dangerous as used. See *Commonwealth v. Farrell*, 322 Mass. 606, 615, 78 N.E.2d 697 (1948).

1 (a) A “dangerous weapon per se” is an instrumentality designed and constructed to produce death or great bodily harm. *State v. Luckey*, 69 Ohio Op.2d 111, 113, 322 N.E.2d 354 (Ohio App.1974). See also *Farrell*, supra. Thus, for example, firearms, daggers, stilettos and brass knuckles are usually classified as dangerous per se, because they are designed for the purpose of bodily assault or defense. On the other hand, pocket knives, razors, hammers, wrenches and cutting tools are not so classified. *People v. Vaines*, 310 Mich. 500, 505, 17 N.W.2d 729 (1945) (dictum). In one case dealing with a “driving whip,” the court held that the whip was not dangerous per se because it was not designed for the offense or defense of persons.

2 A riding crop is not designed to inflict death or serious bodily harm upon either persons or animals. It is designed \*304 to inflict temporary pain in order to cause an animal to move. Therefore it is not dangerous per se.

3 (b) Weapons which are not dangerous per se, but which may be used in a dangerous fashion, may also be “dangerous weapons.” See *Farrell*, supra (lighted cigarette); *Commonwealth v. LeBlanc*, 3 Mass.App. 780, 780, 334 N.E.2d 647 (1975) (automobile door used to strike police officer); *Commonwealth v. Tarrant*, 2 Mass.App. 483, 486-487, 314 N.E.2d 448 (1974) ( “kitchen-type” knife and German shepherd dog may both be used as “dangerous weapons”), S.C., 367 Mass. 411, 326 N.E.2d 710 (1975); *United States v. Loman*, 551 F.2d 164, 169 (7th Cir.) (walking stick used with enough force to break it), cert. denied, 433 U.S. 912, 97 S.Ct. 2982, 53 L.Ed.2d 1097 (1977); *United States v. Johnson*, 324 F.2d 264, 266 (4th Cir. 1963) (chair brought down upon victim's head); *Bennett v. State*, 237 Md. 212, 216, 205 A.2d 393 (1964) (microphone cord tied around victim's neck, causing inability to speak and marks on throat); *Vaines*, supra at 505-506, 17 N.W.2d 729 (ordinary jackknife); *People v. Buford*, 69 Mich.App. 27, 30, 244 N.W.2d 351 (1976) (dictum) (automobile, broomstick, flashlight and lighter fluid may all be dangerous as used); *State v. Howard*, 125 N.J.Super. 39, 45, 308 A.2d 366 (1973) (straight razor). Generally it is held to be a question for the fact finder whether the instrument was so used in a particular case. *Farrell*, supra at 614-615, 78 N.E.2d 697. *Tarrant*, 2 Mass.App. at 487, 314 N.E.2d 448. *Vaines*, supra at 505, 17 N.W.2d 729. *Buford*, supra at 32, 244 N.W.2d 351. *Howard*, supra at 47, 308 A.2d 366.

A riding crop, such as the one involved in this case, is capable of being used to inflict serious bodily harm, and possibly even to cause death. The riding crop Cromer identified as that which Appleby used on August 31, was admitted in evidence. We have examined it. It is approximately eighteen inches in length, and constructed of heavy braided leather wrapped around a solid leather core. At its thickest point, it is slightly less than one inch in diameter, tapering off to a diameter of about one-third of an inch. Cromer and Appleby both testified that leather thongs were missing from the end by the time of the trial. The riding crop is more substantial than one might anticipate an ordinary riding crop to be. It resembles instead a short whip. We \*305 are satisfied that it could be employed to inflict serious bodily harm. Therefore, we cannot hold as a matter of law that it can never be a dangerous weapon as used.

(c) The jury in this case had to find that the riding crop was in fact dangerous as used in order to convict Appleby under s 15A. Whether they could lawfully have done so depends on the gravamen of the offense of assault and battery by means of a dangerous weapon as set forth in s 15A. The meaning of “dangerous weapon” depends to a certain extent on the context in which it is used. We have held that the thrust of the offense of assault with a dangerous weapon, for example, is the outward demonstration of force which breaches the peace, and therefore even an unloaded gun (known only by the defendant to be unloaded) may be a dangerous weapon in that context. *Commonwealth v. Henson*, 357 Mass. 686, 692, 259 N.E.2d 769 (1970). See also *United States v. Maynard*, 452 F.2d 1087, 1088 (1st Cir. 1971) (assault with dangerous weapon does not require proof gun was loaded). The gist of the offense of armed robbery is robbery “while armed,” and



thus there is no need to prove the defendant used a weapon other than to threaten. *Henson*, supra at 690, 259 N.E.2d 769. *Commonwealth v. Tarrant*, 367 Mass. 411, 415-416, 418, 326 N.E.2d 710 (1975) (dog may be “dangerous weapon” for armed robbery, G.L. c. 265, s 17, and Commonwealth need not prove actually dangerous or used in harm-inflicting manner).

4 Thus the relevant behavior for the offense of assault with a dangerous weapon, G.L. c. 265, s 15B, is an outward demonstration of force, and s 15B requires only apparent ability to injure. *Henson*, supra at 692-693, 259 N.E.2d 769. The behavior for robbery while armed with a dangerous weapon, G.L. c. 265, s 17, which distinguishes it from unarmed robbery, G.L. c. 265, s 19, is the objectively menacing behavior of the defendant with the instrumentality \*\*1058 causing fear in his victims. *Tarrant*, 367 Mass. at 415, 326 N.E.2d 710. Whether a weapon not dangerous per se qualifies for either of these statutory crimes is a question of fact to be decided “by objective standards \*306 and not by the victim's subjective apprehension.” *Tarrant*, 367 Mass. at 416, 326 N.E.2d at 714. *Henson*, supra at 693, 259 N.E.2d 769.

One of the principal distinctions between assault by means of a dangerous weapon and assault and battery by means of a dangerous weapon is in the punishment. The maximum penalty for the former is five years, G.L. c. 265, s 15B, and for the latter is ten years, G.L. c. 265, s 15A. We must therefore ask what behavior distinguishes the two crimes, and whether the meaning of “dangerous weapon” is different.

5/6 “The definition of an assault is, an attempt or offer with force and violence to do injury to a person either from malice or wantonness; and a battery is where an injury is actually inflicted under such circumstances.” *Commonwealth v. Ruggles*, 6 Allen 588, 590-591 (1863). “An assault and battery is the intentional and unjustified use of force upon the person of another, however slight . . .” (emphasis supplied). *Commonwealth v. McCan*, 277 Mass. 199, 203, 178 N.E. 633, 635 (1931).<sup>4</sup> Under s 15A, the battery must be accomplished by means of the dangerous weapon, and not merely while possessing the weapon. *Salemme v. Commonwealth*, 370 Mass. 421, 424, 348 N.E.2d 799 (1976). *Commonwealth v. Manning*, —Mass.App. —, — - —, —a, 376 N.E.2d 885 (1978). *Commonwealth v. Jacobs*, — Mass.App. —, —b, 381 N.E.2d 1109 (1978).

Therefore, s 15A requires an assault by means of a dangerous weapon, see *Henson*, supra, and also an intentional, unjustified touching, however slight, by means of that dangerous weapon. The criminal law of assault and battery by means of a dangerous weapon expresses society's desire to punish \*307 the use of an instrument which is capable of producing serious bodily harm. We hold that there was sufficient evidence for the jury to find that the riding crop, used as it was by Appleby in this case, was a dangerous weapon.<sup>5</sup> The law need not wait until the instrument actually does cause serious bodily harm in order to classify the weapon as dangerous. Any touching with a potentially dangerous weapon can be assault and battery by means of a dangerous weapon for purposes of s 15A, provided that the assault element and the intentional application of force are established. *Commonwealth v. Hawkins*, 157 Mass. 551, 553, 32 N.E. 862 (1893), and cases cited.

78 2. We next examine the type of criminal intent necessary for the crimes punishable under G.L. c. 265, s 15A. It has been held that assault and battery by means of a dangerous weapon (G.L. c. 265, s 15A) is a general intent crime in Massachusetts. See \*\*1059 *Commonwealth v. Randall*, 4 Gray 36, 38-39 (1855); *Commonwealth v. Jones*, — Mass.App. —, — n.8c, 383 N.E.2d 527 n.8 (1978). Compare G.L. c. 265, s 15A, with G.L. c. 265, s 14 (mayhem: “with malicious intent to maim or disfigure” and “by such assault disfigures . . .”) and G.L. c. 265, s 15 (assault with intent to murder or maim); cf. *Commonwealth v. Hogan*, — Mass. —, —d, 396 N.E.2d 978 (1979). Section 15A does not require specific intent to injure; it requires only general intent to do the act causing injury. *Hawkins*, supra. See generally, W. Lafave & A. Scott, *Criminal Law* s 28 (1972).<sup>6</sup> \*308 910 The required intent is satisfied by proof of intent to commit the lesser included crime of assault with a dangerous weapon. See *Henson*, supra; *Commonwealth v. Slaney*, 345 Mass. 135, 137-139, 141, 185 N.E.2d 919 (1962). Once an actor intends to commit assault with an object capable of causing bodily harm,<sup>7</sup> he is threatening to use the instrumentality in a dangerous



fashion. The offense of assault and battery by means of a dangerous weapon is complete once the threat is consummated by the application of any force upon the victim by means of the instrumentality. Hawkins, supra. This effectuates the policy of s 15A to deter the use of “neutral” objects in a dangerous fashion.

11 In sum, the offense of assault and battery by means of a dangerous weapon under G.L. c. 265, s 15A, requires that the elements of assault be present (see Henson, supra; Slaney, supra ), that there be a touching, however slight (McCan, supra ), that that touching be by means of the weapon (Salemme, supra ), and that the battery be accomplished by use of an inherently dangerous weapon, or by use of some other object as a weapon, with the intent to use that object in a dangerous or potentially dangerous fashion.

3. The evidence in this case must be viewed in a strained manner in order to support Appleby's argument that the jury were required to find that Cromer consented to be hit with the riding crop. Cromer testified that he did not consent to any of the beatings, that the riding crop incident occurred \*309 after an argument over melted ice cream, and that he immediately ran from the house when Appleby “lost his temper” and struck him. Appleby did not testify that there was any beating that evening which related to sexual activity or to which Cromer otherwise consented; he flatly denied that a beating had occurred on the night Cromer ran to the monastery. He further said this night was July 24, but Father Murray (from the monastery), Leon Cromer (Cromer's brother), and Mary Cromer (Cromer's sister-in-law) all testified that the monastery incident occurred on August 31. Furthermore, the riding crop incident was remote in time from the earlier alleged incidents, when a claim that Cromer consented to the relationship might have received more support in the evidence.

The only conceivable way that consent by Cromer on August 31 could be raised by the evidence is by inferences that a) Cromer consented to the relationship generally, and b) Appleby subjectively believed on the night in question that Cromer would consent \*\*1060 to be hit with the crop on the basis of his past behavior. Giving Appleby the benefit of this rather strained construction, we shall briefly discuss the legal viability of Appleby's contention that as a matter of law Cromer could consent to their sadomasochistic relationship.

(a) Assuming that the riding crop incident occurred in relation to sexual behavior, the question is whether the State can regulate, by the law of assault and battery, violent behavior which occurs in private, consensual sexual relationships.

We held in Commonwealth v. Balthazar, 366 Mass. 298, 302, 318 N.E.2d 478 (1974), that G.L. c. 272, s 35, prohibiting “unnatural and lascivious” acts, “must be construed to be inapplicable to private, consensual conduct of adults. We do so on the ground that the concept of general community disapproval of specific conduct, which is inherent in s 35, requires such an interpretation. We do not decide whether a statute which explicitly prohibits sexual conduct, even if consensual and private, would be constitutionally infirm.”

\*310 After Balthazar, consent is a defense to a charge of “unnatural and lascivious” acts under c. 272, s 35. See also Commonwealth v. Hill, —Mass. —, — - —e, 385 N.E.2d 253 (1979) (applying Balthazar retroactively); Balthazar v. Superior Court, 573 F.2d 698, 699 (1st Cir. 1978) (dictum); New York v. Onofre, App.Div.2d, 424 N.Y.S.2d 566 (1980).f Appleby has cited no case, and we are aware of none, extending protection on either statutory or constitutional grounds beyond the sexual acts and to accompanying force or violence by means of dangerous weapons. See generally Cotner v. Henry, 394 F.2d 873 (7th Cir.), cert. denied, 393 U.S. 847, 89 S.Ct. 132, 21 L.Ed.2d 118 (1968); Towler v. Peyton, 303 F.Supp. 581 (W.D.Va.1969) (defendant may constitutionally be convicted of forced acts of sodomy with wife). Any right to sexual privacy that citizens enjoy, and we do not here decide what the basis for such a right would be if it exists,8 would be outweighed in the constitutional balancing scheme by the State's interest in preventing violence by the use of dangerous weapons upon its citizens under the claimed cloak of privacy in sexual relations. See generally Balthazar v. Superior Court, supra at 701 (dictum) (sadomasochistic behavior “universally condemned”); Onofre, supra (dictum) (privacy right not





absolute; State may regulate conduct which “has the potential for working harm”; prevention of “physical violence and disorder” probably valid State interest).

General Laws c. 265, s 15A, is not aimed at regulating sexual conduct. Appleby was in no way charged with a crime for committing homosexual acts. Rather he was tried for violating a statute that implies, as a matter of public policy, that one may not consent to become a victim of an assault and battery with a dangerous weapon. Farrell, *supra* at 620-621, 78 N.E.2d 697. See also *Commonwealth v. Collberg*, 119 Mass. 350 (1876).

\*311 1213 (b) The fact that violence may be related to sexual activity (or may even be sexual activity to the person inflicting pain on another, as Appleby testified) does not prevent the State from protecting its citizens against physical harm. The invalidity of the victim's consent to a battery by means of a dangerous weapon would be the same, however, whether or not the battery was related to sexual activity. The general rule is: “It is settled that to commit a battery upon a person with such violence that bodily harm is likely to result is unlawful, and consent thereto is immaterial.” Farrell, *supra* at 620, 78 N.E.2d at 705.9 \*\*1061 Regardless of whether sexual activity was involved in the incident in question, Cromer's consent to assault and battery upon him by Appleby by means of a dangerous weapon cannot absolve Appleby of the crime charged punishable under G.L. c. 265, s 15A.

4. Appleby alleges that the judge erred in denying his motions for a directed verdict.<sup>10</sup> The standard we apply is whether there was enough evidence in the case-in-chief, when taken in the light most favorable to the Commonwealth, “that could have satisfied a rational trier of fact of each (essential element of the offense) beyond a reasonable doubt.” *Commonwealth v. Latimore*, — Mass. —, —g, 393 N.E.2d 370, 375 (1979). *Commonwealth v. Rosenberg*, — Mass. —, —h, 398 N.E.2d 451 (1979).

14 We hold that the Commonwealth presented in its case-in-chief enough evidence of the elements of assault and battery \*312 with a dangerous weapon, to which Cromer by law could not consent, to support the denial of the motion. We have already said that an assault with a dangerous weapon coupled with slight, intentional touching can qualify for assault and battery by means of a dangerous weapon under G.L. c. 265, s 15A. Even if Appleby subjectively intended to use the crop for his own sexual purposes, the evidence was sufficient to permit the jury to find that he possessed the requisite intent to use the riding crop in a dangerous manner and thereby commit a battery.

The evidence both at the close of the Commonwealth's case and after both sides had rested, supports a jury finding that Appleby intentionally placed Cromer in fear and struck him with the riding crop, an instrumentality which was then being used as a dangerous weapon. There was no error in the denial of the directed verdict.

1516 5. Appleby alleges error in the jury instructions, and in the denial of his request for instructions that (a) intent to cause sexual gratification precludes a finding of guilty of the offense charged, and (b) private, consensual sadomasochistic behavior is an “absolute defense to the charge of assault and battery with a dangerous weapon.” We have reviewed the judge's charge, and find no error. Appleby's requested instructions squarely conflict with our holdings today and with the holdings of Farrell, *supra*.

For all the foregoing reasons, we affirm Appleby's conviction. While we express some reservation on the severity of the sentence imposed for the particular assault and battery on August 31, 1976, as established by the jury verdict, albeit an assault and battery by means of a dangerous weapon, that subject is not open to review by this tribunal. See G.L. c. 278, ss 28A-28C.

Judgment affirmed.

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HENNESSEY, Chief Justice (concurring).

I concur with the result and the reasoning of the court's opinion. I add these few \*313 words to bring emphasis to the court's expressed “reservation” as to the severity of the sentence imposed. The only incident which resulted in a guilty verdict was minor. It was a blow which “barely



connected” with the victim's back; it was a “glancing blow,” with no evidence of visible injury or after effects. We may speculate that the sentencing process was perhaps influenced by the indictments as to two more serious episodes of violence. However, the \*\*1062 jury, by their not guilty verdicts, rejected those charges, and as a consequence they would have no proper bearing on the sentence. Perhaps the sentence here was unduly influenced by knowledge of other charges pending against the defendant at the time of this trial. Perhaps, also, the sentence was influenced by certain related circumstances which are abhorrent to most persons, but the defendant was not charged with those circumstances in any indictment. In sum, the sentencing result here is one which focuses on the compelling need for reasoned application of the broad sentencing discretion ordinarily available to our trial court.

#### Footnotes

The jury acquitted Appleby on two other indictments charging assault and battery with a dangerous weapon, to wit: a bat; and assault and battery with a dangerous weapon, to wit: a whip. The two other conditions were that Cromer (a) attend church every Sunday with Appleby, and (b) not engage in any “hustling.”

The judge in Appleby's case charged the jury that a battery “is the intentional and unjustified use of force, however slight, upon the person of another. Now, not every touching or brushing is a battery. It must be intentional touching or brushing. Everyday social intercourse of urban and suburban life in shopping and public assemblies, in sporting events, persons in crowds are subject to a certain amount of jostling, pushing and shoving while these contacts may be somewhat offensive, they do not constitute battery because they enjoy a measure of justification if they're not excessive. So there can be a touching or brushing and that can be a battery if it's intentional.”

Of course, the question whether a weapon is dangerous as used is always one for the fact finder. “In resolving this issue the jury may consider the nature, size, and shape of the object as well as the way in which it is handled or controlled.” *Commonwealth v. Tarrant*, 367 Mass. 411, 416, 326 N.E.2d 710, 714 (1975). Thus the holding of the present case should not be construed to mean that any intentional unjustified touching with an object previously held in a different case to have been capable of being a dangerous weapon constitutes a crime under G.L. c. 265, s 15A. A reasonable jury might well reach a different conclusion as to a riding crop when used in different circumstances.

Weapons which are dangerous per se will qualify for s 15A convictions when used to commit an assault and a battery of any kind, and without a jury determination that the weapon was dangerous as used. This is because public policy discourages the use of such weapons, and persons are charged with knowledge of their inherently dangerous nature. See *Commonwealth v. Smith*, 312 Mass. 557, 558-560, 45 N.E.2d 742 (1942); *Commonwealth v. Jones*, — Mass.App. —, — (Mass.App.Ct.Adv.Sh. (1978) 1218, 1229-1230), 383 N.E.2d 527 (1978). See also *Tarrant*, 367 Mass. at 416, 326 N.E.2d 710 (for armed robbery, where weapon not dangerous per se, potential danger must be assessed by fact finder using objective standards and not victim's subjective apprehension).

“Bodily harm” is defined as “any hurt or injury calculated to interfere with the health or comfort of the (victim).” *Commonwealth v. Farrell*, 322 Mass. 606, 621, 78 N.E.2d 697, 705 (1948), quoting from *Rex v. Donovan*, 2 K.B. 498, 507 (1934).

*Farrell* involved a female victim who had gone to a hotel room with the defendant, apparently for the purpose of having sexual intercourse, although this is not clearly stated in the review of the evidence. The defendant cut her with a razor and disfigured her body with lighted cigarettes. It appears from the facts that she neither knew this would occur nor consented to it, but this court held that as a matter of law she could not have consented.

The Commonwealth argues that the classification of the riding crop as a dangerous weapon is not properly before this court because Appleby did not state grounds for his motion for directed verdict and the thrust of his defense was consent. The motion for a directed verdict raises the question of the sufficiency of the evidence as to all essential elements of the offense, however.



## **Assault by Means of a Dangerous Weapon**

### **Chapter 265, Section 15B**

#### **Definition:**

Assaulting another by means of a dangerous weapon.

#### **Elements:**

1. Assaulting another (outward gesture menacing no fear needed)
2. By means of a dangerous weapon

#### **Right of Arrest:**

This 5 year felony is arrestable upon PROBABLE CAUSE or IN PRESENCE.

#### **NOTE:**

#### **Com. v. Lednum(75 Mass.App.Ct. 722)**

The term “dangerous weapon” encompasses two categories:

- (1) weapons that are dangerous per se, “instrumentalities designed and constructed to produce death or great bodily harm,” e.g., firearms, daggers, and brass knuckles; and
- (2) objects that are dangerous as used.



**COMMONWEALTH v. Lajuan MELTON**

The defendant was convicted of unlawful possession of a firearm and ammunition, malicious damage to a motor vehicle, and four counts of assault by means of a dangerous weapon. On appeal, he contends that the evidence was insufficient to convict him of all four assaults because the perpetrator, \*292 by firing only a single shot into a vehicle occupied by four persons, could not have intended to commit more than a single battery by means of that shot. He also contends that there was insufficient evidence to convict him either as a joint venturer or as a principal for the assaults and the malicious damage to a motor vehicle.<sup>1</sup> The Appeals Court affirmed the convictions. *Commonwealth v. Melton*, 50 Mass.App.Ct. 637, 741 N.E.2d 69 (2001). We granted the defendant's application for further appellate review. For the following reasons, we affirm the convictions.

1. Facts. Viewing the evidence in the light most favorable to the Commonwealth, see *Commonwealth v. Latimore*, 378 Mass. 671, 677-678, 393 N.E.2d 370 (1979), the jury could have found as follows. On the evening of April 1, 1998, David Benedict, the defendant and two other companions were standing outside a bar on Main Street in Brockton. Another group of young men drove by in a Honda Accord. Among that group was Daniel Marcellus, who had had previous disputes with both the defendant and Benedict. The defendant's group gestured at the passing vehicle in a manner that suggested a desire to fight. The vehicle turned around; Marcellus and his companions got out; and ultimately it was decided that Marcellus and the defendant would fight "one on one." The defendant then removed a gun from his pants. Marcellus recognized the gun as one that he had seen Benedict use during a confrontation a few weeks earlier. The defendant wrapped the gun in his sweatshirt, went into the bar or an adjacent alley momentarily, and then returned \*\*1095 without the bundled clothing (and presumably without the gun). No one saw Benedict with a gun.

The defendant and Marcellus proceeded with their fight while the others watched. After some period, the two combatants separated. The defendant was "winded" and "tired," but his friends were encouraging him to resume the fight. He appeared reluctant to do so. At that point, the police arrived. The participants were questioned, but no one was arrested. After the police advised the young men to go their separate ways, Marcellus and his group left in their car, with Marcellus seated in the back seat, behind the driver.

\*293 Marcellus and his companions dropped off one member of their group at his home. At that point, Marcellus took over driving. One passenger was seated in the front seat, and the other two were in the back seat. The driver's side rear passenger seat, which Marcellus had occupied when they left the scene of the fight, was now occupied by his brother.

Driving along, approximately twenty minutes after the conclusion of the fight, Marcellus noticed another vehicle, an older model blue Chrysler, approaching rapidly. (The same vehicle had been seen at the site of the earlier fight.) The Chrysler pulled alongside, and a hand reached out the rear passenger side window pointing a gun at the Honda. Marcellus described the hand as "light-skinned." He recognized the weapon as the one that the defendant had possessed at the start of their fight.

A single shot was fired, shattering the rear driver's side window of the Honda. None of the occupants of the vehicle was hit by the bullet. They were hit by fragments of broken glass. Marcellus looked over at the Chrysler and saw Benedict in the rear driver's side seat and the defendant in the rear passenger side seat. The driver and the front seat passenger were the other two young men who had been with the defendant at the time of the earlier fight. After the one gunshot, the Chrysler sped away. Marcellus attempted pursuit, but was convinced by his companions to go to the police instead. They proceeded to the police station, where Marcellus told the police that he thought the defendant was the shooter.

At school the next day, Marcellus spoke with the defendant's girl friend. She told him that Benedict was the shooter, not the defendant. Marcellus heard similar rumors from other classmates. Marcellus then began to doubt his identification of the defendant as the shooter because the hand he had seen holding the gun out the window was "light-skinned," whereas the defendant was more "dark-skinned." By the time of his grand jury testimony, Marcellus told the investigating officers that he was not sure of the identity of the shooter, but that it probably was Benedict, not the defendant. At trial, Marcellus testified that what he heard from others concerning Benedict's identity as the shooter made "more sense" to him, and he opined that it "probably really wasn't" the defendant who shot at the car. He \*294 did, however, confirm that he had initially identified the defendant as the shooter.

1 2. Intent to batter four victims. The defendant was charged with a separate count of assault by means of a dangerous weapon committed on each of the four occupants of the Honda. The defendant argues that he cannot be found guilty of four counts of assault by means of a dangerous weapon because there was not





sufficient evidence of any intent to batter all four alleged victims. Because it would have been physically impossible to hit all four victims with a single shot, he contends that the perpetrator could not have had <sup>\*\*1</sup> the intent to batter four people.<sup>2</sup> The defendant's argument misapprehends our jurisprudence on the element of intent.

Under the common law, an assault may be perpetrated in either of two ways.<sup>3</sup> The crime may consist of "an attempted battery" or "an immediately threatened battery." *Commonwealth v. Gorassi*, 432 Mass. 244, 247, 733 N.E.2d 106 (2000), and cases cited. *Commonwealth v. Musgrave*, 38 Mass.App.Ct. 519, 521, 649 N.E.2d 784 (1995), S.C., 421 Mass. 610, 659 N.E.2d 284 (1996). The crime of assault by means of a dangerous weapon adds one additional element, namely, that the assault was perpetrated by means of a dangerous weapon. G.L. c. 265, § 15B (b ). The judge instructed the jury on both types of assault, and, if the defendant were found guilty, the judge's instructions required the jury to specify on the verdict slip which type of assault had been proved. See *Commonwealth v. Accetta*, 422 Mass. 642, 646-647, 664 N.E.2d 830 (1996). On each of the four indictments for assault by means of a dangerous weapon, the jury returned a verdict that the defendant was guilty, specifying <sup>\*295</sup> that they had based each verdict on the "attempted battery" form of assault.<sup>4</sup>

<sup>567</sup> Under the attempted battery theory, the Commonwealth must prove that the defendant intended to commit a battery, took some overt step toward accomplishing that intended battery, and came reasonably close to doing so. See *Commonwealth v. Musgrave*, supra at 520 n. 2, 649 N.E.2d 784, quoting Model Jury Instructions for Criminal Offenses Tried in the District Court Department § 5.402 (1988). The defendant concedes, as he must, that a single act can result in multiple convictions if there are multiple victims. "[T]he appropriate 'unit of prosecution' for such crimes [of violence] is the person assaulted or killed, not the underlying criminal act." *Commonwealth v. Crawford*, 430 Mass. 683, 686-687, 722 N.E.2d 960 (2000), quoting *Commonwealth v. Donovan*, 395 Mass. 20, 31, 478 N.E.2d 727 (1985). See *Commonwealth v. Gordon*, 41 Mass.App.Ct. 459, 465, 671 N.E.2d 972 (1996); *Commonwealth v. Dello Iacono*, 20 Mass.App.Ct. 83, 89-90, 478 N.E.2d 144 (1985).

<sup>8</sup> Rather, the defendant challenges the sufficiency of the evidence only with respect to the element of intent. He contends <sup>\*\*1097</sup> that the single shot could not hit all the occupants of the car, and asks us to hold that his intent cannot have exceeded what the laws of physics would permit that single shot to accomplish.<sup>5</sup> Of course, while the laws of physics may determine the extent of injury or physical damage accomplished by a person's act, the perpetrator's intent is not necessarily so constrained. A <sup>\*296</sup> person can intend things that are hopelessly unrealistic or even absurd. In that sense, we reject the fundamental premise of the defendant's argument. The impossibility of particular consequences may be argued as a basis for concluding that a defendant did not harbor the requisite intent, but it does not compel the jury to reach that conclusion.<sup>6</sup> More fundamentally, however, the defendant's argument erroneously assumes that the intent element requires the Commonwealth to prove an intent to batter each and every one of the victims in order for there to be multiple assaults. That assumption is inconsistent with our treatment of intent in other contexts. We have never required that a defendant's intent be directed at the precise victim of the crime. Rather, we have long recognized the concept of "transferred intent" in situations where the defendant's conduct harms a person other than the intended victim. See *Commonwealth v. Fisher*, 433 Mass. 340, 345-346, 742 N.E.2d 61 (2001), and cases cited.

In most other jurisdictions, the same principle of transferred intent applies to satisfy the element of intent when a defendant harms both the intended victim and one or more additional but unintended victims. See, e.g., *United States v. Sampol*, 636 F.2d 621, 674 (D.C.Cir.1980) (evidence sufficient to support two convictions of murder in the first degree where defendant killed two people, even though defendant only intended to kill one of them, noting that "[t]here are even stronger grounds for applying the principle [of transferred intent] where the intended victim is killed by the same act that kills the unintended victim"); *State v. Worlock*, 117 N.J. 596, 616-617, 569 A.2d 1314 (1990) (same); *State v. Hinton*, 227 Conn. 301, 306-311, 630 A.2d 593 (1993) (transferred intent doctrine applicable to support three counts of murder even if defendant only intended to kill one victim); *State v. Fennell*, 340 S.C. 266, 276, 531 S.E.2d 512 (2000) (where defendant shot and killed intended victim but one bullet struck and seriously <sup>\*297</sup> injured an unintended victim, doctrine of transferred intent supported convictions of both murder of intended victim and assault and battery with intent to kill unintended victim); *Ochoa v. State*, 115 Nev. 194, 981 P.2d 1201, 1205 (1999) (same); *State v. Gillette*, 102 N.M. 695, 705, 699 P.2d 626 (N.M.App.1985) (defendant, who delivered poisoned drink to one intended victim, guilty of three counts of <sup>\*\*1098</sup> attempted murder when intended victim and two others consumed it); *State v. Henley*, 141 Ariz. 465, 467, 687 P.2d 1220 (1984) (transferred intent doctrine would support two counts of aggravated assault where single shot intended for



one victim struck two persons); *Mordica v. State*, 618 So.2d 301, 303 (Fla.Dist.Ct.App.1993) (where defendant kicked fellow inmate and inadvertently kicked officer who was attempting to break up fight, defendant's convictions of two batteries upheld); *State v. Livingston*, 420 N.W.2d 223, 229 (Minn.Ct.App.1988) (where defendant commanded his dog to bite intended victim and dog attacked two other persons as well, transferred intent applicable to support three counts of assault). See also *State v. Wilson*, 125 Wash.2d 212, 217-218, 883 P.2d 320 (1994) (where defendant shot at and missed both intended victims but struck and injured two unintended victims, he committed four assaults because he met the statutory requirement that he act "with intent to inflict great bodily harm" and statute did not require that "the specific intent match a specific victim").<sup>7</sup>

910 Thus, a defendant's intent is deemed to extend to others \*298 beyond the actual intended victim. It is not exhausted or depleted based on the perpetration of the crime on the intended victim, but encompasses completely unintended victims (including victims of whom the defendant was unaware) who happen to suffer along with the intended victim. See *State v. Hinton*, supra at 306 n. 8, 630 A.2d 593 (defendant's intent to harm one victim "is not regarded as a limited commodity that, once satisfied, is totally expended"). Thus, the requisite mens rea must be shown, but it does not need to be shown separately or independently for each victim. Rather, once established as to any victim, it satisfies that element with respect to all other victims, even if those victims are unintended or even unknown to the defendant.

We recognize that, in most of the cases cited above, the unintended victims were actually struck, injured, or killed by the defendant.<sup>8</sup> That fact, however, has nothing to do with intent or with transferred \*\*1099 intent. It merely affects whether the crime is one of assault and battery or only assault. If the bullet apparently intended for Marcellus had struck one of the other occupants of the car, either in addition to or instead of Marcellus himself, the doctrine of transferred intent would have made the unintended victim a victim of assault and battery by means of a dangerous weapon. Where, as it happened, the bullet narrowly missed Marcellus and the other occupants, they are victims of assault by means of a dangerous weapon. Both crimes require a showing of intent, and the doctrine of transferred intent applies without regard to whether the attempted battery was successful.

There was abundant evidence of an intent to batter at least one person, most likely Marcellus.<sup>9</sup> An overt act was taken in furtherance of that intent, and it came reasonably close to \*299 succeeding. All persons within close proximity to that shot suffered equally with the intended victim. All four were imperiled by the shot, to at least the same extent as the intended victim. While the Commonwealth does not have to prove that an attempted battery actually instilled fear in the victim, see *Commonwealth v. Gorassi*, 432 Mass. 244, 248, 733 N.E.2d 106 (2000), all four victims here were aware of the shot, several of them were struck by shattered glass from the bullet piercing the rear window, and all suffered at least the same fear as the intended victim.<sup>10</sup> They were all victims of the attempted battery, even if the perpetrator's intent focused on only one of them.<sup>11</sup> Beyond the metaphysics of transferred intent, we note that treating the defendant's actions as four assaults by means of a dangerous weapon is consistent with the purposes underlying the common law of assault. An attempted but unsuccessful battery is criminal not because it actually harms the victim-indeed, the victim can be completely unaware of the attempt-but rather because it imperils the victim. The conduct here (a shot into a car full of people, fired at point blank range from a passing vehicle traveling at high speed) placed four people in equally grave peril. Limiting the number of convictions to the precise number of victims the defendant intended to hit ignores the additional persons whose lives were placed at risk by the defendant's attempt to batter his intended victim. The suggestion that they were not victims of any crime, when they all suffered the very peril that the crime of assault by means of a dangerous weapon is intended to address, is contrary to common sense.

Similarly, it would be anomalous to hold that, had the \*300 defendant merely waved the gun in the direction of the Honda with \*\*1100 a menacing gesture or remark, he would be guilty of four assaults by means of a dangerous weapon (because his intentionally menacing conduct would have been directed at and instilled fear in four people), but that an actual shot at those same four people could only constitute a single assault. Rather, a person is a victim of assault if he is at risk of battery from the defendant's attempted battery on anyone, just as the person would be a victim of assault if he were placed in fear of battery from the defendant's intentionally threatened battery on anyone. The peril and the fear inflicted by such conduct is what makes one a victim of assault, and, as long as the defendant has the requisite mens rea with regard to any person, the defendant may be convicted of as many separate assaults as there are victims.

Therefore, we conclude that there was sufficient evidence to prove four counts of assault by means of a dangerous weapon on a theory of attempted battery.



11 3. Sufficiency of the evidence as to principal or joint venturer liability. The defendant contends that, in light of Marcellus's effective retraction of his earlier identification of the shooter, there was not sufficient evidence to convict him as the principal. We agree with the Appeals Court's analysis on this point. See *Commonwealth v. Melton*, 50 Mass.App.Ct. 637, 643-646, 741 N.E.2d 69 (2001). Marcellus acknowledged that he had originally identified the defendant as the shooter; he acknowledged that his retraction of that identification was based at least in part on rumor and hearsay from persons who were partial to the defendant; and the jury could have been skeptical of his claimed ability to distinguish subtle differences in skin tone (the ostensible basis for his retraction) when he had seen only the perpetrator's hand briefly as the car sped by on a foggy night. Meanwhile, there was circumstantial evidence pointing to the defendant as the likely perpetrator. He had the strongest motive to attack Marcellus (hostility from the earlier fight); the weapon used to perpetrate the assaults had been seen in his possession earlier that evening; and he was seated closest to the window from which the shot was fired.

12 We also agree with the Appeals Court that there was sufficient evidence to submit the case to the jury on the alternative \*301 theory of joint venture. *Id.* at 646-647, 741 N.E.2d 69. The defendant was present at the scene; the jury could infer the requisite shared intent from both Benedict's and the defendant's hostility toward Marcellus; and, based on the defendant's supplying a weapon to Benedict (if Benedict were in fact the shooter), the jury could infer the defendant's willingness to assist Benedict in perpetrating the crimes.

Judgments affirmed.

All Citations

436 Mass. 291, 763 N.E.2d 1092

Footnotes

1

The defendant raises no issue with respect to the convictions of unlawful possession of a firearm and ammunition.

2

The argument now raised by the defendant was not presented below in support of his motion for required finding of not guilty. We therefore review to determine whether there was error and, if so, whether such error created a substantial risk of a miscarriage of justice. Convictions based on insufficient evidence "are inherently serious enough to create a substantial risk of a miscarriage of justice." *Commonwealth v. McGovern*, 397 Mass. 863, 867-868, 494 N.E.2d 1298 (1986).

3

The statute sets forth the punishment for the crime of assault by means of a dangerous weapon, but does not define the crime. G.L. c. 265, § 15B (b ). *Commonwealth v. Slaney*, 345 Mass. 135, 138, 185 N.E.2d 919 (1962). *Commonwealth v. Musgrave*, 38 Mass.App.Ct. 519, 521, 649 N.E.2d 784 (1995), S.C., 421 Mass. 610, 659 N.E.2d 284 (1996). Therefore, we look to the common law for the definition of the crime of assault. *Commonwealth v. Slaney*, *supra*.

4

The defendant concedes that the evidence was sufficient to establish the "immediately threatened battery" form of assault as to all four victims. To establish that form of assault, the Commonwealth must prove that the defendant intentionally engaged in menacing conduct that reasonably caused the victim to fear an imminent battery. *Commonwealth v. Musgrave*, *supra* at 520 n. 2, 649 N.E.2d 784, quoting Model Jury Instructions for Criminal Offenses Tried in the District Court Department § 5.402 (1988). A single shot in the direction of a group of people is intentionally menacing conduct that can cause each person reasonably to fear an imminent battery.

5

While the defendant is correct that the single shot could not have hit all four occupants, he is incorrect in his assertion that the single shot could not have hit more than one occupant. The apparent path of the bullet was straight across the back seat, entering at one rear window and continuing out the opposite rear window. Two persons were in that back seat at the time. Both could have been hit by a single bullet traveling along that path. The defendant's argument, even if correct, would reduce the number of assault convictions to two, not to one.

6

Here, an intention to harm persons in addition to Marcellus could be inferred from the evidence, notwithstanding the physical impossibility of hitting all of them with a single shot. While Marcellus was presumably the principal object of the defendant's vengeance, the jury could infer that the defendant bore ill



will to Marcellus's companions as well. They were affiliated with Marcellus, and all of them had just witnessed the defendant's unwillingness to continue fighting Marcellus.

7

A minority of jurisdictions refuse to apply the doctrine of transferred intent if the defendant has succeeded in perpetrating the intended crime on the intended victim. See *People v. Birreuta*, 162 Cal.App.3d 454, 460, 208 Cal.Rptr. 635 (1984); *Ford v. State*, 330 Md. 682, 710-715, 625 A.2d 984 (1993). Under that analysis, the doctrine of transferred intent is used only to prevent a defendant from obtaining a windfall due to his own poor aim or other miscalculation, and its sole purpose "is to insure the adequate punishment of those who accidentally kill innocent bystanders, while failing to kill their intended victims." *People v. Birreuta*, supra. Thus, as long as the crime is completed against the intended victim, the minority is of the view that "there is no need for such an artificial doctrine" in order to obtain a conviction. *Id.* Like the majority of courts that have considered the issue, we are not persuaded by this analysis. The doctrine of transferred intent is not simply a pragmatic device to make sure that a culpable defendant does not avoid all prosecution. Rather, it also serves to recognize that everyone injured or killed by the defendant, whether they were the intended object of his intentional crime or not, are in fact victims. The defendant has acted with the requisite intent as to at least one person, but all persons injured or killed are appropriately viewed as victims of that crime. To hold that a defendant who succeeds in perpetrating a crime on his intended victim cannot commit any form of intentional crime against anyone who is not his actual intended victim fails to recognize the harm perpetrated on others who are unfortunate enough to be injured or killed by the defendant's criminal conduct.

8

The doctrine has been applied to purely attempt crimes in at least one case. See *State v. Gillette*, 102 N.M. 695, 705, 699 P.2d 626 (Ct.App.1985) (three counts of attempted murder even though defendant only intended to poison one person).

9

Although the shot was fired into the back seat when Marcellus was in the driver's seat, Marcellus had been sitting in the back seat at the time the defendant and his companions had seen Marcellus leave the scene of the fight. Driving up rapidly from behind on what some witnesses described as a misty night, the perpetrator may well not have realized that it was Marcellus's brother, not Marcellus, in the back seat.

10

The passengers in the car advised Marcellus not to follow the defendant's car because they were afraid that another shot would be fired if Marcellus maintained the pursuit.

11

The judge did not instruct the jury on transferred intent. There was no objection by either side. The absence of such an instruction did not create a substantial risk of a miscarriage of justice. To the contrary, the absence of an instruction on transferred intent can only help a defendant, as the jury may then mistakenly assume that the Commonwealth has to prove intent specifically directed at each actual victim. An instruction on transferred intent clarifies that the Commonwealth need only prove intent as to one of the victims.

## **Assault by means of Hypodermic Syringe or Needle**

### **Chapter 265, Section 15C**

Section 15C. (a) Whoever commits an assault upon another, by means of a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of controlled or other substances by injection, shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$1,000, or by both such fine and imprisonment.

(b) Whoever commits an assault and battery upon another, by means of a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of controlled or other substances by injection, shall be punished by imprisonment in the state prison for not more than 15 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.



## **Armed Robbery**

### **Chapter 265, Section 17**

#### **Definition:**

##### **Section 17**

Whoever, being armed with a dangerous weapon, assaults another and robs, steals or takes from his person money or other property which may be the subject of larceny shall be punished by imprisonment in the state prison for life or for any term of years; provided, however, that any person who commits any offence described herein **while masked** or disguised or while having his features artificially distorted shall, for the first offence be sentenced to imprisonment for not less than five years and for any subsequent offence for not less than ten years. Whoever commits any offense described herein while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years. Any person who commits a subsequent offense while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than 15 years.

#### **Elements:**

1. armed with a dangerous weapon
2. larceny
3. from the person of another
4. by force and violence or by putting in fear

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or on PROBABLE CAUSE.

#### **Note:**

Officers should remember the definition of dangerous weapon for the first element. In order to use the armed robbery statute, a larceny must occur. (A larceny is defined as an unlawful taking of the property of another.) The last element involves force and violence which, even if slight, will be enough. See Comm. v. Zingari, 42 Mass. App. Ct. 931.) It also may involve putting the victim in fear.

Armed robbery may be made out by proof that defendant was in possession of weapon in course of robbery, although he did not display or use it.

#### **Com. v. Tarrant, 367 Mass. 411, 326 N.E.2d 710 (1975)**

It is not only actual use of weapon in sense of harm in fact inflicted that makes crime of armed robbery aggravated; rather it is more importantly potential for injury and tendency toward resistance, conflict, and violence in result which exists where robbery is perpetrated with use of dangerous weapon. M.G.L.A. c. 265 § 17.

Evidence in **armed robbery** prosecution, including fact that German shepherd dog entered victim's bedroom with defendant, roamed around room while defendant searched for goods, moved within close proximity to victim and answered to defendant's orders, supported finding that dog was dangerous weapon within purview of **armed robbery** statute. M.G.L.A. c. 265 § 17.





# COMMONWEALTH vs. KING

## Robbery & Intimidation of Witness.

The defendant, Michael King, was convicted by a Superior Court jury of one count of armed robbery, G. L. c. 265, § 17 [FN1]; one count of assault and battery, G. L. c. 265, § 13A; \*114 and one count of intimidation of a witness, G. L. c. 268, § 13B, following the robbery of a convenience store. On appeal, he argues that the judge erred in denying his motion for a required finding of not guilty because the evidence was insufficient to establish either that he was armed with a dangerous weapon at the time of the robbery, or that he interfered with the victim's furnishing of information to a criminal investigator. we affirm the convictions.

1. Facts. We summarize the evidence presented at trial in a light most favorable to the Commonwealth. See *Commonwealth v. Latimore*, 378 Mass. 671, 676-677 (1979). On September 9, 2003, the victim, Michael Jacques, was working alone on a 5:00 P.M. to 12:00 A.M. shift as a clerk at the DB Mart, a convenience store located in Springfield. At approximately 11:30 P.M., the defendant, a frequent patron of the store, entered and left without incident. At midnight, the victim closed the store and began the tasks that had to be completed before he could leave.

Moments later, the defendant returned. He knocked on the locked doors and requested that he be let in to retrieve a pager he had misplaced in the store during his earlier visit. After a brief discussion, the victim allowed the defendant to enter to search for the item. Both men scoured the aisles for several minutes to no avail. When the search proved fruitless, the victim requested that the defendant leave for the night and return in the morning to consult with the store's manager.

Suddenly the defendant struck the victim on the left side of the face with his fist. He followed by tackling the victim and placing him in a "choke hold." The defendant then knocked the victim to the floor and up against his bicycle, which the victim had parked inside the store. With the victim subdued, the defendant proceeded to the cash register.

As the defendant attempted to open the cash register, the victim began to get up from the floor. The defendant warned immediately, "I'm going to blow a hole in your head if you get up and move." Believing the defendant had a gun, the victim heeded the warning and returned to the floor. He did not, however, actually see the defendant with a weapon at any time.

The defendant then demanded that the victim tell him how to open the cash register. The victim complied, and the defendant removed approximately \$1,400. He then took the victim's bicycle but, before leaving, inquired as to the location of the videotapes from the store security camera. The victim replied that the videotapes were maintained in the manager's office, and he did not have access to them. The defendant then stated that, "[i]f he saw [the victim] on 22 News [a Springfield television program] he was going to come back and kill [him], [his] whole family, [his] buddy Ben, all of that. The defendant again ordered the victim to remain on the floor, and departed the premises.



A few minutes after, the victim got up from the floor and contacted the police. Responding officers searched the store's immediate surrounding area, but could not locate an individual matching the victim's description of the defendant. An investigation led to apprehension of the defendant on September 11, 2003, one day after the robbery. No weapon was found in his possession or in the vicinity of his person at the time of his arrest.

2. Armed robbery. To obtain a conviction of armed robbery under G. L. c. 265, § 17, the Commonwealth must prove beyond a reasonable doubt that the defendant committed a robbery while "armed with a dangerous weapon." *Commonwealth v. Smiley*, 431 Mass. 477, 490 (2000). Convictions are not limited to instances in which a defendant actually uses or displays the weapon. "In the Massachusetts decisions to date applying G. L. c. 265, § 17, armed robbery may be made out *\*116* by proof that the defendant was in possession of a weapon in the course of a robbery but did not display or use it." *Commonwealth v. Simpson*, 54 Mass. App. Ct. 477, 479 (2002). This does not mean, however, that the Commonwealth may satisfy its burden merely by showing that a defendant was "apparently armed." *Commonwealth v. Howard*, 386 Mass. 607, 608 (1982). There must instead be evidence from which a jury could permissibly conclude that the defendant was actually armed at the time of the robbery with some instrumentality which presents an objective threat of danger. *Id.* at 611.

Applying these criteria, we conclude that a jury finding that the defendant actually possessed a gun at the time of the robbery was warranted.

The defendant relies on *Commonwealth v. Howard*, *supra*, in which a defendant approached the victim on the street, did not display a weapon, but, with his hand in his right pocket, stated: "Walk straight, look down, and don't try anything foolish or I'll pull the trigger." No weapon was visible. The police arrested the defendant at the scene, but a search of his person and the immediate vicinity disclosed that he in fact carried no weapon. A divided Supreme Judicial Court reversed his conviction, concluding that "where a robber had no instrumentality at all, although he said he had a gun, a conviction of armed robbery is not warranted." *Howard*, 386 Mass. at 608. The court stated further that G. L. c. 265, § 17, "should not be read as including *\*117* a robbery while apparently armed with a dangerous weapon when in fact the defendant was unarmed." *Ibid.*

The defendant argues correctly that the *Howard* case stands for the proposition that an armed robbery conviction requires that the jury find that the defendant actually carried a dangerous weapon at the time of the robbery and, further, that the burden of proof is not satisfied by the defendant's statement that he is armed without more. However, in deciding what evidence additional to the defendant's statement is necessary, *Howard* must be read in conjunction with *Commonwealth v. Delgado*, 367 Mass. 432, 436-437 (1975), decided seven years earlier.

In *Delgado*, as a robbery of a convenience store was in progress, the defendant stated to an accomplice, "[h]old him [the store manager] or I'm going to shoot him." *Id.* at 436. The victim never observed a weapon. At the conclusion of the robbery, the thieves fled. The defendant was arrested away from the crime scene at a later date. No weapon was found on his person or nearby. Although the Supreme Judicial Court acknowledged that "as a general rule words are not sufficient to constitute an assault, simple or aggravated, and would therefore not usually be sufficient to meet the robbery requirement," *ibid.*, the court affirmed the armed robbery conviction.



The court clarified the apparent inconsistency by explaining that, in the Howard case, there "is the absence of any basis to infer that the defendant may have had a gun that distinguishes [Howard] from [Delgado]." *Commonwealth v. Howard*, 386 Mass. at 610. In the Delgado case, on the other hand, the defendant, unlike the defendant in Howard, was arrested and searched some time after the robbery and away from the crime scene. "In those circumstances, it was possible that Delgado had a gun and disposed of it. . . . [T]he jury would have been warranted in finding beyond a reasonable doubt that Delgado had a gun." *Ibid*.

It remains a requirement that the Commonwealth prove actual possession of a weapon at the material time, and it remains the law that that burden is not satisfied merely by evidence that the robber said he was armed. Reading Delgado and Howard together, however, the Commonwealth may obtain a verdict by proof of such a statement together with evidence that the \*118 defendant had an opportunity to dispose of the weapon prior to his arrest. It is that latter evidence that permits the jury to draw the inference that the defendant should be taken at his word. See *Commonwealth v. Delgado*, 367 Mass. at 437. Such a case is distinguished from a case in which the defendant is apprehended at the scene and found to have no weapon. In such a situation, there is no basis on which a juror could rationally conclude that the defendant was armed.

The distinction has been criticized. In a concurring opinion in Howard, Justice O'Connor stated, "we have never held, and we should not announce now, that a defendant's statement, in the course of a robbery, that he has a gun, together with evidence that he could have disposed of one, warrants a finding that he actually had a gun." *Commonwealth v. Howard*, 386 Mass. at 615. This is so, he reasoned, because the subsequent apprehension of the defendant without a weapon in his possession is as consistent with the fact that he never had one as it is with the fact that he had one and disposed of it. Whatever the merit of this analysis, it has not been adopted, and the distinction based on an opportunity to dispose of a weapon has governed proceedings in the twenty-five years since Howard was decided. See *Commonwealth v. Jackson*, 419 Mass. 716, 723-725 (1995); *Commonwealth v. Powell*, 433 Mass. 399, 403 n.3 (2001); *Commonwealth v. Johnson*, 27 Mass. App. Ct. 746, 748-749 (1989).

In the light of these decisions, we conclude that the jury's inference that the defendant actually carried a dangerous weapon at the time of the robbery was permissible. The evidence supported findings that the defendant threatened to shoot the victim, and that he was arrested a day later without a weapon. Thus, the jury could, if they wished, find that he in fact had a weapon when he made the threat. Contrary to the defendant's argument, the making of a threatening or menacing gesture is not required in order to permit an inference that the defendant carried a dangerous weapon at the time of the robbery. The defendant relies on cases in which gestures or objects consistent with the possession of weapons were involved. [FN4] None of these cases state that such evidence is necessary for a finding that a defendant possessed a dangerous weapon at the material time.





### Intimidation of Witness.

Intimidation of a witness. The defendant was convicted of intimidating a witness pursuant to G. L. c. 268, § 13B. At the time of the armed robbery, [FN5] that section provided for criminal penalties with respect to two different forms of witness intimidation. In the present case, the Commonwealth proceeded under that portion of the statute that prohibits wilful interference "with any person furnishing information to a criminal investigator relating to a violation of a criminal statute of the commonwealth." G. L. c. 268, § 13B, as amended by St. 1970, c. 177. A "criminal investigator" is defined in the same section as "an individual or a group of individuals lawfully authorized by a department or agency of the commonwealth or any political subdivision thereof to conduct, or engage in, an investigation of, or prosecution for, a violation of the laws of the commonwealth in the course of his official duties." [FN6] "The purpose of the statute, rather obviously, is to protect witnesses from being bullied or harried so that they do not become reluctant to testify or to give truthful evidence in investigatory or judicial proceedings." *Commonwealth v. McCreary*, 45 Mass. App. Ct. 797, 799 (1998).

The defendant challenges his conviction on grounds of sufficiency of the evidence. He argues first that his statement that he did not wish to see the victim on television news relates only to the possibility that the victim might describe the events of the robbery to the news media, and does not qualify as interference with the "furnishing [of] information to a criminal \*120 investigator." He contends also that there was no evidence that he interfered with a present or ongoing intention or effort on the part of the victim to provide information with respect to the robbery. In a related argument, he challenges as erroneous, and likely to cause a substantial risk of a miscarriage of justice, the judge's failure to instruct that the victim must, at a minimum, actually be in the process of furnishing information to a criminal investigator or have expressed an intention to do so.

In aid of his first argument on the subject, the defendant construes his statement that, "[i]f he saw [the victim] on 22 News he was going to come back and kill [him], [his] whole family, [his] buddy Ben, all of that," as an attempt to interfere only with the victim's contact with the news media. If so, his argument continues, the evidence is insufficient to convict because the statute requires that there be interference with a person's communication with a criminal investigator, and the news media are not criminal investigators (either as defined in G. L. c. 268, § 13B, or in common parlance). The argument divorces the statement from its context, and assigns it an eccentric interpretation.

General Laws c. 268, § 13B, does not require that a defendant specifically articulate a threat not to speak to the police or other criminal investigator. See *Commonwealth v. Burt*, 40 Mass. App. Ct. 275, 277 (1996). A fact finder may evaluate the circumstances in which the statement was made, including its timing, to determine whether the defendant in fact intended to intimidate the victim. See *Commonwealth v. Robinson*, 444 Mass. 102, 109 (2005). Doing so, this jury could reasonably infer that the defendant's reference to television news was a shorthand recognition that a broadcast featuring the victim would most likely come about if the victim reported the robbery to the police. That it was the defendant's purpose to prevent that communication on the part of the victim by means of a threat seems clear, and such a finding by the jury was plainly warranted. See *Commonwealth v. Henault*, 54 Mass. App. Ct. 8, 11-13 & n.6 (2002) (intent can be gleaned from reasonable inferences drawn from circumstantial evidence).

The defendant contends also that the evidence was insufficient to permit a finding that the victim was presently engaged in furnishing information to a criminal investigator or attempting to do so. He argues in this regard that the statute does not proscribe conduct that may only theoretically interfere with a person's communications to law enforcement personnel in the future. Thus, there being no evidence that, at the time of the defendant's statement, the victim was engaged in such a communication, or making an attempt to communicate, the jury could not reasonably find that there was an attempt on the defendant's part to interfere in the sense contemplated by G. L. c. 268, § 13B.



The defendant construes the statute too narrowly, thereby frustrating its purpose of "detering interference with future communication of information." *Commonwealth v. Burt*, 40 Mass. App. Ct. at 278, quoting from *United States v. San Martin*, 515 F.2d 317, 320 (5th Cir. 1975). A criminal investigation need not have commenced. See *Commonwealth v. Belle Isle*, 44 Mass. App. Ct. 226, 229 (1998). Nor must the victim be furnishing information on the day that the intimidating action is taken or statement made. *Commonwealth v. Burt*, supra. It is enough that the jury reasonably conclude from the surrounding circumstances that it was likely that the victim would furnish to an official investigating authority information pertaining to the crime and that the defendant intended to discourage such communication

We are not persuaded by the defendant's application of *Commonwealth v. Belle Isle*, supra. There, the defendant was convicted under G. L. c. 268, § 13B, and his conviction was affirmed, after he attacked his brother-in-law in the presence of other family members. The victim's wife announced that she was going to call the police, whereupon the defendant cut the telephone wire. That evidence supported a finding that the defendant forcibly and intentionally interfered with an attempt to provide information to a criminal investigator. *Id.* at 230. The decision was not intended to suggest that an attempt to communicate to authorities must be underway in order for there to be a violation of G. L. c. 268, § 13B, a proposition that we rejected in *Commonwealth v. Burt*, 40 Mass. App. Ct. at 277-278. Here, the jury could rationally find that the victim, once \*122 assured that the defendant had left, would report the robbery, thus qualifying under the statute as a "person 'furnishing information' to a criminal investigator" (a purpose of statute is to deter interference with future communication of information). *Ibid.*

He argues, as before, that a conviction under G. L. c. 268, § 13B, cannot be predicated upon a possibility that a victim will provide information in the future. As we stated above, the statute does not require that a victim actually be in the process of furnishing information (enough that evidence indicated that the witness's furnishing of additional information would be "forthcoming"). It follows that there was no error and consequently no ineffective assistance of counsel for failure to object.

Judgments affirmed.



**Assault while Armed with  
Intent to Rob or Murder**  
Chapter 265, Section 18

**Definition:**

*While* being armed with a dangerous weapon, assaulting another with intent to rob or murder.

**Elements:**

1. Being armed
2. Assault
3. Another person
4. Specific intent to rob or murder

**Right of Arrest:**

Felony is arrestable IN PRESENCE and on PROBABLE CAUSE

If the victim is 60 years of age or older and the individual is armed with a firearm, shotgun, rifle, machine gun or assault weapon, the punishment is increased to include a mandatory minimum of 10 years imprisonment.

**Com. v. Rivera, 445 Mass. 119, 833 N.E.2d 1113 (2005)**

The elements of armed assault with intent to rob are that the defendant, armed with a dangerous weapon, assaults a person with a specific or actual intent to rob the person assaulted. M.G.L.A. c. 265, § 18.

**Assault to Rob, Unarmed**  
Chapter 265, Section 20

**Definition:**

Being unarmed, assaulting another with intent to rob or steal.

**Elements:**

1. unarmed
2. forceful and violent assault
3. specific intent to rob

**Right of Arrest:**

This ten year felony is arrestable IN PRESENCE or upon PROBABLE CAUSE

**Com. v. Correia, 17 Mass. App. Ct. 233, 457 N.E.2d 648 (1983)**

Intent generally can be proven only by inferences from facts and those inferences need only be reasonable.



## **Armed Assault in Dwelling House**

### **Chapter 265, Section 18A**

#### **Definition:**

Being armed with a dangerous weapon, enters a dwelling house and while therein assaults another with intent to commit a felony.

#### **Elements:**

1. Being armed with a dangerous weapon
2. Entering a dwelling house
3. *While therein* assaults another
4. With intent to commit a felony

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

#### **Note:**

The suspect must be armed prior to entering the dwelling. Additionally, the suspect must intend to commit a felony.

#### **Com. v. Fleming, 46 Mass. App. Ct. 394, 706 N.E.2d 1138 (1999)**

Conviction for armed assault in a dwelling requires government to prove (1) entry of a dwelling while armed, (2) an assault on someone in the dwelling, and (3) a purpose accompanying the assault to commit a felony. M.G.L.A. c. 265, § 18A.

A “dwelling”, for purposes of crime of **armed assault** in a dwelling, is a place of habitation. [M.G.L.A. c. 265, § 18A](#).

Entry by **armed** person into a dwelling in response to an invitation from person living there is not an “**armed** entry” which may sustain conviction for **armed assault** in a dwelling

An entry, i.e., going in, by an **armed** person into a dwelling<sup>4</sup> in response to an invitation from a person living there rather obviously is not a violation of the statute. Similarly, an **armed** policeman with probable cause to think that a crime has been committed in a dwelling who enters it to go about his policing duties has not violated the statute because the entry is privileged. Inherent in the idea of criminal trespass is an unwarranted intrusion, one that the actor was not privileged or licensed to make. *Commonwealth v. Ricardo*, 26 Mass.App.Ct. 345, 355, 526 N.E.2d 1340 (1988). *Commonwealth v. Dunn*, 43 Mass.App.Ct. 58, 60, 680 N.E.2d 1178



## COMMONWEALTH v. PUTNAM

Home Invasion. Armed Assault in a Dwelling. Practice, Criminal, Instructions to Jury, Duplicative convictions.

Having been convicted by a Superior Court jury of home invasion, in violation of G.L. c. 265, § 18C; and **armed assault** in a dwelling, in violation of G.L. c. 265, § 18A, the defendant Steven M. **Putnam** now appeals.<sup>1</sup> He contends \*473 that the convictions must be reversed because the evidence was insufficient to prove that he entered the alleged victim's home unlawfully, and because the instruction on consent to enter was erroneous. He also claims that his conviction of **armed assault** in a dwelling must be reversed because it was duplicative of the home invasion conviction. We affirm.

We view the evidence in the light most favorable to the **Commonwealth**. *Commonwealth v. Nolin*, 448 Mass. 207, 215, 859 N.E.2d 843 (2007). The victim, a self-employed counseling psychologist, lived on Old Mill Road in Harvard. Old Mill Road is a two-lane road with fields and woods, as well as isolated houses in the surrounding area. The victim's nearest neighbors were Anne Marie Arnold and Hank Emerson, who lived together about one-eighth of one mile down the road, on a working farm. The defendant lived on Arnold's property in an apartment across from the main house. He worked on the farm as a handyman and a helper.

The victim first met the defendant in 2001 at a block party. In 2002, the victim paid the defendant to clean leaves from her roof and her gutters. Around the same time, they had a few brief conversations. The victim occasionally saw the defendant on Arnold's property.

The day after Thanksgiving in 2003, in the early evening, the defendant knocked on the victim's front door and asked to come into her house. He appeared upset and intoxicated. After she allowed him in, the defendant asked the victim for help; he told her that he had been drinking and doing drugs and that he was not taking his medication. The victim told the defendant to stop drinking, to stop doing drugs, and to take his medication. The defendant then rambled on for about one-half hour; the victim thought the defendant was asking for her professional opinion but she did not give him one. The victim tried to bring the conversation to a close; the defendant eventually left. The next day, the victim called Emerson and told him that she was concerned about the defendant, that she thought he was in bad shape and doing drugs, and that he seemed mentally unstable.

On January 18, 2004, Arnold asked the defendant to leave the property because he had not performed any work on the farm for the prior two months. Arnold suspected that the defendant was drinking and doing drugs.

On January 26, 2004, around 8:30 p.m., while the victim was on the telephone, the defendant knocked on her door. The victim opened the door a few inches and saw the defendant. The defendant said that he wanted to come in and speak with her. She told him to go home and to telephone her in one-half hour, and she would speak to him on the telephone. She then closed the door and returned to her telephone conversation. Around 8:55 p.m., the victim finished her conversation and telephoned Emerson to inform him that the defendant had been to her house and that "he might be in bad shape." She also told Emerson that if he received a telephone call from her that evening, he should telephone the police and have them come to her house no matter what she said.

Shortly after speaking with Emerson, the victim heard a knock on her door. When she went to the door, the defendant was standing there and appeared distressed. She opened the door because the door had glass in it and she "thought it would be better to open the door than to try and keep him on the other side."

The defendant came into the house and the victim told him to sit at the dining room table. She sat at the table with him and noticed that he was disturbed, and that he had blood on his left hand. She asked the defendant if he was suicidal, to which he replied that he was not. The defendant began to talk to the victim, mumbling to the point that she "had trouble understanding him."



During this conversation, the victim got up, picked up the telephone, and told the defendant that she did not think he was all right, that she thought they should telephone Emerson, and that she thought he needed some help. The defendant then grabbed her around her back, shoved her, punched her face, and violently knocked the telephone out of her hand, throwing it on the floor where it broke. He then began to punch the victim, pull her hair, and maneuver her around. As he was beating the victim, he asked, "Why did you call Hank?"

At some point, the defendant pulled a knife out of his pocket. He said, "You can make this hard or you can make this easy." He then tried to force the victim to go upstairs. When they got to the bottom of the stairs, the victim sat "heavily" and resisted. \*475 After the defendant's attempts to push the victim up the stairs failed, he threw her on a couch located \*\*972 near the stairs in her living room and ripped off the clothing she wore on the bottom of her body.<sup>3</sup> He then pulled his pants down and lay on top of the victim. He put his finger into the victim's vagina and began thrusting.<sup>4</sup> The victim kept telling the defendant that "this ... was not good," that it was "not going to happen," and that it was something she "didn't want to do." Nonetheless, the defendant continued raping her.

The defendant then sat up and told the victim to take her top off. She sat up and made a gesture as though she was going to comply. When the defendant began to pull his own shirt over his head, the victim ran toward the front door. She ran outside, naked from the waist down and not wearing shoes, towards Arnold's farmhouse. Arnold and Emerson let her into their house and the victim, who was hysterical and sobbing, told them that the defendant "had tried to rape" her. Emerson immediately called the police and they arrived at the house within ten minutes. The police proceeded to the victim's residence and conducted a preliminary search. The police found a knife outside the victim's house.

The defendant testified in his own defense. He admitted to having had a long-term alcohol problem. When he moved into Arnold's apartment in 2000 he had been sober for eleven years; however, he did not remain sober. The defendant testified that he came to the victim's house on the day of the incident because he knew that the victim was a doctor and he thought she could help him in some way, such as getting him into a detoxification program. When he came to the victim's home, she invited him into the house. After some conversation, the victim told the defendant that she was going to telephone Emerson, and that Emerson would telephone the police. The defendant became afraid; he recently had been involved in two "DUI" (driving under the influence) cases and had been warned that if he was convicted of a third offense he would go to jail for six months.

The defendant testified that he then grabbed the victim and tried to persuade her not to telephone Emerson. Next, he kissed her, and he thought that she kissed him back. The defendant then offered to the victim to go upstairs but she refused. Next, they were on the couch; the defendant thought that the victim went to the couch willingly. He thought they were engaged in a consensual activity until the victim asked the defendant to stop. In response, the defendant stopped. He then sat up, the victim sat up, and, then, the victim ran out the door.

The defendant denied putting his finger in the victim's vagina. Although the defendant had a knife, he did not threaten the victim with it. He tried to give the victim his knife because he was afraid that he was going to cut his wrists.

A few minutes after the victim ran out of her house, the defendant returned to his apartment, grabbed "a bunch of beers," and walked out into the woods. The next day, he found himself in Leominster, walking down the railroad tracks. His mother picked him up at the Leominster Public Library and brought him to Emerson Hospital, where he was arrested.





A. *Convictions of home invasion and of armed assault in a dwelling.* The defendant claims that there was insufficient evidence of an unlawful entry to sustain convictions of home invasion and of **armed assault** in a dwelling. The crime of home invasion, G.L. c. 265, § 18C, requires that the defendant “(1) ‘knowingly enter[ed] the dwelling place of another’; (2) ‘knowing or having reason to know that one or more persons are present within’ (or entered without such knowledge but then remained in the dwelling place after acquiring or having reason to acquire such knowledge); (3) ‘while **armed** with a dangerous weapon’; and (4) ‘use[d] force or threaten [ed] the imminent use of force upon any person within such dwelling place whether or not injury occur[red], or intentionally cause[d] any injury to any person within such dwelling place.’ ” *Commonwealth v. Doucette*, 430 Mass. 461, 465–466, 720 N.E.2d 806 (1999), quoting from G.L. c. 265, § 18C. See *Commonwealth v. Brown*, 451 Mass. 200, 205, 884 N.E.2d 488 (2008). See also *Commonwealth v. Stokes*, 440 Mass. 741, 746–747, 802 N.E.2d 88 (2004). “Conviction under G.L. c. 265, § 18A, of **armed assault** in a dwelling requires proof of three elements: (1) entry of a dwelling while **armed**[:]; (2) an **assault** on someone in the dwelling; and \*477 (3) a specific intent, accompanying the **assault**, to commit a felony.” *Commonwealth v. Donoghue*, 23 Mass.App.Ct. 103, 111–112, 499 N.E.2d 832 (1986).

In short, entry is an element that must be proven by the **Commonwealth** for the offenses of both home invasion and **armed assault** in a dwelling. An entry into a dwelling is not unlawful if it is consensual, in response to an invitation, or privileged. See *Commonwealth v. Mahar*, 430 Mass. 643, 646–647, 722 N.E.2d 461 (2000). See also *Commonwealth v. Dunn*, 43 Mass.App.Ct. 58, 60, 680 N.E.2d 1178 (1997); *Commonwealth v. Fleming*, 46 Mass.App.Ct. 394, 396, 706 N.E.2d 1138 (1999). “A consensual entry, however, does not always correlate with a lawful entry.... [P]urported consent [to entry] cannot be considered legally significant unless the occupant has been made aware that the person at the door is **armed** with a dangerous weapon and is about to commit an **assault** once inside.” *Mahar*, *supra* at 652–653, 722 N.E.2d 461. See *Commonwealth v. Morris*, 64 Mass.App.Ct. 51, 54, 831 N.E.2d 338 (2005). Thus, the *Mahar* court affirmed the defendant's home invasion conviction, concluding that the entry was unlawful where the defendant was admitted into the home by a person who was unaware that the defendant entered the home while **armed**, with the intent to commit an **assault** upon that person in the dwelling. *Mahar*, *supra* at 647, 651–653, 722 N.E.2d 461.

In this case, the jury's determination was based largely on a credibility evaluation of the testimony of the victim and of the defendant. While the crime of home invasion “is not intended to encompass situations where an invited guest in a home suddenly turns violent,” *id.* at 652 n. 6, 722 N.E.2d 461, this is not the evidence here. Here, the victim became disturbed and frightened by the defendant's visit earlier on the day of the incident; she telephoned her neighbor to warn him of the defendant's “bad shape” and instructed him to telephone the police if she telephoned him back. As in *Mahar*, while the victim initially permitted the defendant's entry, a jury permissibly could find that she did not know he was **armed** with a knife and that he intended to attack her once inside. Additionally, here, when the defendant arrived at the victim's house, she let him in her house because she “thought it would be better to open the door than to try and keep him on the other side.” From all this evidence, the jury could infer that the defendant \*\*974 had instilled fear in the victim, who only allowed \*478 him into her house because she felt that she had no other choice. Moreover, there was no evidence that the defendant was a frequent visitor at the victim's house, that he was accustomed to entering without explicit permission, or that the defendant and the victim were in any type of ongoing relationship. See generally *id.* at 647, 722 N.E.2d 461. Contrast *Commonwealth v. Fleming*, 46 Mass.App.Ct. at 396–397, 706 N.E.2d 1138 (defendant entitled to jury instruction on consensual entry where defendant was frequent visitor at facility); *Commonwealth v. Simmarano*, 50 Mass.App.Ct. 312, 314–316, 737 N.E.2d 488 (2000) (defendant entitled to jury instruction on consent where there was evidence that defendant and victim had been in some form of ongoing relationship and that defendant was frequent visitor at



victim's house). The evidence showed that, once inside the house, the defendant pulled out a knife, and ultimately dragged the victim to the couch and raped her. The totality of the evidence warranted the jury's determination that the defendant's entry into the victim's dwelling was unlawful.

*Jury instructions.* In defining home invasion, the judge first read to the jury the pertinent text of G.L. c. 265, § 18C, and then gave an almost verbatim recital of the model jury instruction on home invasion. See Massachusetts Superior Court Criminal Practice Jury Instructions § 2.31 (Mass. Continuing Legal Educ.1999 & Supp.2003). Because an issue in the case was whether the defendant lawfully entered the victim's home, in keeping with *Morris*, 64 Mass.App.Ct. at 54, 831 N.E.2d 338, the judge included in his instruction guidance regarding consensual entry. The judge instructed:

“The first element which the **Commonwealth** must prove beyond a reasonable doubt is that the defendant entered the dwelling of another. An entry is the unlawful, unconsented making of one's way into a dwelling.... The **Commonwealth** must also prove beyond a reasonable doubt that the defendant had no right of habitation or occupancy at the time of entry, that the defendant made a nonconsensual entry into the dwelling place. While consent to enter may be considered as evidence that the entry was lawful, consent may be negated if the person giving consent is unaware of the defendant's being **armed** with a dangerous weapon or of an intent to commit a crime while inside

The defendant asserts that the judge erred and that the error created a substantial risk of a miscarriage of justice when he instructed that consent to enter a dwelling “may be negated if the person giving consent is unaware of the defendant's being **armed** with a dangerous weapon *or* of an intent to commit a crime while inside” (emphasis supplied).<sup>5</sup> He points to the court's holding in *Mahar*, 430 Mass. at 652–653, 722 N.E.2d 461, that “consent [to entry] cannot be considered legally significant unless the occupant has been made aware that the person at the door is **armed** with a dangerous weapon and is about to commit an **assault** once inside.” The defendant claims that the jury should have been instructed that consent may be negated if the person giving consent is unaware that the defendant is **armed** and intends to commit a crime once inside the dwelling.

The defendant's argument is unpersuasive because the judge's instruction is indeed consistent with *Mahar*, which requires both elements for consent to be valid. The instruction, conversely, properly informs the jury, that the absence of either element will *negate* consent. *Mahar* does not require that the **Commonwealth** prove that the occupant has been made aware *both* that defendant was **armed** with a dangerous weapon and that he intended to commit an **assault** once inside the dwelling. That is to say, if the **Commonwealth** shows that either element was not present, then there was no consent. Consistent with a commonsense understanding, the law protects the sanctity and the safety of the occupant within her dwelling, and reflects the view that the entry by an





outsider can be considered permissive only if the occupant, with relevant information, is aware of the risks to her safety, yet freely allows the entry. Thus, permissive entry, premised on consent to enter, is negated if the occupant purportedly giving consent is not aware that the person who is entering is **armed**. Alternatively, if the occupant is aware that the person is **armed**, but unaware that he intends to commit a crime once inside, permissive entry also is negated. “[A]s a matter of public policy, ... an occupant of a dwelling cannot consent to allow an **armed** intruder ... inside to \*480 commit an **assault**.” *Id.* at 653, 722 N.E.2d 461. See *Morris*, 64 Mass.App.Ct. at 54 n. 4, 831 N.E.2d 338. There was no error here.<sup>6</sup>

*Duplicative convictions.* Finally, the defendant asserts that while **armed assault** in a dwelling is not a lesser included offense of home invasion, because the defendant was convicted of both offenses on the basis of the same act, and the two crimes are so closely related, the defendant should not be subject to punishment for both

The traditional rule, embodied in *Morey v. Commonwealth*, 108 Mass. 433, 434 (1871), and employed by Massachusetts courts on the issues of double jeopardy and duplicative offenses, provides that “a defendant may properly be punished for two crimes arising out of the same course of conduct provided that each crime requires proof of an element that the other does not.”

*Commonwealth v. Keohane*, 444 Mass. 563, 574, 829 N.E.2d 1125 (2005), quoting from *Commonwealth v. Arriaga*, 44 Mass.App.Ct. 382, 385–386, 691 N.E.2d 585 (1998).<sup>7</sup> The vitality of that elements-based rule was affirmed in *Commonwealth v. Vick*, 454 Mass. 418, 910 N.E.2d 339 (2009). There, the Supreme Judicial Court stated, “This elements-based approach remains the standard for determining whether multiple convictions stemming from one criminal transaction are duplicative. See \*\*976 *Commonwealth v. Cabrera*, 449 Mass. 825, 827, 874 N.E.2d 654 (2007); *Commonwealth v. Gallant*, 65 Mass.App.Ct. 409, 413, 840 N.E.2d 998 (2006); ... *Arriaga*, *supra* at 386–389, 691 N.E.2d 585.” *Vick*, *supra* at 431, 910 N.E.2d 339. “It bears repeating that, where ... neither crime is a lesser included offense of the other, multiple punishments are permitted \*481 even where the offenses arise from the very same criminal event. See *Morey v. Commonwealth*, [*supra*].” *Vick*, *supra* at 436, 910 N.E.2d 339.<sup>8</sup>

Here, the two crimes in question have mutually exclusive elements; specifically, the requirement of scienter distinguishes these two offenses. *Commonwealth v. Ruiz*, 426 Mass. 391, 393 & n.3, 688 N.E.2d 963 (1998).<sup>9</sup> As such, and under the *Morey* rule, the defendant can be prosecuted for, and convicted of, both offenses simultaneously, even though they arise from the single course of conduct. The convictions of **armed assault** in a dwelling and of home invasion are not duplicative, and, therefore, the defendant properly is subject to punishment for both offenses.

The defendant does not appeal his convictions of rape, in violation of G.L. c. 265, § 22(a ); and **assault** and battery, in violation of G.L. c. 265, § 13A.



After hanging up with the victim, Emerson telephoned the police, alerted them to the situation, and provided the victim's address, in case he telephoned back with an emergency.

A chemist at the Massachusetts State police crime laboratory analyzed the victim's pants and located several tears on the exterior and the interior crotch area. The chemist testified that the pants were torn in a manner different from normal wear and tear such as when a person sits down and tears her pants

The defendant was unable to penetrate the victim with his penis.

Because the defense counsel did not object to the jury instructions at trial, we examine the alleged error, if any, for whether it created a substantial risk of miscarriage of justice. See *Commonwealth v. Noble*, 429 Mass. 44, 45–47, 707 N.E.2d 819 (1999).

Even if the instruction were erroneous, as discussed, *supra*, there was ample evidence to warrant the jury's conclusion that the entry was not consented to, and therefore was unlawful. Hence, even if error, the error did not create a substantial risk of a miscarriage of justice.

Regarding entry as relating to **armed assault** in a dwelling, the judge instructed: “The second element which the **Commonwealth** must prove beyond a reasonable doubt is that the defendant entered the dwelling. It is not necessary, as I said before, that the entry be complete. It would be sufficient if any part of the defendant's body physically enters the building.” The instruction was not error.

“So long as each offense includes an additional element that the other does not, ‘neither crime is a lesser-included offense of the other, and convictions on both are deemed to have been authorized by the Legislature and hence not duplic[ative].’ ” *Arriaga, supra* at 386, 691 N.E.2d 585, quoting from *Commonwealth v. Jones*, 382 Mass. 387, 393, 416 N.E.2d 502 (1981).

Discussing cases relied on by the defendant here, including *Commonwealth v. Keohane, supra* at 574–575, 829 N.E.2d 1125, the *Vick* court noted, *supra* at 433–434, that “it may appear that our well-established, elements-based approach to analyzing purported duplicative convictions, as first articulated in *Morey*, has been expanded over the years to permit a conduct-based analysis of the facts of a particular case to determine whether a defendant's acts in one criminal event are so closely related as to constitute in substance a single crime such that the defendant can be punished only for the greater offense.... That was not our intention.”

“Both §§ 18A and 18C require the **Commonwealth** to prove that the defendant was **armed** with a dangerous weapon at the time of entry into a dwelling house. If the **Commonwealth** seeks, however, to impose the more severe penalties of § 18C it must establish either that a defendant knew or had reason to know that one or more persons were present within the dwelling house at the time of entry or that the defendant gained such knowledge after entry but nevertheless remained there for some period of time prior to attacking or threatening the person. These scienter requirements distinguish § 18C from § 18A.” *Commonwealth v. Ruiz, supra* (footnote omitted).



## **Home Invasion**

### **Chapter 265, Section 18c**

#### **Definition:**

“Whoever knowingly enters the dwelling place of another knowing or having reason to know that one or more persons are present within or knowingly enters the dwelling place of another and remains in such dwelling place knowing or having reason to know that one or more persons are present within while armed with a dangerous weapon, uses force or threatens the imminent use of \*\*794 force upon any person within such dwelling place whether or not injury occurs, or intentionally causes any injury to any person within such dwelling place shall be punished by imprisonment in the state prison for life or for any term of not less than twenty years.” G.L. c. 265, § 18C, as amended through St.2004, c. 150, § 17. Notably, the 2004 amendment removed all references to probation \*534 in the section, even the one that was in § 18C as originally enacted in 1993. See St.1993, c. 333.

#### **Elements:**

1. knowingly enters the dwelling of another
2. knowing person(s) present within or
3. knowingly enters and remains
4. knowing person(s) present within
5. while armed with a dangerous weapon
6. uses force or threatens the imminent use of force
7. whether or not injury occurs, or
8. intentionally causes any injury

#### **Right of Arrest**

This is a life felony arrestable in presence or upon probable cause.

#### **Note:**

The suspect must be armed prior to entering the dwelling. Unlike "Armed Assault in a Dwelling", there is no requirement that entry into the dwelling be made with specific intent to commit a felony.

#### **Com. v. Marshall, 65 Mass. App. Ct. 710, 843 N.E.2d 685 (2006)**

Evidence was sufficient in home invasion action to support finding that defendant did not have a right of habitation or occupancy in victim's apartment at time when alleged crime was committed, although he had spent the previous night there and had contributed to household expenses; previous overnight stay was one of only several such instances in the prior three months, all of defendant's clothes and most of his personal effects had been removed months earlier, with the exception of clothes he no longer wore and one tie, there was evidence that victim had asked defendant to leave the apartment months earlier and that he complied with her request when he packed up his things, gave victim his keys, and moved in with his brother, and there was evidence that defendant thereafter visited the apartment only with victim's permission or at her request. M.G.L.A. c. 265, § 18C.



## **Unarmed Robbery**

### **Chapter 265, Section 19**

#### **Definition:**

By force and violence, or by assault and putting in fear, robbing, stealing, and taking from the person of another, money or other property which may be the subject of larceny.

#### **Elements:**

1. not being armed with a dangerous weapon
2. larceny
3. from the person of another
4. by force and violence or by putting in fear

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

#### **Com. v. Zangari, 42 Mass. App. Ct. 931, 677 N.E.2d 702 (1997)**

Force that defendant applied in snatching victim's purse was sufficient to satisfy "force and violence" prong of offense of unarmed robbery of person over age of 65. M.G.L.A. c. 265, § 19(a).



## **RAPE**

### Chapter 265, Section 22

#### **Definition:**

(a) Whoever has sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise, or is committed during the commission or attempted commission of an offense defined in section fifteen A, fifteen B, seventeen, nineteen or twenty-six of this chapter, section fourteen, fifteen, sixteen, seventeen, or eighteen of chapter two hundred and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

For the purpose of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).

Subparagraph (a) of this section deals with aggravated rape.

#### **Com. v. Lopez, 433 Mass. 722, 745 N.E.2d 961 (2001)**

For purposes of a rape prosecution, sexual intercourse is defined as penetration of the victim, regardless of degree. M.G.L.A. c. 265, § 22(b). Unless the putative **rape** victim has been rendered incapable of consent, the prosecution must prove that the defendant compelled the victim's submission by use of physical force, nonphysical, constructive force, or threat of force. M.G.L.A. c. 265, § 22(b).

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Com. v. McCourt, 438 Mass. 486, 781 N.E.2d 808 (2003)

GREANEY, J.

The defendant was tried before a jury in the Superior Court on indictments charging him<sup>1</sup> with aggravated rape, attempted murder, assault and battery by means of a dangerous weapon (a shod foot), and indecent assault and battery. The charges stemmed from a rape and beating that occurred in Chicopee in the early morning hours of February 1, 1997. The jury found the defendant guilty on all charges.

The Appeals Court vacated the defendant's conviction of aggravated rape, concluding that the statute punishing aggravated rape, G.L. c. 265, § 22 (a), requires that the aggravating factors that transform rape into aggravated rape must play a facilitating role in the rape, and that the Commonwealth's evidence showed that the defendant had savagely beaten the victim after the rape occurred, but not before.<sup>2</sup> See *Commonwealth v. McCourt*, 54 Mass.App.Ct. 673, 681, 767 N.E.2d 1067 (2002). We allowed the Commonwealth's application for further appellate review solely to decide whether proof of the offense of aggravated rape requires a causal or facilitating connection between the aggravating act or acts and the rape.<sup>3</sup> We conclude that such proof is not required. Consequently, we affirm the defendant's conviction of aggravated rape.

We set forth the facts that could have been found by the jury based on the Commonwealth's evidence, in slightly more detail than did the Appeals Court. A few minutes after midnight on February 1, 1997, the victim drove to an American Legion Post in Chicopee (post), to see a man, the post's bartender (whose first name was Steve), whom she had dated during the preceding month. Outside, snow had begun to fall. At about 1:30 a.m., the defendant, whom Steve knew, but whom the victim had never met, entered the post and sat down at the bar near to where the victim was seated. Steve, the defendant, and the victim conversed briefly, and the defendant showed the victim a game involving finding an owl on a five dollar bill. The victim was polite to the defendant, but found his behavior "odd." \*488 After about twenty minutes, the defendant got up and left the post. The victim remained with Steve while he closed up. At about 2:15 a.m., Steve and the victim said goodbye in the post's parking lot and the victim got in her automobile to drive home. By that time it was snowing hard, and a substantial amount of snow had accumulated. The victim, who lived in a different part of Chicopee from where the post was located, soon became confused on the unfamiliar streets and took a wrong turn. She eventually found herself at the end of a cul-de-sac in a residential neighborhood, her car stuck in the snow at the end of a driveway. It was now snowing heavily. Stepping out of her automobile intending to push it out of the snow, the victim saw the defendant walking around the back of her vehicle. The defendant chuckled and said, "What's the matter, you're stuck." Feeling slightly afraid, the victim asked the defendant whether he lived there, and the defendant responded affirmatively.<sup>4</sup> The victim then asked the defendant to help free her vehicle. She testified that \*\*811 she "just wanted to get the hell out of there and leave." The defendant approached the passenger's side and began to push, although, in the victim's view, without a great deal of effort. The victim moved to open the driver's side door, telling the defendant that she was going to shift into a forward gear (but really intending to get in for her safety), when the defendant ran over, grabbed her arm, and instructed her to unlock the vehicle's back door.

Frightened, the victim stood still. The defendant moved his hand up to her shoulder, blocked the victim's entrance to the vehicle, and repeated his order to unlock the back door. This time, the victim obeyed. Still grasping the victim, the defendant opened the back door and pushed her into the rear seat. Her daughter's car seat was in the way, and the defendant yelled at the victim to remove it. The victim unbuckled the car seat, but did not remove it. The defendant became angry and threw the car seat into the front seat. He then grabbed the victim, hit her chest, forced her into





the back seat, squeezed her breasts hard, and tried to kiss her. The victim was crying and begged him, "Why are you doing this? What are you doing?"

Certain that the defendant was going to rape her, and uncertain whether he had a weapon, the victim felt frightened for her life. She testified that, aware that he was becoming angry, she "just turned to jelly, and ... let him do what he wanted to do." As the victim lay crying, the defendant first inserted snow into her vagina, and then had sexual intercourse with her. Afterward, the defendant looked at the victim with an "evil look that just came over his face" and said, "You don't expect me to let you leave now, do you, not after I just raped you? You have all the evidence on me.... You can get me arrested in a heartbeat.... I can't let you go."

At that point, the defendant put his hands together in a fist and hit her on the back of her head, knocking her to the side of the road. When the victim asked why he had hit her, the defendant became extremely angry, made a "growling noise," and charged at the victim's throat. He grabbed the victim's windpipe, completely cutting off her air. While holding her throat, the defendant told the victim, "Since I just got out of jail, I can't expect you to live. I'm not going back, so I'm not going to let you live." The victim struggled and managed to get the defendant's hands off her throat, but he soon regained his grip and squeezed again. He immobilized the victim on her back on the ground by holding her throat and grabbing her hair, all the while making growling noises. The victim repeatedly begged the defendant to let her go, so that she could see her daughter "one more time." Repeatedly, the defendant responded that he could not let her go home. He finally released her and the victim was able to roll over and stand up.

Playing for time, she walked slowly down the street. She again said to the defendant, "Please let me go home." When the victim told the defendant that her daughter was in Springfield, he became enraged, charged at her, and accused her of lying, because the victim earlier had told him that she lived in Chicopee.<sup>5</sup> He grabbed her by the hair and throat and, twisting her neck, threw her to the ground. The victim testified that \*490 she "was screaming for [her] life." Each time the victim attempted to stand up, the defendant \*\*812 knocked her to the ground. The victim eventually remained on her knees and looked up. At this point, the defendant "twirled his boot" and kicked her in the face four times.<sup>6</sup> As the victim begged for her life, the defendant told her, "Quit crying." Still on her knees, the victim held snow to her face because she felt hot. When she pulled the snow away, she saw that her hand was full of blood. The defendant found her pack of cigarettes lying in the snow and tossed it to her. As she put a cigarette to her lips, the defendant again kicked her in the face. The victim asked, "What the hell did you do that for? ... I thought you were going to let me have a cigarette," to which the defendant replied, "You don't deserve anything." He then tossed the victim to the ground on her stomach and began pounding on her back "like [she] was a piece of dirt."

In an effort to pacify the defendant, the victim looked him right in the eye and spoke softly, saying, "Somebody must have hurt you in your past [and o]bviously, you don't know me. Why are you taking it out on me?" The defendant finally calmed down and began crying. He helped her free her automobile, and the victim quickly got in. Immediately, the defendant moved to the driver's side, stuck his arm through the partially opened front window, and pressed an electronic button to open the window fully. He then leaned through the window and asked, "Why are you leaving?" Fearful that he might hurt her again, the victim replied that she had to go to work and gave the defendant her telephone number. To appease his concerns about her bloody clothing or that she would notify the police, the victim told the defendant that she would "go home and throw [her sweater] in the wash, and my mother will be sleeping. No one will know." At this point, the defendant said he was sorry, that the victim was "a nice person," and that he "shouldn't have done it." At the moment the defendant stepped away from the car, the victim drove away. She arrived home ten minutes \*491 later, at approximately 5 a.m., and immediately told her mother what had happened. Her mother telephoned 911, and the victim was taken by ambulance to the emergency room of a hospital. The victim's injuries included swelling of her lips and face; an abrasion or laceration on her lower lip; a two-inch laceration on her chin; bruising on the upper part of her throat and neck; a four-



inch abrasion on the right side of her neck; bruising on her upper front chest and neck and across the top of her back; abrasions on her left knee and the back of her calf; and swelling of her left wrist; swelling and redness of her external genitalia; mild swelling of her anus; and a possible tear in the vaginal wall. Her clothing was wet and stained with blood. Blood covered her face and there were flecks of dried blood on her inner thighs.

The defendant was arrested later that same day. At trial, at the close of the Commonwealth's evidence and again after the close of all the evidence, the defendant moved for a required finding of not guilty on the indictment charging him with aggravated rape, asserting that any physical violence that occurred, "occurred after, separate and distinct from the issue of the sexual intercourse," and, as a consequence, the Commonwealth had failed to show an aggravating factor in the rape itself, as \*813 required by G.L. c. 265, § 22 (a ). The trial judge denied the motions, stating that "a rational trier of the fact could conclude ... that in the entire transaction, which included sexual assault as well as a physical assault at the same location and within a relatively discrete period of time without any intervening additional events, that all elements of [aggravated rape] had been proven beyond any reasonable doubt."

The judge instructed the jury, along the lines of G.L. c. 265, § 22 (a ), that, in order to convict the defendant of aggravated rape, they must find beyond a reasonable doubt that the rape either was "committed along with or resulted in serious bodily injury" to the victim, or that it was "committed during the commission of the crime of assault and battery by means of a dangerous weapon." With respect to the first basis for conviction, the judge advised the jury that the acts that result in serious bodily injury need not occur at the precise moment of vaginal penetration, but that they must occur as part of "one \*492 continuous episode and course of conduct during the course of the rape."

With respect to the second basis, the judge instructed that the rape and the assault and battery by means of a dangerous weapon need not occur at the same time, but that the offenses must constitute "one continuous episode and course of conduct." At the defendant's request, the judge further instructed the jury that they could find the defendant guilty of rape, and of assault and battery by means of a dangerous weapon, without finding him guilty of aggravated rape, if they determined the offenses constituted "two separate events that [were] not part of a continuous episode." The jury convicted the defendant of aggravated rape on the basis of both theories on which the judge had instructed.

The defendant concedes, for purposes of this appeal, that he committed the offenses of rape and of assault and battery by means of a dangerous weapon.<sup>7</sup> He argues, nevertheless, that his conduct did not constitute aggravated rape because the acts constituting the assault and battery (and which resulted in the victim's injuries) did not begin until after the rape. The defendant asserts that "the essence of the crime of rape is the use of force or threat of bodily injury in order to overcome the victim's will to resist and to compel the victim to submit to nonconsensual sexual intercourse."

Thus, the defendant reasons, the elements that transform the crime of rape into the crime of aggravated rape under G.L. c. 265, § 22 (a ), must be used to facilitate the rape or to overcome the victim's will to resist being raped. This analysis is incorrect.

General Laws c. 265, § 22 (a ), set forth below,<sup>8</sup> on its face, does not require that the aggravating factor or factors be used to \*493 facilitate the unlawful sexual intercourse. When a rape victim sustains serious bodily injury, the pertinent statutory language requires only that the intercourse have been "committed with" the acts that resulted in the victim's injuries.

While the language "committed with," of course, implies some logical nexus between time and place, the words do not specifically require that the physical force precede the rape or that the injuries be inflicted to overcome a victim's will to resist. If this were true, a person who savagely beat his victim following a sexual attack, as here, would be punished less severely than one who inflicted the beating before penetration, even though both rape victims sustained identical injuries.





There is no indication that the Legislature intended such an anomalous result. In 1974, the Legislature revised G.L. c. 265, § 22, defining the crime of rape as “sexual intercourse or unnatural sexual intercourse with a person” who is compelled to submit either “by force and against his will” or “by threat of bodily injury.” St.1974, c. 474, § 1. In 1980, the Legislature again revised § 22, leaving unchanged the description of rape, but setting forth, in § 22 (a ), a heightened penalty when specified aggravating factors are present. See St.1980, c. 459, § 6. See also *Aldoupolis v. Commonwealth*, 386 Mass. 260, 267 n. 10, 435 N.E.2d 330, cert. denied, 459 U.S. 864, 103 S.Ct. 142, 74 L.Ed.2d 120 (1982). The Legislature's choice of the flexible terms “committed with” and “committed during,” rather than terms indicating a restrictive causal relationship, such as “accomplished by” or “facilitated by,” demonstrates its intent to avoid a limiting temporal distinction.

This commonsense interpretation of G.L. c. 265, § 22 (a ), is consistent with the manner in which we have interpreted other \*494 statutes punishing violent crimes. For example, under G.L. c. 265, § 19, a person may be convicted of robbery, even though the use of force occurred after the taking of the property. See *Commonwealth v. Sheppard*, 404 Mass. 774, 778, 537 N.E.2d 583 (1989); *Commonwealth v. Jones*, 362 Mass. 83, 89–90, 283 N.E.2d 840 (1972). See also Model Penal Code § 222.1 and comment 2 (Official Draft 1980) (force or threat of force may occur “in the course of committing a theft,” even in the period of flight after the commission). Likewise, the felony-murder rule applies to killings that occur “in the commission of” the underlying felony, regardless whether the killing occurs before or after that felony. G.L. c. 265, § 1. See *Commonwealth v. Ortiz*, 408 Mass. 463, 466, 560 N.E.2d 698 (1990) (“It would be enough if the homicide[ ] occurred as part of the defendant's effort to escape responsibility for the underlying felony”). The two offenses must be linked, but the timing is not critical, because “[a]s a matter of logic and policy, those who inflict bodily injury on their victims before they complete their crimes are not treated more leniently than those who do not.” *Commonwealth v. Christian*, 430 Mass. 552, 557, 722 N.E.2d 416 (2000). See also G.L. c. 265, § 18B (imposing heightened penalties for felonies committed while in possession of firearm [regardless whether firearm was used to commit felony] ).

Our interpretation also is consistent with the approach taken by the Model Penal Code, the provisions of which have guided our interpretation of our rape statutes in the past. See *Commonwealth v. Gallant*, 373 Mass. 577, 588–589, 369 N.E.2d 707 (1977). The Model Penal Code divides the offense of rape into three felony levels, with the most serious category (corresponding to the offense of aggravated rape) reserved for those instances in which the victim is “not a voluntary social companion” of the defendant and “had not previously permitted him sexual liberties,” or when the actor inflicts serious bodily injury on anyone “in the course thereof.” Model Penal Code, *supra* at § 213.1.9

We repeatedly have stated that “[t]he essence of the crime of rape, whether aggravated or unaggravated, is sexual intercourse with another compelled by force and against the victim's will or compelled by threat of bodily injury.” *Commonwealth v. Guisti*, 434 Mass. 245, 248, 747 N.E.2d 673 (2001), quoting *Commonwealth v. Sherry*, 386 Mass. 682, 687, 437 N.E.2d 224 (1982). See *Commonwealth v. Lopez*, 433 Mass. 722, 726–729, 745 N.E.2d 961 (2001); *Commonwealth v. Caracciola*, 409 Mass. 648, 651, 569 N.E.2d 774 (1991); *Commonwealth v. Helfant*, 398 Mass. 214, 220, 496 N.E.2d 433 (1986). It does not follow, however, as the defendant contends, that the conduct that raises the felony of rape to one of aggravated rape must also be used to overcome the victim's will to resist the rape. As stated in the opinion of the Appeals Court, rape is “a crime involving not simply sex but ‘violence and domination ‘calculated to humiliate, injure and degrade.’ ” *Commonwealth v. McCourt*, *supra* at 681, 767 N.E.2d 1067, quoting *People v. McKenna*, 196 Colo. 367, 372, 585 P.2d 275 (1978).<sup>10</sup> The Legislature's clear purpose in creating the offense of aggravated rape was to protect victims of violent sex offenders, by punishing more severely perpetrators (i) who inflict serious bodily injury on a victim, in addition to the bodily harm from the act of rape itself; (ii) who commit rape by joint venture; or (iii) who



commit other felonies against the victim in addition to the rape.<sup>11</sup> The critical point is not whether the aggravating acts served to compel a victim's submission, but whether the rape victim sustained serious bodily injuries, or was subjected to other felonious conduct, <sup>\*\*816</sup> during the same criminal episode. The <sup>\*496</sup> Legislature, by enacting G.L. c. 265, § 22 (a ), intended that rapists who inflict serious bodily injury or commit other crimes against their victims, will be dealt with severely. It is neither appropriate nor consistent with the Legislature's purpose to draw an artificial bright line between the ending of the sexual offense and aggravating conduct that occurs immediately thereafter. We conclude that the language of G.L. c. 265, § 22 (a ), is sufficiently broad to encompass a rape that precedes a brutal beating that inflicts serious bodily injury on the victim, so long as the rape and the beating “constituted one continuous episode and course of conduct.” See *Commonwealth v. Moreschi*, 38 Mass.App.Ct. 562, 569–570, 649 N.E.2d 1132 (1995).<sup>12</sup>

It remains for the jury to consider each case on its own facts and to determine whether there is an adequate nexus between the unlawful sexual intercourse and the serious bodily injury or the acts constituting one of the enumerated offenses. This is a task jurors commonly are called to make. The jury are entitled to consider the entire sequence of events in making their determination whether the aggravating acts occurred in the course of the rape, or whether, because of intervening time or events, the rape and the aggravating acts cannot be viewed as one continuous course of criminal conduct directed at the victim, and so may find the defendant guilty of two separate offenses, but not of aggravated rape.

<sup>78</sup> <sup>\*497</sup> Applying our interpretation of G.L. c. 265, § 22 (a ), to the evidence, we conclude that there was ample proof for a jury to conclude beyond a reasonable doubt that the physical assault and the sexual assault constituted one calculated and continuous episode.<sup>13</sup> The evidence shows that the defendant followed the victim in the snowstorm; approached her when she became stranded; forced her into the backseat of her automobile; raped her; informed her that he could not let her live; began striking her in the head and back and, finally, kicked her with his boot as she lay on the ground. The facts also indicate that the defendant inflicted the serious bodily injuries with the explicit goal of killing the victim, thereby concealing the rape and avoiding punishment for his crime. While penal statutes are to be strictly construed, “that maxim ‘does not <sup>\*\*817</sup> require “that language be strained to reach a result favorable to the defendant.” ’ ” *Commonwealth v.*

*Caracciola*, supra at 654, 569 N.E.2d 774, quoting *Commonwealth v. McMenimon*, 295 Mass. 467, 470, 4 N.E.2d 246 (1936). No reasonable person reading G.L. c. 265, § 22 (a ), in light of the Commonwealth's evidence, would claim surprise on learning that the defendant was guilty of aggravated rape. See *Perry v. Commonwealth*, 438 Mass. 282, 288, 780 N.E.2d 53 (2002); *Commonwealth v. Gallant*, 373 Mass. 577, 580–581, 369 N.E.2d 707 (1977).

2. The judgment of conviction of aggravated rape is affirmed.

So ordered.



## **AGGRAVATED RAPE**

### **Elements:**

1. having sexual intercourse or unnatural sexual intercourse\*
  2. with a person (can be male or female)
  3. and compels such person to submit by force and against his will
- OR
4. by threat of bodily injury

### **AND**

This rape is combined with one of the three following conditions:

1. the rape results in serious bodily injury (NOT mental.)
  2. is committed by a joint enterprise (more than one assailant)
- OR
3. during the commission or attempted commission of one of the following crimes:

Ch. 265:15A Assault and Battery by means of a Dangerous Weapon

Ch. 265:15B Assault by means of a Dangerous Weapon

Ch. 265:17 Armed Robbery

Ch. 265:19 Unarmed Robbery

Ch. 265:26 Kidnapping

Ch. 266:14 Armed Breaking and Entering of a Dwelling House

Ch. 266:15 Unarmed Breaking and Entering of a Dwelling in the Nighttime (burglary)

Ch. 266:16 Breaking and Entering, a Building or Ship; Intent to Commit a Felony

Ch. 266:17 Building or Ship; Nighttime Entry; Daytime Breaking and Entering

Ch. 266:18 Dwelling House; Nighttime Entry; Daytime Breaking and Entering

Ch. 269:10 Dangerous Weapons, Unlawfully Carrying

### **Punishment:**

Aggravated rape is punishable by life or any term of years.

### **Com. v. McCourt, 438 Mass. 486, 781 N.E.2d 808 (2003)**

The legislature's clear purpose in creating the offense of aggravated rape was to protect victims of violent sex offenders, by punishing more severely perpetrators who (1) inflict serious bodily injury on a victim, in addition to the bodily harm from the act of rape itself; (2) commit rape by joint venture; or (3) commit other felonies against the victim in addition to the rape. M.G.L.A. c. 265, § 22(a). Evidence supported conclusion that the sexual assault and the subsequent physical assault were one calculated and continuous episode and that defendant committed aggravated **rape**; the defendant followed the victim in a snowstorm, approached her when she became stranded, forced her into the backseat of her automobile, **raped** her, informed her of need to kill her, began striking her in the head and back, and, finally, kicked her with his boot as she lay on the ground, and the defendant inflicted the serious bodily injuries with the explicit goal of killing the victim, thereby concealing the **rape** and avoiding punishment for his crime. M.G.L.A. c. 265, § 22(a).



## **RAPE**

Subparagraph (b) of this section deals with rape.

### **Elements:**

1. having sexual intercourse or unnatural sexual intercourse\*
2. with a person  
and compels such person to submit
3. by force and against his will
- OR
4. by threat of bodily injury

### **Punishment:**

Rape is punishable by a term in the state prison for not more than twenty years. Second and subsequent offense punishable by state prison for life or any term of years.

"Unnatural sexual intercourse" includes the following:

1. oral intercourse
  - a. fellatio -- oral sex performed on a man
  - b. cunnilingus -- oral sex performed on a woman
2. anal (rectal)intercourse
3. digital penetration
  - a. placing of a finger in the anal or vaginal orifice
  - b. placing of an object in the anal or vaginal orifice

### **Notes:**

Corroboration of victim's testimony is not required by law.

Penetration is required, but emission is not required. There is no requirement that the suspect perform the penetration. The charge of rape is appropriate even if the suspect forces two other individuals to engage in sexual penetration.

There is no common law spousal exclusion; a husband can be convicted of raping his wife.

If the victim is under the disabilities of intoxication, helplessness, unconsciousness, idiocy, stupification or sleep, the only force necessary is the minimal force for penetration.



## Rape of a Child

### Chapter 265, Section 22A

#### **Definition:**

Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for life or for any term of years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

#### **Elements:**

1. Having sexual intercourse or unnatural sexual intercourse
2. against the will
3. of a child UNDER sixteen (16)
4. by force or threat of bodily injury

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

Proof of the force element of rape under G.L. c. 265, § 22A, may be established by physical force or constructive force. “[I]n this Commonwealth, unless the putative victim has been rendered incapable of consent, the prosecution must prove that the defendant compelled the victim's submission *by use of physical force; nonphysical, constructive force; or threat of force*” (emphasis added). *Commonwealth v. Lopez*, 433 Mass. 722, 728–729, 745 N.E.2d 961 (2001). See *Commonwealth v. Helfant*, 398 Mass. 214, 220–222, 496 N.E.2d 433 (1986); *Commonwealth v. Caracciola*, 409 Mass. 648, 653, 569 N.E.2d 774 (1991). In this case, the rape convictions are sustainable on both the physical **\*\*113** force and constructive force theories of proof.

8 a. *Physical force*. The evidence demonstrated actual physical force inflicted upon the victim by the defendant in those digital rapes during which the physical intrusion of penetration was perpetrated while the young victim was asleep. “[I]t has been held that, if a man has carnal intercourse, using so much force as is necessary, with a woman who is incapable of consenting, by reason of sleep ... he may be convicted of rape.”

*Commonwealth v. Roosnell*, 143 Mass. 32, 40, 8 N.E. 747 (1886). Accord *Commonwealth v. Fionda*, 33 Mass.App.Ct. 316, 321–323, 599 N.E.2d 635 (1992) (correct jury instruction that if, by reason of sleep, victim is incapable of **\*255** consenting, then sexual act is done without valid consent of victim); *Commonwealth v. Moniz*, 43 Mass.App.Ct. 913, 913–914, 683 N.E.2d 703 (1997) (sufficient force where penetration was accomplished without opportunity for victim to resist). See *Commonwealth v. Feijoo*, 419 Mass. 486, 493, 646 N.E.2d 118 (1995); *Commonwealth v. Vasquez*, 55 Mass.App.Ct. 523, 534–536, 772 N.E.2d 60 (2002).

Actual force was also present in the oral rapes, where the defendant pulled the victim's legs apart and positioned himself against her spread legs while he engaged in oral sex.



910 b. *Constructive force*. The convictions would be sustainable in any event under the alternative theory of proof of nonphysical constructive force. See *Commonwealth v. Lopez, supra*. Among the spectrum of factors which may be considered on the question of the sufficiency of the evidence proving constructive force in accomplishing a rape against a child is the historical and contextual relationship between the victim and the defendant, as well as the manner and means by which the rape is perpetrated, which factors, among others, bear on whether the victim's ability to resist the rape was overborne or negated. In essence, the focus is on the circumstances "in which the victim is placed, the impact of those circumstances ... on the victim's power to resist and the defendant's conduct[,] all [of which] are relevant to the determination whether conduct complained of by the victim was accomplished *by force* and against the victim's will." *Caracciola*, 409 Mass. at 651, 569 N.E.2d 774.

In this case, a confluence of circumstances yielded sufficient evidence of constructive force upon the vulnerable victim who was the object of the defendant's digital and oral intercourse against her will and without any meaningful power to resist. The defendant took advantage of the young victim as she slept in his house, where the defendant was an authority figure, and the victim was in the care of the defendant and his wife. The defendant gained an additional advantage over the victim because the victim was his step-niece, and she trusted him. There was a great disparity in age between the defendant and the young victim, and the defendant, a much larger person than the victim, would have a commanding physical presence. "By looking to the child's age and size, a [fact finder] could reasonably have inferred that the sexual intercourse took place by force and against her consent." *Commonwealth v. Melchionno*, 29 Mass.App.Ct. 939, 941, 558 N.E.2d 18 (1990).

\*256 The defendant argues that such factors still do not add up to the level of constructive force, because the victim stated that she was not threatened by the defendant and was not scared by him. However, that the young victim denied fear, and instead sought to suppress the effects of the rapes by pretending to sleep during the rapes, professing to accept the \*\*114 continual assaults as acts which "didn't affect me" because she was so young that she "didn't think anything was wrong with it [and] just accepted it," does not mean that the evidence was not sufficient to show that the rapes were committed against the victim's will, or that her power to resist was not overborne by the defendant. See *Commonwealth v. Sherry*, 386 Mass. 682, 688, 437 N.E.2d 224 (1982); *Commonwealth v. Caracciola, supra*. Indeed, that the victim endured the rapes with resignation and with no will to resist the defendant's sexual exploitation is reflective of the very nature of the application of constructive force with respect to the crime of rape of a young person.

**Com. v. Armstrong, 73 Mass. App. Ct. 245, 254-56, 897 N.E.2d 105, 112-14 (2008)**





## **Rape of a Child/Statutory Rape**

### **Chapter 265, Section 23**

#### **Definition:**

Section 23. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term in a jail or house of correction. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

#### **Elements:**

The elements of statutory rape are:

- (1) sexual intercourse or unnatural sexual intercourse with
- (2) a child under 16 years of age. M.G.L.A. c. 265, § 23

#### **Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

#### **Notes:**

Provides a second and subsequent offense punishment.

NO FORCE -- "STATUTORY RAPE"

Mistaken belief as to the age of the victim in no defense to statutory rape.

Statutory rape is a strict liability crime. M.G.L.A. c. 265, § 23

#### **Com. v. Knap, 412 Mass. 712, 592 N.E.2d 747 (1992)**

*Reasonable mistake of fact as to identity.* We have held that a reasonable mistake as to the age of the victim is not a defense to the crime of statutory rape. *Commonwealth v. Miller*, 385 Mass. 521, 522, 432 N.E.2d 463 (1982). The defendant argues that a reasonable mistake of fact as to identity, unlike a reasonable mistake of fact as to age, should be a defense to a charge of statutory rape and indecent assault and battery with a child under fourteen because if the facts were as the defendant believed, he would have committed no crime. We see no reason to differentiate between a mistake as to age, and a mistake as to identity. As we stated in *Miller, supra*, a "mistake of fact will not avail the defendant here. Strict criminal liability is not necessarily a denial of due process of law, and in the case of statutory rape it is not. The defendant argues that ... a reasonable mistake ... should be a valid defense to a charge of statutory rape.... This argument should be addressed to the Legislature."

*Strict liability.* The defendant argues that neither statutory rape nor indecent assault and battery on a child under fourteen are strict liability crimes. We pass over the question whether this issue is properly preserved merely by the defendant's objection to the judge's refusal to charge as requested. Statutory rape is a \*\*749 strict liability crime.

*Commonwealth v. Miller, supra.* The only elements the Commonwealth must prove are (1) sexual intercourse or unnatural sexual intercourse with (2) a child under sixteen years of age



## **Aggravated Rape and Abuse of Child**

### **Chapter 265, Section 23A**

Section 23A. Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and:

(a) there exists more than a 5 year age difference between the defendant and the victim and the victim is under 12 years of age;

(b) there exists more than a 10 year age difference between the defendant and the victim where the victim is between the age of 12 and 16 years of age; or

(c) at the time of such intercourse, was a mandated reporter as defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Com. v. Simmons, 88 Mass. App. Ct. 1114 (2016)

Based on the testimony of the victim, a reasonable juror would be entitled to infer the penetrations necessary to constitute the rapes. The Supreme Judicial Court has stated that, “when young children testify about sexual assault, their description of penetration need not be precise.” *Commonwealth v. King*, 445 Mass. 217, 224 (2005), citing *Commonwealth v. Moniz*, 43 Mass.App.Ct. 913, 914 (1997) (jury could find penetration from seven year old victim's testimony that defendant “licked her pee pee”), *Commonwealth v. Nylander*, 26 Mass.App.Ct. 784, 785–787 (1989) (jury could infer penetration from evidence including testimony of young child that defendant touched her “bum” and “private spot” with his “private spot”), and *Commonwealth v. Thomas*, 19 Mass.App.Ct. 1, 5 (1984) (jury entitled to infer penetration from six year old's testimony that defendant made her “privacy” feel bad by lying on top of her). The defendant's motions were properly denied.





## **Assault with Intent to Commit Rape**

### **Chapter 265, Section 24**

#### **Definition:**

Assaulting a person with intent to commit rape.

#### **Elements:**

1. Commits assault (actually touching)
2. a person
3. specific intent (to commit rape)

#### **Right of Arrest:**

This 20 year felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

Com. v. Oliveira, 53 Mass. App. Ct. 480, 480–81, 760 N.E.2d 308, 309 (2002)

Following a two-day jury trial, the defendant was convicted on charges of indecent exposure, lewd and lascivious behavior, indecent assault and battery of a person fourteen or over, and assault with intent to rape. On appeal he claims (i) that the judge failed to give timely instructions to the jury regarding the permissible use of fresh complaint testimony, and (ii) that there occurred violations of the defendant's Federal \*481 constitutional right not to be subjected to double jeopardy<sup>1</sup> and his common law right not to be sentenced on both the assault with intent to rape charge and the indecent assault and battery charge.<sup>2</sup> We affirm the judgments.

The material facts which the jury could have found are these: the victim, then seventeen years old, was employed at Burger King in North Dartmouth. On April 24, 1996, she was walking to work on Route 6. A stranger in a black vehicle offered her a ride; she accepted. The defendant drove five miles past Burger King, down a dirt road, parked the car, shut off the ignition, and took a condom out of his wallet. The victim protested, but her effort to exit the vehicle was frustrated by a power lock on the passenger door controlled by the defendant.

The defendant persisted, but the victim rejected his advances and insisted that she had to get to work. The defendant offered money; that, too, was rejected. Then the defendant reclined the victim's seat and succeeded in "leaning" on top of her. He attempted to unbutton her pants, and eventually succeeded in doing so. At that point the victim told the defendant that she would have her uncle kill him.

The defendant, frightened, backed off. He returned to his own seat, unzipped his pants, exposed his penis, and proceeded to masturbate. Then he drove the victim to work, telling her that he was sorry and asking that she not tell anybody. When the victim finally left the defendant's vehicle, she noted the defendant's license plate number. She gave that information, together with a complete statement of events, to the police, and she called her mother.



## COMMONWEALTH v. BERENDSON

### Assault with Intent to Rape.

The defendant, Jamie P. Berendson, was convicted of two counts of unarmed robbery, G. L. c. 265, § 19B; aggravated rape, G. L. c. 265, § 22; kidnapping, G. L. c. 265, § 26; and assault and battery. The defendant was also convicted of assault with intent to rob, G. L. c. 265, § 20; assault with intent to rape, G. L. c. 265, § 24; and assault and battery arising\*396 from a separate incident involving a different victim that occurred on the same day.

On appeal, the defendant argues that (1) his motion for a required finding of not guilty on the charge of assault with intent to rape should have been allowed; (2) the trial judge committed reversible error because he prevented the defendant from cross-examining one of the victims to determine whether she had taken her prescribed methadone medication; and (3) the prosecutor's argument that rape is a crime of violence and not sexual pleasure was impermissible and not based on expert testimony. We affirm.

Facts. The convictions arose from two separate incidents on the same day, first at Cumberland Farms in Pittsfield and later at the Lipton Mart in Lee. A lone female clerk at each store was assaulted during the respective events.

The evidence presented at trial showed that the defendant entered the Pittsfield Cumberland Farms around 4:30 A.M. on September 22, 2002. After using the restroom, the defendant left the store, returning a short while later through a back door to wait for the victim in the back room. The victim testified at trial that she heard a noise in the back of the store and went to investigate. When she walked into the back hallway, she testified that the defendant attacked her, choked her until she became unconscious, locked her in the store bathroom, and then beat and sexually assaulted her. A surveillance videotape from Cumberland Farms presented at trial shows, in part, the defendant entering the camera's view from the rear of the store, briefly interacting with a female patron, and then returning toward the rear of the store and out of view, where he was again alone with the victim in the bathroom. The videotape then shows the defendant returning to the register, emptying the cash, and leaving the store with the victim's pocketbook shortly after 5:00 A.M. Police officers testified that when they arrived on the scene, the victim's pants were undone and she appeared to be in shock.

The second victim testified that the defendant entered the \*397 Lipton Mart in Lee roughly twelve hours following the Cumberland Farms incident and remained there for about an hour as he bought gasoline, filled out an employment application using a false name, and talked with the clerk. The defendant then left. The victim testified that a few hours later, at about 10:30 P.M., she was ambushed by the defendant as she was wringing out a mop in the rear of the store. As the defendant choked her and pulled her to the ground, the victim grabbed the alarm which alerted the police. When she informed the defendant that the police were on their way, he immediately let her go and ran out of the store.

In his testimony at trial, the defendant conceded that he had robbed or attempted to rob both convenience stores. He admitted to choking and beating the Pittsfield victim but denied that he sexually assaulted or intended to sexually assault either victim.

Assault with intent to rape. The defendant first argues that his motion for a required finding on the charge of assault with intent to rape the Lee victim should have been allowed because the evidence, even including evidence that the defendant raped the Pittsfield victim, was insufficient to prove that he intended to rape the Lee victim. In considering such an argument, the court must examine the evidence in the light most favorable to the Commonwealth to determine whether any rational jury could have found the essential elements of the crime beyond a reasonable doubt. Commonwealth v. Latimore, 378 Mass. 671, 676-677 (1979).



The essential elements of the crime of assault with intent to rape are "(1) an assault upon the victim, and (2) a specific intent by the defendant at the time of the assault to rape the victim." *Commonwealth v. Fulgham*, 23 Mass. App. Ct. 422, 427 (1987), quoting from *Commonwealth v. Nickerson*, 388 Mass. 246, 253 (1983). See G. L. c. 265, § 24.

To establish specific criminal intent, the Commonwealth may rely wholly on circumstantial evidence. *Commonwealth v. Degro*, 432 Mass. 319, 325 (2000). The inferences drawn need only be "reasonable and possible." *Commonwealth v. O'Laughlin*, 446 Mass. 188, 198-199 (2006), quoting from *Commonwealth v. \*398 Longo*, 402 Mass. 482, 487 (1988). In *Commonwealth v. Martin*, 447 Mass. 274, 291 (2006), the Supreme Judicial Court concluded that an attack on a teenage girl coupled with violent sexual notes found on the defendant at the time of his arrest were sufficient evidence to support the defendant's conviction for assault with intent to rape. While there was no evidence that the victim was actually touched in a sexual manner, the testimony of witnesses who observed the defendant grab the victim from behind and drag her off a beach path, and the discovery of sexually explicit notes on the defendant's person, allowed the jury to reasonably infer that the attack was sexual in nature. *Ibid.* Similarly, in the instant case, the Commonwealth relied on evidence of the prior rape of the Pittsfield victim, coupled with evidence of the interrupted assault of the Lee victim, to support its theory that the defendant intended to rape the Lee victim. [FN3]

It is well settled that while the prosecution may not rely on evidence of prior "bad acts" for the purposes of showing the defendant's bad character or propensity to commit the crime charged, such evidence may be admissible for some other purpose. *Commonwealth v. Helfant*, 398 Mass. 214, 224 (1986). For example, such evidence may be admissible to show a "common scheme, pattern of operation, . . . intent, or motive." *Ibid.* In *Helfant*, the defendant appealed from convictions of rape and drugging a person for unlawful sexual intercourse. *Id.* at 215. The trial judge allowed testimony from previous patients of the defendant who allegedly were offered the same drug as the victim in *Helfant* prior to having been sexually assaulted. *Id.* at 224. The evidence was admissible to show "the existence of a plan or scheme or state of mind on the part of the defendant" in order to prove an "intent to stupefy or overpower [the complainant]" with drugs, an essential element of the crime. *Id.* at 219, 226. Similarly, in *Commonwealth v. Rancourt*, 399 Mass. 269, 276 (1987), the Supreme Judicial Court upheld the admission of a prior act in which the defendant attempted, and failed, to forcibly enter a car in which two women were riding shortly before he entered the rape victim's car. The evidence was admissible because "[t]he defendant's attempt to enter forcibly the two women's automobile a half hour prior to the incident . . . bears on the issues of intent, the defendant's state of mind, and consent." *Id.* at 276 n.9.

Based on the totality of evidence, we agree with the trial judge that the similar behavior of the defendant prior to and during each incident allowed the jury to reasonably infer the defendant intended to rape the Lee victim. In both instances the defendant selected convenience stores with lone, female clerks. Prior to each assault, the defendant examined the layout of the store before returning to commit the crime. Each time, the defendant hid in the back of the store, away from the register, waiting for the victim to leave the view of customers and surveillance. Each assault began with the defendant placing the victim in a choke hold. The two attacks were virtually identical and only seventeen hours apart. The defendant had ample opportunity to immediately demand cash from the register when the store had no customers and the clerk was alone at the counter, but he instead hid and waited in the rear of the store, away from the cash register. The Lee assault only ended because the victim was able to pull the alarm. The evidence supports the existence of a "distinctive pattern of conduct" where the defendant investigated, isolated, and then sexually attacked his victims. See *Commonwealth v. Helfant*, 398 Mass. at 227.



## **Assault of a Child with Intent to Commit Rape**

### **Chapter 265, Section 24B**

**Definition:**

Assaulting a child UNDER (16) with intent to commit rape.

**Elements:**

1. Assault (actual touching)
2. a child under (16)
3. specific intent to commit rape

**Right of Arrest:**

This life felony is arrestable IN PRESENCE or upon PROBABLE CAUSE.

## **Withholding Rape Victim's Name**

### **From Public Disclosure**

Chapter 265, Section 24C

**Definition:**

That portion of the records of a court or any police department of the Commonwealth or any of its political subdivision, which contains the name of the victim in an arrest, investigation or complaint for rape or assault with intent to rape under Section thirteen B, twenty-two, twenty-two A, twenty-three, twenty-four or twenty-four B, inclusive, of chapter two hundred and sixty-five, shall be withheld from public inspection, except with the consent of a justice of such court where the complaint or indictment is or would be prosecuted.

Said portion of such court record or police record shall not be deemed to be a public record under the provisions of section seven of chapter four.

Except as otherwise provided in this section, it shall be unlawful to publish, disseminate or otherwise disclose the name of any individual identified as an alleged victim of any of the offenses described in the first paragraph. A violation of this section shall be punishable by a fine of not less than two thousand five hundred dollars nor more than ten thousand dollars.

**Elements:**

1. published, disseminates, or otherwise discloses
2. the name of the victim of
3. C. 265, 13B, Indecent A&B, child under 14  
C. 265, 22, Rape or Aggravated Rape  
C. 265, 22A, Rape of Child  
C. 265, 23, Rape & Abuse of a Child  
C. 265, 24, Assault with Intent to Rape  
C. 265, 24B, Assault of a Child with Intent to Rape
4. Except with the consent of a judge of the court where the complain or indictment is or would be prosecuted.

**Right of Arrest:**

This is a non-arrestable misdemeanor punishable by a fine.

*Doe v. Lyons*, No. CIV. A. 96-0341, 1996 WL 751531, at \*3 (Mass. Super. Dec. 23, 1996)  
*G.L. c. 41, § 97D and G.L. c. 265, § 24C* G.L. c. 41, § 97D

provides that "[a]ll reports of rape and sexual assault ... and all conversations between police officers and victims of said offenses shall not be public reports and shall be maintained by the police departments in a manner which will assure their confidentiality



## **Carjacking**

### **Chapter 265, Section 21A**

#### **Definition:**

Whoever, with intent to steal a motor vehicle, assaults, confines, maims or puts any person in fear for the purpose of stealing a motor vehicle shall, whether he succeeds or fails in the perpetration of stealing the motor vehicle shall be punished by imprisonment in the state prison for not more than fifteen years or in a jail or house of correction for not more than two and one-half years and a fine of not less than one thousand nor more than fifteen thousand dollars; provided, however, that any person who commits any offense described herein while being armed with a dangerous weapon shall be punished by imprisonment in the state prison for not more than twenty years or in a jail or house of correction for not less than one year nor more than two and one-half years and a fine of not less than five nor more than fifteen thousand dollars.

#### **Elements:**

1. with specific intent to steal a MOTOR VEHICLE
2. assaults or confines or maims or puts any person in fear
3. whether he succeeds or fails in the perpetration of stealing a MOTOR VEHICLE
4. unarmed

#### **Right of Arrest:**

This "unarmed carjacking" is a 15 year felony arrestable in presence or upon probable cause.

#### **Elements:**

1. with specific intent to steal a MOTOR VEHICLE
2. assaults or confines or maims or puts any person in fear
3. whether he succeeds or fails in the perpetration of stealing a MOTOR VEHICLE
4. while being armed with a dangerous weapon

#### **Right of Arrest:**

This "armed carjacking" is a twenty year felony arrestable in presence or upon probable cause.

#### **Notes:**

This statute applies to MOTOR VEHICLE as defined in c. 90, s.1, not just automobiles

The "armed" portion states "while being armed with a dangerous weapon." The case law that applies to the armed robbery statute is applicable here. The suspect can violate the being armed portion without ever showing the victim the weapon.

Com. v. Kemp, 46 Mass. App. Ct. 902, 702 N.E.2d 817, 818 (1998)

The defendant appeals from convictions of armed robbery, G.L. c. 265, § 17; assault and battery by means of a dangerous weapon, G.L. c. 265, § 15A(b); carjacking, G.L. c. 265, § 21A; and larceny of a motor vehicle, G.L. c. 266, § 28. The jury could have found that the defendant, acting with others, lured the victim by chicanery to an unfamiliar place in Brockton and then pulled him from his vehicle while simultaneously beating him with a metal object with the intent to steal the vehicle. The defendant continued to beat the victim severely, and, after the victim complied with the defendant's order to give him money, the defendant hit the victim with a metal object again before driving away in the victim's vehicle



## **Threats to Extort**

### **Chapter 265, Section 25**

#### **Definition:**

Whoever, verbally or by a written or printed communication, maliciously threatens to accuse another of a crime or offense, or by verbal or written or printed communication maliciously threatens an injury to the person or property of another, or any police officer or person having the powers of a police officer, or any officer, or employee of any licensing authority who verbally or by written or printed communication maliciously and unlawfully uses or threatens to use against another person the power of authority vested in him, with intent thereby to extort money or any pecuniary advantage, or with intent to compel any person to do any act against his will, shall be punished by imprisonment in the state prison for not more than fifteen years, or in the house of correction for not more than two and one half years, or by a fine of not more than five thousand dollars or both.

#### **Elements:**

Whoever,

1. verbally, or by written or printed communication
2. maliciously threatens an injury
3. to the person or property of another
4. or any police officer, or persons having the powers of a police officer, or any officer, or employee of any licensing authority
5. who verbally, or by written or printed communication
6. maliciously and unlawfully uses or threatens to use against another the power of authority vested in him,
7. with intent to extort money, or compel a person to do any act against his will.

#### **Right of Arrest:**

This fifteen-year felony is arrestable in presence or upon probable cause.

#### **Closely related issue**

##### **Threats to Commit a Crime**

Evidence was sufficient to support finding that juvenile's drawing depicted juvenile pointing a gun at teacher constituted a "threat," for purposes of threat statute. M.G.L.A. c.275, § 2. Com. v. Milo M., 433 Mass. 149, 740 N.E.2d 967 (2001) Defendant who left a message on victim's voicemail implying a threat against victim's daughter could be convicted on threatening to commit a crime, even though threat did not convey a threat against victim herself, since statute governing offense did not require that threat be conveyed to intended victim of threatened crime. M.G.L.A. c. 275, § 2. Com. v. Hamilton, 459 Mass. 422, 945 N.E.2d 877 (2011)



**Com. v. Miller, 385 Mass. 521, 525–27, 432 N.E.2d 463, 466–67 (1982)**

**Extortion**

The Commonwealth introduced evidence of two threats by the defendant. One was to expose his sexual relationship with the victim to her parents and the other was to circulate in her neighborhood pictures of her in a posture of dishabille unless she gave him money. The defendant argues that neither of these threats brings his behavior within the extortion statute, G.L. c. 265, s 25,<sup>6</sup> and \*526 that therefore the judge should have allowed his motion for a directed verdict on the extortion indictments. We do not agree.

9 The elements of the crime are (1) a malicious threat (2) made to a named person (3) to accuse someone of a crime or to injure someone's person or property (4) with intent to extort money. *Commonwealth v. DeVincent*, 358 Mass. 592, 595, 266 N.E.2d 314 (1971), quoting from *Commonwealth v. Snow*, 269 Mass. 598, 608, 169 N.E. 542 (1930); *Commonwealth v. Pelligrini*, 283 Mass. 300, 303, 186 N.E. 552 (1933); *Commonwealth v. Corcoran*, 252 Mass. 465, 483-484, 148 N.E. 123 (1925). The defendant maintains that there was no evidence that he threatened to accuse anyone of a crime or to injure anyone's person or property.

Neither of these threats amounts to a threat to accuse another of a crime. The Commonwealth presented no evidence that the victim may have reasonably understood the threats “to embrace criminal prosecution.” See *Commonwealth v. Bacon*, 135 Mass. 521, 525-526 (1883). Nor did the defendant threaten to go to a prosecuting or police authority. See \*\*467 *Commonwealth v. Corcoran*, supra, 252 Mass. at 478-481, 148 N.E. 123; *Commonwealth v. Dorus*, 108 Mass. 488 (1871). In fact, no threat to accuse another of a crime was ever made.

We turn to the other type of threat embraced in the statute-injury to another's person or property. The Commonwealth argues that, as a result of publication of her sexual activities and the photograph of her, the victim would have suffered a blow to her reputation of such magnitude as to cause her severe mental anguish which would constitute injury to the person. We agree.

In construing a predecessor to G.L. c. 265, s 25, this court held that a “threat to injure the person of another \*527 naturally means a threat to use actual physical force upon the person of another.” *Commonwealth v. Mosby*, 163 Mass. 291, 294, 39 N.E. 1030 (1895). Similarly, several jurisdictions have held that a threat to expose another to disgrace and to injure his reputation was not a threat of “injury to the person or property of another” which was made unlawful by a State extortion statute.





## Kidnapping

### Chapter 265, Section 26

#### **Definition:**

Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this Commonwealth against his will, or forcibly carries or sends such person out of this Commonwealth or forcibly seizes and confines or inveigles or kidnaps another person, with intent to cause him to be secretly confined or imprisoned in this Commonwealth against his will, or to cause him to be sent out of this Commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two years. The provisions of the preceding sentence shall not apply to the parent of a child under eighteen years of age who takes custody of such child. Whoever commits any offense described in this section with the intent to extort money or other valuable thing thereby shall be punished by imprisonment in the state prison for life or any term of years.

#### **Elements:**

1. Without lawful authority
  2. Forcibly or secretly confines or imprisons
  3. Another person
  4. Within the Commonwealth
  5. Against his (the victim's) will
- OR
1. Forcibly carries or sends
  2. Another person
  3. Out of this Commonwealth
- OR
1. Forcibly seizes and confines
  2. Or inveigles (lead astray or win over by deceitful flattery: entices)
  3. Or kidnaps
  4. Another person
  5. With the specific intent
  6. Either to cause him to be sent out of this Commonwealth against his will or in any way held to service against his will

#### **Right of Arrest:**

This is ordinarily a 10 year felony arrestable in presence or upon probable cause. If a violation of this section is committed with the specific intent to extort money or other valuable thing (ransom), then this felony is punishable by imprisonment for up to life.

#### **Notes:**

THIS SECTION DOES NOT APPLY to the parent of a child under 18 years of age. (Chapter 265, Section 26A would apply in that case.)

Evidence that defendant showed victim a gun, placing her in fear as result, and also pulled victim by her jacket and constrained her by holding on to her backpack while they walked toward his truck, demonstrated that victim's movements were restrained and was sufficient to permit inference that defendant forcibly confined victim against her will, as required to support conviction for **kidnapping**. [M.G.L.A. c. 265, § 26](#).





Com. v. Colon, 431 Mass. 188, 726 N.E.2d 909 (2000)

IRELAND, J.

The defendant, Antonio Colon, was indicted for **kidnapping** a twelve year old girl in violation of G.L. c. 265, § 26. He moved to dismiss the indictment, contending that the Commonwealth failed to present evidence that the **kidnapping** was “against her will.” A Superior Court judge denied the motion and concluded that a twelve year old has “no authority or capacity, as a matter of law,” to leave the legal custody of her parents without their consent. At the parties' request, the judge reported questions to the Appeals Court. Mass. R.Crim. P. 34, 378 Mass. 905 (1979). We transferred the case to this court on our own motion.<sup>1</sup> The reported questions asked whether the judge's ruling was correct and, if so, whether the evidence presented to the grand jury was sufficient to support the indictment.<sup>2</sup> We conclude that the judge was correct and affirm that a twelve year old is unable to consent to **kidnapping** as a matter of law, answering both questions “Yes.”

We summarize the stipulated facts. The thirty year old defendant first met the then eleven year old girl in the summer of 1996. After a few months, the defendant began to spend a considerable amount of time alone with her. He bought presents for her, and she developed a “little crush” on him. The girl's father became concerned and confronted his daughter about her relationship with the defendant. She broke down in tears and told her father she had had sexual relations with the defendant, but recanted the next day and has subsequently denied the existence of any such relationship.

On September 19, 1997, the girl's parents contacted the Springfield police department to report that she was missing. On that same date, the twelve year old and the defendant separately purchased bus tickets to Ormond Beach, Florida. The girl claimed that she traveled alone and that the first time she saw the defendant was in the parking lot of a Florida motel as the bus passed by. On December 5, 1997, agents of the Federal Bureau of Investigation found the defendant and the twelve year old in a motel room in Ormond Beach, where they had been staying since the girl's disappearance. In subsequent testimony, the twelve year old has always maintained that she left her parents' custody of her own free will and that the defendant did not force her or promise her anything to entice her to follow him.

On April 21, 1998, the defendant was indicted for **kidnapping** in violation of G.L. c. 265, § 26. He moved to dismiss the indictment, claiming that the Commonwealth had failed to present evidence that the twelve year old girl was **kidnapped** against her will. After arguments, a Superior Court judge denied the motion. The judge ruled that the Commonwealth did not have to present such evidence because a twelve year old “had no authority or capacity, as a matter of law,” to leave the legal custody of her parents without their consent.

#### **1. Capacity to consent.**



1 Question A asks us to determine whether the judge was correct in concluding that a twelve year old lacks the capacity to “consent” to **kidnapping**. Ordinarily, the Commonwealth must prove that a victim was **kidnapped** “against [her] will”; in other words, without consent. \*\*911 G.L. c. 265, § 26.<sup>3</sup> The statute is silent, however, on whether, or when, children can form the will to be able to consent to **kidnapping**.

The defendant concedes that very young children are incapable, as a matter of law, of consenting to leave their parents' custody.<sup>4</sup> Citing to cases interpreting other criminal statutes, the defendant argues that when a statute does not specify an age of consent, whether a child can consent is a question of fact for \*191 children seven years and older. See *Commonwealth v. Burke*, 390 Mass. 480, 457 N.E.2d 622 (1983); note 7, *infra*. We disagree.

23 Criminal statutes are to be strictly construed. See *Commonwealth v. George*, 430 Mass. 276, 278, 717 N.E.2d 1285 (1999). However, statutes are to be construed in light of preexisting common law, and we frequently look to the common-law definition of crimes to construe criminal statutes. See *Commonwealth v. Cass*, 392 Mass. 799, 801–802, 467 N.E.2d 1324 (1984) (adopting common-law definition of “person” in vehicular homicide statute); *Commonwealth v. Burke*, 392 Mass. 688, 690, 467 N.E.2d 846 (1984) (common-law roots of “breaking and entering”); *Commonwealth v. Slaney*, 345 Mass. 135, 138, 185 N.E.2d 919 (1962) (“For definition of the crime of assault, resort must be had to the common law”); *Commonwealth v. Correia*, 17 Mass.App.Ct. 233, 235, 457 N.E.2d 648 (1983) (“burglary” at common law meant invasion of place of habitation).

The roots of the common law of **kidnapping** provide guidance here as well, in light of the absence of legislative history of G.L. c. 265, § 26, or a clearly expressed legislative intent to abrogate the common law. See, e.g., *Commonwealth v. Burke*, *supra*.

At common law, a child of “tender years,” defined as a child under fourteen years of age, was incapable of consenting to **kidnapping**. See *Chatwin v. United States*, 326 U.S. 455, 461, 66 S.Ct. 233, 90 L.Ed. 198 (1946), citing 9 J. Wigmore, Evidence § 2514 (3d ed.). We have long recognized that a child of tender years is “incapable of assenting to forcible removal” from the legal custody of his or her parents. *Commonwealth v. Nickerson*, 87 Mass. 518, 5 Allen 518, 526 (1863). In that case the defendants, acting on behalf of the mother, were convicted of **kidnapping** a nine year old boy.<sup>5</sup> In affirming the convictions, we recognized the tender years doctrine and held that a nine year old did not have the capacity to consent to being taken from his father's custody against his father's will.<sup>6</sup> *Id.* at 527. We \*\*912 concluded that such a taking “away from the lawful custody and against the will of his rightful custodian ... is in law deemed to be forcible and against the will of the child.” *Id.* at 526. See \*192 *Commonwealth v. Moyles*, 45 Mass.App.Ct. 350, 354, 698 N.E.2d 408 (1998) (three year old cannot consent to **kidnapping** as a matter of law).



In light of this common-law background, we hold today that twelve year old children fall within the tender years doctrine and, as a matter of law, cannot consent to leaving the custody of their parents or legal guardians. This rule recognizes the importance of protecting young children who are particularly vulnerable to **kidnappings**, and acknowledges the parents' role as the legal custodians of their children.

The defendant argues that *Commonwealth v. Burke*, 390 Mass. 480, 457 N.E.2d 622 (1983), expressly rejects the “dictum” of *Commonwealth v. Nickerson*, *supra*. In *Commonwealth v. Burke*, *supra* at 487, 457 N.E.2d 622, we declined to establish a specific age of consent for indecent assault and battery because there was no age of consent for that crime at common law. In contrast, common-law **kidnapping** did have an age of consent.<sup>7</sup>

We conclude that the motion judge ruled properly in holding that a twelve year old lacks the capacity, as a matter of law, to consent to a **kidnapping**, and we therefore answer question A, “Yes.”<sup>8</sup>

## 2. Sufficiency of the evidence.

456 In reported question C, we are asked whether the evidence presented to the grand jury was sufficient to support the indictment.<sup>9</sup>] \*193 In general, “a court will not review the competency or sufficiency of the evidence before a grand jury.” *Commonwealth v. O'Dell*, 392 Mass. 445, 451, 466 N.E.2d 828 (1984). We have reviewed the evidence before the grand jury and dismissed indictments, however, when the grand jury have not heard at least “sufficient evidence to establish the identity of the accused ... and probable cause to arrest him.” *Commonwealth v. McCarthy*, 385 Mass. 160, 163, 430 N.E.2d 1195 (1982). This standard is considerably less exacting than the sufficiency of evidence required to warrant a guilty finding. See *Commonwealth v. O'Dell*, *supra*, and cases cited.

\*\*913 In addition to presenting evidence that the girl was twelve years old and that she had left her parents custody without their consent, the Commonwealth presented evidence to the grand jury that the defendant spent a great deal of time with her; that he bought her numerous and expensive gifts; that the girl admitted to her father that she had had sexual relations with the defendant; that the defendant left for Florida on the same day as the girl; and that law enforcement officials found the defendant and the girl in a Florida motel room where the two had been living for nearly three months. Moreover, the defendant was evasive with his sister about his location and had taken steps to alter his and the girl's appearances, including cutting and dyeing their hair, in order to avoid detection. This evidence is sufficient to sustain the indictment, and we therefore answer question C, “Yes.”

We answer reported questions A and C in the affirmative.

## All Citations



431 Mass. 188, 726 N.E.2d 909

### Footnotes

The trial judge has discretion to report questions of law that are deemed to be “so important or doubtful” as to require the decision of the Appeals Court. [Mass. R.Crim. P. 34](#), 378 Mass. 905 (1979).

The reported questions were as follows:

“A. Whether this Court's Memorandum Decision and Order on the Defendant's Motion to Dismiss is correct as a matter of law?

“B. If not, given the recent case of [Commonwealth v. Moyles](#), 45 Mass.App.Ct. 350, 354, 698 N.E.2d 408 (1998) in which the court stated: ‘if the **kidnapping** victim is of such an age as to be incapable of having a “recognizable will,” the confinement must then be against the will of the parents or legal guardian of the victim’, is there, as a matter of law, an age below which a **minor** is incapable of having a recognizable will and which would thus require, as a matter of law, that any confinement or inveigling be against the will of the parents or legal guardian?

“C. If so, was the Commonwealth's presentation of evidence to the grand jury sufficient to support the indictment?”

Because we answer question A in the affirmative, we need not reach question B.

[General Laws c. 265, § 26](#), reads: “Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this commonwealth against his will, or forcibly carries or sends such person out of this commonwealth, or forcibly seizes and confines or inveigles or **kidnaps** another person, with intent either to cause him to be secretly confined or imprisoned in this commonwealth against his will, or to cause him to be sent out of this commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two years.”

Alternatively, the defendant has argued that, because nonconsent is an element of the crime of **kidnapping**, reading any age of consent into the statute would, in effect, strike the element of consent from the statute and create a strict liability crime. By concluding that a twelve year old cannot consent to **kidnapping** as a matter of law, however, we do not “strike” the element of consent from the **kidnapping** statute. Instead, we merely substitute the parents' consent for that of a twelve year old child.

With **minor** exceptions, [G.L. c. 265, § 26](#), contains language identical to its predecessor Gen. St. 1860, c. 160, § 30, under which the defendants in [Commonwealth v. Nickerson](#), 87 Mass. 518, 5 Allen 518 (1863), were convicted.

Though in *Commonwealth v. Nickerson*, *supra* at 527, we discussed the tender years doctrine in the context of forcible removal, the crucial part of our holding was that the taking was against the



father's will and deemed in law to be against the will of the child. The same principle applies to **kidnapping** by “inveiglement” without the use of force.

The other cases that the defendant cites may be distinguished in a similar manner. Three of the cited cases, *Commonwealth v. Feijoo*, 419 Mass. 486, 646 N.E.2d 118 (1995); *Commonwealth v. Maloney*, 23 Mass.App.Ct. 1016, 505 N.E.2d 552 (1987); and *Commonwealth v. Askins*, 18 Mass.App.Ct. 927, 465 N.E.2d 1224 (1984), all involve the crime of indecent assault and battery. As in *Commonwealth v. Burke*, 390 Mass. 480, 457 N.E.2d 622 (1983), these cases rest on the absence of a common-law age of consent for indecent assault and battery. The other cases cited by the defendant are equally inapplicable. In *Commonwealth v. Benoit*, 26 Mass.App.Ct. 641, 644, 531 N.E.2d 262 (1988), the Appeals Court declined to establish nonconsent as an element of G.L. c. 272, § 35A, unnatural and lascivious acts with a child under sixteen years, where the statute made no mention of consent and in the absence of clear common-law history. Here, though nonconsent is established as an element of **kidnapping**, the common law provides an age at which a child is incapable of consenting. Similarly, *Matter of Rena*, 46 Mass.App.Ct. 335, 705 N.E.2d 1155 (1999), does not apply because its holding applies only to a **minor's** competence to refuse medical treatment.

The defendant also argues that if the court affirms that a twelve year old cannot consent to **kidnapping** as a matter of law, such a rule should be applied only prospectively. Because we merely restate the long-standing tender years doctrine, there is no injustice worked on the defendant by applying it today.

It is ordinarily “improvident for a judge to report to the Appeals Court pursuant to rule 34 the issue of what inferences a finder of fact would be entitled to draw from the evidence.” *Commonwealth v. Giang*, 402 Mass. 604, 608, 524 N.E.2d 383 (1988). However, when the parties have fully briefed and argued the matter before this court, and when an interlocutory appeal has delayed a defendant's criminal trial, we have addressed the reported questions. See *id.* Both parties here have fully briefed and argued question C and, in the interest of the efficient administration of justice, we answer the question.



## **Kidnapping of Minor or Incompetent by Relative**

### **Chapter 265, Section 26A**

#### **Definition:**

Whoever, being a relative of a child less than eighteen (18) years old, without lawful authority, holds or intends to hold such a child permanently or for a protracted period, or takes or entices such a child from his lawful custodian, or takes, or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution, shall be punished by imprisonment in the house of correction for not more than one year or by a fine of up to one thousand dollars, or both. Whoever commits any offense described in this section by taking or holding said child outside the Commonwealth or under circumstances which expose the person taken or enticed from the lawful custody to a risk which endangers his safety, shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the state prison for not more than five years, or by both such fine and imprisonment.

#### **Elements: (Misdemeanor portion)**

1. Being a **relative** of a child less than eighteen (18)
  2. Without lawful authority
  3. Holds or intends to hold such a child permanently or for a protracted period
  4. Or takes or entices such a child from his lawful custodian
- OR
1. Takes or entices from lawful custody
  2. Any incompetent person or other person
  3. Entrusted by authority of law to the custody of
  4. Another person or institution

#### **Right of Arrest:**

This portion of the statute is a misdemeanor with no statutory right of arrest provided. If a violation of this section was committed in your presence and amounted to a breach of the peace, then you would have a right to arrest.

#### **Elements: (FELONY PORTION)**

1. Commit any offense described in this section
2. By taking or holding said child outside of the Commonwealth
3. Or under circumstances which expose the person taken or enticed from lawful custody to a risk that endangers his safety.

#### **Right of Arrest:**

This portion of the statute is a felony which would be arrestable in presence or upon probable cause.

#### **NOTE:**

"Relative" is defined by Black's Law Dictionary as "a kinsman; a person connected with another by blood or affinity."





**Com. v. Decosta, 78 Mass. App. Ct. 1107, 936 N.E.2d 452 (2010)**

The defendant was convicted by a jury of violating G.L. c. 274, § 6 (the attempt statute), by attempting to commit parental kidnapping, G.L. c. 265, § 26A (the custodial interference statute). On appeal, the defendant raises four arguments: (1) that the indictment was insufficient to charge attempted parental kidnapping under the “felony branch” of the custodial interference statute; (2) that police officers violated her statutory right, pursuant to G.L. c. 276, § 33A, to make a telephone call; (3) that the trial judge erred in admitting excessive evidence of prior bad acts; and (4) that she was entitled to an instruction on the necessity defense. We affirm.

1. *Sufficiency of the indictment.* The custodial interference statute, G.L. c. 265, § 26A, has two “branches.” The “misdemeanor branch” requires proof of the basic elements of custodial interference and permits incarceration for no more than one year in a house of correction. The “felony branch” permits imprisonment for up to five years in a State prison if the crime was committed “by taking or holding [the] child outside the commonwealth or under circumstances which expose the person taken or enticed from lawful custody to a risk which endangers his safety.” G.L. c. 265, § 26A, as amended by St. 1983, c. 175. Relying largely on *Commonwealth v. Williams*, 73 Mass.App.Ct. 833, 903 N.E.2d 222 (2009), the defendant argues that, if the Commonwealth seeks to prosecute an individual for committing a felony branch violation of the custodial interference statute, the Commonwealth is required to so state in the indictment and also to specify the felonious act relied on. The defendant’s argument rests on a flawed premise. She was not charged with violating the custodial interference statute; rather, she was charged with attempt.

A criminal attempt has two elements, both of which must be specified in the indictment: (1) a specific intent to commit the substantive offense, see *Commonwealth v. Ware*, 375 Mass. 118, 120, 375 N.E.2d 1183 (1978), and (2) an overt act towards its commission. *Commonwealth v. Gosselin*, 365 Mass. 116, 121, 309 N.E.2d 884 (1974). “The overt act is a requirement of the attempt statute, G.L. c. 274, § 6, and the overt act relied on must be set out in the indictment or complaint.” *Commonwealth v. Foley*, 24 Mass.App.Ct. 114, 115, 506 N.E.2d 1160 (1987).

**COMMONWEALTH v. Mohammad BACHIR.**

A jury found the defendant guilty of **parental kidnapping** and of violating G.L. c. 209A, and not guilty of intimidation of a witness. The defendant was sentenced to M.C.I., Cedar Junction, on the **parental kidnapping** conviction. On the conviction of violating the G.L. c. 209A order, the defendant received a sentence to a house of correction, to be served on and after the other sentence. He filed a timely notice of appeal. Later, he filed a motion to vacate his convictions and sentences, pursuant to [Mass.R.Crim.P. 30\(a\)](#), 378 Mass. 900 (1979), claiming that his convictions were duplicative. The trial judge denied the motion, and the defendant filed a notice of appeal from the denial. The defendant’s two appeals have been consolidated.

On appeal, the defendant claims that the judge committed error in denying his motion to suppress. He also contends that his conviction and sentence for violating the G.L. c. 209A order should be vacated because the elements of that crime were included in the **parental kidnapping** indictment. Finally, the defendant claims that he was denied the effective assistance of counsel because his trial attorney failed to file a motion for a required finding of not guilty on both indictments.

We summarize, as background, the facts introduced by the Commonwealth, reserving further details for discussion with the relevant issues. Molly Scharlach and the defendant are the **parents** of Michael, born on April 21, 1986. The defendant and Molly moved constantly during their



relationship, including several moves to Lebanon, as well as to Egypt, Yugoslavia, Turkey, Greece, and various locations in the United States. In September, 1992, while they lived in Cambridge, Molly left the defendant and she and Michael moved to Quincy.

On September 24, 1992, Molly obtained a restraining order against the defendant pursuant to G.L. c. 209A. Molly received temporary custody of Michael, and the defendant was ordered to refrain from contacting Michael or Molly, either in person or by telephone, at home or at work. The order was extended on October 2, 1992, for a year, until September 28, 1993.

After Molly left the defendant, he repeatedly telephoned Molly's mother in California in an attempt to learn where Molly was living. Because the defendant called as many as thirty times a day, Molly's mother installed an answering machine. \*206 The mother gave law enforcement officers tapes from the answering machine which had been recorded immediately preceding Michael's disappearance. On a tape recorded November 12, 1992 (one day before Michael's abduction), the defendant called Molly's mother and asked what Molly's intentions were. The mother told him that there was a restraining order against him and that Molly was not going back to him. The defendant replied, "I don't know what I'm going to do. I'm going to do something very bad. I'm not going to let nobody take my son...."

The next day (November 13, 1992), the defendant hired a taxi driver whom he directed to drive to Quincy. There, they stopped at a Dunkin Donuts and waited for fifteen to \*\*950 twenty minutes. A school bus then drove by, and the defendant directed the taxi driver to follow the bus. When the bus stopped at an elementary school, the defendant got out and told the driver that he was going to pick up his son. A short time later, he returned with a child who was holding his hand. The child was Michael, then six years old.

The defendant directed the taxi driver to proceed to Rhode Island. There, the defendant telephoned Molly's aunt. He told her that he was taking Michael "to where people love him." He allowed Michael to talk to her. After stops in Connecticut and New York, the defendant directed the driver on to Atlantic City. Upon arrival, he discharged the taxi driver, who returned to Massachusetts and later identified the defendant as the person who had hired him and had taken the child from school. The Federal Bureau of Investigation, the State Department, the Immigration and Naturalization Service, and Interpol became involved in the investigation into the abduction of Michael. Despite their efforts, neither the defendant nor the child were located for a number of months. At the time of trial, the son was living in a Palestinian refugee camp in southern Lebanon.

On December 4, 1992, Molly's mother received two telephone calls from the defendant, who said he was in Lebanon with Michael. The defendant said Michael was in a Palestine Liberation Organization refugee camp. In February, 1993, the defendant called Molly to say that their son was





seriously ill and could not walk. Molly went to Lebanon with the goal of bringing her son home, but the defendant's family stopped her. After a year of living in Lebanon, Molly returned home without her son.

\*207 On August 29, 1994, the defendant arrived at John F. Kennedy (JFK) airport in New York and was arrested on a Massachusetts fugitive warrant for **parental kidnapping**. A New York Port Authority police officer transported the defendant to the JFK airport police station. The officer read the defendant the Miranda warnings and the defendant responded that he understood those warnings and was willing to answer questions. The defendant admitted that he had taken his son to Lebanon and that he was making arrangements with the FBI to return him.<sup>1</sup>

At trial, the defendant testified in his own defense and denied that he had taken his son from school. He testified that, instead, he was in California on the day that his son disappeared and that he later travelled to Lebanon, where he found the boy.

1. *Denial of the defendant's suppression motion.* The defendant filed a motion requesting, among other things, that certain statements he made to two Massachusetts State troopers be suppressed. The defendant argued that admission of his statements violated his right to have counsel present as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights. After an evidentiary hearing, a Superior Court judge allowed the motion in part<sup>2</sup> and denied it in regard to his statements to the troopers.

We summarize the judge's findings of fact. After the defendant was arrested at JFK airport, two State troopers were sent from Massachusetts to bring the defendant back to the Commonwealth. At his rendition hearing in New York, the defendant was represented by counsel who advised him not to speak to the troopers about the case on \*\*951 the ride to Massachusetts. \*208 The judge presiding at the rendition hearing also ordered the troopers not to discuss the case with the defendant while transporting him.

After the hearing the troopers brought the defendant by automobile to Massachusetts. While travelling through Connecticut, the defendant began conversing with the troopers. First, he asked them why he was being transported by automobile rather than by air. One of the troopers responded that the defendant was not a candidate to fly because of his recent suicide attempt and his resulting admission to Bellevue Hospital for a psychiatric examination.<sup>3</sup>

When the defendant proceeded to give the details of his hospitalization, one of the troopers immediately stopped him and told the defendant that they could not speak to him about his case. The defendant informed the troopers that he did not have any problems talking about the case and that anything he was going to tell them would be the same "thing" he would testify to in court. At this point, one of the troopers repeated the Miranda warnings to the defendant. The defendant indicated that he understood the warnings and that he wished to talk. One of the troopers asked the defendant where Michael was, and the defendant replied that his son was fine and that



arrangements were being made for Michael to be sent to California. The defendant also told the troopers that he was not aware that a restraining order was in effect when he left Massachusetts. When asked why he had not informed anyone that he was taking the child from the school, the defendant replied that he had told the school principal.

In denying the defendant's suppression motion, the judge ruled that the defendant had been informed of his Miranda rights, that he had made a voluntary, knowing waiver of those \*209 rights, and that his waiver of his Miranda rights did not result in a violation of his Sixth Amendment rights.

On appeal, the defendant argues that the judge's ruling was erroneous, because (1) the defendant, through his New York lawyer and the New York State judge, had invoked his right to counsel; (2) the troopers deliberately created a situation (by transporting him by automobile rather than airplane) designed to give them an opportunity to confront the defendant without counsel; and (3) the defendant did not validly waive his right to counsel. Accordingly, the defendant claims that his right to counsel guaranteed by the Sixth Amendment and by art. 12 of the Declaration of Rights was violated.

1 Some of the statements made by the defendant to the troopers were voluntary and, therefore, admissible, see *Maine v. Moulton*, 474 U.S. 159, 176, 106 S.Ct. 477, 88 L.Ed.2d 481 (1985), while others were made as a result of questions from the troopers. We need not sort out which statements were admissible and which were not, because, even if we assume that the defendant's Sixth Amendment rights were violated, the admission of his statements was harmless beyond a reasonable doubt. *Chapman v. California*, 386 U.S. 18, 24, 87 S.Ct. 824, 17 L.Ed.2d 705 (1967). The statements were “merely cumulative” of the far more incriminating statements the defendant made to Molly's mother, her aunt, and to the New York Port Authority police officer, all of which were properly before the jury. See *Commonwealth v. Perrot*, 407 Mass. 539, 548–549, 554 N.E.2d 1205 (1990).



## **Enticement of a Child**

### **Chapter 265, Section 26C**

Section 26C. (a) As used in this section, the term "entice" shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite. (b) Any one who entices a child under the age of 16, or someone he believes to be a child under the age of 16, to enter, exit or remain within any vehicle, dwelling, building, or other outdoor space with the intent that he or another person will violate section 13B, 13B1/2, 13B3/4, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265, section 4A, 16, 28, 29, 29A, 29B, 29C, 35A, 53 or 53A of chapter 272, or any offense that has as an element the use or attempted use of force, shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 1/2 years, or by both imprisonment and a fine of not more than \$5,000.

#### **Right of Arrest:**

This is a felony arrestable in presence or upon probable cause.

## ***Enticement***

### ***Commonwealth v. Michael D. Buswell, 468 Mass 92 (2014)***

We conclude in this case that there was sufficient similarity in act and pattern of Internet chat between this other conduct evidence and the indicted crimes being tried. The defendant's other sexually based online communications and his transmission of sexually explicit images demonstrated an abiding intent and desire on the defendant's part to engage in sexual acts with young girls and a willingness to act on that desire, if given the opportunity. For example, in one online chat, the defendant asked a fifteen year old female for a "good bj" (meaning blow job by oral sex, the same act referred to by the defendant in Internet chat in the instant case). In another Internet chat, the defendant told a sixteen year old female that he was sexually excited by her because she was under the age of legal consent. The defendant also told the sixteen year old that he would send her a vibrator and that he would come to her house naked. The defendant offered to let the sixteen year old watch him masturbate via a Webcam transmission. The defendant then conducted a role play, wherein the sixteen year old played an eight year old girl and the defendant played her "horny father." In an online chat, the defendant told a seventeen year old girl that he became sexually excited by the age of girls when it was illegal for



them to have sex. The defendant also made other evocative references to sexual activity with the seventeen year old, including references to her "tight virgin pussyness," and his own "rock-hard cock." In addition, the defendant sent the seventeen year old images of himself masturbating in the nude.

The case of Commonwealth v. Disler, supra, further supports admission of the other bad act evidence in this case. In Disler, a woman reported the forty-three year old defendant to the police after an online conversation with him, during which the defendant admitted to having had sexual contact with children in the past and invited the woman to participate in sexual acts with young children. An undercover officer then entered the chat room, pretended to be a fourteen year old girl, and initiated a conversation with the defendant. Over multiple conversations, the defendant discussed provocative sexual topics, including the specific sexual acts he intended to perform on her once they met. 451 Mass. at 218-220. On appeal, the court held that the Commonwealth's burden of proving predisposition was "easily met" because "[t]he defendant's Internet exchanges with the woman who brought him to the attention of police, in which the defendant admitted to molesting children and invited the woman to share in his sexual exploits with children, was enough to show that the defendant had a predilection for the crime."

4. Conclusion. The judgments on the indictments charging enticement of a child under age sixteen, attempted rape of a child, and attempted indecent assault and battery on a child under age fourteen are affirmed. The judgments on the indictments charging attempted dissemination of materials harmful to a minor are reversed, the verdicts are set aside, and the indictments on those counts shall be dismissed.

So ordered.



**Interfering with any Right or Privilege  
Secured by Constitution or Laws of Commonwealth  
Chapter 265, Section 37**

**CIVIL RIGHTS VIOLATIONS-JURY INSTRUCTIONS**

The defendant is charged with having violated the Massachusetts Civil Rights Act, which is found as section 37 of chapter 265 of our General Laws. It provides that:

“No person . . . shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him [or her] by the constitution or laws of the commonwealth or by the constitution or laws of the United States.”

In order to prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

First: That [alleged victim] was exercising a right or privilege protected by the Constitution or laws of the Commonwealth of United States;

Second: That the defendant either injured, intimidated, interfered with, oppressed or threatened the exercise or enjoyment of that legally protected right by [alleged victim] , or attempted to do so;

Third: That the defendant did so by using force or by threatening to use force; and

Fourth: That the defendant did so wilfully.

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempting to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the Commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than \$1,000.00 or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine or not more than ten thousand dollars or by imprisonment for not more than ten years, or both.

**Elements:**

1. Whether or not acting under color of law
2. by force or threat of force
3. willfully injures, intimidates or interferes with
4. or attempts to do so
5. any other person
6. in the free exercise or enjoyment of
7. any right or privilege
8. secured by the constitution or laws of the commonwealth
9. or by the laws or constitution of the U.S..

**Right of Arrest:**

If no bodily injury, this is one (1) year misdemeanor with no right of arrest (could however, amount to a breach of the peace).

If bodily injury results, then this is a ten year felony.



## **Assault and Battery due to Race, Color, Religion or National Origin**

### **Chapter 265, Section 39**

#### **Definition:**

Whoever commits an assault or a battery upon a person or damages the real or personal property of another for the purpose of intimidation because of said person's race, color, religion, or national origin, shall be punished by a fine of not more than five thousand dollars or not more than three times the value of the property destroyed or damaged, whichever is greater, or by imprisonment in a house of correction for not more than two and one-half years, or both.

#### **Elements:**

1. Same as simple assault and battery, or
2. Damages real or personal property of another
3. Specific intent to intimidate
4. Because of victim's race, color, religion or national origin.

#### **Right of Arrest:**

This is a misdemeanor, arrestable IN THE PRESENCE since it amounts to a breach of peace.

#### **Note:**

Clearly, an assault and battery committed in your presence would amount to a breach of the peace, however, not every destruction of property would be a breach of the peace.

If bodily injury results, this statute is a felony.

#### **Com. v. Barnette, 45 Mass. App. Ct. 486, 699 N.E.2d 1230 (1998)**

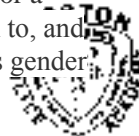
Essential elements of the crime of assault and battery for purpose of intimidation are: (1) the commission of an assault or battery (2) with the intent to intimidate (3) because of a person's race, color, religion, or national origin. M.G.L.A. c. 265, § 39. In general, a "hate crime" is a crime in which the defendant's conduct was motivated by hatred, bias, or prejudice, based on the actual or perceived **race, color, religion, national origin**, ethnicity, gender, or sexual orientation of another individual or group of individuals.

Defendant's repetition of phrase "damn Mexican" accompanied by his request that Mexican-American victims "Get out of here," during confrontation in which defendant threatened to kill and beat up victims, was sufficient to establish that defendant had intent to intimidate because of victims' **national origin**, so as to sustain conviction for **assault** and **battery** for purpose of intimidation. [M.G.L.A. c. 265, § 39](#).

## **Transgender Bill**

### **Chapter 121 of the Acts of 2016**

An owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement that lawfully segregates or separates access to such place of public accommodation, or a portion of such place of public accommodation, based on a person's sex shall grant all persons admission to, and the full enjoyment of, such place of public accommodation or portion thereof consistent with the person's gender identity.



## **The Crime of Stalking**

### **Chapter 265, Section 43**

#### **STALKING-Jury Instruction**

The defendant is charged with stalking [alleged victim] . Section 43 of chapter 265 of our General Laws provides as follows:

“Whoever . . . willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking . . . .”

In order to prove the defendant guilty of stalking, the Commonwealth must prove five things beyond a reasonable doubt:

First: That over a period of time the defendant knowingly engaged in acts, involving at least three incidents, directed at [alleged victim] ;

Second: That those acts were of a kind that would cause a reasonable person to suffer substantial emotional distress;

Third: That those acts did cause [alleged victim] to become seriously alarmed or annoyed;

Fourth: That the defendant took those actions wilfully and maliciously.

An act is “willful” if it is done intentionally and by design, and not out of mistake or accident.

An act is done with “malice” if the defendant’s conduct was intentional and without justification or mitigation, and any reasonable prudent person would have foreseen the actual effect on [the alleged victim] .

And Fifth: The Commonwealth must prove beyond a reasonable doubt that the defendant also made a threat with the intention of placing [alleged victim] in imminent fear of death or bodily injury.

#### **RIGHT OF ARREST:**

Five year felony arrestable in presence or upon probable cause.

*Discussion.* 1. *Stalking.* A person is guilty of stalking if he or she “(1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury”; the conduct, acts, or threats may be accomplished by means of electronic communication. G.L. c. 265, § 43 (a ). The defendant challenges the sufficiency of the evidence presented with respect to both the “threat” and “pattern of conduct or series of acts” components of stalking. We focus on the threat component.



The Commonwealth contends that the defendant's Facebook page containing the photograph of himself holding a gun, and, in a space labeled “[f]avorite [q]uotations,” the words, “Make no mistake of my will to succeed in bringing you two idiots to justice,” satisfied the threat element set out in § 43 (a ) (2).<sup>25</sup> The defendant disagrees, arguing that because the Facebook page was ambiguous and temporally remote from the alleged harassment, the First Amendment to the United States Constitution dictates that the page could not qualify as a “threat” under § 43 (a ) (2), but was instead protected speech. We agree with the defendant's contention that there was insufficient evidence for a rational jury to find that the defendant made such a threat.

Finally, although communication of a threat to its intended victim is not expressly required under § 43 (a ) (2), we agree with the Appeals Court that evidence of the defendant's intent to communicate the threat through direct or indirect means is necessary. See *Commonwealth v. Hughes*, 59 Mass.App.Ct. 280, 281–282, 795 N.E.2d 594 (2003). Where communication of the threat is indirect—for example, through an intermediary—the Commonwealth must prove beyond a reasonable doubt that the defendant intended the threat to reach the victim. See *id.* at 283, 795 N.E.2d 594 (jury could have found that defendant intended his brother to convey threat to victim). Compare *Commonwealth v. Meier*, 56 Mass.App.Ct. 278, 279–282, 776 N.E.2d 1034 (2002) (defendant's \*\*994 letter to victim indicating belief that victim was responsible for recent collection efforts against defendant, combined with threatening statement to collection attorney regarding victim, supported inference that defendant intended statement to reach victim), with *Commonwealth v. Troy T.*, 54 Mass.App.Ct. 520, 527–528, 766 N.E.2d 519 (2002) (where third party overheard putative threat, but there was no evidence of defendant's intent that third party would hear threat, jury could not infer \*694 intent to communicate threat to target). Applying these principles to the defendant's Facebook profile page, although the victim testified that she was terrified when she viewed the page, her subjective reaction is not the crux of the inquiry. Rather, it is necessary to focus on the content of the page in the context of the past and present relationship between the defendant and the victim to determine whether there was sufficient evidence of the defendant's intent to threaten the victim and whether the victim's fear was reasonable.

Com. v. Walters, 472 Mass. 680, 689–90, 37 N.E.3d 980, 990–91 (2015)





## **Criminal Harassment**

### **Chapter 265, Section 43A**

#### **CRIMINAL HARASSMENT-JURY INSTRUCTION**

##### **Elements**

First: That the defendant engaged in a knowing pattern of conduct or speech, or series of acts, on at least three separate occasions;

Second: That the defendant intended to target [the alleged victim] with the harassing conduct or speech, or series of acts, on each occasion;

Third: That the conduct or speech, or series of acts, were of such a nature that they seriously alarmed [the alleged victim] ;

Fourth: That the conduct or speech, or series of acts, were of such a nature that they would cause a reasonable person to suffer substantial emotional distress; and

Fifth: That the defendant committed the conduct or speech, or series of acts, willfully and maliciously.

Commonwealth v. McDonald, 462 Mass. 236, 240, 967 N.E.2d 1101 (2012:

##### **Right of arrest**

Non-arrestable misdemeanor

Note:

The elements of this crime are the same as Stalking without the Threat

##### **Com. v. O'Neil, 67 Mass. App. Ct. 284, 853 N.E.2d 576 (2006)**

To establish offense of criminal harassment, Commonwealth must prove that the defendant committed not less than three separate incidents of wilful and malicious conduct specifically directed at the victim, that the victim was seriously alarmed by this conduct, and, finally, that a reasonable person would have suffered substantial emotional distress as a consequence of this conduct. M.G.L.A. c. 265, § 43A(a).



# Boston Police Academy

PO Sophia Vega-Jones

Training Bulletin 6-10  
(Issued: October 1, 2010)



## **M.G.L c. 258E: An Act Relative to Harassment Prevention Orders**

### **Officer's Obligations Under M.G.L. c. 258E:**

**Officers should make every effort to do the following as part of the emergency response:**

- ➤ Assess the immediate physical danger to the victim and provide assistance reasonable to mitigate the safety risk;
- ➤ If there is visible injury or the victim is complaining of injury, encourage the victim to seek medical attention or request an ambulance to transport the victim to a hospital;
- ➤ If a sexual assault has occurred, notify the victim that there are time sensitive medical or forensic options that may be available and encourage the victim to seek medical attention and request an ambulance for transport;
- ➤ Provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place;
- ➤ Provide adequate notice to the victim of his/her rights including but not limited to, obtaining a harassment prevention order;
- ➤ Assist the victim by activating the emergency judicial system when the court is closed for business (Instruction packets for recording Harassment Prevention Orders when the courts are closed are available at each district); and
- ➤ Inform the victim that abuser will be eligible for bail and may be promptly released.

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## Human Trafficking

### Chapter 265, Section 51

*[ Text of section added by 2011, 178, Sec. 23 effective February 19, 2012.]*

Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for forced services upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence.

(c) A business entity that commits trafficking of persons for forced labor services shall be punished by a fine of not more than \$1,000,000.

(d) A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred, where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venturer in trafficking of person for forced labor or services shall be civilly liable for an offense under this section.



Com. v. McGhee, 472 Mass. 405, 406–12, 35 N.E.3d 329, 333–37 (2015)

In this case, we are asked to consider, for the first time, the constitutionality of the Massachusetts sex trafficking statute. On November 21, 2011, the Legislature approved “An Act relative to the commercial exploitation of people,” which criminalized sexual servitude, forced labor, and organ trafficking as of its effective date of February 19, 2012. St. 2011, c. 178, §§ 1–31. The portions of the enactment at issue here, pertaining to the \*407 trafficking of persons for sexual servitude, were codified at G.L. c. 265, §§ 49, 50. See St. 2011, c. 178, § 23.

General Laws c. 265, § 50 (a ), states, in relevant part:

“Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means ... another person to engage in commercial sexual activity ... or causes a person to engage in commercial sexual activity ... or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not less than [five] years but not more than [twenty] years and by a fine of not more than \$25,000.”

The phrase “[c]ommercial sexual activity” is defined as “any sexual act on account of which anything of value is given, promised to or received by any person.” G.L. c. 265, § 49.

On December 19, 2012, a Suffolk County grand jury indicted each defendant, Tyshaun McGhee and Sidney McGee, on nine counts of aggravated rape, G.L. c. 265, § 22 (a ), three counts of trafficking persons for sexual servitude, G.L. c. 265, § 50, and two counts of deriving support from the earnings of a prostitute, G.L. c. 272, § 7. The charges arose from allegations by three women (C.C., S.E., and B.G.<sup>2</sup>) that the defendants approached them, took their photographs to post as advertisements on a Web site called Backpage.com, drove them to various locations to have sex with men who responded to the advertisements, and then retained some or all of the money that the women received as payment from these men. The defendants filed a joint pretrial motion to dismiss the sex trafficking charges on the grounds that G.L. c. 265, § 50, is unconstitutionally vague and overbroad, both on its face and as applied to them. A judge of the Superior \*\*334 Court denied the motion. Following a jury trial, Tyshaun was convicted on all three indictments charging him with trafficking persons for sexual servitude (C.C., S.E., and B.G.),<sup>3</sup> and both indictments charging him with deriving support from the earnings \*408 of a prostitute (C.C. and S.E.). He was found not guilty on the indictments charging him with aggravated rape. Sidney was convicted on all three indictments charging him with trafficking persons for sexual servitude (C.C., S.E., and B.G.),<sup>4</sup> and he was found not guilty on the remaining indictments. Each defendant filed a timely notice of appeal, and we granted their subsequent applications for direct appellate review.

The defendants contend on appeal that (1) G.L. c. 265, § 50, is unconstitutionally vague as applied to them and, therefore, violated their rights to due process under the Fifth and Fourteenth Amendments to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights; (2) G.L. c. 265, § 50, is unconstitutionally overbroad on its face in violation of their right to freedom of association under the First Amendment to the United States Constitution; (3) the phrase “commercial sexual activity” is unconstitutionally overbroad; (4) the judge erred in allowing the substantive admission of grand jury testimony from one of the Commonwealth's witnesses; and (5) the judge violated their right to confrontation by hindering their cross-examination of C.C. with respect to several pending criminal charges against her and her purported history of prostitution. In addition, Tyshaun contends that the sentences imposed for his convictions of deriving support from the earnings of a prostitute were illegal. For the reasons that follow, we conclude that G.L. c. 265, § 50, is constitutional, that the sentences challenged by Tyshaun were illegal, and that the defendants' remaining claims of error have no merit.

Accordingly, the judgments are affirmed. As to the indictments charging Tyshaun with deriving



support from the earnings of a prostitute, those cases are remanded for resentencing in accordance with this opinion.<sup>5</sup>

1. *Factual background.* We summarize the facts the jury could have found, reserving certain details for our discussion of the issues raised. As mentioned, the charges against the defendants arose from their interactions with three women in the fall of \*409 2012.<sup>6</sup> C.C., then approximately twenty-four years old, had a history of drug and alcohol use, and she had spent time in several treatment facilities. On September 7, 2012, as she left Boston Medical Center after having been treated for two drug overdoses within one twenty-four hour period, she encountered the defendants, who were standing outside the hospital. The defendants asked C.C. what she was doing, and she told them that she was interested in “party[ing].” After offering to give her a ride, the defendants walked C.C. to an apartment on Eustis \*\*335 Street in Boston, where C.C. observed an older man standing outside. Tyshaun gave the man some money, and then Tyshaun proceeded inside with C.C. and Sidney. They went upstairs to a bedroom where all three drank from a bottle of alcohol, C.C. smoked some “crack” cocaine that had been given to her by Tyshaun, and the defendants purportedly raped C.C. as she cried.<sup>7</sup> Afterward, C.C. got dressed, all three individuals walked to an apartment on Dudley Street where Tyshaun's mother lived, and C.C. fell asleep on a couch. She did not attempt to run away because she was afraid of what might happen to her.

The next morning, the defendants and C.C. walked to a fast food restaurant where Tyshaun purchased some heroin from a friend and gave it to C.C., who proceeded to inject it into her foot. As they walked away from the restaurant, the defendants started talking with C.C. about a business arrangement whereby she could “make a lot of money,” “have a nice car,” and “have a nice apartment.” It was C.C.'s understanding that the defendants were talking about prostitution. They continued this conversation until they reached the Dudley Street apartment.

At the apartment, the defendants prepared to take photographs of C.C., which they planned to post as advertisements on the Web site Backpage.com. Tyshaun told C.C. that there would be a “rate,” which she understood as meaning that she would be having sex with people in exchange for money. Although “definitely hesitant,” C.C. agreed to proceed because she was “broke and homeless, and having a nice apartment and car and money seemed like the best option.” Tyshaun gave C.C. lingerie to wear, and he took photographs of her with a digital camera in the bathroom of the \*410 apartment. C.C. started feeling “uncomfortable” and did not want to be in the situation in which she found herself. Nonetheless, the defendants transferred the photographs to Sidney's laptop computer and then posted them on Backpage.com. Tyshaun included his cellular telephone number with the photographs, and the name indicated on them was “Jamie Lynn.”

After about thirty minutes, Tyshaun's telephone started to ring. He answered it and handed the telephone to C.C., having told her what to say to the callers. C.C. would ask them “if they were a cop of any sort,” what they wanted, and whether they could meet at a particular location that had been chosen by Tyshaun and Sidney. Tyshaun established prices of one hundred dollars for thirty minutes of sex, and \$150 for one hour of sex. When C.C. arranged to meet a man at the Eustis Street apartment for thirty minutes of sex, the defendants walked with her to that location, and Tyshaun again gave some money to the same older man who had been standing outside that location the previous day. C.C. was directed to a room, she had sex with the man she had arranged to meet, she was paid one hundred dollars, and she handed the money over to Tyshaun, keeping none of it for herself.

Over the course of the next three to four days, C.C. had sex with five or six other men in various locations. The defendants always accompanied C.C. to the designated meeting place and would wait for her until she had finished. She gave all of the money that she was paid to Tyshaun, who arranged the accommodations. At some point, Tyshaun stopped providing drugs and alcohol to C.C., telling her that she \*\*336 was not making enough money to support her habits.

On September 12, 2012, roughly five days after having met the defendants, C.C. woke up alone in a hotel room. Although neither defendant was there, Tyshaun's cellular telephone was in the



room. C.C. telephoned her father. He told her to leave the hotel room, and she jogged to a nearby pharmacy, where she telephoned her father again to pick her up. On the drive to her parents' home, C.C. told her father in response to his questioning that she had been raped. After she arrived home, C.C.'s mother took her to Brockton Hospital where she was interviewed by a sexual assault nurse examiner and diagnosed with pneumonia and cellulitis. During her examination, C.C. told the nurse that over the past several days she had engaged in sex with multiple men. At some point shortly thereafter, C.C. told Boston police officers that she had been sexually assaulted, but she did not disclose her \*411 involvement in prostitution. On October 2, 2012, C.C. was shown a photographic array, and she identified the photograph of Sidney. Approximately one month later, C.C. told the police about her involvement with prostitution. On December 12, 2012, C.C. went to Boston police headquarters to view a live lineup, and she identified Tyshaun.

In the fall of 2012, S.E., then approximately twenty-six years old, was homeless, and had a history of drug use. S.E. met Sidney around September 18, when she was standing in line outside a homeless shelter near the Boston Medical Center. After asking S.E. several questions, Sidney told her that he could help her, and that she could earn enough money working as an "escort" to live a better life. S.E. accompanied Sidney to meet Tyshaun, and then the three of them went to the apartment on Dudley Street where Tyshaun's mother lived. Once there, the defendants told S.E. that they were going to take photographs of her and post them on the Web site Backpage.com. S.E. agreed, but "wasn't comfortable" with the arrangement. Tyshaun took the photographs using his cellular telephone, Sidney showed her how to pose, and the defendants posted the photographs online. Tyshaun included his cellular telephone number with the photographs, and the name indicated on them was "Natalia."

After a short period of time, calls and text messages started arriving on Tyshaun's telephone. S.E. realized that Tyshaun was conversing about sex, not merely escorting, only when she questioned him about the prices for her "services." Tyshaun told the callers that it would be \$150 for "full service," which meant oral and vaginal sex, and fifty dollars for just oral sex. Shortly thereafter, a man arrived at the Dudley Street apartment, he and S.E. "engaged in sexual behavior," the man paid her some cash, and she gave it to Tyshaun so he could "put gas in the car," "rent a hotel room," and "keep posting the ad." S.E. subsequently met another individual at a different location that was a few blocks away from the Dudley Street apartment. She was unable to remember what happened at this second location. S.E. returned to the Dudley Street apartment with the defendants at around 3 a.m., she performed oral sex on each defendant at their behest because she "didn't want to get hurt," she had sexual intercourse with Tyshaun, and then the defendants fell asleep.

The next morning, after the defendants took S.E. to a methadone clinic, they proceeded to check Tyshaun's telephone for responses to the photographs they had posted on Backpage.com. \*412 Over the next twenty-four hours, the defendants drove S.E. to different locations where she engaged \*\*337 in various sexual acts with several different men. The defendants always remained nearby in their parked motor vehicle and, once S.E. had finished, Tyshaun demanded all of the cash that she had received.

On her third day with the defendants, Tyshaun again took S.E. to a methadone clinic where she chatted with B.G., a woman she had met during prior visits to the clinic. After their conversation, B.G. went outside and spoke with the defendants, whom she already had met. Eventually, all four of them returned to the Dudley Street apartment, where B.G. used a computer to repost photographs of herself that had been submitted to Backpage.com on an earlier occasion. The defendants also took new photographs of B.G. and posted them on the Web site. Later that same day, the defendants drove S.E. and B.G. some distance to a hotel where each woman had sex with two men for money. The defendants waited outside in their car. S.E. and B.G. received \$250, which was split evenly, and S.E. gave her share to Tyshaun when he asked for it. B.G. kept some, if not all, of the money she had received. Eventually, the group drove back to Boston. Tyshaun and B.G. had an argument about sex and money; Tyshaun pulled the vehicle over to the side of



the road, and the women got out. B.G. removed some personal belongings from the trunk, and the two women walked away. The defendants drove off.

S.E. and B.G. went to Boston Medical Center, and the police were called to the scene. In the waiting room, the women met with Officer Edward Fleming and told him that they had been forced into prostitution. Boston police officers subsequently interviewed S.E. and B.G. regarding the events that had transpired with the defendants. On September 26, 2012, S.E. went to a police station to view a photographic array. She identified Tyshaun, and he was arrested the next day. On September 28, 2012, S.E. returned to the police station to view another photographic array. She identified Sidney, and he was arrested that same day.

**Possession of a Deceptive Weapon during a Violent Crime**  
Chapter 265, Section 58

Section 58. Any person who is in possession of a deceptive weapon device as defined in section 121 of chapter 140 during the commission of a violent crime as defined in said section 121 of said chapter 140 shall be deemed to be armed and shall be punishable by penalties set forth in this chapter.





## **Burning or Aiding to Burn A Dwelling**

### **Chapter 266, Section 1**

#### **Elements:**

1. Malicious intent
2. To set fire or burn certain buildings
3. Or aiding in such burning
4. Building occupied or not
5. Property of himself or another

#### **Right of Arrest:**

This 20 year felony is arrestable in presence or upon probable cause.

#### **Notes:**

Dwelling -- Tenements  
Hotels  
Institutions  
Sanitariums  
Boarding Houses  
Apartment Houses  
Dormitories  
Hospitals  
Or any other place where people are domiciled

There must be some burning evidence, charring is sufficient.

Occupied or not . . . your own house or someone else's. The building need not be occupied. There must, however, at least be proof that the structure is capable of being occupied as a dwelling.

Willfulness and malice may be formed AFTER as well as before the fire started.





## **Burning or Aiding to Burn Other Buildings**

### **Chapter 266, Section 2**

#### **Elements:**

1. Malicious intent
2. Set fire or aid or burn other buildings, ships, railway cars, etc. not described in Section 1
3. Whether property of himself or another
4. Occupied or not

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

## **Burning or Aiding to Burn Wood, Produce or Personal Property**

### **Chapter 266, Section 5**

#### **Elements:**

1. Malicious intent
2. Sets fire or burns or aids
3. (See list of properties in law book) and personal property of another or a boat or a MOTOR VEHICLE valued at over \$25.

#### **Right of Arrest:**

This 3 year felony is arrestable in presence or upon probable cause.



## **Attempting to Burn or Aid in Burning**

### **Chapter 266, Section 5A**

#### **Definition:**

Willfully and maliciously attempts to set fire to, or attempts to burn, or aids, counsels or assists in such attempt any buildings, structures or property mentioned in the foregoing sections or committing any act preliminary thereto or in furtherance thereof.

#### **Elements:**

1. Willfully and maliciously
2. attempts to burn
3. or aids, counsels, assists
4. any buildings, structures or property
5. or committing any preliminary act

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause

#### **NOTE:**

The placing or distributing of any flammable, explosive or combustible material in or against any such property in preparing to set it on fire shall constitute an attempt under this section.

## **Burning Insured Property with Intent to Defraud**

### **Chapter 266, Section 10**

#### **Definition:**

Willfully and with intent to defraud or injure the insurer, sets fire to, or attempts to set fire to, or whoever causes to be burned, or whoever aids, counsels, or procures the burning of a building or any goods, wares, merchandise or other chattels, belonging to himself or another, and which are at the time insured against loss or damage by fire.

#### **Elements:**

1. willfully
2. specific intent
3. set fire to or aids, etc.
4. property of himself or another
5. the property carrying fire insurance at the time

#### **Right of Arrest:**

This 5 year felony is arrestable in presence or upon probable cause.



## **Burglary, Armed or Making an Assault**

### **Chapter 266, Section 14**

#### **Definition:**

Breaking and entering a dwelling house in the nighttime, with intent to commit a felony, or after having entered with such intent, breaks such dwelling house in the nighttime, any person being lawfully therein, and the offender being armed with a dangerous weapon at the time of such B & E, or so arming himself in such a house OR making an actual assault on a person lawfully therein.

#### **Elements:**

1. Breaking
2. Entry
3. Dwelling
4. Of another
5. Nighttime (that time between one hour after sunset and one hour before sunrise)
6. Felonious intent
7. Armed or arming oneself
8. OR making an actual assault on a person therein

#### **Right of Arrest:**

This life felony is arrestable in presence or upon probable cause.

#### **Note:**

Both the break and the entering must occur in the nighttime not necessarily the same night -- could enter without breaking (through an open door) and then break once inside (like opening a bedroom door).

No felony need be committed, but rather the intent to commit a felony.

If he does B&E, it may be presumed in the absence of evidence to the contrary, that his intent is to steal.

A motel constituted a "dwelling house" within the purview of this section prohibiting breaking and entering a dwelling in nighttime. Comm. v. Correia

Com. v. Gordon, 42 Mass. App. Ct. 601, 678 N.E.2d 1341 (1997)

There can be only one conviction for one act of armed burglary that includes assault of persons within dwelling, regardless of how many people the perpetrator assaults once inside the dwelling; multiple indictments based on number of assault victims are duplicative and all but one indictment must be dismissed. M.G.L.A. c. 266, § 14.



## COMMONWEALTH v. MITCHELL 67 Mass. App. Ct. 556, (2006)

Burglary. Statute, Construction. Assault and Battery

This case requires us to examine G.L. c. 266, § 14 (armed burglary), to determine whether it covers a breaking and entering of a dwelling with intent to commit a felony and a subsequent assault on a person lawfully therein even though that person arrived home after the break while the intruder was still present. We hold that it does.<sup>1</sup>

**\*557 Facts.** The jury could have found the following facts. The victim and the defendant, Rudolph C. Mitchell, Jr., had an intermittent romantic relationship beginning in February, 2001. On October 8, 2002, the defendant telephoned the victim and asked her to pick him up from the mall. She refused, hung up the telephone, and left her home. While she was out, the defendant entered her home through the front door, which was locked. When she returned around 10:45 p.m., the victim and the defendant became involved in a violent struggle. The defendant repeatedly hit and kicked the victim. During the struggle, the defendant threw the victim's head against the refrigerator and cabinet doors, causing visible dents to both. The victim testified that the defendant repeatedly threatened to kill her. The defendant stood over the victim, began to strangle her, and pulled a telephone cord around her neck. When the police arrived, they found the defendant approximately fifteen feet from the victim. She was lying on the floor with her face and clothes covered in blood; her eyes were swollen and her nose appeared to be broken. In response to an officer's question, the victim told the police that the defendant had beaten her. The police arrested the defendant after a struggle, and he was subsequently indicted for, inter alia, armed burglary, assault with intent to murder, attempted murder, assault and battery by means of a dangerous weapon, assault and battery on a police officer, and violation of a restraining order, all based on the October 8, 2002, incident. The defendant was convicted of assault and battery by means of a dangerous weapon, assault and battery on a police officer, violation of a restraining order, and armed burglary. He appeals the armed burglary conviction.

<sup>1</sup> *Armed burglary.* The relevant part of the armed burglary statute, G.L. c. 266, § 14, amended by St.1998, c. 180, § 65, provides:

"Whoever breaks and enters a dwelling house in the night time, with intent to commit a felony, or whoever, after having entered with such intent, breaks such dwelling house in the night time, any person being then lawfully **\*558** therein, and the offender being armed with a dangerous weapon at the time of such breaking or entry, or so arming himself in such house, or making an actual assault on a person lawfully therein, shall be punished...."<sup>2</sup>

To interpret this statute it is also helpful to have in mind the terms of the unarmed burglary statute, G.L. c. 266, § 15:

**\*\*408** "Whoever breaks and enters a dwelling house in the night time, with the intent mentioned in the preceding section, or, having entered with such intent, breaks such dwelling house in the night time, the offender not being armed, nor arming himself in such house, with a dangerous weapon, nor making an assault upon a person lawfully therein, shall be punished...."

The defendant argues that his motion for a required finding of not guilty should have been allowed since the victim was not at home when he entered the dwelling. Thus, he argues, she was not, in the words of G.L. c. 266, § 14, "then lawfully therein." She was of course lawfully in her dwelling while the defendant was still there pursuant to his breaking and entering and subsequent assault on her, although she arrived after his entry. The simple answer to this argument is that the phrase "any person being then lawfully therein" does not refer to the moment of entry (or breaking, or becoming armed), but rather to the time during which the intruder is in the premises pursuant to his felonious entry.

We note that the Legislature distinguished two time periods when referring to the possession of a dangerous weapon: "at the time of such breaking or entry" or "so arming himself in such house." The Legislature could have similarly stated, "any person being lawfully therein at the time of such breaking or entry," but did not. Cf. *Commonwealth v. Galvin*, 388 Mass. 326, 330, 446 N.E.2d 391 (1983) (when a statute employs specific language in one portion, and excludes it in another, the language should not be implied where it is missing); 2A Singer, Sutherland Statutory **\*559** Construction § 46.06 (6th ed.2000). This implies a more general meaning for the indefinite reference "then," to include the span of time that follows the entry.



Although the point does not appear to have been specifically decided until now, there were similar facts in *Commonwealth v. Goldoff*, 24 Mass.App.Ct. 458, 510 N.E.2d 277 (1987). There, the defendant had entered the relevant space before the victim arrived, and then assaulted the victim as the defendant was making his escape. We only discussed the issue whether a common hallway in an apartment building was part of a dwelling for the purposes of burglary statutes, and concluded that it was. *Id.* at 462–464, 510 N.E.2d 277. We did not note any additional difficulties presented by the fact that the defendant arrived some time before the victim.

In *Commonwealth v. Hallums*, 61 Mass.App.Ct. 50, 53, 806 N.E.2d 965 (2004), we assumed that the armed burglary statute required that the victim be present at the time of entry, but held that the evidence permitted the jury to find that the victim was in his home at the time the defendant entered, even though the defendant gained entry by pushing the victim ahead of him through the door into the victim's house. Thus, it was not necessary to consider whether it would make any difference if the defendant had stepped through the door first.

Although it is possible to interpret the word “then” in our statute to refer to the moment of breaking or entering, the more logical reference is to the time during which the burglar is present in the dwelling as a result of his felonious breaking and entering. The aggravation of the crime is based on the lawful presence of a person in the dwelling during the time the burglar is present. Cf. *Commonwealth v. Dunn*, 43 Mass.App.Ct. 58, 64, 680 N.E.2d 1178 (1997) (home invasion statute, G.L. c. 265, § 18C, carries a harsher penalty than the armed burglary statute because of the additional element that “intruder knows, or should know, that an occupant is present before he enters the dwelling” and the presence of an occupant “heightens the risk of a potentially deadly encounter”). Where the crime is committed by one who has armed himself, before or after entering, the aggravation is based on the inherent threat to the occupant during the \*\*411 event. See *Commonwealth v. Claudio*, 418 Mass. 103, 109, 634 N.E.2d 902 (1994) (“unlawful entry during the night time into a dwelling ... inevitably poses a high degree of danger to any and all occupants”). It should not depend on whether the occupant happens to arrive in the premises before or after the entry of the intruder. See *State v. Reed*, 8 Kan.App.2d at 616, 663 P.2d 680.

The case is even stronger where the aggravation is based upon an actual assault on a lawful occupant. See 12A C.J.S. Burglary § 8, at 175 (2004) (physical injury inflicted during the commission of the burglary elevates the burglary to first degree).<sup>11</sup> It makes no sense to regard an assault by a burglar on someone in her home as less of an aggravation merely because the victim happened to arrive home during the course of the burglary, and the statute should not be interpreted to require that result.

2 The point is made even clearer by observing that the defendant on these facts could not be convicted of unarmed \*563 burglary. A plain reading of G.L. c. 266, § 15, specifically excludes the case (which we have here) in which an assault actually takes place. See *Sullivan v. Brookline*, 435 Mass. 353, 360, 758 N.E.2d 110 (2001) (“statutory language should be given effect consistent with its plain meaning”). Furthermore, the relationship between §§ 14 and 15 of G.L. c. 266 indicates that they should be interpreted together.<sup>12</sup> When “two or more statutes relate to the same subject ..., they should be construed together so as to constitute a harmonious whole consistent with the legislative purpose.” *Board of Educ. v. Assessor of Worcester*, 368 Mass. 511, 513–514, 333 N.E.2d 450 (1975). Evaluating §§ 14 and 15 together, it seems clear that the Legislature intended that when an assault takes place during a burglary, the offense should be charged as armed burglary, not as simple burglary. See *Devoe v. Commonwealth*, 44 Mass. 316, 3 Met. 316, 327 (1841). See also *Commonwealth v. Powell*, 10 Mass.App.Ct. 57, 59, 405 N.E.2d 991 (1980) (where there was a dispute whether the intruder armed himself in the dwelling, a jury could have acquitted the defendant of the greater offense of armed burglary and instead convicted the defendant of unarmed burglary).

We conclude that the phrase “any person being then lawfully therein” does not preclude a defendant from being convicted under G.L. c. 266, § 14, merely because the victim came home after the defendant broke and entered her home. Although the victim was not present in the dwelling at the time of the defendant's breaking and entry, she was lawfully present during the course of the burglary. The victim of an assault is “present” at the time of the assault, and it is the time of the assault that is relevant, not the time of the entry.<sup>13</sup>



## **Burglary, Not Being Armed**

### **Chapter 266, Section 15**

#### **Definition:**

Breaking and entering of a dwelling house of another in the nighttime.

#### **Elements:**

1. Breaking
2. Entry
3. Dwelling
4. Of another
5. Nighttime
6. Felonious intent
7. Offender unarmed

#### **Right of Arrest:**

This 20-year felony is arrestable in presence or upon probable cause.

Dwelling -- Tenements

Hotels

Institutions

Sanitariums

Boarding Houses

Apartment Houses

Dormitories

Hospitals

Or any other place where people are domiciled

## **Breaking and Entering a Building or Ship**

### **Chapter 266, Section 16**

#### **Definition:**

Whoever, in the nighttime, breaks and enters a building, ship, vessel or vehicle, with intent to commit a felony, or who attempts to or does break, burn, blow up or otherwise injures or destroys a safe, vault or other depository of money, bonds or other valuables in any building, vehicle or place, with intent to commit a larceny or felony, shall be punished by imprisonment in the state prison for not more than twenty years or in a jail house of correction for not more than two and one-half years.

**Nighttime is defined by statute, (Ch. 278:10), as the time between one hour after sunset on one day and one hour before sunrise on the next day.**



This section further refers to anyone who attempts to or does break, burn, blow up or **otherwise injures** or destroys a safe, vault or other depository of money, bonds or other valuables in a building, **VEHICLE**, or place **WITH INTENT TO COMMIT A LARCENY or FELONY**. Unfortunately, in my opinion, this section is also governed by the phrase, **IN THE NIGHTTIME**.

The word depository has been defined by the Massachusetts Supreme Judicial Court to include:

- a) The trunk of an automobile -  
**Commonwealth v. Armenia**, 340 N.E. 2d 901 (1976)
- b) The passenger compartment of a motor vehicle -  
**Commonwealth v. Dreyer**, 468 N.E. 2d 862 (1984)

**Note:**

**Com. v. Cextary, 68 Mass. App. Ct. 752 (2007)**

Nonetheless, the statutory element of a “breaking” is broadly defined. *Commonwealth v. Burke*, 392 Mass. 688, 689–690, 467 N.E.2d 846 (1984). The classic requirement (relied on by the defendants) is proof of some physical act, however slight, to remove an obstacle to entry. See *Commonwealth v. Hall*, 48 Mass.App.Ct. 727, 730–731, 725 N.E.2d 247 (2000). Even at common law, however, an actual, physical breaking was not invariably required. There could be a breaking “either in fact or by implication,” a classic example of such an implied or constructive burglarious breaking was “to come down a chimney,” *id.* at 226. In response to hypertechnical quibbles that in such a case there was “no actual breaking,” Blackstone responded that “the law will not suffer itself to be trifled with by such evasions, especially under the cloak of legal process” (citation omitted). *Ibid.* Massachusetts law long has accepted the concept of “constructive breaking.” See *Commonwealth v. Labare*, 11 Mass.App.Ct. 370, 377–378, 416 N.E.2d 534 (1981) (involving entry gained through a false pretense). It also recognizes the so-called “open window” doctrine, which holds (analogously to the chimney situation) that entry through an opening not intended or ordinarily useable as a means of entry is within the scope of the statute. See *Commonwealth v. Tilley*, 355 Mass. 507, 509, 246 N.E.2d 176 (1969).

**Com. v. Rudenko, 74 Mass. App. Ct. 396**

After a jury-waived trial, a judge found the defendant guilty of breaking and entering in the nighttime with intent to commit a felony, see G.L. c. 266, § 16, and larceny over \$250, see G.L. c. 266, § 30. On appeal from those convictions, the defendant argues that the Commonwealth (1) presented insufficient evidence, and (2) failed to prove that he broke and entered a “building” within the meaning of the statute. We disagree and affirm the convictions.

1. *Sufficiency of the evidence.* As related in the Commonwealth’s case at trial, Gary Coleman, a Home Depot employee, arrived at the West Springfield store at approximately 4 a.m. on \*397 October 13, 2003, and soon noticed that two snow blowers were missing. Each weighed over 100 pounds and each was valued at \$1,200. Prior to the store’s closing the previous day, another worker, Eugene Lefebvre, had wrapped the snow blowers,





strapped them onto pallets, tagged and addressed them, and left them in the “delivery hall” where they were to be lifted by forklift onto delivery trucks the next day.

The delivery hall is a fenced-in storage area used to house overstocked items and items prepared for delivery; it connects directly with the roofed-in portion of the Home Depot store. An overhead door permits passage from the roofed-in portion of the store to the delivery hall, which is enclosed on its other three sides by a chain link fence of some height. Two gates on the fence provide access for delivery trucks to enter the delivery hall. The gates are secured by locks at all times except when opened for the delivery trucks. Home Depot's security procedures are strict and provide for perimeter checks of the entire facility when the store opens in the morning and closes at night. Likewise, security procedures regulate the opening and closing of the delivery hall gates, the entrance and exit of delivery trucks, and access by employees. The public is not permitted to access the delivery hall.

When the Home Depot store closed on October 12, the store and its contents were secure. The same appeared to be true when assistant manager Michael Masciadrelli performed the standard opening procedure on the morning of October 13. Masciadrelli did not initially observe anything suspicious as he drove around the \*\*256 perimeter of the building. However, soon after arriving at work that morning, Coleman and other Home Depot employees informed him that two snow blowers scheduled for delivery were missing from the delivery hall where they had been placed the night before. In their search for the snow blowers, they discovered that the lock to the north end delivery hall gate had been bypassed, allowing the gate to be opened.<sup>1</sup> Inside the delivery hall, they found the empty pallets, shrink wrap, and banding, which appeared to have been cut with a sharp object. Upon arriving at the store at 4 a.m., neither Coleman nor \*398 Masciadrelli had observed any vehicles in the parking lot. However, while searching for the snow blowers, some time after 4:30 a.m., Coleman and Lefebvre noticed a white pickup truck parked outside the gate in the parking lot next to a Pep Boys store. They notified Masciadrelli, who directed them to stay inside and not investigate further. Masciadrelli confirmed the presence of the white truck and called the police.

Officer Nelson Zayas of the West Springfield police arrived at the scene and saw a white pickup truck and a man, later identified as the defendant, standing between the truck and a tree. The truck's tailgate had been removed and was lying in the bed of the truck. As he walked behind the truck, Zayas observed a bright orange snow blower, partially wrapped in plastic, behind the tree that the defendant was standing next to. Zayas questioned the defendant, who appeared nervous.

The defendant initially claimed to be an employee of Home Depot, an assertion soon dispelled when Masciadrelli arrived. Masciadrelli also identified two snow blowers behind the tree as the property of Home Depot.

Zayas asked Oleg Yusenko, who appeared to be sleeping in the front passenger seat, to step out of the truck. When Yusenko complied, a small utility knife fell to the floor. Zayas also observed a “fresh trail” leading from the northern delivery hall gate (where the lock had been removed) to the location of the defendant. He also noticed that both the defendant and Yusenko had wet grass and dirt stuck to their shoes and pants.

<sup>1</sup> Viewed in the light most favorable to the Commonwealth, see *Commonwealth v. Latimore*, 378 Mass. 671, 677–678, 393 N.E.2d 370 (1979), the evidence and reasonable inferences were sufficient to establish that the defendant and Yusenko broke and entered





the fenced-in delivery hall that is part of the Home Depot store and stole two snow blowers, each valued at \$1,200. See *Commonwealth v. Cabrera*, 449 Mass. 825, 827, 874 N.E.2d 654 (2007); *Commonwealth v. Vickers*, 60 Mass.App.Ct. 24, 27, 798 N.E.2d 575 (2003). In the predawn hours, the defendant was found standing next to the empty flat bed of a truck capable of moving the heavy snow blowers that had been stolen some time the previous night; the truck's tailgate had been removed to facilitate loading. Inside the truck was a utility knife capable of cutting the strapping that bound the snow blowers to the pallets; \*399 and a trail of wet grass and mud on the defendant's clothing corresponded to the trail leading from the delivery hall to the truck. The defendant's false explanation to Zayas provided further evidence of his guilt. See *Commonwealth v. Stuckich*, 450 Mass. 449, 453, 879 N.E.2d 105 (2008). The inference was strong that the defendant and Yusenko were in the \*\*257 process of loading the snow blowers they had stolen onto the truck when the police arrived.<sup>2</sup> See *Commonwealth v. Ronayne*, 8 Mass.App.Ct. 421, 425–426, 395 N.E.2d 350 (1979).

2 2. “*Building*.” Whether the delivery hall is part of the Home Depot building is a closer question.

On the particular facts present, we conclude that the delivery hall is part of the Home Depot “building” for purposes of the first clause of G.L. c. 266, § 16.<sup>3</sup>

34 The crime of breaking and entering is an ancient one, and examination of its common-law roots provides guidance in discerning the reach of the statute in the instant case. See *Commonwealth v. Burke*, 392 Mass. 688, 690, 467 N.E.2d 846 (1984). The purpose of the burglary statutes is to protect the right of security in a place commonly associated with safety and refuge, the dwelling house. See *Commonwealth v. Goldoff*, 24 Mass.App.Ct. 458, 462, 510 N.E.2d 277 (1987). The statutes that prohibit the breaking and entering of a building serve a similar purpose, protecting the right of security in one's person and valuables, even when the building may not serve as a place of human habitation. The terms “dwelling” and “building” have generally been construed to further rather than frustrate these purposes. See *id.* at 459–460, 510 N.E.2d 277. See also *Commonwealth v. Burke*, *supra* at 689–690, 467 N.E.2d 846 (element of breaking broadly defined).

5 Where, as here, a statute does not define its terms, “we give them their usual and accepted meanings, as long as these meanings are consistent with the statutory purpose.” *Commonwealth v. Goldoff*, 24 Mass.App.Ct. at 460, 510 N.E.2d 277, quoting from *Commonwealth v. Zone Book, Inc.*, 372 Mass. 366, 369, 361 N.E.2d 1239 (1977).

“[U]nlike \*400 the term ‘dwelling house,’ which under certain criminal statutes has ‘acquired a peculiar and appropriate meaning in law,’ G.L. c. 4, § 6, ... the term ‘building’ carries no such baggage. Therefore, absent a contrary legislative intent, the term is to be given its common and accepted everyday meaning, ... as for example, ‘a *structure* or edifice inclosing a space within its walls and *usually* ... covered with a roof.’ Black's Law Dictionary 194–195 (6th ed. 1990).” (Emphasis added.) *Commonwealth v. Jackson*, 37 Mass.App.Ct. 940, 941, 641 N.E.2d 711 (1994). See *Commonwealth v. McKinnon*, 446 Mass. 263, 268, 843 N.E.2d 1020 (2006) (“dwelling” implies enclosed area).

With these principles in mind, we conclude that the locked, fenced-in delivery hall is part of the Home Depot building and under the protection of G.L. c. 266, § 16. See *Commonwealth v. Willard*, 53 Mass.App.Ct. 650, 654–655, 761 N.E.2d 971 (2002) (property secured within structure with expectation that it will be protected against theft is “under the protection of the building”). The delivery hall is an essential component of the



Home Depot building. It shares a wall with the roofed portion of the building and is enclosed on its other three sides by a gated and locked fence that restricts access. An overhead door provides direct access between the roofed and fenced-in portions of the building. \*\*258 The safety, security, and protection of valuable Home Depot merchandise is as much an issue in the delivery hall as in the roofed portion of the building, where customers complete their purchases.

The fact that the delivery hall lacks a roof is not determinative, where its other physical characteristics, including its contiguity to the roofed portion, shared wall, restricted access, and use for storage of valuable merchandise sold there, indicate that it is an integral part of the building proper. Nor should the protection of the statute turn on whether the defendant accomplished his breaking and entering of the building and larceny of the snow blowers by going through the front door of the roofed portion of the building rather than through the locked gate to the delivery hall.

Decisions from other States interpreting their burglary and breaking and entering statutes are of limited value given the differences in statutory expression. Supporting the view that we take is the decision in *Garrett v. State*, 259 Ga.App. 870, 578 S.E.2d 460 (2002). There, in similar circumstances, the Court of Appeals of Georgia \*401 concluded that the defendant violated Georgia's burglary statute when he cut a chain link fence topped with barbed wire and removed a commercial grade lawn mower from a storage shelter attached to the rear of a farm and lawn business.<sup>4</sup> The court reasoned “that the contiguous nature of the storage shelter, as well as its accessibility from the main building renders it ‘a part’ of the main building for purposes of [Ga.Code Ann. § 16–7–1(a) (2007), the burglary statute]. Further, the purpose of the shelter as a storage structure for valuable goods, its relevance to the business, and its inaccessibility to the public when the business is secured render the shelter a ‘building’ under the statute...” *Garrett v. State, supra* at 871, 578 S.E.2d 460.

Such a view is not shared universally, and other State decisions interpreting their particular statutes support a contrary view, albeit on different facts. See *In re E.S.*, 93 Ill.App.3d 171, 174, 48 Ill.Dec. 711, 416 N.E.2d 1233 (1981) (fenced-in area abutting automobile body shop containing customers' parked cars awaiting repair not “building”); *State v. Gamble*, 56 N.C.App. 55, 56, 59, 286 S.E.2d 804 (1982) (“partially” fenced area not “building” for purposes of statute prohibiting breaking and entering of building). In the particular factual context before us, we consider the conclusion that the delivery hall is part of the Home Depot building, notwithstanding its lack of a roof, to be more consonant with the purposes of G.L. c. 266, § 16, and accepted understanding.

At trial and in argument, the Commonwealth suggested as an alternative that the defendant was liable because the delivery hall is a “depository” within the meaning of the second clause of the statute that prohibits the breaking of a “depository of ... valuables in any building, vehicle or place, with intent to commit a larceny or felony.”<sup>5</sup> We view the facts as inapposite \*\*259 \*402 to such an interpretation. Because we have concluded that the delivery hall is *part of the building*, it follows that the delivery hall cannot also be a “depository of ... valuables in [a] building or place” (emphasis supplied). G.L. c. 266, § 16, as appearing in St.1985, c. 312, § 1.

*Judgments affirmed.*



## **Building or Ship; Nighttime Entry; Daytime Breaking and Entering**

### **Chapter 266, Section 17**

#### **Definition:**

Whoever, in the nighttime, enters without breaking, or breaks and enters in the daytime, a building, ship, vessel, or vehicle, with intent to commit a felony, the owner or any other person lawfully therein being put in fear, shall be punished by imprisonment in the state prison for not more than ten years.

#### **Note:**

To convict under this section, someone lawfully therein must be put in fear. Application of this could include the smashing of a car window and stealing a purse while the driver is stopped for a red light. The felony intended here would be robbery since there would be both force and violence and the driver placed in fear. Either of these elements would suffice for a robbery conviction. This statute would be applicable whether the suspect succeeds or fails in getting the purse since it's his intention at the time of the crime that prevails.

## **Breaking and Entering a Building or Ship**

### **With Intent to Commit a Misdemeanor**

#### **Chapter 266, Section 16A**

#### **Definition:**

In the nighttime or daytime, breaks and enters a building, ship, vessel or vehicle with intent to commit a misdemeanor.

#### **Elements:**

1. In the daytime or nighttime
2. breaks and enters
3. building, ship, vessel, or vehicle
4. with specific intent (to commit a misdemeanor\*.)

#### **Right of Arrest:**

This misdemeanor is **NON-ARRESTABLE**. There is no right of arrest given by statute and it does not normally amount to a breach of the peace.



**Dwelling House – Night-time Entry  
Daytime Breaking and Entering  
Chapter 266, Section 18**

**Definition:**

In the nighttime, enters a dwelling house without breaking OR breaks and enters in the daytime a building, ship, motor vehicle, or vessel, with intent to commit a felony, no person lawfully therein being put in fear.

**Elements:**

1. Enters a dwelling without breaking in the night
2. or breaks and enters in the daytime a building, ship, motor vehicle, or vessel
3. specific intent to commit a felony
4. no one put in fear.

**Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

**Notes:**

Larceny in a building is always a felony.

**Com. v. Cextary, 68 Mass. App. Ct. 752, 864 N.E.2d 1222 (2007)**

Defendant's jumping onto top of vehicle and entry into vehicle through open sunroof, after owner of vehicle took action to secure doors and hatches and activate alarm to prevent entry by any customary means, was a "breaking," as required to support conviction for breaking and entering a motor vehicle with intent to commit a felony. M.G.L.A. c. 266, § 18.

Massachusetts law long has accepted the concept of "constructive breaking." See *Commonwealth v. Labare*, 11 Mass.App.Ct. 370, 377–378, 416 N.E.2d 534 (1981) (involving entry gained through a \*757 false pretense). It also recognizes the so-called "open window" doctrine, which holds (analogously to the chimney situation) that entry through an opening not intended or ordinarily useable as a means of entry is within the scope of the statute. See *Commonwealth v. Tilley*, 355 Mass. 507, 509, 246 N.E.2d 176 (1969). See also *Commonwealth v. Hall*, 48 Mass.App.Ct. at 730–731, 725 N.E.2d 247 (involving entry through an open window almost five feet above the ground).<sup>7</sup> That doctrine finds clear and sensible application here. Scrambling onto the top of a car and slipping through an open sunroof<sup>8</sup> is as surreptitiously intrusive a violation of the security of one of the several physical spaces intended to be protected by G.L. c. 266, § 18, as is crawling down a chimney or scaling a wall to clamber through a window high above the ground.<sup>9</sup> Consequently the judge correctly submitted the breaking and entering charge to the jury.<sup>10</sup>



## **Breaking and Entering: Railroad Cars**

### **Chapter 266, Section 19**

#### **Definition:**

Whoever breaks and enters, or enters in the nighttime without breaking, a railroad car, with intent to commit a felony, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than five hundred dollars and imprisonment in the house of correction for not more than two years.

#### **Elements:**

1. enters in the nighttime without breaking or
2. breaks and enters
3. a railroad car
4. with intent to commit a felony

#### **Right of Arrest:**

This is a felony and arrestable if committed in presence or upon probable cause.

#### **Notes:**

The entering without breaking element is applicable only to the nighttime. Whereas the breaking and entering element would apply either daytime or nighttime.

Be aware of felony of stealing in a railroad car under Chapter 266:20

## **Stealing in Building, Ship or Railroad Car**

### **Chapter 266, Section 20**

#### **Definition:**

Whoever steals in a building, ship, vessel or railroad car shall be punished by imprisonment in the state prison for not more than five years or by a fine of not more than five hundred dollars or by imprisonment in jail for not more than two years.

#### **Elements:**

1. steals
2. in a building, ship, vessel or railroad car

#### **Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

#### **Notes:**

This is an "aggravated" larceny, therefore it is always a felony regardless of the value of the property stolen.



**Breaking and Entering;  
Truck, Tractor/Trailer Unit, Trailer, Semi-Trailer or Freight Container  
Chapter 266, Section 20A**

**Definition:**

Whoever, breaks and enters, or enters without breaking, a truck, tractor/trailer unit, trailer, semi-trailer or freight container with intent to commit a felony, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than five hundred dollars and imprisonment in the house of correction for not more than two years.

**Elements:**

1. breaks and enters, or
2. enters without breaking
3. truck, tractor/trailer unit, trailer, semi-trailer or freight container
4. with intent to commit a felony

**Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

**Note:**

The felony intended could be stealing in a truck (266:20B) among others.

**Stealing in a  
Truck, Tractor/Trailer Unit, Trailer, Semi-Trailer or Freight Container  
Chapter 266, Section 20B**

**Definition:**

Whoever steals in a truck, tractor/trailer unit, trailer, semi-trailer or freight container shall be punished by imprisonment in the state prison for not more than **five years** or by a fine of not more than five hundred dollars or by imprisonment in jail for not more than two years.

**Elements:**

1. stealing
2. in a truck, tractor/trailer, semi-trailer or freight container

**Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

**Notes:**

It is an "aggravated" larceny; it is always a felony regardless of the value of the property stolen.



## **Stealing in a Building on Fire**

### **Chapter 266, Section 24**

#### **Definition:**

Whoever steals in a building, which is on fire, or steals property, which has been removed in consequence of an alarm caused by fire, shall be punished by imprisonment in the state prison for not more than five years or by a fine of not more than five hundred dollars and imprisonment in jail for not more than two years.

#### **Elements:**

1. steals
2. in a burning building

**OR**

1. steals
2. property that has been removed in consequence of an alarm caused by fire.

#### **Right of Arrest:**

This is a felony, therefore it would be arrestable in presence or upon probable cause.

#### **Note:**

This is an "aggravated" larceny, therefore it is always a felony regardless of the value of the property stolen.



## **Larceny From the Person**

### **Chapter 266, Section 25**

#### **Definition:**

Committing larceny by stealing from the person of another

#### **Elements:**

1. commit larceny
2. by stealing
3. from the person of another

#### **Right of Arrest:**

This 5 year felony is arrestable in presence or on probable cause.

#### **NOTE:**

Pickpockets and some handbag snatches are covered by this statute.

This is always a felony regardless of the value of the property taken.

Must be from the person

Comm. v. Otis Jones states that the amount of force used to snatch a purse (if the woman is aware of it) is enough to make the crime unarmed robbery.

Com. v. Davis, 7 Mass. App. Ct. 9, 385 N.E.2d 278 (1979)

Ordinary pickpocket is guilty of larceny from the person rather than robbery because there is neither violence nor intimidation involved in the perpetration of the theft

Com. v. Moran, 387 Mass. 644, 646, 442 N.E.2d 399, 401 (1982)

Robbery may be punished more severely than larceny from the person. Compare G.L. c. 265, § 19, with G.L. c. 266, § 25. The principal policy served by this greater punishment is deterrence of the use of force (and the accompanying risk to human life) to obtain money or other property





## **Stealing Tools**

### **Chapter 266, Section 27**

#### **Definition:**

Stealing any tool belonging to any contractor, builder or mechanic from any building during the course of its construction, completion, alteration or repair.

#### **Elements:**

1. stealing any tool
2. property of contractor, builder or mechanic
3. from any building
4. during the course of its construction, completion, alteration or repair

#### **Right of Arrest:**

This is a nonarrestable misdemeanor. What about larceny/building? B & E?

## **Removal of Motor Vehicle; Defrauding Insurer**

### **Chapter 266, Section 27A**

#### **Definition:**

With the intent to defraud the insurer, removes or conceals a motor vehicle or trailer belonging to himself or another which is at the time insured against theft or with the same intent aids or abets in such removal or concealment.

#### **Elements:**

1. specific intent to defraud the insurer
2. removes or conceals a motor vehicle or trailer
3. of himself or another
4. insured against theft at the time
5. OR aids or abets in same

#### **Right of Arrest:**

This 5-year felony is arrestable in presence or upon probable cause.



**Motor Vehicle or Trailer  
Theft, Malicious Damage or Concealment  
Chapter 266, Section 28**

**Elements (subparagraph a):**

1. whoever steals...or
2. whoever maliciously damages...or
3. whoever buys, receives, possesses, conceals or obtains control...of a motor vehicle or trailer
4. knowing or having reason to know the same to have been stolen

OR

1. whoever takes a motor vehicle without the authority of the owner and
2. steals from it any of its parts or accessories

**Right of Arrest (a):**

This is a fifteen year felony and is arrestable in presence or upon probable cause.

Evidence that an identifying number or numbers of a motor vehicle or trailer or part thereof has been intentionally and maliciously removed, defaced, altered, changed, destroyed, obliterated or mutilated shall be prima facie evidence that the defendant knew or had reason to know the motor vehicle or trailer or part thereof had been stolen.

This statute provides that a prosecution commenced under this subdivision shall not be placed on file or continued without a finding. It also provides for a mandatory minimum sentence of one year for a second and subsequent conviction.

**Elements (subparagraph b):**

1. whoever conceals
2. a motor vehicle or trailer thief
3. knowing him to be such

**Rights of Arrest (b):**

This is a ten (10) year felony and is arrestable in presence or upon probable cause.

**Commonwealth v. Youngworth, 55 Mass.App.Ct. 30**

“The elements of possession of a stolen motor vehicle under G.L. c. 266, § 28, require proof that (1) the vehicle is stolen, (2) the defendant possessed the vehicle, and (3) the defendant knew that the vehicle was stolen.”



## **LARCENY**

### **Chapter 266, Section 30**

#### **Definition:**

Trespassory taking and carrying away the personal property of another with intent to deprive the owner permanently of its use.

#### **Elements:**

1. Trespassory taking
2. Carrying away
3. Personal property of another
4. Intent to steal

#### **Right of Arrest:**

If the value of the property taken is \$250 or less the crime is a misdemeanor, if the value is **over** \$250 or if a firearm or a trade secret then larceny under this section is a felony.

The statutory right of arrest for the misdemeanor portion of the statute is found under Chapter 276, Section 28. It would be a lawful arrest if it occurred in a officer's presence.

The right of arrest for the felony portion: This 5 year felony is arrestable in presence or upon probable cause.

Trespassory = unlawful -- doing an unlawful act.

THE ATTEMPT TO COMMIT ANY LARCENY UNDER 266:30 IS ALWAYS A NON-ARRESTABLE MISDEMEANOR.

#### **Notes:**

Statute encompasses stealing, obtaining property by false pretenses, embezzlement, and converting or secreting the property of another whether such property is or is not in the victim's possession at the time of such conversion or secreting.

- A thief can steal from a thief. (see receiving stolen property)
- Removing or carrying away -- piling at back door. (abandoned property)
- Property -- where special statute covers, it governs (trees)



## **Shoplifting**

### **Chapter 266, Section 30A**

#### **Elements:**

Whoever

1. intentionally takes possession of, carries away, transfers or causes to be carried away or transferred, or
2. intentionally conceals upon his person or otherwise, or
3. intentionally alters, transfers or removes any label, price tag marking indicia of value or any other markings which aid in determining value affixed and to attempt to purchase personally or in consort with another (at less than full retail value), or
4. intentionally transfer from one container to another container (which obviously must be marked with a lower price), or
5. intentionally records a value which is less than the actual retail value (false ring-ups by salesperson), or

Each of the preceding five elements refer to merchandise displayed, held, or offered for sale by any store or other retail mercantile establishment with the intent to deprive the merchant of all or some part of the retail value of the merchandise.

6. intentionally removes a shopping cart without permission with intent to deprive the merchant permanently of said cart

#### **Right of Arrest:**

This section is a misdemeanor with an in presence and a past misdemeanor probable cause right of arrest.

#### **Note:**

- This statute further states that the statement of a merchant or his employee or agent that a person has violated a provision of this section shall constitute probable cause for arrest by any law enforcement officer authorized to make an arrest in such a jurisdiction; However, police officers should be guided by their training as to whether probable cause legally exists.
- In the case of *Com. v. Hudson*, 535 N.E. 2d 208 (1989), the Massachusetts Supreme Judicial Court stated that the shoplifting statutes did not impliedly repeal the larceny statute as it relates to the theft of merchandise offered for sale. In other words, if the value of the merchandise stolen is over \$250, the suspect could be charged with the felony section of the larceny statute (c. 226, Section 30) instead of the misdemeanor of shoplifting.

Com. v. Rogers, 459 Mass. 249, 945 N.E.2d 295 (2011)

Statute allows merchant's or innkeeper's employees with suspicion based on reasonable grounds to detain a suspected shoplifter for a reasonable time and by reasonable means; statute creates an affirmative defense to charges of false arrest and false imprisonment for merchants who detain suspected shoplifters in a reasonable manner. M.G.L.A. c. 231, § 94B.



## Fraudulent Checks

### Chapter 266, Section 37

#### Elements:

1. Specific intent to defraud
2. makes, draws, utters, or delivers
3. any check, draft or order
4. upon any bank or depository
5. with knowledge that there are insufficient funds or credit
6. shall if no money, property or services are received, be guilty of attempted larceny and if received, be guilty of larceny.

#### Right of Arrest:

The same as simple larceny -- no right for attempt -- over \$250 felony right of arrest -- \$250 even or under \$250 arrestable in **presence** under statute.

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#### Com. v. Ryan, 79 Mass. App. Ct. 179,

General Laws c. 266, §§ 37A–37C, render **unlawful** the misuse and fraudulent **use** of any instrument or device, however denominated, issued by a business organization or financial institution<sup>6</sup> to facilitate the movement of money, goods, services, or anything else of value without immediate payment. **Section 37B** prohibits the misuse of “**credit cards**” by applicants, holders, and those who furnish goods or other things of value to the holder of such a card, and § 37C prohibits the fraudulent **use** of such cards to obtain money, goods, or services or anything else of value. Overarching the statutory framework is the definition of “[c]**redit card**” in § 37A as “any instrument or device, whether known as a **credit card**, credit plate, *or by any other name*, issued with or without fee by an issuer for the **use** of the cardholder in obtaining money, goods, services \*184 or anything else of value *on credit*.” (emphasis supplied).

For purposes of statutes prohibiting misuse of **credit cards**, debit card was the functional equivalent of a “**credit card**,” and, thus, evidence that defendant **used** victim's debit card to make unauthorized purchases of clothing, a mobile telephone, telephone services, food, and Registry of Motor Vehicle services, in excess of \$250 was sufficient for fraudulent **use** of a **credit card** conviction; debit card transactions involved extension of credit at point of sale, at least until the funds were later deducted from victim's account by issuer and credited to merchant's account, debit cards and **credit cards** were virtually indistinguishable, and statute defined “**credit card**” as any instrument or device by any name issued for the procuring of goods on credit. *M.G.L.A. c. 266, §§ 37A, 37C(e)*.



## Identity Fraud

### Chapter 266, Section 37

Com. v. Catalano, 74 Mass. App. Ct. 580, 908 N.E.2d 842 (2009)

The Commonwealth must prove beyond a reasonable doubt the following four elements to support a conviction for identity fraud: specifically, that a defendant (1) posed as another person; (2) did so without that person's express authorization; (3) used the other person's identifying information to obtain, or attempt to obtain, something of value; and (4) did so with the intent to defraud

## Misuse of Credit Card

### Penalties; Multiple Possession, Presumption; Arrest

### Chapter 266, Section 37B

#### Elements:

1. With specific intent to defraud.

#### Making false statements to obtain credit

(a) makes or causes to be made, either directly or indirectly, any false statement as to a material fact in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, for the purpose of procuring the issuance or a credit card, or

#### Uses another without consent

(b) takes a credit card from the person, possession, custody or control of another without the cardholder's consent by any conduct which would constitute larceny, or who, with knowledge that it has been so taken receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or cardholder, or

#### Uses a credit card known to have been lost

(c) receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder, or

#### Sells or buys another

(d) being a person other than the issuer or his authorized agent, sells a credit card, buys a credit card from a person other than the issuer or his authorized agent, or

#### Falsely signs

(e) being a person other than the cardholder or a person authorized by him, signs a credit card, or

#### Using another for purchase not in excess of \$250

(f) uses, for the purpose of obtaining money, goods, services or anything else of value, a credit card obtained or retained in violation of clauses (b) to (e), inclusive, or a credit card which he knows is forged, expired or revoked, where the value of money, goods or services obtained in violation of this section is not in excess of two-hundred fifty dollars or

#### Falsely representing to be the card holder

(g) obtains money, goods, services or anything else of value by representing without the consent of the cardholder that he is said cardholder or by representing that he is the holder of a card and such card has not in fact been issued, where the value of money, goods or services obtained is not in excess of two-hundred and fifty dollars, or

#### Merchants honoring fraudulent cards

(h) being a person authorized by an issuer to furnish money, goods services or anything else of value upon presentation of a credit card which he knows was obtained or retained in violation of clauses (b) to (e), inclusive or a credit card which he knows is forged, expired or revoked where the value of the goods or services obtained is not in excess of two-hundred and fifty dollars, or

#### Filing false sales receipts



(i) being a person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished, and the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed two-hundred and fifty dollars, or

**Fine of \$500 imprisonment for 1 year**

(j) receives money, goods, service or anything else of value obtained in violation of clauses (f) to (i), inclusive of (k) makes a false statement in reporting a credit card to be lost or stolen. Whoever has in his possession or under his control stolen credit cards issued in the names of four or more other persons shall be presumed to have violated clause (b)

**Right of Arrest:**

This misdemeanor has a statutory right of arrest if committed in your presence.

**Com. v. Thompson, 89 Mass. App. Ct. 456, 50 N.E.3d 845 (2016)**

A conviction for credit card fraud over \$250 requires proof beyond a reasonable doubt that the defendant (1) represented himself as the person named on a credit card, (2) did so without the consent of the person named on the card, (3) by doing so obtained money, goods, or services or anything else of value in excess of \$250, and (4) did so with the intent to defraud. M.G.L.A. c. 266, § 37C(e).



**Fraudulently Obtaining Goods, Money or Services**  
**Use of Credit Card**  
**Chapter 266, Section 37C**

**Elements:**

1. Whoever, with specific intent to defraud
  - (a) obtains control over a credit card as security for debt, or
  - (b) receives a credit card which he knows was taken or retained under circumstances which constitute credit card theft or a violation of clauses (a) or (d) of section thirty-seven B or clause (a) of this section, or
  - (c) falsely makes or falsely embosses a purported credit card or utters such a credit card, or
  - (d) obtains money, goods, services or anything else of value by use of a credit card obtained or retained in violation of clauses (b) to (e) inclusive, or section thirty-seven B, or by use of a credit card which he knows is forged, expired or revoked, where the value of the money, goods, or services obtained in violation of this section is in excess of two-hundred and fifty dollars, or
  - (e) obtains money, goods, or services or anything else of value by representing without the consent of the cardholder that he is said cardholder, or by representing that he is the holder of the card and such card has not in fact been issued, where the value of money, goods or services obtained in violation of this section is in excess of two-hundred and fifty dollars, or
  - (f) being a person authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card which he knows was obtained in violation of subsections (b) to (e) inclusive, of section thirty-seven B, or a credit card which he knows is forged, expired or revoked, when the value of the money, goods or services obtained is in excess of two-hundred fifty dollars, or
  - (g) being a person authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder or any agent or employee of such person, fails to furnish money, goods or services or anything else of value which he has represented in writing to the issuer that he has furnished, and the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished exceeds two-hundred and fifty dollars, or
  - (h) receives money, goods, services or anything else of value obtained in violation of subsections (f) or (g) of section thirty-seven B, or
  - (i) possesses one or more incomplete credit cards, intending to complete them without the consent of the issuer, or
  - (j) possesses, with knowledge of its character, machinery, plates or any other contrivance designed to reproduce instruments purporting to be credit cards of an issuer who has not consented to the preparation of such credit cards.

Whoever has in his possession or under his control four or more credit cards which are falsely embossed shall be presumed to have violated clause (c).

**Right of Arrest:**

Violation of this section is a 5-year felony arrestable in presence or upon probable cause.





## **Making, Holding, Using Burglarious Instruments**

### **Chapter 266, Section 49**

#### **Elements:**

First: That the defendant knowingly possessed a tool or implement,

Second: That such tool or implement could reasonably be used in (room) (vault or safe) (place for keeping valuables);

Third: That the defendant knew that the tool or implement could reasonably be used for that purpose;

Fourth: That the defendant intended to use the tool or implement for that purpose;

Fifth: That the defendant had the specific intention

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

#### **Note:**

Two or more defendants may have common possession of burglarious tools and a common intent to use them.

- the term depository has been held to include the trunk of an automobile
- the offense is complete when the tools are procured with a design to use them for a criminal purpose
- the making of a battering ram with the intent to commit a trespass is within the statute prohibiting possession of burglarious instruments
- the other crime must be committed in the building, vault, safe or other depository

#### **Com. v. Faust, 81 Mass. App. Ct. 498**

Evidence supported finding that defendant intended to use tools in his possession, including three screwdrivers, two flashlights and a folding knife, to break into a car, thus supporting conviction for possession of burglarious instruments; there was evidence that victims' vehicles were broken into, numerous stolen items, including victims' property, were found in the car that defendant was driving, and a backpack was found in the trunk that contained four global positioning system (GPS) units, two still in car mounts, with car charging adapters attached. M.G.L.A. c. 266, § 49.

While burglarious intent can be inferred from mere possession of tools uniquely or very highly adapted to burglarious purposes, common items can be burglarious tools if they can be used and are possessed for burglarious



purposes. *Commonwealth v. Dellinger*, 10 Mass. App. Ct. 549, 561, 409 N.E.2d 1337, 1346 (1980), *aff'd* in part and *rev'd* in part on other grounds, 383 Mass. 780, 422 N.E.2d 1346 (1981). See *Commonwealth v. Jones*, 355 Mass. 170, 176-177, 243 N.E.2d 172, 176 (1969) (screwdriver and kitchen knife); *Commonwealth v. Tivnon*, 8 Gray 375, 380-381 (1857) (chisel). But see *Commonwealth v. Purcell*, 19 Mass. 1031, 1031, 477 N.E.2d 190, 192 (1985) (even if worn to facilitate burglary, gloves cannot be burglarious instruments). A burglarious instrument does not lose its character as such because it needs repair. *Aleo*, *supra*. Innocent tools are admissible in evidence when mixed with burglarious tools. *Commonwealth v. Williams*, 2 Cush. 582, 586 (1849).

#### NOTES:

1. Attempted break-in unnecessary. An attempted break-in is not a required element of this offense, since the offense is complete when tools are procured with a burglarious intent. *Tivnon*,

2. Breaking and entering is distinct offense. Possession of burglarious tools and breaking and entering (G.L. c. 266, § 18) are separate offenses, and neither is a lesser included offense of the other. *Commonwealth v. Johnson*, 406 Mass. 533, 535, 548 N.E.2d 1251, 1253 (1990).

3. "Depository". It is not necessary to prove that a depository was located within a building, *Commonwealth v. Tilley*, 306 Mass. at 412, 416, 28 N.E.2d 247, 247 (1940), or that the defendant intended to break into any particular depository, *Tivnon*, *supra*. A boat storage area open on one side is not a depository. *Commonwealth v. Schultz*, 17 Mass. App. Ct. 958, 458 N.E.2d 328 (1983). An auto trunk is a depository. *Tilley*, *supra*. A locked passenger automobile reasonably can be inferred to be a depository, even without proof that the particular vehicle was used to store valuables. *Commonwealth v. Dreyer*, 18 Mass. App. Ct. 562, 564-565, 468 N.E.2d 863, 865 (1984). A bolt cutter used to cut through a bicycle chain attaching a bicycle to a bicycle rack is not a burglarious tool, since it is not "adapted and designed for cutting through, forcing or breaking open a . . . depository." The chain itself cannot be a depository "as it has no capacity to hold property for safekeeping." Even if the rack is considered a depository, it is "highly implausible that a small pair of bolt cutters could be used to cut open the metal frames of a bicycle rack" and therefore the cutters were probably not intended for use on the rack. And "because the bicyclist furnishes the chain, . . . it requires a strained interpretation of the statute to conclude that the chain and rack together" constitute a depository. *Commonwealth v. Antonio Ortiz*, 38 Mass. App. Ct. 1107, 646 N.E.2d 435 (No.

4. Intended crimes. It is not necessary that burglary or theft be the intended crime. *Commonwealth v. Krasner*, 358 Mass.

*Tilley*, 306 Mass. at 414-415, 28 N.E.2d at 247 (stealing from auto trunk). However, if the complaint charges the defendant only with the first of the two intent alternatives in the statute ("to steal therefrom such money d therein") the Commonwealth is so limited in its proof, and may not convict upon proof of the second intent alternative ("to commit any other crime"). *Commonwealth v. Graud*, 8 Mass. App. Ct. 915, To satisfy the second intent alternative, the "any other crime" must be intended to be committed in the "building, room, vault, safe or other depository." *Krasner*, *supra*; *Schultz*, *supra*.

5. Motor vehicle master keys. Since the enactment of St. 1966, c. 269, the statute has also included a separate branch punishing possession of a motor vehicle master key, the effect of which is that possession of motor vehicle master keys can no longer be prosecuted under the generic branch of the statute. *Commonwealth v. Collardo*, 13 Mass. App. Ct. 1013, 1014, 433 N.E.2d 487, 489 (1982).



## **Buying, Receiving or Concealing Stolen Property**

### **Chapter 266, Section 60**

#### **Elements:**

First: That the property in question was stolen;

Second: That the defendant knew that the property had been stolen; and

Third: That the defendant knowingly (had the stolen property in his [her] possession) (bought the stolen property) (aided in concealing the stolen property).

The Commonwealth must establish that the property was stolen — that is, that someone had taken and carried it away without right and of the owner, while intending to deprive the owner of it permanently. The Commonwealth is not required to prove who it was who stole the property.

#### **Right of Arrest:**

If the value of the property is \$250 or less and it is the suspect's first offense, this is a NONARRESTABLE misdemeanor.

If the value of the property is over \$250 or if it is the suspect's second offense this is a 5 year felony, arrestable in presence or on probable a cause.

#### **Note:**

Prove knowledge, \$500 watch for \$50 or bought at night in an alley

#### **Com. v. Boris, 317 Mass. 309, 58 N.E.2d 8 (1944)**

Instruction that it was enough if the commonwealth proved that a person of reasonable intelligence and caution would have believed that the property had been stolen and that, if the circumstances were such that a reasonably cautious and prudent man would have been satisfied that it had been stolen and would have refused to buy it or would have made further inquiry, then the defendants must be found guilty, was erroneous. M.G.L.A. c. 266 § 60

#### **Com. v. Cromwell, 53 Mass. App. Ct. 662, 761 N.E.2d 530 (2002)**

In order to be guilty of the crime of receiving stolen goods, (1) one must buy, receive or aid in the concealment of property which has been stolen or embezzled, (2) knowing it to have been stolen. M.G.L.A. c. 266, § 60.:

A person's knowledge is a question of fact. Because you cannot look directly into someone's mind, a person's knowledge is normally shown by inferences from all the facts and circumstances surrounding the event. You may infer that the defendant knew that the goods were stolen if the Commonwealth has proved beyond a reasonable doubt that the defendant (possessed) (bought) (helped to conceal) recently stolen goods, and if the facts and circumstances in this case support an inference that the defendant knew that those goods were stolen. You should consider all the facts and circumstances surrounding the defendant's alleged (possessionment) of stolen goods in deciding whether or not it is reasonable for you to draw such an inference, and in determining whether the Commonwealth has proved beyond a reasonable doubt that the defendant knew that the goods he (she) allegedly (possessed) (bought) (concealed) were stolen. Remember: under such circumstances you may, but you are not required to, draw an inference that the defendant knew that the goods were stolen.)



## **Fraudulent Hiring of a Vehicle**

### **Chapter 266, Section 64**

#### **Definition:**

Whoever hires a horse, carriage or other vehicle and with intent to cheat or defraud the owner thereof, makes to him or his agent at the time of such hiring a false statement of the distance which he proposes to travel with such horse, carriage or other vehicle, or whoever, with such intent, makes to the owner or his agent, after the use of a horse, carriage or other vehicle, a false statement of the distance he has actually traveled with such horse, carriage or other vehicle, and whoever, with such intent, refuses to pay for the use of a horse, carriage or other vehicle the lawful fare established therefor by any town, shall be punished by a fine of not more than twenty dollars or by imprisonment for not more than two months, or both.

Commonly referred to as fare evasion.

#### **Elements:**

1. with intent to cheat or defraud
2. refuses to pay
3. for the use of a horse, carriage or other **vehicle**
4. the lawful fare established therefor by any town

#### **Right of Arrest:**

This is a misdemeanor with no statutory right to arrest. (Could amount to breach of the peace)

#### **Note:**

This is the statute that is applicable for taxi fare evasion.



**Explosion, Malicious**  
**(Destruction or Injury From Explosives)**  
Chapter 266, Section 101

**Element:**

1. willfully, intentionally and without right
2. by explosion of gunpowder or of any other explosive
3. unlawfully destroys or damages property
4. or injures a person

**Right of Arrest:**

This twenty (20) year felony is arrestable in presence or upon probable cause.

**Note:**

Committing manslaughter with this section is punishable by life.

**Explosives, Willfully Throwing or Placing of,**  
**At Property or Persons**  
Chapter 266, Section 102

**Elements:**

1. willfully and intentionally throws at or near any person
  2. and willfully, intentionally and without right
  3. throws into, against or upon
  4. any property real or personal
  5. or puts, places, or explodes or causes to explode in,
  6. upon or near such property
  7. or near any person
  8. gunpowder or other explosive
  9. or a bombshell, torpedo or other instrument filled or loaded with an explosive
  10. with intent to unlawfully destroy or damage any property or to injure any person
- OR
11. has in possession or under his control such an article with said intent

**Right of Arrest:**

This twenty (20) year felony is arrestable in presence or upon probable cause.

**Note:**

Manslaughter with this section is punishable by life.



## **Infernal Machines**

### **Chapter 266, Section 102A**

#### **Elements:**

WHOEVER (other than a police officer or other law enforcement officer acting in the discharge of his official duties)

1. Has in his possession
2. Or under his control
3. An infernal machine or a similar instrument, contrivance or device

#### **Right of Arrest:**

This is a ten year felony arrestable if committed in presence or upon probable cause.

#### **Note:**

"INFERNAL MACHINE" shall include any device for endangering life or doing unusual damage to property, or both, by fire or explosion, whether or not contrived to ignite or explode automatically and whether or not disguised so as to appear harmless.

Notice of the seizure of any such device, machine instrument or contrivance shall be sent forthwith to the commissioner of public safety and the article seized shall be subject to his order.

## **Bottle with Flammable Liquid**

### **Chapter 266, Section 102B**

#### **Elements:**

1. makes, sells, uses, has in his possession or under his control
2. a bottle or other breakable container
3. containing a flammable liquid
4. into which has been fixed or placed a wick or similar device
5. when ignited and thrown will cause a fire or explosion

#### **Right of Arrest:**

This is a 5 year felony arrestable if committed in presence or upon probable cause.

#### **NOTE:**

This section doesn't apply to flares, lanterns, fireworks or other such devices used for signal or illumination purposes of for any other lawful purpose. Manslaughter under this section is punishable by life imprisonment.



## **Trespass on Property After Prohibition**

### **Chapter 266, Section 120**

#### **Definition:**

Whoever, without right enters or remains in or upon the dwelling house, buildings, boats or improved or enclosed land, wharf, or pier of another, after having been forbidden to do so by the person who has lawful control of said premises, whether directly or by notice posted thereon, or in violation of a court order pursuant to section thirty-four B of chapter two hundred and eight or section three or four of chapter two hundred and nine A, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days or both such fine and imprisonment, etc..

#### **Elements:**

1. without right
2. enters or remains in or upon
3. dwelling house, buildings, boats or improved or enclosed land, wharf or pier of another
4. after having been forbidden
5. by person having lawful control of said premises
6. either directly or by notice posted thereon
7. or in violation of a court order pursuant to Ch. 208:34B, Ch. 209A:3 or Ch. 209A:4

#### **Right of Arrest:**

This is a 30 day misdemeanor with a statutory right of arrest in presence.

#### **NOTE:**

Comm. v. A Juvenile -- fences, walls, and locked gates are evidence that one is forbidden to enter.

Comm. v. Noffke -- trespass may arise out of labor union activity

This section shall not apply to tenants who, having rightfully entered at commencement of tenancy, remain after tenancy is alleged to be terminated.

#### **Sections mentioned above**

Ch. 208:34B -- Order to vacate marital home

Ch. 209A:3 -- Remedies person suffering abuse from adult or family member

Ch. 209A:4 -- Temporary order to protect victim from abuse



## **Graffiti Law/Destruction of Property**

### **Chapter 266, Section 126A**

#### **Definition:**

Whoever intentionally, willfully and maliciously or wantonly, paints, marks, scratches, etches or otherwise marks, mars, injures, defaces or destroys the real or personal property of another including but not limited to a wall, fence, building, sign, rock, monument, gravestone, or tablet, shall be punished by imprisonment in a state prison for a term of not more than three years or by imprisonment in a house of correction for not more than two years.

#### **Elements:**

- Whoever
1. intentionally, willfully and maliciously or wantonly
  2. paints, marks, scratches, etches or
  3. marks, mars, injures, defaces or
  4. destroys the real or personal property of another  
( wall, fence, building, sign, rock, monument, gravestone, tablet, etc. )

#### **Right of Arrest:**

This three year felony is arrestable in presence or upon probable cause.

---

#### **Definition:**

Whoever sprays or applies paint or places a sticker upon a building, wall, fence, sign, tablet, gravestone, monument or other object or thing on a public way or adjoined to it, or in public view, or on private property, such person known or commonly known as "taggers" and such conduct or activity known or commonly known as "tagging", or other words or phrases associated to such persons, conduct or activity, and either as an individual or in a group, joins together with said group, with the intent to deface, mar, damage, mark or destroy such property, shall be punished by imprisonment in a house of correction for not more than two years . A police officer may arrest any person for commission of the offenses prohibited by this section without a warrant if said police officer has probable cause to believe that said person has committed the offense prohibited by this section.





## **Graffiti Law/ Destruction of Property**

### **Elements:**

Whoever

1. sprays or applies paint or
2. places a sticker upon
3. a building, wall, fence, sign, tablet, gravestone, monument or
4. other object or thing on
5. a public way or adjoined to it, or
6. or in public view, or on private property
7. such person known as taggers and such conduct known as tagging and
8. either as an individual or in a group, joins together with
9. intent to deface, mar, damage, mark, or
10. destroy such property

### **Right of Arrest:**

This section is a misdemeanor with a statutory right of arrest and a past misdemeanor probable cause right of arrest.

### **Note:**

This statute also penalizes those convicted by requiring them to pay for the removal of the damage as well as effecting their driving privileges.



## **Destruction or Injury of Personal Property**

### **Chapter 266, Section 127**

(Misdemeanor Portion)

**Elements:**

1. Wantonly
2. destroys or injures
3. personal property, dwelling house or building
4. of another
5. in any manner not described in Chapter 266
6. regardless of value

OR

1. willfully and maliciously
2. destroys or injures
3. personal property, dwelling house or building
4. of another
5. in any manner or by any means not particularly described or mentioned in this chapter
6. valued at \$250 even or less

**Right of Arrest:**

This is a misdemeanor with no statutory right of arrest.

Wanton: heedless, reckless, without regard



## **Destruction or Injury of Personal Property**

### **Chapter 266, Section 127**

#### **Elements:**

1. Willfully and maliciously
2. destroys or injures
3. personal property, dwelling house or building
4. of another
5. in any manner or by any means not particularly described or mentioned in this chapter
6. valued over \$250

#### **Right of Arrest:**

This 10 year felony is arrestable in presence or upon probable cause.

#### **NOTE:**

Willful -- intentional or by design as contrasted to accidental.

Maliciously -- state of mind -- cruelty, hostility or revenge.

Comm. V. Hosman -- value alleged is total value of the property injured.



## **Giving a False Name upon Request**

### **Chapter 268 Section 34A**

Section 34A. Whoever knowingly and willfully furnishes a false name or Social Security number to a law enforcement officer or law enforcement official following an arrest shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than one year or by both such fine and imprisonment. Such sentence shall run from and after any sentence imposed as a result of the underlying offense. The court may order that restitution be paid to persons whose identity has been assumed and who have suffered monetary losses as a result of a violation of this section.

#### Elements

First: That the defendant was arrested;

Second: That the defendant then gave a false name to a police officer. A false name is one that a person has assumed for a dishonest purpose.and

Third: That the defendant did so knowingly and willfully; that is, he (she) intentionally gave the police a name

The law permits a person to change his (her) name at will, without resort to legal proceedings, merely by adopting another name, as long as he (she) is not using that name for a dishonest purpose. For purposes of this charge, a false name is one that a person has assumed for a dishonest purpose.



## **Forgery, Alteration, etc., of Lottery Tickets**

### **Chapter 10, Section 30**

Whoever, with intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a state lottery ticket or share shall be punished by imprisonment in the state prison for not more than three years or in a jail for not more than two years or by a fine of not less than one hundred nor more than five hundred dollars.

#### **Elements:**

With specific intent to defraud

1. falsely makes (or)
2. alters (or)
3. forges (or)
4. utters (or)
5. passes (or)
6. counterfeits a state lottery ticket or share

#### **Right of Arrest:**

This is a three (3) year felony that is arrestable in presence or upon probable cause.

#### **Note:**

**Uttering** is the offering as genuine an instrument known to be forged with intent to defraud.

**Forgery** is committed either by falsely creating or making a legal instrument or by materially altering it with intent to deceive.

**Counterfeiting**, historically, is the unlawful making, in the similitude of the genuine article, of any false money, or of any false obligation or other security of the United States or of any foreign government. At common law counterfeiting is restricted to money and government obligations, while forgery covers the false making of multifarious instruments both private and governmental. By statute, counterfeiting has been expanded to include among others things, state lottery tickets.



## **Controlled Substances Act**

### **Chapter 94C, Section 31**

Massachusetts law has categorized controlled substances into five separate classes. The classes are defined according to the chemical make up of the drug; Class A being the most harmful, those in Class E are the least harmful.

#### **CLASS A**

HEROIN  
MORPHINE  
FLUNITRAZEPAM (aka **Ruffies**)  
GAMMA HYDROXY BUTYIC ACID (aka **Georgia Home Boy**)  
KETAMINE HYDROCHLORIDE (aka **Special K**)  
FENTANYL (aka Designer Heroin)  
CARFENTANYL

#### **CLASS B**

COCAINE  
CODEINE  
ANGEL DUST . . . . PCP . . . . PHENCYCLIDINE  
METHADONE  
OXYCONTIN and OXYCODONE  
AMPHETAMINES  
METHAMPHETAMINE  
PHENACYCLIDINE  
LYSERGIC ACID DIETHYLAMIDE (aka LSD)  
OPIUM  
P2P  
PCH  
PCC  
MDMA (aka **Ecstasy**)  
PHENMETRAZINE  
PERCODAN  
DILAUDID  
QUALUDES . . . . METHAQUALONE



**Controlled Substances Act**  
**Chapter 94C, Section 31**

**CLASS C**

VALIUM (DIAZEPAM)  
LIBRIUM (CHLORDIAZEPOXIDE)  
FLAURAZEPAM  
PRAZEPAM  
HALLUCINOGENIC  
MESCALINE  
PEYOTE  
PSILOCYBIN (aka MEXICAN MUSHROOM)  
TETRAHYDROCANNABINOL (aka THC)  
SYNTHETIC MARIJUANA(Scooby Snacks/Rice)  
BATH SALTS

**CLASS D**

MARIJUANA  
BARBITAL  
PHENOBARBITAL

**CLASS E**

ALL **OTHER** PRESCRIPTION DRUGS NOT LISTED IN OTHER CLASS

Appeals Court of Massachusetts,  
Essex.  
COMMONWEALTH v Jesus VELASQUEZ, Jr.

No cocaine was found on the defendant's person. The government may, however, under the label "constructive possession," prove that the defendant had knowledge of the unlawful drugs found in the basement, coupled with the ability and intention to exercise dominion over them.

Here, the utility and rent receipts in the name of Velasquez proved his more than casual connection with the apartment.. As to the apartment, the traffic pattern that Detective Melanson had observed and the barricade at the rear door tended to establish that it was a drug trading post. See Velasquez's blocking Sergeant Leeman from the bathroom until drugs were beyond retrieval provides a basis for inferring that Velasquez was more than an unlucky occupant of the apartment but was himself involved in the drug selling operation. See Commonwealth v. James, supra at 497, 570 N.E.2d 168; Nor at the time of the bust did the defendant\*\*402 disassociate himself from the drugs in the basement; rather he said he was going to jail for two years, a remark that can be taken as an expression of consciousness of guilt. The defendant's access to the basement area speaks to his ability to exercise dominion over the cocaine hidden there. See Commonwealth v. Gonzalez, 42 Mass.App.Ct. 235, 237, 675 N.E.2d 1177 (1997). That others in the building also had access to the basement and might have hidden drugs in the basement does not require a finding of not guilty in favor of Velasquez. Commonwealth v. Montanez, 410 Mass. 290, 306, 571 N.E.2d 1372 (1991). Compare (defendant did not constructively possess drugs in a common area of her apartment when no other evidence warranted an inference of her control over them)



## Controlled Substances Act

### Chapter 94C, Section 32

The following Sections of Chapter 94C deal with unlawful manufacturing, distributing, or possession with intent of controlled substances.

**Manufacturing:** the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis.

**Distribution:** to deliver other than by administering or dispensing a controlled substance.

*Administer* is the direct application of a controlled substance whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject by – a practitioner or a nurse at the direction of a practitioner in the course of his professional practice or an ultimate user or researcher subject at the direction of a practitioner in the course of his professional practice.

*Dispensing* is to deliver a controlled substance to an ultimate user or research subject or to the agent of an ultimate user or research subject by a practitioner or pursuant to the order of a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling, or compounding necessary for such delivery.

**Possession with intent:** to possess drugs with the purpose to distribute.

Some of the factors to be considered include quantity of drugs, packaging material, currency and drug paraphernalia.

Section **32** **CLASS A:**

- (a) 10 year felony (first offense)
- (b) a second or subsequent offense of any class drug, State Federal Law - not less than 5 years (mandatory minimum = 5 years) nor more than 15 years.

Section **32A** **CLASS B:**

- (a) 10 year felony (first offense) **SPECIAL SUBSECTION FOR P.C.P. AND COCAINE** (Subsection C)
- (b) a second or subsequent offense not less than \*3 years nor more that 10 years.  
\*(Mandatory minimum = 3 years)
- (c) for P.C.P. and Cocaine (first offense), not less than \*1 year, nor more than 10 years.  
\*(Mandatory minimum = 1 year at House of Correction)
- (d) any conviction of subsection C after one or more prior convictions of distributing or possession with intent of any class controlled substance in violation of any law, state, federal, or territorial - state prison not less than five nor more than fifteen years.

Section **32B** **CLASS C:**

- (a) 5 year felony (first offense)

Section **32C** **CLASS D**(an ounce or more)

- (a) 2 year misdemeanor (includes cultivates)

Section **32D** **CLASS E:**

- (a) 9 month misdemeanor





Appeals Court of Massachusetts,  
Middlesex.  
COMMONWEALTH  
v.  
Walter G. SAUER.

Following denial of his motion to suppress evidence by the District Court Department, Middlesex County, Cambridge Division, Jonathan Brant, J., defendant was convicted in the same court, Mark S. Coven, J., of operating motor vehicle while under influence of drugs, operating with a suspended license and possession of class E substance with intent to distribute. Defendant appealed. The Appeals Court, Beck, J., held that: (1) defendant was not subjected to custodial interrogation for *Miranda* purposes during traffic stop; (2) there was sufficient evidence that pills found in defendant's pocket and in his car were not for personal use, but were to be distributed; and (3) there was sufficient evidence to support defendant's conviction for operating under influence of drugs.

Affirmed.

After the defendant was arrested, the police searched his car and found twenty-four bank envelopes in the middle of the front seats. One of the envelopes contained a pill identical to those the defendant had in his pocket. The pills were carisprodol, a Class E substance. The Commonwealth charged the defendant with possession with intent to distribute. The defendant claims there was insufficient evidence to prove beyond a reasonable doubt that the pills were for anything other than personal use. We disagree. The police officers testified that based on their training and experience, including hundreds of drug arrests, they had seen drugs packaged for distribution in envelopes. The defendant's possession of thirty-one\*\*13 loose pills in his pocket is at best an uncommon way to carry pills for personal use. The presence of one bank envelope with a pill identical to the other thirty-one is more than sufficient to support an inference that the defendant intended to place the rest of the pills in the remaining bank envelopes for distribution.

**Com. v. Sepheus, 82 Mass. App. Ct. 765**

The two basic elements for conviction of possession with the intent to distribute cocaine are (1) knowingly possessing the drug and (2) intending to transfer it physically to another person

Sufficient evidence supported defendant's conviction for possession of cocaine with intent to distribute; defendant was found by police with three individually wrapped rocks of crack cocaine, he had \$312 in cash in his pocket, he carried no paraphernalia for ingesting the drugs, police expert testified that several of these facts suggested that defendant intended to distribute the drugs he possessed, and it could be inferred from the evidence that defendant had been located in an area known for drug sales for at least an hour, and was in the company of an individual who conducted a drug transaction in his presence



**Trafficking in Controlled Substances**  
**Chapter 94C Section 32E**

- A. **Marijuana** or any mixture containing marijuana

**50 lbs.**

- B. **Cocaine** or any salt there of

**18 grams**

- C. **Heroin**, morphine, (or their salts) or opium (or any derivative) or any mixture containing one of these

**18 grams**

- D. **Fentanyl** and derivatives

**10 grams**

*Subsection (c1/2) inserted by 2015, 136 effective February 22, 2016*

(c1/2) Any person who trafficks in fentanyl, by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth a net weight of more than **10 grams of fentanyl** shall be punished by a term of imprisonment in state prison for not more than 20 years.

For purposes of this subsection, "fentanyl" shall include any derivative of fentanyl and any mixture containing more than 10 grams of fentanyl or a derivative of fentanyl.

**CARFENTANIL**-any amount is trafficking



# Boston Police Academy

Police Officer John W. Ezekiel, Jr.

Training Bulletin 5-07  
(October 30, 2007)



## City Ordinance Prohibiting the Sale and/or Possession of Crack Pipes

### 16-51.1 Prohibition Against Sale

No person shall sell or display for sale a devise used to smoke freebase or crack cocaine known as a "crack pipe." A crack pipe is generally made from a small glass tube that is, on average, four (4") inches to five (5") inches in length and approximately one quarter (1/4") in diameter.

### 16-51.2 Prohibition Against Possession

No person shall possess a devise used to smoke freebase or crack cocaine known as a "crack pipe." A crack pipe is generally made from a small glass tube that is, on average, four (4") inches to five (5") inches in length and approximately one quarter (1/4") in diameter.

### 16-51.3 Penalty

A violation of these sections shall be punished by a fine in the amount of three hundred (\$300.00) dollars. Each and every crack pipe shall be considered to be a separate and distinct violation.

M.G.L c. 94C § 32I prohibits possession of drug paraphernalia with the intent to sell. It does not prohibit mere possession. Commonwealth v. Jasmin, 396 Mass. 653 (1986). M.G.L. c. 40A § 21D allows the officer to summons the individual on the first offense. After the first offense, the officer may arrest for a subsequent, and thus willful, violation of the possession ordinance pursuant to M.G.L. c. 272 §59.



**An Act Providing For  
Drug Free School Zones  
Chapter 94C, Section 32J**

G.L. c. 94C, § 32J

Effective August 2, 2012, St. 2012, c. 192, §§ 30-31 amended G.L. c. 94C, § 32J by reducing the size of the school zone area from 1,000 feet to 300 feet and by limiting the scope of the statute to offenses that occur between the hours of 5:00 AM and midnight. These changes apply to school zone drug violations committed on or after August 2, 2012.

For use with Instruction 7.800 (Distribution of, or Possession with Intent to Distribute, a Controlled Substance) or Instruction 7.840 (Sale of, or Possession with Intent to Sell, Drug Paraphernalia) where the complaint alleges that the violation occurred within 300 feet of school property.

First: That the offense was committed within **300** feet of the real property comprising (a public preschool, headstart facility, elementary, vocational or secondary school) (a private accredited preschool or private accredited headstart facility) (a private elementary, vocational or secondary school); and

Second: That the offense was committed between five o'clock in the morning and twelve o'clock midnight.

It does not matter whether or not the school, preschool or headstart facility was in session, but the Commonwealth must prove beyond a at the offense occurred between five o'clock in the morning and twelve o'clock midnight.

It is not necessary for the Commonwealth to prove that the defendant knew that he (she) was within 300 feet of the real property of a school, preschool, or headstart facility.

Commonwealth v. Bell, 442 Mass. 118, 125-126, 810 N.E.2d 796, 801-802 (20

**Right of Arrest**

This is a fifteen year felony arrestable in presence or on probable cause.

**Note:**

- This section is only applicable if the defendant is found guilty of one of the listed drug offenses.
- The statute provides for mandatory minimum sentence to be served consecutively with whatever sentence is given for the other drug violation(s).
- The statute further provides that the district courts have jurisdiction over this section and clearly states that lack of knowledge of school boundaries shall not be a defense.

The Massachusetts Appeals Court in the case of Com. v. Gonzales, 604 N.E. 2d 1317, (Mass. App. Ct. 1992), The court stated that the Commonwealth is required to produce sufficient evidence to establish that the school is one of the types enumerated in the statute. They further held that whether a particular school is an elementary, vocational or secondary school, for the purposes of the school zone statute, is not a proper subject of judicial notice at trial level, as a matter of common knowledge. "The arresting officer or any other witness may testify that the school in question is an elementary, vocational or secondary school if he or she has personal knowledge of that fact. A principal of the school, an employee of the school, or anyone associated with the school may testify as to the type of school.



## **Drug Free Play Grounds & Parks**

### **Chapter 94C Section 32J**

#### **PARK ZONE DRUG VIOLATION**

G.L. c. 94C, § 32J

#### **Jury Instruction**

(Distribution of, or Possession with Intent to Distribute, a Controlled Substance) or (Sale of, or Possession with Intent to Sell, Drug Paraphernalia) where the complaint alleges that the violation occurred within 100 feet of a public park or playground.

If you find the defendant guilty of the charge of , you must go on to consider whether the Commonwealth has proven beyond a reasonable doubt that the offense was committed within 100 feet of a public park or playground.

It is not necessary for the Commonwealth to prove that the defendant knew that he (she) was within that distance from a public park or playground.

Commonwealth v. Taylor, 413 Mass. 243, 596 N.E.2d 333 (1992) (§ 32J creates distinct offense which can be charged separately from underlying drug offense, although § 32J seems to contemplate that it will normally be tried together with underlying charge); Commonwealth v. Lawrence, 69 Mass. App. Ct. 596, 600, 870 N.E.2d 636, 640 (2007) (defendant need not intend to distribute drugs within public park or playground); Commonwealth v. Davie, 46 Mass. App. Ct. 25, 703 N.E.2d 236, 238-239 (1998) (based on dictionary definitions, case law, and statutes, the word “park” as used in § 32J is sufficiently clear to permit a person of average intelligence to comprehend what conduct is made criminal); Commonwealth v. Ramos, 45 Mass. App. Ct. 1119, 708 N.E.2d 152 (1999) (No. 98-P-43, March 24, 1999) (unpublished opinion under Appeals Ct. Rule 1:28) (same as to “playground”).

#### Elements:

1. Any person
2. who violates:
3. sections
  - a. 32 to 32D inclusive ( distribution or possession with intent to distribute class A to class E controlled substances) or
  - b. 32E (trafficking) or
  - c. 32F (Distribution or possession with intent to distribute class A through class C controlled substances to persons under the age of 18 years) or
  - d. 32I ( sell or possess with intent to sell drug paraphernalia, c94C,s27)
4. in, on or within 100 feet of a public park or playground.

#### **Right of Arrest**

This is a fifteen year felony arrestable in presence or on probable cause.

#### **Note:**

**M. G. L. c45,s.1** states "In this chapter "park" shall include a city or town common dedicated to the use of the public, or appropriated to such use without interruption for a period of twenty years".



**Counterfeit Substances;  
Unlawful Creation, Distribution, Dispensing or  
Possession with Intent to Distribute or Dispense  
Chapter 94C, Section 32G.**

Any person who knowingly or intentionally creates, distributes, dispenses or possesses with intent to distribute or dispense a counterfeit substance shall be punished by imprisonment in a jail or house of correction for not more than one year or by a fine of not less than two hundred and fifty nor more than two thousand and five hundred dollars, or both such fine and imprisonment.

**Right of Arrest:** This is a misdemeanor with a statutory right of arrest. (In presence only)

**Note:** This does not include "simple" possession.

**Inducing Minors to Distribute Controlled Substances  
Chapter 94C, Section 32K**

**Definition:**

Any person who knowingly causes, induces or abets a person under the age of eighteen to distribute, dispense or possess with the intent to distribute or dispense any controlled substance as defined herein, or to accept, deliver or possess money used or intended for use in the procurement, manufacture, compounding, processing, delivery, distribution or sale of any such controlled substance shall be punished by imprisonment in the state prison for not less than five years nor more than fifteen years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of five years and a fine of not less than one thousand nor more than one hundred thousand dollars may be imposed but not in lieu of the mandatory minimum five year term of imprisonment established therein.

**Elements:**

1. Knowingly causes, induces, or abets
2. A person under the age of eighteen, to
  - a. distribute, dispense or possess with the intent to distribute or dispense any controlled substance as defined herein, or
  - b. to accept, deliver or possess money used or intended for use in the procurement, manufacture, compounding, processing, delivery, distribution or sale of any such controlled substance.

**Right of Arrest:**

This is a fifteen year felony that is arrestable in presence or on probable cause.

**Note:**

- Black's Law dictionary has several definitions of the word "procure". Besides to initiate a proceeding; to cause a thing to be done, etc." it also includes "to obtain, as to intoxicating liquor, for another" and "to bring the seller and the buyer together so that the seller has an opportunity to sell."
- Notice that this statute is applicable to minors, not just juveniles. The statute refers to persons under the age of eighteen.



## **Unlawful Possession of Particular Controlled Substances, Including Heroin and Marijuana Chapter 94C: Section 34**

Section 34. No person knowingly or intentionally shall possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the provisions of this chapter. Except as provided in Section 32L of this Chapter or as hereinafter provided, any person who violates this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. Any person who violates this section by possessing heroin shall for the first offense be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than two thousand dollars, or both, and for a second or subsequent offense shall be punished by imprisonment in the state prison for not less than two and one-half years nor more than five years or by a fine of not more than five thousand dollars and imprisonment in a jail or house of correction for not more than two and one-half years. Any person who violates this section by possession of more than one ounce of marihuana or a controlled substance in Class E of section thirty-one shall be punished by imprisonment in a house of correction for not more than six months or a fine of five hundred dollars, or both. Except for an offense involving a controlled substance in Class E of section thirty-one, whoever violates the provisions of this section after one or more convictions of a violation of this section or of a felony under any other provisions of this chapter, or of a corresponding provision of earlier law relating to the sale or manufacture of a narcotic drug as defined in said earlier law, shall be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than two thousand dollars, or both

### **Right of Arrest:**

A misdemeanor in presence and a past misdemeanor right to arrest.

### **Note:**

Possession must be knowingly OR intentionally, hence there must be evidence that the defendant knew:

1. that he possessed it unlawfully,  
AND
2. that it was a controlled substance

Two or more persons may be in joint possession of the same drugs.

Comm. vs. Dinnall 314 N.E. 2nd. 903 (1974).

Possession doesn't require a showing that the drugs were on the person of the defendant. It is sufficient if they are found under his control, in his home or vehicle.

Comm. vs. Williams 330 N.E. 2nd. 502 (1975)

A momentary possession is sufficient. Comm. vs. Harvard 253 N.E. 2nd. 346, 349 (1969)

### **Possession:**

implies control and power, exclusive or joint

### **Constructive Possession:**

Knowledge and ability and intention to exercise dominion and control. Knowledge is not equivalent to possession. Comm. vs. Deagle 409 N.E. 2nd. 1347 (1980).



# Boston Police Academy

Lt. Det. Stephen Meade  
Lt. Michael A. Chapman

## Training Bulletin 2-08



### Initial Guidelines for the Implementation of MGL 94C-32L Non-Criminal Possession of an Ounce or Less of Marijuana.

- The new law takes effect at **one second after midnight, 12:00am on Friday, January 2, 2009.**
- The law decriminalizes possession of an ounce or less of Marijuana (under 94C class D) or THC, which, as a Class C drug, would then include one ounce or less of Hash and Hash Oil, provided they contain THC.
- Nothing contained within the language shall be construed to repeal or modify:
  - ➤ Existing laws, practices or policies concerning the operation of motor vehicles or other actions taken while under the influence of marijuana or THC;
  - ➤ Laws concerning the unlawful possession of prescription forms of marijuana or THC; or
  - ➤ Possession of more than one ounce of marijuana or THC, or knowingly or intentionally manufacturing, distributing, dispensing, cultivating, or trafficking in marijuana or THC, regardless of quantity.

#### 1. Search Issues:

- • Police officers still have the right to search for evidence and contraband, the change in the disposition does not change the fact that it is still contraband.
- • Police have the authority to detain for a civil violation based on a reasonable suspicion.
- • Smell, smoke or vegetable matter constitutes reasonable suspicion in the ordinary sense re 94C or 90-24 (drugs).
- • Smell is probable cause where an officer can demonstrate familiarity with the smell of marijuana. (See *Comm. v. Garden*, 451 Mass. 43 (2008)).
- • If packaged for distribution, and if other evidence of distribution is present, then an arrest can still be made and charges for possession with intent to distribute, Distribution under 94C-32E, School Zone Violations would still apply. The seized marijuana would have to be submitted to the lab for analysis as criminal evidence.





- • Even small amounts of marijuana may still be the subject of a legitimate search warrant.
- • An encounter may occur when the offender is on foot, or in a vehicle.

## **2. Offender Identification Issues**

- • With regard to requiring an individual possessing a “Non-Criminal” amount of marijuana, the language in the proposed law is deficient, and will need legislative correction as soon as possible, however legislative modifications will not be made prior to implementation and Officers should be aware of the following:
- • There is currently no requirement in the law that a person positively identify themselves, through accepted forms of identification such as a Mass Driver’s License or Mass ID, or that the officer be able to confirm the identity of the person through record checks available through Operations or other means.
- • The new M.G.L. c. 94C, § 32L does not provide officers with any explicit enforcement authority concerning the civil encounter;
- • An offender who refuses to identify themselves for an officer cannot be arrested for failure to produce a form of identification;
- • There is no authority to search for identification, however officers have a reasonable amount of time to identify an offender;
- • An officer may query the given name and info through CJIS in an attempt to verify the provided information;
- • This lack of authority given to officers to identify offenders will in certain cases, prevent officers from properly issuing citations to offenders (especially juveniles).

## **3. Issuing the Citation**

- The current City of Boston Ordinance Violation ticket books issued under the guidelines of MGL Chapter 40, Section 21D will be utilized for issuing the \$100.00 citations for possession of an ounce or less of marijuana.
- The citation forms will be upgraded in the future to reflect the Non-Criminal Marijuana Possession charge, for the time being, officers issuing a civil citation under 94C-Sec 32L should check off the “Other Ordinance” box on the upper right corner of the citation. The “Application for Complaint” portion of the citation on the lower left should contain the basic facts of the incident to sustain the charge, for example, “Violator was found in possession of one plastic bag of marijuana”, etc.
- The citation can be issued in hand or mailed to the offender.
- The procedure for processing the marijuana civil citation will remain the same as the procedure for processing any other City Ordinance Violations.
- The Boston Municipal Court (BMC) will receive a copy of the citation as well as the BPD Licensing Unit.
- The Licensing Unit will track and notify the BMC when the citation has been paid. Likewise, the Licensing Unit will notify the BMC when the fine has not been paid, so that a civil hearing can be scheduled by the court and the offender notified of the hearing date.



- The offender has a right to request a hearing at the BMC on the non-criminal marijuana possession charge. The decision of the Clerk Magistrate is final. There is no further right of appeal.

#### **4. Issuing Citations to Youthful Offenders**

- If the offender is under the age of 18, the new law mandates that the youthful offender must complete an approved drug awareness program or community service program within a year, or be subject to a fine of \$1,000.00 that the youthful offender and his/her parents will be jointly liable for. DYS is to develop the drug awareness program.
- In addition to providing the youthful offender with a copy of the citation, the officer issuing a citation must also deliver or mail a copy of the citation to the parents of the youthful offender. The youthful offender is responsible for the initial \$100 fine. A copy of a form letter to accompany the citation for the parent/guardian is attached to this memo. (See attached Appendix A)

#### **5. Determining Weight of Seized Marijuana**

- The Police Academy will prepare instruction for officers as to the size and appearance of an ounce of marijuana. An ounce equals 28 grams. The weight does not include weight of any container the marijuana may be in (baggie, tin canister, aluminum foil, Tupperware container, etc.). Officers should familiarize themselves with the size and appearance of an ounce of marijuana.
- Digital scales will be obtained and maintained in all district stations. In the event that there is a question as to the weight during a seizure of marijuana, it is suggested that the offender's information be taken, the offender be released and the seized drugs be taken to the station and weighed. Should the weight exceed an ounce then a criminal complaint shall be sought, if not, a non-criminal citation shall be prepared and mailed.

#### **6. Processing Seized Marijuana**

- As of this time, non-criminal seizures of marijuana will be processed in the same manner as other drug seizures.
- A BPD 1.1 will be generated. The citing officer shall include in the report all pertinent information that clearly states the reasons why the officer believes the contraband to be marijuana.
- The seized drugs will be logged in at the station and deposited in the District drug drop-safe in the same manner as accorded in rules and regulations, except that the non-criminal contraband will not be forwarded by the Drug Depository to the State Lab for analysis, the drugs will be held for sixty (60) days, pending appeal. After such time, the drugs will be marked for destruction by Drug Depository personnel and held pending drug destruction procedures.
- It is the opinion of the Executive Office of Public Safety and Security (EOPSS) that neither a laboratory analysis nor expert testimony is necessary to prove, by a preponderance of the evidence standard, that a substance is marijuana. EOPSS further opined that a detailed police report including the circumstances in which the substance was seized, the violator's statements and the officer's training and experience, together with presentation of the evidence in court, should suffice to be successful at the district court hearing on the matter.
- A sticker will be created by the Drug Depository to place on the outside of the Drug Depository Manila Envelope to identify that the contents of the envelope are contraband from a non-criminal drug seizure. This sticker will make non-criminal drug seizures easily



identifiable for Drug Depository personnel and will prevent the drugs from being forwarded to the State Lab for analysis.

- Until these stickers are available, the officer should clearly mark the outside of the front of the manila envelope **“Non-Criminal Seizure,”** preferably with a black marker.
- If there are arrestable offenses as a result of a search pursuant to the seizure of marijuana, the non-criminal marijuana seized should be submitted to the State lab for analysis as evidence in support of the search that led to the arrestable charges. For example, if an officer seizes marijuana and a search for any other marijuana reveals the suspect in possession of a firearm, it will be important later in the criminal trial that the marijuana evidence be maintained and analyzed.

## Appendix A

### Notice to Parent/Guardian

A child under your guardianship, who is under 18 years old, has been cited as a civil offender for the possession of an ounce or less of marijuana pursuant to Section 32L of Chapter 94C. The civil penalty is \$100, as indicated on the enclosed citation form. In addition, within one year of the date of the offense listed on the citation, the child must complete a drug awareness program, consisting of a minimum of four hours classroom instruction or group discussion and ten hours of community service, and file a certificate of completion of the program with the Clerk of the District Court listed on the enclosed citation.

If a certificate of completion is not filed within one year of the offense, the Clerk shall notify the offender, parent, or guardian and the enforcing person who issued the original notice to the offender of a hearing to show cause why the civil penalty should not be increased to \$1000. **Both the offender and the parents/guardians will be jointly and severally liable to pay any increased penalty.**

Failure to complete a compliant drug awareness program and any required community service within one year may also lead to delinquency proceedings for offenders under the age of seventeen at the time of the offense. Please consult MGL 94C, sections 32L-32N for details.

For more information about drug awareness programs, please contact the Department of Youth Services at 617-727-7575.



## **Commonwealth v Humberto 466 Mass 562(Nov. 2013)**

### **Case Summary**

A juvenile had entered school late and a school administrator smelled a strong odor of marijuana. He was taken to school nurse where an administrative search was conducted. The administrator located five bags of marijuana in a “second pair of shorts under his pants”. Boston School police arrested the juvenile and charged him with Possession of Marijuana with intent to Distribute.

The defendant moved to dismiss the case at arraignment arguing the police lacked probable cause for Possession of Class D with Intent to Distribute. To establish probable cause, the complaint application must set forth “reasonably trustworthy information sufficient to warrant a reasonable or prudent person in believing that the defendant has committed the offense.”(*Commonwealth v. Roman*). The question was not whether they had probable cause for possession but probable cause for intent to distribute. Officers must keep in mind that the report writing is critical for probable cause regarding each element for each crime charged as well as courtroom testimony. The Massachusetts Supreme Court dismissed this case for lack of probable cause.

### *Take Home Points*

Police Officer must answer the question in their police reports why the suspect is being charged with Possession with Intent to Distribute. This case is a good reminder that just a specific number of bags of marijuana may not make it past probable cause. Remember be specific because details are the most important aspect of a police report. For distribution of drugs make sure that certain items are included like the suspect’s actions prior to arrest. For example the suspect was in and out of an ally, walking up to several cars, the amount of drugs, the street value of the drugs recovered, drug paraphernalia like a scale, cutting agents, baggies, the amount of money recovered and communication methods like cellphones. The list can be extensive but officer must show why the suspect was intending to distribute the drugs in his possession.

Officers should also keep in mind that Possession with Intent to Distribute Heroin or Cocaine is different because straight possession of those substances are arrestable. Straight Possession of less than an ounce of marijuana is not an arrestable offense but a civil citation should be issued.

- Weight of the drugs
- Street value of the drugs \*(include a value estimation in report)
- Possession of large amount of cash
- Packaging of the drugs
- Lack of personal use of paraphernalia
- Possession of scales
- Possession of multiple cell phones
- Air fresheners
- Books, ledgers, notes, records indicating sales, customers,
- Where the drugs are found
- Actions of the suspect



## **Medical Marijuana**

### **Chapter 369**

### **Medical Marijuana**

Massachusetts voters approved the legal cultivation, processing, distribution, sale, and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana.

The Act protects doctors, health care professionals, qualifying patients, caregivers, and dispensary agents from prosecution under state law.

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

## **Legalization of Marijuana**

### **Question 4-November 2016**

### **Personal use of Marijuana**

(a), a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

- (1) possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate
- (2) within the person's primary residence, possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and possessing, cultivating or processing not more than 6 marijuana plants for personal use so long as not more than 12 plants are cultivated on the premises at once



**A Police Officer shall have the Authority to Arrest without a Warrant:**  
**Chapter 94C: Section 41**

- (a) any person committing in his presence any offense set forth in this chapter.
- (b) any person committing a felony in this chapter in presence or on probable cause (naturally).
- (c) any person whom he has probable cause to believe has committed or is committing a violation of the provisions of sections:
  - 27 - unlawful sale or possession of hypodermic needle, or syringe(misdemeanor).
  - 32 - knowingly or intentionally, unlawfully manufactures, distributes, or possesses with such intent. Class A - 10 year felony.  
second & subsequent offense, not less than 5 years nor more than 15 years and a fine may be imposed.
  - 32A - knowingly or intentionally manufactures, distributes, dispenses, or possesses with such intent Class B substances, OTHER THAN P.C.P.
    - (a) 10 year felony.
    - (b) second & subsequent offense, not less than 3 years, nor more than 10 year fine  
MANDATORY MINIMUM 3 years.
    - (c) dispense etc. & possess with intent P.C.P. 10 year felony.  
no sentence shall be less than MANDATORY MINIMUM OF ONE YEAR.
  - 32B - (a) knowingly, or intentionally manufactures, distributes, dispenses, or possesses with such intent Class C substances - 5 year felony.  
(b) second & subsequent offense, not less than 2 1/2 years to not more than 10 years.  
no less than 2 years MANDATORY MINIMUM SENTENCE.
  - 32C - (a) knowingly or intentionally manufactures, distributes, dispenses, or possesses with such intent Class D 2 year misdemeanor. Statutory right of arrest and past misdemeanor right.  
(b) second & subsequent offense not less than 1 year, nor more than 2 1/2 years, OR fine of not less than \$1,000.00 nor more than \$10,000.00 OR by BOTH
  - 32D - (a) knowingly & intentionally manufactures, distributes, dispenses or possesses with such intent Class E substances, 9 month misdemeanor or fine of \$250.00 - \$2,500.00. Statutory right & past misdemeanor right of arrest.  
(b) second & subsequent offense, jail or House of Correction, not more than 1 1/2 years OR fine of not less than \$500.00 nor more than \$5,000.00, OR BOTH.
  - 32E - Trafficking - LARGE AMOUNTS
  - 32F - (a) any person knowingly or intentionally manufactures, dispenses, distributes or possesses with such intent . . . to a person under 18 years:
    - Class A - not less than 5 nor more than 15 years & fine.
    - Class B - not less than 3 nor more than 15 years & fine.
    - Class C - not less than 2 1/2 nor more than 15 years & fine.
  - 33 - (a) knowingly & intentionally using a registration number which is fictitious, revoked, suspended or issued to another person.  
(b) uttering a false prescription for a controlled substance by means of forgery, fraud, deception subterfuge, including but not limited to the forgery or falsification of a prescription or the non disclosure of a material fact in order to obtain a



controlled substance from a practitioner.

**THIS SECTION IS A 4 YEAR FELONY**

second & subsequent becomes an EIGHT YEAR FELONY.

Chapter 94c: 34 PARTICULAR CONTROLLED SUBSTANCES: INCLUDING  
HEROIN AND MARIJUANA - UNLAWFUL POSSESSION  
Chapter 94c: 35 UNLAWFULLY PRESENT AT A PLACE WHERE HEROIN IS  
KEPT OR BEING IN COMPANY OF PERSON IN POSSESSION  
THEREOF

**Elements:**

1. Knowingly present at a place where heroin is kept or deposited  
OR
2. KNOWINGLY in the company of a person who unlawfully possesses heroin

**Rights of Arrest**

1 year misdemeanor in presence or on probable cause for HEROIN ONLY.

Chapter 94c: 37 WHOEVER STEALS A CONTROLLED SUBSTANCE FROM:  
(a) registered manufacturer  
(b) wholesale druggist  
(c) pharmacy OR  
(d) person authorized to dispense or possess any controlled substance

**THIS IS A TEN YEAR FELONY**

Chapter 94c: 40 WHOEVER CONSPIRES WITH ANOTHER PERSON TO  
VIOLATE ANY PROVISIONS OF THIS CHAPTER:  
Punishable by up to the same punishment of whichever section is  
conspired against.

**CONSPIRACY:**

An agreement by two or more persons to do an unlawful act or to accomplish a  
lawful act by unlawful means. The crime is complete when the agreement or  
conspiracy is made.



## **Protective Custody(Alcohol)**

### **Chapter 111B**

#### **Definition:**

Incapacitated is the condition of an intoxicated person, who by reason of the consumption of intoxicating liquor is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage to property, or (4) disorderly.

Any person who is incapacitated may be ASSISTED by a police officer WITH or WITHOUT his consent to

1. his residence
2. a facility
3. police station.

For the purpose of this chapter only, the officer may request the person to submit to reasonable tests of coordination, coherency of speech and breath.

If taken to the station, shall have the right and be informed in writing of said right to request and be administered a breathalyzer test. Results as follows:

- .00 - .05 Released forthwith
- .06 - .09 no presumption
- .10 and up presumption of drunkenness

1. Any person held - has the right and be informed of right to 1 phone call.
2. Officer in charge of station must notify nearest facility and if available, provide transport.
3. Upon arrival at facility, the transporting officer must inform of right to one phone call at other person's expense.
4. If incapacitated person is UNDER 18 and is to be held at station, parent or guardian must be notified forthwith upon arrival, or as soon as possible.
5. If no facility is available, the incapacitated person may be held up to 12 hours or until he is no longer incapacitated.
6. A record of custody kept with specified data. The record is not to be treated as an arrest or criminal record.

Chapter 111B Section 10 provides that if the parent or guardian of a person under 18 years of age that is being held requests his release, he must be released. This is also required by Rule 318A Section 7 of the Boston Police Rules and Regulations . . . All rights afforded any person under this chapter shall apply to juveniles.

#### **Note:**

The P.C. Law does not apply to persons incapacitated as a result of using drugs.





## **Protective Custody(Drugs)**

### **Chapter 111E**

**Section 9A: Incapacitated persons placed into protective custody without consent for transport to appropriate emergency medical treatment**

Text of section added by 2016, 161, Sec. 1 effective July 1, 2016. See 2016, 161, Sec. 2.

Section 9A. For purposes of this section, "incapacitated" shall mean the condition of a person who, by reason of the consumption of a controlled substance or toxic vapor or other substance other than alcohol is: (i) unconscious; (ii) in need of medical attention; (iii) likely to suffer or cause physical harm or damage property; or (iv) disorderly.

Any person who is incapacitated may be placed into protective custody by a police officer without the person's consent for the purpose of immediately transporting the person to an acute care hospital or satellite emergency facility as defined in section 51 1/2 of chapter 111 or otherwise immediately obtaining appropriate emergency medical treatment. For the purposes of this section, to determine whether or not a person is incapacitated, a police officer may request the person to submit to reasonable tests of coordination, coherency of speech and breath. A police officer may place the person into protective custody when such tests or other information or observations indicate that the person is incapacitated. Whenever a police officer places into protective custody a person under the age of 18 in accordance with this section, the police officer shall notify the parent or guardian of that person forthwith.

A person may not be held in protective custody against the person's will beyond the time required to complete the person's immediate transport to an acute care hospital or satellite emergency facility as defined in section 51 1/2 of chapter 111, or to otherwise immediately obtain appropriate emergency medical treatment.

A police officer acting in accordance with this section may use such force as is reasonably necessary to carry out the officer's authorized responsibilities. If the police officer reasonably believes that there may be a risk to the safety of the incapacitated person, the safety of the officer or the safety of other persons present, the police officer may search the person and the immediate surroundings of the person placed into protective custody but only to the extent necessary to discover and seize any items or weapons which may pose a danger. Any item taken shall be inventoried and, unless the item is contraband or otherwise unlawfully possessed, shall be returned to the person when the person is no longer incapacitated.

A person placed under protective custody in accordance with this section shall not be considered to have been arrested or to have been charged with any crime. An entry of custody shall be made indicating the date, time, place of custody, the name of the assisting officer and the name of the officer in charge. No such entry shall be treated as an arrest or criminal record for any purpose.



**Restraint; Licensed Physician, Qualified Psychologist (in part)**  
**Chapter 123: Section 12**

- (a) Any physician who is licensed pursuant to section two of chapter one hundred and twelve or a qualified psychologist licensed pursuant to sections one hundred and eighteen to one hundred and twenty-nine, inclusive of said chapter one hundred and twelve, who after examining a person has reason to believe that failure to hospitalize such a person would create a likelihood of serious harm by reason of mental illness, may restrain or authorize the restraint of such person and apply for the hospitalization of such person for a ten day period at a public facility or at a private facility authorized for such purposes by the department. If an examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to such an examination, the physician or qualified psychologist on the basis of the facts and circumstances may determine that hospitalization is necessary and may apply therefore, in an emergency situation, if a physician or qualified psychologist is not available, a police officer, who believes that failure to hospitalize a person would create a likelihood of serious harm by reason of mental illness may restrain such person and apply for the hospitalization of such person for a ten day period at a public facility or a private facility authorized for such purpose by the department. An application for hospitalization shall state the reasons for the restraint of such person and any other relevant information which may assist the admitting physician or physicians. Whenever practicable, prior to transporting such person, the applicant shall telephone or otherwise communicate with a facility to describe the circumstances and known clinical history and to determine whether the facility is the proper facility to receive such person and also to give notice of any restraint to be used and to determine whether such restraint is necessary.

**NOTE:**

This is the section that covers what is commonly known as the "PINK SLIP" commitment. In modern times, the chance of a physician or qualified psychologist not being available is remote. Officers should make themselves aware of the policy of their own department relative to this situation.



## **Alcoholic Beverages**

### **Chapter 138, Section 1**

#### **Definition:**

Any liquid intended for human consumption as a beverage and containing 1/2 of 1 percent or more of alcohol by volume at 60 degrees Fahrenheit.

## **Alcoholic Beverages; Transportation of**

### **Chapter 138, Section 22**

#### **Elements:**

Authorized transporting

1. any person may
2. for his own use or for that of his family and guests
3. transport without license
4. **1** gallon of straight alcohol  
**3** gallons of alcoholic beverage (whiskey)  
**20** gallons of malt beverage (beer)

#### **WHEN MOVING**

Person may from old residence to new transport alcoholic beverage made by him for his own use.

#### **Right of Arrest**

For unlawfully and knowingly transporting alcohol or alcoholic beverages, fine of not more than \$2,500 or by imprisonment for not more than 6 months or both.

Statutory Right of Arrest and Seizure c 138, s 56

Licensees for the sale of alcohol may transport and deliver if each vehicle used for such transportation and delivery is covered by a permit issued by Alcohol Beverage Control Commission.



**Alcoholic Beverages; Procuring for Person under 21 Years of Age**  
**Chapter 138, Section 34**

**Elements:**

1. sale or delivery of any alcoholic beverages
2. to any person under 21
3. OR procure for same not being his child, ward, or spouse in establishment licensed under Section:  
15 -- package store  
19B -- farmer, winery  
19C -- farmer, brewery

**Right of Arrest:**

This is a six month misdemeanor with a statutory right of arrest under Chapter 138, Section 56.

**Note:**

Person 18 years or older may be employed for the direct handling or selling of alcoholic beverages.

**Alcoholic Beverages; Procuring by**  
**False Representation / Sale or Delivery to Person**  
**Under 21 Years of Age**  
**Chapter 138, Section 34A**

**Elements:**

1. person under 21
2. purchases, attempts to purchase, makes arrangement to procure, willfully misrepresents his age or alters or otherwise falsifies his identification for such intent
3. for his own use or the use of any other person

OR

1. whoever knowingly makes a false statement of age of person under 21
2. or induces person under 21 to make a false statement

**Right of Arrest:**

This is a \$300.00 misdemeanor with no statutory right of arrest



## **Liquor Purchase Identification Cards**

### **Chapter 138, Section 34B**

#### **Elements:**

1. any person 21 years or older may apply
2. issued by registry
3. fee of \$5.00
4. shall bear name, signature, date of birth, address and photograph

Any person working in a licensed premise relying on this ID. or valid driver's license shall not suffer.

ANY PERSON who transfers, alters or defaces such card or license

OR

whoever makes, uses, carries, sells or distributes a false ID. card or license or used the ID. card or motor vehicle license of another or furnished false information in obtaining such card or license shall be guilty of a misdemeanor punishable by 3 months or \$200.00 fine.

#### **Right of Arrest:**

This misdemeanor is arrestable in presence by statute.

This is punishable by a fine of not more than \$200.00 or by imprisonment for not more than 3 months.

#### **NOTE:**

Upon conviction of this statute, the court shall notify the registrar, who shall immediately revoke the license, right to operate or registration of the defendant one year.



## **Alcoholic Beverages-Possession by Person Underage**

### **Chapter 138, Section 34C**

#### **Definition:**

Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses, transports or carries on his person, any alcohol or alcoholic beverages, shall be punished by a fine of not more than fifty dollars for a first offense and not more than one hundred and fifty dollars for a second or subsequent offense; provided, however, that this section shall not apply to a person between the ages of eighteen and twenty-one who knowingly possesses, transports or carries on his person, alcohol or alcoholic beverages in the course of his employment. A police officer may arrest without a warrant any person who violates this section. A conviction of a violation of this section shall be reported forthwith to the registrar of motor vehicles by the court if, at the time of the violation, the defendant was operating a motor vehicle upon a public way or a way to which the public had a right of access as invitees or licensees, and said registrar may suspend for not more than three months the license of such person to operate a motor vehicle.

#### **Elements:**

First: That the defendant knowingly or intentionally supplied, gave, or provided a beverage to someone, or allowed someone to possess a beverage on premises or property owned or controlled by the defendant;

Second: That the person to whom the beverage was furnished was under 21 years of age;

Third: That the beverage in question was alcohol or an alcoholic beverage; and

Fourth: That the defendant knew that the beverage was alcohol or an alcoholic beverage.

Statute does not criminalize parent giving alcohol to own child in parent's own home. The legislative intent of G.L. c. 138, § 34 was to allow parents the freedom to decide whether they wish to provide alcohol to their own children without fear of criminal liability, "regardless whether that act is characterized as furnishing or delivering." Commonwealth v. Parent, 465 Mass. 395, 410 (2013).

#### **Right of Arrest:**

This misdemeanor has a statutory right of arrest, (in presence).

#### **Note:**

This section shall not apply to persons between the ages of 18 and 21 who knowingly possesses, transports or carries on his person, alcohol or alcoholic beverages in the course of his employment.



Alcohol as mentioned in this section would refer to drinking alcohol a.k.a. ethyl alcohol or ethanol. Alcoholic beverages are defined in section 1 of Chapter 138 "as any liquid intended for human consumption as a beverage and containing one half of one percent or more of alcohol by volume at sixty degrees Fahrenheit.

2. Defendant under age of 21 may be prosecuted under this statute. See *Commonwealth v. Kneram*, 63 Mass. App. Ct. 371, 375 (2005).

3. Knowledge of age is not required. "Generally, when age is a factor in an offense, the government is not required to prove that the offender knew the age of the person to whom age is relevant, whether that person be victim or collaborator." *Commonwealth v. Montalvo*, 50 Mass. App. Ct. 85, 87 (2000) (citing G.L. c. 138, § 34). The Supreme Judicial Court has held that the earlier versions of G.L. c. 138, § 34 imposed strict criminal liability with respect to the age of the person obtaining alcohol. *Commonwealth v. Corey*, 351 Mass. 331, 333 (1966); *Commonwealth v. Gould*, 158 Mass. 499, 507 (1893) ("Knowledge that the purchaser was a minor was not essential to the offense.").

4. "Furnish." This term is defined in G.L. c. 138, § 34 as "to knowingly or intentionally supply, give, or provide to or allow a person under 21 years of age except for the children and grandchildren of the person being charged to possess alcoholic beverages on premises or property owned or controlled by the person charged. Nothing in this section shall be construed to prohibit any person licensed under this chapter from employing any person 18 years of age or older for the direct handling or selling of alcoholic beverages or alcohol. Notwithstanding the provisions of clause (14) of section 62 of chapter 149, a licensee under this chapter may employ a person under the age of 18 who does not directly handle, sell, mix or serve alcohol or alcoholic beverages."

5. "Alcohol." This term is defined in G.L. c. 138, § 1 as "all alcohol other than denatured alcohol or alcohol described in section three hundred and three A of chapter ninety-four." Section 303A of G.L. c. 94 provides:

"No person other than a registered druggist shall engage in the business of manufacturing, buying, selling, transporting, importing, exporting or dealing in methyl alcohol, or wood alcohol, so called, or any preparation, other than shellac varnish or shellac solvent or paint remover or varnish remover, used for manufacturing or commercial purposes which contains more than three per cent of methyl alcohol and is intended for use other than as a beverage, without being licensed so to do as provided in section three hundred and three B" (emphasis added).

6. "Alcoholic beverages." This term is defined in G.L. c. 138, § 1 as "any liquid intended for human consumption as a beverage and containing one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit."



## **Alcoholic Beverages; Rights of Arrest Under**

### **Chapter 138, Section 56**

Police Officer may arrest without a warrant any person he finds in the act of illegally:

**Selling**

**Exposing for sale**

**Exporting**

**Keeping for sale**

**Manufacturing**

**Importing**

**Storing**

**Transportation**

and seize the said beverages or alcohol and any vessels and implements of manufacture or sale in the possession of such person and detain them until warrants can be procured against such person, and for the seizure of said beverages or alcohol, vessels and implements, under this chapter.

## **Sales or Deliveries of Alcoholic Beverages**

### **in Times of Riot or Great Public Excitement**

#### **Chapter 138, Section 68**

The mayor of a city and the selectmen of a town may, in cases of riot or great public excitement, order licensees under this chapter not to sell, give away or deliver any alcoholic beverages on the licensed premises for a period not exceeding three days at any one time. Whoever, himself or by his agents or servants, sells, gives away or delivers any such beverages in violation of an order given under the provisions of this section shall be punished by a fine of two hundred dollars, and upon conviction, his license shall be revoked by the licensing authority.





## Definitions of a Firearm

### Chapter 140, Section 121

**"Firearm", a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured;** provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk- through metal detectors.

A *"sawed-off shotgun"* shall mean any weapon made from a shotgun whether by alteration, modification or otherwise, if such a weapon, as modified has one or more barrels less than 18 inches in length or as modified has an overall length of less than 26 inches.

A *rifle* is a weapon having a rifled bore with a barrel length equal to or greater than 16 inches, capable of discharging a shot or bullet for each pull of the trigger.

A *shotgun* is a weapon having a smooth bore with a barrel equal to or greater than 18 inches with an overall length equal to or greater than 26 inches, capable of discharging a shot or bullet for each pull of the trigger.

"Ammunition", cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term "ammunition" shall also mean tear gas cartridges.

An *"Assault weapon"*, shall have the same meaning as a semiautomatic assault weapon as defined in the Federal public safety and Recreational Firearms Use Protection Act, 18 USC section 921 (a) (30), and shall include, but not limited to, any of the weapons, or copies or duplicates of the weapons, of any caliber, known as: Avtomat *Kalashnikov (AK) all models* Action Arms Israeli Military *Industries UZI* and *Galil* Beretta Ar70 (SC-70) Colt AR- 15 Fabrique National FN/FAL, FN/LAR and FNC SWD M-10, M-11, M-1 1/9, and M-12 Steyr AUG Intratec TEC-9, TEC-DC9 and TEC-22 and

"Large capacity feeding device", (i) a fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five shotgun shells; or (ii) a large capacity ammunition feeding device as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(31) as appearing in such section on September 13, 1994. The term "large capacity feeding device" shall not include an attached tubular device designed to accept, and capable of operating only with,.22 caliber ammunition.



"Large capacity weapon", any firearm, rifle or shotgun: (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (iii) that employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or firearm and more than five shotgun shells in the case of a shotgun or firearm; or (iv) that is an assault weapon. The term "large capacity weapon" shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and shall not include: (i) any weapon that was manufactured in or prior to the year 1899; (ii) any weapon that operates by manual bolt, pump, lever or slide action; (iii) any weapon that is a single-shot weapon; (iv) any weapon that has been modified so as to render it permanently inoperable or otherwise rendered permanently unable to be designated a large capacity weapon; or (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable large capacity weapon.

**NOTE:**

The term Large capacity feeding device shall not include an attached tubular device designed to accept, and capable of operating only with a .22 caliber ammunition.

A "Large capacity weapon" any rifle, firearm, or shotgun:

That is semiautomatic with a fixed large capacity feeding device;

That is a semiautomatic and capable of accepting or readily modifiable to accept, any detachable large capacity feeding device;

That employs a rotating cylinder capable of accepting more than (10) ten rounds of ammunition in a rifle and more than (5) five shotgun shells in the case of a shotgun or firearm; or, That is an assault weapon

*The term large capacity weapon shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and SHALL NOT include:*

**Any weapon that was manufactured in or prior to the year 1899; Any weapon that operates by manual bolt, pump, lever, or slide action . Any weapon that is a single-shot weapon. Any weapon that has been modified so as to render it permanently inoperable or otherwise rendered**



## COMMONWEALTH vs. CHEVASSE WHITE

452 Mass. 133

A jury in the Superior Court convicted the defendant, Chevasse White, of unlawful possession of a firearm in violation of G. L. c. 269, § 10 (a).

**Background.** The charges against the defendant arose in connection with an apparent gun battle outside a building in the Jamaica Plain section of Boston that housed a laundromat and a car wash. Since sufficiency of the evidence is in issue and affects the challenged instruction as well, we summarize the trial testimony. An eyewitness, Alice McLaughlin, who was standing across the street from the building, heard numerous gunshots coming from the area of the car wash and saw people "diving on the ground, running for cover, hiding behind things." When the gunfire had died down, she saw two young black men in front of the laundromat. One of the men was holding a gun that she saw him put in the waistband of his pants. She described this man as wearing a "black Fubu jacket with white lettering on it." The men then walked toward the rear of the laundromat and car wash. At the time she saw the man with the gun, the witness was approximately twenty-five feet from the men, and her view of them was unobstructed.

Officer Edwin Guzman and his partner arrived at the scene in the immediate aftermath of the gunfire. They had been traveling on Washington Street in a police cruiser when they observed a man outside the car wash crouching down, nervously trying to signal them. When they stopped, the man told them that a shooting had just taken place and that the persons involved had run to the rear of the car wash. Guzman reported the shooting to the police operations division, and he and his partner headed on foot in the direction in which the men had fled. When they got to the rear of the car wash, they encountered the defendant and his cousin coming out of an exit door. The door was at the end of a narrow hallway that ran the length of the building.

The defendant was wearing a black jacket with the letters "FB" on the back. A pat-down of the defendant revealed that he was unarmed. The defendant and his cousin were brought to the front of the car wash, where McLaughlin, who by then had been interviewed by another officer, identified the man with the Fubu jacket as the man she had seen with the gun.

Approximately twenty minutes later, a working firearm was recovered from an air vent in the hallway from which the defendant and his cousin had exited. Another working firearm was found on a street near the car wash. No fingerprints were recovered from the weapons, however, and none of the bullets, bullet fragments, or shell casings from the scene could be linked to either weapon.

To sustain a conviction under G. L. c. 269, § 10 (a), the Commonwealth must prove that the defendant knowingly possessed a firearm without either being present in his residence or place of business or having in effect a license to carry firearms or a firearm identification card. The Commonwealth must prove that the gun the defendant possessed met the definition of a working firearm set forth in G. L. c. 140, § 121, that is, that it had a barrel less than sixteen inches long and was capable of discharging a bullet. G. L. c. 269, § 10 (a). Since McLaughlin did not describe the gun (and thereby potentially establish that the barrel was of the requisite length) or see the defendant fire it (and thereby potentially establish that it was capable of firing), the defendant could not be convicted unless the evidence was sufficient to establish that he had possessed one of the firearms recovered from the scene and later tested by the Commonwealth.

The evidence, and the reasonable inferences to be drawn therefrom, were sufficient to convict the defendant. An eyewitness observed a man, later identified as the defendant, holding a gun; the same man was seen coming from the hallway of the car wash, without the gun; a gun was discovered shortly thereafter in the area from which the defendant had recently emerged. A jury could reasonably infer that the defendant had placed the gun in the air vent while he was in the hallway.



**License to Carry Class "A" and Class "B"**  
Chapter 140, Section 131

**(a) A Class A license** shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) firearms, including large capacity firearms, and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of firearms as the licensing authority deems proper; and (ii) rifles and shotguns, including large capacity weapons, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as it deems proper. A violation of a restriction imposed by the licensing authority under the provisions of this paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

The colonel of state police may, after an investigation, grant a Class A license to a club or facility with an on-site shooting range or gallery, which club is incorporated under the laws of the commonwealth for the possession, storage and use of large capacity weapons, ammunition therefor and large capacity feeding devices for use with such weapons on the premises of such club; provided, however, that not less than one shareholder of such club shall be qualified and suitable to be issued such license; and provided further, that such large capacity weapons and ammunition feeding devices may be used under such Class A club license only by such members that possess a valid firearm identification card issued under section 129B or a valid Class A or Class B license to carry firearms, or by such other persons that the club permits while under the direct supervision of a certified firearms safety instructor or club member who, in the case of a large capacity firearm, possesses a valid Class A license to carry firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B license to carry firearms. Such club shall not permit shooting at targets that depict human figures, human effigies, human silhouettes or any human images thereof, except by public safety personnel performing in line with their official duties.

No large capacity weapon or large capacity feeding device shall be removed from the premises except for the purposes of: (i) transferring such firearm or feeding device to a licensed dealer; (ii) transporting such firearm or feeding device to a licensed gunsmith for repair; (iii) target, trap or skeet shooting on the premises of another club incorporated under the laws of the commonwealth and for transporting thereto; (iv) attending an exhibition or educational project or event that is sponsored by, conducted under the supervision of or approved by a public law enforcement agency or a nationally or state recognized entity that promotes proficiency in or education about semiautomatic weapons and for transporting thereto and therefrom; (v) hunting in accordance with the provisions of chapter 131; or (vi) surrendering such firearm or feeding device under the provisions of section 129D. Any large capacity weapon or large capacity feeding device kept on the premises of a



lawfully incorporated shooting club shall, when not in use, be secured in a locked container, and shall be unloaded during any lawful transport. The clerk or other corporate officer of such club shall annually file a report with the colonel of state police and the commissioner of the department of criminal justice information services listing all large capacity weapons and large capacity feeding devices owned or possessed under such license. The colonel of state police or his designee, shall have the right to inspect all firearms owned or possessed by such club upon request during regular business hours and said colonel may revoke or suspend a club license for a violation of any provision of this chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons or large capacity feeding devices.

**(b) A Class B license** shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as the licensing authority deems proper; provided, however, that a Class B license shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way or place; and provided further, that a Class B license shall not entitle the holder thereof to possess a large capacity firearm, except under a Class A club license issued under this section or under the direct supervision of a holder of a valid Class A license at an incorporated shooting club or licensed shooting range; and (ii) rifles and shotguns, including large capacity rifles and shotguns, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as he deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed by the licensing authority under the provisions of this paragraph, shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.



## **Carrying of Firearm in Motor Vehicle**

### **Chapter 140, Section 131C**

Section 131C. (a) No person carrying a loaded firearm under a Class A license issued under section 131 or 131F shall carry the same in a vehicle unless such firearm while carried therein is under the direct control of such person. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(b) No person carrying a firearm under a Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(c) No person possessing a large capacity rifle or shotgun under a Class A or Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

(d) The provisions of this section shall not apply to (i) any officer, agent or employee of the commonwealth or any state or the United States; (ii) any member of the military or other service of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.

(e) A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the licensing authority who shall immediately revoke the card or license of the person so convicted. No new such card or license may be issued to any such person until one year after the date of revocation.





## Carrying of Firearm in Motor Vehicle

### Chapter 140, Section 131C

Chapter 140: Section 131C. Carrying of firearms in a vehicle

*[Text of section as amended by 2014, 284, Sec. 58 effective January 1, 2021. See 2014, 284, Sec. 112. For text effective until January 1, 2021, see above.]*

Section 131C. (a) No person carrying a loaded firearm under a license issued pursuant to section 131 or 131F shall carry the loaded firearm in a vehicle unless the loaded firearm while carried in the vehicle is under the direct control of the person. Whoever violates this subsection shall be punished by a fine of \$500.

(b) No person possessing a large capacity rifle or shotgun under a license issued pursuant to section 131 or 131F shall possess the large capacity rifle or shotgun in a vehicle unless the large capacity rifle or shotgun is unloaded and contained within the locked trunk of the vehicle or in a locked case or other secure container. Whoever violates this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

(c) This section shall not apply to: (i) an officer, agent or employee of the commonwealth, any state or the United States; (ii) a member of the military or other service of any state or of the United States; (iii) a duly authorized law enforcement officer, agent or employee of a municipality of the commonwealth; provided, however, that a person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of the person's official duties.

(d) A conviction of a violation of this section shall be reported immediately by the court or magistrate to the licensing authority. The licensing authority shall immediately revoke the firearm identification card or license of the person convicted of a violation of this section. No new firearm identification card or license may be issued to a person convicted of a violation of this section until 1 year after the date of revocation of the firearm identification card or license.

**Right of arrest:** *No statutory right of arrest for any section of this misdemeanor [\$500.00 fine], however, if convicted under this section, it shall be reported forthwith by the court to the licensing authority who shall immediately revoke the license. No new license may issue until after 1 year of such revocation.*

#### **Exemptions:**

Any officer, agent or employee of the commonwealth or any state or United States.

Any member of the military or other service of any state or of the United States.

Any duly authorized law enforcement officer, agent or employee of any municipality of the Commonwealth; provided, however, that any such person described above, Is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.



## Electrical Weapons-Sale or Possession

### Chapter 140, Section 131J

The United States Supreme Court remanded the *Caetano* case from Massachusetts that and found that an absolute ban on stun guns was unlawful. The SJC in *Ramirez* found that an absolute ban on stun guns violated the Second Amendment. On July 3, 2018, the Governor enacted the “Red Flag” legislation which establishes that stun guns will be regulated like firearms. The provisions related to these new regulations are contained in in the section under “Red Flag” legislation.

### **Electronic Control Weapons**

*Commonwealth v. Jorge Ramirez*, 479 Mass. 331 (2018): The SJC held the absolute prohibition against civilian possession of stun guns pursuant to G.L. c. 140, § 131J, violates the Second Amendment and therefore the complaint against the defendant must be dismissed. **The SJC also determined that the possession of stun guns may be regulated, but not absolutely banned.** “Because this will invalidate the Legislature's absolute ban and leave no lesser restriction on the possession of stun guns in its place, and because the SJC recognizes that the Legislature may wish to do what it cannot (revise the statute in a manner that will preserve its constitutionality), the SJC will stay the judgment shall be stayed for sixty days after the date of the issuance of the rescript in this case in order to allow the Legislature adequate time to amend the statute in light of this opinion, if it so chooses.”

### **Elements:**

#### **NO person shall:**

1. Sell, offer for sale, or possess
2. Portable device or weapon from which an electrical current, impulse, wave or beam may be directed
3. Which current, impulse, wave or beam is designed to incapacitate temporarily, injure or kill.

### **Right of arrest:**

**This statute is a misdemeanor with a statutory right of arrest.**

### **Note:**

The use of this weapon on a person would be assault and battery by means of a dangerous weapon, a 10 year. Felony under Chapter 265 Section 15A.





**Security of Weapons: Criminal penalties:**  
**Chapter 140, Section 131L:**

Section 131L. (a) It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(b) A violation of this section shall be punished, in the case of a firearm, rifle or shotgun that is not a large capacity weapon, by a fine of not less than \$1000 nor more than \$7,500 or by imprisonment for not more than 11/2 years or by both such fine and imprisonment and, in the case of a large capacity weapon or machine gun, by a fine of not less than \$2,000 nor more than \$15,000 or by imprisonment for not less than 1 1/2 years nor more than 12 years or by both such fine and imprisonment.

(c) A violation of this section shall be punished, in the case of a rifle or shotgun that is not a large capacity weapon and the weapon was stored or kept in a place where a person younger than 18 years of age who does not possess a valid firearm identification card issued under section 129B may have access without committing an unforeseeable trespass, by a fine of not less than \$2,500 nor more than \$15,000 or by imprisonment for not less than 11/2 years nor more than 12 years or by both such fine and imprisonment.

(d) A violation of this section shall be punished, in the case of a rifle or shotgun that is a large capacity weapon, firearm or machine gun that was stored or kept in a place where a person younger than 18 years of age may have access without committing an unforeseeable trespass, by a fine of not less than \$10,000 nor more than \$20,000 or by imprisonment for not less than 4 years nor more than 15 years or by both such fine and imprisonment.

(e) A violation of the provisions of this section shall be evidence of wanton or reckless conduct in any criminal or civil proceeding if a person under the age of 18 who was not a trespasser or was a foreseeable trespasser acquired access to a weapon, unless such person possessed a valid firearm identification card issued under section 129B and was permitted by law to possess such weapon, and such access results in the personal injury to or the death of any person.

(f) This section shall not apply to the storage or keeping of any firearm, rifle or shotgun with matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or prior to the year 1899, or to any replica of any such firearm, rifle or shotgun if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.



## **Security of Weapons: Criminal penalties:**

### **Chapter 140, Section 131L:**

### **JURY INSTRUCTION**

#### **IMPROPER STORAGE OF A FIREARM**

G.L. c. 140, § 131L

The defendant is charged with improperly storing a (firearm) (rifle)(shotgun).

In order to prove the defendant guilty of this offense, the

Commonwealth must prove three things beyond a reasonable doubt:

First: That the defendant stored or kept a (firearm) (rifle) (shotgun);

Second: That the defendant was not carrying the (firearm) (rifle) (shotgun) or did not have the (firearm) (rifle) (shotgun) under (his) (her) immediate control; and

Third: That the (firearm) (rifle) (shotgun) was not secured in one of two ways — either by storing the (firearm) (rifle) (shotgun) in a locked container, or with a properly engaged tamper-resistant mechanical lock by any person other than the owner or other lawfully authorized user.

To qualify as a securely locked container, the container must be capable of being unlocked only by means of a key, combination, or other similar means.

Examples of securely locked containers may include safes, (firearm) (rifle) (shotgun) boxes, locked cabinets, gun cases, and lock boxes. In determining whether a particular storage container is a securely locked container, you may consider all the circumstances presented by the evidence including the nature of the locking mechanism, whether the container was itself within a place, a compartment, or a container that was itself locked and alarmed, and whether under all the circumstances it was secured adequately to deter all but the most persistent persons from gaining access.

#### **NOTES:**

1. A weapon not stored if “carried” or “under the control.” The weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user. G.L. c. 140, § 131L(a).

“Carried” requires actual physical possession of the firearm, and “under the control” requires that a person be sufficiently nearby the firearm to prevent immediately its unauthorized use.

Commonwealth v. Reyes, 464 Mass. 245, 258 n.19 (2013), citing Commonwealth v. Patterson, 79 Mass. App. Ct. 316, 319 (2011).

### **Com. v. Reyes, 464 Mass. 245, 982 N.E.2d 504 (2013)**

Statute governing offense of unlawful storage of a firearm, stating that it was unlawful to store or keep any firearm in any place unless such weapon is secured in a locked container, was not unconstitutionally vague, although term “locked container” was not defined; legislative history, purpose of statute to prevent accidental injuries and deaths, and secondary materials such as Massachusetts and Federal statutes regulating the storage of firearms, showed existence of a common understanding of acceptable containers, including safes, weapon boxes, locked cabinets, gun cases, lock boxes, and locked trunks of vehicles.



*It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container\*\*508 or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.”* to be secure, “guns [must] be maintained in locked containers in a way that will deter all but the most persistent from gaining access.” *Commonwealth v. Parzick, supra* (door lock that was easily defeatable by using “bobby pin” did not prevent access to unauthorized persons other than owner and therefore was “not secure”

## REYES-PATTERSON

Statutory and regulatory references to acceptable containers include safes, weapon boxes, locked cabinets, gun cases, lock boxes, and locked trunks of vehicles. Municipal Police Institute, Inc., states that a securely locked container can include a soft gun case secured with a padlock, “as well as an expensive gun safe,” and that even “glass front furniture style gun cabinets are acceptable providing that they are capable of being locked.”

Witness testimony, that defendant failed to lock glove compartment when he placed his handgun in the glove compartment and left the vehicle, was sufficient to show that defendant stored his loaded firearm in an unlocked container within a motor vehicle, as required to support conviction for unlawfully storing a firearm.

**Approved Firearm Safety / Locking Devices M.G.L. c. 140, § 131K requires** that any firearm or large capacity weapon sold within the Commonwealth must be sold with a safety device designed to prevent the discharge of such weapon by unauthorized users. **The following safety/locking devices have been approved by the Colonel of the Department of State Police as complying with the provisions of M.G.L. c. 140, § 131K:** 1 CCL Sesamee Gun Blok Combination Lock 2 Master Lock: Cable Key Lock or Trigger Guard Lock 3 Outer/Cease Fire Trigger Lock 4 Shot Lock Corp. Keyed Cable Lock or Trigger Guard Lock 5 Speed Release Gun Lock 6 Dominion Group Trigger Lock 7 Remington Trigger Lock 8 Mossberg Cable Lock 9 American Firearms Council Cable Lock 10 Rocky Mountain Tool and Armory Chamber-Safe 11 Saf T Lock’s Magazine Lock 12 Franzen Trigger Combination Lock 13 Noble Guard Wall Mount Gun Lock 14 Noble Trigger Lock 15 Noble Double Security Cable Gun Lock 16 Central Specialties Trigger Lock Model 9311 17 Crown Trigger Lock 18 Miltex Inc. Trigger Lock 19 Concept Development Corp. / Law Lock Key Cuff Trigger Lock 20 Concept Development Corp. / Trigger Block Safety in Conjunction with the Saf-T-Block Combination Lock 21 A. Rifkin Company Arcolock – 7 Keyed Lock Model 22 Armloc Magnum (Handgun Safety System) Combination Lock Container 23 Franzen Model 6.0 Combination Cable Lock 24 Franzen Keyed Trigger Lock 25 Concept Development Corp. Law Lok III, Key Cuff Trigger Lock 26 Bell Trigger Lock Model B100KA 27 Bellock Model #B300-8ka Cable Key Lock 28 Bellock Economy Trigger Lock Model #B200-3 29 CCL Security Products Model K-39 Trigger Blok (keyed) 30 CCL Security Products Model CA12 Sesamee Cablelock (combination) 31 Palmer Security Products Model/Series 5000, 54500, 6000, 7000, 8100, 9000, Push Button Lock / Key Systems 32 Steyer M-Series Integrated Limited Access Lock with Key 33 Armadillo Gun Trigger Lock (keyed) 34 Master Lock: Combination Gunlock 35 Taurus International – Hammer Key Lock 36 Mossberg Safe Systems Inc. Portable Electronic Firearm Safe 37 Life Jacket by Mogul Company 38 Saf-T-Trigger 39 DAC Technologies Items: MTL, LHL, TVP, GL001, CL200, CL100 40 UNEX Keyed Trigger Lock and Keyed Cable Lock 41 Alarm It w/ Cable Lock 42 Smart Trigger Lock with Alarm 43 Maximum Security Cable Lock 44 Regal Keyed Cable Lock Model SL14-4PTACA 45 Project HomeSafe Cable Lock 46 Omega Safety Systems Internal Chamber Lock 47 Project Child Safe Cable Lock w/ Key 48 Regal Keyed Cable Lock Model DCSC-5-DTACA14 49 VisualLock (Special Keyed Lock) 50 CABLE LOCK (NAD Corporation, Worcester, MA) 51 CHILD GUARD (Child Guard LLC, Lancaster, PA)



**Assault Weapons Ban:**  
**Chapter 140 Section 131M:**  
Also City of Boston Ordinance

No person *shall sell, offer for sale, transfer or possess* an assault or a large capacity feeding that was not otherwise lawfully possessed on September 13, 1994.

**Right of arrest:**

Whomever not being licensed under section 122 violates the provisions of this section shall be punished

1st offense-NLT \$1,000.00 NMT \$10,000.00 or by imprisonment for NLT 1 year NMT 10 years or both.

**This provision does not apply to:**

Law enforcement officer for law enforcement purposes Individuals retired from service with a law enforcement agency who are not otherwise prohibited from receiving the weapon or feeding device from such agency upon retirement.

**Disguised Firearms:**  
**Chapter 140 Section 131N:**

No person shall sell, offer for sale, transfer or possess any weapon, capable of discharging a bullet or shot that is: Constructed in a shape that does not resemble a handgun, short-barreled rifle or shot-barreled shotgun including but not limited to, covert weapons that resemble key chains, pens, cigarette lighters, cigarette packages or

> Not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk through metal detectors.

**Right of arrest:**

**Felony:** whoever violates the provisions of this section shall be punished:

1<sup>st</sup> offense-NLT \$1,000.00 NIVIT \$10,000-00 or by imprisonment for NLT 1 year NIVIT 10 years

2<sup>nd</sup> offense-NLT \$5,000.00 NIVIT \$15,000-00 or by imprisonment for NLT 5 years NIVIT 15 years, or both.



## **Fireworks**

### **Chapter 140, Section 39**

#### **Definition:**

“Fireworks” shall include compositions, substances or other articles and shall also include blank cartridges or toy cannons in which explosives are used, the type of toy balloon which requires fire underneath to propel the same, firecrackers, *cherry bombs*, *silver salutes*, *M-80's*, *torpedoes*, *sky rockets*, *roman* candles, sparklers, rockets, wheels, colored fires, fountains, mines, serpents, or other fireworks of like construction or any fireworks containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance.

#### **Simple possession or use of Fireworks:**

Whoever shall have in possession or under his control, or whoever shall use or explode or cause to explode any fireworks in violation of this section shall be punished by a fine of NLT \$10-00, NMT \$100.00. Any officer qualified to serve criminal process shall seize all of the fireworks mentioned herein without a warrant, and the fireworks seized shall, upon conviction of such violation, be forfeited to the Commonwealth.

**NOTICE: this is a non-arrestable misdemeanor.** An officer may seize the fireworks (since they are contraband) and later seek complaints. This does not mean that in extreme cases officers are precluded from using other charges such as disorderly or disturbing the peace.

#### **Selling or offering for sale:**

Who ever shall sell or keep for sale or offer for sale any fireworks in violation of this section shall be punished by a fine of NLT \$100.00, NMT \$1,000.00 or by imprisonment for NMT 1 year or both. Any officer qualified to serve criminal process may arrest without a warrant any person who shall sell or keep for sale or offer for sale any fireworks in violation of this section.

**This is a misdemeanor with a statutory right of arrest.**



## **Dispersing Unlawful Assembly**

### **Chapter 269, Section 1**

#### **Elements:**

1. five (5) or more armed persons or ten or more unarmed persons
2. unlawfully, riotously or tumultuously assembled
3. in a city or town
4. fail to disperse peacefully after being so ordered by a police officer or other authorized official

#### **Right of Arrest:**

This misdemeanor has a statutory right of arrest

## **Refusal to Disperse**

### **Chapter 269, Section 4**

#### **Elements:**

1. persons unlawfully assembled
2. have been commanded to disperse
3. refusing or neglecting to disperse without necessary delay
4. any 2 magistrates or officers may
5. require aid of sufficient number of persons or arms
6. in a manner they deem excellent, to forthwith disperse and suppress such assembly
7. and to seize and secure the persons composing same
8. so that they may be proceeded with according to the law



False Report of a Crime  
Chapter 269, Section 13A

Section 13A. Whoever intentionally and knowingly makes or causes to be made a false report of a crime to police officers shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**False Written Report by a Public Official**  
Chapter 268, Section 6

Section 6A. Whoever, being an officer or employee of the commonwealth or of any political subdivision thereof or of any authority created by the general court, in the course of his official duties executes, files or publishes any false written report, minutes or statement, knowing the same to be false in a material matter, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.



**Possession of a Firearm, Rifle, or Shotgun,  
Not at Home or Office  
Chapter 269, Section 10(a)**

**JURY INSTRUCTION**

**POSSESSION OF A FIREARM WITHOUT A LICENSE OUTSIDE HOME OR BUSINESS**

The offense found in G.L. c. 269, § 10(a) is commonly referred to as “carrying” a firearm, to distinguish it from the offense of “possession” of a firearm without a firearm ID card, found in § 10(h). The name is no longer really accurate, since St. 1990, c. 511 (effective January 2, 1991) eliminated movement of the firearm as an element of § 10(a).

**I. FIREARM WITH BARREL UNDER 16 INCHES**

The defendant is charged under section 10(a) of chapter 269 of our General Laws with knowingly possessing a firearm unlawfully. In order to prove the defendant guilty of this offense, the Commonwealth must prove the following (three) (four) things beyond a reasonable doubt:

First: That the defendant possessed a firearm (or) (that he [she] had a firearm under his [her] control in a vehicle);

Second: That what the defendant (possessed) (or) (had under his [her] control in a vehicle) met the legal definition of a “firearm”; (and)

Third: That the defendant knew that he (she) (possessed a firearm) (or) (had a firearm under his [her] control in a vehicle).

evidence of one of the statutory exceptions, use one of the following:

A. If there is evidence that it was in the defendant’s residence or place of business.  
and

Fourth: that the defendant possessed the firearm outside of his (her) residence or place of business. A person’s “residence” or “place of business” does not include common areas of an apartment or office building, but only areas that are under that person’s exclusive control.

B. If there is evidence that the defendant had a license to carry firearms.

and Fourth: that the defendant did not have a valid license to possess a firearm outside his (her) home or office.

C. If there is evidence that the defendant was exempt from the licensing requirements of our General Laws c. 278, § 7 places on the defendant the burden of producing evidence of one of these exemptions; the Commonwealth must then disprove beyond a reasonable doubt the applicability of the claimed exemption. Until there is such evidence, the exemptions are not at issue. *Commonwealth v. Seay*, 376 Mass. 735, 738, 383 N.E.2d 828, 830 (1978) (former statute); *Commonwealth v. Jones*, 372 Mass. 403, 406-407, 361 N.E.2d 1308, 1310-1311 (1977) (same); *Commonwealth v. Davis*, 359 Mass. 758, 270 N.E.2d 925 (1971) (same); *Commonwealth v. Baker*, 10 Mass. App. Ct. 852, 853, 407 N.E.2d 398, 399 (1980) (lack of license need not be charged in complaint).





A “firearm” is defined in our law as: “a pistol, revolver or other weapon . . . loaded or unloaded, from which a shot or bullet can be discharged and . . . the length of [whose] barrel is less than sixteen inches . . .”

That definition can be broken down into three requirements: First, it must be a weapon; Second, it must be capable of discharging a shot or bullet; and Third, it must have a barrel length of less than 16 inches. The term “barrel length” refers to “that portion of a firearm . . . through which a shot or bullet is driven, guided or stabilized, and [includes] the chamber.”

G.L. c. 140, § 121. *Commonwealth v. Williams*, 422 Mass. 111, 120, 661 N.E.2d 617, 624 (1996) (not necessary that firearm be loaded); *Commonwealth v. Bartholomew*, 326 Mass. 218, 219, 93 N.E.2d 551, 552 (1950) (same); *Commonwealth v. Tuitt*, 393 Mass. 801, 810, 473 N.E.2d 1103, 1110 (1985) (jury can determine from inspection that “firearm”); *Commonwealth v. Fancy*, 349 Mass. 196, 204, 207 N.E.2d 276, 282 (1965) (same); *Commonwealth v. Sampson*, 383 Mass. 750, 753, 422 N.E.2d 450, 452 (1981); *Commonwealth v. Sperrazza*, 372 Mass. 667, 670, 363 N.E.2d 673, 675 (1977) (testimony about “revolver” or “handgun” will support inference that barrel was under 16 inches) to prove that the defendant knew that the item met the legal definition of a firearm.

#### Right of Arrest:

This is a five (5) year felony arrestable in presence or upon probable cause.

#### **FIREARM RIFLE SHOTGUN NOT HOME OR WORK**

##### Note:

- A conviction under this section has a one year mandatory minimum sentence..
- No person having in effect a license to carry firearms for any purpose (such as hunting, target, employment, etc.) issued under c. 140, sec. 131 or sec. 131F shall be deemed to be in violation of this section.
- The provisions of this subsection shall not affect the licensing requirements of c. 140, 129C.
- The burden of proof relative to being licensed is on the defendant, c. 278, sec. 7.

This subsection is not applicable to:

- Flare Pistols - Comm. v. Samson, 422 N.E. 2d 450
- BB Pistols - Comm. v. Rhodes, 451 N.E. 1151
- CO2 Powered Pellet Pistols - Comm. v. Fenton, 478 N.E. 2d 949

## **II. RIFLE OR SHOTGUN**

The defendant is charged under section 10(a) of chapter 269 of our General Laws with knowingly possessing a rifle or shotgun unlawfully. In order to prove the defendant guilty of this offense, the Commonwealth must prove the following (three) (four) things beyond a reasonable doubt:

First: That the defendant possessed a rifle or shotgun (or) (that he [she] had a rifle or shotgun under his [her] control in a vehicle);

Second: That what the defendant (possessed) (or) (had under his [her] control in a vehicle) met the legal definition of a “rifle” or a “shotgun”; (and)

Third: That the defendant knew that he (she) (possessed a rifle or shotgun) (or) (had a rifle or shotgun under his [her] control in a vehicle).

If there is evidence of one of the statutory exceptions, use one of the following:



- A. If there is evidence that it was in the defendant's residence or place of business.  
and Fourth: that the defendant possessed the rifle or shotgun outside of his (her) residence or place of business. A person's "residence" or "place of business" does not include common areas of an apartment or rtment or office building, but only areas that are under that person's exclusive control.
- B. If there is evidence that the defendant had a license to carry firearms.  
and Fourth: that the defendant did not have a valid license to carry a firearm.
- C. If there is evidence that the defendant was exempt from the licensing requirement.  
and Fourth: that the defendant did not qualify for one of the exemptions in the law that are a substitute for having a license to carry a firearm.

***Commonwealth v. Chukwunoso Obiora*** 2013

**Constructive Possession**

:The Court found that defendant could be charged with **constructive possession** of the firearm and ammunition. The defendant argued the vehicle belonged to his girlfriend and that Trooper Mansi did not recover the firearm from his person. Trooper Mansi observed the firearm before she entered the vehicle and recovered the ammunition under the front passenger seat where the defendant was sitting. Although the car belonged to the defendant's girlfriend, there was sufficient evidence to support that Obiora had possession of the car for the previous twenty-four hours. Based on all these factors, it is reasonable for a fact finder to infer that Obiora, "had knowledge of the weapon [and ammunition], coupled with the ability and intention to exercise dominion and control over it."

Com. v. Powell, 459 Mass. 572, 573–74, 946 N.E.2d 114, 118 (2011)

On January 30, 2009, after a jury-waived trial in the Central Division of the Boston Municipal Court Department, the defendant, Aaron Powell,<sup>2</sup> was convicted of possession of a firearm<sup>3</sup> without a firearm identification card (FID card), in violation of G.L. c. 269, § 10 (h ); carrying a loaded firearm without a license, in violation of G.L. c. 269, § 10 (n ); carrying a firearm without a license, in violation of G.L. c. 269, § 10 (a ); and \*574 resisting arrest, in violation of G.L. c. 268, § 32B.<sup>4</sup> He appeals from the denial of his pretrial motion to suppress evidence,<sup>5</sup> contending that the firearm recovered was the result of an unlawful seizure of his person under art. 14 of the Massachusetts Declaration of Rights.<sup>6</sup> In addition, he contends that there was insufficient evidence to support his convictions of resisting arrest and unlawful possession of a firearm, and that his counsel furnished him with constitutionally ineffective representation by failing to file a motion to suppress a statement made by him. Last, the defendant challenges his firearm convictions under the Second Amendment to the United States Constitution. We transferred the case here on our own motion. We affirm the denial of the defendant's motion to suppress and affirm his convictions.



## **Unlawfully Carrying Dangerous Weapons**

### **Chapter. 269: Section 10(b)**

#### **Definition:**

Whoever, except as provided by law carries on his person or under his control in a motor vehicle:

1. Stiletto
2. Dagger
3. A device or case which enables a knife with locking blade to be drawn at a locked position
4. Any ballistic knife
5. Any knife with a detachable blade capable of being propelled by any mechanism
6. Dirk knife
7. Any knife having a double edged blade
8. Switchblade with a blade over 1 1/2 inches
9. slung shot
10. Blackjack
11. Metallic knuckles of any substance which could be used with the same or similar effect
12. Nanchaku, zoobow klackers or jung foo sticks or two sticks of wood, plastic or metal connected at one end with rope, chain, wire or leather
13. Shuriken or any similar pointed star-like object intended to injure a person when thrown
14. Manrikigusari or similar length of chain having weighted ends
15. Cestus
16. Armband with studs
17. BLOW GUN

OR

1. whoever, is arrested upon a warrant or for a breach of the peace
2. has on person or under control in a vehicle
3. a billy or other dangerous weapon **other** than herein mentioned

#### **Right of Arrest:**

This section is a 5-year felony arrestable in presence or upon probable cause.



# Boston Police Academy

Police Officer John W. Ezekiel, Jr. Training Bulletin 5-09  
(Issued July 13, 2009)



## City Ordinance Prohibiting the Carrying of Knives or Similar Weapons

### 16-45.1 Carrying of Weapons Prohibited

No person, except as provided by law, shall

- ➤ Carry on his person or carry under his control in a vehicle any knife having any type of blade ***in excess of two and one-half (2 ½") inches***, ice picks, dirks or similar weapons that are likely to penetrate through police officers' ballistic vests, or other object or tool so redesigned, fashioned, prepared or treated that the same may be used to inflict bodily harm or injury to another **except:**
  - a. a. When actually engaged in hunting or fishing or any employment, trade or lawful recreational or culinary activity which customarily involves the carrying of any type of knife  
or
  - b. b. In going directly to and/or returning directly from such activities  
or
  - c. c. If the knife is being transported directly to or from a place of purchase, sharpening, or repair, and if packaged in such a manner as not to allow easy access to the knife while it is being transported.

### 16-45.4 Penalty/Fines

- • Fine of not more than \$300.00 per offense

**NOTE:** As with all City Ordinances, **a warning must first be given** and the individual must **"remain in willful violation"** before an arrest can be made. See M.G.L. c. 272 s. 59



**Possession of Firearm (etc.)  
Without A Firearm Identification Card  
Chapter 269, Section 10 (h)**

**POSSESSION OF A FIREARM**

The defendant is charged with unlawfully possessing a firearm.

Section 10(h) of chapter 269 of our General Laws provides as follows:

“Whoever . . . possesses . . . a firearm . . .

without complying with the requirements [of law]

relating to [a] firearm identification card . . .

shall be punished . . . .”

In order to prove the defendant guilty of this offense, the

Commonwealth must prove (three) (four) things beyond a reasonable doubt:

First: That the defendant possessed an item;

Second: That the item meets the legal definition of a “firearm”; (and)

Third: That the defendant knew that he (she) possessed that firearm.

If there is evidence of one of the statutory exceptions, use one of the following:

And Fourth: A. If there is evidence that the defendant had a firearm ID card.

that the defendant did not have a valid firearm ID card.

And Fourth: that the B. If there is evidence that the defendant was exempt.

defendant did not qualify for one of the exemptions in the law

that are a substitute for having a valid firearm ID card.

See Instruction 3.160 (License or Authority).

G.L. c. 278, § 7; Commonwealth v. Jones, 372 Mass. 403, 406-407, 361 N.E.2d

1308, 1310-1311 (1977). The issuance of firearm identification cards is governed

by G.L. c. 140, §§ 129B-129D. Section 129B also lists a number of exemptions from

the requirement of a firearms identification card. See also Op. A.G. No. 86/87-4

(October 31, 1986) (18 U.S.C. § 926A provides a defense to a charge under §10[h]

for a non-resident traveling through the Commonwealth with an unloaded and

inaccessible handgun who is in compliance with the firearms laws of the states of

origin and destination).

**Elements:**

Whoever,

1. Owns, or
2. possesses, or
3. transfers possession of a
4. firearm or a
5. rifle or a
6. shotgun or
7. ammunition
8. without complying with c. 140, sec. 129C relative to the F.I.D. card
9. (or without being the holder of a valid license to carry firearms)

**Right of Arrest:**

This is a misdemeanor with a **statutory right of arrest in presence.**



### **Commonwealth v Truong**

The dictionary definitions of “cartridge” and “shell” indicate that the terms “cartridge case” and “shell casing” are both used to describe the item that contains the primer and charge for firearms ammunition

The statute criminalizes possession of cartridges and their component parts, including “cartridge cases, primers (igniter), bullets or propellant powder.”

### **Commonwealth v Johnson, 461 Mass. 44 (2011)**

Defendant's conviction of unlawful possession of ammunition was duplicative of his conviction of unlawful possession of a loaded firearm arising from same conduct of possessing ammunition loaded inside handgun, in violation of prohibition on double jeopardy, requiring vacation of lesser included offense of unlawful possession of ammunition; to convict defendant of unlawful possession of a loaded firearm, commonwealth was required to prove that defendant knowingly possessed firearm loaded with ammunition and met legal requirements of a firearm, and to convict defendant of unlawful possession of ammunition, commonwealth was required to prove that defendant knowingly possessed ammunition that met legal definition of ammunition

### **COMMONWEALTH v BROWN, 91 Mass. App. Ct. 286 (2017)**

During an inventory search of the car that the defendant had been driving, a State trooper discovered a loaded handgun. Based on this, the defendant was indicted on two related counts: unlawful possession of a firearm, and unlawful possession of a loaded firearm. See G. L. c. 269, § 10(a) & (n). A Superior Court jury convicted him of those charges.

His appeal primarily focuses on a question of law that the Supreme Judicial Court flagged without answering: "whether, to be convicted of unlawful possession of a loaded firearm, a defendant must know that the firearm he possessed was loaded." Commonwealth v. Jefferson, [461 Mass. 821](#) (2012). The Commonwealth maintains that proof of such knowledge is not required. Although we are not unsympathetic to the textual arguments on which the Commonwealth relies, existing case law requires us to conclude that the Commonwealth must prove that the defendant knew that the gun was loaded. We further conclude that the evidence here was legally insufficient to establish such knowledge, and that the defendant therefore is entitled to a judgment of acquittal on the indictment for unlawfully possessing a loaded firearm.



## Firearms on School Property

### Chapter 269: Section 10 (j)

#### **Definition:**

(j) For the purposes of this paragraph, "firearm" shall mean any pistol, revolver, rifle or smoothbore arm from which a shot, bullet or pellet can be discharged.

Whoever, not being a law enforcement officer and notwithstanding any license obtained by the person pursuant to chapter 140, carries on the person a firearm, loaded or unloaded, or other dangerous weapon in any building or on the grounds of any elementary or secondary school, college or university without the written authorization of the board or officer in charge of the elementary or secondary school, college or university shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years or both. A law enforcement officer may arrest without a warrant and detain a person found carrying a firearm in violation of this paragraph.

Any officer in charge of an elementary or secondary school, college or university or any faculty member or administrative officer of an elementary or secondary school, college or university that fails to report a violation of this paragraph shall be guilty of a misdemeanor and punished by a fine of not more than \$500.

#### **Elements:**

1. Not a law enforcement officer
2. regardless of license or firearms identification card
3. carries **on his person** a loaded or unloaded firearm\* or other dangerous weapon
4. in any building or on the grounds of
5. any elementary or secondary school, college or university
6. without the **written** authorization of the board or officer-in-charge of such school, college or university.

#### **Right of Arrest:**

A law enforcement officer may arrest without a warrant and detain a person found carrying a **firearm** in otherwise it is a misdemeanor with not statutory right of arrest. This act could, however, amount to a breach of the peace in certain circumstances.

#### **Note:**

Clearly if the suspects were carrying a handgun without a license to carry, OR carrying a rifle or shotgun without a license to carry or a firearms identification card, we would arrest and charge him with the felony of Chapter 269: Section 10 (a)

Notice also that it is a misdemeanor if the officer-in-charge fails to report any violation of this sub-paragraph.

COMMONWEALTH vs. DOUGLAS T. SAYERS 438 Mass. 238

CORDY, J. In this case we hold that the prohibition against carrying a firearm on school grounds, set forth in G. L. c. 269, § 10 (j), applies to BB guns as well as other firearms. The only other element of § 10 (j) at issue in this case is whether the BB gun that the defendants possessed was a firearm as defined in § 10 (j). It was. As noted above, that definition of "firearm" includes any pistol or smoothbore arm "from which a shot, bullet or *pellet* can be discharged by whatever means" (emphasis added). G. L. c. 269, § 10 (j). This definition clearly includes a BB gun regardless whether it is specifically identified by name.



## **Large Capacity Weapons**

### Chapter 269, Section 10 [m]:

Any person knowingly has in his possession, or knowingly has under his control in a vehicle, a large capacity weapon or large capacity feeding device therefor, who does not possess a valid Class "A" or "B" LTC shall be punished by imprisonment in the state prison for NLT 2 Y2years NMT 10 years. Anyone holding a valid FID card shall not be subject to the mandatory minimum. The sentence imposed shall not be reduced to less than 1 year.

**Exemptions:** The provisions in section 10 (m) do not apply to the possession of large capacity weapons or large capacity feeding devices by:

1. an officer or agent of the Commonwealth or any state;
2. a member of the U.S. Military
3. a law enforcement officer or agent of any municipality;
4. provided that a person in 1,2, or 3 is authorized to carry possess the weapon and is acting within the scope of his duties.
5. Any federal, state or local historical society, museum, or institutional collection open to the public;
6. or any gunsmith licensed under federal law.





## **Use Of Certain Devices**

### **Chapter 269, Section 10C**

#### **Elements:**

1. Using
2. tear gas cartridges or any device or instrument which contains liquid, gas, powder, or any other substance
3. designed to incapacitate
4. for the purpose of committing a crime

#### **Right of Arrest:**

This seven (7) year felony is arrestable in presence or upon probable cause.

## **Body Armor: Commission of Felonies**

### **Chapter 269, Section 10D**

#### **Definition:**

Whoever, while in the commission of a felony, or attempted commission of a felony, uses or wears any body armor, so-called, or any protective covering for the body or any parts thereof, made of resin-treated glass-fiber cloth, or any other material or combination of materials, designed to prevent, deflect or deter the penetration thereof by ammunition, knives or other weapons, shall be punished by imprisonment in the state prison for not less than two and one-half nor more than five years, or for not less than one year nor more than two and one-half years in a jail or house of correction.

#### **Elements:**

- Whoever
1. Commits or attempts to commit
  2. any felony
  3. while using or wearing any body armor or parts thereof
  4. that is designed to prevent, deflect or deter penetration
  5. by ammunition, knives or other weapons

#### **Right of Arrest:**

This is a five year felony arrestable in presence or upon probable cause.

#### **Note:**

This charge would be brought in addition to whatever felony he committed or attempted to commit.



**Unlawful Sale of Large Capacity -Weapon:**  
Chapter 269, Section 10 F

Any person is prohibited from:

- Selling, keeping for sale, or offering or exposing for sale, giving or otherwise transferring any large capacity weapon or feeding device to a person 18 years or over, except as permitted by law. This offense is punishable by imprisonment in the state prison for NLT 2 V2years NMT 10 years. Subsequent offenses: punishable by NLT 5 years NMT 15 years.
- Transferring, selling, lending, or giving a large capacity weapon or feeding device to a person under the age of 18, except as permitted by law, shall be punished by imprisonment in the state prison for NLT 5 years NIVIT 15 years.

**Carrying a Loaded Firearm While Under the  
Influence of Alcohol or Drugs:**  
Chapter 269, Section 10H

Whoever, having in effect a LTC, carries on his person, or has under his control in a motor vehicle a loaded firearm, while under the influence of liquor, marijuana, narcotic drugs, depressants or stimulant substances, or the vapors of glue.

**Right of arrest:**

Misdemeanor with no right of arrest. Shall be punished by a fine of NMT \$5,000.00 or by imprisonment in the house of correction for NMT 2 '1/2years or both.



## **Firearm with Altered Serial Numbers: Possession**

### **Chapter 269, Section 11B**

#### **Elements:**

1. While in the commission or attempted commission of a felony
2. has in possession or under his control
3. a firearm
4. the serial number or ID number of which has been removed, defaced, altered obliterated, or mutilated in any manner.

#### **Right of Arrest:**

This five (5) year felony is arrestable in presence or on probable cause.

## **Removing Firearm Identification Number**

### **Chapter 269, Section 11C**

#### **Elements:**

1. By himself or another
2. removes, defaces, alter, obliterates, or mutilates in any manner
3. serial number or identification number of a firearm
4. or in any way participates therein
5. and whoever receives a firearm **with knowledge** that its serial number or ID number is removed, defaced, etc. . .

#### **Right of Arrest:**

This 2 1/2 year misdemeanor provides no statutory right of arrest. However the mere possession of the firearm would be a misdemeanor with a statutory right of arrest ( Chapter 269, Sec. 10h).



## **Sale of Air Rifle to Minor**

### **Chapter 269, Section 12A**

#### **Elements:**

1. Sells to a minor
2. under the age of eighteen OR
3. not being parent, guardian or adult teacher or instructor
4. furnishes to a minor
5. under 18
6. an air rifle or so-called BB gun

#### **Right of Arrest:**

This is a six (6) month misdemeanor with no statutory right of arrest.

## **Minor Possessing Air Rifle**

### **Chapter 269, Section 12B**

#### **Elements:**

1. No minor under 18
2. possesses
3. an air rifle or BB gun
4. in any place where public has a right of access
5. unless accompanied by an adult OR
6. holding a sporting or hunting license
7. AND has on his person a permit from Chief of Police of the town in which he resides giving permission

#### **ALSO UNDER THIS SECTION**

1. **No person**
  2. discharge
  3. BB, pellet or shot from such
  4. into, from or across any street, alley, public way, railroad or railroad right of way
- AND
1. No minor
  2. under 18
  3. shall discharge BB, pellet or shot
  4. unless accompanied by an adult or is the holder of a sporting or hunting license

#### **Right of Arrest:**

This \$100 fine misdemeanor provides no statutory right of arrest.

#### **Note:**

The BB gun or air rifle shall be confiscated.  
Upon conviction, gun goes to public safety for destruction.



## Carrying a Rifle or Shot Gun on a Public Way

### Chapter 269, Section 12D

Elements:

1. Carry on a public way
2. Loaded rifle or shot gun
3. Unless engaged in hunting
4. And holds a valid license under Chapter 131, sections 6,7,8,9, or 51.

Misdemeanor with a statutory right of arrest in presence.

Or

1. If rifle or shotgun is a large capacity weapon
2. The person shall be punished by a fine of NLT \$1,000.00 NMT \$10,000.00 or
3. By imprisonment NLT 1 year NMT 10 years or **both and may** be arrested without a warrant-Felony

Or

1. No person shall:
2. Carry on any public way
3. An unloaded rifle or shotgun
4. Unless such person is engaged in hunting and has a
5. Valid hunting license, or unless such rifle or shotgun
6. is enclosed in a case
7. Violations are punishable by a fine of NLT \$100.00 NMT \$1,000.00. Violators may be arrested without a warrant. Misdemeanor.

Or

1. If the rifle or shotgun is a large capacity weapon and is carried simultaneously with a fully or partially loaded large capacity feeding device
2. The person shall be punished by a fine of NLT \$1,000.00 NMT \$10,000.00 or by imprisonment for NLT 1 year NMT 10 years or both and may be arrested without a warrant. Felony

Note:

This section does not apply to licensed shooting gallery or to persons using the same or drills, parades, military, police etc.



## **Firearm Discharged within 500 Feet of Dwelling**

### **Chapter 269, Section 12E**

#### **Elements:**

1. Discharging a firearm under C. 140, S. 121
2. or rifle or shotgun
3. within 500 feet of dwelling or OTHER BUILDING in use
4. without consent of owner or legal occupant

#### **Right of Arrest:**

This 3 month misdemeanor has no statutory right of arrest (breach of the peace?)

This law doesn't pertain to:

- a) lawful defense of life and property
- b) law enforcement officer in the lawful performance of duties
- c) underground or indoor test or target range
- d) outdoor skeet, trap, target or test ranges
- e) persons using licensed shooting galleries
- f) shoot blanks for theatrical, athletic, ceremonial, firing squad, or other purposes under 148:39.

## **Annoying or Harrassing Phone Calls**

### **Chapter 269, Section 14A**

#### **Elements:**

1. Telephones or causes to be telephoned
2. another person
3. repeatedly (**three or more times**)
4. to harass, annoy or molest such person or his family
5. OR telephoning another person
6. repeatedly (**three or more times**)
7. and uses indecent or obscene language

#### **Right of Arrest:**

This is a three month misdemeanor with no right of arrest.



## **False Fire Alarm**

### **Chapter 269, Section 13**

#### **Elements:**

1. Without reasonable cause
2. by outcry or the ringing of bells or otherwise
3. makes or circulates or causes to be made or circulated
4. a false alarm of fire

#### **Right of Arrest:**

This one (1) year misdemeanor has no statutory right of arrest. **However**, this usually amounts to a breach of the peace and would be arrestable in that case.

## **False Report of a Crime**

### **Chapter 269, Section 13A**

#### **ELEMENTS**

First: That the defendant reported a crime to a police officer, or caused such a report to be made;

Second: That the report was false;

Third: That the defendant intended to make the false report to a police officer and it was not made merely by accident or through negligence; and

Fourth: That the defendant knew that the report (he) (she) was making or causing to be made was false.

Commonwealth v. Salyer, 84 Mass. App. Ct. 346, 351-352 (2013).

#### **Right of Arrest:**

This one (1) year misdemeanor has no statutory right of arrest.

## **False Report of Bomb**

### **Chapter 269, Section 14**

#### **Elements:**

1. Knowing the same to be false
2. transmits or causes to be transmitted
3. by telephone or by other means of communication
4. falsely reporting the location of bomb or other dangerous substance by contrivance
5. thereby causing anxiety, unrest, fear or personal discomfort
6. to any person or group of persons

#### **Right of Arrest:**

This twenty (20) year felony is arrestable in presence or on probable cause.



## Witness Intimidation/Lying to an Investigator

### Chapter 268: Section 13B

#### Definitions – G.L. c. 268 § 13B (a):

**“Investigator”**, an individual or group of individuals lawfully authorized by a department or agency of the federal government, or any political subdivision thereof, or a department or agency of the commonwealth or any political subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of such individual’s or group’s official duties.

**“Harass”**, to engage in an act directed at a specific person or **group of** persons that seriously alarms or annoys such person or group of persons and would cause a reasonable person or group of persons to suffer substantial emotional distress including, but not limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, a device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system including, but not limited to, electronic mail, internet communications, instant messages and facsimile communications.

#### Elements – G. L. c. 268, §13B (b):

(a) Whoever willfully, either directly or indirectly:

- a. threatens, attempts or causes physical, emotional or economic injury or property damage to;
- b. conveys a gift, offer or promise of anything of value to; **or**
- c. misleads, intimidates or harasses another person who is a:
  - i. witness or potential witness;
  - ii. person who is or was aware of information, records, documents or objects that relate to a violation of a criminal law or a violation of conditions of probation, parole, bail or other court order;
  - iii. judge, juror, grand juror, attorney, victim witness advocate, police officer, **correction officer**, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer;





- iv. person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or
- v. family member of a person described in this section.

With the intent to or with reckless disregard for the fact that it may:

- (1) impede, obstruct, delay, prevent or otherwise interfere with: a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or an administrative hearing or a probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type;  
**or**
- (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person's family member's participation in any of the proceedings described in this section.

For this charge in the county where there is criminal investigation, trial or other proceeding or in county in where the alleged conduct constituting the offense occurred.

**Right of Arrest:** (Felony)

**Penalty:** State prison for not more than 10 years or HOC for not more than 2½ years or by a fine of not less than \$1,000 or more than \$5,000 or by both such fine and imprisonment.

If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for not more than 20 years or by imprisonment in the house of corrections for not more than 2½ years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

**Jurisdiction:** District Court and Boston Municipal Court



## **Tampering with Police Signal or Fire Alarm Box**

### **Chapter 268, Section 32**

#### **Elements:**

1. opens police signal box to give false alarm OR
  2. interferes in any way with such box by breaking, cutting, injuring or defacing same
- OR
3. without authority opens, tampers or meddles with such box or with any parts or wires or with anything connected therewith OR
  4. with such purpose, wantonly and without cause tampers with fire signal box or any part or anything therewith

#### **Right of Arrest:**

This two (2) year misdemeanor provides a statutory right of arrest, in presence.

#### **P A R T   T W O**

#### **Elements:**

1. opens a motorist highway emergency aid call box for a false call for aid
2. or breaks, etc.
3. or tampers, etc.
4. defaces

#### **Right of Arrest:**

This portion of the statute provides no right of arrest. It carries a fine of not less than \$100 nor more than \$500

## **Hindering a Firefighter**

### **Chapter 268, Section 32A**

#### **Elements:**

1. willfully
2. obstructs, interferes with or hinders a firefighter
3. or fire fighting force
4. in the lawful performance of its duty

#### **Right of Arrest:**

This five (5) felony is arrestable in presence or upon probable cause.



## **Resisting Arrest**

### **Chapter 268, Section, 32B**

#### **Definition:**

A person commits the crime of resisting arrest if he knowingly prevents or attempts to prevent a police officer, acting under color of his official authority, from effecting an arrest of the actor or another, by (1) Using or threatening to use physical force or violence against the police officer or another; or (2) Using any other means which creates a substantial risk of causing bodily to such police officer or another. Whoever violates this section shall be punished by imprisonment in a jail or house of correction for not more than two and one-half years or a fine of not more than five hundred dollars, or both.

#### **Elements:**

1. Knowingly prevents, or
2. attempts to prevent
3. A police officer, acting in his official capacity
4. from effecting an arrest, by
5. using or threatening to use physical violence
6. against the police officer or another, or
7. Uses any means which creates a substantial risk of bodily injury to the officer, OR
8. another

#### **Right of Arrest:**

This is a misdemeanor with NO statutory right of arrest. A Police Officer can use this statute only when he already has another arrestable offense. A violation of this section would most likely amount to a breach of the peace which would be arrestable IN PRESENCE.

#### **NOTE:**

It shall not be a defense to a prosecution under this section that the police officer was attempting to make an arrest which was unlawful, if he was acting under color of his official authority, and in attempting to make the arrest he was not resorting to unreasonable or excessive force.

This statute prohibits physical not verbal resistance

"In the face of verbal challenges to police action, officers and municipalities must respond with restraint. The First Amendment recognizes, that a certain amount of expressive disorder not only is inevitable in a society committed to individual freedom, but must be protected if that freedom would survive." *City of Houston , Texas v. Hill*, 482 U.S. 451, 107 S. Ct. 2502 (1987).

This statute could be used in conjunction with other charges such as Assault & Battery on a Public Employee, Chapter 265, Section 13D, or Attempting to Rescue a Prisoner, Chapter 268, Section 17. There may be some pursuit situations which create a substantial risk of causing bodily injury to a police officer where this statute could be applicable.



## **Impersonation a Police Officer or Other Officers**

### **Chapter 268, Section 33**

#### **Elements:**

1. Falsely assumes or pretends to be a justice of the peace, notary public, sheriff, deputy sheriff, medical examiner, associate M.E., constable, police officer, probation officer or examiner, investigator or officer appointed by the registrar of motor vehicles, or inspector, investigator or examiner of the department of public utilities or investigator or other officer of the alcoholic beverages control commission, or examiner, investigator or other officer of the department of revenue.
2. AND ACTS as such
3. or requires a person to aid or assist him in a matter pertaining to the duty of such officer

#### **Right of Arrest:**

There is no statutory right of arrest for this one (1) year misdemeanor. However, this crime is often accompanied with the felony of extortion.



## **Tobacco; Sale or Gifts to Minors**

### **Chapter 270, Section 6**

#### **Definition:**

Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, gives a cigarettes, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen shall be punished by a fine of not less than one hundred dollars for the first offense, not less than two hundred dollars for a second offense and not less than three hundred dollars for any third or subsequent offense.

#### **Elements:**

1. **Sells**
2. cigarettes, chewing tobacco, snuff or **any** tobacco in **any** of its forms
3. **any** person **under** the age of eighteen

OR

1. **not being parent or guardian**
2. **gives**
3. cigarette, chewing tobacco, snuff or tobacco in any of its forms to
4. any person **under** the age of eighteen

#### **Punishment:**

This is a non-arrestable misdemeanor punishable by the following fines:

First Offense: not less than \$100.00

Second Offense: not less than \$200.00

Third or subsequent Offenses: not less than \$300.00

Chapter 270, Section 7 A copy of the preceeding section must be posted conspicuously by the owner or person in charge. Fiftey dollar fine for a violation of this section.



## **Substance Releasing Toxic Vapor**

### **Chapter 270, Section 18**

#### **Definition:**

No person shall intentionally smell or inhale the fumes of any substance having the property of releasing toxic vapors, for the purpose of causing a condition of intoxication, euphoria, excitement, stupefaction, or dulled senses or nervous system, nor possess, buy or sell any such substance for the purpose of violating or aiding another to violate this section.

This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

Whoever violates the provisions of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months, or both.

Any person who is discovered by a police officer or special police officer in the act of violating this section may be arrested without a warrant by such police officer or special police officer, and held in custody, in jail, or otherwise, until a complaint is made against him for such offense which complaint shall be made as soon as practicable and in any case within twenty-four hours, Sunday and legal holidays excepted.

#### **Elements:**

1. smell or inhale the fumes
2. of any substance
3. that releases toxic vapors
4. to cause intoxication, etc.

OR

1. possess, or buy or sell
2. any such substance
3. to violate or aid another to violate this section

#### **Right of Arrest:**

This is a misdemeanor with a statutory right of arrest in presence.

#### **NOTE:**

This is the applicable statute for glue sniffing.



## **Gaming or Betting in Public Conveyance**

### **Chapter 271, Section 2**

#### **Definition:**

Whoever, in a public conveyance or public place, or in a private place upon which he is trespassing, plays at cards, dice or any other game for money or other property, or bets on the sides or hands of those playing, shall forfeit not more than fifty dollars or be imprisoned for not more than three months; and whoever sets up or permits such a game shall be punished by a fine or not more than three nor more than twelve months. If discovered in the act, he may be arrested without a warrant by a sheriff, deputy sheriff, constable or any officer qualified to serve criminal process, and held in custody, in jail or otherwise, for not more than twenty-four hours, Sunday and legal holidays excepted, until complaint may be made against him for such offense.

#### **Elements:**

1. in a public conveyance or a public place
  2. or in a private place upon which he is trespassing
  3. plays at cards, dice or any other game
  4. for money or other property
  5. or bets on the sides or hands of those playing
- OR**
6. whoever sets up or permits such a game

#### **Right of Arrest:**

This is a misdemeanor with a statutory right of arrest in presence.

#### **NOTE:**

This is the statute that you would use for the crap games on the Common or the three card monte players.

## **Person Drugged for Intercourse**

### **Chapter 272, Section 3**

#### **Definition:**

Applying, administering to or causing to be taken by a person any drug, matter or thing with intent to supply or overpower such person so as to thereby enable any person to have unlawful sexual intercourse with such person.

#### **Elements:**

1. applying, administering or causing to be taken
2. by a **person**
3. any drug, matter or thing
4. specific intent to stupefy
5. for unlawful sexual intercourse

#### **Right of Arrest:**

This 3 year felony is arrestable in presence or on probable cause

#### **NOTE:**

Intercourse not necessary, corroboration is required by statute. If intercourse, then it is also rape.



## Open and Gross Lewdness

### Chapter 272, Section 16

#### **Definition:**

A man or woman, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than two years or by fine for not more than three hundred dollars. (chgd. by L. 1987, chap. 43, eff. 8/3/87)

#### **Right of Arrest:**

This is a three year felony and therefore would be arrestable in presence or upon probable cause.

#### **Note:**

Black's Law Dictionary defines lascivious as "tending to excite lust" or "lewd." It defines lewd as "obscene."

This crime is closely similar to indecent exposure and has been applied primarily to indecent exposure in front of, and sexual conduct with children. Further, the court has held that the defendant's act must be committed "in such a manner as to produce alarm or shock.":

In Comm. v. Fitta, 461 N.E. 2nd 820 (1984), the court held that if the defendant "intentionally, indecently, and offensively exposed himself . . . to a child of tender (**under 12 years of age**) years, without necessity or reasonable excuse, and in such a way as to produce alarm . . . (the defendant would be) guilty.

Chapter 272, s. 53 = **misdemeanor**.

#### JURY INSTRUCTION

#### OPEN AND GROSS LEWDNESS AND LASCIVIOUS BEHAVIOR

##### Elements

First: That the defendant exposed his (her) (genitals) (buttocks) (or)(female breasts) to one or more persons;

Second: That the defendant did so intentionally; In a prosecution for intentional exposure to a single person in a private setting, the following element may be rephrased by deleting the word "public" and replacing the word "others" with "another person."

Third: That the defendant did so "openly," that is, either he (she) intended public exposure, or he (she) recklessly disregarded a public exposure, to others who might be offended by such conduct;

Fourth: That the defendant's act was done in such a way as to produce alarm or shock; and

Fifth: That one or more persons were in fact alarmed or shocked by the defendant's thus exposing himself (herself).





**Commonwealth v. Fitta**, 391 Mass. 394, (1984)

At approximately 9:25 P.M., the defendant was sitting in his parked car. Two ten-year-old boys were playing nearby. The defendant called out to one of them, "You have nice legs," and then asked what he was doing. When the children approached the defendant's vehicle, the defendant exposed his penis to the boys. To convict a defendant of open and gross lewdness and lascivious behavior, the Commonwealth must prove that the conduct is committed in "such a way as to produce alarm" or shock. This element of the crime of open and gross lewdness and lascivious behavior is not required for indecent exposure. Thus, if the Commonwealth were to prove beyond a reasonable doubt that the defendant "intentionally, indecently, and offensively expos[ed] himself . . . to [a child] of tender years, without necessity or reasonable excuse, and in such a way as to produce alarm . . . [the defendant would be] guilty of gross lewdness and lascivious behavior." See *Commonwealth v. Adams*, [389 Mass. 265](#), 271 (1983); The defendant argues that, since G. L. c. 272, Section 53 ("indecent exposure"), and G. L. c. 272, Section 16 ("open and gross lewdness and lascivious behavior"), could, on the facts of this case, be used to punish identical conduct, the disparity of their sentencing provisions makes them "constitutionally vague." [\[Note 4\]](#) Since Section 16 requires proof of an element not required for indecent exposure, the defendant's argument fails.

**Commonwealth v. Maguire**, 476 Mass. 156 (2017):

A MBTA detective observed the defendant rub his penis with his hand over the outside of his pant for about 30 seconds while sitting across from a college age female on the train. There were about 25 people on the platform and three women were sitting on a bench about five feet away from the defendant. The MBTA detective moved to see what the defendant was doing and from his vantage point he saw the defendant, who was still facing the women with his penis exposed. The detective stated that he was "disgusted and concerned that the women on the bench were being victimized." The issue on appeal concerned whether there was sufficient evidence to establish open, gross, lewd and lascivious behavior.

Pursuant to G.L. c. 272, § 16, open, gross, lewd and lascivious behavior requires the following elements:

1. Exposed genitals, breasts or buttocks
2. Intentionally
3. Openly or with reckless disregard of public exposure
4. In a manner to produce shock or alarm
5. Thereby actually shocking or alarming one or more persons.

The SJC found that there was insufficient evidence to establish that the defendant's conduct caused any person shock and alarm. As a result, the open and gross, lewdness and lascivious conviction was reversed. The SJC clarified in this decision the "shock" or "alarm" requirement in G.L. c. 272, § 16. With regard to the first part of its decision, the SJC held that the defendant's actions in this case do not rise to the level of open, gross, lewd and lascivious behavior. Rather the MBTA detective was the person who observed the defendant expose himself and he testified that he was 'disgusted' and concerned for others." However, there is no indication that anyone else personally experienced shock or alarm," key requirements to satisfy this charge. There was insufficient evidence that the police detective himself was "in fact" subjectively alarmed or shocked by the defendant's conduct. See *Commonwealth v. Botev*, 79 Mass. App. Ct. 281, 287 (2011).

The SJC announced that in future cases, it will be incumbent on the Commonwealth to demonstrate not only subjective "shock" or "alarm" on the part of a victim, but also that the victim's reaction was objectively reasonable. "A person's particular reaction — or the particular words used to characterize his or her emotional response — to the misconduct will not suffice to support a conviction under G.L. c. 272, § 16.



## Dissemination of Obscenity to Minors

### Chapter 272, Section 28

Section 28. Whoever disseminates to a minor any matter harmful to minors, as defined in section thirty-one, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than one thousand nor more than ten thousand dollars for the first offense, not less than five thousand nor more than twenty thousand dollars for the second offense, or not less than ten thousand nor more than thirty thousand dollars for the third and subsequent offenses, or by both such fine and imprisonment. A prosecution commenced under this section shall not be continued without a finding nor placed on file. It shall be a defense in any prosecution under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense in any prosecution under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

*Commonwealth v. Mienkowski*, 91 Mass. App. Ct. 668 (2017): After a jury trial, the defendant was convicted of two counts of aggravated rape of a child, G. L. c. 265, c. § 23A, and one count each of posing a child in a state of nudity, G. L. c. 272, § 29A(a), and dissemination of matter harmful to minors, G. L. c. 272, § 28. The victim was thirteen when the rapes occurred and fourteen at the time of the incidents underlying the posing and dissemination charges. On appeal, the defendant argued that the dissemination conviction was based on a video the defendant recorded of himself masturbating and sent to the victim. The defendant challenges the conviction and argues that he cannot be convicted of disseminating "a video of something that the legislature has determined a minor is permitted to see and do in person." Additionally, he argues that the video qualifies as free speech.

The Legislature has defined "harmful to minors" as follows:

"matter is harmful to minors if it is obscene or, if taken as a whole, it (1) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (2) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors; and (3) lacks serious literary, artistic, political or scientific value for minors."

The masturbation video unmistakably depicts both "nudity" and "sexual conduct." The video thus meets the just-stated statutory test if it "appeal[s] predominantly to the prurient interest of minors" and "is patently contrary to prevailing standards."

The court concluded that rational jurors could find that the video "appeal[s] predominantly to the prurient interest of minors" and "is patently contrary to prevailing standards."

The record illustrates how such material can be harmful to minors.



**Posing a Child for Sexual Photos**  
Chapter 272, Section 29A

Section 29A. (a) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, and with lascivious intent, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to pose or be exhibited in a state of nudity, for the purpose of representation or reproduction in any visual material, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(b) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of representation or reproduction in any visual material, or to engage in any live performance involving sexual conduct, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(c) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(d) For the purposes of this section, the determination whether the person in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such person, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, or by expert medical testimony as to the age of the person based upon the person's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.



**Disseminating Child Pornography**  
Chapter 272, Section 29B

Section 29B. (a) Whoever, with lascivious intent, disseminates any visual material that contains a representation or reproduction of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(b) Whoever with lascivious intent disseminates any visual material that contains a representation or reproduction of any act that depicts, describes, or represents sexual conduct participated or engaged in by a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or whoever has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(c) For the purposes of this section, the determination whether the child in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such child, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, by testimony of a person who observed the visual material, or by expert medical testimony as to the age of the child based upon the child's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.

(d) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(e) Pursuant to this section, proof that dissemination of any visual material that contains a representation or reproduction of sexual conduct or of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age was for a bona fide scientific, medical, or educational purpose for a bona fide school, museum, or library may be considered as evidence of a lack of lascivious intent.



**Possession of Child Pornography**  
Chapter 272, Section 29C

Section 29C. Whoever knowingly purchases or possesses a negative, slide, book, magazine, film, videotape, photograph or other similar visual reproduction, or depiction by computer, of any child whom the person knows or reasonably should know to be under the age of 18 years of age and such child is:

- (i) actually or by simulation engaged in any act of sexual intercourse with any person or animal;
- (ii) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus or sex organs of the child and the sex organs of another person or animal;
- (iii) actually or by simulation engaged in any act of masturbation;
- (iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal;
- (v) actually or by simulation engaged in any act of excretion or urination within a sexual context;
- (vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or
- (vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks or, if such person is female, a fully or partially developed breast of the child; with knowledge of the nature or content thereof shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than \$1,000 nor more than \$10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than \$5,000 nor more than \$20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than \$10,000 nor more than \$30,000, or by both such fine and imprisonment for the third and subsequent offenses.

A prosecution commenced under this section shall not be continued without a finding nor placed on file.

The provisions of this section shall not apply to a law enforcement officer, licensed physician, licensed psychologist, attorney or officer of the court who is in possession of such materials in the lawful performance of his official duty. Nor shall the provisions of this section apply to an employee of a bona fide enterprise, the purpose of which enterprise is to filter or otherwise restrict access to such materials, who possesses examples of computer depictions of such material for the purposes of furthering the legitimate goals of such enterprise.



## **Disturbing an Assembly of People**

### **Chapter 272, Section 40**

#### **Elements:**

1. Willfully
2. interrupts or disturbs
3. a school or other assembly of people
4. met for a lawful purpose

#### **Right of Arrest:**

There is no statutory right of arrest. However, with a complaint this would be a breach of the peace.

## **Alcohol on Public School Premises**

### **Chapter 272, Section 40A**

#### **Elements:**

1. Gives, sells, delivers, or has in his possession
2. any alcoholic beverage
3. except for medicinal purposes
4. in any public school building or any premises used for public school purposes or under the charge of school committee or other public board or officer.

#### **Right of Arrest:**

This is a thirty (30) day misdemeanor with no statutory right of arrest.

#### **Note:**

This can be authorized during non-school hours by a school committee if the public or nonprofit organization is properly licensed under C. 138, s. 14.



## **Disturbing the Peace**

### **Chapter 272, Section 53**

Disturbing the peace is one of the crimes listed in Chapter 272, section 53.

The elements of the crime have been loosely defined by case law. In the case of Commonwealth v. David Orlando, 359 N.E. 2d 310, (1977) the court said, "Disturbing the peace thus imposes a two-pronged test by proscribing activities which most people would find to be unreasonably disruptive and which do infringe on some one's right to be undisturbed; the first prong is normative and protects potential defendants from prosecutions based on individual sensitivities and the second prong that the crime has a victim and thus subjects potential defendant to criminal prosecution only when their activities have impact. A more specific standard is impractical because the conduct proscribed by this law necessarily varies according to its location and time."

As a result of that decision, most people that dealt with this section of the law felt that a civilian complainant or witness was required to successfully prosecute a disturbing the peace charge.

That requirement, if it ever existed, clearly ended with the case of Commonwealth v. Piscopo, 11 Mass. App. Ct., 414 N.E. 2d 630, (1981). In that case, the court said, "There was evidence that . . . the defendant was one of the group of twelve to fifteen people, male and female, who participated in yelling loudly and throwing beer bottles and cans on a public street in a residential neighborhood and that those acts were such as would tend to annoy all good citizens. The jury could also have inferred from the testimony that the police were called to the scene that residents of the neighborhood were annoyed."

There was no civilian complainant or witness involved in the Piscopo decision.

Police officers are often required to answer repeat radio calls of the group disturbance type.

Disturbing the peace could be the appropriate charge in many cases.

Disturbing the peace, like most misdemeanors, must be committed in the officer's presence to be arrestable. It has a statutory right to arrest under c. 272 sec. 54, if the offense is in a public way or other public place (and of course in the officer's presence). However, disturbing the peace is by definition a breach of the peace and would be arrestable in an officer's presence without the public way or other public place requirement. People have lawfully been arrested for disturbing the peace in their own home see Comm. v. Mullins, 31 Mass App Ct 954 (1991).



# Boston Police Academy

SGT. John N. Flynn

Training Bulletin 14-09  
December 22, 2009



The purpose of this training bulletin is to update officers on recent changes to Massachusetts General Laws, Chapter 272, §53 involving the crimes of Disorderly Conduct and Disturbing the Peace.

The changes in the law only relate to fines and imprisonment and distinguish between first time offenders and second or subsequent offenders.

The punishment for violating G.L. c. 272, §53 Disorderly Conduct or Disturbing the Peace is as follows:

- • **First Offense:**
  - ○ No longer punishable by imprisonment;
  - ○ First time offenders shall be punished by a fine of not more than \$150
- • **Second or Subsequent Offense:**
  - ○ Punishable by imprisonment in a jail or house of correction for not more than 6 months, or
  - ○ By a fine of not more than \$200, or
  - ○ By both such fine and imprisonment

These changes do not alter rights of arrest for the officer pursuant to G.L. 272 s54 which allows officers to arrest without a warrant any individual who commits the crime of Disorderly Conduct or Disturbing the Peace in a public way or other public place.

Officers should charge Disorderly Conduct Subsequent Offense and Disturbing the Peace Subsequent Offense for individuals who have prior convictions for these offenses and should specify the date of the prior conviction.





# Boston Police Academy

LT James A. Moore, Esquire

Training Bulletin 10-03  
(Issued April 29, 2003)



## DISORDERLY CONDUCT: A TOUR OF THE JUDICIAL CONSTRUCTION SITE

A frequently used, but constitutionally weak statute, M.G.L. c. 272, s. 53, can be traced to colonial and provincial acts. It is in need of legislative revision, but has been saved by judicial construction. This Training Bulletin is a tour of that construction site.

The definition of disorderly includes only those individuals who,

- "with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof...engage in fighting or threatening, or in violent or tumultuous behavior; or
- create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor."

Public is defined as "affecting or likely to affect persons in a place to which the public or a substantial group has access." The public element of the offense is readily satisfied where the prohibited conduct takes place on a public street or by the side of a highway. It may also be satisfied where the disturbance takes place in a more secluded environment, but only if members of the public are likely to be affected. Such a place would include the public area of a police station, or a public alley, but not in a car parked fifty feet from the street, up a driveway and on a lawn of a house. It would include stores, apartment houses, or theaters, a dormitory and abutting plaza, but not a backyard in a single-family house surrounded by an opaque fence. It may occur on purely private property, however, it must be shown that the conduct affected or was likely to affect persons on an adjacent or nearby place to which the public or a substantial group has access. Nothing less than a conscious disregard of a substantial and unjustifiable risk of public nuisance will suffice for liability. The "lewd, wanton, and lascivious" offense of s. 53 requires the public element to be proven. The "accosting and annoying" provision has been held to extend to conduct or language amounting to threatening activity that has only a personal and private impact, as well as a public one. Activity that involves protest or other expressive activities with a legitimate purpose cannot be prosecuted as disorderly.

In order to arrest for disorderly under s. 54, the crime must occur in and officer's presence, and in a public way or other public place.

**References:** Commonwealth v. Chou, 433 Mass. 229, 741 N.E.2d 17 (2001), Commonwealth v. Mulvey, 57 Mass.App.Ct. 579, 784 N.E.2d 1138 (2003), and cases cited therein.



## **Disorderly Person**

### **Chapter 272, Section 53**

#### **Elements:**

Whoever

1. with purpose to cause public annoyance or alarm, or recklessly creating a risk thereof, he:
  - a. engages in fighting or threatening, or in violent or tumultuous behavior or
  - b. creates a hazardous or physically offensive condition by any act **which serves no legitimate purpose of the actor**

#### **Right of Arrest:**

If committed in an officer's presence **AND** on a public way or other public place then there is a statutory right of arrest under ch. 272, section 54.

Disorderly person is also arrestable if committed in an officer's presence since it amounts to a breach of the peace.

#### **Note:**

The court has held that the only words that are considered criminal under this statute are "fighting words" which by their very utterance inflict injury or tend to excite an immediate breach of the peace.

If prosecution is under element (c), the Commonwealth must prove beyond a reasonable doubt that the hazardous or physically offensive condition was created by an act which **serves no legitimate purpose of the actor**. *Com. V. Feigenbaum*, 536 N.E. 2nd 325 (1989).



## **Indecent Exposure**

### **Chapter 272, Section 53**

#### **Definition:**

Exposing to the view of people the uncovered body in an indecent manner.

#### **Elements:**

1. Exposing to the view of people (if the intentional act of lewd exposure is offensive to one or more persons, it is sufficient)
2. the uncovered body
3. in an indecent manner

#### **Right of Arrest:**

This 6 month misdemeanor is arrestable (in public way or other public place) in presence. This crime has a statutory right of arrest -- Chapter 272, Section 54.

#### **Note:**

This crime may be committed in the defendant's home while he is alone if he intentionally exposes himself to a person outside his home.

### **Jury Instruction on INDECENT EXPOSURE**

The defendant is charged with indecent exposure. In order to prove the defendant guilty of this offense, the Commonwealth must prove three things beyond a reasonable doubt:

First: That the defendant exposed his (her) (genitals) to one or more persons;

Second: That the defendant did so intentionally; and

Third: That one or more persons were offended by the defendant's thus exposing himself

(herself).NOTE: 1. Limited to exposure of genitalia. The misdemeanor of indecent exposure (G.L. c. 272, § 53) is applicable only to exposure of the genitalia, and not to exposure of the genital area, pubic hair, buttocks, or female breasts. Commonwealth v. Arthur, 420 Mass. 535, 650 N.E.2d 787 (1995). By contrast, the separate felony offense of open and gross lewdness and lascivious behavior (G.L. c. 272, § 16), includes the intentional exposure of genitalia, buttocks, or female breasts, but has the additional element that it must be done in such a way as to produce actual alarm or shock. See Commonwealth v. Quinn, 439 Mass. 492, 789 N.E.2d 138 (2003); Commonwealth v. Fitta, 391 Mass. 394, 396, 461 N.E.2d 820, 822 (1984) (unlike open and gross lewdness, the crime of indecent exposure does not require that it be done in such a way as to produce alarm or shock); Commonwealth v. Broadland, 315 Mass. 20, 21-22, 51 N.E.2d 961, 962 (1943) (indecent exposure involves "an intentional act of lewd exposure, offensive to one or more persons"); Commonwealth v. Bishop, 296 Mass. 459, 462, 6 N.E.2d 369, 370 (1937) (offense need not be in public place or involve exposure to more than one person)



**COMMONWEALTH vs. RAYMOND L. BLACKMER, III.**  
**77 Mass. App. Ct. 474 (2009)**

Lewdness. Open and Gross Lewdness and Lascivious Behavior. Practice, Criminal, Required finding, Instructions to jury. Evidence, Prior misconduct, Identity, Relevancy and materiality.

At the trial of indictments charging open and gross lewdness and lascivious behavior, in violation of G.L. c.272, § 16, and lewd, wanton, and lascivious behavior, in violation of G. L. c.272, § 53, evidence that the defendant masturbated in public without undressing was insufficient to sustain his conviction of open and gross lewdness and lascivious behavior, where a conviction of violating G. L. c. 272, § 16, requires exposure of the genitals or buttocks; the evidence, however, was sufficient to support the defendant's conviction of lewd, wanton, and lascivious behavior, where conviction of a violation of G. L. c. 272, § 53, does not require such exposure [477-480]; and where there was sufficient proof of the defendant's identity [483-484].

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**HANLON, J.** The defendant appeals from his conviction after a Superior Court jury trial of one count of open and gross lewdness and lascivious behavior, G. L. c. 272, § 16, and one count of being lewd, wanton, and lascivious in behavior, G. L. c. 272, § 53, for an incident that occurred on the Smith College campus. We are asked to consider whether public masturbation, without exposure of the defendant's genitalia or buttocks, is punishable under G. L. c. 272, § 16. Because we hold that it is not, we reverse the defendant's conviction for open and gross lewdness and lascivious behavior only, and affirm his conviction for being lewd, wanton, and lascivious in behavior.

**Background.** The jury would have been warranted in finding the following facts. On February 15, 2007, a student at Smith College, a women's college in Northampton, was crossing the street at an intersection near the campus. She noticed a dark green van, which she described as being the same model as her parents' car, a Dodge Caravan, parked awkwardly and holding up traffic in a crosswalk on the other side of the intersection. As the student approached the car, she noticed the driver was moving "his arm and hand . . . up and down against his groin." He appeared to be masturbating; however, she did not observe that either his genitals or buttocks were exposed. [\[Note 1\]](#)

The victim continued walking toward the car so that she could describe it and the man to campus security officials. At the trial, she described the driver as a white male between the ages of thirty-five and forty with sandy brown hair, glasses, and a mustache. He was staring in her direction and appeared to be trying to make eye contact with her; he also spoke to her but she did not pay attention to what he said. She said that she was "shocked and alarmed" and immediately went to the campus center to report the incident to the campus police. At trial, she did not identify the defendant as the man she saw.

Five days later, on February 20, 2007, a second student was walking in the middle of the Smith College campus when she observed a middle-aged white male sitting in his car, masturbating, with his exposed penis in his hand. His car was parked in the crosswalk and he was looking in her direction. She called the campus public safety office to report the incident and the license plate number of the car.

Shortly afterwards, a campus police officer observed a brown sedan with the same license plate number. The officer testified that the driver of the car he observed was a white male in his mid-forties or early fifties who appeared to have graying hair and a beard. Information from the Registry of Motor Vehicles (RMV) indicated that a brown sedan with that license number was owned by the defendant, Raymond L. Blackmer, III. At the trial, the officer identified the defendant as the man he had seen, although he also described differences in his appearance.

Armed with a name, the campus police obtained a photograph of the defendant wearing glasses and a mustache, and included it in a photographic array shown to the second victim. At first, she did not recognize any of the photographs but, as she was leaving, "something clicked" and she identified the



defendant's photograph as that of the man she had seen. (At trial, she did not make an identification of the defendant.)

The campus police then searched the RMV database using the defendant's surname and discovered a Joyce Blackmer in a nearby town who owned a green Plymouth Voyager that had at one time been registered to a Raymond Blackmer, Jr. The police officer testified at trial that other than "some grill work," a Plymouth Voyager looks no different from a Dodge Caravan, the vehicle that the first victim had described from the incident on February 15. [\[Note 3\]](#)

The defendant pleaded guilty to one count of open and gross lewdness and lascivious behavior, G. L. c. 272, § 16, for the second, February 20, incident, and was sentenced to two and one-half to three years in prison. For the events of the first, February 15, incident, he was indicted on one count of open and gross lewdness and lascivious behavior, G. L. c. 272, § 16, [\[Note 4\]](#) and one count of being a lewd, wanton, and lascivious person in behavior, G. L. c. 272, § 53. [\[Note 5\]](#) After a jury trial, the defendant was found guilty of both charges. [\[Note 6\]](#) On appeal, the defendant challenges the judge's denial of his motion for a required finding of not guilty and alleges several other errors in the trial.

Discussion. "In reviewing the denial of a motion for a required finding, we must determine 'whether the evidence, in its light most favorable to the Commonwealth . . . is sufficient . . . to permit the jury to infer the existence of the essential elements of the crime charged [beyond a reasonable doubt] . . . .'"

a. General Laws c. 272, § 16: open and gross lewdness and lascivious behavior. The language of G. L. c. 272, § 16, does not define "open and gross lewdness and lascivious behavior." However, "decisional law requires proof of five elements to support a conviction, i.e., that the defendant (1) exposed genitals, breasts, or buttocks; (2) intentionally; (3) openly or with reckless disregard of public exposure; (4) in a manner so 'as to produce alarm or shock'; (5) thereby actually shocking or alarming one or more persons."

In this case, the judge denied the defendant's motion for a required finding of not guilty, and instructed the jury that the first element that the Commonwealth was required to prove in establishing a violation of § 16 was that "Mr. Blackmer engaged in lewd and lascivious behavior. What is meant by lewd and lascivious behavior is conduct which involves touching of the buttocks or genitals, for the purposes of sexual arousal, gratification, or offense; *or* conduct which involves exposing one's genitals or buttocks to one or more persons" (emphasis added). [\[Note 7\]](#) The jury instruction thus added to the established definition an additional theory of guilt, one where the defendant touches his genitals or buttocks "for the purposes of sexual arousal, gratification, or offense." [\[Note 8\]](#)

The Commonwealth argues that the instruction was appropriate in light of the language in *Commonwealth v. Quinn*, [439 Mass. 492](#), 495 (2003), stating that "exposure of genitalia is not an essential element of the crime of open and gross lewdness." In *Quinn*, the court held that exposure of the buttocks, combined with the other elements listed above, was sufficient to sustain a conviction for open and gross lewdness, *ibid.*, and certain language in *Quinn* appears to leave open the question whether unexposed masturbation may also be punished under § 16. See *Commonwealth v. Quinn*, [439 Mass. at 501 n.15](#). In addition, the *Quinn* court's citation to *State v. Maunsell*, 170 Vt. 543, 547 (1999), [\[Note 9\]](#) could also suggest that unexposed masturbation would constitute open and gross lewdness in Massachusetts. *Commonwealth v. Quinn*, [439 Mass. at 497 & n.10, 501 n.15](#).

Nevertheless, all of the other case law on the issue, including, as the defendant notes, cases decided subsequent to *Quinn*, indicates the necessity of exposure by the defendant of some body part to sustain a conviction under § 16. See *Commonwealth v. Adams*, [389 Mass. 265](#), 271 (1983) (defendant convicted of open and gross lewdness for driving down a public way, masturbating with penis exposed); *Commonwealth v. Quinn*, [439 Mass. at 498](#) ("A woman approaching a group of school children suddenly opening her blouse to expose her breasts may alarm or shock just as a man masturbating in a passing automobile might"); *Commonwealth v. Kessler*, [442 Mass. 770](#), 772-773 & n.4 (2004)



(utilizing Instruction 5.42 of the Model Jury Instructions for Use in the District Court [1988]); Commonwealth v. Ora, 451 Mass. at 126 ("conviction under the statute requires the display of nudity to be intentional, done in a manner to produce alarm or shock, and actually producing alarm or shock"); Commonwealth v. Swan, 73 Mass. App. Ct. at 261.

Despite the Commonwealth's contention, Commonwealth v. Perretti, [20 Mass. App. Ct. 36](#) (1985), is not to the contrary. In Perretti, we held that there was probable cause to arrest the defendant for open and gross lewdness where "he was standing at a rear, uncurtained, apartment window, at an early morning hour, with his trousers open, wearing no underwear, and his hands at his groin." Id. at 41. In the first place, those facts permit an inference that the defendant was intentionally exposing his genitals at the time of his arrest. Second, the issue in Perretti, supra, was whether those facts were sufficient to provide probable cause for arrest for the offense, not whether they were sufficient to sustain a conviction under § 16.

Finally, the Commonwealth argues that the defendant's public, unexposed masturbation, which shocked and alarmed the victim, was punishable conduct under § 16 in light of the legislative goal of G. L. c. 272 to create a "comprehensive and integrated approach" to the related offenses set out in its provisions. Commonwealth v. Sefranka, [382 Mass. 108](#), 116 (1980). In fact, however, the opinion in Sefranka makes it clear that the statute prohibiting the behavior that the Commonwealth was able to prove here, was the "lewd, wanton and lascivious persons" provision of G. L. c. 272, § 53. As construed in Sefranka, that provision prohibits "the commission of conduct in a public place . . . when the conduct committed . . . involves the touching of the genitals, buttocks, or female breasts, for purposes of sexual arousal, gratification, or offense, by a person who knows or should know of the presence of a person or persons who may be offended by the conduct." Commonwealth v. Sefranka, 382 Mass. at 117-118. Thus, unlike in § 16, exposure of the relevant anatomy is not required under § 53.

The defendant's motion for a required finding of not guilty on the charge of open and gross lewdness and lascivious behavior under § 16 should have been allowed. His conviction on the charge of lewd, wanton, and lascivious behavior under § 53 is clearly supported by the evidence, see Commonwealth v. Nebel, [59 Mass. App. Ct. 316](#), 318-319 (2003), and he does not contend otherwise, except as described below.

b. Identity. The defendant also argues that the judge erred in denying his motion for a required finding of not guilty [\[Note 10\]](#) based on the Commonwealth's failure to prove that the man in the green van on February 15, seen masturbating by the first victim, was the defendant who had committed -- and pleaded guilty to -- the act alleged to have occurred on February 20.

As a preliminary question, we first consider the defendant's contention that the "bad act" evidence relating to the incident five days later was improperly admitted in the trial of the earlier incident. Then we turn to whether the Commonwealth sufficiently identified the defendant present in the courtroom as the person who committed the lewd, wanton, and lascivious behavior on February 15, the behavior for which he was on trial. [\[Note 11\]](#)

Conclusion. We reiterate the requirement that, in order to sustain its burden of proof for a conviction under G. L. c. 272, § 16, the prosecution must establish, in addition to the other elements enumerated in Quinn and described above, that "the defendant exposed his or her genitals, buttocks, or breasts to one or more persons." Commonwealth v. Quinn, 439 Mass. at 501. See Commonwealth v. Ora, 451 Mass. at 127. As a result, regarding so much of the indictment that charges this defendant with open and gross lewdness and lascivious behavior on February 15, 2007, the judgment is reversed, the verdict is set aside, and judgment shall enter for the defendant. On the indictment charging the defendant with being a lewd, wanton, and lascivious person in behavior under G. L. c. 272, § 53, the judgment is affirmed.

So ordered.



## **Annoying and Accosting Persons of the Opposite Sex**

### **Chapter 272, Section 53**

#### **ELEMENTS-JURY INSTRUCTION**

First: That the defendant knowingly engaged in an offensive and disorderly act (or acts), or offensive and disorderly language;

Second: That the defendant intended to direct that conduct to [alleged victim] ;

Third: That [alleged victim] was aware of the defendant's offensive and disorderly conduct;

Fourth: That this conduct was offensive to a reasonable person; and

Fifth: That [alleged victim] was a person of the opposite sex.

To prove the first element of the offense, the Commonwealth must prove beyond a reasonable doubt either that the defendant committed a disorderly act (or acts) or that (he) (she) used disorderly language. To be disorderly, the defendant's act (or acts) or language must involve one of the following four things without a legitimate reason:

- it must involve fighting or violent or tumultuous behavior; or
- it must create a hazardous condition; or
- it must create a physically offensive condition that amounts to an invasion of personal privacy; or
- it must be threatening.

A threat may take many forms. It may be an explicit threat, a comment, or an act that would make a reasonable person fearful, not just uncomfortable. The Commonwealth is not required to prove that the defendant intended any threat to be immediately followed by actual violence or the use of physical force. You may consider all of the evidence and any reasonable inferences you choose to draw from the evidence to determine whether any act or language was reasonably viewed as truly threatening.





## Common Nightwalker Chapter 272, Section 53

### **JURY INSTRUCTION**

#### **COMMON NIGHTWALKER**

Section 53 of chapter 272 of our General Laws provides that “common nightwalkers . . . shall be punished . . . .”

A common nightwalker is someone who is abroad at night, soliciting others to engage in unlawful sexual acts. Often it is a prostitute who solicits potential customers on the street.

Whether a continuing offense. The statutory charging language for this offense suggests that it maybe a continuing offense. G.L. c. 277, § 79 (sufficient form of complaint is “[t]hat A.B., during the three months next before the making of this complaint, was a common nightwalker, habitually walking in the streets in the night time for the purpose of prostitution”). Historically, cases of a similar nature have been viewed as continuing offenses. See Commonwealth v. McNamee, 112 Mass. 285 (1873) (common drunkard); Commonwealth v. Gardner, 73 Mass. 494 (1856) (common seller of spiritous and intoxicating liquor); Stratton v. Commonwealth, 51 Mass. 217 (1845) (common railer and brawler). This issue has not arisen in the nightwalking cases cited above. Conviction does not require multiple acts. Conviction does not require past or multiple acts. King, *supra* (this “is not a statute directed against recidivism and does not require proof of past convictions for prostitution to sustain a conviction for common night walking”). See Commonwealth v. Nellie Cruz, 30 Mass. App. Ct. 1113, 571 N.E.2d 435 (No. 90-P-894, May 9, 1991) (“where, as here, there is direct evidence of solicitation to engage in illicit sexual acts, additional evidence of ‘habitual’ activity is not necessary to establish guilt”





COMMONWEALTH  
v.  
Deborah A. PROCTOR.

April 17, 1986.  
June 10, 1986.

Defendant was convicted in the District Court, Worcester County, of being a **common night walker**, habitually walking streets in nighttime for purpose of **prostitution**. The Appeals Court held that circumstantial evidence was sufficient to support defendant's conviction.

Affirmed.

Deborah Proctor was convicted in a District Court of being a **common night walker**, habitually walking the streets in the nighttime for the purpose of **prostitution**. [G.L. c. 272, § 53](#).

[1] Here the attack is not on the statute's validity or unconstitutional application. Rather, the defendant urges that evidence of a specific and express act of solicitation is required to prove the offense. In the absence of such evidence, the defendant says she was entitled to a required finding of not guilty, an order for which she made timely motion. We read [Commonwealth v. King, 374 Mass. at 14, 372 N.E.2d 196](#), as accepting circumstantial evidence to make out a case under [§ 53](#), and not requiring evidence of solicitation through testimony of the person propositioned or of someone who heard a proposition made. In *King* the court said that “[t]he time, place, and frequency of King's conduct warrant an inference that on each occasion observed by the police King was soliciting men for illicit sexual intercourse.” *Ibid*. That the court did not require evidence of a soliciting conversation with a prospective customer is established by note 7 appearing on page 14 of the *King* opinion. There the court noted that “[a]fter one arrest King's client apparently informed the arresting officer that King had solicited him for sex for hire. The other arrest had no evidence corroborating the solicitation aspect of this offense.” *Ibid*. The second arrest was determined, nevertheless, to be lawful.

[2] It is not, after all, extraordinary to have a charge of criminal conduct proved by circumstantial evidence. [See Commonwealth v. Donovan, 395 Mass. 20, 25, 478 N.E.2d 727 \(1985\); Commonwealth v. Walter, 10 Mass.App.Ct. 255, 257, 406 N.E.2d 1304 \(1980\)](#). The evidence received in the case at bar was that on repeated occasions, over a period of two or three months, the arresting officer had seen the defendant on the corner of Piedmont Street and Jacques Avenue in Worcester, an area frequented by prostitutes. Regularly, the officer testified, the defendant stands on the corner at **\*\*881** night, converses with male motorists, and gets into their vehicles. On the night of her arrest, the defendant was at the usual location; a car driven by a man pulled up and stopped by her; the defendant talked to the man and started to enter his car; as the police officer approached, she began to walk away. We think that evidence meets the time, place, and frequency criteria of [Commonwealth v. King, 374 Mass. at 14, 372 N.E.2d 196](#).

It may well be that consistent failure of the police to produce, as witnesses or as defendants on a related charge, the men who have been approached is constitutionally offensive and would require dismissal of the complaints, as in [Commonwealth v. An Unnamed Defendant, 22 Mass.App. 230, 492 N.E.2d 1184](#). In the instant case, however, that claim was not made, nor was that relief sought. On the record of this case, we have no basis for a disposition on the *An Unnamed Defendant* principle.



Supreme Judicial Court of Massachusetts, Suffolk.

COMMONWEALTH

v.

Diane KING (and six companion cases [FN1]).

FN1. Of the companion cases four are against Diane King, one is against Barbara Astrofsky, and one is against Rebecca Jones.

Argued Feb. 7, 1977.

Decided Dec. 12, 1977.

After appealing their convictions in Municipal Court, defendants were convicted before the Superior Court, Suffolk County, Steele and Morrissey, JJ., of prostitution and one of the defendants was convicted of common night walking, and defendants appealed. After consolidation of the appeals, the Supreme Judicial Court, Hennessey, C. J., held that: (1) statute proscribing prostitution is intended to apply to conduct consisting of common indiscriminate sexual activity for hire, and, as so construed, statute is not unconstitutionally vague; (2) such statute was not unconstitutionally vague on its face in regard to its application to defendants; (3) evidence was sufficient to sustain the convictions of common night walking; (4) prostitution convictions did not implicate any constitutionally protected rights of privacy; (5) statute which proscribes prostitution but does not proscribe the conduct of persons who hire or seek to hire another to engage in sexual activity does not deny equal protection; (6) evidence failed, for purposes of proving discriminatory enforcement of the law, to establish that male prostitutes were not prosecuted for criminal offenses, but (7) statute proscribing prostitution cannot be enforced solely against female prostitutes unless Commonwealth can demonstrate a compelling interest requiring that it not be enforced against male prostitutes.

Exceptions overruled.

HENNESSEY, Chief Justice.

We have before us a broad scale attack on the Massachusetts law against prostitution. The defendants, Rebecca Jones, Barbara Astrofsky, and Diane King, all were convicted for violations of G.L. c. 272, s 53. Jones and Astrofsky were convicted in a Municipal Court, appealed, and then were tried and convicted by a judge in the \*7 Superior Court on complaints of prostitution. \*\*199 King, after appealing her Municipal Court convictions, was tried and convicted by judges in the Superior Court on three complaints of prostitution and two complaints of common night walking, all pursuant to s 53. Fines and thirty-day suspended sentences, with periods of probation, were imposed in all cases except one case against King, wherein a six-month sentence was imposed.

In each of the seven cases below, before conviction in the Superior Court, the defendant filed motions to dismiss the complaint and for the entry of a finding of not guilty on the complaint, alleging that c. 272, s 53, is unconstitutional on its face and as applied to the defendant in that case. The judge in each case denied both motions, and the defendant in each case took exceptions to the denial of her motions. Because the motions and exceptions in all the cases raise common issues, the defendants consolidated their cases for the purposes of appeal.[FN2] This court took jurisdiction of the consolidated appeal which is before us on bills of exceptions. Execution of the defendants' sentences was stayed pending appeal. We find no error and overrule the exceptions in all cases.



FN2. In addition, this court has before it a brief of amicus curiae, Boston University Student Defender Program. The facts underlying each conviction can be summarized as follows.

Jones.

In July, 1975, Officer McNelley of the Boston police department telephoned Jones, informing her that he had obtained her name from a male friend. When she said she could not remember this person, they arranged an appointment for the same afternoon. At that meeting, Jones informed Officer McNelley that she would perform various sexual acts with him for \$50. He then arrested her and filed a complaint that "Rebecca Jones . . . , a female, was a prostitute offering her body to indiscriminate intercourse with men for hire." Officer McNelley testified that he has never \*8 brought a similar complaint against a man and that it is the practice of the vice squad division of the Boston police department to file such complaints against only females.

Astrofsky.

In November, 1975, Officer Flemming of the Boston police department observed Astrofsky with another woman in a hotel bar being approached by men. He engaged them in conversation. According to his testimony, her companion asked him, in Astrofsky's absence, whether he "was interested in going out for \$75.00 each." She informed Astrofsky of his interest in "going out" for this price, and Astrofsky volunteered the information that fellatio and sexual intercourse would be included. Officer Flemming then arrested both women. He filed a complaint that "Barbara Astrofsky . . . (b)eing a female, was a prostitute offering her body to indiscriminate intercourse with men for hire."

King Cases 1, 2, and 3 (prostitution).

In April, 1975, according to the testimony of Officer Milan of the vice control unit of the Boston police department, he observed King conversing with the operator of a motor vehicle. She entered the car; it drove away. Then he and a fellow officer stopped the car. The operator of the car informed the officers that King had solicited him for sexual intercourse for \$20 and that the act was to take place in his car.[FN3] Thereupon the officers arrested King and filed a complaint that "Diane King . . . , being a female, was a prostitute offering her body to indiscriminate intercourse with men for hire." The record does not show whether the officers also arrested the operator of the car.

FN3. No objection was made in this case or case No. 3, at trial or on appeal, to the prosecutor's use of what appears to be hearsay evidence to convict King.

In May, 1975, Detective DeLuca of the Boston police department was approached by one Debbie Wilson, who offered to engage in fellatio and sexual intercourse for \*\*200 \$25. After he agreed to Wilson's terms, King approached the couple and offered, for an additional \$25, to join Wilson in \*9 performing sexual acts with Detective DeLuca. He then arrested both women and filed a complaint that "Diane King . . . , being a female, was a prostitute offering her body to indiscriminate intercourse with men for hire."

In July, 1975, Detective McCormick of the Boston police department observed King getting into a car, followed the car, and stopped it. The male occupant of the car informed Detective McCormick that King had offered to perform sexual intercourse with him for \$25, and that they were en route to her apartment. Detective McCormick then arrested King and filed a complaint charging her



with prostitution in language identical to Detective DeLuca's. The record does not show whether Detective McCormick also arrested the male occupant of the car.

King Cases 4 and 5 (common night walking).

**On July 13, 1975, at approximately 11:30 P.M. Patrolman Fee of the Boston police department observed King on a Boston street corner approaching and conversing with males who were on foot and in cars. He ordered her to stop this activity and she complied. On two subsequent nights he observed King engaging in similar activity. On the first such occasion he ordered her to leave the area. On the second such occasion he arrested her and filed a complaint that "Dianne (sic ) King . . . was and now is a common night walker." After this arrest, Patrolman Fee in King's presence conversed with an unidentified male who informed him that King had asked whether he wanted to go out and whether he could spend \$20.**

On June 9, 1975, at 3 A.M. Detective Powers of the Boston police department observed King on a Boston street corner approaching cars with male occupants. He warned her to leave the area and she complied. On June 21, 1975, at 3:55 A.M. Detective Powers observed King entering a car, stopped the car and told her to leave the area. At 4:35 A.M. he observed her at the same location, entering a car. He followed the car to Atlantic Avenue in Boston, where the driver parked the car. Detective Powers arrested King, \*10 charging her with common night walking in language identical to Patrolman Fee's.

1. The defendants assert that G.L. c. 272, s 53, in so far as it prohibits prostitution is facially unconstitutional because its definition of proscribed conduct is vague; because it prohibits the status of being a prostitute; because it discriminates against women; and because the statute proscribes conduct which is protected by the right of privacy. In addition, they argue that the s 53 proscription of prostitution was unconstitutionally applied in each of the five cases below because s 53 is enforced against female prostitutes but not against male prostitutes; because s 53 is enforced against female prostitutes but not against their male customers; because the Commonwealth failed to prove the necessary elements of the offense of prostitution in these cases; and because application of s 53 in these cases invaded the defendant's rights to privacy. Finally, the defendants maintain that s 53, in so far as it prohibits common night walking, is unconstitutionally vague as applied to King.[FN4]

FN4. General Laws c. 272, s 53, as amended through St.1973, c. 1073, s 20, reads as follows, in its entirety: "Common night walkers, both male and female, common railers and brawlers, persons who with offensive and disorderly act or language accost or annoy persons of the opposite sex, lewd, wanton and lascivious persons in speech or behavior, idle and disorderly persons, prostitutes, disturbers of the peace, keepers of noisy and disorderly houses and persons guilty of indecent exposure may be punished by imprisonment in a jail or house of correction for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment."

We hold that the prostitution provision of G.L. c. 272, s 53, as construed in this opinion, is not facially unconstitutional. In addition, we hold that the records do not show unconstitutional application of that provision\*\*201 to the defendants. We also hold that the common night walking provision of s 53 was not unconstitutionally vague in its application to King. Finally, we hold that the Commonwealth here proved the essential elements of the charge of prostitution, since proof of solicitation by the defendants for such acts is sufficient.



**Lewd Wanton and Lascivious Acts**  
Chapter 272, Section 53

***JURY INSTRUCTION***

This provision of our law is intended to punish the performance or solicitation of a sexual touching which does not rise to the level of a completed sexual act, and which is performed or intended to be performed in a public place where others may be offended by it.

In order to prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

First: That the defendant (committed) (publicly solicited another person to commit) a sexual act;

Second: That the sexual act involved touching the genitals or buttocks, or the female breasts;

Third: That the defendant did this either for the purpose of sexual gratification, or for the purpose of offending other people; and

Fourth: That the sexual act (was) (was to be) committed in a public place; that is, a place where the defendant either intended public exposure, or recklessly disregarded a substantial risk of public exposure at that time and under those circumstances, to others who might be offended by such conduct.

The defendant cannot be found guilty of this offense if he (she) desired privacy for a sexual act with another consenting adult. If relevant to evidence, and took reasonable measures in order to secure that privacy. Therefore the Commonwealth must prove that in choosing that particular locale, the defendant either intended public exposure or recklessly disregarded a substantial risk of public exposure at that place and time. *Commonwealth v. Roy*, 420 Mass. 1, 647 N.E.2d 1179 (1995) (statute cannot be applied to solicitation for sexual conduct where unclear whether it was to occur in a public or private place); *Commonwealth v. Beauchemin*, 410 Mass. 181, 183-184, 571 N.E.2d 395, 397 (1991) (statute cannot be applied to sexual conduct in location where little likelihood of being observed by casual passersby); *Commonwealth v. Sefranka*,



## **Engaging in Sexual Conduct for a Fee**

### **Chapter 272, Section 53A**

#### **Definition:**

Any person who engages, agrees to engage, or offers to engage in sexual conduct with another person in return for a fee, or any person who pays, agrees to pay or offers to pay another person to engage in sexual conduct, or to agree to engage in sexual conduct with another natural person may be punished by imprisonment in a jail or house of correction for not more than one year or by a fine of not more than five hundred dollars, or both such fine and imprisonment.

#### **Elements:**

1. Any person (can be male or female)
  2. engages, agrees to engage or offers to engage in sexual conduct
  3. with another person (male or female)
  4. in return for a fee
- OR
1. Any person
  2. who pays, agrees to pay, offers to pay to engage in sexual conduct
  3. with another person
- OR
1. To agree to engage in sexual conduct with another natural person

#### **Right of Arrest:**

Statutory Right of arrest in presence



## Cruelty to Animals

### Chapter 272, Section 77

#### CRUELTY TO ANIMALS-JURY INSTRUCTION

(A) that the defendant (overdrove) (overloaded) (drove when overloaded) (overworked) (tortured) (tormented) (deprived of necessary sustenance) (cruelly beat) (mutilated) or (killed) an animal;  
or

(B) that the defendant caused or procured an animal to be (overdriven) (overloaded) (driven when overloaded) (overworked) (tortured) (tormented) (deprived of necessary sustenance) (cruelly beaten) (mutilated) or (killed); or

(C) that the defendant used a live animal in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait (except an animal if used as lure or bait in fishing); or

(D) that the defendant had the charge or custody of an animal, either as owner or otherwise, and (inflicted unnecessary cruelty upon it) or (unnecessarily failed to provide it with proper food, drink, shelter, t, or protection from the weather); or

(E) that the defendant was the owner, possessor, or person having the charge or custody of an animal, and (cruelly drove or worked it when unfit for labor) or (willfully abandoned it) or (carried it or caused it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon); or

(F) that the defendant knowingly and willfully authorized or permitted an animal to be subjected to unnecessary torture, suffering, or cruelty of any kind.

#### Right of Arrest:

Felony

#### **Section 174E: Chaining or tethering dog to stationary object** *Subsection (a) effective until November 17, 2016. For text effective November 17, 2016, see below.*

Section 174E. (a) No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours. A tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time





## UPSKIRTING

### Chapter 272, Section 105B

#### **An Act Relative to Unlawful Surveillance**

Section 105. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

“Electronically surveils” or “electronically surveilled”, to view, obtain or record a person’s visual image by the use or aid of a camera, cellular or other wireless communication device, computer, television or other electronic device.

“Partially nude”, the exposure of the human genitals, buttocks, pubic area or female breast below a point immediately above the top of the areola.

(b) Whoever willfully photographs, videotapes or electronically surveils another person who is nude or partially nude, with the intent to secretly conduct or hide such activity, when the other person in such place and circumstance would have a reasonable expectation of privacy in not being so photographed, videotaped or electronically surveilled, and without that person’s knowledge and consent, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) Whoever willfully disseminates the visual image of another person who is nude or partially nude, with knowledge that such visual image was unlawfully obtained in violation of subsection (b) and without consent of the person so depicted, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or in the state prison for not more than 5 years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(d) This section shall not apply to a merchant that electronically surveils a customer changing room, provided that signage warning customers of the merchant’s surveillance activity is conspicuously posted at all entrances and in the interior of any changing room electronically surveilled.

(e) This section shall not apply to a law enforcement officer acting within the scope of the officer’s authority under applicable law, or by an order or warrant issued by a court.

**(f) A sheriff, deputy sheriff or police officer may arrest without a warrant, a person whom he has probable cause to believe has violated this section.**

(g) A photograph, videotape or other recorded visual image, depicting a person who is nude or partially nude that is part of any court record arising from a prosecution under this section, shall not be open to public inspection and shall only be made available by court personnel to a law enforcement officer, prosecuting attorney, defendant’s attorney, defendant, or victim connected to such prosecution for inspection, unless otherwise ordered by the court.

(h) In a prosecution under this section, a justice of the superior court or district court may issue appropriate orders to restrain or prevent the unlawful dissemination of a person’s visual image in violation of this section.

*Commonwealth v. Valdeir Aguiar Do Nascimento*, 91 Mass. App. Ct. 665 (2017): The Court concluded that two teenage girls riding the ferry to Nantucket had a reasonable expectation of privacy in not having a stranger use his cell phone to secretly videotape under their sundresses.





## **Accessory Before the Fact**

### **Chapter 274, Section 2**

#### **Definition:**

Aiding in the commission of a felony, or being an accessory thereto before the fact by counseling, fixing or otherwise procuring such felony to be committed.

#### **Elements:**

1. aid, hire or procure such felony to be committed
2. completion of the felony
3. principal need not be already tried or on trial
4. although the procuring or counseling occurred outside of the county or state, it can be tried where the principal could be indicted

#### **Right of Arrest:**

This is a felony punishable the same as whatever felony they were the accessory to, therefore you can arrest on probable cause or in presence.

## **Accessory After the Fact**

### **Chapter 274, Section 4**

#### **Elements:**

1. felony has been committed
2. assist or conceal the principal or the accessory before the fact
3. knowledge that the person who is being assisted committed the felony or was an accessory before the fact
4. intend that the principal or accessory before the fact avoid arrest or prosecution
5. not be a spouse or be related by consanguinity, affinity or adoption, as parent, grandparent, child, brother, grandchild or sister to the principal or accessory before the fact.

#### **Right of Arrest:**

This 7 year felony is arrestable in presence or on probable cause



## Attempting to Commit Crimes

### Chapter 274, Section 6

#### ATTEMPT-JURY INSTRUCTION

**First:** That the defendant had a specific intent to commit \_\_\_\_\_; and

**Second:** That the defendant took an overt act toward committing that crime, which was part of carrying out the crime, and came reasonably close to actually carrying out the crime.

**The essence of the crime of attempt is that a person has a specific intent to commit a crime and takes a specific step toward committing that crime.**

Doing any act toward the commission of a crime, but failing in its perpetration or is intercepted or prevented.

#### **Right of Arrest:**

Felony portion arrestable in presence or upon probable cause.

Misdemeanor portion arrestable in presence.

The attempt to commit any larceny under Chapter 266, Section 30 is always a **non-arrestable misdemeanor**.

- Not every act done toward the commission of a crime qualifies as an attempt. Mere preparation is not enough.
- Impossibility of achievement is not a defense. Picking an empty pocket is attempted larceny from the person.
- However intent alone cannot be punished. Hence, if a man shoots a telephone pole thinking he's shooting a man, he can't be found guilty of attempted murder.

#### **Note:**

**First**, if the attempt is to commit a crime punishable by death, the penalty is imprisonment in the state prison for not more than ten years.

**Second**, if the attempt is to commit a crime, except any larceny under c.266s.30, punishable by imprisonment in the state prison for life or for five years or more.

**Third**, if the attempt is to commit a crime, except any larceny under c.266s.30, punishable by imprisonment in the state prison for less than five years or by imprisonment in a jail or house of correction or a fine.

**Fourth**, if the attempt is to commit a crime of any larceny punishable under c.266s.30 the penalty is imprisonment for not more than two and one half years in a jail or house of correction.



## **Conspiracy**

### **Chapter 274, Section 7**

### **CONSPIRACY-JURY INSTRUCTION**

First: That the defendant joined in an agreement or plan with one or more other persons;

Second: That the purpose of the agreement was to do something unlawful

If raised by the evidence: (or to do something that was itself lawful, but by unlawful means);and

Third: That the defendant joined the conspiracy knowing of the help carry it out.

It is not necessary that the conspirators formulated a formal agreement among themselves, or that they agreed on every detail of the conspiracy, or even that they met together. But the Commonwealth must prove that there was a joint plan among them, and that the defendant joined in that plan.

It is not always possible to prove a conspiracy by direct evidence. The law allows you, where it seems reasonable, to infer that there was a conspiracy from all of the circumstances. For example, if people who know each other or have been in communication with each other are shown to have been involved in concerted actions which all seem designed to accomplish a specific purpose, then it may be reasonable to conclude that those actions were not coincidental but were taken pursuant to a joint plan. However, remember that it is not enough that the defendant knew about the conspiracy or associated with conspirators. To be liable as a conspirator, the defendant must have actually joined in the conspiracy as something that he (she) wished to bring about.



## Threats to Commit A Crime

### Chapter 275, Section 2

#### THREAT TO COMMIT CRIME-JURY INSTRUCTION

The defendant is charged with having threatened to commit a crime against the person or property of another. Threatening [a person with a crime against his or her person or property] [a person by threatening a crime against someone else or their property] is itself a crime.

First: That the defendant expressed an intent to injure a person, or property of another, now or in the future;

Second: That the defendant intended that his (her) threat be conveyed to a particular person;

Third: That the injury that was threatened, if carried out, would constitute a crime; and

Fourth: That the defendant made the threat under circumstances which could reasonably have caused the person to whom it was conveyed to fear that the defendant had both the intention and the ability to carry out the threat. See *Commonwealth v. Chalifoux*, 362 Mass. 811, 816-817, 291 N.E.2d 635, 639 (1973) (victim's testimony of prior assault relevant to issue of apprehension); *Commonwealth v. DeVincent*, 358 Mass. 592, 594-595, 266 N.E.2d 314, 315-316 (1971); *Commonwealth v. Maiden*, 61 Mass. App. Ct. 433, 436, 810 N.E.2d 1279, 1281 (2004) (actual receipt by victim of threat not a necessary element; intent that threat be conveyed to target is sufficient, whether or not it was successfully communicated); *Commonwealth v. Hughes*, 59 Mass. App. Ct. 280, 283, 795 N.E.2d 594, 596 (2003); *Commonwealth v. Ditsch*, 19 Mass. App. Ct. 1005, 475 N.E.2d 1235 (1985) (immediate or personal ability to carry out threat unnecessary, only "intention and ability in circumstances which would justify apprehension on the part of the recipient"); *Commonwealth v. Daly*, 12 Mass. App. Ct. 338, 424 N.E.2d 1138 (1981) (under Mass. R. Crim. P. 4[b], others beside victim may bring complaint). See also *Wagenmann v. Adams*, 829 F.2d 196, 207 (1st Cir. 1987); *Robinson v. Bradley*, 300 F.Supp. 665, 668 (D. Mass. 1969) (3-judge court); *Commonwealth v. Kerns*, 449 Mass. 641, 871 N.E.2d 433 (2007).

#### Right of Arrest:

The defendant, if convicted, can be sentenced up to 6 months or pay a fine of up to \$100.00



# Boston Police Academy

LT James A. Moore, Esquire

Training Bulletin 15-03  
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## THREATS AND ASSAULTS

### THREATS

The statutory law concerning threats may be found in Chapter 275, sections 2-6. The term “threat” is not statutorily defined, but its elements have been held to include an expression of intention to inflict a injury or damage on another and an ability to do so in circumstances that would justify apprehension on the part of the recipient of the threat. Words must be viewed in the context of the actions and demeanor, which accompanied them in order to determine if they are objectively threatening. Not all noxious and disturbing remarks are criminal threats. The threat must be communicated in some manner, it need not be oral, verbal, or face to face. It may be communicated to the intended victim in writing, or by a third party, provided it can be proven that the person making the threat intended the third party to communicate the threat to the victim. Intent can be proven by circumstantial evidence. When a person utters a threat to a third party who would likely communicate it to the ultimate target, that action constitutes evidence of intent to communicate the threat to the intended victim. The Commonwealth need not show the suspect’s immediate ability to carry out the threat if the suspect might be able to carry out the threat at a later time.

A threat to commit a crime is a crime itself, but it is not arrestable without an arrest warrant. (M.G.L. c. 275, ss. 2, 3).

However, threatening behavior with purpose to cause public inconvenience, annoyance, or alarm, or recklessly creating the risk thereof, is disorderly conduct. (M.G.L. c. 272, s. 53). If committed in public and in an officer’s presence, it is arrestable. (M.G.L. c. 272, s. 54).

Threats may serve as the basis of a conviction under the accosting and annoying provision of c. 272, s. 53, whether the resulting harm is suffered in public by the public or in private by an individual. If committed in public and in an officer’s presence, it is arrestable. (M.G.L. c. 272, s. 54).



## ASSAULTS

The statutory law concerning assault may be found in Chapter 265, section 13A.

The crime of assault has been variously described as an attempt (or offer) to do bodily harm to another by force and violence, or attempt to commit a battery. The principal element of the crime of assault is an overt, threatening or menacing gesture. Mere words generally, do not constitute assault unless accompanied by an overt act. It is not necessary to prove that the victim was actually apprehensive or fearful of immediate physical harm. It is sufficient to prove that the victim was placed in reasonable apprehension that force may be used. The court will look to the actions and words of the defendant in light of the attendant circumstances.

An assault is a misdemeanor that amounts to a breach of the peace. If it is committed in an officer's presence, it is arrestable.

In a 209A situation, an assault amounts to abuse. If a domestic assault occurs when no protective orders are in effect, this is a misdemeanor with a statutory right of arrest, either in presence or on probable cause. (M.G.L. c. 209A, s. 6(7)). However, whoever commits an assault upon another who he knows has protective orders under Chapter 208, sections 18, 34B or 34C; or Chapter 209, section 32; or Chapter 209A, section 3, 4, or 5; or Chapter 209C, sections 15 or 20 issued against him, commits a five-year felony, and may be arrested in presence or on probable cause.

Whoever commits an assault upon another who he knows, or has reason to know, is pregnant, commits a five-year felony, and may be arrested in presence or on probable cause.

## THE DIFFERENCE

The difference between a threat to commit a crime, and an assault, is that a threat to commit a crime can be mere words about a present or future intent to commit a crime, coupled with the ability to carry out a crime. An arrest warrant is always required to arrest for threats. An assault requires that a person take either some overt step to commit a battery (a swing and a miss), or showing that a battery is imminent (words plus an overt threatening or menacing gesture). An assault, under certain conditions, may be arrestable without a warrant.

**References:** *Commonwealth v. Slaney*, 345 Mass. 135, 185 N.E.2d 919 (1962); *Commonwealth v. Delgado*, 367 Mass. 432, 326 N.E.2d 716 (1975); *Commonwealth v. Ditsch*, 19 Mass.App.Ct. 1005, 475 N.E.2d 1235 (1985); *Commonwealth v. Jacobsen*, 419 Mass. 269, 644 N.E.2d 213 (1995); *Commonwealth v. Robicheau*, 421 Mass. 176, 654 N.E.2d 1196 (1995); *Commonwealth v. Sholley*, 432 Mass. 721, 739 N.E.2d 236 (2000); *Commonwealth v. Milo*, 433 Mass. 149, 740 N.E.2d 967 (2001); *Commonwealth v. Chou*, 433 Mass. 229, 741 N.E.2d 17 (2001); *Commonwealth v. Troy T.*, 54 Mass.App.Ct. 520, 766 N.E.2d 519 (2002); *Commonwealth v. Furst*, 56 Mass.App.Ct. 283, 776 N.E.2d 1032 (2002); *Commonwealth v. Meier*, 56 Mass.App.Ct. 278, 776 N.E.2d 1034 (2002); Nolan & Sartorio, *Criminal Law*, Massachusetts Practice, Volume 32.



## Arrest Without A Warrant

### Chapter 276, Section 28

Any officer authorized to serve criminal process may arrest, without a warrant, and detain a person found in the act of stealing property in the presence of the officer regardless of the value of the property stolen and may arrest, without a warrant and detain a person whom the officer has **probable cause** to believe has committed a misdemeanor by violating a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B, or thirty-four C of chapter two hundred and eight, section three, four or five of chapter two hundred and nine A, section thirty-two of chapter two hundred and nine and section fifteen or twenty of chapter two hundred and nine C.

Said officer may arrest and detain a person charged with a misdemeanor, without having a warrant for such arrest in his possession, if the officer making such arrest and detention shall have actual knowledge that a warrant then in full force and effect for the arrest of such person has in fact been issued.

#### **NOTE:**

This section gives an officer a right of arrest for any larceny committed in his presence regardless of value **and** a past misdemeanor right of arrest for violating a temporary or permanent vacate, restraining, or no-contact order issued pursuant to:

#### **c.208 Divorce**

- sec. 18 -- Authorizes Restraint Order, Divorce Pending
- sec. 34B -- Authorizes Order to Vacate Marital Home
- sec. 34C -- procedures for Orders to Vacate or of Restraint

#### **c.209 Husband and Wife**

- sec. 32 -- Authorizes Restraint, Support, Custody and Maintenance Orders

#### **c.209A Abuse Prevention**

- sec. 3 -- Remedies; Period of Relief
- sec. 4 -- Temporary Orders; Notice; Hearing
- sec. 5 -- Granting Relief When Court Closed; Certification

#### **c.209C Children Born Out of Wedlock**

- sec. 15 -- Authorizes Temporary Restraint Orders
- sec. 20 -- Modification of Judgments; Jurisdiction



## **Examination of Person Arrest**

### **Chapter 276, Section 33**

#### **Elements:**

1. When a person is arrested for a crime and taken to a jail or police station
2. officer in charge shall immediately examine the prisoner
3. if the officer finds any bruises, cuts or other injuries he shall immediately make a written report

#### **NOTE:**

1. The requirement that the prisoner be examined shall not be deemed to compel the removal of his clothing.
2. The written report must be given to the chief of police of the town. In Boston, the report is to be given to the Police Commissioner. If the place of confinement is under control of MDC, the report shall be made to it.
3. The requirement for examination shall be taken after his arrest. When a prisoner is later transferred from one place of confinement to another further examinations are not required.
4. Violation of this section is punishable by a fine of not more than ten dollars.





## **Use of the Telephone by Arrested Person**

### **Chapter 276, Section 33A**

#### **Elements:**

1. Police official in charge of station or place of detention
2. when a person is held in custody
3. Shall permit that person use of the telephone at his expense
4. Upon his arrival at the station and shall be permitted within one hour thereafter

#### **NOTE:**

- Use of the telephone is to allow the arrested person to communicate with his family or friends to arrange for release on bail or to engage the services of an attorney.

## **Affray- Common Law**

### **Chapter 277, Section 39**

#### **AFFRAY-JURY INSTRUCTION**

**First: That the defendant fought with one or more other persons;**

**Second: That the fighting took place in a public place; and**

**Third: That at least one person who was lawfully present in the public place was put in fear as a result of the fighting that occurred.**

**With regard to the first element, fighting is the use of physical force or violence or any threat to immediately use such force or violence. Definition:**

Two or more person fighting together in a public place to the terror of persons lawfully there.

#### **Right of Arrest:**



## **Failing to Register as a Sex Offender**

### **Chapter 6, Section 178H**

Section 178H. (a) A sex offender required to register pursuant to this chapter who knowingly: (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice of a change of address; or (iv) who knowingly provides false information shall be punished in accordance with this section.

(1) A first conviction under this subsection shall be punished by imprisonment for not less than six months and not more than two and one-half years in a house of correction nor more than five years in a state prison or by a fine of not more than \$1,000 or by both such fine and imprisonment.

A person convicted under this paragraph, who has been adjudicated or convicted of any of the offenses set forth in sections 13B, 13B1/2, 13B3/4, 13F, 22A, 22B, 22C, 23, 23A, 23B, 24B and 26 of chapter 265 or for conspiracy to commit any of these offenses, or as an accessory thereto, or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority shall, in addition to the term of imprisonment authorized by this section, be punished by a term of community parole supervision for life, to be served under the jurisdiction of the parole board, as set forth in section 133D of said chapter 127. The sentence of community parole supervision for life shall commence immediately upon the expiration of the term of imprisonment imposed upon such person by the court or upon such person's release from probation or parole supervision or upon the expiration of a continuance without a finding or upon discharge from commitment to the treatment center pursuant to section 9 of chapter 123A, whichever first occurs.



# Boston Police Academy

Lt. Michael A. Chapman  
Sgt. John N. Flynn

Training Bulletin 15-10  
(Issued: November 18,  
2010)



## WIRETAP STATUTE Interception of Wire and Oral Communications M.G.L Chapter 272 Section 99

*The Wiretap Statute is a 12 page document, the purpose of this training bulletin is to give a quick summary for your review. Please see the actual Statute for further details.*

### Definitions

Interception – means to **secretly** hear or record or aid another to secretly hear or secretly record the contents of any oral communication through the use of any intercepting device by any person (other than a person given prior authority by all parties to such communication).

Oral Communication – means speech, except such speech as is transmitted over the public air waves by radio or other similar device.

General law description: This law is designed to prohibit secret recordings of oral communication.

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### Elements

Any person who:

- Willfully commits an interception OR
- Attempts to commit an interception OR
- Procures another person to commit an interception
- or attempt to commit an interception

Of any wire or oral communication

**Right of Arrest: In Presence or Probable Cause  
FELONY**



## CASE LAW

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### Commonwealth v. Hyde (434 Mass. 594)

On October 26, 1998, an Abington police officer conducted a traffic stop of the defendant's white Porsche, because the automobile had an excessively loud exhaust system and an unlit rear registration plate light. Several other Abington police officers responded and the stop quickly became confrontational. Several days later, the defendant went to the Abington police station to file a formal complaint based on his unfair treatment during the stop. To substantiate his allegations, he produced the secret tape recordings he had made of the conversations that had taken place between the defendant and the police officers. The defendant was tried and convicted of violating the wiretap statute under G. L. c. 272, § 99.

The Supreme Court of Massachusetts affirmed the defendant's conviction and stated the "defendant was not prosecuted for making the recording; he was prosecuted for doing so secretly". The court further stated "the problem here could have been avoided if, at the outset of the traffic stop, the defendant had simply informed the police of his intention to tape record the encounter, or even held the tape recorder in plain sight. Had he done so, his recording would not have been secret, and so would not have violated G. L. c. 272, § 99. See Commonwealth v. Jackson, (no "interception" when defendant was aware his voice was being recorded). Secret tape recording by private individuals has been unequivocally banned, and, unless and until the Legislature changes the statute, what was done here cannot be done lawfully".

### Commonwealth v. Manzelli (68 Mass. App. Ct. 691)

During a political rally, the defendant secretly recorded his conversation with several MBTA officers as they had a discussion about the defendant taking pictures of the officers. This is how the Appeals Court described the event when the officer asked if the defendant was tape recording their conversation. "The defendant immediately took the microphone, along with a black bag containing a tape recorder and cassette tapes, and threw them among a nearby group of protestors. The defendant shouted for people to take the tapes. (Officer) Riel attempted to retrieve the recorder and tapes, but was thwarted by the crowd, which began to throng Riel. (Officer) Harer came to Riel's aid, and the two of them managed to recover an empty bag, the microphone, and a few tapes. Riel was punched in the eye by a protestor as she attempted to collect the items. Harer then attempted to arrest the defendant, who, by that time, had fled into a nearby subway station. After a brief chase, Harer took the defendant into custody". After trial, the jury convicted the defendant of unlawful electronic interception of an oral communication under G.L. c. 272, § 99.

The Appeals Court in Massachusetts stated "that despite the lack of a tapes, there was ample circumstantial evidence that the defendant made an unlawful secret recording, including (1) his possession of a device, together with the microphone secreted in his jacket, (2) the fact that the microphone was pointed in the direction of the officers during their conversation with the defendant, (3) the odd manner in which the defendant put his questions to police, and (4) the tapes he discarded into the crowd".

**Public and open recordings are allowed under the Wiretap statute. There is no right of arrest for public and open recordings under this statute.**





**Police Commissioner's Memo**

Number: CM 19-002

Date: 1/4/19

Post/Mention: Indefinite

**SUBJECT: COURT DECISION REGARDING SECRET RECORDING OF POLICE OFFICERS**

On December 10, 2018 the U.S. District Court for the District of Massachusetts issued an order in the case of Martin v. Gross ruling that the First Amendment protects the right of individuals to **openly or secretly** record audio and/or video of government officials, including police officers, performing their duties in public spaces. The Court also held that the Massachusetts Wiretap Statute (Mass. Gen. Laws c. 272, §99) is unconstitutional when enforcement infringes upon this right.

This ruling applies only to the recording of government officials and law enforcement officers. The Wiretap Statute remains constitutional when enforced against individuals who secretly record conversations of private citizens.

The Court's decision does acknowledge certain exceptions. Officers may issue orders to restrict recording where they reasonably conclude the recording interferes or is about to interfere with their duties. Officers may take reasonable steps to preserve public safety. Officers may take all reasonable steps to maintain safety and control, secure crime scenes and accident sites, and protect the integrity and confidentiality of investigations. Moreover, if an officer needs to protect the safety of an informant or fellow officer, or seeks to preserve a victim's privacy, the officer may order the recording to stop or may conduct the conversation at a safe distance removed from the bystanders or in a private (i.e. non-public) location. However, officers are advised that the Court took the view that traffic stops generally take place in public spaces.

This Commissioner's Memo is to ensure that the Boston Police Department complies with the Court's decision. Therefore, all officers are advised NOT to enforce the Massachusetts Wiretap Statute against individuals for openly or secretly recording police officers or other government officials who are performing their duties in public spaces. This memo is also intended to make sure all officers are aware that they may be recorded openly or secretly while performing their duties in public spaces.

The Department will update its training materials to reflect the Court's holding in this case.

William G. Gross  
Police Commissioner



# LEGAL TERMS

## **Misdemeanor**

No State Prison Time

## **Felony**

State Prison Time eligible

## **Statutes**

The legislature enacts laws

## **Common Law/Case**

Decisions by Judiciary

## **Right of Arrest**

Warrant

Warrantless Arrest

Complaint-Summons

## **Elements**

Components of a crime

## **Executive Branch**

Responsible for carrying out and enforcing the state laws.



# LEGAL TERMS

## **Actus Reus**

The act itself

## **Mens Rea**

Mental State

### • **Specific Intent**

- Intentionally or Knowingly
- Example Assault with Intent to Rob

### • **Malicious Intent**

- Express or Implied-not accidental

### • **General Intent**

- Intend your Actions
- Most crimes are general intent crimes
- Example-Assault and Battery

### • **Reckless Intent**

- Disregard risk

### • **Negligent**

- Unreasonable Behavior

### • **Strict Liability**

- Intent is irrelevant
- Example-Statutory Rape



**“We are what we repeatedly do, Excellence, then, is not an act, but a habit.”**

**-Aristotle**





**From:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 9:45 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Subject:** Fwd: Noise violations

Jen  
these are the establishments  
cited for noise only  
(4) establishments  
(5) cites  
2021 - present

El Dimante  
02/26/2022  
Lolita Seaport  
06/26/2021  
07/22//021  
White Bull  
07/02/2021  
Beacon Hill Pub  
12/18/2021

Thank you  
Gerard

Sent from my iPhone

Begin forwarded message:

**From:** William Gallagher <[william.gallagher@pd.boston.gov](mailto:william.gallagher@pd.boston.gov)>  
**Date:** April 1, 2022 at 8:18:14 PM EDT  
**To:** Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>  
**Subject:** Noise violations

Good evening  
These are the noise violations that we have issued for being over the city noise ordinance

El Diamante  
Lolita Seaport  
White Bull  
Beacon Hill Pub

The above premises were over the decibel allowance per city ordinance  
The Licensing Board gave all the premises except one a warning . The other was no violation  
any questions please call or email

BG

**From:** Felipe Colon <felipe.colon@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 2:24 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Subject:** Re: News Clips for Sunday, April 3, 2022

No, but it does give us guidance on the data retention. The DA's office will give further clarity on the ruling. I expect interpretations from Dave and Jess as well.

**Felipe I. Colon**  
**Superintendent**  
**Chief, Bureau of Investigative Services**  
**Boston Police Department**  
**One Schroeder plaza,**  
**Boston, Ma. 02120**  
(617) 343-4497 (Office)  
(617) 343- 4727 (Fax)

On Apr 4, 2022, at 1:26 PM, Jennifer Maconochie <jennifer.maconochie@pd.boston.gov> wrote:

Does this ruling mean we can no longer use the cell site simulator for exigent incidents?

----- Forwarded message -----

**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Date:** Sun, Apr 3, 2022 at 12:19 PM  
**Subject:** Re: News Clips for Sunday, April 3, 2022  
**To:** Gregory Long <gregory.long@pd.boston.gov>, Paul Donovan <paul.donovan@pd.boston.gov>, Winifred Cotter <winifred.cotter@pd.boston.gov>, Charles Wilson <charles.wilson@pd.boston.gov>, Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>, Nora Baston <nora.baston@pd.boston.gov>, Marcus Eddings <marcus.eddings@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Felipe Colon <felipe.colon@pd.boston.gov>, Kenneth Gaines <kenneth.gaines@pd.boston.gov>, James Chin <james.chin@pd.boston.gov>, Richard Dahill <richard.dahill@pd.boston.gov>, Sharon Dottin <sharon.dottin@pd.boston.gov>, Carmen Curry <carmen.curry@pd.boston.gov>, Luis Cruz <luis.cruz@pd.boston.gov>, James Miller <james.miller@pd.boston.gov>, John Boyle <johnt.boyle@pd.boston.gov>, David Fredette <david.fredette@pd.boston.gov>, Mark Hayes <mark.hayes@pd.boston.gov>, Terry Thomas <terry.thomas@pd.boston.gov>, Leighton Facey <leighton.facey@pd.boston.gov>, Steven Sweeney <steven.sweeney@pd.boston.gov>, Therese Kozmiski <therese.kozmiski@pd.boston.gov>, Joseph Boyle <joseph.boyle@pd.boston.gov>, Captain Kelley McCormick <kelley.mccormick@pd.boston.gov>, Steven McLaughlin <steven.mclaughlin@pd.boston.gov>, Paul Russell <paul.russell@pd.boston.gov>, Joseph Gillespie <joseph.gillespie@pd.boston.gov>, Phillip Terenzi <phillip.terenzi@pd.boston.gov>, John Davin <john.davin@pd.boston.gov>, Wayne Lanchester <wayne.lanchester@pd.boston.gov>, Timothy Connolly <timothy.connolly@pd.boston.gov>, Darrin Greeley <darrin.greeley@pd.boston.gov>, Robert Ciccolo <robert.ciccolo@pd.boston.gov>, John Danilecki <john.danilecki@pd.boston.gov>, James Gaughan <james.gaughan@pd.boston.gov>, James Moccia <james.moccia@pd.boston.gov>, James Kenneally <james.kenneally@pd.boston.gov>, Kim Tavares <kim.tavares@pd.boston.gov>, David Estrada <david.estrada@pd.boston.gov>, Maisha Miraj <maisha.miraj@pd.boston.gov>, Stephen McNulty <stephen.mculty@pd.boston.gov>, Desiree Dusseault <desiree.dusseault@pd.boston.gov>, Kathy Kearney <kathy.kearney@pd.boston.gov>, Dana McGillicuddy <dana.mcgillicuddy@pd.boston.gov>, Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>, Joyce Fitzgerald <joyce.fitzgerald@pd.boston.gov>, Kerry Ryan <kerry.ryan@pd.boston.gov>, Laura Dickerson <laura.dickerson@pd.boston.gov>, Martha DeMaio <martha.demaio@pd.boston.gov>, David Carabin <david.carabin@pd.boston.gov>, Ryan Walsh <ryan.walsh@pd.boston.gov>, Michael Gaskins <michael.gaskins@pd.boston.gov>, Narteeca Mitchell <narteeca.mitchell@pd.boston.gov>, Nickisha Gales <nickisha.gales@pd.boston.gov>, Richard Whalen <richard.whelen@pd.boston.gov>, Rosangela Pina-Tavares <rosangela.pina-tavares@pd.boston.gov>, Kerry Sullivan <kerry.sullivan@pd.boston.gov>, Brian Larkin <brian.larkin@pd.boston.gov>, Stephen Romano <stephen.romano@pd.boston.gov>, Henry Staines <henry.staines@pd.boston.gov>, Thomas Lema <thomas.lema@pd.boston.gov>, Tianna Musto <tianna.musto@pd.boston.gov>, Tina Cellucci <tina.cellucci@pd.boston.gov>, Timothy Denio <timothy.denio@pd.boston.gov>, Kevin Kosiorek <kevin.kosiorek@pd.boston.gov>, Christopher Carroll <christopher.carroll@pd.boston.gov>, Mary Ryan <mary.ryan@pd.boston.gov>, Juliana Susi <juliana.susi@pd.boston.gov>, Lisa O'Brien <lisa.obrien@pd.boston.gov>, Christopher Markunas <christopher.markunas@pd.boston.gov>, Mark Harrington <mark.harrington@pd.boston.gov>, Emanuel Canuto <emanuel.canuto@pd.boston.gov>, Anthony Rizzo <anthony.rizzo@pd.boston.gov>, Jason Gilmore <jason.gilmore@pd.boston.gov>, Paul McLaughlin <paul.mclaughlin@pd.boston.gov>, Edward Meade <edward.meade@pd.boston.gov>, Maria Cheevers <maria.cheevers@pd.boston.gov>, Jenna Savage <jenna.savage@pd.boston.gov>, Francis DeLuca <francis.deluca@pd.boston.gov>, Tracy Kenney <tracy.kenney@pd.boston.gov>, Demon Bills <demon.bills@pd.boston.gov>, Jason Whyte

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<https://www.bostonglobe.com/2022/04/01/metro/mass-high-court-places-limits-police-access-cellphone-data/>

# Mass. high court places limits on police access to cellphone data

The state's highest court on Friday for the first time extended privacy protections to "tower dumps" of cellphone data, requiring police to get a search warrant for the novel technique, which was used by Boston police to pinpoint two men out of 50,000 people as suspects in a 2018 Boston murder and several robberies.

The Supreme Judicial Court said in a unanimous opinion it was responding to 21st-century technology that has "resulted in a quantity and quality of surveillance that never could have been imagined, let alone realized, at the time of the founding."

Writing for the court, Justice Frank M. Gaziano said cellphone technology used in the Boston area can allow police to track thousands of individuals "precisely, down to the specific floor of a particular building." Like privacy rights for an individual inside their home, cellphone data must now be shielded from unfettered intrusion by law enforcement, the court concluded.

Gaziano noted that using the tower dumps — the sharing of identifying information by a cell tower operator— "investigators were able to compile and catalogue the locations of more than 50,000 individuals at varying points over more than one month, without any one of them ever knowing that he or she was the target of police surveillance."

"Privacy in one's associations, whether political, religious, or simply amicable, plays a crucial role in maintaining our democracy, and therefore is protected" under Article 14 of the state constitution, he wrote. "Providing law enforcement with such personal information is of particular concern because it risks chilling the associational and expressive freedoms that our State and Federal Constitutions strive to protect."

The ruling stems from the pending Suffolk Superior Court prosecution of Jerron J. Perry for the Oct.

6, 2018, slaying of 62-year-old Jose Luis Williams. Williams was working at the Fabian Gas Station on Washington Street in Dorchester when he was killed by a single shot from a .45-caliber handgun, records show.

Perry is also charged with committing five armed robberies in Boston, Cambridge, and Canton in September and October 2018. A codefendant, Gregory H. Williams III, is charged with being an accessory to Williams's murder — and five counts of armed robbery, records show.

Both men have pleaded not guilty and are being held without bail, records show.

Victims of the robberies provided broadly similar descriptions of the robber, the gun used, and the getaway car sometimes used, according to the SJC. But the two men were not linked to the crimes — or each other — until the FBI and Boston police collected data through seven tower dumps around the dates and times of the crimes, the SJC said.

Tower dumps “provided investigators with highly personal and previously unknowable details” of Perry's life,” Gaziano wrote. “An owner's location and associations are tied to his or her telephone number and unique identifier, which, here, were used to discern the defendant's identity and that of his suspected accomplice.”

The SJC said that some of the data seized by police cannot be used against Perry. “The Commonwealth's use of the seven tower dumps intruded upon the defendant's reasonable expectation of privacy,” Gaziano wrote.

Perry's defense attorney, Eric Tennen, said Friday that he was reviewing the 51-page ruling to determine the precise impact the court's decision will have on the case.

Suffolk District Attorney Kevin R. Hayden said the SJC ruling would not impact the prosecution of the two men.

“Criminal investigations, as with all aspects of modern life, are affected by constant advancements in technology,” Hayden said in a statement. The SJC decision “brings clarity to how law enforcement agencies can go about collecting technological evidence they deem important to an investigation. We welcome that clarity.”

In its decision, the SJC issued new, stricter rules police must follow before they can conduct tower dumps. Police must get a search warrant justifying their request for information on thousands of people who have no idea their data is being examined by police and have no tie to the crime being investigated.

Search warrants can be approved by a clerk magistrate or a judge — but not for tower dumps. For tower dumps, only a judge can approve the warrant. Moreover, the SJC said, police must also spell out how they will delete data collected from the thousands of people who weren't involved in the crime.

The court said its ruling is not retroactive.

The American Civil Liberties Union and the ACLU of Massachusetts, the Electronic Frontier Foundation, Massachusetts Association of Criminal Defense Lawyers, and the Committee for Public Counsel Services submitted a joint amicus brief to the SJC.

“This is a groundbreaking decision that provides crucial privacy protections for people in Massachusetts,” Jessie Rossman, managing attorney at the ACLU of Massachusetts, said in a statement. “The message is clear: If the police use tower dumps over multiple days to identify someone they believe to have committed crimes, they must first get a warrant, and they must promptly discard any data they acquire from those tower dumps about people other than the target.”

On Sun, Apr 3, 2022 at 12:11 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a-medal-in-honor-of-two-officers-slain-in-1970s/>

## Two Boston Police officers to receive Schroeder Brother

## Memorial Medal, a medal in honor of two officers slain in 1970s

### Schroeder descendants toured Boston Police HQ ahead of ceremony

Boston Police headquarters sits at 1 Schroeder Plaza, named in honor of two Boston Police brothers who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, "was shot to death in cold blood shortly before noon" Nov. 30, 1973 "while attempting to thwart three armed men during the holdup of a Roxbury pawn shop," the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

"As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery," the paper wrote, adding they even stole John's service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter's grandsons, Paul, serving as a police officer, and John's first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth's son Rhein Ingham, 15, said he'd like to be a police officer.

"It's a big honor," he said. "I want to live up to the name."

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that's otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here's the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and



knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That's where cops found it, according to a police report that the department provided to the Herald when asked about the gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she'd seen photos from social media of Brown's gravestone somewhere in Mission Hill. So, she said, she'd headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they'd found the headstone, picking it up on Annunciation Road.

"Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping," police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, "This is just something that can escalate so easily."

"We need cooler heads, mentorship and availability of services" to try to disrupt these cycles of violence, he added.

The 16-year-old Brown's slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa's team, even though they weren't technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That's what makes Brown's killing doubly tragic, in DaRosa's estimation. A young man was slain, but also a peer pillar of his friends' lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

"Kids keep inheriting street drama," DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. "Now it's two groups of young people who are knee deep in all this."

Asked about the gang conflict, Mayor Michelle Wu's administration said, "The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies."

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That's down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he's not optimistic.

"It's only going to get worse, and it's going to involve a lot of younger people," DaRosa predicted. "This summer is going to be on fire."

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

## **Man arraigned in hospital after alleged shootout with Boston police**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## **'In panic mode': Boston police investigating after woman claims she's being tracked by unknown AirTag**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## **Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester**

Boston police told NBC10 Boston that two people were injured in a reported road rage incident  
<https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## **Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show**

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## **Boston police rescue woman pinned under car in Dorchester**

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/randolph-man-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

# Randolph man shot by Boston police arraigned from hospital bed for allegedly firing at officers

A Randolph man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point "several officers" fired back, "striking the suspect multiple times" and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.



<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

# Demonstrators fined near Wu's home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

"Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too," she said.

The protesters, she said, "have retained an attorney and will be suing Mayor Wu yet again."

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance "will be in conformance with law."

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance "could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,"

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

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*Sergeant Detective John Boyle  
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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

**Sent:** Saturday, April 02, 2022 6:42 AM EDT

**To:** Gerard Bailey <gerard.bailey@pd.boston.gov>

**Subject:** Re: Noise violations

Thank you

Sent from my iPhone

On Apr 1, 2022, at 9:45 PM, Gerard Bailey <gerard.bailey@pd.boston.gov> wrote:

Jen

these are the establishments

cited for noise only

(4) establishments

(5) cites

2021 - present

El Dimante

02/26/2022

Lolita Seaport

06/26/2021

07/22/2021

White Bull

07/02/2021

Beacon Hill Pub

12/18/2021

Thank you

Gerard

Sent from my iPhone

Begin forwarded message:

**From:** William Gallagher <[william.gallagher@pd.boston.gov](mailto:william.gallagher@pd.boston.gov)>

**Date:** April 1, 2022 at 8:18:14 PM EDT

**To:** Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>

**Subject:** Noise violations

Good evening

These are the noise violations that we have issued for being over the city noise ordinance

El Diamante

Lolita Seaport

White Bull

Beacon Hill Pub

The above premises were over the decibel allowance per city ordinance

The Licensing Board gave all the premises except one a warning . The other was no violation  
any questions please call or email

BG

**From:** Jerry Harrigan <jharrigan.5@comcast.net>

**Sent:** Monday, April 11, 2022 7:40 PM EDT

**To:** jeremiah.harrigan@pd.boston.gov <jeremiah.harrigan@pd.boston.gov>

**Subject:** Fwd: Training

**Attachment(s):** "3 - Reinstatement Training Checklist.pdf", "61-21 Motor Vehicle Law.pdf", "61-21 Domestic Violence Law Textbook.pdf", "59-19 Criminal Law.pdf", "59-19 Constitutional Law.pdf"

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

From: James Blake <james.blake@pd.boston.gov>

To: jharrigan.5@comcast.net

Date: 04/11/2022 4:33 PM

Subject: Training

Hi Jerry,

Here you go. Let me know if you need anything else.

Jim

Sergeant James Blake  
Registrar

Boston Police Academy

85 Williams Avenue  
Hyde Park, MA 02136  
Office: 617-343-4410  
Mobile: 617-595-9924  
FAX: 617-343-5616  
E-mail: [james.blake@pd.boston.gov](mailto:james.blake@pd.boston.gov)

*"First in the Nation"*

**From:** Lanita Cullinane <lanita.cullinane@pd.boston.gov>

**Sent:** Tuesday, April 05, 2022 9:48 AM EDT

**To:** Adam Cederbaum <adam.cederbaum@boston.gov>

**CC:** David Fredette <david.fredette@pd.boston.gov>; Daniel Humphreys <daniel.humphreys@pd.boston.gov>; Jason Lederman <jason.lederman@boston.gov>; Sultan Durzi <sultan.durzi@boston.gov>

**Subject:** Re: Proposed City Ordinance

Good morning all,

I'm just following up on this. If there are any questions, Sgt. Det. Humphreys and I will make ourselves available to meet.

Thank you,

On Wed, Mar 9, 2022 at 10:44 AM Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)> wrote:

Thank you Deputy Superintendent Cullinane,

I'm looping in Jason Lederman and Sultan Durzi in my office.

Thanks,

Adam

On Tue, Mar 8, 2022 at 4:41 PM Lanita Cullinane <[lanita.cullinane@pd.boston.gov](mailto:lanita.cullinane@pd.boston.gov)> wrote:

Good afternoon,

Sgt. Det. Humphreys and I met and he brought me up to speed regarding the work that had been previously done on the attached proposed city ordinance. He and I made some edits and we would like to see if you are both available to discuss at some point.

Additionally, under the definitions section of 16-60, Impound is not included in the listed definitions, and we think it needs to be added.

Thank you,  
Lanita

--

**Lanita D. Cullinane (She/Her)**

Deputy Superintendent

Bureau of Field Services

Boston Police Department

One Schroeder Plaza

Boston, MA 02120

(Office) 617-343-4783

(Fax) 617-343-4289

[lanita.cullinane@pd.boston.gov](mailto:lanita.cullinane@pd.boston.gov)

**\*\*Confidentiality Note\*\***

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--

Lanita D. Cullinane (She/Her)

Deputy Superintendent

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**From:** Martin Joseph <martin.joseph@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 9:35 AM EDT  
**To:** hungrytraveler@aol.com <hungrytraveler@aol.com>  
**Subject:** Fwd: News Clips for Sunday, April 3, 2022

----- Forwarded message -----

**From:** Mark Harrington <[mark.harrington@pd.boston.gov](mailto:mark.harrington@pd.boston.gov)>  
**Date:** Sun, Apr 3, 2022 at 3:28 PM  
**Subject:** Fwd: News Clips for Sunday, April 3, 2022  
**To:** Wilbanks Sean <[sean.wilbanks@pd.boston.gov](mailto:sean.wilbanks@pd.boston.gov)>, Foley James <[james.foley@pd.boston.gov](mailto:james.foley@pd.boston.gov)>, Silta Samil <[samil.silta@pd.boston.gov](mailto:samil.silta@pd.boston.gov)>, Sweet Isabel <[isabel.sweet@pd.boston.gov](mailto:isabel.sweet@pd.boston.gov)>, Geoghegan Eamon <[eamon.geoghegan@pd.boston.gov](mailto:eamon.geoghegan@pd.boston.gov)>, Murphy Patrick <[pat.murphy@pd.boston.gov](mailto:pat.murphy@pd.boston.gov)>, Cellucci Charles <[charles.cellucci@pd.boston.gov](mailto:charles.cellucci@pd.boston.gov)>, Joseph Martin <[martin.joseph@pd.boston.gov](mailto:martin.joseph@pd.boston.gov)>, Powell Donald <[donald.powell@pd.boston.gov](mailto:donald.powell@pd.boston.gov)>, McMahon Edward <[edward.mcmahon@pd.boston.gov](mailto:edward.mcmahon@pd.boston.gov)>, Boyle Robert <[robert.boyle@pd.boston.gov](mailto:robert.boyle@pd.boston.gov)>, Kervin Mark <[mark.kervin@pd.boston.gov](mailto:mark.kervin@pd.boston.gov)>, Boyle Amy <[amy.boyle@pd.boston.gov](mailto:amy.boyle@pd.boston.gov)>, Manning Ryan <[ryan.manning@pd.boston.gov](mailto:ryan.manning@pd.boston.gov)>, Robert Hurley <[robert.hurley@pd.boston.gov](mailto:robert.hurley@pd.boston.gov)>

Sent from my iPhone

Begin forwarded message:

**From:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>  
**Date:** April 3, 2022 at 12:18:42 PM EDT  
**To:** Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, Paul Donovan <[paul.donovan@pd.boston.gov](mailto:paul.donovan@pd.boston.gov)>, Winifred Cotter <[winifred.cotter@pd.boston.gov](mailto:winifred.cotter@pd.boston.gov)>, Charles Wilson <[charles.wilson@pd.boston.gov](mailto:charles.wilson@pd.boston.gov)>, Jeffrey Walcott <[jeffrey.walcott@pd.boston.gov](mailto:jeffrey.walcott@pd.boston.gov)>, Nora Baston <[nora.baston@pd.boston.gov](mailto:nora.baston@pd.boston.gov)>, Marcus Eddings <[marcus.eddings@pd.boston.gov](mailto:marcus.eddings@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Felipe Colon <[felipe.colon@pd.boston.gov](mailto:felipe.colon@pd.boston.gov)>, Kenneth Gaines <[kenneth.gaines@pd.boston.gov](mailto:kenneth.gaines@pd.boston.gov)>, James Chin <[james.chin@pd.boston.gov](mailto:james.chin@pd.boston.gov)>, Richard Dahill 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**Subject: Re: News Clips for Sunday, April 3, 2022**

<https://www.bostonglobe.com/2022/04/01/metro/mass-high-court-places-limits-police-access-cellphone-data/>

# Mass. high court places limits on police access to cellphone data

The state's highest court on Friday for the first time extended privacy protections to "tower dumps" of cellphone data, requiring police to get a search warrant for the novel technique, which was used by Boston police to pinpoint two men out of 50,000 people as suspects in a 2018 Boston murder and several robberies.

The Supreme Judicial Court said in a unanimous opinion it was responding to 21st-century technology that has "resulted in a quantity and quality of surveillance that never could have been imagined, let alone realized, at the time of the founding."

Writing for the court, Justice Frank M. Gaziano said cellphone technology used in the Boston area can allow police to track thousands of individuals "precisely, down to the specific floor of a particular building." Like privacy rights for an individual inside their home, cellphone data must now be shielded from unfettered intrusion by law enforcement, the court concluded.

Gaziano noted that using the tower dumps — the sharing of identifying information by a cell tower operator — "investigators were able to compile and catalogue the locations of more than 50,000 individuals at varying points over more than one month, without any one of them ever knowing that he or she was the target of police surveillance."

"Privacy in one's associations, whether political, religious, or simply amicable, plays a crucial role in maintaining our democracy, and therefore is protected" under Article 14 of the state constitution, he wrote. "Providing law enforcement with such personal information is of particular concern because it risks chilling the associational and expressive freedoms that our State and Federal Constitutions



strive to protect.”

The ruling stems from the pending Suffolk Superior Court prosecution of Jerron J. Perry for the Oct. 6, 2018, slaying of 62-year-old Jose Luis Williams. Williams was working at the Fabian Gas Station on Washington Street in Dorchester when he was killed by a single shot from a .45-caliber handgun, records show.

Perry is also charged with committing five armed robberies in Boston, Cambridge, and Canton in September and October 2018. A codefendant, Gregory H. Williams III, is charged with being an accessory to Williams’s murder — and five counts of armed robbery, records show.

Both men have pleaded not guilty and are being held without bail, records show.

Victims of the robberies provided broadly similar descriptions of the robber, the gun used, and the getaway car sometimes used, according to the SJC. But the two men were not linked to the crimes — or each other — until the FBI and Boston police collected data through seven tower dumps around the dates and times of the crimes, the SJC said.

Tower dumps “provided investigators with highly personal and previously unknowable details” of Perry’s life,” Gaziano wrote. “An owner’s location and associations are tied to his or her telephone number and unique identifier, which, here, were used to discern the defendant’s identity and that of his suspected accomplice.”

The SJC said that some of the data seized by police cannot be used against Perry. “The Commonwealth’s use of the seven tower dumps intruded upon the defendant’s reasonable expectation of privacy,” Gaziano wrote.

Perry’s defense attorney, Eric Tennen, said Friday that he was reviewing the 51-page ruling to determine the precise impact the court’s decision will have on the case.

Suffolk District Attorney Kevin R. Hayden said the SJC ruling would not impact the prosecution of the two men.

“Criminal investigations, as with all aspects of modern life, are affected by constant advancements in technology,” Hayden said in a statement. The SJC decision “brings clarity to how law enforcement agencies can go about collecting technological evidence they deem important to an investigation. We welcome that clarity.”

In its decision, the SJC issued new, stricter rules police must follow before they can conduct tower dumps. Police must get a search warrant justifying their request for information on thousands of people who have no idea their data is being examined by police and have no tie to the crime being investigated.

Search warrants can be approved by a clerk magistrate or a judge — but not for tower dumps. For tower dumps, only a judge can approve the warrant. Moreover, the SJC said, police must also spell out how they will delete data collected from the thousands of people who weren’t involved in the crime.

The court said its ruling is not retroactive.

The American Civil Liberties Union and the ACLU of Massachusetts, the Electronic Frontier Foundation, Massachusetts Association of Criminal Defense Lawyers, and the Committee for Public Counsel Services submitted a joint amicus brief to the SJC.

“This is a groundbreaking decision that provides crucial privacy protections for people in Massachusetts,” Jessie Rossman, managing attorney at the ACLU of Massachusetts, said in a statement. “The message is clear: If the police use tower dumps over multiple days to identify someone they believe to have committed crimes, they must first get a warrant, and they must promptly discard any data they acquire from those tower dumps about people other than the target.”

On Sun, Apr 3, 2022 at 12:11 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a->

[medal-in-honor-of-two-officers-slain-in-1970s/](#)

## Two Boston Police officers to receive Schroeder Brother Memorial Medal, a medal in honor of two officers slain in 1970s

Schroeder descendants toured Boston Police HQ ahead of ceremony

Boston Police headquarters sits at 1 Schroeder Plaza, named in honor of two Boston Police brothers who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, "was shot to death in cold blood shortly before noon" Nov. 30, 1973 "while attempting to thwart three armed men during the holdup of a Roxbury pawn shop," the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

"As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery," the paper wrote, adding they even stole John's service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter's grandsons, Paul, serving as a police officer, and John's first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth's son Rhein Ingham, 15, said he'd like to be a police officer.

"It's a big honor," he said. "I want to live up to the name."

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that's otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here's the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That's where cops found it, according to a police report that the department provided to the Herald when asked about the gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she'd seen photos from social media of Brown's gravestone somewhere in Mission Hill. So, she said, she'd headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they'd found the headstone, picking it up on Annunciation Road.

"Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping," police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, "This is just something that can escalate so easily."

"We need cooler heads, mentorship and availability of services" to try to disrupt these cycles of violence, he added.

The 16-year-old Brown's slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa's team, even though they weren't technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That's what makes Brown's killing doubly tragic, in DaRosa's estimation. A young man was slain, but also a peer pillar of his friends' lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

"Kids keep inheriting street drama," DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. "Now it's two groups of young people who are knee deep in all this."

Asked about the gang conflict, Mayor Michelle Wu's administration said, "The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies."

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That's down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he's not optimistic.

"It's only going to get worse, and it's going to involve a lot of younger people," DaRosa predicted. "This summer is going to be on fire."

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

## **Man arraigned in hospital after alleged shootout with Boston police**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## **'In panic mode': Boston police investigating after woman claims she's being tracked by unknown AirTag**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## **Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester**

Boston police told NBC10 Boston that two people were injured in a reported road rage incident <https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## **Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show**

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## **Boston police rescue woman pinned under car in Dorchester**

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/randolph-man-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

# Randolph man shot by Boston police arraigned from hospital bed for allegedly firing at officers

A Randolph man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point "several officers" fired back, "striking the suspect multiple times" and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.

<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

# Demonstrators fined near Wu's home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

"Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too," she said.

The protesters, she said, "have retained an attorney and will be suing Mayor Wu yet again."

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance "will be in conformance with law."

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance "could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,"

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city



workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
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--

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**From:** Mark Harrington <mark.harrington@pd.boston.gov>

**Sent:** Sunday, April 03, 2022 3:28 PM EDT

**To:** Wilbanks Sean <sean.wilbanks@pd.boston.gov>; Foley James <james.foley@pd.boston.gov>; Silta Samil <samil.silta@pd.boston.gov>; Sweet Isabel <isabel.sweet@pd.boston.gov>; Geoghegan Eamon <eamon.geoghegan@pd.boston.gov>; Murphy Patrick <pat.murphy@pd.boston.gov>; Cellucci Charles <charles.cellucci@pd.boston.gov>; Joseph Martin <martin.joseph@pd.boston.gov>; Powell Donald <donald.powell@pd.boston.gov>; McMahon Edward <edward.mcmahon@pd.boston.gov>; Boyle Robert <robert.boyle@pd.boston.gov>; Kervin Mark <mark.kervin@pd.boston.gov>; Boyle Amy <amy.boyle@pd.boston.gov>; Manning Ryan <ryan.manning@pd.boston.gov>; Robert Hurley <robert.hurley@pd.boston.gov>

**Subject:** Fwd: News Clips for Sunday, April 3, 2022

Sent from my iPhone

Begin forwarded message:

**From:** John Boyle <johnt.boyle@pd.boston.gov>

**Date:** April 3, 2022 at 12:18:42 PM EDT

**To:** Gregory Long <gregory.long@pd.boston.gov>, Paul Donovan <paul.donovan@pd.boston.gov>, Winifred Cotter <winifred.cotter@pd.boston.gov>, Charles Wilson <charles.wilson@pd.boston.gov>, Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>, Nora Baston <nora.baston@pd.boston.gov>, Marcus Eddings <marcus.eddings@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Felipe Colon <felipe.colon@pd.boston.gov>, Kenneth Gaines <kenneth.gaines@pd.boston.gov>, James Chin <james.chin@pd.boston.gov>, Richard Dahill <richard.dahill@pd.boston.gov>, Sharon Dottin <sharon.dottin@pd.boston.gov>, Carmen Curry <carmen.curry@pd.boston.gov>, Luis Cruz <luis.cruz@pd.boston.gov>, James Miller <james.miller@pd.boston.gov>, John Boyle <johnt.boyle@pd.boston.gov>, David Fredette <david.fredette@pd.boston.gov>, Mark Hayes <mark.hayes@pd.boston.gov>, Terry Thomas <terry.thomas@pd.boston.gov>, Leighton Facey <leighton.facey@pd.boston.gov>, Steven Sweeney <steven.sweeney@pd.boston.gov>, Therese Kozmiski <therese.kozmiski@pd.boston.gov>, Joseph Boyle <joseph.boyle@pd.boston.gov>, Captain Kelley McCormick <kelley.mccormick@pd.boston.gov>, Steven McLaughlin <steven.mclaughlin@pd.boston.gov>, Paul Russell <paul.russell@pd.boston.gov>, Joseph Gillespie <joseph.gillespie@pd.boston.gov>, Phillip Terenzi <phillip.terenzi@pd.boston.gov>, John Davin <john.davin@pd.boston.gov>, Wayne Lanchester <wayne.lanchester@pd.boston.gov>, Timothy Connolly <timothy.connolly@pd.boston.gov>, Darrin Greeley <darrin.greeley@pd.boston.gov>, Robert Ciccolo <robert.ciccolo@pd.boston.gov>, John Danilecki <john.danilecki@pd.boston.gov>, James Gaughan <james.gaughan@pd.boston.gov>, "James Moccia." <james.moccia@pd.boston.gov>, James Kenneally <james.kenneally@pd.boston.gov>, Kim Tavares <kim.tavares@pd.boston.gov>, David Estrada <david.estrada@pd.boston.gov>, Maisha Miraj <maisha.miraj@pd.boston.gov>, Stephen McNulty <stephen.mcnulty@pd.boston.gov>, Desiree Dusseault <desiree.dusseault@pd.boston.gov>, Kathy Kearney <kathy.kearney@pd.boston.gov>, Dana McGillicuddy <dana.mcgillicuddy@pd.boston.gov>, Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>, Joyce Fitzgerald <joyce.fitzgerald@pd.boston.gov>, Kerry Ryan <kerry.ryan@pd.boston.gov>, Laura Dickerson <laura.dickerson@pd.boston.gov>, Martha DeMaio <martha.demaio@pd.boston.gov>, David Carabin <david.carabin@pd.boston.gov>, Ryan Walsh <ryan.walsh@pd.boston.gov>, Michael Gaskins <michael.gaskins@pd.boston.gov>, Narteeca Mitchell <narteeca.mitchell@pd.boston.gov>, Nickisha Gales <nickisha.gales@pd.boston.gov>, Richard Whalen <richard.whelan@pd.boston.gov>, Rosangela Pina-Tavares <rosangela.pina-tavares@pd.boston.gov>, Kerry Sullivan <kerry.sullivan@pd.boston.gov>, Brian Larkin <brian.larkin@pd.boston.gov>, Stephen Romano <stephen.romano@pd.boston.gov>, Henry Staines <henry.staines@pd.boston.gov>, Thomas Lema <thomas.lema@pd.boston.gov>, Tianna Musto <tianna.musto@pd.boston.gov>, Tina Cellucci <tina.cellucci@pd.boston.gov>, Timothy Denio <timothy.denio@pd.boston.gov>, Kevin Kosiorek <kevin.kosiorek@pd.boston.gov>, Christopher Carroll <christopher.carroll@pd.boston.gov>, Mary Ryan <mary.ryan@pd.boston.gov>, Juliana Susi <juliana.susi@pd.boston.gov>, Lisa O'Brien <lisa.obrien@pd.boston.gov>, Christopher Markunas <christopher.markunas@pd.boston.gov>, Mark Harrington <mark.harrington@pd.boston.gov>, Emanuel Canuto <emanuel.canuto@pd.boston.gov>, Anthony Rizzo <anthony.rizzo@pd.boston.gov>, Jason Gilmore <jason.gilmore@pd.boston.gov>, Paul McLaughlin <paul.mclaughlin@pd.boston.gov>, Edward Meade <edward.meade@pd.boston.gov>, Maria Cheevers <maria.cheevers@pd.boston.gov>, Jenna Savage <jenna.savage@pd.boston.gov>, Francis DeLuca <francis.deluca@pd.boston.gov>, Tracy Kenney <tracy.kenney@pd.boston.gov>, Demon Bills <demon.bills@pd.boston.gov>, Jason Whyte <jason.whyte@pd.boston.gov>, Chelsey Wiesman <chelsey.wiesman@pd.boston.gov>, Shandra Lerro <shandra.lerro@pd.boston.gov>, John Flynn <johnn.flynn@pd.boston.gov>, Thomas Foley <thomasj.foley@pd.boston.gov>, Victor Evans <victor.evans@pd.boston.gov>, Karen Kelleher <karen.kelleher@pd.boston.gov>, Shea Kelly <shea.kelly@pd.boston.gov>, Mary Lee <mary.lee@pd.boston.gov>, Jennifer Fahey <jennifer.fahey@pd.boston.gov>, James MeGee <james.meggee@pd.boston.gov>, James Tarantino <james.tarantino@pd.boston.gov>, Eddy Chrispin <eddy.chrispin@pd.boston.gov>, Gerald Cahill <gerald.cahill@pd.boston.gov>, Jacqueline Massua <jacqueline.massua@pd.boston.gov>, Jillian Serra <jillian.serra@pd.boston.gov>, James Conley



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**Subject: Re: News Clips for Sunday, April 3, 2022**

<https://www.bostonglobe.com/2022/04/01/metro/mass-high-court-places-limits-police-access-cellphone-data/>

# Mass. high court places limits on police access to cellphone data

The state's highest court on Friday for the first time extended privacy protections to "tower dumps" of cellphone data, requiring police to get a search warrant for the novel technique, which was used by Boston police to pinpoint two men out of 50,000 people as suspects in a 2018 Boston murder and several robberies.

The Supreme Judicial Court said in a unanimous opinion it was responding to 21st-century technology that has "resulted in a quantity and quality of surveillance that never could have been imagined, let alone realized, at the time of the founding."

Writing for the court, Justice Frank M. Gaziano said cellphone technology used in the Boston area can allow police to track thousands of individuals "precisely, down to the specific floor of a particular building." Like privacy rights for an individual inside their home, cellphone data must now be shielded from unfettered intrusion by law enforcement, the court concluded.

Gaziano noted that using the tower dumps — the sharing of identifying information by a cell tower operator — "investigators were able to compile and catalogue the locations of more than 50,000 individuals at varying points over more than one month, without any one of them ever knowing that he or she was the target of police surveillance."

"Privacy in one's associations, whether political, religious, or simply amicable, plays a crucial role in maintaining our democracy, and therefore is protected" under Article 14 of the state constitution, he wrote. "Providing law enforcement with such personal information is of particular concern because it risks chilling the associational and expressive freedoms that our State and Federal Constitutions strive to protect."

The ruling stems from the pending Suffolk Superior Court prosecution of Jerron J. Perry for the Oct. 6, 2018, slaying of 62-year-old Jose Luis Williams. Williams was working at the Fabian Gas Station on Washington Street in Dorchester when he was killed by a single shot from a .45-caliber handgun, records show.

Perry is also charged with committing five armed robberies in Boston, Cambridge, and Canton in September and October 2018. A codefendant, Gregory H. Williams III, is charged with being an

accessory to Williams's murder — and five counts of armed robbery, records show.

Both men have pleaded not guilty and are being held without bail, records show.

Victims of the robberies provided broadly similar descriptions of the robber, the gun used, and the getaway car sometimes used, according to the SJC. But the two men were not linked to the crimes — or each other — until the FBI and Boston police collected data through seven tower dumps around the dates and times of the crimes, the SJC said.

Tower dumps “provided investigators with highly personal and previously unknowable details” of Perry’s life,” Gaziano wrote. “An owner’s location and associations are tied to his or her telephone number and unique identifier, which, here, were used to discern the defendant’s identity and that of his suspected accomplice.”

The SJC said that some of the data seized by police cannot be used against Perry. “The Commonwealth’s use of the seven tower dumps intruded upon the defendant’s reasonable expectation of privacy,” Gaziano wrote.

Perry’s defense attorney, Eric Tennen, said Friday that he was reviewing the 51-page ruling to determine the precise impact the court’s decision will have on the case.

Suffolk District Attorney Kevin R. Hayden said the SJC ruling would not impact the prosecution of the two men.

“Criminal investigations, as with all aspects of modern life, are affected by constant advancements in technology,” Hayden said in a statement. The SJC decision “brings clarity to how law enforcement agencies can go about collecting technological evidence they deem important to an investigation. We welcome that clarity.”

In its decision, the SJC issued new, stricter rules police must follow before they can conduct tower dumps. Police must get a search warrant justifying their request for information on thousands of people who have no idea their data is being examined by police and have no tie to the crime being investigated.

Search warrants can be approved by a clerk magistrate or a judge — but not for tower dumps. For tower dumps, only a judge can approve the warrant. Moreover, the SJC said, police must also spell out how they will delete data collected from the thousands of people who weren’t involved in the crime.

The court said its ruling is not retroactive.

The American Civil Liberties Union and the ACLU of Massachusetts, the Electronic Frontier Foundation, Massachusetts Association of Criminal Defense Lawyers, and the Committee for Public Counsel Services submitted a joint amicus brief to the SJC.

“This is a groundbreaking decision that provides crucial privacy protections for people in Massachusetts,” Jessie Rossman, managing attorney at the ACLU of Massachusetts, said in a statement. “The message is clear: If the police use tower dumps over multiple days to identify someone they believe to have committed crimes, they must first get a warrant, and they must promptly discard any data they acquire from those tower dumps about people other than the target.”

On Sun, Apr 3, 2022 at 12:11 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a-medal-in-honor-of-two-officers-slain-in-1970s/>

## **Two Boston Police officers to receive Schroeder Brother Memorial Medal, a medal in honor of two officers slain in 1970s**

Schroeder descendants toured Boston Police HQ ahead of ceremony  
Boston Police headquarters sits at 1 Schroeder Plaza, named in honor of two Boston Police brothers

who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, "was shot to death in cold blood shortly before noon" Nov. 30, 1973 "while attempting to thwart three armed men during the holdup of a Roxbury pawn shop," the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

"As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery," the paper wrote, adding they even stole John's service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter's grandsons, Paul, serving as a police officer, and John's first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth's son Rhein Ingham, 15, said he'd like to be a police officer.

"It's a big honor," he said. "I want to live up to the name."

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that's otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here's the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That's where cops found it, according to a police report that the department provided to the Herald when asked about the

gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she'd seen photos from social media of Brown's gravestone somewhere in Mission Hill. So, she said, she'd headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they'd found the headstone, picking it up on Annunciation Road.

"Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping," police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, "This is just something that can escalate so easily."

"We need cooler heads, mentorship and availability of services" to try to disrupt these cycles of violence, he added.

The 16-year-old Brown's slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa's team, even though they weren't technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That's what makes Brown's killing doubly tragic, in DaRosa's estimation. A young man was slain, but also a peer pillar of his friends' lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

"Kids keep inheriting street drama," DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. "Now it's two groups of young people who are knee deep in all this."

Asked about the gang conflict, Mayor Michelle Wu's administration said, "The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies."

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That's down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he's not optimistic.

"It's only going to get worse, and it's going to involve a lot of younger people," DaRosa predicted. "This summer is going to be on fire."

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

**Man arraigned in hospital after alleged shootout with Boston police**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## **'In panic mode': Boston police investigating after woman claims she's being tracked by unknown AirTag**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## **Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester**

Boston police told NBC10 Boston that two people were injured in a reported road rage incident <https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## **Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show**

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## **Boston police rescue woman pinned under car in Dorchester**

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the



car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/randolph-man-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

# Randolph man shot by Boston police arraigned from hospital bed for allegedly firing at officers

A Randolph man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point "several officers" fired back, "striking the suspect multiple times" and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.

<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

## Demonstrators fined near Wu's

# home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

"Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too," she said.

The protesters, she said, "have retained an attorney and will be suing Mayor Wu yet again."

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance "will be in conformance with law."

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance "could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,"

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

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Office of Media Relations  
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Boston, Massachusetts, 02120  
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--

*Sergeant Detective John Boyle  
Boston Police Department  
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**From:** Seamus Walsh <seamus.walsh@pd.boston.gov>  
**Sent:** Sunday, April 03, 2022 1:35 PM EDT  
**To:** Nicole LaPointe <nicole.lapointe@pd.boston.gov>  
**Subject:** City Ordinances  
**Attachment(s):** "city ordinances.pdf"

FYI  
Sergeant Seamus Walsh  
Boston Police Department  
District A-7  
69 Paris St  
East Boston, Ma  
617-343-4220

## **Powers of arrest**

MGL c. 272 s. 59 provides a police officer with the right of arrest for any violation of a city ordinance, rule or regulation, which occurs in his presence.

**Note:** All violations of city ordinances are misdemeanors and must be committed in your presence for you to exercise the right of arrest. Such power must be exercised with prudence, intelligence and common sense.

The words “**whoever remains in willful violation**”, implies that a warning **must** be given and ignored by the violator before an arrest can be made under MGL c. 272 s. 59.

To make an arrest under MGL c. 272 s. 59 you must be authorized to serve criminal process in the place where the offense took place.

## **Prosecution**

99% of all violations of city ordinances will not result in an arrest. To prosecute a violation of an ordinance which does not result in an arrest THE FOLLOWING MUST HAPPEN:

- ◆ A COMPLAINT MUST BE SOUGHT IN A DISTRICT COURT
- ◆ A HEARING DATE WILL BE SET AND A SUMMONS ISSUED TO ESTABLISH THE MERIT OF THE COMPLAINT
- ◆ **A FORMAL COMPLAINT WILL THEN BE EITHER ISSUED OR DENIED**
- ◆ If denied the matter is finished
- ◆ If issued there is an arraignment and trial
- ◆ Sentencing if found guilty

**It is important to note that many of the Massachusetts General Laws are duplicated by city ordinances. In such instances utilize the statute, which takes precedence over the city ordinance and is easier to prove.**

**From:** Seamus Walsh <seamus.walsh@pd.boston.gov>  
**Sent:** Sunday, April 03, 2022 1:36 PM EDT  
**To:** Leonardo Hernandez <leonardo.hernandez@pd.boston.gov>  
**Subject:** Fwd: City Ordinances  
**Attachment(s):** "city ordinances.pdf"

FYI  
Sergeant Seamus Walsh  
Boston Police Department  
District A-7  
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East Boston, Ma  
617-343-4220

----- Forwarded message -----

From: **Seamus Walsh** <[seamus.walsh@pd.boston.gov](mailto:seamus.walsh@pd.boston.gov)>  
Date: Sun, Apr 3, 2022 at 1:35 PM  
Subject: City Ordinances  
To: Nicole LaPointe <[nicole.lapointe@pd.boston.gov](mailto:nicole.lapointe@pd.boston.gov)>

FYI  
Sergeant Seamus Walsh  
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**From:** John Boyle <johnt.boyle@pd.boston.gov>

**Sent:** Sunday, April 03, 2022 12:11 PM EDT

**To:** Gregory Long <gregory.long@pd.boston.gov>; Paul Donovan <paul.donovan@pd.boston.gov>; Winifred Cotter <winifred.cotter@pd.boston.gov>; Charles Wilson <charles.wilson@pd.boston.gov>; Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>; Nora Baston <nora.baston@pd.boston.gov>; Marcus Eddings <marcus.eddings@pd.boston.gov>; Gerard Bailey <gerard.bailey@pd.boston.gov>; Felipe Colon <felipe.colon@pd.boston.gov>; Kenneth Gaines <kenneth.gaines@pd.boston.gov>; James Chin <james.chin@pd.boston.gov>; Richard Dahill <richard.dahill@pd.boston.gov>; Sharon Dottin <sharon.dottin@pd.boston.gov>; Carmen Curry <carmen.curry@pd.boston.gov>; Luis Cruz <luis.cruz@pd.boston.gov>; James Miller <james.miller@pd.boston.gov>; John Boyle <johnt.boyle@pd.boston.gov>; David Fredette <david.fredette@pd.boston.gov>; Mark Hayes <mark.hayes@pd.boston.gov>; Terry Thomas <terry.thomas@pd.boston.gov>; Leighton Facey <leighton.facey@pd.boston.gov>; Steven Sweeney <steven.sweeney@pd.boston.gov>; Therese Kozmiski <therese.kozmiski@pd.boston.gov>; 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**Subject:** News Clips for Sunday, April 3, 2022

<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a-medal-in-honor-of-two-officers-slain-in-1970s/>

## Two Boston Police officers to receive Schroeder Brother Memorial Medal, a medal in honor of two officers slain in 1970s

Schroeder descendants toured Boston Police HQ ahead of ceremony

Boston Police headquarters sits at 1 Schroeder Plaza, named in honor of two Boston Police brothers who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, "was shot to death in cold blood shortly before noon" Nov. 30, 1973 "while attempting to thwart three armed men during the holdup of a Roxbury pawn shop," the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

"As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery," the paper wrote, adding they even stole John's service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter's grandsons, Paul, serving as a police officer, and John's first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth's son Rhein Ingham, 15, said he'd like to be a police officer.

"It's a big honor," he said. "I want to live up to the name."

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that's otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here's the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That's where cops found it, according to a police report that the department provided to the Herald when asked about the gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she'd seen photos from social media of Brown's gravestone somewhere in Mission Hill. So, she said, she'd headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they'd found the headstone, picking it up on Annunciation Road.

"Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping," police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, "This is just something that can escalate so easily."

"We need cooler heads, mentorship and availability of services" to try to disrupt these cycles of violence, he added.

The 16-year-old Brown's slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa's team, even though they weren't technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That's what makes Brown's killing doubly tragic, in DaRosa's estimation. A young man was slain, but also a peer pillar of his friends' lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

"Kids keep inheriting street drama," DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. "Now it's two groups of young people who are knee deep in all this."

Asked about the gang conflict, Mayor Michelle Wu's administration said, "The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies."

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That's down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he's not optimistic.

"It's only going to get worse, and it's going to involve a lot of younger people," DaRosa predicted. "This summer is going to be on fire."

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

## Man arraigned in hospital after alleged shootout with Boston police

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## WATCH: Boston police ask for help identifying dirt bikers



## involved in altercation with driver

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## 'In panic mode': Boston police investigating after woman claims she's being tracked by unknown AirTag

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester

Boston police told NBC10 Boston that two people were injured in a reported road rage incident

<https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## Boston police rescue woman pinned under car in Dorchester

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/randolph-man-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

## Randolph man shot by Boston police



# arraigned from hospital bed for allegedly firing at officers

A Randolph man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point "several officers" fired back, "striking the suspect multiple times" and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.

<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

# Demonstrators fined near Wu's home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who

was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

"Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too," she said.

The protesters, she said, "have retained an attorney and will be suing Mayor Wu yet again."

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance "will be in conformance with law."

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance "could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,"

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

--

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**Subject:** Re: News Clips for Sunday, April 3, 2022

# Mass. high court places limits on police access to cellphone data

The state's highest court on Friday for the first time extended privacy protections to "tower dumps" of cellphone data, requiring police to get a search warrant for the novel technique, which was used by Boston police to pinpoint two men out of 50,000 people as suspects in a 2018 Boston murder and several robberies.

The Supreme Judicial Court said in a unanimous opinion it was responding to 21st-century technology that has "resulted in a quantity and quality of surveillance that never could have been imagined, let alone realized, at the time of the founding."

Writing for the court, Justice Frank M. Gaziano said cellphone technology used in the Boston area can allow police to track thousands of individuals "precisely, down to the specific floor of a particular building." Like privacy rights for an individual inside their home, cellphone data must now be shielded from unfettered intrusion by law enforcement, the court concluded.

Gaziano noted that using the tower dumps — the sharing of identifying information by a cell tower operator — "investigators were able to compile and catalogue the locations of more than 50,000 individuals at varying points over more than one month, without any one of them ever knowing that he or she was the target of police surveillance."

"Privacy in one's associations, whether political, religious, or simply amicable, plays a crucial role in maintaining our democracy, and therefore is protected" under Article 14 of the state constitution, he wrote. "Providing law enforcement with such personal information is of particular concern because it risks chilling the associational and expressive freedoms that our State and Federal Constitutions strive to protect."

The ruling stems from the pending Suffolk Superior Court prosecution of Jerron J. Perry for the Oct. 6, 2018, slaying of 62-year-old Jose Luis Williams. Williams was working at the Fabian Gas Station on Washington Street in Dorchester when he was killed by a single shot from a .45-caliber handgun, records show.

Perry is also charged with committing five armed robberies in Boston, Cambridge, and Canton in September and October 2018. A codefendant, Gregory H. Williams III, is charged with being an accessory to Williams's murder — and five counts of armed robbery, records show.

Both men have pleaded not guilty and are being held without bail, records show.

Victims of the robberies provided broadly similar descriptions of the robber, the gun used, and the getaway car sometimes used, according to the SJC. But the two men were not linked to the crimes — or each other — until the FBI and Boston police collected data through seven tower dumps around the dates and times of the crimes, the SJC said.

Tower dumps "provided investigators with highly personal and previously unknowable details" of Perry's life," Gaziano wrote. "An owner's location and associations are tied to his or her telephone number and unique identifier, which, here, were used to discern the defendant's identity and that of his suspected accomplice."

The SJC said that some of the data seized by police cannot be used against Perry. "The Commonwealth's use of the seven tower dumps intruded upon the defendant's reasonable expectation of privacy," Gaziano wrote.

Perry's defense attorney, Eric Tennen, said Friday that he was reviewing the 51-page ruling to determine the precise impact the court's decision will have on the case.

Suffolk District Attorney Kevin R. Hayden said the SJC ruling would not impact the prosecution of the two men.

"Criminal investigations, as with all aspects of modern life, are affected by constant advancements in technology," Hayden said in a statement. The SJC decision "brings clarity to how law enforcement agencies can go about collecting technological evidence they deem important to an investigation. We welcome that clarity."



In its decision, the SJC issued new, stricter rules police must follow before they can conduct tower dumps. Police must get a search warrant justifying their request for information on thousands of people who have no idea their data is being examined by police and have no tie to the crime being investigated.

Search warrants can be approved by a clerk magistrate or a judge — but not for tower dumps. For tower dumps, only a judge can approve the warrant. Moreover, the SJC said, police must also spell out how they will delete data collected from the thousands of people who weren't involved in the crime.

The court said its ruling is not retroactive.

The American Civil Liberties Union and the ACLU of Massachusetts, the Electronic Frontier Foundation, Massachusetts Association of Criminal Defense Lawyers, and the Committee for Public Counsel Services submitted a joint amicus brief to the SJC.

"This is a groundbreaking decision that provides crucial privacy protections for people in Massachusetts," Jessie Rossman, managing attorney at the ACLU of Massachusetts, said in a statement. "The message is clear: If the police use tower dumps over multiple days to identify someone they believe to have committed crimes, they must first get a warrant, and they must promptly discard any data they acquire from those tower dumps about people other than the target."

On Sun, Apr 3, 2022 at 12:11 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonherald.com/2022/04/02/two-boston-police-officers-to-receive-schroeder-brother-memorial-medal-a-medal-in-honor-of-two-officers-slain-in-1970s/>

## Two Boston Police officers to receive Schroeder Brother Memorial Medal, a medal in honor of two officers slain in 1970s

### Schroeder descendants toured Boston Police HQ ahead of ceremony

Boston Police headquarters sits at 1 Schroeder Plaza, named in honor of two Boston Police brothers who died three years apart in the 1970s while responding to robberies.

On Sunday, Boston Police officers William Hull and Mark Whalen will be honored with the Schroeder Brother Memorial Medal in the 150th Boston Police Relief Organization's Awards Ball. The pair also received the Trooper George Hanna Memorial Award, the state's highest law enforcement honor for bravery, in a ceremony last year, according to the Boston Police Patrolmen's Association.

On Feb. 22, 2019, Whalen and Hull were checking on a man slumped over in a minivan, which they found out had a recent conviction for unlawful possession of a firearm. When they questioned him, according to [a release](#) from the governor's office, he shot at them. Whalen was shot in the right hand and forearm and the suspect died after crashing into a parked vehicle several blocks away.

On Saturday, descendants of the great-grandchildren of one of the Schroeder brothers, John, visited the inside of HQ for the first time a day ahead of the ball, where the award is handed out yearly by John's grandchildren Amy Mulrenan, of Winchester, and Beth Schroeder, of Agawam.

"The Schroeder medal is the highest medal they give out, so it's truly an honor to us and our kids to come every year to do this," Beth Schroeder said as she and her sister stood in front of the HQ memorial wall.

On Sept. 23, 1970, Patrolman Walter Schroeder, 42, lay in critical condition at St. Elizabeth's Hospital in Boston "by a bullet fired into his back by bandits fleeing from a \$26,000 holdup" at a Brighton bank, the Herald reported the next morning.

"Gunplay was a subject he never cared to discuss" the family of the recipient of four commendations for bravery told the Herald as they waited for news as Walter underwent surgery and Bostonians rushed to donate blood in an effort to save his life. He died that day.

Detective John Schroeder, 55, "was shot to death in cold blood shortly before noon" Nov. 30, 1973 "while attempting to thwart three armed men during the holdup of a Roxbury pawn shop," the Herald reported.

John, a 24-year member of the police department, had been at the pawn shop conducting a background check when the gunmen entered, the paper reported. He ordered the men to stand down but was shot in the temple.

"As Schroeder lay mortally wounded on the floor, his blood staining a wide area, the bandits proceeded with the robbery," the paper wrote, adding they even stole John's service revolver.

Police work lives on in the family, sisters Amy and Beth said, with at least one of Walter's grandsons, Paul, serving as a police officer, and John's first grandson, Chris, serving out in Utah.

There may be yet another generation, as Beth's son Rhein Ingham, 15, said he'd like to be a police officer.

"It's a big honor," he said. "I want to live up to the name."

<https://www.bostonherald.com/2022/04/03/gravestone-stolen-in-boston-as-advocates-fear-escalation-in-gang-dispute/>

## Gravestone stolen in Boston as advocates fear escalation in gang dispute

A stolen gravestone has reinvigorated a rivalry between two Mission Hill-area gangs, according to police and community sources, worrying advocates about potentially escalating violence in a city that's otherwise largely been able to avoid recent surges.

The Heath Street and the Annunciation Street gangs, which both have a history of violence, are taking issue with each other. The venues right now, oddly, are the internet and graveyards, with competing posts, according to community sources, circulating on social media of people kicking over gravestones in Boston cemeteries, and one headstone actually being stolen.

Here's the background, according to a police source and community sources: The Heath Street gang is thought to have knocked over a gravestone of an Annunciation Road gangmember recently. Then, some Annunciation-affiliated people went to the Oak Lawn Cemetery along Cummins Highway and knocked over the gravestone of Gerrod Brown Jr., a local teenager who was shot to death in 2017 — and then carried it off.

The gravestone ended up in the first block of Annunciation Road, in the Alice Taylor public housing complex on the Roxbury-Mission Hill border behind Boston Police headquarters. That's where cops found it, according to a police report that the department provided to the Herald when asked about the gravestone incident.

The report provides a few more details about the theft, reported this past Tuesday. On that day, someone — police redacted the name, as is common for them to do for witnesses — called the cops and said she'd seen photos from social media of Brown's gravestone somewhere in Mission Hill. So, she said, she'd headed down to the Oak Lawn Cemetery, according to the report — and found that the headstone was in fact gone.

When the officers on scene called it in, the police Youth Violence Strike Force let them know they'd found the headstone, picking it up on Annunciation Road.

"Due to the cemetery facilities being closed and ongoing issues involving the theft of the head stone and other instances of vandalism inside the cemetery, the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping," police wrote, referring to the E-18 precinct in Hyde Park. The cops checked off the box on police reports that suggests the incident is gang-related.

Matt Parker of the Union of Minority Neighborhoods said, "This is just something that can escalate so easily."

"We need cooler heads, mentorship and availability of services" to try to disrupt these cycles of violence, he added.

The 16-year-old Brown's slaying, on Halloween night in 2017, has long been tied to gang violence. A crackdown of the Heath Street gang the following year mentioned that killing as feds arrested multiple alleged gangmembers in the Jamaica Plain Mildred C. Hailey public housing complex — formerly Bromley-Heath, the home of the Heath Street gang, just under a mile as the crow flies from Annunciation Road.

Cops at the time said Brown was a bystander to a fight between two groups that escalated into a shooting.

Domingos DaRosa, another longtime youth activist who coached Brown in Pop Warner football and spoke at his funeral, told the Herald he was a good kid who other young people looked up to. He first met Brown when the young man brought over a group of kids and asked if they all could be on DaRosa's team, even though they weren't technically in the right area — the kids were looking for something positive to do with their free time, so the answer was yes.

That's what makes Brown's killing doubly tragic, in DaRosa's estimation. A young man was slain, but also a peer pillar of his friends' lives was gone, likely bringing some of the other kids back into the arms of the streets, answering violence with violence that begets more violence.

"Kids keep inheriting street drama," DaRosa said, adding that the city and its school district have to do a better job in supporting kids and equipping them in how to deal with life. "Now it's two groups of young people who are knee deep in all this."

Asked about the gang conflict, Mayor Michelle Wu's administration said, "The City is taking an intensive approach across departments to end and prevent violence in our neighborhoods. Our thoughts are with the families touched by these traumatic acts, and we will continue to work relentlessly to support youth development, safe streets, and violence intervention across our agencies."

Boston is largely alone among big cities in having avoided major surges of violence over the past couple of years. The police department counted five homicides as the start of the week. That's down from 10 at that point last year and from the five-year average of 16, though the number of shootings this year as compared to last is about the same.

DaRosa said he hopes the powers that be figure out how to short-circuit the simmering gang conflict, but he's not optimistic.

"It's only going to get worse, and it's going to involve a lot of younger people," DaRosa predicted. "This summer is going to be on fire."

<https://whdh.com/news/man-arraigned-in-hospital-after-alleged-shootout-with-boston-police/>

## **Man arraigned in hospital after alleged shootout with Boston police**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://whdh.com/news/in-panic-mode-boston-police-investigating-after-woman-claims-shes-being-tracked-by-unknown-airtag/>

## **'In panic mode': Boston police investigating after woman claims she's being tracked by unknown AirTag**

<https://whdh.com/news/watch-boston-police-ask-for-help-identifying-dirt-bikers-involved-in-altercation-with-driver/>

## **WATCH: Boston police ask for help identifying dirt bikers involved in altercation with driver**

<https://www.nbcboston.com/news/local/boston-police-respond-to-incident-in-mcdonalds-parking-lot-in-dorchester/2684496/>

## **Boston Police Respond to Incident in McDonald's Parking Lot in Dorchester**

Boston police told NBC10 Boston that two people were injured in a reported road rage incident  
<https://www.bostonglobe.com/2022/03/31/metro/quincy-man-25-arrested-alleged-assault-boston-police-officer-after-getting-thrown-out-chris-rock-show/>

## **Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show**

<https://www.bostonglobe.com/2022/03/31/metro/boston-police-rescue-woman-pinned-under-car-dorchester/?event=event12>

## **Boston police rescue woman pinned**

# under car in Dorchester

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

Police responded to a call for assistance at 11:05 p.m. on 17 Abbot St. and found the woman with her leg pinned under her car, police said in a statement.

Officers used a car jack from their cruiser to lift the car off the woman's leg so she could be pulled from underneath, the statement said.

She was then transported to a local hospital to be treated, police said

The woman's car had rolled forward and pinned her leg underneath after she had gotten out of the car, police said.

<https://www.bostonglobe.com/2022/04/01/metro/raman-shot-by-boston-police-arraigned-hospital-bed-allegedly-firing-officers/>

## Randolph man shot by Boston police arraigned from hospital bed for allegedly firing at officers

A Randolph man [shot by Boston police](#) after he allegedly fired at them early Thursday was arraigned from his hospital bed Friday on charges stemming from the case.

Jeff Anilus, 31, appeared remotely in West Roxbury Municipal Court from his bed at Brigham and Women's Hospital. A not guilty plea was entered for him on two counts each of assault to murder and assault with a dangerous weapon, as well as sole counts of possession of a firearm without an FID card, possession of ammunition without an FID card, operating a motor vehicle with a suspended license, and failing to stop for police.

Anilus was ordered held without bail pending a dangerousness hearing April 6.

Judge John E. Garland noted during the brief arraignment Friday that Anilus has had difficulty communicating with his court-appointed lawyer, Francis X. Sacco.

"He's in a medical condition that doesn't allow him to communicate directly with you," Garland said to Sacco from the bench, referring to Anilus. "However, I'll note for the record that you did say that you were able to communicate with Mr. Anilus by him nodding his head or shaking his head."

Sacco also addressed his client's medical condition during the hearing.

"As I stated, he wasn't able to talk," Sacco said. "It does seem that he's still heavily medicated as a result of his injuries."

No details of the case were discussed during Friday's hearing.

Officers shot Anilus following a foot pursuit into the wooded area around the Lemuel Shattuck Hospital in Jamaica Plain, according to Boston police Superintendent-in-Chief and acting Police Commissioner Gregory Long.

Shortly before 1 a.m. Thursday, police attempted to pull over a vehicle near the hospital on Morton Street, Long said previously.

Officers followed the car until it crashed near the hospital entrance, where Anilus got out and ran into the woods, officials have said. The officers then called for reinforcements, and began pursuing Anilus through



the trees as additional officers flooded the area.

During the chase, Anilus allegedly turned and fired a gun at the officers, Long said, at which point “several officers” fired back, “striking the suspect multiple times” and severely wounding him.

The confrontation is the first time a Boston police officer has shot a suspect this year, according to police spokesman Sergeant Detective John Boyle. None of the officers were struck by gunfire, he said.

<https://www.bostonglobe.com/2022/04/01/metro/day-after-new-protest-restrictions-took-effect-handful-demonstrators-are-fined-near-wus-home/>

# Demonstrators fined near Wu's home after new protest restrictions take effect

One day after Mayor Michelle Wu signed a controversial proposal that curtailed the hours protesters could target a private home, five demonstrators were fined near Wu's Roslindale home for violating the new rules.

Wu signed the city ordinance into law on Thursday, a day after the Boston City Council approved it. Wu, who was sworn in in November, introduced the hotly debated proposal following months of near daily anti-vaccination protests outside the two-family house she shares with her husband, two children, and mother.

The new rule bars demonstrations at any private home between 9 p.m. and 9 a.m. Previously, Boston's restrictions on noise effectively restricted demonstrators from loud protests before 7 a.m. or after 11 p.m.

Boston police confirmed that five people were fined for violating the new ordinance at about 7:30 a.m. Friday.

Under the new rules, there are fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses. The fine structure resets after 12 months. According to the city, the ordinance does not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

One of those who have protested outside Wu's home, Catherine Vitale, said in a Friday statement that police found out the ordinance was in effect moments before they notified protesters they were in violation of the new rules.

“Therefore it is impossible for protesters to have known the unconstitutional ordinance was in effect, too,” she said.

The protesters, she said, “have retained an attorney and will be suing Mayor Wu yet again.”

Wu has framed the consistent, early-morning ruckus as harassment, a feeling many of her neighbors in the usually quiet part of the city share. But critics of the new rules, including several who routinely picket outside the mayor's home, say the restrictions would unfairly curb First Amendment rights.

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters' right to demonstrate. In an earlier letter to the council, her legal team asserted that the ordinance “will be in conformance with law.”

Some city councilors raised concerns over the proposal. Councilor Frank Baker, who opposed the measure, said it was a direct response to demonstrations targeting Wu and worried that the city was infringing on First Amendment rights. Another councilor who voted against it, Kendra Lara, said in a statement that the ordinance “could have unintended consequences for marginalized communities who use protest and direct action as a tactic to secure rights for themselves and resources for their community,”

For weeks, a small group of protesters who opposed Wu's COVID-19 vaccine requirement for city workers [gathered outside her home](#), banging drums, blowing whistles, and shouting starting at 7 a.m. Wu

has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

Some of the pushback to Wu's attempts at a vaccination mandate for the city workforce [has been racist and misogynistic](#). Wu became the first woman and first person of color elected mayor of Boston last fall.

The battle over the workforce vaccination mandate has also spilled into the courts, with her administration in February appealing a court ruling that blocked enforcement of the requirement for a trio of public safety unions.

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

**From:** William Gallagher <william.gallagher@pd.boston.gov>

**Sent:** Friday, April 01, 2022 8:18 PM EDT

**To:** Gerard Bailey <gerard.bailey@pd.boston.gov>

**Subject:** Noise violations

Good evening

These are the noise violations that we have issued for being over the city noise ordinance

El Diamante

Lolita Seaport

White Bull

Beacon Hill Pub

The above premises were over the decibel allowance per city ordinance

The Licensing Board gave all the premises except one a warning . The other was no violation  
any questions please call or email

BG

**From:** William Kelley <william.kelley@pd.boston.gov>  
**Sent:** Monday, April 25, 2022 3:55 PM EDT  
**To:** Adriana Oliveira <candidadeoliveira@icloud.com>  
**Subject:** Re: Gabriel, Adriana

Mrs. Oliveira:

Per City of Boston Ordinance 16-60 (Off Highway Vehicles Illegally Operated on Public Way) the bike is impounded pending proof of payment or Court dismissal of the Ordinance Citation and any/all Civil Mass Uniform citations. Det. Humphreys has assured me both you and Gabriel were issued a City Ordinance and Civil citations that must be paid before the bike can be released

Please verify both of your addresses.

On Mon, Apr 25, 2022 at 3:19 PM Adriana Oliveira <[candidadeoliveira@icloud.com](mailto:candidadeoliveira@icloud.com)> wrote:

Hi I'm Adriana, Gabriel's mom, you have the papers?  
Sent from my iPhone

> On Apr 22, 2022, at 1:07 PM, Adriana Oliveira <[candidadeoliveira@icloud.com](mailto:candidadeoliveira@icloud.com)> wrote:  
>  
>  
>  
>  
>  
> Sent from my iPhone

**From:** John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>  
**Sent:** Monday, April 04, 2022 8:42 AM EDT  
**To:** eldoradoclassic75@gmail.com <[eldoradoclassic75@gmail.com](mailto:eldoradoclassic75@gmail.com)>  
**Subject:** Fwd: Mayors house security - Protocol

----- Forwarded message -----

From: **Darrin Greeley** <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>  
Date: Wed, Mar 16, 2022 at 4:52 PM  
Subject: Re: Mayors house security - Protocol  
To: John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>, Michael Hegarty <[michael.hegarty@pd.boston.gov](mailto:michael.hegarty@pd.boston.gov)>, Wilson Quiles <[wilson.quiles@pd.boston.gov](mailto:wilson.quiles@pd.boston.gov)>, Tomas Kearney <[thomas.kearney@pd.boston.gov](mailto:thomas.kearney@pd.boston.gov)>, Timothy Fitzpatrick <[timothy.fitzpatrick@pd.boston.gov](mailto:timothy.fitzpatrick@pd.boston.gov)>, Stephen O'Brien <[stephen.obrien@pd.boston.gov](mailto:stephen.obrien@pd.boston.gov)>, Dana Barrett <[dana.barrett@pd.boston.gov](mailto:dana.barrett@pd.boston.gov)>, Michael Kern <[michael.kern@pd.boston.gov](mailto:michael.kern@pd.boston.gov)>, Scott O'Mara <[scott.omara@pd.boston.gov](mailto:scott.omara@pd.boston.gov)>, Frank St Peter <[francis.st.peter@pd.boston.gov](mailto:francis.st.peter@pd.boston.gov)>, Nicole McMullin <[nicole.mcmullin@pd.boston.gov](mailto:nicole.mcmullin@pd.boston.gov)>, Michael Mylett <[michael.mylett@pd.boston.gov](mailto:michael.mylett@pd.boston.gov)>, Tony Troy <[TroyAn.bpd@ci.boston.ma.us](mailto:TroyAn.bpd@ci.boston.ma.us)>, Joe Freeman <[joe.freeman@pd.boston.gov](mailto:joe.freeman@pd.boston.gov)>, John Rouvalis <[john.rouvalis@pd.boston.gov](mailto:john.rouvalis@pd.boston.gov)>  
CC: Joseph Gillespie <[joseph.gillespie@pd.boston.gov](mailto:joseph.gillespie@pd.boston.gov)>, John Hughes <[john.hughes@pd.boston.gov](mailto:john.hughes@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, Erica Bradley <[erica.bradley@pd.boston.gov](mailto:erica.bradley@pd.boston.gov)>, Katelyn O'Toole <[katelyn.otoole@pd.boston.gov](mailto:katelyn.otoole@pd.boston.gov)>

Bosses, minimum at Mayor's house should start off with PS and five Officers. One regular car for 24 hours a day but add a wagon and two service cars.  
If needed EDT's from 13 and 18.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

On Wed, Mar 16, 2022 at 4:46 PM Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)> wrote:

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond and determine if he/she needs additional Officers. Please have additional units respond and activate Area E EDT's.

PUT ON BODY CAMERAS!

The District 5 Patrol Supervisor will utilize the sound meter. There is a brand new one in the District 5 DS office as well as civil citations books. VIOLATION IS ABOVE 70 decibels. PLEASE MAKE SURE IT IS WELL ABOVE 70 decibels AND HAVE IT RECORDED ON AN OFFICERS BODY CAMERA.

The Patrol Supervisor will notify protestors with Officers present with their body cameras on and video the Patrol Supervisor give an oral warning to protestors to not use amplified devices. If the protestors fail to comply with his oral warning to not use bull horns, drums etc then please have the officers with their body cameras activated, ask for the protestors identification and issue civil citation - 16.26.8 - loud amplification device in public space. The fine for the 1st offense is \$50, second offense 100 and third is 200 dollar fine.

If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

Any questions please call 617-594-3493

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>  
**Sent:** Monday, April 04, 2022 8:43 AM EDT  
**To:** eldoradoclassic75@gmail.com <[eldoradoclassic75@gmail.com](mailto:eldoradoclassic75@gmail.com)>  
**Subject:** Fwd: Mayors house-Protest

----- Forwarded message -----

From: **Darrin Greeley** <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>

Date: Mon, Mar 21, 2022 at 11:17 AM

Subject: Mayors house-Protest

To: John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>, Michael Hegarty <[michael.hegarty@pd.boston.gov](mailto:michael.hegarty@pd.boston.gov)>, Nicole McMullin <[nicole.mcmullin@pd.boston.gov](mailto:nicole.mcmullin@pd.boston.gov)>, Tomas Kearney <[thomas.kearney@pd.boston.gov](mailto:thomas.kearney@pd.boston.gov)>, Stephen O'Brien <[stephen.obrien@pd.boston.gov](mailto:stephen.obrien@pd.boston.gov)>, Timothy Fitzpatrick <[timothy.fitzpatrick@pd.boston.gov](mailto:timothy.fitzpatrick@pd.boston.gov)>, Joe Freeman <[joe.freeman@pd.boston.gov](mailto:joe.freeman@pd.boston.gov)>, Katelyn O'Toole <[katelyn.otoole@pd.boston.gov](mailto:katelyn.otoole@pd.boston.gov)>, Erica Bradley <[erica.bradley@pd.boston.gov](mailto:erica.bradley@pd.boston.gov)>, Michael Kern <[michael.kern@pd.boston.gov](mailto:michael.kern@pd.boston.gov)>, Wilson Quiles <[wilson.quiles@pd.boston.gov](mailto:wilson.quiles@pd.boston.gov)>, Frank St Peter <[francis.st.peter@pd.boston.gov](mailto:francis.st.peter@pd.boston.gov)>, Michael Mylett <[michael.mylett@pd.boston.gov](mailto:michael.mylett@pd.boston.gov)>, Dana Barrett <[dana.barrett@pd.boston.gov](mailto:dana.barrett@pd.boston.gov)>, Tony Troy <[TroyAn.bpd@ci.boston.ma.us](mailto:TroyAn.bpd@ci.boston.ma.us)>, Scott O'Mara <[scott.omara@pd.boston.gov](mailto:scott.omara@pd.boston.gov)>, Zilma Merced <[zilma.merced@pd.boston.gov](mailto:zilma.merced@pd.boston.gov)>  
CC: Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>

NEW POLICY regarding Mayor's HOUSE.

CRIMINAL COMPLAINT - HEARING - DISREGARD THE CIVIL CITATION-THE COURT WANTS CRIMINAL COMPLAINT HEARING.

If we have protestors show up at the Mayor's house the Patrol Supervisor will respond and determine if he/she needs additional Officers. Please have additional units respond and activate Area E EDT's.

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If the protestors fail to give identification then please have them on body camera decline. We will identify through previous encounters and booking photos etc.

Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** John Earley <[john.earley@pd.boston.gov](mailto:john.earley@pd.boston.gov)>  
**Sent:** Monday, April 04, 2022 8:44 AM EDT  
**To:** eldoradoclassic75@gmail.com <[eldoradoclassic75@gmail.com](mailto:eldoradoclassic75@gmail.com)>  
**Subject:** Fwd: Mayors house-Protest

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CC: Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>

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Captain Darrin P. Greeley  
Commander District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

**From:** John Hughes <[john.hughes@pd.boston.gov](mailto:john.hughes@pd.boston.gov)>  
**Sent:** Monday, April 11, 2022 9:27 AM EDT  
**To:** Brian Waters <[brian.waters@pd.boston.gov](mailto:brian.waters@pd.boston.gov)>  
**CC:** David OConnor <[davidl.oconnor@pd.boston.gov](mailto:davidl.oconnor@pd.boston.gov)>  
**Subject:** Re: West Rox Court hearings

Ok, thanks.

Captain John Hughes  
Boston Police District 13  
3347 Washington Street  
Jamaica Plain Ma. 02130  
(617) 343-4604 (Office)  
(617) 571-0232 (Cell)

On Sun, Apr 10, 2022 at 1:35 PM Brian Waters <[brian.waters@pd.boston.gov](mailto:brian.waters@pd.boston.gov)> wrote:

Captain:

Just a reminder that the clerk's hearings for the protesters from the mayor's house are scheduled this week for Thursday, 4-14, and Fri, 4-15. Both are at 9:30. There are 5 hearings set for Thursday, including Dpt employee(s) and I have 4 on Friday

- Brian



**From:** Brian Waters <brian.waters@pd.boston.gov>

**Sent:** Sunday, April 10, 2022 1:35 PM EDT

**To:** John Hughes <john.hughes@pd.boston.gov>; David OConnor <davidl.oconnor@pd.boston.gov>

**Subject:** West Rox Court hearings

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- Brian

**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
**Sent:** Monday, April 11, 2022 11:49 AM EDT  
**To:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>  
**Subject:** Re: Globe question on picketing ordinance

Thank you very much! Would you be able to share the names of the people who have been fined, or would I need to submit an open records request?

On Mon, Apr 11, 2022 at 11:16 AM John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)> wrote:  
Just left you a message.

On Mon, Apr 11, 2022 at 9:41 AM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:  
Sorry for the bother! Let me know if you have any more details to share on this.

On Fri, Apr 8, 2022 at 1:59 PM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:  
Thanks very much! So that's 9 fines? To how many individuals? And how big were the fines -- were any of these repeat offenses?

On Fri, Apr 8, 2022 at 12:25 PM John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)> wrote:  
Emma,

Total of 9.

On Fri, Apr 8, 2022 at 10:27 AM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:  
Hi there! Just wanted to check in on any ticket/citations for protests outside the mayor's house this week?

I'll check in with City Hall on the other question about enforcement should fines not be paid.

Thank you and happy Friday!  
Emma

On Thu, Apr 7, 2022 at 11:29 AM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:  
Hi there, just following up on this! Let me know if there is someone else I should try.

Also, wondering if you can share any updates on how many violations have been cited / fines given out outside the mayor's home since the new ordinance went into effect?

Thanks,  
Emma

On Tue, Apr 5, 2022 at 1:18 PM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:  
Hi Sergeant Detective Boyle,

Hope you're doing well! Reaching out with a quick question on enforcement for the city's new targeted picketing ordinance. I'm not working on a deadline on this today, but want to make sure I understand this for future coverage.

I know the ordinance includes fines (\$50 for first offense, etc.) but I'm wondering how enforcement will function if those fines are not paid? I know violators face additional penalties if they do not pay parking tickets on time, for example -- is there a similar schedule for escalating penalties here?

Let me know if this question is better directed elsewhere. Thanks for your help as always!  
Emma

--  
Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--  
*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120*

617-343-4520

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Friday, April 08, 2022 12:25 PM EDT  
**To:** Platoff, Emma <emma.platoff@globe.com>  
**Subject:** Re: Globe question on picketing ordinance

Emma,

Total of 9.

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Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--

Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520

**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
**Sent:** Friday, April 08, 2022 10:26 AM EDT  
**To:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>  
**Subject:** Re: Globe question on picketing ordinance

Hi there! Just wanted to check in on any ticket/citations for protests outside the mayor's house this week?

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Emma Platoff  
Politics reporter  
203-530-6009 (c)  
[@emmaplatoff](mailto:@emmaplatoff)  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Monday, April 11, 2022 11:15 AM EDT  
**To:** Platoff, Emma <emma.platoff@globe.com>  
**Subject:** Re: Globe question on picketing ordinance

Just left you a message.

On Mon, Apr 11, 2022 at 9:41 AM Platoff, Emma <emma.platoff@globe.com> wrote:  
Sorry for the bother! Let me know if you have any more details to share on this.

On Fri, Apr 8, 2022 at 1:59 PM Platoff, Emma <emma.platoff@globe.com> wrote:  
Thanks very much! So that's 9 fines? To how many individuals? And how big were the fines -- were any of these repeat offenses?

On Fri, Apr 8, 2022 at 12:25 PM John Boyle <johnt.boyle@pd.boston.gov> wrote:  
Emma,

Total of 9.

On Fri, Apr 8, 2022 at 10:27 AM Platoff, Emma <emma.platoff@globe.com> wrote:  
Hi there! Just wanted to check in on any ticket/citations for protests outside the mayor's house this week?

I'll check in with City Hall on the other question about enforcement should fines not be paid.

Thank you and happy Friday!  
Emma

On Thu, Apr 7, 2022 at 11:29 AM Platoff, Emma <emma.platoff@globe.com> wrote:  
Hi there, just following up on this! Let me know if there is someone else I should try.

Also, wondering if you can share any updates on how many violations have been cited / fines given out outside the mayor's home since the new ordinance went into effect?

Thanks,  
Emma

On Tue, Apr 5, 2022 at 1:18 PM Platoff, Emma <emma.platoff@globe.com> wrote:  
Hi Sergeant Detective Boyle,

Hope you're doing well! Reaching out with a quick question on enforcement for the city's new targeted picketing ordinance. I'm not working on a deadline on this today, but want to make sure I understand this for future coverage.

I know the ordinance includes fines (\$50 for first offense, etc.) but I'm wondering how enforcement will function if those fines are not paid? I know violators face additional penalties if they do not pay parking tickets on time, for example -- is there a similar schedule for escalating penalties here?

Let me know if this question is better directed elsewhere. Thanks for your help as always!  
Emma

--  
Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--  
*Sergeant Detective John Boyle*  
*Boston Police Department*  
*Office of Media Relations*  
*1 Schroeder Plaza*  
*Boston, Massachusetts, 02120*  
*617-343-4520*

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
**Sent:** Friday, April 08, 2022 1:59 PM EDT  
**To:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>  
**Subject:** Re: Globe question on picketing ordinance

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Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
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--  
*Sergeant Detective John Boyle*  
*Boston Police Department*  
*Office of Media Relations*  
*1 Schroeder Plaza*  
*Boston, Massachusetts, 02120*  
*617-343-4520*



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**Sent:** Monday, April 11, 2022 9:41 AM EDT  
**To:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>  
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203-530-6009 (c)  
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--

Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520

**From:** Twitter <info@twitter.com>  
**Sent:** Sunday, April 03, 2022 3:23 AM EDT  
**To:** Laura Dickerson <laura.dickerson@pd.boston.gov>  
**Subject:** MBTA Transit Police Tweeted: #Lynn man starts an argument with an el...

## Your Highlights

**MBTA Transit Police**   
@MBTATransitPD

#Lynn man starts an argument with an elderly female and then proceeds to assault 2 other passengers who tried to calm him down. #MBTA Blue Line Aquarium.  
[tpdnews411.com/2022/04/lynn-m...](https://tpdnews411.com/2022/04/lynn-m...)



3

4

**Erin Murphy**  
@ErinforBoston

Kicked off the weekend with our Team at the 38th Annual Savin Hill Park Cleanup! Great to connect with neighbors while cleaning up the park.

[#savinhill](#) [#springcleanup](#) [#actionnotjustwords](#) [#bospoli](#) [#mapoli](#)

[Erin Murphy's Photo](#)

[Erin Murphy's Photo](#)

[Erin Murphy's Photo](#)

[Erin Murphy's Photo](#)



1

4

**Tania Fernandes Anderson**  
@Tania4D7

Join us now via the link below! I'm hosting a hearing regarding how the City's budget is addressing equity for Boston residents. Listen in and share your experiences about the city's services in your neighborhood.

[boston.gov/departments/ci...](https://boston.gov/departments/ci...)

[Tania Fernandes Anderson's Photo](#)



1

6

**Adam Gaffin**  
@universalhub

Five anti-vaxxers outside the mayor's house are the first to be fined under new targeted-protesting ordinance [boston25news.com/news/massachus...](https://boston25news.com/news/massachus...)

30

8

100

**Charlie Baker** ☐  
@MassGovernor

Today, I will be signing legislation that will extend rules that make it easier for cities and towns to allow restaurants to offer outdoor dining.

We appreciate the Legislature sending us this provision last night.

50

60

780

**Boston Animal Control**  
@animalboston

Lola has a cute, wrinkly face and a personality to match! She is looking for a family to call her own. Check out her profile for more info: [petfinder.com/dog/lola-55169...](https://petfinder.com/dog/lola-55169...)

[Boston Animal Control's Photo](#)

1

11

21

[Help](#) | [Privacy](#) | [Reset password](#) | [Download app](#)

We sent this email to @LauraDi40619636. [Unsubscribe](#)

Twitter, Inc. 1355 Market Street, Suite 900 San Francisco, CA 94103

**From:** Twitter <info@twitter.com>  
**Sent:** Wednesday, April 13, 2022 1:23 AM EDT  
**To:** Michael McManus <michael.mcmanus@pd.boston.gov>  
**Subject:** WuLovesYaBaby Tweeted: You don't need to protest at the Mayor's hous...

## Your Highlights

**WuLovesYaBaby**  
@LouisLMurrayJr1

You don't need to protest at the Mayor's house, just go to [#Boston](#) City Hall they said. [twitter.com/efendimichelle...](#)

13

19

48

**Bostonians Against Michelle Wu**  
@AntiWuCoalition

Covid cases are rising in Boston again and there are rumors going around that [@MayorWu](#) [@wutrain](#) is considering reimplementing the mask and vaccine mandate

64

17

58

**Jeff Kuhner**   
@TheKuhnerReport

[#JoeBiden](#) wants to lift [#Title42](#) thereby flooding the U.S. with 20 million migrants by 2024. Who will feed, clothe & house them? Who will pay for the extra hospitals, schools & prisons needed to absorb this many people? This will BANKRUPT America! [#MAGA](#)  
[wrko.iheart.com/featured/kuhne...](#)

6

12

23

**Julian Edelman**   
@Edelman11

1 year. [#FoxboroForever](#)

[Julian Edelman's Photo](#)

190

660

13K

**Gerry Callahan**   
@GerryCallahan

He's fine. Everything's fine. [twitter.com/TPostMillennia...](https://twitter.com/TPostMillennia...)

 12

 3

 56

**Sean Philip Cotter**   
@CotterReporter

Boston is “not there yet” in following Philadelphia’s lead and reimplementing a mask mandate, Mayor Michelle Wu told reporters — and now, with no emergency declaration in place, it technically would be up to the Board of Health, anyway [bostonherald.com/2022/04/12/bos...](https://bostonherald.com/2022/04/12/bos...)





 2

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We sent this email to @Michael31637935. [Unsubscribe](#)

Twitter, Inc. 1355 Market Street, Suite 900 San Francisco, CA 94103

**From:** Roberto Paulino <roberto.paulino@pd.boston.gov>

**Sent:** Thursday, April 14, 2022 11:45 AM EDT

**To:** Ryan Mason <ryan.mason@pd.boston.gov>

**Subject:** IAD 2022-003 Radio transmission between P.O Garcia & Sgt. Cottone

Good morning,

Sir, I have taken the time to review the operations radio transmission between Officer Garcia and Sgt. Cottone. It is a very short exchange. I can add it to the report as well once you have finished taking a look at it. I don't think it changes much, other than just mentioning that Officer Garcia requested for a PS to respond to his location due to 5 protesters in front of the mayor's house.

Thank you,  
-Sgt. Paulino

*Sergeant Roberto Paulino  
Internal Affairs Division  
Boston Police Department  
1 Schroeder Plaza  
Boston, MA. 02120  
617-343-4320  
617-343-4596 (Fax)*

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:16 PM EDT  
**To:** Sean Cotter <sean.cotter@bostonherald.com>  
**BCC:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: Herald stories  
**Attachment(s):** "Civil Citation REDACTED.pdf"

Sean,  
Attached are the reports you requested.  
-Andre

On Fri, Apr 1, 2022 at 2:49 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance? Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

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Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

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Reporter | The Boston Herald  
857-939-0994

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)



**Boston Police**  
DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02108

Boston Police Department  
Boston PD

## # 222022674 - Offense/Incident Report

REPORTED ON DATE/TIME Apr 1, 2022 08:39	DISTRICT / SECTION / REPORTING AREA / SUPERVISOR A / SUPERVISOR B E5 / E414	OCCURRED ON DATE / TIME - OCCURRED TO DATE / TIME Apr 1, 2022 01:57
--	--	--

REPORTING OFFICER

JOHN CALLAHAN #144429

REPORT TAKEN LOCATION

17 AUGUSTUS AVE. ROSLINDALE, MA 02131

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

## NARRATIVE

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E2020 Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)	SUPERVISOR SIGNATURE / DATE TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)
PRINT NAME JOHN CALLAHAN #144429	PRINT NAME TIMOTHY FITZPATRICK #011810

Boston Police Department  
Boston PD

ALWAYS PRINT NAME AND PHONE NUMBER BY E-MAIL (201) 1711 on APR 2, 2022 11:48



Upon physical receipt of the city ordinance [REDACTED] acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. [REDACTED] then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue [REDACTED] City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

[REDACTED] was picked up at her residence by her security detail and when the [REDACTED] car began to drive off, [REDACTED] in her personal vehicle, began following the [REDACTED] car while using an amplifying device to yell and harass the [REDACTED]. Sgt. Detective Chin, of the [REDACTED] observed [REDACTED] following the [REDACTED] vehicle and heard her yelling at the [REDACTED] using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] for violation of ordinance 16-63, [REDACTED] for violation of ordinance 16-63 and [REDACTED] for violation of city ordinances 16-63 and 16-88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

## REPORTING PARTY - 1

REPORTING PARTY - 1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HAVE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUPERVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIM-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST AND MIDDLE)

S-1 Burke, Robert

DOB / ESTIMATED AGE RANGE

1956-04-04

SEX

Male

RACE / ETHNICITY

White / Unknown

SUSPECTS-2

SUSPECTS-2 NAME (LAST, FIRST AND MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female	White / Unknown
--------	-----------------

**SUSPECTS-B**

SUSPECTS-B NAME LAST, FIRST MIDDLE

DOB / ESTIMATED AGE BIRTH

SEX

RACE / ETHNICITY

Female

Asian / Unknown

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

TIMOTHY FITZPATRICK #011810

**IN 222022674 - Supplemental- 1 Report**

REPORTED ON DATE / TIME Apr 1, 2022 13:30	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Apr 1, 2022 07:30	REPORTING OFFICER JOHN CALLAHAN #144429
SUPPLEMENT TYPE Complaint/Warrant		
<b>NARRATIVE</b>		

On further investigations by Sergeant Detective Cheevers of City Hall Security two more protesters have been identified as [REDACTED] and [REDACTED]

Sgt. Det. Cheevers was able to identify the [REDACTED] and [REDACTED] after reviewing body worn cameras footage from the protest. [REDACTED] and [REDACTED] were confirmed to be at the protest by the E901 Sergeant O'Brien.

Civil complaint have ben sought against [REDACTED] and [REDACTED] for violation of City Ordinance 16-63.

**INVOLVED PERSONS**

INVOLVED PERSON 1 NAME (LAST, FIRST AND MIDDLE) P-1 [REDACTED]		DOB / ESTIMATED AGE RANGE [REDACTED]
SEX Male	RACE / ETHNICITY White / Unknown	
INVOLVEMENT TYPE Suspect		
INVOLVED PERSON 2 NAME (LAST, FIRST AND MIDDLE) P-2 [REDACTED]		DOB / ESTIMATED AGE RANGE [REDACTED]
SEX Female	RACE / ETHNICITY White / Unknown	
INVOLVEMENT TYPE Suspect		

**RELATIONSHIPS ADDENDUM**

NAME	RELATIONSHIP	SUBJECT
[REDACTED]	RELATIONSHIP UNKNOWN	[REDACTED]

REPORTING OFFICER SIGNATURE / DATE JOHN CALLAHAN #144429 Apr 1, 2022 13:37 (e-signature)	SUPERVISOR SIGNATURE / DATE STEPHEN O'BRIEN #009033 Apr 1, 2022 13:47 (e-signature)
PRINT NAME JOHN CALLAHAN #144429	PRINT NAME STEPHEN O'BRIEN #009033

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:35 PM EDT  
**To:** Sean Cotter <sean.cotter@bostonherald.com>  
**BCC:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: Herald stories  
**Attachment(s):** "E18 Incident REDACTED.pdf"

Sean,  
Here is the other portion of your request.

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Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

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Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)

**From:** Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)>

**Sent:** Friday, April 01, 2022 3:23 PM EDT

**To:** Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)>

**Subject:** Re: Herald stories

THanks, Andre. So were three people ultimately cited?

On Fri, Apr 1, 2022 at 3:17 PM Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)> wrote:

Sean,

Attached are the reports you requested.

-Andre

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Reporter | The Boston Herald  
857-939-0994

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Reporter | The Boston Herald  
857-939-0994

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Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

**From:** Cary Chin <cary.chin@pd.boston.gov>  
**Sent:** Saturday, April 02, 2022 3:19 PM EDT  
**To:** Tiffany Chu <tiffany.chu@boston.gov>  
**Subject:** Fwd: Herald stories  
**Attachment(s):** "Civil Citation REDACTED.pdf"

Hi Tiffany,  
FYI: Request from Boston Herald regarding incident on 04/01/2022.

Sent from my BPD iPhone

Begin forwarded message:

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Date:** April 1, 2022 at 3:13:39 PM EDT  
**To:** Jason Gilmore <jason.gilmore@pd.boston.gov>, Gregory Long <gregory.long@pd.boston.gov>, Cary Chin <cary.chin@pd.boston.gov>  
**Cc:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Fwd: Herald stories

Good Afternoon,  
Media relations received a request for the reports associated with the protest this morning at the Mayor's residence. I am sending a copy of the redacted report that was sent to the Herald to fulfill this request.

-Andre

----- Forwarded message -----

From: **Sean Cotter** <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)>  
Date: Fri, Apr 1, 2022 at 2:49 PM  
Subject: Re: Herald stories  
To: [mediarelations@PD.Boston.Gov](mailto:mediarelations@PD.Boston.Gov) <[mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov)>

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance?  
Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance?  
Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)





**Boston Police**  
DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02108

Boston Police Department  
Boston PD

## # 222022674 - Offense/Incident Report

REPORTED ON DATE/TIME Apr 1, 2022 08:39	DISTRICT / SECTION / REPORTING AREA / SUPERVISOR A / SUPERVISOR B E5 / E414	OCCURRED ON DATE / TIME - OCCURRED TO DATE / TIME Apr 1, 2022 01:57
--	--	--

REPORTING OFFICER

JOHN CALLAHAN #144429

REPORT TAKEN LOCATION

17 AUGUSTUS AVE. ROSLINDALE, MA 02131

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

## NARRATIVE

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E2020 Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)	SUPERVISOR SIGNATURE / DATE TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)
PRINT NAME JOHN CALLAHAN #144429	PRINT NAME TIMOTHY FITZPATRICK #011810

Boston Police Department  
Boston PD

ALWAYS PRINT NAME AND PHONE NUMBER BY E-MAIL (201) 1711 on APR 2, 2022 11:48



Upon physical receipt of the city ordinance [REDACTED] acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. [REDACTED] then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue [REDACTED] City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

[REDACTED] was picked up at her residence by her security detail and when the [REDACTED] car began to drive off, [REDACTED] in her personal vehicle, began following the [REDACTED] car while using an amplifying device to yell and harass the [REDACTED]. Sgt. Detective Chin, of the [REDACTED] observed [REDACTED] following the [REDACTED] vehicle and heard her yelling at the [REDACTED] using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] for violation of ordinance 16-63, [REDACTED] for violation of ordinance 16-63 and [REDACTED] for violation of city ordinances 16-63 and 16-88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

## REPORTING PARTY - 1

REPORTING PARTY - 1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HAVE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUPERVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIM-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST AND MIDDLE)

S-1 Burke, Robert

DOB / ESTIMATED AGE RANGE

1956-04-04

SEX

Male

RACE / ETHNICITY

White / Unknown

SUSPECTS-2

SUSPECTS-2 NAME (LAST, FIRST AND MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female	White / Unknown
--------	-----------------

**SUSPECTS-B**

SUSPECTS-B NAME LAST, FIRST MIDDLE

DOB / ESTIMATED AGE BIRTH

SEX

RACE / ETHNICITY

Female

Asian / Unknown

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

TIMOTHY FITZPATRICK #011810

**IN 222022674 - Supplemental- 1 Report**

REPORTED ON DATE / TIME Apr 1, 2022 13:30	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Apr 1, 2022 07:30	REPORTING OFFICER JOHN CALLAHAN #144429
--	--	--

SUPPLEMENT TYPE

Complaint/Warrant

**NARRATIVE**

On further investigations by Sergeant Detective Cheevers of City Hall Security two more protesters have been identified as [REDACTED] and [REDACTED]

Sgt. Det. Cheevers was able to identify the [REDACTED] and [REDACTED] after reviewing body worn cameras footage from the protest. [REDACTED] and [REDACTED] were confirmed to be at the protest by the E901 Sergeant O'Brien.

Civil complaint have ben sought against [REDACTED] and [REDACTED] for violation of City Ordinance 16-63.

**INVOLVED PERSONS**

INVOLVED PERSON 1 NAME (LAST, FIRST AND MIDDLE)

P-1 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

INVOLVED PERSON 2 NAME (LAST, FIRST AND MIDDLE)

P-2 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

**RELATIONSHIPS ADDENDUM**

NAME	RELATIONSHIP	SUBJECT
[REDACTED]	RELATIONSHIP UNKNOWN	[REDACTED]

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 13:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

STEPHEN O'BRIEN #009033 Apr 1, 2022 13:47 (e-signature)

PRINT NAME

STEPHEN O'BRIEN #009033

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:13 PM EDT  
**To:** Jason Gilmore <jason.gilmore@pd.boston.gov>; Gregory Long <gregory.long@pd.boston.gov>; Cary Chin <cary.chin@pd.boston.gov>  
**CC:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Fwd: Herald stories  
**Attachment(s):** "Civil Citation REDACTED.pdf"

Good Afternoon,

Media relations received a request for the reports associated with the protest this morning at the Mayor's residence. I am sending a copy of the redacted report that was sent to the Herald to fulfill this request.

-Andre

----- Forwarded message -----

From: **Sean Cotter** <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)>  
Date: Fri, Apr 1, 2022 at 2:49 PM  
Subject: Re: Herald stories  
To: [mediarelations@PD.Boston.Gov](mailto:mediarelations@PD.Boston.Gov) <[mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov)>

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance? Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02108

 Boston Police Department  
 Boston PD

**# 22022674 - Offense/Incident Report**

REPORTED ON DATE/TIME <b>Apr 1, 2022 08:39</b>	DISTRICT / SECTION / REPORTING AREA / SUPERVISOR A / SUPERVISOR B <b>E5 / E414</b>	OCCURRED ON DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 1, 2022 01:57</b>
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REPORTING OFFICER

**JOHN CALLAHAN #144429**

REPORT TAKEN LOCATION

**17 AUGUSTUS AVE. ROSLINDALE, MA 02131**

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

**NARRATIVE**

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E2020 Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE <b>JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)</b>	SUPERVISOR SIGNATURE / DATE <b>TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)</b>
PRINT NAME <b>JOHN CALLAHAN #144429</b>	PRINT NAME <b>TIMOTHY FITZPATRICK #011810</b>

 Boston Police Department  
 Boston PD

ALWAYS PRINT NAME AND PHONE NUMBER BY E-MAIL (201) 1711 on APR 2, 2022 11:48

Upon physical receipt of the city ordinance [REDACTED] acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. [REDACTED] then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue [REDACTED] City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

[REDACTED] was picked up at her residence by her security detail and when the [REDACTED] car began to drive off, [REDACTED] in her personal vehicle, began following the [REDACTED] car while using an amplifying device to yell and harass the [REDACTED]. Sgt. Detective Chin, of the [REDACTED] observed [REDACTED] following the [REDACTED] vehicle and heard her yelling at the [REDACTED] using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] for violation of ordinance 16-63, [REDACTED] for violation of ordinance 16-63 and [REDACTED] for violation of city ordinances 16-63 and 16-88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

## REPORTING PARTY - 1

REPORTING PARTY - 1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HAVE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUPERVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIM-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST AND MIDDLE)

S-1 Burke, Robert

DOB / ESTIMATED AGE RANGE

1956-04-04

SEX

Male

RACE / ETHNICITY

White / Unknown

SUSPECTS-2

SUSPECTS-2 NAME (LAST, FIRST AND MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female	White / Unknown
--------	-----------------

**SUSPECTS-3**

SUSPECTS-3 NAME LAST, FIRST MIDDLE

DOB / ESTIMATED AGE BIRTH

SEX

RACE / ETHNICITY

Female

Asian / Unknown

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

TIMOTHY FITZPATRICK #011810

**IN 222022674 - Supplemental- 1 Report**

REPORTED ON DATE / TIME Apr 1, 2022 13:30	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Apr 1, 2022 07:30	REPORTING OFFICER JOHN CALLAHAN #144429
--	--	--

SUPPLEMENT TYPE

Complaint/Warrant

**NARRATIVE**

On further investigations by Sergeant Detective Cheevers of City Hall Security two more protesters have been identified as [REDACTED] and [REDACTED]

Sgt. Det. Cheevers was able to identify the [REDACTED] and [REDACTED] after reviewing body worn cameras footage from the protest. [REDACTED] and [REDACTED] were confirmed to be at the protest by the E901 Sergeant O'Brien.

Civil complaint have ben sought against [REDACTED] and [REDACTED] for violation of City Ordinance 16-63.

**INVOLVED PERSONS**

INVOLVED PERSON 1 NAME (LAST, FIRST AND MIDDLE)

P-1 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

INVOLVED PERSON 2 NAME (LAST, FIRST AND MIDDLE)

P-2 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

**RELATIONSHIPS ADDENDUM**

NAME	RELATIONSHIP	SUBJECT
[REDACTED]	RELATIONSHIP UNKNOWN	[REDACTED]

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 13:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

STEPHEN O'BRIEN #009033 Apr 1, 2022 13:47 (e-signature)

PRINT NAME

STEPHEN O'BRIEN #009033



**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Wednesday, April 06, 2022 5:23 PM EDT  
**To:** David Fredette <david.fredette@pd.boston.gov>  
**Subject:** Fwd: Globe question on picketing ordinance

Can we discuss this tomorrow?

----- Forwarded message -----

From: **Platoff, Emma** <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
Date: Tue, Apr 5, 2022 at 1:18 PM  
Subject: Globe question on picketing ordinance  
To: John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>

Hi Sergeant Detective Boyle,

Hope you're doing well! Reaching out with a quick question on enforcement for the city's new targeted picketing ordinance. I'm not working on a deadline on this today, but want to make sure I understand this for future coverage.

I know the ordinance includes fines (\$50 for first offense, etc.) but I'm wondering how enforcement will function if those fines are not paid? I know violators face additional penalties if they do not pay parking tickets on time, for example -- is there a similar schedule for escalating penalties here?

Let me know if this question is better directed elsewhere. Thanks for your help as always!  
Emma

--

Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

**From:** David Fredette <david.fredette@pd.boston.gov>  
**Sent:** Thursday, April 07, 2022 1:44 AM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: Globe question on picketing ordinance  
direct to law dept. or city council

On Wed, Apr 6, 2022 at 5:24 PM John Boyle <johnt.boyle@pd.boston.gov> wrote:  
Can we discuss this tomorrow?

----- Forwarded message -----

From: **Platoff, Emma** <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
Date: Tue, Apr 5, 2022 at 1:18 PM  
Subject: Globe question on picketing ordinance  
To: John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>

Hi Sergeant Detective Boyle,

Hope you're doing well! Reaching out with a quick question on enforcement for the city's new targeted picketing ordinance. I'm not working on a deadline on this today, but want to make sure I understand this for future coverage.

I know the ordinance includes fines (\$50 for first offense, etc.) but I'm wondering how enforcement will function if those fines are not paid? I know violators face additional penalties if they do not pay parking tickets on time, for example -- is there a similar schedule for escalating penalties here?

Let me know if this question is better directed elsewhere. Thanks for your help as always!  
Emma

--  
Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--  
*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 7:18 PM EDT  
**To:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"

Sent from my iPhone

Begin forwarded message:

**From:** Adam Cederbaum <adam.cederbaum@boston.gov>  
**Date:** March 31, 2022 at 7:13:24 PM EDT  
**To:** David Fredette <david.fredette@pd.boston.gov>, Gregory Long <gregory.long@pd.boston.gov>, James Megee <james.megee@pd.boston.gov>, Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>  
**Subject:** Fwd: Substituted Committee Report and substituted new draft

----- Forwarded message -----

From: **Neil Doherty** <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:11 PM  
Subject: Fwd: Substituted Committee Report and substituted new draft  
To: Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

From: **Yasmine Raddassi** <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:08 PM  
Subject: Fwd: Substituted Committee Report and substituted new draft  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
Date: Wed, Mar 30, 2022 at 11:18 AM  
Subject: Substituted Committee Report and substituted new draft  
To: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--

**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.

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Adam Cederbaum (he/him)

Corporation Counsel

City of Boston Law Department

City Hall, Room 615

Boston, MA 02201

(617) 635-4030

[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read 'Ra', followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations





## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:33 PM EDT  
**To:** Andre Watson <andre.watson@pd.boston.gov>  
**Subject:** Re: Herald stories  
**Attachment(s):** "Civil Citation REDACTED.pdf"

Thank you.

Sent from my iPhone

On Apr 1, 2022, at 3:13 PM, Andre Watson <andre.watson@pd.boston.gov> wrote:

Good Afternoon,

Media relations received a request for the reports associated with the protest this morning at the Mayor's residence. I am sending a copy of the redacted report that was sent to the Herald to fulfill this request.

-Andre

----- Forwarded message -----

From: **Sean Cotter** <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)>  
Date: Fri, Apr 1, 2022 at 2:49 PM  
Subject: Re: Herald stories  
To: [mediarelations@PD.Boston.Gov](mailto:mediarelations@PD.Boston.Gov) <[mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov)>

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance?  
Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance?  
Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02108

 Boston Police Department  
 Boston PD

**# 22022674 - Offense/Incident Report**

REPORTED ON DATE/TIME <b>Apr 1, 2022 08:39</b>	DISTRICT / SECTION / REPORTING AREA / SUPERVISOR A / SUPERVISOR B <b>E5 / E414</b>	OCCURRED ON DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 1, 2022 01:57</b>
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REPORTING OFFICER

**JOHN CALLAHAN #144429**

REPORT TAKEN LOCATION

**17 AUGUSTUS AVE. ROSLINDALE, MA 02131**

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

**NARRATIVE**

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E2020 Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE <b>JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)</b>	SUPERVISOR SIGNATURE / DATE <b>TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)</b>
PRINT NAME <b>JOHN CALLAHAN #144429</b>	PRINT NAME <b>TIMOTHY FITZPATRICK #011810</b>

 Boston Police Department  
 Boston PD

ALWAYS PRINT NAME AND PHONE NUMBER BY E-MAIL (2011711) ON APR 2, 2022 11:48

Upon physical receipt of the city ordinance [REDACTED] acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. [REDACTED] then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue [REDACTED] City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

[REDACTED] was picked up at her residence by her security detail and when the [REDACTED] car began to drive off, [REDACTED] in her personal vehicle, began following the [REDACTED] car while using an amplifying device to yell and harass the [REDACTED]. Sgt. Detective Chin, of the [REDACTED] observed [REDACTED] following the [REDACTED] vehicle and heard her yelling at the [REDACTED] using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] for violation of ordinance 16-63, [REDACTED] for violation of ordinance 16-63 and [REDACTED] for violation of city ordinances 16-63 and 16-88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

## REPORTING PARTY - 1

REPORTING PARTY - 1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HAVE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUPERVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIM-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 Burke, Robert

DOB / ESTIMATED AGE RANGE

1956-04-04

SEX

Male

RACE / ETHNICITY

White / Unknown

SUSPECTS-2

SUSPECTS-2 NAME (LAST, FIRST MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female	White / Unknown
--------	-----------------

## SUSPECTS-3

SUSPECTS-3 NAME LAST, FIRST MIDDLE

DOB / ESTIMATED AGE BIRTH

SEX

RACE / ETHNICITY

Female	Asian / Unknown
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REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

TIMOTHY FITZPATRICK #011810

**IN 222022674 - Supplemental- 1 Report**

REPORTED ON DATE / TIME

Apr 1, 2022 13:30

OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME

Apr 1, 2022 07:30

REPORTING OFFICER

JOHN CALLAHAN #144429

SUPPLEMENT TYPE

Complaint/Warrant

**NARRATIVE**

On further investigations by Sergeant Detective Cheevers of City Hall Security two more protesters have been identified as [REDACTED] and [REDACTED]

Sgt. Det. Cheevers was able to identify the [REDACTED] and [REDACTED] after reviewing body worn cameras footage from the protest. [REDACTED] and [REDACTED] were confirmed to be at the protest by the E901 Sergeant O'Brien.

Civil complaint have ben sought against [REDACTED] and [REDACTED] for violation of City Ordinance 16-63.

**INVOLVED PERSONS**

INVOLVED PERSON 1 NAME (LAST, FIRST AND MIDDLE)

P-1 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

INVOLVED PERSON 2 NAME (LAST, FIRST AND MIDDLE)

P-2 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

**RELATIONSHIPS ADDENDUM**

NAME

[REDACTED]

RELATIONSHIP

RELATIONSHIP  
UNKNOWN

SUBJECT

[REDACTED]

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 13:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

STEPHEN O'BRIEN #009033 Apr 1, 2022 13:47 (e-signature)

PRINT NAME

STEPHEN O'BRIEN #009033

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 7:18 PM EDT  
**To:** Adam Cederbaum <adam.cederbaum@boston.gov>  
**Subject:** Re: Substituted Committee Report and substituted new draft  
**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"

Thank you.

Sent from my iPhone

On Mar 31, 2022, at 7:13 PM, Adam Cederbaum <adam.cederbaum@boston.gov> wrote:

----- Forwarded message -----

From: **Neil Doherty** <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:11 PM  
Subject: Fwd: Substituted Committee Report and substituted new draft  
To: Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

From: **Yasmine Raddassi** <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:08 PM  
Subject: Fwd: Substituted Committee Report and substituted new draft  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
Date: Wed, Mar 30, 2022 at 11:18 AM  
Subject: Substituted Committee Report and substituted new draft  
To: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203



[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.

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Adam Cederbaum (he/him)

Corporation Counsel

City of Boston Law Department

City Hall, Room 615

Boston, MA 02201

(617) 635-4030

[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

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The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations



## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Monday, April 25, 2022 4:04 PM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: News Clips Round 2 for Monday, April 25, 2022

Thank you.

Sent from my iPhone

On Apr 25, 2022, at 3:01 PM, John Boyle <johnt.boyle@pd.boston.gov> wrote:

<https://www.bostonglobe.com/2022/04/25/metro/protester-arrested-outside-mayor-wus-home/>

# Protester is arrested outside Boston Mayor Michelle Wu's home

By [Emma Plattoff](#) Globe Staff, Updated April 25, 2022, 38 minutes ago

Boston police on Monday morning arrested a protester outside the home of Mayor Michelle Wu, the first arrest made after months of vocal demonstrations in Wu's quiet Roslindale neighborhood.

Shannon Llewellyn was arrested around 7:45 a.m. outside Wu's home, according to a police incident report, and will be charged with "willful violation" of a new city ordinance that prohibits targeted protests between the hours of 9 p.m. and 9 a.m.

Monday's arrest appears to mark an escalation in police response to the ongoing protests outside Wu's home.

Since early January, critics of Wu's COVID-19 restrictions, particularly her vaccine mandate for city employees, have gathered early in the morning outside her Roslindale home to bang drums, blow whistles, and shout their opposition to her policies. Several Boston police officers are stationed outside Wu's home during the protests, but until recently, they had not taken any enforcement action against demonstrators. Police officials said they were doing their best to balance free speech rights with quality of life in the neighborhood.

Last month, Wu proposed and succeeded in passing a new city ordinance that barred targeted protests between 9 p.m. and 9 a.m., effectively pushing back by two hours the time when noisy demonstrations could lawfully begin outside her home or any other private residence. Previously, a city noise ordinance had required quiet only until 7 a.m., allowing the demonstrators to begin shouting and drumming when many of Wu's neighbors were still asleep or just beginning their morning routines.

Neighbors say protests have continued, if less frequently, even after the ordinance went into effect almost a month ago. The ordinance promised fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses.

Just one day after Wu signed the new ordinance, five demonstrators [were cited](#) near her home for violating it. Police officials said Monday that 10 people have been cited under the new rules and referred to the Boston municipal court in West Roxbury.

According to the police report, Llewellyn and three other protesters were gathered near Wu's home around 7:30 a.m. Monday. A police sergeant gave the protesters a copy of the new city ordinance that prohibits targeted picketing at that hour and warned them that they would be subject to arrest if they did not leave. Llewellyn refused to leave and began to bang a cooking utensil against a pot she had brought "in a disturbing manner," according to the report.

This is the second time Llewellyn has been charged with violating the protesting ordinance,



according to the police report.

Asked about the arrest Monday at an unrelated event, Wu deflected, saying “we want to make sure the energy and the momentum is focused on getting things done.”

She said she was grateful for public safety workers and did not say whether she was home when the arrest was made.

Earlier this month, another Wu critic and protester, Catherine Vitale, was [arrested](#) for allegedly assaulting a police officer while protesting during a press conference at Boston City Hall.

*Danny McDonald of the Globe staff contributed to this report.*

On Mon, Apr 25, 2022 at 2:21 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonglobe.com/2022/04/25/metro/former-boston-police-union-head-patrick-rose-plead-guilty-abuse-charges/>

# Former Boston police union head Patrick Rose pleads guilty to abuse charges, sentenced to 13 years in prison

By [Andrew Ryan](#) and [Ivy Scott](#) Globe Staff, Updated April 25, 2022, 2 hours ago

Patrick M. Rose Sr., the onetime president of the city’s powerful patrolmen’s union, pleaded guilty Monday to molesting six children over decades in a case that exposed deep institutional failings within the Boston Police Department. He was sentenced to at least 10 years in prison, with a maximum of 13 years.

Rose had been allowed to keep his badge for 20 years after top police officials determined he more than likely sexually abused a child in 1995. Despite that finding, Rose remained on patrol in Dorchester, where he interacted with children and sexual assault victims and eventually ascended to the presidency of the Boston Police Patrolmen’s Association.

The revelation, published in a Globe investigation in April 2021, underscored the secrecy of the nation’s oldest police department, which has a history of protecting officers accused of misconduct.

In Suffolk Superior Court, Rose pleaded guilty to many of the allegations against him. Rose had been charged with 33 counts of sexual abuse of six children ranging in age from 7 to 16 and had maintained his innocence.

In an wrenching hearing, Rose’s victims addressed their abuser, reading impact statements aloud in court.

“You might have hurt me for three years straight but now I’m getting stronger and stronger,” said one of the victims, a teenager whom the Globe is not identifying because they were the victim of sexual assault. “Now all the anger and hatred isn’t pointed towards myself. It’s pointed towards you.”

Rose retired in 2018 and was arrested in August 2020. Last April, the Globe reported that the Boston Police Department in 1995 filed a criminal complaint against Rose for sexual assault on a 12-year-old. Prosecutors say the victim ultimately recanted under pressure from Rose, a common phenomenon for young survivors of abuse when faced with demands from their abuser.

Prosecutors dropped the criminal charge and Rose’s abuse escalated and included more victims, court records state. Once the criminal case ended, the police department proceeded with a separate administrative investigation.

That internal investigation concluded Rose likely molested the child. Records show that despite the determination Rose probably broke the law, police officials never recommended that Rose be fired.

In fact, there had been no indication that Rose faced any discipline other than initially being barred from carrying a gun and temporarily relegated to desk duty. Instead, Rose's internal affairs file included the notation "Try to settle prior to hearing."

Ultimately the patrolmen's association threatened to file a grievance on Rose's behalf. An attorney for the union sent a letter to Commissioner Evans on Oct 20, 1997, raising a number of issues. Two days later, Evans sent a terse memo to the internal investigations chief, Ann Marie Doherty.

"Please see me on this," Evans wrote.

Rose returned to duty. Evans and Doherty released a joint statement in April 2021 defending their actions, saying that they were unable to discipline Rose because they did not have a witness or other evidence.

#### **RELATED: [Timeline of the Boston Police Department's Patrick Rose scandal](#)**

"We believed at the time, and we still believe, that everything that could be done by the Boston Police Department was done in this matter to hold Rose accountable," the statement read.

The fallout from Rose's case extended beyond his six victims, reverberating at City Hall and beyond. Former Mayor Martin J. Walsh's administration had refused to release public records related to the internal affairs investigation of Rose, even after a rebuke from the state's supervisor of public records.

Walsh's successor, former acting mayor Kim Janey, reversed course and released a small portion of Rose's internal affairs file. Janey also pushed to require Boston police to notify a City Hall oversight agency whenever one of its officers is accused of a crime.

"Swift action should have been taken" in the 1990s to remove Rose from the department, Janey said at a City Hall press conference last summer. "It is shameful that it seems the actions taken were to protect their own, rather than to protect children."

<https://boston.cbslocal.com/2022/04/25/patrick-rose-former-boston-police-union-president-guilty-plea-child-rape-sex-abuse-charges/>

# Patrick Rose, Former Boston Police Union President, Sentenced To 10-13 Years On Child Rape Charges

BOSTON (CBS) – [Patrick Rose](#), the former president of the Boston Police Patrolmen's Association, was sentenced to 10-to-13 years in prison Monday for molesting six children over a 27-year period. Rose was facing 33 charges in connection with the rape and abuse of the children between the ages of 7 and 16 at his home in West Roxbury between 1993 and 2020. Twelve of those charges were dismissed Monday and Rose changed his plea to guilty in Suffolk Superior Court. He was also sentenced to ten years of probation and must register as a sex offender.

In 1995, a criminal complaint against Rose, now 67, accused him of sexually assaulting a 12-year-old child. An investigation sustained the allegation but Rose continued to work as a police officer. A new report, [released last July](#), found that there was not a thorough and independent investigation into Rose in 1995. He returned to full duty after the police union threatened to sue and prosecutors said he went on to assault more children.

In [August 2020](#), Rose was arrested after a father and his teenage daughter reported that the girl had been repeatedly molested by Rose from age 7 through 12. Within weeks, five more people came forward to accuse Rose of molesting them as children.

"Out of respect for the family, you heard the facts, you heard the judge say that she believes it's a just sentence," Suffolk District Attorney Kevin Hayden told reporters outside court, refusing to comment further on Rose's sentence.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," current union president Larry Calderone said in a statement.

<https://www.wcvb.com/article/former-boston-police-leaders-express-deep-disappointment-with-citys-release-of-documents-from-patrick-rose-case-1650898310/39814484>

## Former Boston police union president Patrick Rose pleads guilty to child rape charges

Redacted files were from a mid-90s investigation into child sex abuse allegation

### **BOSTON —**

A former Boston Police Department officer who later went on to become head of the police union is pleading guilty to several charges of child rape.

Patrick Rose Sr. faces 33 charges in connection with the rape and abuse of at least six children in the 1990s. Some of the charges include statutory rape and indecent assault and battery on a child. Rose pleaded not guilty in 2020 to several charges.

Rose was sentenced to 10 to 13 years in prison followed by 10 years of probation. Upon release, Rose cannot be unsupervised with children, must stay away from victims and must register as a sex offender.

"This case of child sex abuse is likely the most egregious the Commonwealth has ever seen," the prosecutor said after the court listened to victim impact statements.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Boston Police Patrolmen's Association President Larry Calderone said in a statement.

Rose joined the Boston Police Department in 1994 and spent most of his career working in Dorchester.

In December 2014, the Boston Police Patrolmen's Association voted in Rose as the union's president at their annual elections, replacing longtime union boss Thomas Nee.

Rose retired from the Boston Police Department in 2018.

The city confirmed that Rose faced a child abuse allegation in 1995 but remained on the force and was reinstated to full duty in 1997.

Along with releasing [14 redacted pages](#) of documents related to the mid-90s internal affairs investigations, then-[Mayor Kim Janey issued a statement](#) that called the department's handling of the situation "deeply unsettling."

"Based on a review of former Officer Rose's internal affairs file conducted by the City's Law Department, it is clear that previous leaders of the police department neglected their duty to protect and serve," she wrote.

Former Police Commissioner Paul F. Evans and former Superintendent Ann Marie Doherty argued the documents published by City Hall present an incomplete and unfair version of events.

"We are disappointed that the only facts presented in the City of Boston Corporation Counsel's memo were the facts that supported the press release issued by City Hall and not the Boston Police Department's complete efforts in this matter," they wrote.

<https://whdh.com/news/ex-head-of-bostons-largest-police-union-pleads-guilty-to-child-rape-charges/>

## Ex-head of Boston's largest police union pleads guilty to child rape charges

BOSTON (WHDH) - The former head of Boston's largest police union pleaded guilty Monday to nearly three dozen child rape charges.

Patrick Rose faces a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s, according to the Suffolk District Attorney's Office.

Rose, the one-time president of the Boston Police Patrolmen's Association, changed his plea to guilty during a hearing in Suffolk Superior Court.

Rose also served as a Boston police officer. He retired in 2018.

<https://www.boston25news.com/news/local/former-boston-police-officer-pleads-guilty-child-sex-abuse-case/D25QZAJH2ZGLDH7VX4NZUOAB7A/>

## Former Boston Police officer pleads guilty in child sex abuse case

DA: "These are monstrous, monstrous acts." Several of Rose's six victims delivered victim impact statements

By **Boston 25 News Staff** April 25, 2022 at 1:29 pm EDT

BOSTON — The high-profile criminal case of a former Boston Police officer and former police union president returned to court Monday for a guilty plea.

Patrick Rose, 67, was accused of a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s.

On Monday, Rose pleaded guilty to 21 those charges of molesting the six children over a 27-year period, according to the Suffolk County District Attorney's office.

Rose sentenced by Judge Mary Ames to 10-to-13 years in prison and 10 years' probation following his release. He was first accused in the summer of 2020.

Several of Rose's victims addressed the court after Rose pleaded guilty.

"I saw you for what you really are -a coward, a predator of the weak and the defenseless," the victim said.

"Your reputation? Absolutely gone," said another victim. "All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Will that's really quite ironic isn't it?"

Rose is the former president of the Boston Police Patrolmen's Association. The current president of the BPPA, Larry Calderone, released a statement following the verdict.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure, and vindication for the victims and their families," said Calderone.

"He had these children's trust from the beginning, said Suffolk County prosecutor Audrey Mark.

“He didn’t need to gain it. By virtue of his position, he had their trust. And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives.”

“We can only hope that this plea today provides some level of healing and recovery for (the victims),” said Suffolk County District Attorney Kevin Hayden. “Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident. These are monstrous, monstrous acts.”

A long-awaited report into the Boston Police Department’s handling of the Rose case was released in April 2021.

[ [\*Mayor releases investigation into officer accused of abuse\*](#) ]

Former Boston Mayor Kim Janey released the [redacted report](#).

“It is clear that previous leaders of the police department neglected their duty to protect and serve,” Janey said at the time. “Despite an internal affairs investigation in 1996 that found credible evidence to sustain the allegation against Rose for sexually assaulting a minor, it appears that the police department made no attempt to fire him.”

<https://www.nbcboston.com/news/local/ex-boston-police-union-president-charged-with-child-rape-expected-to-change-plea/2702666/>

## ‘Monstrous, Monstrous Acts’: Ex-Boston Police Union President Pleads Guilty to Child Rape

Patrick Rose, 67, was sentenced to 10 to 13 years in prison, plus 10 years probation following his release

A former head of Boston’s police union facing a total of 33 charges in connection with the rape and abuse of six children over various periods of time beginning in the 1990s pleaded guilty Monday.

Patrick Rose had previously pleaded not guilty and maintained his innocence, but changed his plea during an appearance in Suffolk Superior Court. He pleaded guilty to 21 counts of child rape and sexual assault over a 27-year period and was sentenced to 10 to 13 years in prison, plus 10 years probation following his release.

Several of Rose’s victims delivered victim impact statements.

One of the victims talked about the “dead-soul feeling of emotional pain” the victim experienced because of the abuse.

“I saw you for what you really are — a coward, a predator of the weak and the defenseless,” the victim said.

Another victim said of Rose: “Your reputation? Absolutely gone. All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Well that’s really quite ironic, isn’t it?”

Rose, 67, a former Boston police officer and president of the Boston Police Patrolmen’s Association, [was arrested on child sex charges in August of 2020](#) stemming from allegations that he [sexually assaulted a young relative](#) starting when she was 7.

The victim, now a teenager, told police the assaults continued for five years, until she turned 12. Rose allegedly touched her inappropriately and asked her to perform sexual acts on him in his West Roxbury home.

[Rose was later charged with the rape and abuse of five other children](#) Prosecutors said most of the charges date back to the 1990s, but at least one was within the last two years.

"He had these children's trust from the beginning. He didn't need to gain it. By virtue of his position, he had their trust," Assistant Suffolk District Attorney Audrey Mark said in court Monday. "And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

Suffolk District Attorney Kevin Hayden said following the plea that he hopes the resolution of the case provides some level of healing for the victims.

"Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident," he said. "These are monstrous, monstrous acts."

Boston Police Patrolmen's Association President Larry Calderone also issued a statement following Rose's guilty plea.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Calderone said.

Rose was allowed to remain on the force for years despite sufficient evidence found by internal investigators supporting allegations that he sexually assaulted a minor, [according to documents released by the city last year](#).

The internal affairs file was ordered released by acting Mayor Kim Janey after The Boston Globe reported that Rose had been able to keep his badge despite a criminal complaint in 1995 for sexual assault on a 12-year-old child.

The criminal complaint was eventually dropped, but the department's Internal Affairs Division concluded there was enough evidence to support the allegations, according to the documents. Then-Boston Police Commissioner Paul F. Evans was notified in a June 1996 memo of the results of the probe.

Rose had been relieved of his weapon and placed on administrative duty, but was returned to full duty after an attorney for the Boston Police Patrolmen's Association wrote to the commissioner in October 1997 and threatened to file a grievance, according to the documents.

[A city review of the Rose investigation led to a series of recommendations for keeping the department transparent](#). Among the changes recommended by the Office of Police Accountability and Transparency were starting investigations into officers charged with crimes within 48 hours and creating clear guidance for how officers should be punished.

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

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*Sergeant Detective John Boyle  
Boston Police Department  
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1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 10:06 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Subject:** Re:

Thank you.

Sent from my iPhone

> On Mar 31, 2022, at 8:45 PM, Jennifer Maconochie <jennifer.maconochie@pd.boston.gov> wrote:

>

> Chief, I just forwarded it to you.

>

> Sent from my iPhone

>

>> On Mar 31, 2022, at 6:45 PM, Gregory Long <gregory.long@pd.boston.gov> wrote:

>>

>> Jen,

>>

>> Would you happen to have the final version of the picketing  
>> ordinance that was passed? Thank you.

>>

>> Greg

>>

>> Sent from my iPhone



**From:** Adam Cederbaum <adam.cederbaum@boston.gov>  
**Sent:** Thursday, April 07, 2022 1:15 PM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>; David Fredette <david.fredette@pd.boston.gov>; James Megee <james.megee@pd.boston.gov>; Robert Arcangeli <robert.arcangeli@boston.gov>  
**Subject:** Fwd: Globe question on picketing ordinance

Hi All,

Per the press question below I think we should make sure we are on the same page about the approach here.

The fines in the ordinance are imposed pursuant to the City's authority under G. L. c. 40, s. 21D. That statute provides that fines may be paid by mail to the City Clerk or at the district court for the district within which the ticket was issued. I'd like to check in about the violation book that BPD uses to write tickets like this, and confirm that it directs payments in that manner. Also, is BPD returning the tickets to the relevant district court in the manner provided by 21D?

Thank you,

ADam

----- Forwarded message -----

**From:** Emma Pettit <emma.pettit@boston.gov>  
**Date:** Thu, Apr 7, 2022 at 11:51 AM  
**Subject:** Re: Globe question on picketing ordinance  
**To:** John Boyle <johnt.boyle@pd.boston.gov>, Adam Cederbaum <adam.cederbaum@boston.gov>, Kelly Mitchell <kelly.mitchell@boston.gov>, Michael Osaghae <michael.osaghae@boston.gov>, Press Office <press.office@boston.gov>  
**Cc:** Jessicah Pierre <jessicah.pierre@boston.gov>, Ricardo Patrón <ricardo.patron@boston.gov>

Hi Sgt. Boyle,

Adding Adam here to see if he has any insight on this process.

Thanks,  
Emma

On Thu, Apr 7, 2022 at 11:39 AM John Boyle <johnt.boyle@pd.boston.gov> wrote:  
Good morning press team,

Do we know if these fines are paid at City Hall?

----- Forwarded message -----

**From:** Platoff, Emma <emma.platoff@globe.com>  
**Date:** Thu, Apr 7, 2022 at 11:30 AM  
**Subject:** Re: Globe question on picketing ordinance  
**To:** John Boyle <johnt.boyle@pd.boston.gov>

Hi there, just following up on this! Let me know if there is someone else I should try.

Also, wondering if you can share any updates on how many violations have been cited / fines given out outside the mayor's home since the new ordinance went into effect?

Thanks,  
Emma

On Tue, Apr 5, 2022 at 1:18 PM Platoff, Emma <emma.platoff@globe.com> wrote:  
Hi Sergeant Detective Boyle,

Hope you're doing well! Reaching out with a quick question on enforcement for the city's new targeted picketing ordinance. I'm not working on a deadline on this today, but want to make sure I understand this for future coverage.

I know the ordinance includes fines (\$50 for first offense, etc.) but I'm wondering how enforcement will function if those fines are not paid? I know violators face additional penalties if they do not pay parking tickets on time, for example -- is there a similar schedule for escalating penalties here?

Let me know if this question is better directed elsewhere. Thanks for your help as always!  
Emma



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Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

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*Sergeant Detective John Boyle*  
*Boston Police Department*  
*Office of Media Relations*  
*1 Schroeder Plaza*  
*Boston, Massachusetts, 02120*  
617-343-4520

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	<b>Emma Pettit</b> Deputy Press Secretary Office of Mayor Michelle Wu 617-635-4461 (w) 617-980-9739 (c)
--	--

# Document is unavailable

**From:** David Fredette <david.fredette@pd.boston.gov>

**Sent:** Thursday, March 31, 2022 7:12 PM EDT

**To:** Darrin Greeley <darrin.greeley@pd.boston.gov>; Gerard Bailey <gerard.bailey@pd.boston.gov>; Gregory Long <gregory.long@pd.boston.gov>; James Megee <james.megee@pd.boston.gov>; James Tarantino <james.tarantino@pd.boston.gov>; Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>

**Subject:** Fwd: Substituted Committee Report and substituted new draft

**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"

Signed ordinance attached

----- Forwarded message -----

From: **Neil Doherty** <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

Date: Thu, Mar 31, 2022 at 7:11 PM

Subject: Fwd: Substituted Committee Report and substituted new draft

To: Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

From: **Yasmine Raddassi** <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>

Date: Thu, Mar 31, 2022 at 7:08 PM

Subject: Fwd: Substituted Committee Report and substituted new draft

To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>

Date: Wed, Mar 30, 2022 at 11:18 AM

Subject: Substituted Committee Report and substituted new draft

To: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!

Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

---

One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations





## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 7:28 PM EDT  
**To:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**CC:** Jason Gilmore <jason.gilmore@pd.boston.gov>  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"

Sent from my iPhone

Begin forwarded message:

**From:** David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>  
**Date:** March 31, 2022 at 7:12:56 PM EDT  
**To:** Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, James Megee <[james.megee@pd.boston.gov](mailto:james.megee@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>, Jeffrey Walcott <[jeffrey.walcott@pd.boston.gov](mailto:jeffrey.walcott@pd.boston.gov)>  
**Subject:** Fwd: **Substituted Committee Report and substituted new draft**

Signed ordinance attached

----- Forwarded message -----

**From:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 7:11 PM  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**To:** Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

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**From:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 7:08 PM  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**To:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

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**From:** Christine O'Donnell <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
**Date:** Wed, Mar 30, 2022 at 11:18 AM  
**Subject:** Substituted Committee Report and substituted new draft  
**To:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

---

One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
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- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read 'Ra', followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations





## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Jason Gilmore <jason.gilmore@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 8:57 PM EDT  
**To:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**CC:** Darrin Greeley <darrin.greeley@pd.boston.gov>  
**Subject:** Re: Substituted Committee Report and substituted new draft  
**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"  
Got it.

(Sent from my iPhone)

Respectfully,

Sergeant Detective Jason S. Gilmore Sr.

Boston Police Department

Office of the Police Commissioner

Dignitary Protection Unit

One Schroeder Plaza

Boston, Ma 02120

617-343-4486

[617-594-3378](tel:617-594-3378) cell

[Jason.Gilmore@pd.boston.gov](mailto:Jason.Gilmore@pd.boston.gov)

"First in the Nation"

On Mar 31, 2022, at 7:28 PM, Gerard Bailey <gerard.bailey@pd.boston.gov> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>  
**Date:** March 31, 2022 at 7:12:56 PM EDT  
**To:** Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, James Megee <[james.megee@pd.boston.gov](mailto:james.megee@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>, Jeffrey Walcott <[jeffrey.walcott@pd.boston.gov](mailto:jeffrey.walcott@pd.boston.gov)>  
**Subject:** Fwd: Substituted Committee Report and substituted new draft

Signed ordinance attached

----- Forwarded message -----

**From:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 7:11 PM  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**To:** Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

**From:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 7:08 PM  
**Subject:** Fwd: Substituted Committee Report and substituted new draft

To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>

Date: Wed, Mar 30, 2022 at 11:18 AM

Subject: Substituted Committee Report and substituted new draft

To: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg  
<[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!

Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--

**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

---

One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,*

submits a report recommending that this docket **ought to pass in a new draft**.

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations





## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

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The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

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### **Rationale and Recommended Action:**

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By the Chair of the Committee on Government Operations, to which the following was referred:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,*

submits a report recommending that this docket **ought to pass in a new draft**.

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations



## **CITY OF BOSTON IN CITY COUNCIL**

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Filed in Council: March 30, 2022.



**From:** Neil Doherty <neil.doherty@boston.gov>  
**Sent:** Thursday, March 31, 2022 7:11 PM EDT  
**To:** Adam Cederbaum <adam.cederbaum@boston.gov>; Chris Osgood <chris.osgood@boston.gov>; Clare Kelly <clare.kelly@boston.gov>; David Fredette <david.fredette@pd.boston.gov>; Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>; Pilar Ortiz <pilar.ortiz@boston.gov>  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

From: **Yasmine Raddassi** <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:08 PM  
Subject: Fwd: Substituted Committee Report and substituted new draft  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

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Date: Wed, Mar 30, 2022 at 11:18 AM  
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Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

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[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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**YASMINE RADDASSI**  
Director of Research, Policy, and Budget  
[Office of City Councilor Ricardo Arroyo](#)  
[1 City Hall Sq., Boston, MA 02201](#)  
617-635-4210

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Sent from mobile, please excuse any typos and brevity.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

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The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations



## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 6:45 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

Jen,

Would you happen to have the final version of the picketing ordinance that was passed? Thank you.

Greg

Sent from my iPhone



**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

**Sent:** Thursday, March 31, 2022 8:45 PM EDT

**To:** Gregory Long <gregory.long@pd.boston.gov>

**Subject:** Re:

Chief, I just forwarded it to you.

Sent from my iPhone

> On Mar 31, 2022, at 6:45 PM, Gregory Long <gregory.long@pd.boston.gov> wrote:

>

> Jen,

>

> Would you happen to have the final version of the picketing

> ordinance that was passed? Thank you.

>

>

Greg

>

> Sent from my iPhone

**From:** Paul Joseph <paul.joseph@pd.boston.gov>  
**Sent:** Friday, April 15, 2022 1:53 PM EDT  
**To:** John Ezekiel <john.ezekiel@pd.boston.gov>  
**Subject:** IAD2022-0136  
**Attachment(s):** "IAD2022-0136 Docket #0312 Residential Picketing Ordinance.pdf"

Hello John,

I hope all is well with you.

I'm reaching out to you because it is my understanding that you teach the City Ordinance class at the academy. I'm interested in what your thoughts are on if a person could be arrested for a willful violation of the Ordinance regarding targeted residential picketing Chapter XVI Section 16-62: See attached document. Also what chapter and section grants that power to arrest.

Further, regarding the use of an amplified device, what Law grants the power of arrest for that city Ordinance violation.

Best regards,

Paul Joseph  
IAD



City of Boston, Massachusetts  
Office of the Mayor  
**Michelle Wu**

February 28, 2022

**TO THE CITY COUNCIL**

Dear Councilors:

I transmit herewith for your approval an Order, An Ordinance Regarding Targeted Residential Picketing, to protect the quality of residential life in our city. The City of Boston (the "City") has a legacy of supporting activism and free speech. The City also strives to ensure quality of life in every neighborhood. The practice of targeted residential picketing—which means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence and which takes place before or about the targeted residence—harasses residents and neighbors in their private homes and communities. Targeted residential picketing that occurs late at night or early in the morning increases the intrusion on the privacy and sanctity of the home, and is particularly harassing and detrimental to the sleep and well-being of families, including seniors and families with children.

The City is committed to the First Amendment right to protest, while upholding our responsibility to safeguard residents' privacy and the quality of residential life. This proposed regulation regarding targeted residential picketing does not prohibit picketing in residential areas or marches that pass through residential areas. Rather, it applies parameters to protect residents' well-being through reasonable restrictions on picketing directed at a specific residence only at night and in the early morning. Many other opportunities also exist for individuals to exercise their important free speech rights in the City, such as picketing, protesting, attending marches or rallies, or demonstrating in front of City Hall and other government buildings, on sidewalks, and in public parks and plazas, among others.

This Order will augment existing prohibitions against excessive noise, disturbing the peace, and blocking of streets and sidewalks by providing clear guidelines around targeted residential picketing.

I recommend the adoption of this Order by your Honorable Body.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Wu".

Michelle Wu  
Mayor of Boston

**CITY OF BOSTON**  
**IN CITY COUNCIL**

**AN ORDINANCE REGARDING TARGETED RESIDENTIAL PICKETING**

*Be it ordained by the City Council of Boston, as follows:*

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

**16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

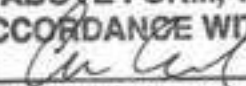
For the purpose of this section, *targeted residential picketing* means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence.

Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and statutes, including but not limited to laws concerning excessive noise, disturbing the peace, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of one hundred (\$100.00) dollars for the first offense, two hundred (\$200.00) dollars for the second offense, and three hundred (\$300.00) dollars for any third and subsequent offense.

This section shall be enforced by the Boston Police Department.

SECTION 2. This Section 16-63 shall take effect upon passage.

**I HEREBY CERTIFY  
THE FORGOING, IF PASSED IN  
THE ABOVE FORM, WILL BE IN  
ACCORDANCE WITH LAW.**  
BY   
**ADAM CEDERBAUM  
CORPORATION COUNSEL**

**From:** John Ezekiel <john.ezekiel@pd.boston.gov>  
**Sent:** Friday, April 15, 2022 3:19 PM EDT  
**To:** Paul Joseph <paul.joseph@pd.boston.gov>  
**Subject:** Re: IAD2022-0136  
**Attachment(s):** "Chapter 272 sections 59.docx"

Hi Sgt.,

All good here, thanks! I hope all is well with you.

Any individual may be arrested for a City of Boston Ordinance violation if they remain in wilful violation of that ordinance. I always recommend that a citation (whether money or warning), report, FIO, be written as proof that you have given the offender a warning. Once that is done and the individual continues to violate that ordinance, they would be considered in wilful violation. Typically you may see the violation again at a future date and again the individual may be subject to arrest. I always talk about reasonableness when deciding how long is too long between violations. Generally a year is a good measuring point.

This particular ordinance allows for an ascending fine, so the officer may use his/her discretion and continue to fine as opposed to making the arrest. Please note that the ordinance must be in presence to cite and/or arrest. That said the knowledge of one, knowledge of all applies. Example: If the individual is cited for their first offence on Friday, April 15, 2022 by PO Smith and then commits the same offence in the presence of PO James on Monday, April 18, 2022, and PO James is aware that PO Smith cited the individual on the 15th, then PO James may arrest for this violation or continue to fine.

M.G.L. 272 sec. 59 allows a police officer to make an arrest for an ordinance violation.

<https://malegislature.gov/laws/GeneralLaws/PartIV/TitleI/Chapter272/Section59#:~:text=IN%20CRIMINAL%20CASES-.Section%2059%3A%20Ordinances%20or%20regulations%20relating%20to%20streets%2C%20reservations%2C,beverages%3B%20profanity%3B%20arrest%20without%20warrant>

I hope this helps! Please let me know if you need anything else.

Best,  
John

On Fri, Apr 15, 2022 at 1:57 PM Paul Joseph <paul.joseph@pd.boston.gov> wrote:

Hello John,

I hope all is well with you.

I'm reaching out to you because it is my understanding that you teach the City Ordinance class at the academy. I'm interested in what your thoughts are on if a person could be arrested for a wilful violation of the Ordinance regarding targeted residential picketing Chapter XVI Section 16-62: See attached document. Also what chapter and section grants that power to arrest.

Further, regarding the use of an amplified device, what Law grants the power of arrest for that city Ordinance violation.

Best regards,

Paul Joseph  
IAD

--  
*Police Officer John Ezekiel*  
*Boston Police Academy Instructor*  
85 Williams Avenue  
Hyde Park, MA 02136  
617-343-9883

Chapter 272 sections 59 as amended, provides officers with a right of arrest for any violation of a city ordinance, By-law and/or rule or regulation. Such right of arrest must be exercised with prudence, intelligence, and common sense. A condition of such arrest is that the violation is committed in the officer's presence.

To prove that a person is in willful violation of an ordinance, **that person must first be notified that the act he/she is committing violates a city ordinance.** Therefore, an officer must first inform (give notice to) that individual that what he/she is doing violates a city ordinance. **If the individual after being informed (by the officer), continues to violate the ordinance in the officer's presence, an arrest can be made for the willful violation of the particular city ordinance being violated.**

**From:** Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)>  
**Sent:** Friday, April 01, 2022 3:16 PM EDT  
**To:** Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)>  
**Subject:** Re: Herald stories  
**Attachment(s):** "Civil Citation REDACTED.pdf"

Sean,  
Attached are the reports you requested.  
-Andre

On Fri, Apr 1, 2022 at 2:49 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance? Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02108

 Boston Police Department  
 Boston PD

**# 22022674 - Offense/Incident Report**

REPORTED ON DATE/TIME <b>Apr 1, 2022 08:39</b>	DISTRICT / SECTION / REPORTING AREA / SUPERVISOR A / SUPERVISOR B <b>E5 / E414</b>	OCCURRED ON DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 1, 2022 01:57</b>
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REPORTING OFFICER

**JOHN CALLAHAN #144429**

REPORT TAKEN LOCATION

**17 AUGUSTUS AVE. ROSLINDALE, MA 02131**

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

**NARRATIVE**

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E2020 Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE <b>JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)</b>	SUPERVISOR SIGNATURE / DATE <b>TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)</b>
PRINT NAME <b>JOHN CALLAHAN #144429</b>	PRINT NAME <b>TIMOTHY FITZPATRICK #011810</b>

 Boston Police Department  
 Boston PD

ALWAYS PRINT NAME AND PHONE NUMBER BY E-MAIL (2011711) ON APR 2, 2022 11:48



Upon physical receipt of the city ordinance [REDACTED] acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. [REDACTED] then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue [REDACTED] City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

[REDACTED] was picked up at her residence by her security detail and when the [REDACTED] car began to drive off, [REDACTED] in her personal vehicle, began following the [REDACTED] car while using an amplifying device to yell and harass the [REDACTED]. Sgt. Detective Chin, of the [REDACTED] observed [REDACTED] following the [REDACTED] vehicle and heard her yelling at the [REDACTED] using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] for violation of ordinance 16-63, [REDACTED] for violation of ordinance 16-63 and [REDACTED] for violation of city ordinances 16-63 and 16-88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

## REPORTING PARTY - 1

REPORTING PARTY - 1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HAVE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUPERVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIMS-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 Burke, Robert

DOB / ESTIMATED AGE RANGE

1956-04-04

SEX

Male

RACE / ETHNICITY

White / Unknown

SUSPECTS-2

SUSPECTS-2 NAME (LAST, FIRST MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female	White / Unknown
--------	-----------------

**SUSPECTS-B**

SUSPECTS-B NAME LAST, FIRST MIDDLE

DOB / ESTIMATED AGE BIRTH

SEX

RACE / ETHNICITY

Female

Asian / Unknown

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

TIMOTHY FITZPATRICK #011810

**IN 222022674 - Supplemental- 1 Report**

REPORTED ON DATE / TIME Apr 1, 2022 13:30	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Apr 1, 2022 07:30	REPORTING OFFICER JOHN CALLAHAN #144429
--	--	--

SUPPLEMENT TYPE

Complaint/Warrant

**NARRATIVE**

On further investigations by Sergeant Detective Cheevers of City Hall Security two more protesters have been identified as [REDACTED] and [REDACTED]

Sgt. Det. Cheevers was able to identify the [REDACTED] and [REDACTED] after reviewing body worn cameras footage from the protest. [REDACTED] and [REDACTED] were confirmed to be at the protest by the E901 Sergeant O'Brien.

Civil complaint have ben sought against [REDACTED] and [REDACTED] for violation of City Ordinance 16-63.

**INVOLVED PERSONS**

INVOLVED PERSON 1 NAME (LAST, FIRST AND MIDDLE)

P-1 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

INVOLVED PERSON 2 NAME (LAST, FIRST AND MIDDLE)

P-2 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

**RELATIONSHIPS ADDENDUM**

NAME	RELATIONSHIP	SUBJECT
[REDACTED]	RELATIONSHIP UNKNOWN	[REDACTED]

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 13:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

STEPHEN O'BRIEN #009033 Apr 1, 2022 13:47 (e-signature)

PRINT NAME

STEPHEN O'BRIEN #009033

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:35 PM EDT  
**To:** Sean Cotter <sean.cotter@bostonherald.com>  
**Subject:** Re: Herald stories  
**Attachment(s):** "E18 Incident REDACTED.pdf"

Sean,  
Here is the other portion of your request.

On Fri, Apr 1, 2022 at 12:13 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
DEPARTMENT

1 COMMODORE PLAZA | BOSTON, MA 02129

 Boston Police Department  
 Boston PD

**# 22022012 - Offense/Incident Report**

REPORTED ON DATE / TIME Mar 29, 2022 20:18	DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION A / SUBDIVISION B E18 / L411	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Mar 29, 2022 18:15
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## REPORTING OFFICER

STEPHEN CRIMMINS #010395

## REPORT TAKEN LOCATION

427 CUMMINS HWY, ROSLINDALE, MA 02136

## EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                         | <input type="checkbox"/> Drugs             |
| <input type="checkbox"/> Sexual Assault              | <input type="checkbox"/> NIDV              |
| <input type="checkbox"/> Child Present               | <input type="checkbox"/> Homeless          |
| <input type="checkbox"/> CRU - Hate/Bias             | <input type="checkbox"/> Car Jack          |
| <input type="checkbox"/> Other Agency/Unit Notified  | <input type="checkbox"/> Bicycle           |
| <input type="checkbox"/> DVIP                        | <input type="checkbox"/> Licensed Premise  |
| <input type="checkbox"/> Warrant Arrest              | <input type="checkbox"/> School            |
| <input type="checkbox"/> Juvenile                    | <input type="checkbox"/> Disabled          |
| <input checked="" type="checkbox"/> Gang             | <input type="checkbox"/> Search Warrant    |
| <input type="checkbox"/> Homeland Security           | <input type="checkbox"/> Shots Fired       |
| <input type="checkbox"/> Sex Offender                | <input type="checkbox"/> Elderly           |
| <input type="checkbox"/> Homeland Security UASI      | <input type="checkbox"/> Victim Shot       |
| <input type="checkbox"/> Home Invasion               | <input type="checkbox"/> Victim Stabbed    |
| <input type="checkbox"/> Human Trafficking           | <input type="checkbox"/> Child Abuse       |
| <input checked="" type="checkbox"/> Body Worn Camera | <input type="checkbox"/> Auto Investigator |

**NARRATIVE**

About 6:18pm P/O Crimmings in the L421F car responded to a R/C at the Oak Lawn Cemetery 427 Cummins Highway for a report of a larceny.

On arrival P/O was waved down by the caller/victim [REDACTED] who informed P/O that she had been sent a picture on her cell phone showing [REDACTED] (Gerrod Brown) head stone at an undisclosed location in Mission Hill. [REDACTED] stated she the went to [REDACTED] grave at Oak Lawn Cemetery and found the head stone gone. [REDACTED] stated that the theft of the head stone had been on social media from unknown sources stating that the headstone was in Mission Hill somewhere.

While on scene with the L80 Lt. Det. Leary and L807 Det. Onishuck officers were advised that the head stone had been located/recovered by BPD officers of the youth Violence Strike Force. Det. Michael Walsh and the VK10 P/O's Lekaditis/Smerz/Stones arrived at Oak Lawn Cemetery with the recovered head stone. P/O Crimmings was informed that the head stone was recovered by P/O's Lekaditis/Smerz/Stones at 60 Annunciation Rd.

## REPORTING OFFICER SIGNATURE / DATE

STEPHEN CRIMMINS #010395 Mar 29, 2022 20:57 (e-signature)

## PRINT NAME

STEPHEN CRIMMINS #010395

## SUPERVISOR SIGNATURE / DATE

TRACEY FENTON #102358 Mar 29, 2022 21:32 (e-signature)

## PRINT NAME

TRACEY FENTON #102358

Due to the cemetery facilities being closed and on going issues involving the theft of the head stone and other instances of vandalism inside the cemetery the decision was made to transport the head stone to Dist. 18 where it was placed in the wagon bay for safekeeping.

The headstone was missing a picture/medallion that was affixed to the stone. The headstone was also observed to have stains to the front of the stone.

Det. Onishuck photographed the recovered headstone.

## REPORTING PARTY -1

REPORTING PARTY -1 (PERSON)

DOB / ESTIMATED AGE RANGE

SEX	RACE / ETHNICITY	PHONE NUMBER
Female	Black / Not of Hispanic Origin	[REDACTED]
HOME ADDRESS		
[REDACTED]		
REPORTING PARTY SIGNATURE		

## OFFENSE-1

OFFENSE CODE

LARCENY ALL OTHERS

OCURRED FROM DATE/TIME	OFFENSE COMPLETION	SUSPECTED RATE CRIME	DOMESTIC VIOLENCE
Mar 29, 2022 18:15	<input checked="" type="checkbox"/> COMPLETED <input type="checkbox"/> ATTEMPTED	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

INCLUDES CARGO THEFT

☐ YES ☒ NO

## OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

427 CUMMINS HWY

CITY	STATE	ZIP	COUNTRY/PR CODE
ROSLINDALE	MA	02136	US
LOCATION CATEGORY	DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION A / SUBDIVISION S	PUBLIC / PRIVATE	
Other/Unknown	E18 / L411	Private	

## VICTIMS-1

VICTIM-1 NAME (LAST, FIRST MIDDLE)

DOB / ESTIMATED AGE RANGE

SEX	RACE / ETHNICITY	PHONE NUMBER
Female	Black / Not of Hispanic Origin	[REDACTED]
HOME ADDRESS		
[REDACTED]		
VICTIM-1 OFFICER		

☐ YES ☒ NO

## SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 UNKNOWN, UNKNOWN

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
STEPHEN CRIMMINS #010395 Mar 29, 2022 20:57 (e-signature)	TRACEY FENTON #102358 Mar 29, 2022 21:32 (e-signature)
PRINT NAME	PRINT NAME
STEPHEN CRIMMINS #010395	TRACEY FENTON #102358

**VEHICLE / PROPERTY & ITEMS SUMMARY**

DESCRIPTION / MAKE / MODEL / COLOR	STATUS / DATE / REASON FOR CUSTODY	YEAR / SECTOR	QTY.	TOTAL \$ VALUE
Head Stone / Unknown / Gray	Stolen / Mar 29, 2022 / Found / Recovered Property		1	4000

**RELATIONSHIPS ADDENDUM**

NAME	RELATIONSHIP	SUBJECT
[REDACTED]	RELATIONSHIP UNKNOWN	UNKNOWN UNKNOWN

**PROPERTY & ITEMS ADDENDUM**

222022012-1 OTHER ITEM - HEAD STONE	
ITEM CATEGORY	RECORDED
Other	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

DESCRIPTION
Head Stone
COLOR
Gray
OWNER - GRANDFATHER OF DECEASED
[REDACTED]

STATUS	STATUS DATE	TOTAL \$ VALUE	QUANTITY
Stolen	Mar 29, 2022 18:15	4000	1

IN POLICE CUSTODY	REASON FOR POLICE CUSTODY
Yes	Found/Recovered Property

RECOVERING OFFICER / ID # / PERSON
PETER LEKADITIS #144452

PROPERTY LINKED TO
Offense 1

ORIGIN OF LOCATION / INITIAL PERSON
DISTRICT > E10

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
STEPHEN CRIMMINS #010395 Mar 29, 2022 20:57 (e-signature)	TRACEY FENTON #102358 Mar 29, 2022 21:32 (e-signature)
PRINT NAME	PRINT NAME
STEPHEN CRIMMINS #010395	TRACEY FENTON #102358

**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Tuesday, April 05, 2022 8:59 AM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** [GovQA] New Assignment - B000861-040522

☐ A request has been **assigned** to you

## Police Records Request / [B000861-040522](#)

### **Request Information**

Assigned John Boyle

Staff:

Status: New Request

Create 4/5/2022 9:00:00 AM

Date:

Requester: Sean Cotter , The Boston Herald

Type of Media Request

Request:

Record(s) Hi all, How many tickets do officers issue to protesters this morning via the new residential picketing ordinance?

Requested: Could I have copies of those citations? Also ... my understanding is there is video of a gang dispute that involves

Case / kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report

Incident available about the incidents in question? You can reach me at 857-939-0994. Thanks, Sean

Number

Date or

Date

Range of

Record(s)

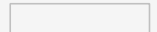
Location /

Address of

Incident

To access the request, please access the [Boston Public Records Center](#)

This is an auto-generated email and has originated from an unmonitored email account. Please DO NOT REPLY.





**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Monday, April 25, 2022 1:06 PM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** [GovQA] New Assignment - B001052-042522

☐ A request has been **assigned** to you

## Police Records Request / [B001052-042522](#)

### **Request Information**

Assigned John Boyle

Staff:

Status: New Request

Create 4/25/2022 9:00:00 AM

Date:

Requester: Emma Platoff , Boston Globe

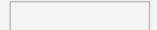
Type of Media Request

Request:

Record(s) Hi there, any word on this arrest report? And can you confirm that this is the first arrest of a protester outside Mayor  
Requested: Wu's home? I see a case filed against Shannon Llewellyn, is that the woman who was arrested this morning?  
Case / 2206CR000371 On Mon, Apr 25, 2022 at 10:36 AM Platoff, Emma wrote: Hey all, Another question on this. My  
Incident understanding from earlier this month was that nine fines had been issued to eight individuals (one person given two  
Number fines). But I just spoke with someone in the clerk's office in West Roxbury who said that the protesters had not been  
Date or fined, but had been charged criminally for violating the city ordinance. Can you clarify what has happened to other  
Date protesters outside the mayor's home since the new picketing ordinance went into effect? Thanks, Emma  
Range of  
Record(s)  
Location /  
Address of  
Incident

To access the request, please access the [Boston Public Records Center](#)

This is an auto-generated email and has originated from an unmonitored email account. Please DO NOT REPLY.



**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Thursday, April 07, 2022 11:39 AM EDT  
**To:** Jessica Pierre <jessicah.pierre@boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>; Emma Pettit <emma.pettit@boston.gov>  
**Subject:** Fwd: Globe question on picketing ordinance

Good morning press team,

Do we know if these fines are paid at City Hall?

----- Forwarded message -----

From: **Platoff, Emma** <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
Date: Thu, Apr 7, 2022 at 11:30 AM  
Subject: Re: Globe question on picketing ordinance  
To: John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>

Hi there, just following up on this! Let me know if there is someone else I should try.

Also, wondering if you can share any updates on how many violations have been cited / fines given out outside the mayor's home since the new ordinance went into effect?

Thanks,  
Emma

On Tue, Apr 5, 2022 at 1:18 PM Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)> wrote:

Hi Sergeant Detective Boyle,

Hope you're doing well! Reaching out with a quick question on enforcement for the city's new targeted picketing ordinance. I'm not working on a deadline on this today, but want to make sure I understand this for future coverage.

I know the ordinance includes fines (\$50 for first offense, etc.) but I'm wondering how enforcement will function if those fines are not paid? I know violators face additional penalties if they do not pay parking tickets on time, for example -- is there a similar schedule for escalating penalties here?

Let me know if this question is better directed elsewhere. Thanks for your help as always!  
Emma

--

Emma Platoff  
Politics reporter  
203-530-6009 (c)  
@emmaplatoff  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

--

*Sergeant Detective John Boyle*  
*Boston Police Department*  
*Office of Media Relations*  
*1 Schroeder Plaza*  
*Boston, Massachusetts, 02120*  
617-343-4520

**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>

**Sent:** Tuesday, April 05, 2022 1:18 PM EDT

**To:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>

**Subject:** Globe question on picketing ordinance

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Emma Platoff

Politics reporter

203-530-6009 (c)

@emmaplatoff

[emma.platoff@globe.com](mailto:emma.platoff@globe.com)

**From:** Adam Cederbaum <adam.cederbaum@boston.gov>

**Sent:** Thursday, April 07, 2022 1:13 PM EDT

**To:** Emma Pettit <emma.pettit@boston.gov>

**CC:** John Boyle <johnt.boyle@pd.boston.gov>; Kelly Mitchell <kelly.mitchell@boston.gov>; Michael Osaghae <michael.osaghae@boston.gov>; Press Office <press.office@boston.gov>; Jessica Pierre <jessica.pierre@boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>

**Subject:** Re: Globe question on picketing ordinance

Hi All,

The fines in the ordinance are imposed pursuant to the City's authority under G. L. c. 40, s. 21D. That statute provides that fines may be paid by mail to the City Clerk or at the district court for the district within which the ticket was issued.

John, I am also going to start a separate chain on this with Dave, Rob, and Jess, because it might be useful to check in about the violation book that BPD uses to write tickets like this, and confirm that it directs payments in that manner.

Thanks,

Adam

On Thu, Apr 7, 2022 at 11:51 AM Emma Pettit <emma.pettit@boston.gov> wrote:

Hi Sgt. Boyle,

Adding Adam here to see if he has any insight on this process.

Thanks,  
Emma

On Thu, Apr 7, 2022 at 11:39 AM John Boyle <johnt.boyle@pd.boston.gov> wrote:

Good morning press team,

Do we know if these fines are paid at City Hall?

----- Forwarded message -----

**From:** Platoff, Emma <emma.platoff@globe.com>

**Date:** Thu, Apr 7, 2022 at 11:30 AM

**Subject:** Re: Globe question on picketing ordinance

**To:** John Boyle <johnt.boyle@pd.boston.gov>

Hi there, just following up on this! Let me know if there is someone else I should try.

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*Office of Media Relations*  
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*Boston, Massachusetts, 02120*  
*617-343-4520*

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	<b>Emma Pettit</b> Deputy Press Secretary Office of Mayor Michelle Wu 617-635-4461 (w) 617-980-9739 (c)
---	--

**From:** Emma Pettit <emma.pettit@boston.gov>  
**Sent:** Thursday, April 07, 2022 11:50 AM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>; Adam Cederbaum <adam.cederbaum@boston.gov>; Kelly Mitchell <kelly.mitchell@boston.gov>; Michael Osaghae <michael.osaghae@boston.gov>; Press Office <press.office@boston.gov>  
**CC:** Jessica Pierre <jessicah.pierre@boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>  
**Subject:** Re: Globe question on picketing ordinance

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Date: Thu, Apr 7, 2022 at 11:30 AM  
Subject: Re: Globe question on picketing ordinance  
To: John Boyle <johnt.boyle@pd.boston.gov>

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*Office of Media Relations*  
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*Boston, Massachusetts, 02120*  
*617-343-4520*

--

	<p><b>Emma Pettit</b> Deputy Press Secretary Office of Mayor Michelle Wu 617-635-4461 (w) 617-980-9739 (c)</p>
---	--

**From:** Platoff, Emma <[emma.platoff@globe.com](mailto:emma.platoff@globe.com)>  
**Sent:** Thursday, April 07, 2022 11:29 AM EDT  
**To:** John Boyle <[johnt.boyle@pd.boston.gov](mailto:johnt.boyle@pd.boston.gov)>  
**Subject:** Re: Globe question on picketing ordinance

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203-530-6009 (c)  
[@emmaplatoff](mailto:@emmaplatoff)  
[emma.platoff@globe.com](mailto:emma.platoff@globe.com)



**From:** Mail Delivery Subsystem <mailer-daemon@mx0a-00241402.pphosted.com>

**Sent:** Monday, April 25, 2022 3:01 PM EDT

**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>

**Subject:** Returned mail: see transcript for details

**Attachment(s):** "ATT00001.bin", "details.txt", "Re: News Clips Round 2 for Monday, April 25, 2022"

**From:** John Boyle <johnt.boyle@pd.boston.gov>

**Sent:** Monday, April 25, 2022 3:01 PM EDT

**To:** Gregory Long <gregory.long@pd.boston.gov>; Paul Donovan <paul.donovan@pd.boston.gov>; Winifred Cotter <winifred.cotter@pd.boston.gov>; Charles Wilson <charles.wilson@pd.boston.gov>; Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>; Nora Baston <nora.baston@pd.boston.gov>; Marcus Eddings <marcus.eddings@pd.boston.gov>; Gerard Bailey <gerard.bailey@pd.boston.gov>; Felipe Colon <felipe.colon@pd.boston.gov>; Kenneth Gaines <kenneth.gaines@pd.boston.gov>; James Chin <james.chin@pd.boston.gov>; Richard Dahill <richard.dahill@pd.boston.gov>; Sharon Dottin <sharon.dottin@pd.boston.gov>; Carmen Curry <carmen.curry@pd.boston.gov>; Luis Cruz <luis.cruz@pd.boston.gov>; James Miller <james.miller@pd.boston.gov>; John Boyle <johnt.boyle@pd.boston.gov>; David Fredette <david.fredette@pd.boston.gov>; Mark Hayes <mark.hayes@pd.boston.gov>; Terry Thomas <terry.thomas@pd.boston.gov>; Leighton Facey <leighton.facey@pd.boston.gov>; Steven Sweeney <steven.sweeney@pd.boston.gov>; Therese Kozmiski <therese.kozmiski@pd.boston.gov>; Joseph Boyle <joseph.boyle@pd.boston.gov>; Captain Kelley McCormick <kelley.mccormick@pd.boston.gov>; Steven McLaughlin <steven.mclaughlin@pd.boston.gov>; Paul Russell <paul.russell@pd.boston.gov>; Joseph Gillespie <joseph.gillespie@pd.boston.gov>; Phillip Terenzi <phillip.terenzi@pd.boston.gov>; John Davin <john.davin@pd.boston.gov>; Wayne Lanchester <wayne.lanchester@pd.boston.gov>; Timothy Connolly <timothy.connolly@pd.boston.gov>; Darrin Greeley <darrin.greeley@pd.boston.gov>; Robert Ciccolo <robert.ciccolo@pd.boston.gov>; John Danilecki <john.danilecki@pd.boston.gov>; James Gaughan <james.gaughan@pd.boston.gov>; James Moccia <james.moccia@pd.boston.gov>; James Kenneally <james.kenneally@pd.boston.gov>; Kim Tavares <kim.tavares@pd.boston.gov>; David Estrada <david.estrada@pd.boston.gov>; Maisha Miraj <maisha.miraj@pd.boston.gov>; Stephen McNulty <stephen.mcnulty@pd.boston.gov>; Desiree Dusseault <desiree.dusseault@pd.boston.gov>; Kathy Kearney <kathy.kearney@pd.boston.gov>; Dana McGillicuddy <dana.mcgillicuddy@pd.boston.gov>; Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>; Joyce Fitzgerald <joyce.fitzgerald@pd.boston.gov>; Kerry Ryan <kerry.ryan@pd.boston.gov>; Laura Dickerson <laura.dickerson@pd.boston.gov>; Martha DeMaio <martha.demaio@pd.boston.gov>; David Carabin <david.carabin@pd.boston.gov>; Ryan Walsh <ryan.walsh@pd.boston.gov>; Michael Gaskins <michael.gaskins@pd.boston.gov>; Narteeca Mitchell <narteeca.mitchell@pd.boston.gov>; Nickisha Gales <nickisha.gales@pd.boston.gov>; Richard Whalen <richard.whelen@pd.boston.gov>; Rosangela Pina-Tavares <rosangela.pina-tavares@pd.boston.gov>; Kerry Sullivan <kerry.sullivan@pd.boston.gov>; Brian Larkin <brian.larkin@pd.boston.gov>; Stephen Romano <stephen.romano@pd.boston.gov>; Henry Staines <henry.staines@pd.boston.gov>; Thomas Lema <thomas.lema@pd.boston.gov>; Tianna Musto <tianna.musto@pd.boston.gov>; Tina Cellucci <tina.cellucci@pd.boston.gov>; Timothy Denio <timothy.denio@pd.boston.gov>; Kevin Kosiorek <kevin.kosiorek@pd.boston.gov>; Christopher Carroll <christopher.carroll@pd.boston.gov>; Mary Ryan <mary.ryan@pd.boston.gov>; Juliana Susi <juliana.susi@pd.boston.gov>; Lisa O'Brien <lisa.obrien@pd.boston.gov>; Christopher Markunas <christopher.markunas@pd.boston.gov>; Mark Harrington <mark.harrington@pd.boston.gov>; Emanuel Canuto <emanuel.canuto@pd.boston.gov>; Anthony Rizzo <anthony.rizzo@pd.boston.gov>; Jason Gilmore <jason.gilmore@pd.boston.gov>; Paul McLaughlin <paul.mclaughlin@pd.boston.gov>; Edward Meade <edward.meade@pd.boston.gov>; Maria Cheevers <maria.cheevers@pd.boston.gov>; Jenna Savage <jenna.savage@pd.boston.gov>; Francis DeLuca <francis.deluca@pd.boston.gov>; Tracy Kenney <tracy.kenney@pd.boston.gov>; Demon Bills <demon.bills@pd.boston.gov>; Jason Whyte <jason.whyte@pd.boston.gov>; Chelsey Wiesman <chelsey.wiesman@pd.boston.gov>; Shandra Lerro <shandra.lerro@pd.boston.gov>; John Flynn <john.flynn@pd.boston.gov>; Thomas Foley <thomas.foley@pd.boston.gov>; Victor Evans <victor.evans@pd.boston.gov>; Karen Kelleher <karen.kelleher@pd.boston.gov>; Shea Kelly <shea.kelly@pd.boston.gov>; Mary Lee <mary.lee@pd.boston.gov>; Jennifer Fahey <jennifer.fahey@pd.boston.gov>; James MeGee <james.megee@pd.boston.gov>; James Tarantino <james.tarantino@pd.boston.gov>; Eddy Chrispin <eddy.chrispin@pd.boston.gov>; Gerald Cahill <gerald.cahill@pd.boston.gov>; Jacqueline Massua <jacqueline.massua@pd.boston.gov>; Jillian Serra <jillian.serra@pd.boston.gov>; James Conley <jamesb.conley@pd.boston.gov>; John Hughes <john.hughes@pd.boston.gov>; Marianne Joyce <marianne.joyce@pd.boston.gov>; Lynette Williams <lynette.williams@pd.boston.gov>; Gary Eblan <gary.eblan@pd.boston.gov>; Bridie Brienzi <bridie.brienzi@pd.boston.gov>; Thomas O'Leary <thomas.oleary@pd.boston.gov>; Ethan Cole <ethan.cole@pd.boston.gov>; George Juliano <george.juliano@pd.boston.gov>; Kathryn Stanton <kathryn.stanton@pd.boston.gov>; Omar Bennani <omar.bennani@pd.boston.gov>; Garrett Mitchell <garrett.mitchell@pd.boston.gov>; Charlie Daniels <charlie.daniels@pd.boston.gov>; Daniel Duff <daniel.duff@pd.boston.gov>; Mark Assad <mark.assad@pd.boston.gov>; 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**Subject:** Re: News Clips Round 2 for Monday, April 25, 2022

<https://www.bostonglobe.com/2022/04/25/metro/protester-arrested-outside-mayor-wus-home/>

# Protester is arrested outside Boston Mayor Michelle Wu's home

By [Emma Platoff](#) Globe Staff, Updated April 25, 2022, 38 minutes ago

Boston police on Monday morning arrested a protester outside the home of Mayor Michelle Wu, the first arrest made after months of vocal demonstrations in Wu's quiet Roslindale neighborhood.

Shannon Llewellyn was arrested around 7:45 a.m. outside Wu's home, according to a police incident report, and will be charged with "willful violation" of a new city ordinance that prohibits targeted protests between the hours of 9 p.m. and 9 a.m.

Monday's arrest appears to mark an escalation in police response to the ongoing protests outside Wu's home.

Since early January, critics of Wu's COVID-19 restrictions, particularly her vaccine mandate for city employees, have gathered early in the morning outside her Roslindale home to bang drums, blow whistles, and shout their opposition to her policies. Several Boston police officers are stationed outside Wu's home during the protests, but until recently, they had not taken any enforcement action against demonstrators. Police officials said they were doing their best to balance free speech rights with quality of life in the neighborhood.

Last month, Wu proposed and succeeded in passing a new city ordinance that barred targeted protests between 9 p.m. and 9 a.m., effectively pushing back by two hours the time when noisy demonstrations could lawfully begin outside her home or any other private residence. Previously, a city noise ordinance had required quiet only until 7 a.m., allowing the demonstrators to begin shouting and drumming when many of Wu's neighbors were still asleep or just beginning their morning routines.

Neighbors say protests have continued, if less frequently, even after the ordinance went into effect almost a month ago. The ordinance promised fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses.

Just one day after Wu signed the new ordinance, five demonstrators [were cited](#) near her home for violating it. Police officials said Monday that 10 people have been cited under the new rules and referred to the Boston municipal court in West Roxbury.

According to the police report, Llewellyn and three other protesters were gathered near Wu's home around 7:30 a.m. Monday. A police sergeant gave the protesters a copy of the new city ordinance that prohibits targeted picketing at that hour and warned them that they would be subject to arrest if they did not leave. Llewellyn refused to leave and began to bang a cooking utensil against a pot she had brought "in a disturbing manner," according to the report.

This is the second time Llewellyn has been charged with violating the protesting ordinance, according to the police report.

Asked about the arrest Monday at an unrelated event, Wu deflected, saying "we want to make sure the energy and the momentum is focused on getting things done."

She said she was grateful for public safety workers and did not say whether she was home when the arrest was made.

Earlier this month, another Wu critic and protester, Catherine Vitale, was [arrested](#) for allegedly assaulting a police officer while protesting during a press conference at Boston City Hall.

*Danny McDonald of the Globe staff contributed to this report.*

On Mon, Apr 25, 2022 at 2:21 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonglobe.com/2022/04/25/metro/former-boston-police-union-head-patrick-rose-plead-guilty-abuse-charges/>

# Former Boston police union head Patrick Rose pleads guilty to abuse charges, sentenced to 13 years in prison

By [Andrew Ryan](#) and [Ivy Scott](#) Globe Staff, Updated April 25, 2022, 2 hours ago

Patrick M. Rose Sr., the onetime president of the city's powerful patrolmen's union, pleaded guilty Monday to molesting six children over decades in a case that exposed deep institutional failings within the Boston Police Department. He was sentenced to at least 10 years in prison, with a maximum of 13 years.

Rose had been allowed to keep his badge for 20 years after top police officials determined he more than likely sexually abused a child in 1995. Despite that finding, Rose remained on patrol in Dorchester, where he interacted with children and sexual assault victims and eventually ascended to the presidency of the Boston Police Patrolmen's Association.

The revelation, published in a Globe investigation in April 2021, underscored the secrecy of the nation's oldest police department, which has a history of protecting officers accused of misconduct.

In Suffolk Superior Court, Rose pleaded guilty to many of the allegations against him. Rose had been charged with 33 counts of sexual abuse of six children ranging in age from 7 to 16 and had maintained his innocence.

In an wrenching hearing, Rose's victims addressed their abuser, reading impact statements aloud in court.

"You might have hurt me for three years straight but now I'm getting stronger and stronger," said one of the victims, a teenager whom the Globe is not identifying because they were the victim of sexual assault. "Now all the anger and hatred isn't pointed towards myself. It's pointed towards you."

Rose retired in 2018 and was arrested in August 2020. Last April, the Globe reported that the Boston Police Department in 1995 filed a criminal complaint against Rose for sexual assault on a 12-year-old. Prosecutors say the victim ultimately recanted under pressure from Rose, a common phenomenon for young survivors of abuse when faced with demands from their abuser.

Prosecutors dropped the criminal charge and Rose's abuse escalated and included more victims, court records state. Once the criminal case ended, the police department proceeded with a separate administrative investigation.

That internal investigation concluded Rose likely molested the child. Records show that despite the determination Rose probably broke the law, police officials never recommended that Rose be fired.

In fact, there had been no indication that Rose faced any discipline other than initially being barred from carrying a gun and temporarily relegated to desk duty. Instead, Rose's internal affairs file included the notation "Try to settle prior to hearing."

Ultimately the patrolmen's association threatened to file a grievance on Rose's behalf. An attorney for the union sent a letter to Commissioner Evans on Oct 20, 1997, raising a number of issues. Two days later, Evans sent a terse memo to the internal investigations chief, Ann Marie Doherty.

"Please see me on this," Evans wrote.

Rose returned to duty. Evans and Doherty released a joint statement in April 2021 defending their actions, saying that they were unable to discipline Rose because they did not have a witness or other evidence.

**RELATED: [Timeline of the Boston Police Department's Patrick Rose scandal](#)**

"We believed at the time, and we still believe, that everything that could be done by the Boston Police Department was done in this matter to hold Rose accountable," the statement read.

The fallout from Rose's case extended beyond his six victims, reverberating at City Hall and beyond. Former Mayor Martin J. Walsh's administration had refused to release public records related to the internal affairs investigation of Rose, even after a rebuke from the state's supervisor of public records.

Walsh's successor, former acting mayor Kim Janey, reversed course and released a small portion of Rose's internal affairs file. Janey also pushed to require Boston police to notify a City Hall oversight agency whenever one of its officers is accused of a crime.

"Swift action should have been taken" in the 1990s to remove Rose from the department, Janey said at a City Hall press conference last summer. "It is shameful that it seems the actions taken were to protect their own, rather than to protect children."

<https://boston.cbslocal.com/2022/04/25/patrick-rose-former-boston-police-union-president-guilty-plea-child-rape-sex-abuse-charges/>

# Patrick Rose, Former Boston Police Union President, Sentenced To 10-13 Years On Child Rape Charges

BOSTON (CBS) – [Patrick Rose](#), the former president of the Boston Police Patrolmen's Association, was sentenced to 10-to-13 years in prison Monday for molesting six children over a 27-year period.

Rose was facing 33 charges in connection with the rape and abuse of the children between the ages of 7 and 16 at his home in West Roxbury between 1993 and 2020. Twelve of those charges were dismissed Monday and Rose changed his plea to guilty in Suffolk Superior Court. He was also sentenced to ten years of probation and must register as a sex offender.

In 1995, a criminal complaint against Rose, now 67, accused him of sexually assaulting a 12-year-old child. An investigation sustained the allegation but Rose continued to work as a police officer. A new report, [released last July](#), found that there was not a thorough and independent investigation into Rose in 1995. He returned to full duty after the police union threatened to sue and prosecutors said he went on to assault more children.

In [August 2020](#), Rose was arrested after a father and his teenage daughter reported that the girl had been repeatedly molested by Rose from age 7 through 12. Within weeks, five more people came forward to accuse Rose of molesting them as children.

"Out of respect for the family, you heard the facts, you heard the judge say that she believes it's a just sentence," Suffolk District Attorney Kevin Hayden told reporters outside court, refusing to comment further on Rose's sentence.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," current union president Larry Calderone said in a statement.

<https://www.wcvb.com/article/former-boston-police-leaders-express-deep-disappointment-with-citys-release-of-documents-from-patrick-rose-case-1650898310/39814484>

## Former Boston police union president Patrick Rose pleads guilty to child rape charges

Redacted files were from a mid-90s investigation into child sex abuse allegation

### BOSTON —

A former Boston Police Department officer who later went on to become head of the police union is pleading guilty to several charges of child rape.

Patrick Rose Sr. faces 33 charges in connection with the rape and abuse of at least six children in the 1990s. Some of the charges include statutory rape and indecent assault and battery on a child. Rose pleaded not guilty in 2020 to several charges.



Rose was sentenced to 10 to 13 years in prison followed by 10 years of probation. Upon release, Rose cannot be unsupervised with children, must stay away from victims and must register as a sex offender.

"This case of child sex abuse is likely the most egregious the Commonwealth has ever seen," the prosecutor said after the court listened to victim impact statements.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Boston Police Patrolmen's Association President Larry Calderone said in a statement.

Rose joined the Boston Police Department in 1994 and spent most of his career working in Dorchester.

In December 2014, the Boston Police Patrolmen's Association voted in Rose as the union's president at their annual elections, replacing longtime union boss Thomas Nee.

Rose retired from the Boston Police Department in 2018.

The city confirmed that Rose faced a child abuse allegation in 1995 but remained on the force and was reinstated to full duty in 1997.

Along with releasing [14 redacted pages](#) of documents related to the mid-90s internal affairs investigations, then-[Mayor Kim Janey issued a statement](#) that called the department's handling of the situation "deeply unsettling."

"Based on a review of former Officer Rose's internal affairs file conducted by the City's Law Department, it is clear that previous leaders of the police department neglected their duty to protect and serve," she wrote.

Former Police Commissioner Paul F. Evans and former Superintendent Ann Marie Doherty argued the documents published by City Hall present an incomplete and unfair version of events.

"We are disappointed that the only facts presented in the City of Boston Corporation Counsel's memo were the facts that supported the press release issued by City Hall and not the Boston Police Department's complete efforts in this matter," they wrote.

<https://whdh.com/news/ex-head-of-bostons-largest-police-union-pleads-guilty-to-child-rape-charges/>

## Ex-head of Boston's largest police union pleads guilty to child rape charges

BOSTON (WHDH) - The former head of Boston's largest police union pleaded guilty Monday to nearly three dozen child rape charges.

Patrick Rose faces a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s, according to the Suffolk District Attorney's Office.

Rose, the one-time president of the Boston Police Patrolmen's Association, changed his plea to guilty during a hearing in Suffolk Superior Court.

Rose also served as a Boston police officer. He retired in 2018.

<https://www.boston25news.com/news/local/former-boston-police-officer-pleads-guilty-child-sex-abuse-case/D25QZAJH2ZGLDH7VX4NZUOAB7A/>

## Former Boston Police officer pleads guilty in child sex abuse case

DA: "These are monstrous, monstrous acts." Several of Rose's six victims delivered victim impact statements

By **Boston 25 News Staff** April 25, 2022 at 1:29 pm EDT

BOSTON — The high-profile criminal case of a former Boston Police officer and former police union president returned to court Monday for a guilty plea.

Patrick Rose, 67, was accused of a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s.

On Monday, Rose pleaded guilty to 21 those charges of molesting the six children over a 27-year period, according to the Suffolk County District Attorney's office.

Rose sentenced by Judge Mary Ames to 10-to-13 years in prison and 10 years' probation following his release. He was first accused in the summer of 2020.

Several of Rose's victims addressed the court after Rose pleaded guilty.

"I saw you for what you really are -a coward, a predator of the weak and the defenseless," the victim said.

"Your reputation? Absolutely gone," said another victim. "All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Will that's really quite ironic isn't it?"

Rose is the former president of the Boston Police Patrolmen's Association. The current president of the BPPA, Larry Calderone, released a statement following the verdict.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure, and vindication for the victims and their families," said Calderone.

"He had these children's trust from the beginning, said Suffolk County prosecutor Audrey Mark. "He didn't need to gain it. By virtue of his position, he had their trust. And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

"We can only hope that this plea today provides some level of healing and recovery for (the victims)," said Suffolk County District Attorney Kevin Hayden. "Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident. These are monstrous, monstrous acts."

A long-awaited report into the Boston Police Department's handling of the Rose case was released in April 2021.

[ [\*Mayor releases investigation into officer accused of abuse\*](#) ]

Former Boston Mayor Kim Janey released the [redacted report](#).

"It is clear that previous leaders of the police department neglected their duty to protect and serve," Janey said at the time. "Despite an internal affairs investigation in 1996 that found credible evidence to sustain the allegation against Rose for sexually assaulting a minor, it appears that the police department made no attempt to fire him."

<https://www.nbcboston.com/news/local/ex-boston-police-union-president-charged-with-child-rape-expected-to-change-plea/2702666/>

## **'Monstrous, Monstrous Acts': Ex-Boston Police Union President Pleads Guilty to Child Rape**

Patrick Rose, 67, was sentenced to 10 to 13 years in prison, plus 10 years

## probation following his release

A former head of Boston's police union facing a total of 33 charges in connection with the rape and abuse of six children over various periods of time beginning in the 1990s pleaded guilty Monday.

Patrick Rose had previously pleaded not guilty and maintained his innocence, but changed his plea during an appearance in Suffolk Superior Court. He pleaded guilty to 21 counts of child rape and sexual assault over a 27-year period and was sentenced to 10 to 13 years in prison, plus 10 years probation following his release.

Several of Rose's victims delivered victim impact statements.

One of the victims talked about the "dead-soul feeling of emotional pain" the victim experienced because of the abuse.

"I saw you for what you really are — a coward, a predator of the weak and the defenseless," the victim said.

Another victim said of Rose: "Your reputation? Absolutely gone. All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Well that's really quite ironic, isn't it?"

Rose, 67, a former Boston police officer and president of the Boston Police Patrolmen's Association, [was arrested on child sex charges in August of 2020](#) stemming from allegations that he [sexually assaulted a young relative](#) starting when she was 7.

The victim, now a teenager, told police the assaults continued for five years, until she turned 12. Rose allegedly touched her inappropriately and asked her to perform sexual acts on him in his West Roxbury home.

[Rose was later charged with the rape and abuse of five other children](#) Prosecutors said most of the charges date back to the 1990s, but at least one was within the last two years.

"He had these children's trust from the beginning. He didn't need to gain it. By virtue of his position, he had their trust," Assistant Suffolk District Attorney Audrey Mark said in court Monday. "And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

Suffolk District Attorney Kevin Hayden said following the plea that he hopes the resolution of the case provides some level of healing for the victims.

"Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident," he said. "These are monstrous, monstrous acts."

Boston Police Patrolmen's Association President Larry Calderone also issued a statement following Rose's guilty plea.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Calderone said.

Rose was allowed to remain on the force for years despite sufficient evidence found by internal investigators supporting allegations that he sexually assaulted a minor, [according to documents released by the city last year](#).

The internal affairs file was ordered released by acting Mayor Kim Janey after The Boston Globe reported that Rose had been able to keep his badge despite a criminal complaint in 1995 for sexual assault on a 12-year-old child.

The criminal complaint was eventually dropped, but the department's Internal Affairs Division concluded there was enough evidence to support the allegations, according to the documents. Then-Boston Police Commissioner Paul F. Evans was notified in a June 1996 memo of the results of the probe.

Rose had been relieved of his weapon and placed on administrative duty, but was returned to full duty after an attorney for the Boston Police Patrolmen's Association wrote to the commissioner in October 1997 and threatened to file a grievance, according to the documents.

[A city review of the Rose investigation led to a series of recommendations for keeping the department transparent](#). Among the changes recommended by the Office of Police Accountability and Transparency were starting investigations into officers charged with crimes within 48 hours and creating clear guidance for how officers should be



punished.

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**Subject:** Re: News Clips Round 2 for Monday, April 25, 2022

<https://www.bostonglobe.com/2022/04/25/metro/protester-arrested-outside-mayor-wus-home/>

# Protester is arrested outside Boston Mayor Michelle Wu's home

By [Emma Platoff](#) Globe Staff, Updated April 25, 2022, 38 minutes ago

Boston police on Monday morning arrested a protester outside the home of Mayor Michelle Wu, the first arrest made after months of vocal demonstrations in Wu's quiet Roslindale neighborhood.

Shannon Llewellyn was arrested around 7:45 a.m. outside Wu's home, according to a police incident report, and will be charged with "willful violation" of a new city ordinance that prohibits targeted protests between the hours of 9 p.m. and 9 a.m.

Monday's arrest appears to mark an escalation in police response to the ongoing protests outside Wu's home.

Since early January, critics of Wu's COVID-19 restrictions, particularly her vaccine mandate for city employees, have gathered early in the morning outside her Roslindale home to bang drums, blow whistles, and shout their opposition to her policies. Several Boston police officers are stationed outside Wu's home during the protests, but until recently, they had not taken any enforcement action against demonstrators. Police officials said they were doing their best to balance free speech rights with quality of life in the neighborhood.

Last month, Wu proposed and succeeded in passing a new city ordinance that barred targeted protests between 9 p.m. and 9 a.m., effectively pushing back by two hours the time when noisy demonstrations could lawfully begin outside her home or any other private residence. Previously, a city noise ordinance had required quiet only until 7 a.m., allowing the demonstrators to begin shouting and drumming when many of Wu's neighbors were still asleep or just beginning their morning routines.

Neighbors say protests have continued, if less frequently, even after the ordinance went into effect almost a month ago. The ordinance promised fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses.

Just one day after Wu signed the new ordinance, five demonstrators [were cited](#) near her home for violating it. Police officials said Monday that 10 people have been cited under the new rules and referred to the Boston municipal court in West Roxbury.

According to the police report, Llewellyn and three other protesters were gathered near Wu's home around 7:30 a.m. Monday. A police sergeant gave the protesters a copy of the new city ordinance that prohibits targeted picketing at that hour and warned them that they would be subject to arrest if they did not leave. Llewellyn refused to leave and began to bang a cooking utensil against a pot she had brought "in a disturbing manner," according to the report.

This is the second time Llewellyn has been charged with violating the protesting ordinance, according to the police report.

Asked about the arrest Monday at an unrelated event, Wu deflected, saying "we want to make sure the energy and the momentum is focused on getting things done."

She said she was grateful for public safety workers and did not say whether she was home when the arrest was made.

Earlier this month, another Wu critic and protester, Catherine Vitale, was [arrested](#) for allegedly assaulting a police officer while protesting during a press conference at Boston City Hall.

*Danny McDonald of the Globe staff contributed to this report.*

On Mon, Apr 25, 2022 at 2:21 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonglobe.com/2022/04/25/metro/former-boston-police-union-head-patrick-rose-plead-guilty-abuse-charges/>

# Former Boston police union head Patrick Rose pleads guilty to abuse charges, sentenced to 13 years in prison

By [Andrew Ryan](#) and [Ivy Scott](#) Globe Staff, Updated April 25, 2022, 2 hours ago

Patrick M. Rose Sr., the onetime president of the city's powerful patrolmen's union, pleaded guilty Monday to molesting six children over decades in a case that exposed deep institutional failings within the Boston Police Department. He was sentenced to at least 10 years in prison, with a maximum of 13 years.

Rose had been allowed to keep his badge for 20 years after top police officials determined he more than likely sexually abused a child in 1995. Despite that finding, Rose remained on patrol in Dorchester, where he interacted with children and sexual assault victims and eventually ascended to the presidency of the Boston Police Patrolmen's Association.

The revelation, published in a Globe investigation in April 2021, underscored the secrecy of the nation's oldest police department, which has a history of protecting officers accused of misconduct.

In Suffolk Superior Court, Rose pleaded guilty to many of the allegations against him. Rose had been charged with 33 counts of sexual abuse of six children ranging in age from 7 to 16 and had maintained his innocence.

In an wrenching hearing, Rose's victims addressed their abuser, reading impact statements aloud in court.

"You might have hurt me for three years straight but now I'm getting stronger and stronger," said one of the victims, a teenager whom the Globe is not identifying because they were the victim of sexual assault. "Now all the anger and hatred isn't pointed towards myself. It's pointed towards you."

Rose retired in 2018 and was arrested in August 2020. Last April, the Globe reported that the Boston Police Department in 1995 filed a criminal complaint against Rose for sexual assault on a 12-year-old. Prosecutors say the victim ultimately recanted under pressure from Rose, a common phenomenon for young survivors of abuse when faced with demands from their abuser.

Prosecutors dropped the criminal charge and Rose's abuse escalated and included more victims, court records state. Once the criminal case ended, the police department proceeded with a separate administrative investigation.

That internal investigation concluded Rose likely molested the child. Records show that despite the determination Rose probably broke the law, police officials never recommended that Rose be fired.

In fact, there had been no indication that Rose faced any discipline other than initially being barred from carrying a gun and temporarily relegated to desk duty. Instead, Rose's internal affairs file included the notation "Try to settle prior to hearing."

Ultimately the patrolmen's association threatened to file a grievance on Rose's behalf. An attorney for the union sent a letter to Commissioner Evans on Oct 20, 1997, raising a number of issues. Two days later, Evans sent a terse memo to the internal investigations chief, Ann Marie Doherty.

"Please see me on this," Evans wrote.

Rose returned to duty. Evans and Doherty released a joint statement in April 2021 defending their actions, saying that they were unable to discipline Rose because they did not have a witness or other evidence.

**RELATED: [Timeline of the Boston Police Department's Patrick Rose scandal](#)**

"We believed at the time, and we still believe, that everything that could be done by the Boston Police Department was done in this matter to hold Rose accountable," the statement read.

The fallout from Rose's case extended beyond his six victims, reverberating at City Hall and beyond. Former Mayor Martin J. Walsh's administration had refused to release public records related to the internal affairs investigation of Rose, even after a rebuke from the state's supervisor of public records.

Walsh's successor, former acting mayor Kim Janey, reversed course and released a small portion of Rose's internal affairs file. Janey also pushed to require Boston police to notify a City Hall oversight agency whenever one of its officers is accused of a crime.

"Swift action should have been taken" in the 1990s to remove Rose from the department, Janey said at a City Hall press conference last summer. "It is shameful that it seems the actions taken were to protect their own, rather than to protect children."

<https://boston.cbslocal.com/2022/04/25/patrick-rose-former-boston-police-union-president-guilty-plea-child-rape-sex-abuse-charges/>

# Patrick Rose, Former Boston Police Union President, Sentenced To 10-13 Years On Child Rape Charges

BOSTON (CBS) – [Patrick Rose](#), the former president of the Boston Police Patrolmen's Association, was sentenced to 10-to-13 years in prison Monday for molesting six children over a 27-year period.

Rose was facing 33 charges in connection with the rape and abuse of the children between the ages of 7 and 16 at his home in West Roxbury between 1993 and 2020. Twelve of those charges were dismissed Monday and Rose changed his plea to guilty in Suffolk Superior Court. He was also sentenced to ten years of probation and must register as a sex offender.

In 1995, a criminal complaint against Rose, now 67, accused him of sexually assaulting a 12-year-old child. An investigation sustained the allegation but Rose continued to work as a police officer. A new report, [released last July](#), found that there was not a thorough and independent investigation into Rose in 1995. He returned to full duty after the police union threatened to sue and prosecutors said he went on to assault more children.

In [August 2020](#), Rose was arrested after a father and his teenage daughter reported that the girl had been repeatedly molested by Rose from age 7 through 12. Within weeks, five more people came forward to accuse Rose of molesting them as children.

"Out of respect for the family, you heard the facts, you heard the judge say that she believes it's a just sentence," Suffolk District Attorney Kevin Hayden told reporters outside court, refusing to comment further on Rose's sentence.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," current union president Larry Calderone said in a statement.

<https://www.wcvb.com/article/former-boston-police-leaders-express-deep-disappointment-with-citys-release-of-documents-from-patrick-rose-case-1650898310/39814484>

## Former Boston police union president Patrick Rose pleads guilty to child rape charges

Redacted files were from a mid-90s investigation into child sex abuse allegation

### BOSTON —

A former Boston Police Department officer who later went on to become head of the police union is pleading guilty to several charges of child rape.

Patrick Rose Sr. faces 33 charges in connection with the rape and abuse of at least six children in the 1990s. Some of the charges include statutory rape and indecent assault and battery on a child. Rose pleaded not guilty in 2020 to several charges.



Rose was sentenced to 10 to 13 years in prison followed by 10 years of probation. Upon release, Rose cannot be unsupervised with children, must stay away from victims and must register as a sex offender.

"This case of child sex abuse is likely the most egregious the Commonwealth has ever seen," the prosecutor said after the court listened to victim impact statements.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Boston Police Patrolmen's Association President Larry Calderone said in a statement.

Rose joined the Boston Police Department in 1994 and spent most of his career working in Dorchester.

In December 2014, the Boston Police Patrolmen's Association voted in Rose as the union's president at their annual elections, replacing longtime union boss Thomas Nee.

Rose retired from the Boston Police Department in 2018.

The city confirmed that Rose faced a child abuse allegation in 1995 but remained on the force and was reinstated to full duty in 1997.

Along with releasing [14 redacted pages](#) of documents related to the mid-90s internal affairs investigations, then-[Mayor Kim Janey issued a statement](#) that called the department's handling of the situation "deeply unsettling."

"Based on a review of former Officer Rose's internal affairs file conducted by the City's Law Department, it is clear that previous leaders of the police department neglected their duty to protect and serve," she wrote.

Former Police Commissioner Paul F. Evans and former Superintendent Ann Marie Doherty argued the documents published by City Hall present an incomplete and unfair version of events.

"We are disappointed that the only facts presented in the City of Boston Corporation Counsel's memo were the facts that supported the press release issued by City Hall and not the Boston Police Department's complete efforts in this matter," they wrote.

<https://whdh.com/news/ex-head-of-bostons-largest-police-union-pleads-guilty-to-child-rape-charges/>

## Ex-head of Boston's largest police union pleads guilty to child rape charges

BOSTON (WHDH) - The former head of Boston's largest police union pleaded guilty Monday to nearly three dozen child rape charges.

Patrick Rose faces a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s, according to the Suffolk District Attorney's Office.

Rose, the one-time president of the Boston Police Patrolmen's Association, changed his plea to guilty during a hearing in Suffolk Superior Court.

Rose also served as a Boston police officer. He retired in 2018.

<https://www.boston25news.com/news/local/former-boston-police-officer-pleads-guilty-child-sex-abuse-case/D25QZAJH2ZGLDH7VX4NZUOAB7A/>

## Former Boston Police officer pleads guilty in child sex abuse case

DA: "These are monstrous, monstrous acts." Several of Rose's six victims delivered victim impact statements

By **Boston 25 News Staff** April 25, 2022 at 1:29 pm EDT

BOSTON — The high-profile criminal case of a former Boston Police officer and former police union president returned to court Monday for a guilty plea.

Patrick Rose, 67, was accused of a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s.

On Monday, Rose pleaded guilty to 21 those charges of molesting the six children over a 27-year period, according to the Suffolk County District Attorney's office.

Rose sentenced by Judge Mary Ames to 10-to-13 years in prison and 10 years' probation following his release. He was first accused in the summer of 2020.

Several of Rose's victims addressed the court after Rose pleaded guilty.

"I saw you for what you really are -a coward, a predator of the weak and the defenseless," the victim said.

"Your reputation? Absolutely gone," said another victim. "All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Will that's really quite ironic isn't it?"

Rose is the former president of the Boston Police Patrolmen's Association. The current president of the BPPA, Larry Calderone, released a statement following the verdict.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure, and vindication for the victims and their families," said Calderone.

"He had these children's trust from the beginning, said Suffolk County prosecutor Audrey Mark. "He didn't need to gain it. By virtue of his position, he had their trust. And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

"We can only hope that this plea today provides some level of healing and recovery for (the victims)," said Suffolk County District Attorney Kevin Hayden. "Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident. These are monstrous, monstrous acts."

A long-awaited report into the Boston Police Department's handling of the Rose case was released in April 2021.

[ [\*Mayor releases investigation into officer accused of abuse\*](#) ]

Former Boston Mayor Kim Janey released the [redacted report](#).

"It is clear that previous leaders of the police department neglected their duty to protect and serve," Janey said at the time. "Despite an internal affairs investigation in 1996 that found credible evidence to sustain the allegation against Rose for sexually assaulting a minor, it appears that the police department made no attempt to fire him."

<https://www.nbcboston.com/news/local/ex-boston-police-union-president-charged-with-child-rape-expected-to-change-plea/2702666/>

## **'Monstrous, Monstrous Acts': Ex-Boston Police Union President Pleads Guilty to Child Rape**

Patrick Rose, 67, was sentenced to 10 to 13 years in prison, plus 10 years

## probation following his release

A former head of Boston's police union facing a total of 33 charges in connection with the rape and abuse of six children over various periods of time beginning in the 1990s pleaded guilty Monday.

Patrick Rose had previously pleaded not guilty and maintained his innocence, but changed his plea during an appearance in Suffolk Superior Court. He pleaded guilty to 21 counts of child rape and sexual assault over a 27-year period and was sentenced to 10 to 13 years in prison, plus 10 years probation following his release.

Several of Rose's victims delivered victim impact statements.

One of the victims talked about the "dead-soul feeling of emotional pain" the victim experienced because of the abuse.

"I saw you for what you really are — a coward, a predator of the weak and the defenseless," the victim said.

Another victim said of Rose: "Your reputation? Absolutely gone. All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Well that's really quite ironic, isn't it?"

Rose, 67, a former Boston police officer and president of the Boston Police Patrolmen's Association, [was arrested on child sex charges in August of 2020](#) stemming from allegations that he [sexually assaulted a young relative](#) starting when she was 7.

The victim, now a teenager, told police the assaults continued for five years, until she turned 12. Rose allegedly touched her inappropriately and asked her to perform sexual acts on him in his West Roxbury home.

[Rose was later charged with the rape and abuse of five other children](#) Prosecutors said most of the charges date back to the 1990s, but at least one was within the last two years.

"He had these children's trust from the beginning. He didn't need to gain it. By virtue of his position, he had their trust," Assistant Suffolk District Attorney Audrey Mark said in court Monday. "And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

Suffolk District Attorney Kevin Hayden said following the plea that he hopes the resolution of the case provides some level of healing for the victims.

"Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident," he said. "These are monstrous, monstrous acts."

Boston Police Patrolmen's Association President Larry Calderone also issued a statement following Rose's guilty plea.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Calderone said.

Rose was allowed to remain on the force for years despite sufficient evidence found by internal investigators supporting allegations that he sexually assaulted a minor, [according to documents released by the city last year](#).

The internal affairs file was ordered released by acting Mayor Kim Janey after The Boston Globe reported that Rose had been able to keep his badge despite a criminal complaint in 1995 for sexual assault on a 12-year-old child.

The criminal complaint was eventually dropped, but the department's Internal Affairs Division concluded there was enough evidence to support the allegations, according to the documents. Then-Boston Police Commissioner Paul F. Evans was notified in a June 1996 memo of the results of the probe.

Rose had been relieved of his weapon and placed on administrative duty, but was returned to full duty after an attorney for the Boston Police Patrolmen's Association wrote to the commissioner in October 1997 and threatened to file a grievance, according to the documents.

[A city review of the Rose investigation led to a series of recommendations for keeping the department transparent](#). Among the changes recommended by the Office of Police Accountability and Transparency were starting investigations into officers charged with crimes within 48 hours and creating clear guidance for how officers should be



punished.

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Mary Lee <mary.lee@pd.boston.gov>; Jennifer Fahey <jennifer.fahey@pd.boston.gov>; James MeGee <james.megee@pd.boston.gov>; James Tarantino <james.tarantino@pd.boston.gov>; Eddy Chrispin <eddy.chrispin@pd.boston.gov>; Gerald Cahill <gerald.cahill@pd.boston.gov>; Jacqueline Massua <jacqueline.massua@pd.boston.gov>; Jillian Serra <jillian.serra@pd.boston.gov>; James Conley <jamesb.conley@pd.boston.gov>; John Hughes <john.hughes@pd.boston.gov>; Marianne Joyce <marianne.joyce@pd.boston.gov>; Lynette Williams <lynette.williams@pd.boston.gov>; Gary Eblan <gary.eblan@pd.boston.gov>; Bridie Brienzi <bridie.brienzi@pd.boston.gov>; Thomas O'Leary <thomas.oleary@pd.boston.gov>; Ethan Cole <ethan.cole@pd.boston.gov>; George Juliano <george.juliano@pd.boston.gov>; Kathryn Stanton <kathryn.stanton@pd.boston.gov>; Omar Bennani <omar.bennani@pd.boston.gov>; Garrett Mitchell <garrett.mitchell@pd.boston.gov>; Charlie Daniels <charlie.daniels@pd.boston.gov>; Daniel Duff <daniel.duff@pd.boston.gov>; Mark Assad <mark.assad@pd.boston.gov>; 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Chanel Bryant-Alexander <chanel.bryant-alexander@pd.boston.gov>; Bernadette Metrano <bernadette.metrano@pd.boston.gov>; Sean Doherty <sean.doherty@pd.boston.gov>; John Wilton <john.wilton@pd.boston.gov>; Stephen Sutliff <steve.sutliff@pd.boston.gov>; Erin Schroeder-Withington <erin.schroeder-withington@pd.boston.gov>; Ryan Mason <ryan.mason@pd.boston.gov>; Paul Chevette <paul.chevette@pd.boston.gov>

**Subject:** Re: News Clips Round 2 for Monday, April 25, 2022

<https://www.bostonglobe.com/2022/04/25/metro/protester-arrested-outside-mayor-wus-home/>

# Protester is arrested outside Boston Mayor Michelle Wu's home

By [Emma Platoff](#) Globe Staff, Updated April 25, 2022, 38 minutes ago

Boston police on Monday morning arrested a protester outside the home of Mayor Michelle Wu, the first arrest made after months of vocal demonstrations in Wu's quiet Roslindale neighborhood.

Shannon Llewellyn was arrested around 7:45 a.m. outside Wu's home, according to a police incident report, and will be charged with "willful violation" of a new city ordinance that prohibits targeted protests between the hours of 9 p.m. and 9 a.m.

Monday's arrest appears to mark an escalation in police response to the ongoing protests outside Wu's home.

Since early January, critics of Wu's COVID-19 restrictions, particularly her vaccine mandate for city employees, have gathered early in the morning outside her Roslindale home to bang drums, blow whistles, and shout their opposition to her policies. Several Boston police officers are stationed outside Wu's home during the protests, but until recently, they had not taken any enforcement action against demonstrators. Police officials said they were doing their best to balance free speech rights with quality of life in the neighborhood.

Last month, Wu proposed and succeeded in passing a new city ordinance that barred targeted protests between 9 p.m. and 9 a.m., effectively pushing back by two hours the time when noisy demonstrations could lawfully begin outside her home or any other private residence. Previously, a city noise ordinance had required quiet only until 7 a.m., allowing the demonstrators to begin shouting and drumming when many of Wu's neighbors were still asleep or just beginning their morning routines.

Neighbors say protests have continued, if less frequently, even after the ordinance went into effect almost a month ago. The ordinance promised fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses.

Just one day after Wu signed the new ordinance, five demonstrators [were cited](#) near her home for violating it. Police officials said Monday that 10 people have been cited under the new rules and referred to the Boston municipal court in West Roxbury.

According to the police report, Llewellyn and three other protesters were gathered near Wu's home around 7:30 a.m. Monday. A police sergeant gave the protesters a copy of the new city ordinance that prohibits targeted picketing at that hour and warned them that they would be subject to arrest if they did not leave. Llewellyn refused to leave and began to bang a cooking utensil against a pot she had brought "in a disturbing manner," according to the report.

This is the second time Llewellyn has been charged with violating the protesting ordinance, according to the police report.

Asked about the arrest Monday at an unrelated event, Wu deflected, saying "we want to make sure the energy and the momentum is focused on getting things done."

She said she was grateful for public safety workers and did not say whether she was home when the arrest was made.

Earlier this month, another Wu critic and protester, Catherine Vitale, was [arrested](#) for allegedly assaulting a police officer while protesting during a press conference at Boston City Hall.

*Danny McDonald of the Globe staff contributed to this report.*

On Mon, Apr 25, 2022 at 2:21 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonglobe.com/2022/04/25/metro/former-boston-police-union-head-patrick-rose-plead-guilty-abuse-charges/>

# Former Boston police union head Patrick Rose pleads guilty to abuse charges, sentenced to 13 years in prison

By [Andrew Ryan](#) and [Ivy Scott](#) Globe Staff, Updated April 25, 2022, 2 hours ago

Patrick M. Rose Sr., the onetime president of the city's powerful patrolmen's union, pleaded guilty Monday to molesting six children over decades in a case that exposed deep institutional failings within the Boston Police Department. He was sentenced to at least 10 years in prison, with a maximum of 13 years.

Rose had been allowed to keep his badge for 20 years after top police officials determined he more than likely sexually abused a child in 1995. Despite that finding, Rose remained on patrol in Dorchester, where he interacted with children and sexual assault victims and eventually ascended to the presidency of the Boston Police Patrolmen's Association.

The revelation, published in a Globe investigation in April 2021, underscored the secrecy of the nation's oldest police department, which has a history of protecting officers accused of misconduct.

In Suffolk Superior Court, Rose pleaded guilty to many of the allegations against him. Rose had been charged with 33 counts of sexual abuse of six children ranging in age from 7 to 16 and had maintained his innocence.

In an wrenching hearing, Rose's victims addressed their abuser, reading impact statements aloud in court.

"You might have hurt me for three years straight but now I'm getting stronger and stronger," said one of the victims, a teenager whom the Globe is not identifying because they were the victim of sexual assault. "Now all the anger and hatred isn't pointed towards myself. It's pointed towards you."

Rose retired in 2018 and was arrested in August 2020. Last April, the Globe reported that the Boston Police Department in 1995 filed a criminal complaint against Rose for sexual assault on a 12-year-old. Prosecutors say the victim ultimately recanted under pressure from Rose, a common phenomenon for young survivors of abuse when faced with demands from their abuser.

Prosecutors dropped the criminal charge and Rose's abuse escalated and included more victims, court records state. Once the criminal case ended, the police department proceeded with a separate administrative investigation.

That internal investigation concluded Rose likely molested the child. Records show that despite the determination Rose probably broke the law, police officials never recommended that Rose be fired.

In fact, there had been no indication that Rose faced any discipline other than initially being barred from carrying a gun and temporarily relegated to desk duty. Instead, Rose's internal affairs file included the notation "Try to settle prior to hearing."

Ultimately the patrolmen's association threatened to file a grievance on Rose's behalf. An attorney for the union sent a letter to Commissioner Evans on Oct 20, 1997, raising a number of issues. Two days later, Evans sent a terse memo to the internal investigations chief, Ann Marie Doherty.

"Please see me on this," Evans wrote.

Rose returned to duty. Evans and Doherty released a joint statement in April 2021 defending their actions, saying that they were unable to discipline Rose because they did not have a witness or other evidence.

**RELATED: [Timeline of the Boston Police Department's Patrick Rose scandal](#)**

"We believed at the time, and we still believe, that everything that could be done by the Boston Police Department was done in this matter to hold Rose accountable," the statement read.

The fallout from Rose's case extended beyond his six victims, reverberating at City Hall and beyond. Former Mayor Martin J. Walsh's administration had refused to release public records related to the internal affairs investigation of Rose, even after a rebuke from the state's supervisor of public records.

Walsh's successor, former acting mayor Kim Janey, reversed course and released a small portion of Rose's internal affairs file. Janey also pushed to require Boston police to notify a City Hall oversight agency whenever one of its officers is accused of a crime.

"Swift action should have been taken" in the 1990s to remove Rose from the department, Janey said at a City Hall press conference last summer. "It is shameful that it seems the actions taken were to protect their own, rather than to protect children."

<https://boston.cbslocal.com/2022/04/25/patrick-rose-former-boston-police-union-president-guilty-plea-child-rape-sex-abuse-charges/>

# Patrick Rose, Former Boston Police Union President, Sentenced To 10-13 Years On Child Rape Charges

BOSTON (CBS) – [Patrick Rose](#), the former president of the Boston Police Patrolmen's Association, was sentenced to 10-to-13 years in prison Monday for molesting six children over a 27-year period.

Rose was facing 33 charges in connection with the rape and abuse of the children between the ages of 7 and 16 at his home in West Roxbury between 1993 and 2020. Twelve of those charges were dismissed Monday and Rose changed his plea to guilty in Suffolk Superior Court. He was also sentenced to ten years of probation and must register as a sex offender.

In 1995, a criminal complaint against Rose, now 67, accused him of sexually assaulting a 12-year-old child. An investigation sustained the allegation but Rose continued to work as a police officer. A new report, [released last July](#), found that there was not a thorough and independent investigation into Rose in 1995. He returned to full duty after the police union threatened to sue and prosecutors said he went on to assault more children.

In [August 2020](#), Rose was arrested after a father and his teenage daughter reported that the girl had been repeatedly molested by Rose from age 7 through 12. Within weeks, five more people came forward to accuse Rose of molesting them as children.

"Out of respect for the family, you heard the facts, you heard the judge say that she believes it's a just sentence," Suffolk District Attorney Kevin Hayden told reporters outside court, refusing to comment further on Rose's sentence.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," current union president Larry Calderone said in a statement.

<https://www.wcvb.com/article/former-boston-police-leaders-express-deep-disappointment-with-citys-release-of-documents-from-patrick-rose-case-1650898310/39814484>

## Former Boston police union president Patrick Rose pleads guilty to child rape charges

Redacted files were from a mid-90s investigation into child sex abuse allegation

### BOSTON —

A former Boston Police Department officer who later went on to become head of the police union is pleading guilty to several charges of child rape.

Patrick Rose Sr. faces 33 charges in connection with the rape and abuse of at least six children in the 1990s. Some of the charges include statutory rape and indecent assault and battery on a child. Rose pleaded not guilty in 2020 to several charges.



Rose was sentenced to 10 to 13 years in prison followed by 10 years of probation. Upon release, Rose cannot be unsupervised with children, must stay away from victims and must register as a sex offender.

"This case of child sex abuse is likely the most egregious the Commonwealth has ever seen," the prosecutor said after the court listened to victim impact statements.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Boston Police Patrolmen's Association President Larry Calderone said in a statement.

Rose joined the Boston Police Department in 1994 and spent most of his career working in Dorchester.

In December 2014, the Boston Police Patrolmen's Association voted in Rose as the union's president at their annual elections, replacing longtime union boss Thomas Nee.

Rose retired from the Boston Police Department in 2018.

The city confirmed that Rose faced a child abuse allegation in 1995 but remained on the force and was reinstated to full duty in 1997.

Along with releasing [14 redacted pages](#) of documents related to the mid-90s internal affairs investigations, then-[Mayor Kim Janey issued a statement](#) that called the department's handling of the situation "deeply unsettling."

"Based on a review of former Officer Rose's internal affairs file conducted by the City's Law Department, it is clear that previous leaders of the police department neglected their duty to protect and serve," she wrote.

Former Police Commissioner Paul F. Evans and former Superintendent Ann Marie Doherty argued the documents published by City Hall present an incomplete and unfair version of events.

"We are disappointed that the only facts presented in the City of Boston Corporation Counsel's memo were the facts that supported the press release issued by City Hall and not the Boston Police Department's complete efforts in this matter," they wrote.

<https://whdh.com/news/ex-head-of-bostons-largest-police-union-pleads-guilty-to-child-rape-charges/>

## Ex-head of Boston's largest police union pleads guilty to child rape charges

BOSTON (WHDH) - The former head of Boston's largest police union pleaded guilty Monday to nearly three dozen child rape charges.

Patrick Rose faces a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s, according to the Suffolk District Attorney's Office.

Rose, the one-time president of the Boston Police Patrolmen's Association, changed his plea to guilty during a hearing in Suffolk Superior Court.

Rose also served as a Boston police officer. He retired in 2018.

<https://www.boston25news.com/news/local/former-boston-police-officer-pleads-guilty-child-sex-abuse-case/D25QZAJH2ZGLDH7VX4NZUOAB7A/>

## Former Boston Police officer pleads guilty in child sex abuse case

DA: "These are monstrous, monstrous acts." Several of Rose's six victims delivered victim impact statements

By **Boston 25 News Staff** April 25, 2022 at 1:29 pm EDT

BOSTON — The high-profile criminal case of a former Boston Police officer and former police union president returned to court Monday for a guilty plea.

Patrick Rose, 67, was accused of a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s.

On Monday, Rose pleaded guilty to 21 those charges of molesting the six children over a 27-year period, according to the Suffolk County District Attorney's office.

Rose sentenced by Judge Mary Ames to 10-to-13 years in prison and 10 years' probation following his release. He was first accused in the summer of 2020.

Several of Rose's victims addressed the court after Rose pleaded guilty.

"I saw you for what you really are -a coward, a predator of the weak and the defenseless," the victim said.

"Your reputation? Absolutely gone," said another victim. "All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Will that's really quite ironic isn't it?"

Rose is the former president of the Boston Police Patrolmen's Association. The current president of the BPPA, Larry Calderone, released a statement following the verdict.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure, and vindication for the victims and their families," said Calderone.

"He had these children's trust from the beginning, said Suffolk County prosecutor Audrey Mark. "He didn't need to gain it. By virtue of his position, he had their trust. And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

"We can only hope that this plea today provides some level of healing and recovery for (the victims)," said Suffolk County District Attorney Kevin Hayden. "Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident. These are monstrous, monstrous acts."

A long-awaited report into the Boston Police Department's handling of the Rose case was released in April 2021.

[ [\*Mayor releases investigation into officer accused of abuse\*](#) ]

Former Boston Mayor Kim Janey released the [\*\*redacted report\*\*](#).

"It is clear that previous leaders of the police department neglected their duty to protect and serve," Janey said at the time. "Despite an internal affairs investigation in 1996 that found credible evidence to sustain the allegation against Rose for sexually assaulting a minor, it appears that the police department made no attempt to fire him."

<https://www.nbcboston.com/news/local/ex-boston-police-union-president-charged-with-child-rape-expected-to-change-plea/2702666/>

## **'Monstrous, Monstrous Acts': Ex-Boston Police Union President Pleads Guilty to Child Rape**

Patrick Rose, 67, was sentenced to 10 to 13 years in prison, plus 10 years

## probation following his release

A former head of Boston's police union facing a total of 33 charges in connection with the rape and abuse of six children over various periods of time beginning in the 1990s pleaded guilty Monday.

Patrick Rose had previously pleaded not guilty and maintained his innocence, but changed his plea during an appearance in Suffolk Superior Court. He pleaded guilty to 21 counts of child rape and sexual assault over a 27-year period and was sentenced to 10 to 13 years in prison, plus 10 years probation following his release.

Several of Rose's victims delivered victim impact statements.

One of the victims talked about the "dead-soul feeling of emotional pain" the victim experienced because of the abuse.

"I saw you for what you really are — a coward, a predator of the weak and the defenseless," the victim said.

Another victim said of Rose: "Your reputation? Absolutely gone. All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Well that's really quite ironic, isn't it?"

Rose, 67, a former Boston police officer and president of the Boston Police Patrolmen's Association, [was arrested on child sex charges in August of 2020](#) stemming from allegations that he [sexually assaulted a young relative](#) starting when she was 7.

The victim, now a teenager, told police the assaults continued for five years, until she turned 12. Rose allegedly touched her inappropriately and asked her to perform sexual acts on him in his West Roxbury home.

[Rose was later charged with the rape and abuse of five other children](#) Prosecutors said most of the charges date back to the 1990s, but at least one was within the last two years.

"He had these children's trust from the beginning. He didn't need to gain it. By virtue of his position, he had their trust," Assistant Suffolk District Attorney Audrey Mark said in court Monday. "And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

Suffolk District Attorney Kevin Hayden said following the plea that he hopes the resolution of the case provides some level of healing for the victims.

"Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident," he said. "These are monstrous, monstrous acts."

Boston Police Patrolmen's Association President Larry Calderone also issued a statement following Rose's guilty plea.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Calderone said.

Rose was allowed to remain on the force for years despite sufficient evidence found by internal investigators supporting allegations that he sexually assaulted a minor, [according to documents released by the city last year](#).

The internal affairs file was ordered released by acting Mayor Kim Janey after The Boston Globe reported that Rose had been able to keep his badge despite a criminal complaint in 1995 for sexual assault on a 12-year-old child.

The criminal complaint was eventually dropped, but the department's Internal Affairs Division concluded there was enough evidence to support the allegations, according to the documents. Then-Boston Police Commissioner Paul F. Evans was notified in a June 1996 memo of the results of the probe.

Rose had been relieved of his weapon and placed on administrative duty, but was returned to full duty after an attorney for the Boston Police Patrolmen's Association wrote to the commissioner in October 1997 and threatened to file a grievance, according to the documents.

[A city review of the Rose investigation led to a series of recommendations for keeping the department transparent](#). Among the changes recommended by the Office of Police Accountability and Transparency were starting investigations into officers charged with crimes within 48 hours and creating clear guidance for how officers should be



punished.

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
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Boston, Massachusetts, 02120  
617-343-4520*

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*Sergeant Detective John Boyle  
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**From:** Sean Cotter <sean.cotter@bostonherald.com>  
**Sent:** Friday, April 01, 2022 2:48 PM EDT  
**To:** mediarelations@pd.boston.gov <mediarelations@pd.boston.gov>  
**Subject:** Re: Herald stories

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance? Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

**From:** Luis Cruz <luis.cruz@pd.boston.gov> on behalf of Google Calendar <calendar-notification@google.com>  
**Sent:** Wednesday, April 27, 2022 9:49 AM EDT  
**To:** robert.boyle@boston.gov <robert.boyle@boston.gov>  
**Subject:** Accepted: 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes... @ Tue Nov 29, 2022 10am - 5pm (EST) (robert.boyle@boston.gov)  
**Attachment(s):** "invite.ics"

Luis Cruz has accepted this invitation.

**15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-**

*When*

Tue Nov 29, 2022 10am – 5pm Eastern Time - New York

*Where*

OLR-Conference Room-624 (

**Subject:** 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-

**Location:** OLR-Conference Room-624

**Start:** Tuesday, November 29, 2022 10:00 AM EST

**End:** Tuesday, November 29, 2022 5:00 PM EST

**Recurrence:** None

**Organizer:** robert.boyle@boston.gov

**Required Attendees:** luis.cruz@pd.boston.gov

**Subject:** Invitation: 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes... @ Tue Nov 29, 2022 10am - 5pm (EST) (luis.cruz@pd.boston.gov)

**Location:** OLR-Conference Room-624

**Start:** Tuesday, November 29, 2022 10:00 AM EST

**End:** Tuesday, November 29, 2022 5:00 PM EST

**Show Time As:** Busy

**Recurrence:** None

**Meeting Status:** Not yet responded

**Required Attendees:** luis.cruz@pd.boston.gov <luis.cruz@pd.boston.gov>; steve.sutliff@pd.boston.gov <steve.sutliff@pd.boston.gov>; john.wilton@pd.boston.gov <john.wilton@pd.boston.gov>

**Attachment(s):** "invite.ics"

You have been invited to the following event.

**15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-**

*When*

Tue Nov 29, 2022 10am – 5pm Eastern Time - New York

*Where*

OLR-Conference Room-624 (

**Subject:** 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-

**Location:** OLR-Conference Room-624

**Start:** Tuesday, November 29, 2022 10:00 AM EST

**End:** Tuesday, November 29, 2022 5:00 PM EST

**Recurrence:** None

**Organizer:** robert.boyle@boston.gov

**Required Attendees:** boston.gov\_664c526737565f5a66454b4a52347a3368794b334d51@resource.calendar.google.com; robert.boyle@boston.gov;  
c\_ddgd6gt0m1asr2aapvghhgff80@group.calendar.google.com; luis.cruz@pd.boston.gov; steve.sutliff@pd.boston.gov; john.wilton@pd.boston.gov

-- Do not edit this section of the description. View your event at <https://calendar.google.com/calendar/event?action=VIEW&eid=MDhzMGo4cmdhZDNsYmM3Y3Y4cXBxNGpybnUgbHVpcy5jcnV6QHBlcmJvc3Rvbi5nb3YzMWVjYThiNGE1Nzk2NjNmMwYWZj>--

**From:** Sean Cotter <sean.cotter@bostonherald.com>

**Sent:** Friday, April 01, 2022 12:12 PM EDT

**To:** mediarelations@pd.boston.gov <mediarelations@pd.boston.gov>; John Boyle <johnt.boyle@pd.boston.gov>

**Subject:** Herald stories

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994



# Patrol Supervisor's Pocket Guide



## **Mission Statement**

*We dedicate ourselves to work in partnership with the community to fight crime, reduce fear and improve the quality of life in our neighborhoods.*

*Our Mission is Community Policing.*



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## Homicide Response Checklist (Rule 205)

- ☐ Make full notifications.
- ☐ Confirm or assist in securing the outer perimeter.
- ☐ Assign entry scribe.
- ☐ Call entry scribe call sign into operations.
- ☐ Document point of entry locations.
- ☐ Direct service unit to follow EMS to Hospital.
- ☐ Direct officers to conduct FIOs.
- ☐ Assign Patrol Officers to a Canvas Team.
- ☐ Coordinate team with district Detective Supervisor to report to assigned Canvas Supervisor.
- ☐ Direct Officers and assist with immediate evidence marking needs with cones.
- ☐ If needed, direct service unit to follow towed vehicles to HQ.
- ☐ Assign officers to hold witnesses and/or suspects.
- ☐ Request Emergency Deployment Team as necessary.
- ☐ Assign Officers to shut down streets/control traffic.
- ☐ Confirm admittance for residents—assign scribe to take down resident information.
- ☐ Assign an Officer to escort individuals to their residences.
- ☐ Direct an Officer to transcribe all license plates in area of incident.
- ☐ If multiple scenes, follow all preceding items in each scene.
- ☐ Request all responding officers to complete their Form 26s prior to the end of tour before they leave their shift.
- ☐ Turn over all Form 26s to District Detective Supervisor to submit to Homicide Unit.

## Death Investigation (Rule 205)

The Patrol Supervisor on arrival at the crime scene shall be responsible for performing the following duties, as applicable:

- ☐ Take charge of the crime scene and assign personnel as deemed appropriate.
- ☐ Assign an officer to accompany the victim(s) to the hospital.
- ☐ Assign an officer to accompany any vehicle(s) which are being towed and held for evidence or for later processing.
- ☐ Debrief the first responding officer so as to ascertain the facts surrounding the incident.
- ☐ Ensure that the duties of the first responding officer are being performed satisfactorily with particular attention to:
  - initiating and keeping up to date a chronological log;
  - isolating and protecting the crime scene; and identifying and separating any witnesses.
- ☐ Establish a Command Post outside of the inner perimeter of the crime scene, if applicable.
- ☐ Establish an outer perimeter.
- ☐ Brief the investigator-in-charge.
- ☐ Assist the investigator-in-charge with crime scene management during the preliminary investigation, utilizing whatever personnel are deemed necessary.
- ☐ Update the Operations Duty Supervisor.
- ☐ Ensure that all incident reports and other reports are completed and typed.
- ☐ Ensure that separate reports (Form 26) are submitted and signed by each member of the unit in which both the first officer on the scene and the first responding officer are assigned.
- ☐ Ensure that the crime scene is vacated only at the direction of the investigator-in-charge as relayed through the Operations Duty Supervisor.

The Patrol Supervisor shall:

- ☐ Contact the Medical Examiner with all pertinent information gathered in the preliminary investigation.
- ☐ Ensure that the Department of Health and Hospitals Emergency Medical Technicians (EMTs) are summoned to the scene of each reported death where there is no physician in attendance. If the EMTs make a determination that the victim has no vital signs in accordance with guidelines issued to them, they shall indicate this information on a report form and a copy of their report is to be given to the investigator-in-charge.
- ☐ Ensure that the reporting officer includes the names and Unit designation of the responding EMTs on the incident report.
- ☐ Ensure that if the Medical Examiner accepts jurisdiction of the body, the body not be removed, except at the direction of the Medical Examiner.
- ☐ Ensure that the scene remains protected until the investigation at the scene is completed.
- ☐ Ensure that if the decedent was under the care of a physician, that an attempt was made to contact the physician to find out the nature of the illness, and whether the physician will sign the death certificate.

The Patrol Supervisor shall respond immediately to a reported use of deadly force, Code 303, within his/her District and will:

- Assume command of the investigation pending the arrival the District Commander and/or the Firearm Discharge Investigation Team.
- Notify the Operations Division of the firearm discharge.
- Initiate such preliminary steps as are necessary to conduct a thorough investigation and hold him/herself in readiness to assist the District Commander and the Firearm Discharge Investigation Team upon their arrival.

**NOTE:** The Patrol Supervisor shall have the authority to order as many units to the scene of the firearms discharge as is deemed necessary or to take any other appropriate action to complete the task.

- Establish an outside perimeter around the area of the incident.
- Ensure that the scene is preserved pending the arrival of the Firearm Discharge Investigation Team in a manner pursuant to Rule 309, Procedures for Handling Physical Evidence and Other Property Coming into Police Custody.
- Take possession of the firearm which has been discharged and ensure that it is turned over to the Department Ballistician as soon as possible. In so doing, the Patrol Supervisor shall preserve all firearms in the condition in which they are found. The Patrol Supervisor must use extraordinary care in this respect as the firearm may still be loaded.
- In the event that more than one officer is present at a shooting incident, the Patrol Supervisor, as soon as circumstances allow, shall:
- Collect all firearms which belong to the officers who were at the scene and store them until a Department Ballistician can ascertain which have been fired.

**NOTE:** Firearms determined not to have been discharged will then be returned to the police officers to whom they were issued as soon as possible.

## **Supervisor Critical Incident Checklist (Rule 200)**

- ☐ Announce arrival/assume command via radio.
- ☐ Debrief first responding officers, evaluate for critical incident.
- ☐ Make appropriate notifications.
- ☐ Establish an inner perimeter, uniforms only (except negotiators).
- ☐ Evacuate injured parties or bystanders, if safe to do so.
- ☐ Establish a forward command post.
- ☐ Establish an outer perimeter for traffic and pedestrian control.
- ☐ Request a clear channel or shift to another channel.
- ☐ Set staging area (outside outer perimeter,) assign a staging area manager.
- ☐ Assign personnel to gather required information; e.g. bop, address history, phone numbers, etc.
- ☐ Request additional resources. On-air, give a safe route of travel for all units to command post.
- ☐ Assign scribe for accurate reporting.
- ☐ Contain and isolate perimeter and crime scene.

## **Contact Numbers**

B.F.S.:	617-343-4300
BIS:	617-343-4497
BRIC:	617-343-4328
Operations (Duty Sup.)	617-343-4680
Peer Support:	617-343-5175
Real Time Crime Center:	617-343-5217
Spec. Ops.:	617-343-5646

## Pursuits (Rule 301)

Authorized when:

- A felony involving serious bodily injury or death or a credible threat of serious bodily injury or death has been committed, or attempted, by an occupant of the vehicle, according to Rule 303 Section 8, the suspects' vehicle is not considered a deadly weapon,

OR

- An occupant of the vehicle is suspected of being illegally in possession of a dangerous weapon, or in possession of a dangerous weapon used to threaten, injure or kill another person,

OR

- An occupant of the vehicle poses an on-going immediate threat of serious bodily harm or death to another person.

**NOTE:** Patrol Supervisor must respond to pursuit termination and complete Pursuit Report Form (BPD Form 1647, revised 3/89).

**Any superior officer can call off a pursuit! It should be the patrol supervisor if the above conditions are not met.**

**Patrol Supervisor is responsible for pursuit report.**

## **Show Up Identification Procedures Witness Preparation (Rule 330)**

### **Prior to conducting the show-up tell the witness:**

1. I am taking you to look at someone. (No more)
2. This person may or may not be the perpetrator, and that the investigation will continue, whether or not an identification is made.
3. It is just as important to free the innocent from suspicion, as it is to identify offenders.
4. I will be asking you to make a statement of certainty, in your own words, if you make an identification.



## Licensed Premises/Code 35 (Rule 326)

The Patrol Supervisor shall:

- ☐ Respond to all requests for assistance or notices of violations occurring at licensed premises.
- ☐ Be responsible for ensuring that all Licensed Premise Inspection Notice forms (BPD 1891) and Incident Reports are completed and, where applicable, issued in accordance to this rule.
- ☐ Ensure that details performed at licensed premises are conducted in accordance with stated Department policy and pursuant to the Laws of the Commonwealth, City Ordinances and the Rules and Regulations of the Licensing Authorities.
- ☐ Fully and correctly complete BPD Form 1891 for each premise he/she inspects or responds to an incident occurring at.
- ☐ Make periodic inspections of detail officers at licensed premises as their work load allows.
- ☐ Ensure that licensed premises are operated in an orderly fashion and not so as to constitute a public nuisance.
- ☐ Forward all copies of reports relative to licensed premises to the District Commander.

**NOTE:** Prior to entering a Licensed Premise, Patrol Supervisors will notify the Operations Division immediately prior to entering the premise, stating the address and the appropriate radio code for a licensed premises inspection, "Code 35."

## Picketing And Strikes (Rule 202)

1. The police role at the scene of any labor dispute is to maintain order while protecting life and property.
2. Similarly, the police are required to protect the rights of citizens who are exercising their right to peaceably assemble.
3. The police task is to protect the rights of both sides.
4. The key to effective police action in these circumstances is to be fair and objective in the performance of police duties.
5. Arrests at picket and/or strike scenes should be avoided except for flagrant violations which require immediate action.
6. An important factor in avoiding disorder and the subsequent necessity for making arrests is to establish an early contact with the leaders of demonstrations and/or strike leaders and company officials.
7. When a picket line is established, it shall be the obligation of the officer in charge(PS) at the scene to make contact with the leader of the pickets and seek his cooperation.
8. If an incident arises, or if it is apparent that a potentially dangerous situation is arising, it should be called to the attention of the picket leader immediately.
9. Police officers shall not enter company property during a strike except to perform a proper police purpose.
10. Pickets must leave sufficient room on sidewalks for pedestrian traffic.
11. Vehicles must be allowed to enter or leave premises where a strike is in progress.

## Sexual Assault Procedures (Rule 204)

The Patrol Supervisor upon arrival shall:

- ☐ Debrief the First Responding Officers.
- ☐ Confirm or dispel whether or not a sexual assault has occurred, and make contact with the SAU Detective, when necessary.
  - a. In general, unless connected to a sexual assault crime, indecent exposure, open and gross lewdness, and sexual harassment are not sexual assaults. The District Detectives shall be responsible for investigation these types of incidents. Do not contact the SAU for these types of incidents.
  - b. If the Patrol Supervisor confirms that a rape, aggravated rape, or attempted rape has occurred, he/she shall notify the Operations Division and request that the on-call SAU Detective be contacted and requested to respond in person.
  - c. The on-call SAU Detectives shall respond in person to all confirmed reports of aggravated rape, rape, and attempted rape. They generally will not respond in person to reports of indecent assault and battery but they will conduct a complete and thorough follow-up investigation. However, if the Patrol Supervisor or Duty Supervisor believes that a particular indecent assault and battery requires an in-person SAU Detective response, then the Patrol Supervisor or Duty Supervisor should discuss and resolve this issue with the on-call SAU Supervisor.
- ☐ Ensure that the First Responding Officer(s) complies with this rule.
- ☐ If probable cause exists to arrest, make the arrest. Do not wait for the SAU Detectives to arrive on scene before making an arrest.

Upon arrival of the SAU Investigator-in-Charge (IIC):

- ☐ Brief the SAU IIC. This will be the on-call SAU Sergeant-Detective or SAU Detective.
- ☐ Assist the SAU IIC with crime scene management during the preliminary investigation, utilizing whatever personnel are deemed necessary.
- ☐ Preserve and protect the crime scene according to Rule 205, "Death Investigation," Sections 6 and 7 and Rule 309, "Procedures for Handling Physical Evidence."
  - a. The responding SAU Detectives shall first respond to where the victim is located, usually the hospital. Officers must preserve and protect the crime scene until the SAU Detectives arrive on scene.
- ☐ Ensure that the crime scene is vacated only at the direction of the SAU IIC as relayed through the Operations Division Duty Supervisor.
- ☐ Notify and update your Duty Supervisor and seek his/her assistance, if necessary.

## Field Sobriety Test

**Critical** things to remember before conducting the Field Sobriety Test:

- Officer should conduct 3 Field Sobriety Tests if possible
- Area should be a dry, hard, level, well-lit surface
- Subject should have proper foot wear
- Ask the Subject if he has any medical conditions or is taking any medication

### Walk And Turn

Instruction Stage: Initial Positioning and Verbal Instructions  
For standardization in the performance of this test, have the suspect assume the heel-to-toe stance by giving the following verbal instructions, accompanied by demonstrations:

- Place your left foot on the line. (real or imaginary)  
(Demonstrate)
- Place your right foot on the line ahead of the left foot, with the heel of right foot against toe of left foot. (Demonstrate)
- Place your arms down at your sides. (Demonstrate)
- Keep this position until I tell you to begin. **Do not start** to walk until told to do so.
- Do you understand the instructions so far? (Make sure suspect indicates understanding)

### Demonstration and Instructions for the Walking Stage

Explain the test requirements, using the following verbal instructions, accompanied by demonstrations:

- When I tell you to start, take nine heel-to-toe steps, turn, and take nine heel-to-toe steps back. (Demonstrate 3 heel-to-toe steps.)
- When you turn, keep the front foot on the line, and turn by taking a series of small steps with the other foot, like this. (Demonstrate)
- While you are walking, keep your arms at your sides, watch your feet at all times, and count your steps out loud.

- Once you start walking, don't stop until you have completed the test.
- Do you understand the instructions? Make sure suspect understands.
- Begin, and count your first step from the heel-to-toe position as One.

Cannot Keep Balance <input type="checkbox"/>	Starts Too Soon <input type="checkbox"/>	Improper Turn <input type="checkbox"/>
Walking Stage	First 9 Steps	Second 9 Steps
Stops Walking		
Misses Heel Toe(>1/2")		
Steps Off Line		
Raises Arms (>6")		
Actual Steps Taken		

Inability to complete Walk & Turn Test occurs when subject steps off line 3 or more times, is in danger of falling, or cannot do test.

## One Leg Stand

Instruction Stage: Initial Positioning and Verbal Instruction  
Initiate the test by giving the following verbal instructions, accompanied by demonstrations.

- Please stand with your feet together and your arms down at the sides, like this. (Demonstrate)
- Do not start to perform the test until I tell you to do so.
- Do you understand the instruction so far? (Make sure suspect indicates understanding)

## Demonstrations and Instructions for the Balance and Counting Stage

Explain the test requirements, using the following verbal instructions, accompanied by demonstrations:

- When I tell you to start, raise one leg, either leg, approximately six inches off the ground, foot parallel with the ground. (Demonstrate one leg stance)
- You must keep both legs straight, arms at your side.
- While holding that position, count out loud in the following manner: one thousand and one, one thousand and two, etc. until told to stop. (Demonstrate)
- Keep your arms at your sides at all times and keep watching the raised foot.
- Do you understand? (Make sure the subject indicates understanding.)
- Go ahead and perform the test. (Test should last 30 seconds.)

	0 to 10 Secs	11 to 20 Secs	21 to 30 Secs
Uses arms for balance			
Sways while balancing			
Hopping			
Puts foot on ground			

Inability to complete One Leg Stand Test occurs when Subject puts foot down 3 or more times during 30 second period or cannot do test. Two or more clues indicates impairment.

### **Additional Test**

**Alphabet**—Instruct the Subject to recite the alphabet beginning with a letter and stopping at a specific letter.

**Example:** Start with letter “E as in Edward” and stop with letter “P as in Paul.”

### **Additional Test**

**Count Down**—Instruct the Subject to count out loud 15 or more numbers in reverse sequence.

**Example:** Count out loud backwards, starting with the number 68 and ending with the number 53.

## **Guidelines for Freezing an Apartment and Maintaining the Location Until a Warrant Is Obtained**

Patrol Supervisor:

- ☐ Should freeze the location and request the on duty Detective Supervisor or the on-call Detective Supervisor to respond to the scene. No further action should be taken by officers on scene until the arrival of the Detective Supervisor unless the safety of the officers or the evidence is in jeopardy. On arrival the Detective Supervisor will consult with the PS and a determination will be made as to whether a search warrant will be obtained. The final decision rests with the Detective Supervisor.
- ☐ In the event the location is frozen the PS will place two officers on scene to secure the premises. In some situations more than two police officers may be needed to secure the location.
- ☐ If all persons are made to leave the premises, the officers will remain outside the apartment. One officer will be assigned to the front door and one officer in the rear to cover all entrances and exits. This is to secure and prevent the removal of any evidence. Under no circumstances are the officers to enter the apartment. Those people that do leave will be pat frisked and have any bags searched prior to their departure.
- ☐ If some residents are allowed to stay while the search warrant is applied for the officers must stay inside with the people. They will not search the premises.
- ☐ No one will be allowed in the apartment until the search warrant is obtained.
- ☐ The Patrol Supervisor will rotate officers in and out of the location every 2 hours.



## Domestic Violence Involving Employees (Rule 327A)

Upon being notified of a domestic violence incident involving a department employee, or sworn member of another police department, the Patrol Supervisor shall:

- ☐ Immediately respond to the scene of the incident and take control of the investigation of the incident.
- ☐ Assess the actual and potential harm to the victim.
- ☐ Confirm with Operations that the incident involves a department employee, whether victim or offender, to ensure proper notification of DVU.
- ☐ ***If the domestic violence incident involves a department employee as the offender, confirm with Operations to ensure additional notification of IAD.***

Upon investigation, if there is reasonable belief that there is evidence of physical abuse or that the threat of physical abuse exists, and that the accused is a sworn member or employee of the Department or any other police department, the Patrol Supervisor shall:

- ☐ Seize and take into custody all department issued firearms in the possession of the employee and transfer the property to the responding DVU Supervisor.
- ☐ Take appropriate action, where necessary, to seize firearms considered as evidence, and firearms illegally possessed, and document such seizures on a Chain of Custody Evidence Form before transferring the firearms to the custody of the responding DVU Supervisor.
- ☐ If the offender is a member of another jurisdiction's police department, notify the Duty Supervisor that the offender is a sworn member of another jurisdiction.
- ☐ Request that the accused employee, whether sworn or civilian, surrender all personally owned firearms, his/her License to Carry Firearms and/or his/her Firearms Identification Card. The Patrol Supervisor shall attempt to obtain consent from the parties involved to search the incident

scene for the purpose of seizing and taking into temporary custody all privately owned firearms present and transfer the privately owned firearms to the responding DVU Supervisor.

- ❑ If privately owned firearms, a License to Carry and/or Firearms Identification Card cannot be seized at the time of the incident, request that any application for a Temporary Restraining Order or Emergency Restraining Order contain a provision for the surrender of all firearms, Licenses to Carry, and/or Firearms Identification Cards.
- ❑ If necessary, notify Operations to have the ID Unit notified to respond to the scene for photographs and crime scene processing.
- ❑ Submit a copy of the Incident Report, BPD Form 1.1, to the Licensing Authority of appropriate jurisdiction responsible for the issuance of the alleged abuser's License to Carry and/or Firearms Identification Card.
- ❑ Have Operations perform a Board of Probation check on all parties to determine if any outstanding restraining orders are in effect.
- ❑ Ensure that the provisions of M.G.L. 209A and this rule are complied with; that the responding officers have completed an Incident Report, BPD Form 1.1, and submitted a special administrative report to their Commanding Officer detailing the facts of the incident, their assessment of the real and/or perceived threat to the victim and subsequent actions taken at the scene to ensure the safety of the victim and other family members (i.e., evidence gathered, weapons seized, statements made by persons present). All reports shall be submitted before the end of their tour of duty.

**NOTE:** Whenever an employee-related domestic violence call does not result in an arrest or a warrant was not sought, the Patrol Supervisor shall submit a written administrative report explaining any and all reasons why an arrest was not made or a warrant was not sought.

- ❑ Ensure that a thorough investigation is conducted and an arrest of the dominant aggressor is made.

You have the right to appear at the Superior, Probate and Family, District or Boston Municipal Court if you reside within the appropriate jurisdiction (those persons who are or have been in a substantive dating or engagement relationship may not go to Superior Court), and file a complaint requesting any of the following orders: (a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody if the attacker has a legal obligation of support; and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney's fees and other out-of-pocket losses for injuries and property damage sustained.

For an emergency on weekends, holidays, or weeknights the police will refer you to the justice of the superior, probate and family, district, or Boston Municipal Court departments.

You have the right to go to the appropriate district court or the Boston Municipal Court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses.

If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety. You may request a copy of the police incident report at no cost from the police department.

When an arrest is made, the abuser will be eligible for bail and may be promptly released.

## Resources for Domestic Violence Survivors

### BPD Phone Numbers

BPD Emergency Number	911
BPD Domestic Violence Unit	617-343-4350
BPD Crimes Against Children Unit	617-343-6183
BPD Teen Prostitution/Human Trafficking Unit	617-343-5783
BPD Victim Witness Advocates	617-343-4350

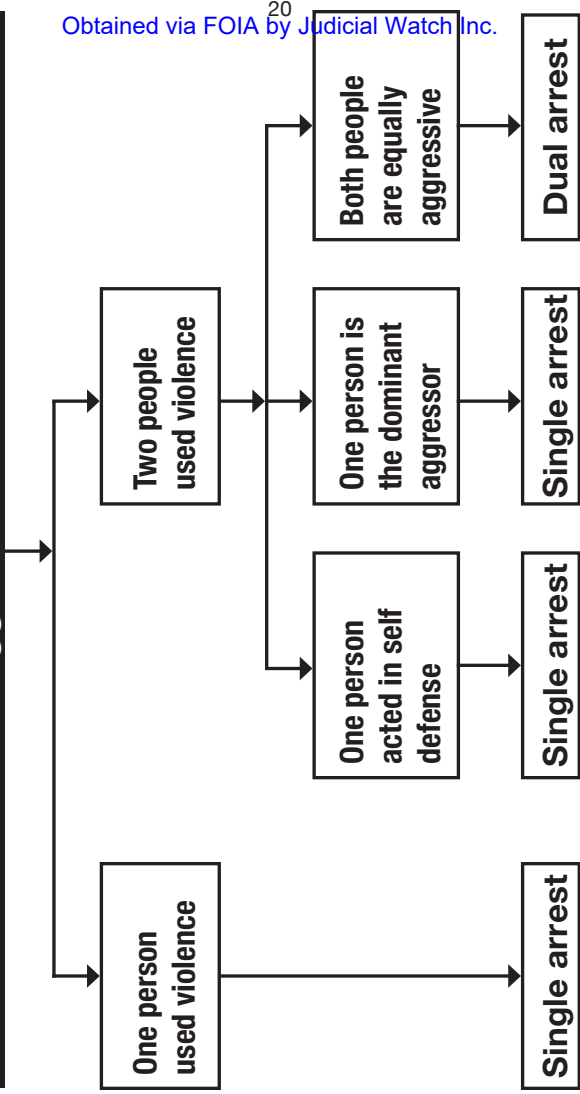
### The Family Justice Center of Boston (Non-police #617-779-2100)

The Family Justice Center of Boston (FJCB) is a collaborative venture among many public and private partners striving to help victims of domestic violence and child sexual assault. The FJCB is located at 989 Commonwealth Ave. in Boston, and houses several state and local community-based agencies and programs under one roof, making it easier for victims to access many of the services they need. All of the FJCB partners share the same long-term goal of ending domestic violence and child sexual assault.

The partners currently or soon to be offering services at the FJCB include:

- The Children's Advocacy Center of Suffolk County
- The Gay Men's Domestic Violence Project
- Finex House
- The Network/La Red
- Association of Haitian Women in Boston
- Massachusetts Department of Transitional Assistance
- BARCC (Boston Area Rape Crisis Center)
- Casa Myrna Vasquez
- Dress for Success
- MAPS (Mass Alliance of Portuguese Speakers)

# Dominant Aggressor Decision Tree



## DVIP Report Information

- ☐ Identify all parties present.  
Include all alternate phone numbers.
- ☐ Is suspect employed? Where?
- ☐ Describe emotional state of persons present.
- ☐ Describe all injuries to victim and suspect.
- ☐ Describe scene and condition of premises.
- ☐ Document relationship of victim and suspect.
- ☐ Does incident involve child, disabled, or elder abuse?
- ☐ Referred any children present to Child Witness of Violence Program? Obtained statements and 51A filed?
- ☐ Document witness names, addresses, phone numbers.
- ☐ Excited utterances documented?
- ☐ Note existence of restraining orders, probation, or parole. 209A rights explained?
- ☐ Drugs or alcohol involved in the incident?
- ☐ Dominant aggressor identified? PS or DV detective called to scene? Describe evidence collected.

**NOTE:** Form 26 required for dual arrests.

## DVIP Dangerous Suspect Assessment

- ☐ The suspect owns or has access to guns.
- ☐ The violence is getting more severe or more frequent.  
There is a history of abuse.
- ☐ The suspect has threatened to commit suicide  
or to kill victim or others.
- ☐ The victim believes suspect could kill him/her  
and the victim feels he/she is in danger.
- ☐ The suspect has tried to strangle the victim.
- ☐ The suspect is obsessed with or is stalking the victim.
- ☐ Jealous threats, i.e. *"if I can't have you, no one can."*
- ☐ The suspect controls most or all of the victim's  
daily activities.
- ☐ There has been a recent separation or divorced  
within the last 6 months.
- ☐ Physical harm to any children present.
- ☐ Suspect is violent outside of the home.

## **Massachusetts General Law**

### **Chapter 269: Section 1**

**Dispensing and suppressing unlawful assembly:  
arresting persons.**

I am \_\_\_\_\_ of the Boston Police Department.  
You are unlawfully assembled. I command you in the name  
of the Commonwealth of Massachusetts to immediately  
and peacefully disperse. If you do not immediately and  
peacefully disperse, you will be arrested.

If you remain in the area, regardless of your purpose in  
remaining, you will be in violation of Chapter 269 section 1 and  
you will be arrested. If you remain, reasonable and necessary  
force may be used to disperse the unlawful assembly.

The following are routes of dispersal to peacefully leave the  
area: (describe the route you want the crowd to take to leave  
the area). You have \_\_\_\_\_ minutes (provide a reasonable  
time for the crowd to leave, taking into account the number of  
participants, location and the number of routes) to disperse.



## Department Motor Vehicle Accident Checklist (Rule 316)

The Patrol Supervisor shall respond to the scene and ensure:

- ☐ Accident 1.1 completed.
- ☐ Officer's accident report completed (Form 26).
- ☐ Department Crash Form #0003 completed (Blue Form).
- ☐ Commonwealth of MA Motor Vehicle Crash Report CRA 65 completed.
- ☐ Packet turned over to PS prior to end of shift.
- ☐ Supervisor visited incident location.
- ☐ Photos taken of scene.
- ☐ Supervisor reports findings of crash investigation on Form #0003 including:
  - ☐ Witness statements and reports from department employees.
  - ☐ Is "Did operator's actions contribute to crash" box checked off?
  - ☐ Is "Was operator at fault" box checked off?
  - ☐ Is Crash 1.1 titled "M/V Accident-Police Vehicle"?
  - ☐ 1.1 from any incident that contributed to crash attached.
  - ☐ Crash 1.1 faxed to Fleet @ 5345.
  - ☐ Packet placed in Commander's mailbox.

**NOTE:** Patrol Supervisor must issue any citations or parking tickets.

## **Use of Force Checklist (Rule 304)**

**The Patrol Supervisor shall respond to the scene and ensure:**

- ☐ 1.1 in which use of force was used completed.
- ☐ Officer's Use of Force report completed (Form 26).
- ☐ Packet turned over to PS prior to end of shift.
- ☐ Supervisor visited incident location.
- ☐ Photos taken of scene.

**Supervisor completed investigation of use of force report including:**

- ☐ Witness statements and reports from department employees.
- ☐ Determination of whether use of force was justified.
- ☐ Circumstances which justified use of force.
- ☐ 1.1 from any other incident that contributed to use of force attached.
- ☐ Packet placed in Commander's mailbox.

## **Injured Officer Checklist (Rule 110)**

**The Patrol Supervisor shall respond to the scene and ensure:**

- ☐ Injured Officer 1.1 completed.
- ☐ Injured Officer report completed (Form 26).
- ☐ Discharge papers from hospital attached.
- ☐ Packet turned over to PS prior to end of shift.
- ☐ Supervisor visited incident location.
- ☐ Photos taken of scene.
- ☐ Supervisor confirmed medical diagnosis with treating physician.

**Supervisor completed investigation of injury report including:**

- ☐ Witness statements and reports from department employees.
- ☐ A sentence as to whether the injury could have occurred as reported.
- ☐ A sentence as to whether officer adhered to Department procedure.
- ☐ A sentence as to whether incident was a result of carelessness, negligence, or improper conduct by any person.
- ☐ Injured officer 1.1 titled "Sick/Injured/Medical-Police".
- ☐ 1.1 from any incident that contributed to injury attached.
- ☐ Injured officer 1.1 faxed to Occupational Health @ 4863.
- ☐ Packet placed in Commander's mailbox.

## **Less Lethal Shotgun Storage (Rule 303A)**

Prior to the Patrol Supervisor's tour of duty, the less lethal shotgun shall be:

- ☐ Loaded with four flexible projectile rounds in the magazine.
- ☐ With an empty chamber.
- ☐ Safety lock on.
- ☐ Secured in the locking device located in the trunk of the Patrol Supervisor's vehicle.

**Digital Camera Photography Checklist (Rule 331)**

- ☐ Keep the camera charged.
- ☐ Begin and end each series of photos with the “gray scale placard.”
- ☐ When shooting a series of photos for an incident. Do Not delete any shots taken.
- ☐ When done photographing, place memory card into the CD burner.
- ☐ Burn two CDs.
- ☐ Fill in the information lines on the discs, including the total number of photos taken.
- ☐ Keep one disc for your file.
- ☐ Place the other disc in a plastic CD storage case. Enter the disc as evidence.
- ☐ Re-format the memory card for subsequent use.

## Combat Application Tourniquet

Tourniquets should be applied when the following life-threatening conditions are present:

- Arterial bleeding (bright red pumping blood).
- Profound venous bleeding (rapidly spreading pool of dark blood).
- Full or partial amputation.

## Tourniquet Application

- Apply immediately if life-threatening bleeding is seen on an arm or leg.
- Apply tourniquet as high on the extremity as possible. “HIGH and TIGHT”.
- Look for bleeding to stop.
- Check for distal pulse. No pulse should be present distal to the tourniquet.
- Record time of application.
- Officers are not to remove a tourniquet once applied.
- Do not apply a tourniquet on the elbow or knee.
- Tourniquets hurt when applied effectively. Officers should not let a victim’s pain dissuade them from properly applying a tourniquet.
- Tourniquets can be applied over clothing however do not apply over bulky items in a pocket.

**NOTE:** Bulky items may prevent the tourniquet from working effectively.

## Instructions for Use: Two-Hand Application



1. Apply tourniquet proximal to the bleeding site.

Route the band around the limb and pass the tip through the inside slit of the buckle. Pull the band tight.



2. Pass the tip through the outside slit of the buckle. The friction buckle will lock the band in place.



3. Pull the band very tight and securely fasten the band back on itself.



4. Twist the rod until bright red bleeding has stopped and the distal pulse is eliminated.



5. Place the rod inside the clip; locking it in place. Check for bleeding and distal pulse.

If bleeding is not controlled, consider additional tightening or applying a second tourniquet proximal side by side to the first and reassess.



6. Secure the rod inside the clip with the strap.

Prepare the patient for transport and re-assess. Record the time of application.

## Instructions for Use: One-Hand Application



1. Apply the tourniquet proximal to the bleeding site. Insert the wounded limb through the loop formed by the band.



2. Pull the band very tight and securely fasten the band back on itself.



3. Adhere the band around the limb. Do not adhere the band past the rod clip.



4. Twist the rod until bright red bleeding has stopped and the distal pulse is eliminated.



5. Place the rod inside the clip locking it in place. Check for bleeding and distal pulse. If bleeding is not controlled, consider additional tightening or applying a second tourniquet proximal side by side to the first and reassess.



6. Adhere the band over the rod, inside the clip, and fully around the limb.



## Signs and Symptoms of an Opioid Overdose

- Pin point pupils.
- Non arousable – No response to pain or sternal rub.
- Breathing slow or stopped – Less than 8 times per minute; May hear choking sounds or a gurgling/snoring noise.
- Blue skin, lips, or fingertips.
- Drug paraphernalia (needles, pill bottles, etc.).

## Give Narcan and Rescue Breaths

- Adults or greater than 12 y/o: administer 2 mg Narcan (1 ml per nostril).
- Younger than 12 y/o: administer 1 mg Narcan (0.5 ml per nostril).
- Immediately following Narcan administration, perform Rescue Breaths (1 breath every 5 seconds).
- If no change in 3-5 minutes administer a second dose of Narcan.

## Instructions

1. Remove the yellow caps from the ends of plastic applicator.
2. Twist the nasal atomizer onto the tip of the applicator.
3. Remove the purple cap from the glass vial of Narcan.
4. Twist the Narcan onto the bottom of plastic applicator.



## **Terrorist Screening Checklist**

### **Indicators and Warnings That Deserve Immediate Attention**

Terrorist pre-operational activities are observable and should be reported immediately. Examples may include:

- Unusual questions, monitoring, sketching, photography, or map-making at/near key facilities.
- Usual interest in or attempts to purchase or obtain:
  - chemicals, explosives, or large quantities of household cleansers or beauty supplies.
  - official vehicles, uniforms, badges, access cards, or official identification.
- Presence of individuals who cannot explain their need to be at/near key facilities.
- Usual questions or circumstances surrounding the possession or reported theft of passports, visas, or other travel identification or documents.
- Interest in or completion of travel to receive “commando” training.
- Attempts to test or penetrate security or response procedures.
- Unusual money transfers or transactions involving overseas persons or businesses.

## **Terrorist Screening Center (TSC) Handling Codes**

Always Call: TSC Hits (866) 872-9001

Terrorist screening center: (866) 872-9001

Do not alert the individual that he/she may be on the terrorist watchlist.

### **Handling Code 1: APPROACH WITH CAUTION — ARREST**

Call the TSC. A federal arrest warrant may exist for the individual.

### **Handling Code 2: APPROACH WITH CAUTION — DETAIN**

There may be a detainer from OHS for this individual.

Call the TSC to determine if there is a detainer. Question the individual to assist TSC in identifying the individual without otherwise extending the scope/duration of the encounter.

### **Handling Code 3: APPROACH WITH CAUTION**

Call the TSC. If this would extend the scope or duration of the encounter, contact the TSC immediately thereafter. Do not detain or arrest the individual unless there is evidence of a violation of federal, state or local statutes.

## **Miranda Warning (English)**

Before we ask you any questions, you must understand your rights:

1. You have the right to remain silent.
2. Anything you say can be used against you in a court of law.
3. You have the right to talk to a lawyer for advice before we ask you any questions and to have him/her with you during questioning.
4. If you cannot afford a lawyer and you want one, a lawyer will be provided for you by the Commonwealth at no cost.
5. If you decide to answer now, you will still have the right to stop answering questions at any time.
6. Do you understand these rights?

### Day

#### Street Outreach and Shelter

HopeFound 971-3229  
Pine Street Inn 891-9100  
Woods Mullen 534-7100  
*Shelter Only*

#### Healthcare Outreach

Healthcare for the Homeless  
726-1818

#### Mental Health Outreach

DMH Outreach Team  
626-8807

#### Emergency Psych. Services

B.E.S.T. 800-981-HELP  
Acute Psych. in ERs 911

#### Questions

Emergency Shelter  
Commission 635-4507

### Night

#### Shelters

Woods Mullen 534-7100  
HopeFound 971-3229  
Pine Street Inn (PSI) 891-9100  
*PSI will accept individuals  
dropped off by Police  
throughout the night.*

#### Street Outreach

Pine Street Inn 633-0170  
*9 p.m. - 5 a.m., Non-Emer-  
gencies Only*

#### Drop-In Shelter

Boston Night Ctr. 248-1998

#### Emergency Psych. Services

B.E.S.T. 800-981-HELP  
Acute Psych. in ERs 911

#### Mayor's Hotline

635-4500

***In case of a medical or safety emergency, call 911***

*City of Boston Emergency Shelter Commission, 1/08*

## **Consular Notification And Access Reference Card: Instructions for Arrests and Detentions of Foreign Nationals**

This card summarizes for law enforcement officials the basic consular notification procedures to follow upon the arrest or detention of a foreign national. For more detailed instructions and legal material, see the Department of State publication Consular Notification and Access. The complete publication is available at <http://travel.state.gov/CNA>

### **Steps to Follow When a Foreign National Is Arrested or Detained<sup>1</sup>:**

1. Determine the foreign national's country of nationality. In the absence of other information, assume this is the country on whose passport or other travel document the foreign national is traveling.
2. If the foreign national's country is NOT on the list of "mandatory notification" ("list") countries and jurisdictions:
  - Use Statement 1 on the back of this card to inform the national, without delay, that he or she may have his or her consular officers notified and may communicate with them.
  - If the foreign national requests that his or her consular officers be notified, notify the nearest embassy or consulate of the foreign national's country without delay.
  - Forward any communication from the foreign national to his or her consular officers without delay.
3. If the foreign national's country is on the list of "mandatory notification" ("list") countries:
  - Notify that country's nearest embassy or consulate, without delay, of the arrest or detention.
  - Use Statement 2 on the back of this card to tell the national, without delay, that you are making this notification and that he or she may communicate with the consulate.
  - Forward any communication from the foreign national to his or her consular officers without delay.

#### 4. Keep a written record of:

- What information you provided to the foreign national and when.
- The foreign national's requests, if any.
- Whether you notified consular officers and, if so, the date and time and the means used to notify them (e.g., fax, email or phone.) If you used fax or email to notify the consular officers, you should keep the fax confirmation sheet or sent email in your records.
- Any other relevant actions taken.

<sup>1</sup>These steps should be followed for all foreign nationals, regardless of their immigration status.

### Mandatory Notification "List" Countries

- |  |                  |                                    |                               |
|--|------------------|------------------------------------|-------------------------------|
| • Albania  | • Cyprus         | • Malta                            | • Singapore                   |
| • Algeria  | • Czech Republic | • Mauritius                        | • Slovakia                    |
| • Antigua and Barbuda                                | • Dominica       | • Moldova                          | • Tajikistan                  |
| • Armenia  | • Fiji           | • Mongolia                         | • Tanzania                    |
| • Azerbaijan   | • Gambia         | • Nigeria                          | • Tonga                       |
| • Bahamas  | • Georgia        | • Philippines                      | • Trinidad and Tobago         |
| • Barbados   | • Ghana          | • Poland <sup>2</sup>              | • Tunisia                     |
| • Belarus  | • Grenada        | • Romania                          | • Turkmenistan                |
| • Belize   | • Guyana         | • Russia                           | • Tuvalu                      |
| • Brunei   | • Hungary        | • Saint Kitts and Nevis            | • Ukraine                     |
| • Bulgaria   | • Jamaica        | • Saint Lucia                      | • United Kingdom <sup>3</sup> |
| • China (including Macao and Hong Kong) <sup>1</sup> | • Kazakhstan     | • Saint Vincent and the Grenadines | • Uzbekistan                  |
| • Costa Rica   | • Kiribati       | • Seychelles                       | • Zambia                      |
|  | • Kuwait         | • Sierra Leone                     | • Zimbabwe                    |
|  | • Kyrgyzstan     |                                    |                               |
|  | • Malaysia       |                                    |                               |

<sup>1</sup>Does not include Republic of China (Taiwan) passport holders.

<sup>2</sup>Mandatory for non-permanent only.

<sup>3</sup>U.K. includes Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat, and the Turks and Caicos Islands. Residents' passports bear the name of their territory and may also bear the name "United Kingdom."

## **Suggested Statements to Arrested or Detained Foreign Nationals**

### **Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

As a non-U.S. citizen who is being arrested or detained, you may request that we notify your country’s consular officers here in the United States of your situation. You may also communicate with your consular officers. A consular officer may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. Do you want us to notify your consular officers at this time?

### **Statement 2: For Foreign Nationals from “Mandatory Notification” Countries**

Because of your nationality, we are required to notify your country’s consular officers here in the United States that you have been arrested or detained. We will do this as soon as possible. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but your consular officers may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. Please sign to show that you have received this information.



**Service Assignment Codes (Priority 9)**

<b>Code</b>	<b>Loc.* Req.</b>	<b>Nature</b>
CD1	Y	Vehicle maintenance
CD2	Y	Radio maintenance
CD3	Y	Training
CD4	Y	Transport Female
CD5	Y	Transport Prisoner
CD6	Y	Court Attendance
CD7	Y	Escort Duty
CD8	Y	School Crossing
CD9	Y	Station/HQ Assignment
CD10	Y	Lunch
CD11	Y	Warrant Services
CD12	Y	Warrant Unit for Pickup
CD13	Y	Out of City
CD14	Y	Towing
CD15	Y	Traffic Enforcement
CD16	Y	Moving Violation/Tagging
CD17	Y	Car Wash
CD18	Y	Range
CD19	Y	Walk and Talk
CD19S	Y	Walk and Talk - School
CD20	N	Gas
CD21	N	Travel To and From Post
CD22	Y	Emergency Shelter Coverage
CD23	Y	Guarding Prisoners
CD24	Y	209 A Service
CD25	Y	Community Ser. Officer Meeting
CD26	Y	On Duty/Special Event
CD28	Y	Fem. P.O./Fem. Search
CD35	Y	License Premise Inspect/Invest
CD55	Y	E-Learning

# Miscel Codes

No. Incident	Phonetic	Police Action
1. ADT/Burglar Alarm	A – Adam	Not Bona Fide Incident
2. Citizen Alarm	B – Boy	No Person Can Be Found
3. Citizen Calling for Help	C – Charles	No Such Address
4. Escort Duty	D – David	No Police Service Necessary
5. Fire Alarm	E – Edward	Perpetrator Gone on Police Arrival
6. Family Trouble**	F – Frank	Peace Restored
7. Gathering Causing Annoyance Outside	G – George	Advised Warrant
8. Investigation, Persons Routine	H – Henry	Advised to Re-contact Police if Repeated/Returned
9. Investigations, Premise Routine	I – Ida	Taken to District Station
10. Landlord Tenant Dispute	J – John	Field Interrogation Report Prepared
11. Lock Out	K – King	Issued Traffic Citation
12. Noisy Party–Radio, TV, etc.	L – Lincoln	Issued Parking Citation
13. Prowler (No Description)	M – Mary	Advised Legal Help
14. Police Services Traffic, etc.	N – Nora	Accidental/Defective Alarm
15. Disturbances, Drunk	O – Ocean	False–No Prosecution
16. Disturbances, Inside	P – Paul	Services Rendered

\*\*Limited To Police Action: B or C



***Version 3***

Updated 6/07/2018

For suggestions and improvements,  
please contact the Boston Police  
Academy, attention Registrar.

**From:** Lisa Charves <lisa.charves@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 8:51 AM EDT  
**To:** Timothy Donovan <timothy.donovan@pd.boston.gov>; Maureen Fay <maureen.fay@pd.boston.gov>  
**Subject:** Fwd: News Clips for Wednesday March 30, 2022 (additional)

Lisa A. Charves  
Legal Assistant  
Video Evidence Unit  
Boston Police Department  
[lisa.charves@pd.boston.gov](mailto:lisa.charves@pd.boston.gov)

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----- Forwarded message -----

From: **John Boyle** <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)>  
Date: Wed, Mar 30, 2022 at 4:19 PM  
Subject: Re: News Clips for Wednesday March 30, 2022 (additional)  
To: Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, Paul Donovan <[paul.donovan@pd.boston.gov](mailto:paul.donovan@pd.boston.gov)>, Winifred Cotter <[winifred.cotter@pd.boston.gov](mailto:winifred.cotter@pd.boston.gov)>, Charles Wilson <[charles.wilson@pd.boston.gov](mailto:charles.wilson@pd.boston.gov)>, Jeffrey Walcott <[jeffrey.walcott@pd.boston.gov](mailto:jeffrey.walcott@pd.boston.gov)>, Nora Baston <[nora.baston@pd.boston.gov](mailto:nora.baston@pd.boston.gov)>, Marcus Eddings <[marcus.eddings@pd.boston.gov](mailto:marcus.eddings@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Felipe Colon <[felipe.colon@pd.boston.gov](mailto:felipe.colon@pd.boston.gov)>, Kenneth Gaines <[kenneth.gaines@pd.boston.gov](mailto:kenneth.gaines@pd.boston.gov)>, James Chin <[james.chin@pd.boston.gov](mailto:james.chin@pd.boston.gov)>, Richard Dahill <[richard.dahill@pd.boston.gov](mailto:richard.dahill@pd.boston.gov)>, 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<https://www.bostonglobe.com/2022/03/30/metro/boston-city-council-approves-protest-restrictions-proposed-by-mayor-wu/>

# Boston City Council approves protest restrictions proposed by Mayor Wu

By [Danny McDonald](#) Globe Staff, Updated March 30, 2022, 22 minutes ago

The Boston City Council on Wednesday adopted a proposal to further restrict the hours when protestors may demonstrate at private residences by a vote of 9 to 4, approving a measure put forth by Mayor Michelle Wu after months of her Roslindale home has been the focus of near-daily demonstrations.

The four councilors who opposed the protest limits were Frank Baker, Kendra Lara, Erin Murphy, and Julia Mejia. Wu is expected to sign the measure in coming days, making it officially a city law.

The new rule would bar demonstrations at any private home between the hours of 9 p.m. and 9 a.m. Currently, Boston's local restrictions on noise effectively restrict demonstrators from loud protests before 7 a.m. or after 11 p.m.

Under the new rules, there would be fines of \$50 for a first offense, \$150 for a second offense, and \$300 for a third and subsequent offenses. Following a 12-month period, that fine structure would reset. According to the city, the ordinance would not affect marches or protests passing through residential areas, just demonstrations that are directed at individual residences or residents. It applies to any residence, not just the homes of elected officials.

The stricter protest ordinance has sparked strong feelings on both sides since Wu proposed it [last month](#). Critics of the move, including several who routinely picket outside the mayor's home, say the new restrictions would unfairly curb people's First Amendment rights.

Wednesday afternoon's council meeting was interrupted twice by individuals in the gallery of the chamber who vocally opposed the measure. In both instances, Council President Ed Flynn called brief recesses while the people were ejected by police from the meeting. As one man was escorted out, he said the proposal was unconstitutional, adding that people would successfully sue the city over the initiative. The other person who was ejected asserted that the measure was "just about Wu."

Baker, a councilor who opposed the proposal, thought it was a direct response to demonstrations against the policies of one person: Wu. He called it "totally wrong" and added that it would lead to more division in Boston. He said he wished the council rallied to his defense when people were harassing him and his wife in

2020 over political stances he took as a councilor.

“Now because this is happening to one person, we’re going to change all the rules,” he said. “We’re edging in on First Amendment here. We’re edging in on the right of free speech.”

Wu has argued the ordinance would preserve peace and quiet without infringing on protesters’ right to demonstrate. In an earlier letter to the council, Wu’s legal team asserted that, should it pass, the ordinance “will be in conformance with law.” For weeks, a small group of protesters who opposed Wu’s vaccine requirement for city workers gathered outside her home, banging drums, blowing whistles, and shouting starting at 7 a.m. Wu has said she tries not to take the protests personally, but laments the disruption for her neighbors and family.

On Wednesday, Councilor Kenzie Bok said she was comfortable that the legislation “is narrowly tailored enough to be well within Supreme Court precedent when it comes to the First Amendment.”

Councilor Ricardo Arroyo, who supported the proposal, said targeted harassment of any kind is wrong, adding that his mother’s home was recently targeted by demonstrators. This year, Boston has witnessed “targeted residential picketing in a way that we’ve never seen before,” he said.

“The idea here is to provide some grace to residents, to allow them some peace in the early morning hours because, frankly, they deserve that,” said Arroyo.

Councilor Tania Fernandes Anderson thought the measure was the right thing to do, saying “wrong to one . . . is wrong to all.”

“This is not protesting, this is harassment, this is abuse,” she said.

Flynn, who has been heckled by demonstrators outside his South Boston home in recent months, framed the matter as a quality-of-life issue.

“There has to be some civility, some respect for neighbors,” he said.

*Emma Platoff of Globe staff contributed to this report.*

<https://www.bostonglobe.com/2022/03/30/metro/dad-looking-colleges-with-daughter-attacked-roxbury-suspect-still-large-police-say/>

# Dad looking at colleges with daughter attacked in Roxbury, suspect still at large, police say

By [Travis Andersen](#) Globe Staff, Updated March 30, 2022, 1 hour ago

Boston police are seeking the public’s help in identifying a suspect who allegedly attacked a man on March 24 in Roxbury while the victim was looking at colleges with his daughter, leaving the man with a deep laceration on the back of his head.

A police report filed in the matter said the attack occurred in the area of 452 Huntington Avenue in Roxbury around 12:15 p.m.

Responding officers, the report said, spoke with the victim who was being treated by Boston EMS personnel for his head laceration.

The man told police he was “in Boston looking at potential Colleges for his daughter,” and that the suspect approached him on Huntington Avenue as he walked with his wife and daughter, the report said. The victim told police the suspect began “screaming incoherently” at his family without provocation.

The report said the man indicated he “tried to deescalate the situation when the suspect struck him in the back of the head with an unknown object resembling a box cutter” before fleeing on foot. “Officers did observe a deep laceration to the back of” the man’s head, the report said.

According to the report, the victim described the suspect as a man in his 40s wearing a blue windbreaker, black and white-striped tee shirt, dark-colored pants, and white sneakers.

Boston police released surveillance images of the suspect in [a community alert statement posted Tuesday to the department's official website](#).

"The suspect was last seen running into Ruggles MBTA station," the statement said. "Anyone with information is urged to contact D-4 Detectives at 617-343-4683."

Tipsters can also drop a dime anonymously.

"Community members wishing to assist this investigation anonymously can do so by calling the CrimeStoppers Tip Line at 1 (800) 494-TIPS or by texting the word 'TIP' to CRIME (27463)," the statement said. "The Boston Police Department will stringently guard and protect the identities of all those who wish to assist this investigation in an anonymous manner."

<https://www.bostonglobe.com/2022/03/30/metro/state-police-form-unity-basketball-league-girls-honor-trooper-tamar-bucci-who-was-killed-crash/>

# State Police form 'Unity Basketball league for Girls' in honor of Trooper Tamar Bucci who was killed in crash

By [Travis Andersen](#) Globe Staff, Updated March 30, 2022, 12:27 p.m.

State Police on Wednesday announced the formation of the Trooper Tamar Bucci Unity Basketball League for Girls, a youth league kicking off April 5 that's named for [the 34-year-old trooper](#) who was killed March 3 when her cruiser was struck by a tanker trailer in Stoneham.

State Police tweeted out a flyer advertising the league Wednesday.

The flyer said the league is named for "State Police Trooper Tamar A. Bucci, Badge 4440, who gave her life in the service of others. Beginning April 5, games will be held Tuesday afternoons at the Brockton Boys & Girls Club."

The flyer said teams from Brockton, West Bridgewater, and Foxboro will be participating in the league.

And the newly formed league, the flyer said, complements ongoing Unity Basketball League boys' divisions active in Brockton, Fall River, Chicopee, Worcester, and Boston.

The flyer added that the Unity Basketball League is part of the State Police TEAM Initiative aimed at connecting law enforcement and young people through sports.

State Police Detective Lieutenant Detective Lieutenant Anthony Dear, who coordinates the agency's youth sports leagues, lauded the now-expanded basketball league in a phone interview Wednesday.

"We're always looking for ways to connect with the community," Dear said, adding that troopers wanted to offer an outlet to kids. "Given the last couple of years, we thought it was time for healing, time to bring both sides together," which prompted the launch of the TEAMS initiative.

Dear said 250 kids signed up for the program last summer in Roxbury, and the league grew in popularity once program volunteers started putting together "mixtapes" featuring video footage of the participants. The mixtapes can be found on Instagram @mspteams.

"News got around" quickly once the clips started to go viral, Dear said, and the program grew to include six more community centers in Boston, allowing volunteers to create a travel league in the city.

"We found a way to communicate with the kids," Dear said of the mixtape project.

He said State Police decided to name the girls league for Bucci in light of her background.



"I learned that Trooper Bucci had devoted her life to fitness, and also to serving her community," Dear said, adding that the agency's partners in the Bucci league are the State Police Association of Massachusetts, Plymouth District Attorney Timothy Cruz's office, the Brockton Police Department, the Boys & Girls Club, and New Heights Charter School.

Family members, public officials, and approximately 2,000 members of law enforcement honored Bucci at her funeral in Revere on March 9, remembering her devotion to duty, her love for family and friends, and the joy she brought to all.

"She is now protecting all of us from above, and I am confident that we will continue to feel her presence here on Earth," Bucci's stepfather, Jim Burditt, said addressing mourners who filled St. Anthony of Padua Church.

Six female troopers who graduated with Bucci from the State Police Academy two years ago served as pallbearers. They were members of the 85th Recruit Training Troop, the first that did not have to cut their hair short to attend the rigorous academy.

At her funeral, the women troopers marked another milestone with their sister in blue. They were the first all-female pallbearer contingent at a Massachusetts line-of-duty funeral service, State Police said.

"She was just really a decent, good person," State Police Colonel Christopher Mason said prior to the service. "Somebody you would want to have as a co-worker, somebody you would want to represent your agency, and somebody you would want to serve the public. She really was a trooper for the times that we are in now."

Bucci, who was born in Melrose, graduated from Andover High School. She had worked as a personal trainer and in security at a casino before landed her "dream job" as a state trooper, her family said.

Bucci is the 22nd Massachusetts state trooper to die in the line of duty.

*Material from the Associated Press and prior Globe stories was used in this report.*

<https://www.bostonglobe.com/2022/03/30/metro/new-york-doctor-arraigned-allegedly-taking-lewd-photos-women-front-newbury-street-store-boston/>

# New York doctor arraigned for allegedly taking lewd photos of women in front of Newbury Street store in Boston

By [Travis Andersen](#) Globe Staff, Updated March 30, 2022, 10:39 a.m.

A doctor living in New York state was arraigned Wednesday for allegedly photographing dozens of unsuspecting women in a lewd manner as they walked on Newbury Street in Boston near a high-end clothing store in September.

Dr. Damon DeTeso, 49, appeared virtually in Boston Municipal Court, where a not guilty plea was entered for him on 21 misdemeanor counts of photographing someone's sexual or intimate parts without consent, and 15 additional misdemeanor counts of trying to do the same, according to legal filings.

No cash bail was set for DeTeso, who wasn't in custody and who attended the arraignment via Zoom. His lawyer didn't immediately respond to a request for comment following the brief hearing.

"The facts alleged here are that Mr. DeTeso was sitting in front of that Anthropologie store [on Newbury] with a backpack placed next to him, with the phone sticking out of that backpack, allowing unsuspecting females to walk over that backpack, allowing that iPhone to capture images as they crossed over this bag," said Assistant Suffolk District Attorney Daniel Nucci during the hearing.

Nucci said prosecutors weren't seeking any type of cash bail owing to DeTeso's lack of any prior criminal record, though he did request an order, ultimately granted, for DeTeso to stay away from the Anthropologie store "as well as Boston properties in general" except for lawyer meetings and future court appearances.



The prosecutor didn't detail during the hearing how authorities initially became aware of DeTeso's alleged illicit photography. Prosecutors said the photos were allegedly taken in front of the store on Sept. 21.

DeTeso's attorney, Philip A. Tracy Jr., didn't address the allegations during the hearing.

The next hearing in the case is slated for May 25.

DeTeso was listed Wednesday morning on the website for Saratoga Hospital in Saratoga Springs, N.Y. as an imaging and radiology specialist based at Millennium Medical Imaging located at the hospital.

In a statement, a Saratoga Hospital spokesperson said DeTeso is "an employee of Millennium Medical Imaging, which provides services under contract to Saratoga Hospital. Dr. DeTeso has requested an indefinite leave of absence from the Saratoga Hospital medical staff. In light of today's public allegations, Saratoga Hospital has accepted that request effective immediately and has communicated Dr. DeTeso's status to his employer."

Until further investigation and "satisfactory resolution" of the case, the statement said, "Dr. DeTeso will not be conducting any services related to Saratoga Hospital. The professional care and safety of our patients is of paramount importance to Saratoga Hospital. It would be premature at this point for us to comment further."

DeTeso, a radiologist, graduated from UMass Medical School in 1998 and did his residency at Tufts Medical Center, according to New York state online physician databases. The New York State Office of The Professions online database listed his medical license status as "registered" Wednesday afternoon.

<https://www.bostonherald.com/2022/03/30/7-massachusetts-state-troopers-cant-yet-be-fired-over-coronavirus-vaccine-mandate-judge-rules/>

## 7 Massachusetts state troopers can't yet be fired over coronavirus vaccine mandate, judge rules

Seven troopers facing firing over the coronavirus vaccine mandate will be able to keep their jobs — at least for the time being — after a judge issued an injunction to stop the state police from showing them the door.

"Defendants are enjoined from terminating from employment with the State Police the Seven SPAM Members identified in the Complaint, until further order of the court," Suffolk Superior Judge Christine Roach ruled on Wednesday. She wrote that this specifically applies to the seven troopers in question — and doesn't stop the state from enforcing the mandate otherwise.

This is following a lawsuit filed March 3 by the State Police Association of Massachusetts — the SPAM in question — against the state police, the commander Col. Christopher Mason and other offices in Gov. Charlie Baker's administration following months of back and forth over Baker's employee vaccine mandate, created last fall.

The seven troopers in question had applied for religious exemptions and been denied, and therefore faced imminent firing because they weren't in compliance with the mandate. The seven, who remain on unpaid leave, will remain as such as the case moves forward.

Roach ruled that the state had not "met their preliminary burden on the merits of the reasonable accommodation defense" around religious beliefs, as the state police didn't "demonstrate that all conceivable accommodations would impose an undue hardship on the course of business," which is what employers are required to do in this type of situation.

Roach declined to rule, as SPAM had sought, to declare that there was a breach of contract; that will be argued further at a later date.

This is the second time Leah Barrault, a local labor attorney, has had success in such a suit. She's also the counsel for the Boston firefighters and police unions who who persuaded a state appellate judge to stop the city from moving forward with enforcement of its own mandate.

As Roach writes in her memorandum, as is the case for the Boston suit, this case is about collective bargaining — not about whether coronavirus exists or the vaccine to it works.

Roach cited the Boston unions' decision in her ruling on this case, citing Appeals Court Justice Sabita Singh's characterization of the cops and firefighters losing their jobs as a "Hobson's choice, in other words, an apparently free choice with no real alternative." Roach also says that the state, like the city, "fails to recognize or grapple with ... non-economic harm" people suffer when they lose their jobs.

<https://www.bostonherald.com/2022/03/30/x-ray-doc-pleads-not-guilty-to-alleged-upskirt-recording-of-36-women-on-newbury-street/>

# New York X-Ray doc pleads not guilty to alleged upskirt recording of 36 women on Newbury Street

A New York state doctor who specializes in looking under the skin of patients has pleaded not guilty to charges he was looking and recording under the clothes of women shopping on Newbury Street.

Dr. Damon DeTeso, 49, an imaging and radiology doctor living in Saratoga Springs, N.Y. is accused of following women on Newbury and Fairfield streets in Boston to make secret recordings of their butts, pubic areas or breasts without them knowing last summer, according to charging documents.

He's also alleged to have sat on the entrance stairs to a somewhat upscale clothing chain store in the 200-block of Newbury Street with his phone and its camera placed in such a way that women going to and from shopping at the store were forced to step over it.

In both situations, cops say, DeTeso, who practices at Saratoga Hospital, had his phone hanging about halfway out of a bottom pocket of his backpack with the lens pointed up and ready to record.

The hospital said Wednesday DeTeso requested "an indefinite leave of absence from the Saratoga Hospital medical staff," which the hospital granted effective immediately.

"Until further investigation and satisfactory resolution of this matter, DeTeso will not be conducting any services related to Saratoga Hospital," wrote Peter Hopper, a spokesman for the hospital, in the statement. "The professional care and safety of our patients is of paramount importance to Saratoga Hospital."

Hopper added that "It would be premature at this point for us to comment further."

He [faces a total of 36 criminal counts](#). He's charged with 21 counts of secret sexual recording — that's the number of recordings charging documents say he successfully captured a woman's private areas — and 15 counts of attempting the crime for the number of recordings where he allegedly failed to record images of those areas. DeTeso had a plea of not guilty entered for him on his virtual arraignment Wednesday morning, where he Zoomed into Boston Municipal Court Central division from either his office or home in Saratoga Springs. Prosecutors did not seek bail because he has no prior criminal record but they did ask that he stay away from the shopping area and the particular store. The judge granted this request.

DeTeso wiped a tear from his eye just before signing off. He's next due to appear in court in May.

As for why a capital district New Yorker went all the way to a swanky shopping district in Boston to allegedly get his voyeuristic kicks, Deteso was born in Massachusetts and has many ties to Boston.

His provider profile on the Saratoga Hospital website says that he graduated from University of Massachusetts Medical School in 1998 and did his residency at Tuft's New England Medical Center before heading west for specialized training in cross-sectional imaging at the University of California Medical Center.

His Facebook page is rife with Boston-centric posts, including a meme that compares a spider biting Peter Parker and thus turning him into Spiderman and a goat biting former Patriots quarterback Tom Brady and thus turning him into the Greatest Of All Time.

He was licensed to practice in New York state in 2004, according to the N.Y. Education Department's Office of the Professions.

On Wed, Mar 30, 2022 at 9:37 AM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:  
<https://www.bostonherald.com/2022/03/30/editorial-return-boston-police-to-public-schools/>

## Editorial: Return Boston police to public schools

The violent assault on Patricia Lampron should have been a wake-up call for Boston's progressive politicians.

The Henderson School principal was beaten into unconsciousness and seriously injured by a student last November.

At the time, Boston Public Schools Superintendent Brenda Cassellius described the attack on Lampron and another staffer as a "disturbing and completely unacceptable" assault.

She was right. It could also have been a watershed moment in ensuring the safety of BPS students, teachers and staff.

It wasn't.

Despite the incident, newly elected Mayor Michelle Wu stood firm: no police in Boston schools.

Earlier this month, two teens were arrested and charged with the shooting at Tech-Boston High. Boston Police say two guns were also seized — a loaded 9mm Glock 19 handgun equipped with a laser sight and a .22-caliber handgun equipped with a laser sight. The teens are accused of shooting a teacher and student..

That incident also sparked renewed calls for police to return to schools.

On March 13, a girl was brutally beaten at Boston Arts Academy by a group of students who had been threatening to “jump” her, according to police.

Last week, a loaded 9mm pistol was found inside a storage room at the Young Achievers Science and Math Pilot K-8 School, according to Boston Police.

And on Monday, a loaded handgun was taken from a student's fanny pack at the Dearborn STEM Academy in Roxbury, police report. A 16-year-old teen was arrested and charged.

There's no shortage of “disturbing and unacceptable.”

And no shortage of concerned community members calling for stepped-up safety measures.

“If there are armed security at City Hall, the State House and Mayor (Michelle) Wu's house — not to mention at elite, mostly white universities like Harvard and MIT — then the mayor needs to explain why white adults are protected while children whose only crime is being Black and poor are not,” said the Rev. Eugene Rivers, founder of the Violence Reduction Task Force.

But still the no-police-in-schools edict stands.

It's not just the children who are at risk — teachers and staff are also in the crosshairs of school violence.

Yes, there are underlying causes to violent behaviors, and troubled students need supports to get their lives on track. However, that doesn't negate the need for police on site when the school community is endangered.

“Before (police reform), we were able to get out in front of incidents,” said Larry Ellison, a detective assigned to the Boston Police School Unit. “We were able to do prevention and intervention to prevent kids from ending up in the school-to-prison pipeline.”

The school-to-prison pipeline is a key reason progressives take issue with police in school settings. That law enforcement itself can play a role in prevention and intervention is not seen as part of the equation.

It has to be — the increased incidents of guns on school property and assaults demands it.

“When you marginalize police officers and their authority, especially in school settings where kids are incredibly impressionable, you undoubtedly encourage and embolden bad behavior,” a police source knowledgeable about responses to schools told the Herald.

The wake-up calls keep coming. The city can't keep hitting “snooze.”

Bring police back to Boston Public Schools.

<https://www.bostonherald.com/2022/03/30/from-the-archive-the-gruesome-discovery-womans-torso-found-in-trash/>

## From the Archive: The gruesome discovery — Woman's torso found in trash

It's a gruesome crime scene'

By [BOSTON HERALD STAFF](#) |

March 30, 2022 at 9:06 a.m.

*On June 22, 1996, Swedish native Karina Holmer went to the now-closed Zanzibar in the theater district. A day later, her torso was found by a homeless person rummaging through a city dumpster. This was the Herald's first story that ran on June 24, 1996. This remains a haunting cold case that [police are still seeking](#) the public's help to solve. Her story is the focus on this week's “[From the Herald Archives](#)” newsletter.*

Rooting through a garbage Dumpster behind a Boylston Street apartment building, a man hoping to find refundable cans in a black plastic bag instead discovered the torso of a woman, police said.

“It's a gruesome crime scene,” said Lt. Robert O'Toole, a police spokesman. “Even some of our most veteran

homicide detectives have said this was awful.”

The torso, apparently dumped at the scene, is that of a white woman, but police would not speculate on the victim’s age or say whether it bore telltale marks or wounds.

Authorities also would not definitively rule out the presence of other body parts. Asked if the plastic bag contained anything more, O’Toole said, “Right now we’re saying just a torso.”

While not yet certain how long the remains had been in the Dumpster, O’Toole said investigators “don’t believe it’s been there a great amount of time – not days or weeks.”

The grisly discovery occurred at 1:30 p.m. behind 1091 Boylston St. in the city’s Fenway section.

The narrow alley, abutting the Massachusetts Turnpike near Boylston and Ipswich streets, contains two Dumpsters, both of which were carefully combed for evidence by homicide detectives wearing rubber gloves and surgical masks.

O’Toole said investigators recovered “some physical evidence,” but he would not elaborate.

Among the items police were seen collecting was a round metal disk that appeared to be a blade for a circular saw, but investigators would not confirm that.

O’Toole also would not comment on whether the woman’s limbs and head had been removed with precise cuts.

State police will assist in the autopsy, conducting undisclosed tests on the remains. O’Toole said police are confident they’ll eventually identify the woman.

“With new technologies, it’s very difficult to hide an identity,” he said.

Headed by Sgt. Detective Thomas O’Leary, who recently solved the year-old murder of college student Orla Benson, detectives last night were interviewing neighbors and going over missing-persons files.

They also will compare notes with authorities investigating the discovery of another torso that washed ashore on Peddocks Island off Hull in Boston Harbor last week, though O’Toole called it unlikely the cases are connected. The harbor torso, a man’s, was badly decomposed and had been in the water for months.

Send all tips to [joed@bostonherald.com](mailto:joed@bostonherald.com).

<https://www.bostonherald.com/2022/03/30/from-the-archive-body-identified-as-swedish-nanny-karina-holmer/>

## LOCAL NEWS

# From the Archive: Body identified as Swedish nanny Karina Holmer

By [BOSTON HERALD STAFF](#) |  
March 30, 2022 at 9:05 a.m.

*On June 22, 1996, Swedish native Karina Holmer went to the now-closed Zanzibar in the theater district. A day later, her torso was found by a homeless person rummaging through a city dumpster. This was the Herald’s second story that ran on June 25, 1996. This remains a haunting cold case that [police are still seeking](#) the public’s help to solve. This story is the focus of this week’s [“From the Herald Archives”](#) newsletter.*

A hacked-up torso found inside a Fenway trash bin was identified as a 19-year-old Swedish woman who lived in South Boston and worked as a nanny in the toney suburb of Dover, police said.

Karina E. Holmer, of Skillingaryd, Sweden, was last spotted at a ritzy Hub nightclub Saturday night, sources said.

She came to Boston in March to work as a nanny for a Dover couple but spent her off-duty time in South Boston, where she had a basement apartment on A Street, police and sources said.

Her dismembered torso was discovered around 1:30 p.m. Sunday in a Dumpster behind 1091 Boylston St. by an unidentified man scouring through trash for returnable bottles and cans. She had been cut in half at the waist and stuffed inside a black plastic trash bag, sources said.

Holmer was identified by friends yesterday, sources said.

Police yesterday were still trying to trace Holmer’s movements Saturday night after she went with friends to the Zanzibar nightclub in downtown Boston.

“We know she was there with friends,” said one police source. “And we know she was talking to some men, which is not

unusual. She was an extremely attractive young lady.”

Police sources said Holmer was last seen at the club around midnight.

“She was talking inside but whether she left with anyone is total conjecture,” said one source. “But we do know that she was at Zanzibar with friends and she was seen with some men.”

Although friends of the woman identified her yesterday, police withheld that identification for several hours as they worked with the Swedish Consulate and the State Department to notify her family in Sweden.

The woman’s torso was pulled from a Dumpster that police believe was well-known to her killer.

“It was one of the most gruesome scenes anyone has ever seen,” one police source said of the grisly discovery.

“But in my opinion, the killer knew that Dumpster was there and it was an easy means of disposal.”

Because of the condition of the body, investigators have been unable to determine whether the woman was raped prior to her murder.

Sources said Holmer appeared to have been strangled to death and dismembered by her killer. Her remaining body parts have not yet been recovered, police sources said.

“My sense is if we can find the crime scene, we’ve got a good case,” one police source said of the investigation. “Given the extent to which the body was destroyed, you’re never going to get rid of all that blood. Some of it will still be there.”

Investigators said yesterday they were preparing a search warrant for the victim’s A Street apartment in South Boston to look for evidence in the case, sources said.

Police also removed two green Dumpsters from a small alleyway on Ipswich Street behind the Boylston Street building and searched them for further clues to the slaying.

Several items of evidence, including a round metal disk that appeared to be from a circular saw, was recovered from the Dumpster during a search Sunday by detectives wearing plastic gloves and face masks.

Send all tips to [joed@bostonherald.com](mailto:joed@bostonherald.com).

<https://www.bostonherald.com/2022/03/30/from-the-archive-boston-police-trace-murdered-nannys-final-steps/>

## From the Archive: Boston police trace murdered nanny’s final steps

By [BOSTON HERALD STAFF](#) |  
March 30, 2022 at 9:04 a.m.

*On June 22, 1996, Swedish native Karina Holmer went to the now-closed Zanzibar in the theater district. A day later, her torso was found by a homeless person rummaging through a city dumpster. This was the Herald’s second story that ran on June 26, 1996. This remains a haunting cold case that [police are still seeking](#) the public’s help to solve. This story is the focus of this week’s [“From the Herald Archives”](#) newsletter.*

Missing half the victim and the entire crime scene, police focused on reconstructing the final few hours of a Swedish nanny’s life as they searched her part-time apartment and questioned her boss.

Police officials stressed, however, that no firm suspect had emerged in the killing of Karina E. Holmer, 19, whose body from the waist up was found in a Fenway trash bin Sunday afternoon — 36 hours after she was seen leaving Zanzibar, a Back Bay nightclub.

“Right now, we’re still trying to talk to friends, anyone who knew her, anyone who might have seen her after she left the bar,” one source said.

Police believe Holmer — who recently told a friend in her native Alarvd, Sweden, that homesickness might shorten her stay in the states — was strangled sometime Saturday morning, then cut in two at the waist before her top half was stuffed in a secluded Dumpster behind 1091 Boylston St., sources said.

A man sifting through trash for recyclable cans found the torso Sunday afternoon.

Holmer’s bottom half has not been found.

An Ipswich Street resident told the Herald yesterday that he recalled seeing two sedan cars backed up to the container when he walked by — possibly late Saturday morning or early afternoon.



“I sort of glanced over there,” he said. “There was something odd about the whole thing.”

He said he saw at least two white men with dark or brunette-colored hair who appeared to be sweating. The men looked directly at him, he recalled.

“They looked at me to see if I was really looking at them – I felt that,” he said. “There was no reason for them to look back at me that way.”

Meanwhile, police spread their search into Holmer’s short life in America — she journeyed from Sweden only three months ago with \$1,500 in lottery winnings — to South Boston and Dover.

In South Boston, investigators led cadaver-sniffing dogs through a fifth-floor loft at 327 A St., a photography studio used by Holmer’s employer of Dover.

Holmer frequently stayed at the loft during her weekends off from taking care of his two children, a first-grader son and a toddler daughter, sources said.

And in Dover, Boston homicide investigators took three charred bags of women’s clothing and shoes from a Dumpster that burned Monday night outside that condominium complex, police said.

Sources cautioned, however, that the 9:30 p.m. fire just a few hundred feet from the gray-and-white townhouse where Holmer worked “could just be a bad coincidence.”

The garments — most badly burned — were to undergo forensic tests in Boston, officials said.

“The items we took could belong to anybody but they need to be checked out,” said Dover police Sgt. Detective Jeff Farrell.

Sources said the employer twice spoke with investigators, first at his Dover home and then yesterday afternoon, accompanied by his attorney, at homicide headquarters in South Boston.

Yet several sources also stressed that the successful photographer who works mostly snapping products for commercial clients, was not considered a suspect.

And a police spokesman, in a highly unusual move, also stressed the investigators have focused on no particular person.

“We’re proceeding methodically, professionally and have named no one — I can’t say this emphatically enough — have named no one a suspect,” Lt. Robert E. O’Toole said.

Those involved declined to comment yesterday.

As reporters waited outside their \$200,000 home, the couple jumped into a teal Audi and sped out of the complex en route to their lawyer’s office.

A lawyer said his client was making himself available to investigators without hesitation and answering all questions.

“He wants very much to help the police solve this awful tragedy and I’ve encouraged him to be fully cooperative and candid, which he has been,” said attorney Martin Weinberg.

Neighbors said Holmer was one of several nannies the couple had employed in the past six years.

Holmer was not registered with either government or private agencies that shepherd au pairs into the United States from Europe, officials said.

Equipped with a Massachusetts driver’s license obtained with an apparently bogus Ohio license, Holmer joined other international au pairs for a night out Friday at the 21-and-over nightclub, sources said.

The killing — described as so gruesome even veteran homicide detectives were revulsed — shocked Sweden, where national newspapers splashed the “cut to pieces” nanny across their front pages.

“Of course, we know a lot of such things happen over there,” Holmer’s sister, Johanna, told WHDH-TV in a phone interview. “But it’s nothing that you expect.”

Send all tips to [joed@bostonherald.com](mailto:joed@bostonherald.com).

<https://www.bostonherald.com/2022/03/30/from-the-archive-karina-holmer-chased-a-dream-to-live-in-the-u-s-a/>

## From the Archive: Karina Holmer chased a dream to live in the U.S.A.

By [BOSTON HERALD STAFF](#) |  
March 30, 2022 at 9:03 a.m.

*On June 22, 1996, Swedish native Karina Holmer went to the now-closed Zanzibar in the theater district. A day later, her torso was found by a homeless person rummaging through a city dumpster. This story appeared in the Herald on June 26, 1996. This remains a haunting cold case that police are [still seeking the public's help](#) to solve. This story is the focus of this week's ["From the Herald Archives"](#) newsletter.*

Karina E. Holmer was always headstrong and willing to take risks, and it was a \$1,500 win on a Swedish lottery scratch ticket — and an arrangement with an illegal Swedish nanny broker — that enabled her to realize her dream of spending one year in America.

Yesterday, as news of her murder and dismemberment hit her tiny hometown of Alaryd, Sweden, her father, Ola Holmer, staggered outside at 8 a.m., clutching the Swedish flag with its yellow cross on a bold blue background.

Before his shaky legs could carry him across his tidy yard to the flagpole, Holmer fell to his knees and buried his head in his hands, sobbing for his butchered 19-year-old daughter.

"He meant to fly the flag at half-staff for his daughter but he could not do it at first," said next-door neighbor Iris Hannson, who watched the heart-breaking scene from her window, and then ran up to comfort the father and his wife, Renate, who sat sobbing on the stoop.

"They've always been the most lucky of families and now they are hit by this terrible disaster, this unbelievable tragedy," she told a Swedish newspaper.

The metal worker stood again and was finally able to raise the flag halfway for his second of four beautiful daughters.

"She was a wonderful girl, a beautiful girl and a very nice girl," her distraught father told an interviewer before going into seclusion.

Born to a Swedish father and German mother, Karina had been headstrong even as a child, when she joined the Swedish equivalent of the Girl Scouts, rode horses, ran cross-country and played other sports. She was chairman of her pony club.

In 1977, when she was 2, the family had moved to the tidy red, two-story wooden home at the end of a twisting country road. But Karina always yearned to see the world outside Alaryd, a dairy farming village of barely 100 residents.

"Karina was a tough girl who knew what she wanted to be," Hannson told the Swedish tabloid Aftonbladet. "She always pushed forward, and wanted to be what she wanted to be. You could tell that at an early time."

But this did not mean she was reckless, the neighbor added. "Today you often yell at young people for not behaving, but these girls, there have not been any problems."

After graduating high school in 1994, Karina attended a school to learn the restaurant business and worked as a waitress and chef for two years in the city of Jonkoping.

She had little money, and played scratch cards called Trisslott in hopes of finding fortune. Meanwhile, she made plans through an unlicensed Swedish nanny agent to work in the United States for one year.

The agent — who lives on a sheep farm on the Swedish island of Gotland — had been twice convicted and fined by Swedish officials for operating an employment agency without a permit.

Yesterday, that agent said he knew Karina only by name and had heard no complaints about her experience. But in an interview with the Swedish tabloid Expressen, he pledged to shut down his operation for good, adding: "I personally take responsibility for Karina's death."

His methods for connecting nannies to American families is unclear, but he apparently did not work through the U.S. Information Agency, which operates a cultural exchange with some regulations, or any private American agency.

"I know that the (Swedish) foreign department has been contacted by the U.S. about me. But I've taken better care of the people than what the other organizations have done. And I've never charged them as much," he said. "What shouldn't happen, has happened and now I am closing all activity. I am indirectly responsible for her death."

Karina's fortunes changed shortly before her trip, when she bought a scratch ticket and won for 10,000 krona, about \$1,500. "She couldn't afford to go before she got this money," said her longtime friend Charlotte Sandberg, of Sweden.

And so in March, she flew off to Boston to nanny for a Dover family. But if the arrangement had problems, she never contacted the Swedish consulate in Boston or complained to her friends.

However, after only three months in the States, she decided to return home in August.

"The last time I was in contact with her, she said that she would probably go back home earlier," Sandberg said, adding that

her friend had become homesick.

“She seemed to be pleased with the city and she had acquaintance with other nannies in the area,” Sandberg said. “She said there hadn’t been any serious problems of any kind – she hadn’t been threatened by anybody. She felt safe.”

Her best childhood friend, Maria Jegaker, was staggered by the loss.

“It is unimaginable that someone who is so close to you, like Karina, has been murdered in this ruthless way,” Jegaker said.

Send tips to [joed@bostonherald.com](mailto:joed@bostonherald.com).

<https://www.bostonglobe.com/2022/03/30/opinion/righting-states-criminal-justice-wrongs/>

## EDITORIAL

# Righting the state’s criminal justice wrongs

## Highest court left unfinished business when it revised felony murder doctrine.

By The Editorial Board Updated March 30, 2022, 4:00 a.m.

[One of every six](#) people serving time in a Massachusetts state prison — some 1,012 men and women — is doing so with no hope of parole. Some were found guilty of pulling the trigger in a murder, delivering the fatal blow, actually taking a life, which in turn sent them to prison for life.

But a number of them never wielded a weapon. Some weren’t even at the scene. However, under the state’s old doctrine of joint venture felony murder, they were legally just as culpable as the person who did pull the trigger.

The doctrine was narrowed five years ago by the state’s [Supreme Judicial Court](#). But the court did not make its decision retroactive. It did not demand a look back at those injustices of the past.

In a case now pending before the SJC, the court could still revisit the issue of retroactivity. Or the Massachusetts Legislature could join a small number of states that allow prosecutors to take that legal look back on a case-by-case basis. Real justice surely demands a better approach than the current one that tells some lifers, well, too bad.

The [Globe Spotlight Team](#) was able to identify 23 individuals caught in the legal time warp created by the court’s 2017 decision. All are men, all but one Black or Hispanic. In fact, however, there’s no telling how many more men and women might fit that category. And except for their families, a small band of lawyers willing to plead their cases, and a handful of lawmakers interested in reforming the state’s prison system, few seem to care.

[William Allen](#), whose sentence was recently commuted by Governor Charlie Baker and who is due Thursday for a Parole Board hearing, was among the lucky ones — that is, if you consider someone who has served 27 years in prison for a murder that took place when he was in another room lucky. The actual killer pleaded guilty to second-degree murder and has been out of prison for more than a decade.

Joseph Jabir Pope, now nearly 70, has spent the last 37 years in prison in connection with the 1984 armed robbery of the brothers Efrain and Bienvenido DeJesus. Efrain was killed in the robbery while Pope says he was on another floor with Bienvenido. Pope has long maintained he was there to buy drugs, not to rob the brothers. The court heard the case earlier this month, and Pope awaits a ruling likely to come this summer.

In the 2017 decision, then-[Chief Justice Ralph Gants wrote](#) in a concurring opinion that the felony murder rule had caused “convictions of murder in the first degree that are not consonant with justice.”

But the court shied away from doing what it did in 2013 when it followed the US Supreme Court’s lead and ordered a look back at all cases involving juveniles tried as adults and convicted of first-degree murder without the possibility of parole. As a result of that decision, 63 incarcerated people became [parole-eligible](#) and 18 were freed in the first five years after the ruling.



Of course, a more proactive administration than that of Governor Charlie Baker could also use its commutation powers to address issues of injustice as it did in the Allen case. But Allen is one of only two commutations granted during the Baker administration, while more than [200 petitions](#) remain on file.

Of the 21 states that, prior to 2017, had imposed automatic sentences of life without parole under the felony murder doctrine, about a dozen have attempted reforms. Some of them have gone further than Massachusetts by also revisiting already settled cases.

California passed a sweeping felony murder reform law that went into effect in 2019 and included a provision that made some [800 prisoners immediately eligible for parole](#). Other states, like Illinois, Oregon, and Washington, have adopted laws giving prosecutors the ability to revisit old cases, known as [Prosecutor-Initiated Resentencing](#).

[One such bill](#) is pending here in Massachusetts, where it recently got a temporary reprieve from this year's legislative scrap heap in the joint Judiciary Committee.

Back in 2017, the state's highest court recognized the injustice created by a doctrine that punished too many people too severely for crimes in which they were often bit players. But the court left behind the unfinished business of how to remedy those wrongs in a more systematic way than the ancient and creaky commutation process will allow.

Allowing — and more to the point, encouraging — prosecutors, county by county, to become partners in that process would help right that obvious wrong.

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**From:** Dennis Cogavin <dennis.cogavin@pd.boston.gov>  
**Sent:** Monday, April 25, 2022 5:56 PM EDT  
**To:** B2 Supervisors <b2supervisors@pd.boston.gov>; Dean Bickerton <dean.bickerton@pd.boston.gov>  
**Subject:** Fwd: News Clips Round 2 for Monday, April 25, 2022

----- Forwarded message -----

From: **John Boyle** <johnt.boyle@pd.boston.gov>  
Date: Mon, Apr 25, 2022 at 3:01 PM  
Subject: Re: News Clips Round 2 for Monday, April 25, 2022  
To: Gregory Long <gregory.long@pd.boston.gov>, Paul Donovan <paul.donovan@pd.boston.gov>, Winifred Cotter <winifred.cotter@pd.boston.gov>, Charles Wilson <charles.wilson@pd.boston.gov>, Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>, Nora Baston <nora.baston@pd.boston.gov>, Marcus Eddings <marcus.eddings@pd.boston.gov>, Gerard Bailey <gerard.bailey@pd.boston.gov>, Felipe Colon <felipe.colon@pd.boston.gov>, Kenneth Gaines <kenneth.gaines@pd.boston.gov>, James Chin <james.chin@pd.boston.gov>, Richard Dahill <richard.dahill@pd.boston.gov>, Sharon Dottin <sharon.dottin@pd.boston.gov>, Carmen Curry <carmen.curry@pd.boston.gov>, Luis Cruz <luis.cruz@pd.boston.gov>, James Miller <james.miller@pd.boston.gov>, John Boyle <johnt.boyle@pd.boston.gov>, David Fredette <david.fredette@pd.boston.gov>, Mark Hayes <mark.hayes@pd.boston.gov>, Terry Thomas <terry.thomas@pd.boston.gov>, Leighton Facey <leighton.facey@pd.boston.gov>, Steven Sweeney <steven.sweeney@pd.boston.gov>, Therese Kozmiski 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<https://www.bostonglobe.com/2022/04/25/metro/protester-arrested-outside-mayor-wus-home/>

# Protester is arrested outside Boston Mayor Michelle Wu's home

By **Emma Platoff** Globe Staff, Updated April 25, 2022, 38 minutes ago

Boston police on Monday morning arrested a protester outside the home of Mayor Michelle Wu, the first arrest made after months of vocal demonstrations in Wu's quiet Roslindale neighborhood.

Shannon Llewellyn was arrested around 7:45 a.m. outside Wu's home, according to a police incident report, and will be charged with "willful violation" of a new city ordinance that prohibits targeted protests between the hours of 9 p.m. and 9 a.m.

Monday's arrest appears to mark an escalation in police response to the ongoing protests outside Wu's home.

Since early January, critics of Wu's COVID-19 restrictions, particularly her vaccine mandate for city employees, have gathered early in the morning outside her Roslindale home to bang drums, blow whistles, and shout their opposition to her policies. Several Boston police officers are stationed outside Wu's home during the protests, but until recently, they had not taken any enforcement action against demonstrators. Police officials said they were doing their best to balance free speech rights with quality of life in the neighborhood.

Last month, Wu proposed and succeeded in passing a new city ordinance that barred targeted protests between and 9 p.m. and 9 a.m.,

effectively pushing back by two hours the time when noisy demonstrations could lawfully begin outside her home or any other private residence. Previously, a city noise ordinance had required quiet only until 7 a.m., allowing the demonstrators to begin shouting and drumming when many of Wu's neighbors were still asleep or just beginning their morning routines.

Neighbors say protests have continued, if less frequently, even after the ordinance went into effect almost a month ago. The ordinance promised fines of \$50 for a first offense, \$150 for a second offense within a 12-month period, and \$300 for a third and subsequent offenses.

Just one day after Wu signed the new ordinance, five demonstrators [were cited](#) near her home for violating it. Police officials said Monday that 10 people have been cited under the new rules and referred to the Boston municipal court in West Roxbury.

According to the police report, Llewellyn and three other protesters were gathered near Wu's home around 7:30 a.m. Monday. A police sergeant gave the protesters a copy of the new city ordinance that prohibits targeted picketing at that hour and warned them that they would be subject to arrest if they did not leave. Llewellyn refused to leave and began to bang a cooking utensil against a pot she had brought "in a disturbing manner," according to the report.

This is the second time Llewellyn has been charged with violating the protesting ordinance, according to the police report.

Asked about the arrest Monday at an unrelated event, Wu deflected, saying "we want to make sure the energy and the momentum is focused on getting things done."

She said she was grateful for public safety workers and did not say whether she was home when the arrest was made.

Earlier this month, another Wu critic and protester, Catherine Vitale, was [arrested](#) for allegedly assaulting a police officer while protesting during a press conference at Boston City Hall.

*Danny McDonald of the Globe staff contributed to this report.*

On Mon, Apr 25, 2022 at 2:21 PM John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)> wrote:

<https://www.bostonglobe.com/2022/04/25/metro/former-boston-police-union-head-patrick-rose-plead-guilty-abuse-charges/>

# Former Boston police union head Patrick Rose pleads guilty to abuse charges, sentenced to 13 years in prison

By [Andrew Ryan](#) and [Ivy Scott](#) Globe Staff, Updated April 25, 2022, 2 hours ago

Patrick M. Rose Sr., the onetime president of the city's powerful patrolmen's union, pleaded guilty Monday to molesting six children over decades in a case that exposed deep institutional failings within the Boston Police Department. He was sentenced to at least 10 years in prison, with a maximum of 13 years.

Rose had been allowed to keep his badge for 20 years after top police officials determined he more than likely sexually abused a child in 1995. Despite that finding, Rose remained on patrol in Dorchester, where he interacted with children and sexual assault victims and eventually ascended to the presidency of the Boston Police Patrolmen's Association.

The revelation, published in a Globe investigation in April 2021, underscored the secrecy of the nation's oldest police department, which has a history of protecting officers accused of misconduct.

In Suffolk Superior Court, Rose pleaded guilty to many of the allegations against him. Rose had been charged with 33 counts of sexual abuse of six children ranging in age from 7 to 16 and had maintained his innocence.

In an wrenching hearing, Rose's victims addressed their abuser, reading impact statements aloud in court.

"You might have hurt me for three years straight but now I'm getting stronger and stronger," said one of the victims, a teenager whom the Globe is not identifying because they were the victim of sexual assault. "Now all the anger and hatred isn't pointed towards myself. It's pointed towards you."

Rose retired in 2018 and was arrested in August 2020. Last April, the Globe reported that the Boston Police Department in 1995 filed a criminal complaint against Rose for sexual assault on a 12-year-old. Prosecutors say the victim ultimately recanted under pressure from Rose, a common phenomenon for young survivors of abuse when faced with demands from their abuser.

Prosecutors dropped the criminal charge and Rose's abuse escalated and included more victims, court records state. Once the criminal case ended, the police department proceeded with a separate administrative investigation.

That internal investigation concluded Rose likely molested the child. Records show that despite the determination Rose probably broke the law, police officials never recommended that Rose be fired.

In fact, there had been no indication that Rose faced any discipline other than initially being barred from carrying a gun and temporarily relegated to desk duty. Instead, Rose's internal affairs file included the notation "Try to settle prior to hearing."

Ultimately the patrolmen's association threatened to file a grievance on Rose's behalf. An attorney for the union sent a letter to Commissioner Evans on Oct 20, 1997, raising a number of issues. Two days later, Evans sent a terse memo to the internal investigations chief, Ann Marie Doherty.

"Please see me on this," Evans wrote.

Rose returned to duty. Evans and Doherty released a joint statement in April 2021 defending their actions, saying that they were unable to

discipline Rose because they did not have a witness or other evidence.

**RELATED: [Timeline of the Boston Police Department's Patrick Rose scandal](#)**

"We believed at the time, and we still believe, that everything that could be done by the Boston Police Department was done in this matter to hold Rose accountable," the statement read.

The fallout from Rose's case extended beyond his six victims, reverberating at City Hall and beyond. Former Mayor Martin J. Walsh's administration had refused to release public records related to the internal affairs investigation of Rose, even after a rebuke from the state's supervisor of public records.

Walsh's successor, former acting mayor Kim Janey, reversed course and released a small portion of Rose's internal affairs file. Janey also pushed to require Boston police to notify a City Hall oversight agency whenever one of its officers is accused of a crime.

"Swift action should have been taken" in the 1990s to remove Rose from the department, Janey said at a City Hall press conference last summer. "It is shameful that it seems the actions taken were to protect their own, rather than to protect children."

<https://boston.cbslocal.com/2022/04/25/patrick-rose-former-boston-police-union-president-guilty-plea-child-rape-sex-abuse-charges/>

# Patrick Rose, Former Boston Police Union President, Sentenced To 10-13 Years On Child Rape Charges

BOSTON (CBS) — [Patrick Rose](#), the former president of the Boston Police Patrolmen's Association, was sentenced to 10-to-13 years in prison Monday for molesting six children over a 27-year period.

Rose was facing 33 charges in connection with the rape and abuse of the children between the ages of 7 and 16 at his home in West Roxbury between 1993 and 2020. Twelve of those charges were dismissed Monday and Rose changed his plea to guilty in Suffolk Superior Court. He was also sentenced to ten years of probation and must register as a sex offender.

In 1995, a criminal complaint against Rose, now 67, accused him of sexually assaulting a 12-year-old child. An investigation sustained the allegation but Rose continued to work as a police officer. A new report, [released last July](#), found that there was not a thorough and independent investigation into Rose in 1995. He returned to full duty after the police union threatened to sue and prosecutors said he went on to assault more children. In [August 2020](#), Rose was arrested after a father and his teenage daughter reported that the girl had been repeatedly molested by Rose from age 7 through 12. Within weeks, five more people came forward to accuse Rose of molesting them as children.

"Out of respect for the family, you heard the facts, you heard the judge say that she believes it's a just sentence," Suffolk District Attorney Kevin Hayden told reporters outside court, refusing to comment further on Rose's sentence.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," current union president Larry Calderone said in a statement.

<https://www.wcvb.com/article/former-boston-police-leaders-express-deep-disappointment-with-citys-release-of-documents-from-patrick-rose-case-1650898310/39814484>

## Former Boston police union president Patrick Rose pleads guilty to child rape charges

Redacted files were from a mid-90s investigation into child sex abuse allegation

### BOSTON —

A former Boston Police Department officer who later went on to become head of the police union is pleading guilty to several charges of child rape.

Patrick Rose Sr. faces 33 charges in connection with the rape and abuse of at least six children in the 1990s. Some of the charges include statutory rape and indecent assault and battery on a child. Rose pleaded not guilty in 2020 to several charges.

Rose was sentenced to 10 to 13 years in prison followed by 10 years of probation. Upon release, Rose cannot be unsupervised with children, must stay away from victims and must register as a sex offender.

"This case of child sex abuse is likely the most egregious the Commonwealth has ever seen," the prosecutor said after the court listened to victim impact statements.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Boston Police Patrolmen's Association President Larry Calderone said in a statement.

Rose joined the Boston Police Department in 1994 and spent most of his career working in Dorchester.

In December 2014, the Boston Police Patrolmen's Association voted in Rose as the union's president at their annual elections, replacing longtime union boss Thomas Nee.

Rose retired from the Boston Police Department in 2018.

The city confirmed that Rose faced a child abuse allegation in 1995 but remained on the force and was reinstated to full duty in 1997.

Along with releasing [14 redacted pages](#) of documents related to the mid-90s internal affairs investigations, then-[Mayor Kim Janey issued a statement](#) that called the department's handling of the situation "deeply unsettling."

"Based on a review of former Officer Rose's internal affairs file conducted by the City's Law Department, it is clear that previous leaders of the police department neglected their duty to protect and serve," she wrote.

Former Police Commissioner Paul F. Evans and former Superintendent Ann Marie Doherty argued the documents published by City Hall present an incomplete and unfair version of events.

"We are disappointed that the only facts presented in the City of Boston Corporation Counsel's memo were the facts that supported the press release issued by City Hall and not the Boston Police Department's complete efforts in this matter," they wrote.

<https://whdh.com/news/ex-head-of-bostons-largest-police-union-pleads-guilty-to-child-rape-charges/>

## Ex-head of Boston's largest police union pleads guilty to child rape charges

BOSTON (WHDH) - The former head of Boston's largest police union pleaded guilty Monday to nearly three dozen child rape charges.

Patrick Rose faces a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s, according to the Suffolk District Attorney's Office.

Rose, the one-time president of the Boston Police Patrolmen's Association, changed his plea to guilty during a hearing in Suffolk Superior Court.

Rose also served as a Boston police officer. He retired in 2018.

<https://www.boston25news.com/news/local/former-boston-police-officer-pleads-guilty-child-sex-abuse-case/D25QZAJH2ZGLDH7VX4NZUOAB7A/>

## Former Boston Police officer pleads guilty in child sex abuse case

DA: "These are monstrous, monstrous acts." Several of Rose's six victims delivered victim impact statements

By **Boston 25 News Staff** April 25, 2022 at 1:29 pm EDT

BOSTON — The high-profile criminal case of a former Boston Police officer and former police union president returned to court Monday for a guilty plea.

Patrick Rose, 67, was accused of a total of 33 charges in connection with the rape and abuse of six minors over various periods of time beginning in the 1990s.

On Monday, Rose pleaded guilty to 21 those charges of molesting the six children over a 27-year period, according to the Suffolk County District Attorney's office.

Rose sentenced by Judge Mary Ames to 10-to-13 years in prison and 10 years' probation following his release. He was first accused in the summer of 2020.

Several of Rose's victims addressed the court after Rose pleaded guilty.

"I saw you for what you really are -a coward, a predator of the weak and the defenseless," the victim said.

"Your reputation? Absolutely gone," said another victim. "All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Will that's really quite ironic isn't it?"

Rose is the former president of the Boston Police Patrolmen's Association. The current president of the BPPA, Larry Calderone, released a statement following the verdict.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure, and vindication for the victims and their families," said Calderone.

"He had these children's trust from the beginning, said Suffolk County prosecutor Audrey Mark. "He didn't need to gain it. By virtue of his position, he had their trust. And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

"We can only hope that this plea today provides some level of healing and recovery for (the victims)," said Suffolk County District Attorney Kevin Hayden. "Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident. These are monstrous, monstrous acts."

A long-awaited report into the Boston Police Department's handling of the Rose case was released in April 2021.

[ [Mayor releases investigation into officer accused of abuse](#) ]

Former Boston Mayor Kim Janey released the [redacted report](#).



"It is clear that previous leaders of the police department neglected their duty to protect and serve," Janey said at the time. "Despite an internal affairs investigation in 1996 that found credible evidence to sustain the allegation against Rose for sexually assaulting a minor, it appears that the police department made no attempt to fire him."

<https://www.nbcboston.com/news/local/ex-boston-police-union-president-charged-with-child-rape-expected-to-change-plea/2702666/>

## 'Monstrous, Monstrous Acts': Ex-Boston Police Union President Pleads Guilty to Child Rape

Patrick Rose, 67, was sentenced to 10 to 13 years in prison, plus 10 years probation following his release

A former head of Boston's police union facing a total of 33 charges in connection with the rape and abuse of six children over various periods of time beginning in the 1990s pleaded guilty Monday.

Patrick Rose had previously pleaded not guilty and maintained his innocence, but changed his plea during an appearance in Suffolk Superior Court. He pleaded guilty to 21 counts of child rape and sexual assault over a 27-year period and was sentenced to 10 to 13 years in prison, plus 10 years probation following his release.

Several of Rose's victims delivered victim impact statements.

One of the victims talked about the "dead-soul feeling of emotional pain" the victim experienced because of the abuse.

"I saw you for what you really are — a coward, a predator of the weak and the defenseless," the victim said.

Another victim said of Rose: "Your reputation? Absolutely gone. All you will ever be remembered as is another creep who has nothing going for him. Your job as a cop protecting people? Well that's really quite ironic, isn't it?"

Rose, 67, a former Boston police officer and president of the Boston Police Patrolmen's Association, [was arrested on child sex charges in August of 2020](#) stemming from allegations that he [sexually assaulted a young relative](#) starting when she was 7.

The victim, now a teenager, told police the assaults continued for five years, until she turned 12. Rose allegedly touched her inappropriately and asked her to perform sexual acts on him in his West Roxbury home.

[Rose was later charged with the rape and abuse of five other children](#) Prosecutors said most of the charges date back to the 1990s, but at least one was within the last two years.

"He had these children's trust from the beginning. He didn't need to gain it. By virtue of his position, he had their trust," Assistant Suffolk District Attorney Audrey Mark said in court Monday. "And he violated their trust over and over. He violated their bodies. And these children, and these adult survivors, will live with that trauma for the rest of their lives."

Suffolk District Attorney Kevin Hayden said following the plea that he hopes the resolution of the case provides some level of healing for the victims.

"Anyone who was in that courtroom today knows the tremendous courage, fortitude and bravery that they withstood throughout this entire horrible incident," he said. "These are monstrous, monstrous acts."

Boston Police Patrolmen's Association President Larry Calderone also issued a statement following Rose's guilty plea.

"While there is no punishment or condemnation too severe for a man guilty of the atrocious crimes committed by Pat Rose, we hope today's decision will bring with it some small level of comfort, closure and vindication for the victims and their families," Calderone said.

Rose was allowed to remain on the force for years despite sufficient evidence found by internal investigators supporting allegations that he sexually assaulted a minor, [according to documents released by the city last year](#).

The internal affairs file was ordered released by acting Mayor Kim Janey after The Boston Globe reported that Rose had been able to keep his badge despite a criminal complaint in 1995 for sexual assault on a 12-year-old child.

The criminal complaint was eventually dropped, but the department's Internal Affairs Division concluded there was enough evidence to support the allegations, according to the documents. Then-Boston Police Commissioner Paul F. Evans was notified in a June 1996 memo of the results of the probe.

Rose had been relieved of his weapon and placed on administrative duty, but was returned to full duty after an attorney for the Boston Police Patrolmen's Association wrote to the commissioner in October 1997 and threatened to file a grievance, according to the documents.

[A city review of the Rose investigation led to a series of recommendations for keeping the department transparent](#) Among the changes recommended by the Office of Police Accountability and Transparency were starting investigations into officers charged with crimes within 48 hours and creating clear guidance for how officers should be punished.

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**From:** Press Office <press.office@boston.gov>

**Sent:** Friday, April 01, 2022 9:44 AM EDT

**To:** undisclosed-recipients;

**Subject:** Press Clips - Friday, April 1, 2022

## Top Stories

### [Boston Herald: Boston chief financial officer to depart in April](#)

Boston's chief financial officer is departing, creating another key role for the Wu administration to fill as the city heads into budget season.

### [Boston.com: Mayor Wu says city received \\$38 million to support organizations helping individuals experiencing homelessness](#)

The money will go to a range of services that will help people facing housing instability.

### [Boston.com: Here are the City of Boston's top-earning employees](#)

More than 30 people made over \$300,000 last year.

## COVID-19 - Local

### [Boston Herald: Massachusetts coronavirus cases keep rising, K-12 schools report 3,245 cases](#)

7 COVID deaths were reported

### [Boston Herald: 3,245 new coronavirus cases reported in Massachusetts schools in past week](#)

State education officials on Thursday reported a total of more than 3,200 staff and students testing positive for COVID-19 in the past week, another increase as virus cases again rise across the state.

### [WBZ-TV: Boston's COVID Public Health Emergency Ends, But School Mask Mandate Remains](#)

After more than two years, Boston's COVID Public Health emergency ended Friday.

## Public Safety

### [Boston Globe: Man suffers life-threatening injuries during shootout with Boston police](#)

A Randolph man is in the hospital after Boston police shot him early Thursday, when a car chase turned into a life-threatening shootout, according to officials. Also in [Boston Herald](#)

### [Boston Globe: Quincy man, 25, arrested for alleged assault of Boston police officer after getting thrown out of theater at Chris Rock show](#)

Boston police on Wednesday arrested a Quincy man for allegedly assaulting an officer following his removal from comedian Chris Rock's show at The Wilbur over a mask dispute, according to authorities and legal filings. Also in [Boston Herald](#)

### [Boston Globe: DAs favor new legislation to address possible felony murder injustices](#)

The high court in 2017 abolished rules that caused some individuals who never killed anyone to be sentenced to life for felony murder - but did not make the changes retroactive

### [Boston Globe: Boston police rescue woman pinned under car in Dorchester](#)

Boston police rescued a woman who was pinned under her car in Dorchester Monday night, the department said.

## Education

### [Boston Globe: Boston students need therapeutic response, not police presence](#)

The article "School violence fuels debate about bringing police back" (Page A1, March 24) reveals that 795 incidents in schools this year led to a police response, as compared with 951 for the COVID-19-abbreviated 2019-20 school year. The article also reports that there were more than 4,000 incidents in schools, but then clarifies that they can range from cutting class to talking back, indiscretions police are not allowed to address under Massachusetts law.

### [Boston Herald: Loaded guns found in Boston schools spark call for learning to be 'gun-free'](#)

Another week, another loaded 9 mm pistol found in a Boston school, leading to a call for metal detectors or "whatever it takes" to ensure guns never find their way into schools.

### [WBUR: Mass. teachers increasingly called it quits as pandemic wore on, study shows](#)

A new study reveals a significant increase in the number of Massachusetts teachers that quit their jobs during the coronavirus pandemic.

## Health, Addiction & Recovery



**[Boston Globe: Vertex's non-opioid painkiller shows promise in people recovering from surgery](#)**

Medical experts say the findings from the Boston biotech are encouraging, but that more data are needed.

## **Immigration**

**[GBH: Local attorney faces penalty for defrauding Brazilian immigrants, putting them at deportation risk](#)**

A state judge recently ordered a Woburn attorney to pay \$240,000 for filing false asylum claims on behalf of unknowing Brazilian immigrants in what Attorney General Maura Healey's office calls the first decision of its kind.

## **Economic Development/Business**

**[Boston Globe: 'Incredibly unfair': New outdoor dining rules make patio seating difficult for some Boston restaurants](#)**

With the season set to start Friday, restaurants are still waiting on paperwork, ordering new barriers, and wondering if it's all worth the time and money.

**[WBUR: The latest on the future of outdoor dining in the North End](#)**

A number of North End restaurant owners are upset over Mayor Michelle Wu's plan to make them pay \$7,500 if they want to continue with an outdoor dining program that began during the early days of the pandemic to help them out. Some owners say the fee is too high. Others call it discriminatory and are threatening legal action against the mayor.

**[Boston Herald: Boston 'looking into' more help for restaurants as citywide restrictions cause blowback: Michelle Wu](#)**

Mayor Michelle Wu said that the citywide changes to the outdoor dining rules that have some restaurants across the city in a stew are the result of turning "two years of experiments" into a long-term program and that the city's "looking into" what resources to provide.

**[WCVB: Outdoor dining starts in Boston](#)**

Outdoor dining starts in Boston on Friday in most city neighborhoods.

## **Environment**

**[Boston Globe: They spent \\$24,000 on solar panels. Then Eversource took four months to turn them on.](#)**

Last year, Matt and Annie Kelly took the plunge into renewable energy by spending about \$24,000 to install solar panels on the roof of their Cambridge home.

## **Housing & Development**

**[WBUR: Boston gets billions in home loans, but white areas get 'much bigger piece of the pie'](#)**

Homeownership is the primary way most Americans build wealth. And for most people, buying a home doesn't happen without a mortgage loan. Altogether, home loans amount to billions of dollars flowing into Boston every year. But this infusion of money doesn't reach all parts of the city equally.

**[WBUR: Boston's racial homeownership gap has widened. What will it take to fix it?](#)**

House hunting in Boston can often feel like one of those reality TV dating shows. There's the first meeting, where you and a dozen or so other contestants circle the object of your desire. You fall in love, maybe make a proposal, and then more likely than not ... you get rejected.

**[Boston Globe: In Roxbury, a chance to build on Massport's model of inclusive development](#)**

In the push to spread the wealth of Boston's booming development industry far wider into disadvantaged communities, this could be a game changer.

**[Boston Herald: Boston developers break ground in Seaport to kick off \\$597M project](#)**

Boston developers shovel sand in symbolic groundbreaking

## **City Council**

**[MassLive: Boston changes picketing law after weeks of protest outside home of Mayor Michelle Wu over city vaccine mandate](#)**

The city of Boston is poised to place controversial restrictions on picketing in response to weeks of protest outside the home of Mayor Michelle Wu over her COVID-19 vaccine mandate for city employees. Also on [WHDH](#), [NECN](#)

## **Local**

**[Boston Herald: Marine's family to sue Sons of Boston bar after bouncer allegedly stabbed veteran to death](#)**

'We will get to the bottom of this'

**[GBH: Material costs are inflating price tags for municipal projects like schools and roads](#)**

A spike in the cost of building materials is swelling the price tags of municipal projects like school construction and road repairs in Massachusetts, and experts say some projects will likely have to be cut back.

**[Boston Herald: Howie Carr: Michelle Wu, you're making Boston a dumpster fire!](#)**

Is it officially against the law to criticize Mayor Michelle Wu yet?

**State**

**[Boston Globe: Healey says she backs legal sports betting in Mass. as lawmakers mull bill](#)**

Attorney General Maura Healey, who once backed repealing the state law legalizing casino gambling, said Thursday she supports legalizing sports betting in Massachusetts and expressed confidence the Legislature would pass legislation that has stalled in the state Senate.

**[Boston Herald: Massachusetts Senate unanimously passes the CROWN Act, banning discrimination against natural hair](#)**

The state Senate followed the lead of the House, unanimously passing the CROWN Act, banning discrimination based on natural and protective hairstyles often worn by Black women. Also in [Boston Globe](#)

**National**

**[NYT: The U.S. economy added 431,000 jobs in March.](#)**

A continued torrent of consumer demand, paired with an emerging atmosphere of normalcy as coronavirus caseloads and health restrictions fade away, led to a burst of new jobs last month, giving reason for optimism despite the year's increasingly uncertain economic outlook.

**[NYT: As Earmarks Return to Congress, Lawmakers Rush to Steer Money Home](#)**

Democrats and Republicans alike stuffed nearly 5,000 earmarks totaling \$9 billion into the \$1.5 trillion government spending bill signed by President Biden.

**[NYT: As Biden Pleads for More Covid Aid, States Are Awash in Federal Dollars](#)**

States pushed back on a plan to take back some of their stimulus money to fund President Biden's emergency spending request. Now Congress is trying to find other ways to offset the cost.

**International**

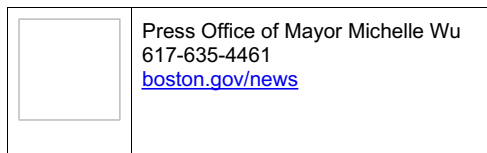
**[NYT: Russia's War Lacks a Battlefield Commander, U.S. Officials Say](#)**

Russia is running its military campaign against Ukraine out of Moscow, with no central war commander on the ground to call the shots, according to American officials who have studied the five-week-old war.

**[NYT: Syrian Mercenaries Deploy to Russia en Route to Ukrainian Battlefields](#)**

Hundreds of Syrian fighters are en route to join Russian forces in Ukraine, effectively returning the favor to Moscow for helping President Bashar al-Assad crush rebels in an 11-year civil war, according to two people monitoring the flow of mercenaries.

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**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

**From:** K. Paige Sparks <ksparks@bu.edu>  
**Sent:** Friday, April 01, 2022 10:35 AM EDT  
**To:** daryt@aol.com <daryt@aol.com>; jacobrats@gmail.com <jacobrats@gmail.com>; voicesofliberation@gmail.com <voicesofliberation@gmail.com>; weathers.derrel1@gmail.com <weathers.derrel1@gmail.com>; Bashier Kayou <bashier.kayou@yahoo.com>; Bernard Doherty <bernard.doherty@comcast.net>; Carolyn Royce <carolynroyce@gmail.com>; Colin Turner <colinturner@gmail.com>; Dorothy Farrell <dottiefarrell@gmail.com>; Gert Thorn <gertdthorn@gmail.com>; Isaac Yablo <isaac.yablo@gmail.com>; Jake Hart <jpflea@verizon.net>; Jessica Carmer Loftus <jloftus42@bwh.harvard.edu>; Jones Sade <sjonessmith@bwh.harvard.edu>; Kal Anderson <kalrea.anderson@gmail.com>; Kevin Rainsford <kprainsford@gmail.com>; Keyla Jackson <kjackson@masshousing.com>; Leroy Stoddard <leroystoddard@hotmail.com>; Louise Johnson <lsj2020@gmail.com>; Marvin Mathelier <math2586@gmail.com>; Michael Reiskind <jpmichael@rcn.com>; MyKel McMillen <cmcmillen@gmail.com>; Officer Patricia DaRosa <patricia.darosa@pd.boston.gov>; Olivier, Jasmine <jasmine\_n\_olivier@g.harvard.edu>; Peg Preble <highwaypeg@comcast.net>; Peter Elmuts <peterelmuts@comcast.net>; Robin Cheung <robc11rab@gmail.com>; Samantha Montaño <svmontano@gmail.com>; Sarah Freeman <freemansherwood@hotmail.com>; Sgt. John Dougherty <john.dougherty@pd.boston.gov>  
**Subject:** Fwd: This week on the City Council

**From our wonderful councilor (happening today!):**

**Committee on Ways and Means - Docket #0400**

**Friday, April 1st, 2 pm.**

You can find information on the hearing [here](#).

A hearing to discuss how the City budget is addressing equity.

If you would like to share your opinions virtually or via writing, you can email [ccc.wm@boston.gov](mailto:ccc.wm@boston.gov).

This feels like a good place to plug in to discuss how increasing spending on BPD disproportionately hurts people of color, folks who are unhoused, disabled folks, and the community as a whole.

Paige

----- Forwarded message -----

From: **Kendra Lara** <[kendra.lara@boston.gov](mailto:kendra.lara@boston.gov)>

Date: Thu, Mar 31, 2022 at 5:50 PM

Subject: This week on the City Council

To: <[ksparks@bu.edu](mailto:ksparks@bu.edu)>

---

[\[lea este mensaje en español aquí\]](#)

Paige, Here is your weekly City Council update!

With the **redistricting process** in full swing, the City Council will be holding two more hearings on this topic **a6:30 pm on March 31st and April 7th**, with District Six being discussed at the meeting today, March 31st! These hearings are intended for the public to voice their thoughts and concerns, and all testimony is welcome! To submit testimony virtually at the hearing or by writing, email [ccc.redistricting@boston.gov](mailto:ccc.redistricting@boston.gov).

If you have questions about City Council meetings, how local government works, or have suggestions for what we should include in this weekly recap, you can send feedback to my office [here](#).

The next City Council meeting is on **Wednesday, April 6th, at noon**. Every City Council meeting is live-streamed, and you can view it [here](#).

**This Week in the Ianella Chamber**

We chaired our first hearing! On Tuesday, March 29th the Committee on Environmental Justice, Resiliency, and Parks held its first hearing of the year regarding a Conservation Corps for Boston a hearing sponsored by Councilors Kenzie Bok and Liz Breadon. We were joined by our City Council colleagues and Chief White Hammond, Parks Commissioner Woods, Director Nguyen, panelists from PowerCorps Philadelphia, and the Executive Director of Boston's own PowerCorps, Davo Jefferson. You can [watch the hearing here](#) and learn more about the program and the timeline for

our launch.

At yesterday's City Council meeting, the council voted 9-4 to pass Docket #0312; an ordinance limiting targeted residential picketing between 9:00 am and 9:00 pm. I stand with Mayor Wu, her family, neighbors, and all other elected officials who this level of targeted harassment has impacted in the past 13 weeks. [You can read our joint letter condemning the harassment here.](#) This ordinance can harm Black and brown organizers who use protesting and direct action as a tool to secure resources for their communities and protect their civil rights, which is why I voted against it. As an organizer, I understand that policies typically passed to protect those in power are often used against the most marginalized communities. If we can't guarantee that the Boston Police Department will enforce this ordinance equitably, we run the risk of further criminalizing our people; a risk I am unwilling to take.

Ultimately, the ordinance passed, but our office made the following amendments to minimize possible harm:

- We removed language that identified 'a particular residence' as the target. This made the ordinance clearer and removed any ambiguity around protests or demonstrations targeting a specific home but not specific people within the home. All over D6 and in Boston, we have housing justice advocates who show up to stop evictions, foreclosure auctions and fight against greedy developers. These actions protect people from displacement but could be impacted by this ordinance.
- We added language to ensure the Boston Police Department could not use the enforcement of this ordinance to surveil protestors further. Because of our amendment, BPD cannot use any information gathered while enforcing this ordinance to add protestors or organizers into any database managed by the Boston Regional Intelligence Agency.

All of our neighbors deserve a respite from this ongoing harassment. We hope that this ordinance will provide the necessary relief to our constituents without any unintended negative consequences.

### Orders, Resolutions, and Home Rule Petitions

These are items I sponsored, signed on to, or spoke in support of. You can listen to my remarks on the [Boston City Council Youtube channel](#).

- Councilors Louijeune and Mejia offered a petition for a special law regarding [four additional liquor licenses to be granted](#); President Flynn referred this matter to the Committee on Government Operations.
- Councilor Breadon offered an order for a hearing on [the state of Boston's non-governmental, nonprofit social sector and charting a post-pandemic recovery](#). President Flynn referred this matter to the Committee on COVID-19 Recovery.
- Councilors Breadon, Bok, and Louijeune offered a [resolution in support of an act to receive payments in lieu of taxation by organizations exempt from the property tax](#). The council adopted this resolution.
- Councilors Breadon, Bok, and Louijeune offered a resolution in support of the act relative to [electric bicycles](#).
- Councilors Fernandes-Anderson, Arroyo, and Worrell offered an order for a hearing to [explore creating a digital marketplace pilot program](#).
- Councilors Murphy, Louijeune, and Breadon offered an order for a [hearing to address the lack of athletic opportunities available for BPS students](#); this was referred to the Committee on Education.
- Councilors Edwards and Flynn offered a home rule petition for a **special law regarding disability pension**. If passed, this act will allow **100% compensation for a person that sustained life-threatening injuries while performing duties as a Boston EMT**. President Flynn referred this matter to the Committee on Government Operations.
- Councilors Flynn, Edwards, and Murphy offered a resolution **recognizing women veterans during Women's History Month**.
- Councilors Edwards and Mejia offered a resolution **recognizing Boston Logan Airport workers**.
- Along with Councilors Louijeune and Bok, I offered a hearing order on the state of **affordable housing and Boston's Inclusionary Development Policy**. President Flynn referred this matter to the Committee on Housing and Community Development, which I chair.

### All Upcoming Hearings

Committee on Redistricting - Districts 4, 5, and 6  
Thursday, March 31st, 6:30 pm.

You can find information on the hearing [here](#).

The City Council Committee on Redistricting will be meeting to hear public opinions on redistricting.

If you would like to testify virtually or in writing, you can email [ccc.redistricting@boston.gov](mailto:ccc.redistricting@boston.gov).

**Committee on Ways and Means - Docket #0400**

**Friday, April 1st, 2 pm.**

You can find information on the hearing [here](#).

A hearing to discuss how the City budget is addressing equity.

If you would like to share your opinions virtually or via writing, you can email [ccc.wm@boston.gov](mailto:ccc.wm@boston.gov).

**Committee on Ways and Means**

**Monday, April 4th, 2 pm.**

You can find information on the hearing [here](#).

The Committee on Ways and Means will be meeting to discuss Councilor priorities for the Fiscal Year 2023 budget.

**Committee on Ways and Means - Docket #0295**

**Tuesday, April 5th, 10 am.**

You can find information on the hearing [here](#).

A hearing to discuss options for increasing housing affordability in the City of Boston.

If you would like to share your opinions virtually or via writing, email [ccc.wm@boston.gov](mailto:ccc.wm@boston.gov).

If you're interested in listening to the meetings but cannot attend, you can view recordings of all Committee hearings and City Council meetings after they end on the [Boston City Council Youtube channel](#).

In Solidarity,  
Councilor Lara  
617-635-4220



Twitter



Facebook



Instagram

This email was sent to [ksparks@bu.edu](mailto:ksparks@bu.edu)

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Hicks for District Six · 161 S Huntington Ave Apt 105 · Boston, MA 02130-4824 · USA

**From:** Paul Joseph <paul.joseph@pd.boston.gov>  
**Sent:** Saturday, April 16, 2022 3:19 PM EDT  
**To:** John Ezekiel <john.ezekiel@pd.boston.gov>  
**Subject:** Re: IAD2022-0136

Thank you John,

much appreciated.

Regards,

Paul J

On Fri, Apr 15, 2022 at 3:22 PM John Ezekiel <john.ezekiel@pd.boston.gov> wrote:

Hi Sgt.,

All good here, thanks! I hope all is well with you.

Any individual may be arrested for a City of Boston Ordinance violation if they remain in wilful violation of that ordinance. I always recommend that a citation (whether money or warning), report, FIO, be written as proof that you have given the offender a warning. Once that is done and the individual continues to violate that ordinance, they would be considered in wilful violation. Typically you may see the violation again at a future date and again the individual may be subject to arrest. I always talk about reasonableness when deciding how long is too long between violations. Generally a year is a good measuring point.

This particular ordinance allows for an ascending fine, so the officer may use his/her discretion and continue to fine as opposed to making the arrest. Please note that the ordinance must be in presence to cite and/or arrest. That said the knowledge of one, knowledge of all applies. Example: If the individual is cited for their first offence on Friday, April 15, 2022 by PO Smith and then commits the same offence in the presence of PO James on Monday, April 18, 2022, and PO James is aware that PO Smith cited the individual on the 15th, then PO James may arrest for this violation or continue to fine.

M.G.L 272 sec. 59 allows a police officer to make an arrest for an ordinance violation.

<https://malegislature.gov/laws/GeneralLaws/PartIV/TitleI/Chapter272/Section59#:~:text=IN%20CRIMINAL%20CASES-.Section%2059%3A%20Ordinances%20or%20regulations%20relating%20to%20streets%2C%20reservations%2C,beverages%3B%20profanity%3B%20arrest%20without%20warrant>

I hope this helps! Please let me know if you need anything else.

Best,  
John

On Fri, Apr 15, 2022 at 1:57 PM Paul Joseph <paul.joseph@pd.boston.gov> wrote:

Hello John,

I hope all is well with you.

I'm reaching out to you because it is my understanding that you teach the City Ordinance class at the academy. I'm interested in what your thoughts are on if a person could be arrested for a willful violation of the Ordinance regarding targeted residential picketing Chapter XVI Section 16-62: See attached document. Also what chapter and section grants that power to arrest.

Further, regarding the use of an amplified device, what Law grants the power of arrest for that city Ordinance violation.

Best regards,

Paul Joseph  
IAD

--

*Police Officer John Ezekiel  
Boston Police Academy Instructor  
85 Williams Avenue  
Hyde Park, MA 02136  
617-343-9883*

# Document is unavailable





# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows

for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,*

submits a report recommending that this docket **ought to pass in a new draft**.

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations



## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:19 PM EDT  
**To:** Stephen McNulty <stephen.mcnulty@pd.boston.gov>  
**Subject:** Fwd: Herald stories  
**Attachment(s):** "Civil Citation REDACTED.pdf"

----- Forwarded message -----

From: **Andre Watson** <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)>  
Date: Fri, Apr 1, 2022 at 3:13 PM  
Subject: Fwd: Herald stories  
To: Jason Gilmore <[jason.gilmore@pd.boston.gov](mailto:jason.gilmore@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, Cary Chin <[cary.chin@pd.boston.gov](mailto:cary.chin@pd.boston.gov)>  
Cc: John Boyle <[john.t.boyle@pd.boston.gov](mailto:john.t.boyle@pd.boston.gov)>

Good Afternoon,

Media relations received a request for the reports associated with the protest this morning at the Mayor's residence. I am sending a copy of the redacted report that was sent to the Herald to fulfill this request.

-Andre

----- Forwarded message -----

From: **Sean Cotter** <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)>  
Date: Fri, Apr 1, 2022 at 2:49 PM  
Subject: Re: Herald stories  
To: [mediarelations@PD.Boston.Gov](mailto:mediarelations@PD.Boston.Gov) <[mediarelations@pd.boston.gov](mailto:mediarelations@pd.boston.gov)>

Can I also have copies of the reports that go along with the citations around the residential picketing ordinance? Thank you

On Fri, Apr 1, 2022 at 12:12 PM Sean Cotter <[sean.cotter@bostonherald.com](mailto:sean.cotter@bostonherald.com)> wrote:

Hi all,

How many tickets do officers issue to protesters this morning via the new residential picketing ordinance? Could I have copies of those citations?

Also ... my understanding is there is video of a gang dispute that involves kicking over headstones. Would someone be able to give me a call to talk about that? IS there a police report available about the incidents in question? You can reach me at 857-939-0994.

Thanks,  
Sean

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

Sean Cotter  
Reporter | The Boston Herald  
857-939-0994

--

**Andre D. Watson**  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)

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Office of Media Relations  
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Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)




**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02108

 Boston Police Department  
 Boston PD

**# 22022674 - Offense/Incident Report**

REPORTED ON DATE/TIME <b>Apr 1, 2022 08:39</b>	DISTRICT / SECTION / REPORTING AREA / SUPERVISOR A / SUPERVISOR B <b>E5 / E414</b>	OCCURRED ON DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 1, 2022 01:57</b>
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REPORTING OFFICER

**JOHN CALLAHAN #144429**

REPORT TAKEN LOCATION

**17 AUGUSTUS AVE. ROSLINDALE, MA 02131**

EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                                   | <input type="checkbox"/> Drugs                       |
| <input type="checkbox"/> Sexual Assault                        | <input type="checkbox"/> NIDV                        |
| <input type="checkbox"/> Child Present                         | <input type="checkbox"/> Homeless                    |
| <input type="checkbox"/> CRU - Hate/Bias                       | <input type="checkbox"/> Car Jack                    |
| <input checked="" type="checkbox"/> Other Agency/Unit Notified | <input type="checkbox"/> Bicycle                     |
| <input type="checkbox"/> DVIP                                  | <input type="checkbox"/> Licensed Premise            |
| <input type="checkbox"/> Warrant Arrest                        | <input type="checkbox"/> School                      |
| <input type="checkbox"/> Juvenile                              | <input type="checkbox"/> Disabled                    |
| <input type="checkbox"/> Gang                                  | <input type="checkbox"/> Search Warrant              |
| <input type="checkbox"/> Homeland Security                     | <input type="checkbox"/> Shots Fired                 |
| <input type="checkbox"/> Sex Offender                          | <input type="checkbox"/> Elderly                     |
| <input type="checkbox"/> Homeland Security UASI                | <input type="checkbox"/> Victim Shot                 |
| <input type="checkbox"/> Home Invasion                         | <input type="checkbox"/> Victim Stabbed              |
| <input type="checkbox"/> Human Trafficking                     | <input type="checkbox"/> Child Abuse                 |
| <input type="checkbox"/> Auto Investigator                     | <input checked="" type="checkbox"/> Body Worn Camera |

**NARRATIVE**

About 0730am on Friday April 01, 2022 Officer Callahan, assigned to the E417D, responded to a protest at 17 Augustus Ave, Roslindale.

Also on Scene was Sgt. Detective Gilmore, Sgt. Detective Chin, Sgt. O'Brien (E901), E2020 Officers Ciccolo and Flavin, and E414D Officer Creavin.

Upon arrival the officer observed a group of about 6-8 protesters in the intersection of Crandall Street and Augustus Ave, holding signs and yelling.

On scene Sgt. Detective Gilmore read the 6-8 protesters the Boston City Ordinance 16-63 which prohibits targeted protests between the hours of 9:00pm and 9:00am. Sgt. O'Brien handed every protester on scene a physical copy of the Boston City ordinance 16-63.

REPORTING OFFICER SIGNATURE / DATE <b>JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)</b>	SUPERVISOR SIGNATURE / DATE <b>TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)</b>
PRINT NAME <b>JOHN CALLAHAN #144429</b>	PRINT NAME <b>TIMOTHY FITZPATRICK #011810</b>

 Boston Police Department  
 Boston PD

ALWAYS PRINT NAME AND PHONE NUMBER BY E-MAIL (2011711) ON APR 2, 2022 11:48

Upon physical receipt of the city ordinance [REDACTED] acknowledged the ordinance and informed Sgt. O'Brien she would be leaving the scene. [REDACTED] then walked to her car which was parked down the road on Crandall Street where she remained and intermittently used an amplifying device to yell.

Sgt. Detective Gilmore did issue [REDACTED] City of Boston Ordinance Violation notice number 1007601 for the violation of city ordinance 16-63.

[REDACTED] was picked up at her residence by her security detail and when the [REDACTED] car began to drive off, [REDACTED] in her personal vehicle, began following the [REDACTED] car while using an amplifying device to yell and harass the [REDACTED]. Sgt. Detective Chin, of the [REDACTED] observed [REDACTED] following the [REDACTED] vehicle and heard her yelling at the [REDACTED] using an amplifying device.

Officer did seek civil complaints at West Roxbury District Court against [REDACTED] for violation of ordinance 16-63, [REDACTED] for violation of ordinance 16-63 and [REDACTED] for violation of city ordinances 16-63 and 16-88.

As the identity of the other protesters become known to officers civil complaints will be sought against them for the city ordinance violation.

## REPORTING PARTY - 1

REPORTING PARTY - 1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 1, 2022 07:30

SUSPECTED HAVE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT, UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY

ROSLINDALE

STATE

MA

ZIP

02131

COUNTRY CODE

US

LOCATION CATEGORY

Highway/ Road/ Alley/ Street/ Sidewalk

DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUPERVISION 5

E5 / E414

PUBLIC / PRIVATE

Public

VICTIMS-1

VICTIM-1 NAME

V-1 City of Boston

ORGANIZATION TYPE

Criminal Justice Enforcement Unit

ORGANIZATION INDUSTRY

Government Administration

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST AND MIDDLE)

S-1 Burke, Robert

DOB / ESTIMATED AGE RANGE

1956-04-04

SEX

Male

RACE / ETHNICITY

White / Unknown

SUSPECTS-2

SUSPECTS-2 NAME (LAST, FIRST AND MIDDLE)

S-2 Cottone, Shana

DOB / ESTIMATED AGE RANGE

1985-12-02

SEX

RACE / ETHNICITY

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

PRINT NAME

TIMOTHY FITZPATRICK #011810

Female	White / Unknown
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**SUSPECTS-3**

SUSPECTS-3 NAME LAST, FIRST MIDDLE

DOB / ESTIMATED AGE BIRTH

SEX

RACE / ETHNICITY

Female

Asian / Unknown

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 11:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

TIMOTHY FITZPATRICK #011810 Apr 1, 2022 11:48 (e-signature)

PRINT NAME

TIMOTHY FITZPATRICK #011810

**IN 222022674 - Supplemental- 1 Report**

REPORTED ON DATE / TIME

Apr 1, 2022 13:30

OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME

Apr 1, 2022 07:30

REPORTING OFFICER

JOHN CALLAHAN #144429

SUPPLEMENT TYPE

Complaint/Warrant

**NARRATIVE**

On further investigations by Sergeant Detective Cheevers of City Hall Security two more protesters have been identified as [REDACTED] and [REDACTED]

Sgt. Det. Cheevers was able to identify the [REDACTED] and [REDACTED] after reviewing body worn cameras footage from the protest. [REDACTED] and [REDACTED] were confirmed to be at the protest by the E901 Sergeant O'Brien.

Civil complaint have ben sought against [REDACTED] and [REDACTED] for violation of City Ordinance 16-63.

**INVOLVED PERSONS**

INVOLVED PERSON 1 NAME (LAST, FIRST AND MIDDLE)

P-1 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Male

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

INVOLVED PERSON 2 NAME (LAST, FIRST AND MIDDLE)

P-2 [REDACTED]

DOB / ESTIMATED AGE RANGE

[REDACTED]

SEX

Female

RACE / ETHNICITY

White / Unknown

INVOLVEMENT TYPE

Suspect

**RELATIONSHIPS ADDENDUM**

NAME

[REDACTED]

RELATIONSHIP

RELATIONSHIP  
UNKNOWN

SUBJECT

[REDACTED]

REPORTING OFFICER SIGNATURE / DATE

JOHN CALLAHAN #144429 Apr 1, 2022 13:37 (e-signature)

PRINT NAME

JOHN CALLAHAN #144429

SUPERVISOR SIGNATURE / DATE

STEPHEN O'BRIEN #009033 Apr 1, 2022 13:47 (e-signature)

PRINT NAME

STEPHEN O'BRIEN #009033

**From:** Priscilla Brown <cillab67@hotmail.com>

**Sent:** Sunday, April 10, 2022 9:56 AM EDT

**To:** christina.spelmanite@gmail.com <christina.spelmanite@gmail.com>; annaise.foureau@gmail.com <annaise.foureau@gmail.com>; Carmen Kaechler <carmen.kaechler@gmail.com>

**CC:** susannapan42@gmail.com <susannapan42@gmail.com>; Thomas Howard <thomasphowardiii@gmail.com>; nevaehmom@gmail.com <nevaehmom@gmail.com>; arielys1510@yahoo.com <arielys1510@yahoo.com>; Tara Tyrrell <tyrrell.tarak@gmail.com>; Howard, Tom Patrick <thomas\_howard@hms.harvard.edu>; halahtheballa@gmail.com <halahtheballa@gmail.com>; breedenj2012@gmail.com <breenj2012@gmail.com>; zhenruan168@gmail.com <zhenruan168@gmail.com>; mangall38@yahoo.com <mangall38@yahoo.com>; anitakmehta25@gmail.com <anitakmehta25@gmail.com>; Kathleen Steen <kmasw37@gmail.com>; frazier017@gmail.com <frazier017@gmail.com>; rsalcedo72@gmail.com <rsalcedo72@gmail.com>; patbrown\_06@yahoo.com <patbrown\_06@yahoo.com>; reldavis@comcast.net <reldavis@comcast.net>; zhongwei9126@gmail.com <zhongwei9126@gmail.com>; gdou123@gmail.com <gdou123@gmail.com>; chuyuan.1989@hotmail.com <chuyuan.1989@hotmail.com>; kuldeepmehta2000@gmail.com <kuldeepmehta2000@gmail.com>; atnewton15@gmail.com <atnewton15@gmail.com>; themaurofam@gmail.com <themaurofam@gmail.com>; emily.daddario@gmail.com <emily.daddario@gmail.com>; shomjal@yahoo.com <shomjal@yahoo.com>; zadrianjunk@gmail.com <zadrianjunk@gmail.com>; ferrickj@gmail.com <ferrickj@gmail.com>; benyu717@gmail.com <benyu717@gmail.com>; natalie.bpg@gmail.com <natalie.bpg@gmail.com>; renniece@yahoo.com <renniece@yahoo.com>; h feng <haofeng3388@gmail.com>; tmurphy0331@gmail.com <tmurphy0331@gmail.com>

**Subject:** Stop paying into the West Campus Master Association

**Attachment(s):** "HOA payments 2022.PNG"

Hi ladies,

We've lived as neighbors side by side for years now but a situation coming down the road for all of us needs our immediate attention. We all know our money is being stolen, misappropriated, embezzled whatever you want to call it. For nearly the past 2 years I've organized most of the homeowners in my association to oppose New Boston Fund. I recall you telling me how NBF stole all your money out of your trust once they exited as your trustee. Now like us you're paying exorbitant HOA fees. Have you ever considered why that is? It's because this campus is filled with people who cannot legally make the same contributions. The CCR which we all have governs how the land is supposed to be used and the formation of associations. Only condo associations can truly pay into the Master Association and there are only 2 condo associations on this campus, which is ours. You saw the email from Great North signed by the trustees how that money is allocated. We're being forced to pay for public roads, the entire underlying water system and facilities for the tenants. HOA funds cannot be used for non-HOA members and certainly not public roads. Once this came to light harassment from Eric Van Dusen stopped as he's busy trying to save his own ass. I'm sure how he's handling the finances for the entire campus is just one big illegal mess but I need you guys to stop making that your problem. I have convinced the homeowners to pay roughly half of the original HOA fees since the beginning of the year and I've been doing the same. See the attached screenshot. Over the past two years I've racked up over \$1000 in fines for having no trespassing signs and generally being a pain in the ass and I don't give two fucks about it. I am so sick of this situation and how the city exacerbated it like the fucking idiots they are.

I reported the stolen money to the FBI, BPD, and the AG Maura Healey's office and I've been in contact with all of them. The homeowners in our association and CC'd on this email know that there is an investigation as some of them have verified themselves. You can ask any local politician about this situation as Russell Holmes, Mayor's office, Sonia Chang Diaz, Andrea Campbell's office (now Brian Worrell) and BPD have all been getting hundreds of emails from me and the other homeowners for quite some time now which is how we got to this point. Believe that this is a massive scandal as we're not the only development like this. It's a city-wide problem and that's not the entire scope of this MASSIVE scandal. Many city employees have been fired already, many politicians will be implicated, and New Boston Fund is tucked tail and running right now all because of me and the support I get from the other homeowners. The tenants who live here now will have to leave which I had been screaming about for over a year and dumbass Janey didn't listen. She did the opposite and let the illegal move-ins continue and most of the tenants are none the wiser but they will have to leave and they outnumber us 3 to 1. Why are you paying into the West Campus Master Association? We don't have control over our finances but that didn't stop us from protesting with our pocketbooks. But you do! What have you got to lose. They can't take any of us to court and I did announce our intentions to those politicians as they cannot let New Boston Fund sue any of us which is why nothing has ever happened to me for over 2 years. I always paid my full fee but starting this year myself and the rest of the homeowners have drastically reduced our contributions to nearly half. We knocked off 30% starting January 1 and will knock off another \$50 starting May 1st. We need the people in charge to take this situation seriously and I cannot come up with a good enough reason why you need to finance the crimes of New Boston Fund, Winn, City of Boston, and others any further. Before long the same people that are benefitting from stolen funds could be picketing your houses and I don't know any greater slap in the face than that. I'm sure once the full breathe of this investigation is known we'll see how badly we've been fucked over but for now this is our biggest problem. None of them belong on this campus but Michelle Wu thinks we have years to wait for her to raise the affordable rate to 20% when she knows damn well we don't. At best we have a year tops. You have a year tops. Ok you might lose access to the gateway center but you survived for over a decade without it. Is it worth paying over \$400 a month? You could use that money for yourselves instead of paying for tenants who have terrorized you guys for years and will likely pick up that habit again and this time all of us will be targets.

Our interests are aligned in this matter and will be for a long time coming. You fought New Boston Fund for years and I understand why you gave up but this is a chance to truly make a difference for yourselves. Stop paying into the West Campus Master Association. Without your money they'll have to figure out another way to pay for services for the tenants. Your master policy for your homes won't be affected and you'll be able to put the money to good use. I will be adding you 3

to my emails going forward so you can follow along with how we're protesting all these injustices. I've accomplished a lot by myself but we all need to work together moving forward. Have a meeting, talk to your Treasurer, do whatever you have to do but your conclusion should not be that you stay the course as that won't get any of us anywhere. Join us as we're all each other has. Don't worry I always make sure the politicians know how we're fighting back, leave that part to me. But every single person on this email is working in solidarity and you should too.

**From:** Stephen Sutliff <steve.sutliff@pd.boston.gov> on behalf of Google Calendar <calendar-notification@google.com>  
**Sent:** Wednesday, April 27, 2022 9:49 AM EDT  
**To:** robert.boyle@boston.gov <robert.boyle@boston.gov>  
**Subject:** Accepted: 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes... @ Tue Nov 29, 2022 10am - 5pm (EST) (robert.boyle@boston.gov)  
**Attachment(s):** "invite.ics"

Stephen Sutliff has accepted this invitation.

**15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-**

*When*

Tue Nov 29, 2022 10am – 5pm Eastern Time - New York

*Where*

OLR-Conference Room-624 (

**Subject:** 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-

**Location:** OLR-Conference Room-624

**Start:** Tuesday, November 29, 2022 10:00 AM EST

**End:** Tuesday, November 29, 2022 5:00 PM EST

**Recurrence:** None

**Organizer:** robert.boyle@boston.gov

**Required Attendees:** steve.sutliff@pd.boston.gov



**Subject:** Invitation: 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes... @ Tue Nov 29, 2022 10am - 5pm (EST) (steve.sutliff@pd.boston.gov)

**Location:** OLR-Conference Room-624

**Start:** Tuesday, November 29, 2022 10:00 AM EST

**End:** Tuesday, November 29, 2022 5:00 PM EST

**Show Time As:** Busy

**Recurrence:** None

**Meeting Status:** Not yet responded

**Required Attendees:** steve.sutliff@pd.boston.gov <steve.sutliff@pd.boston.gov>; luis.cruz@pd.boston.gov <luis.cruz@pd.boston.gov>; john.wilton@pd.boston.gov <john.wilton@pd.boston.gov>

**Attachment(s):** "invite.ics"

You have been invited to the following event.

**15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-**

*When*

Tue Nov 29, 2022 10am – 5pm Eastern Time - New York

*Where*

OLR-Conference Room-624 ([\\_](#))

**Subject:** 15-0596-BPSOF-Class Action-Compensation-Picketing-Strikes-Labor-Disputes-

**Location:** OLR-Conference Room-624

**Start:** Tuesday, November 29, 2022 10:00 AM EST

**End:** Tuesday, November 29, 2022 5:00 PM EST

**Recurrence:** None

**Organizer:** robert.boyle@boston.gov

**Required Attendees:** boston.gov\_664c526737565f5a66454b4a52347a3368794b334d51@resource.calendar.google.com; robert.boyle@boston.gov;  
c\_ddgd6gt0m1asr2aapvghgff80@group.calendar.google.com; luis.cruz@pd.boston.gov; steve.sutliff@pd.boston.gov; john.wilton@pd.boston.gov

-- Do not edit this section of the description. View your event at <https://calendar.google.com/calendar/event?action=VIEW&eid=MDhzMGo4cmdhZDNsYmM3Y3Y4cXBxNGpybnUgc3RldmUuc3V0bGlmZkBwZC5ib3N0b24uZ292&tok=MjMjc9iZXJ0LmJveWxlQGJvc3Rvbi5nb3ZhMTk2Mzg4ODhiMDY4ODA0NzE>

**From:** Jason Gilmore <jason.gilmore@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 7:39 AM EDT  
**To:** timothy.fitzpatrick@pd.boston.gov <timothy.fitzpatrick@pd.boston.gov>  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"  
FYI

(Sent from my iPhone)

Respectfully,

Sergeant Detective Jason S. Gilmore Sr.

Boston Police Department

Office of the Police Commissioner

Dignitary Protection Unit

One Schroeder Plaza

Boston, Ma 02120

617-343-4486

[617-594-3378](tel:617-594-3378) cell

[Jason.Gilmore@pd.boston.gov](mailto:Jason.Gilmore@pd.boston.gov)

"First in the Nation"

Begin forwarded message:

**From:** Jason Gilmore <[jason.gilmore@pd.boston.gov](mailto:jason.gilmore@pd.boston.gov)>  
**Date:** March 31, 2022 at 8:57:26 PM EDT  
**To:** Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>  
**Cc:** Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>  
**Subject:** Re: Substituted Committee Report and substituted new draft

Got it.

(Sent from my iPhone)

Respectfully,

Sergeant Detective Jason S. Gilmore Sr.

Boston Police Department

Office of the Police Commissioner

Dignitary Protection Unit

One Schroeder Plaza

Boston, Ma 02120

617-343-4486

[617-594-3378](tel:617-594-3378) cell

[Jason.Gilmore@pd.boston.gov](mailto:Jason.Gilmore@pd.boston.gov)

"First in the Nation"

On Mar 31, 2022, at 7:28 PM, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>  
**Date:** March 31, 2022 at 7:12:56 PM EDT  
**To:** Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, James Megee <[james.megee@pd.boston.gov](mailto:james.megee@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>, Jeffrey Walcott <[jeffrey.walcott@pd.boston.gov](mailto:jeffrey.walcott@pd.boston.gov)>  
**Subject:** Fwd: **Substituted Committee Report and substituted new draft**

Signed ordinance attached

----- Forwarded message -----

**From:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 7:11 PM  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**To:** Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

**From:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 7:08 PM  
**Subject:** Fwd: Substituted Committee Report and substituted new draft  
**To:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

----- Forwarded message -----

**From:** Christine O'Donnell <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
**Date:** Wed, Mar 30, 2022 at 11:18 AM  
**Subject:** Substituted Committee Report and substituted new draft  
**To:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--

**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows



for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations



## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** Darrin Greeley <darrin.greeley@pd.boston.gov>

**Sent:** Thursday, March 31, 2022 7:54 PM EDT

**To:** Michael Hegarty <michael.hegarty@pd.boston.gov>; Dana Barrett <dana.barrett@pd.boston.gov>; Erica Bradley <erica.bradley@pd.boston.gov>; Jake Elwood <jake.elwood@pd.boston.gov>; Joe Freeman <joe.freeman@pd.boston.gov>; John Earley <john.earley@pd.boston.gov>; Katelyn OToole <katelyn.otoole@pd.boston.gov>; Mark Cooper <mark.cooper@pd.boston.gov>; Scott OMara <scott.omara@pd.boston.gov>; Timothy Fitzpatrick <timothy.fitzpatrick@pd.boston.gov>; Tomas Kearney <thomas.kearney@pd.boston.gov>; Tony Troy <troyan.bpd@ci.boston.ma.us>; Wilson Quiles <wilson.quiles@pd.boston.gov>; Zilma Merced <zilma.merced@pd.boston.gov>; Stephen OBrien <stephen.obrien@pd.boston.gov>; Francis St.Peter <francis.st.peter@pd.boston.gov>; Nicole McMullin <nicole.mcmullin@pd.boston.gov>; Michael Mylett <michael.mylett@pd.boston.gov>; Michael Kern <michael.kern@pd.boston.gov>; John Hughes <john.hughes@pd.boston.gov>; Joseph Gillespie <joseph.gillespie@pd.boston.gov>

**Subject:** Fwd: Substituted Committee Report and substituted new draft

**Attachment(s):** "Committee Report Docket #0312.docx", "Docket #0312 New Draft Final (1).docx"

Captain Darrin P. Greeley  
Commander - District 5  
[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)

Begin forwarded message:

**From:** David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>

**Date:** March 31, 2022 at 7:12:56 PM EDT

**To:** Darrin Greeley <[darrin.greeley@pd.boston.gov](mailto:darrin.greeley@pd.boston.gov)>, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, Gregory Long <[gregory.long@pd.boston.gov](mailto:gregory.long@pd.boston.gov)>, James Megee <[james.megee@pd.boston.gov](mailto:james.megee@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>, Jeffrey Walcott <[jeffrey.walcott@pd.boston.gov](mailto:jeffrey.walcott@pd.boston.gov)>

**Subject:** Fwd: Substituted Committee Report and substituted new draft

Signed ordinance attached

----- Forwarded message -----

From: **Neil Doherty** <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

Date: Thu, Mar 31, 2022 at 7:11 PM

Subject: Fwd: Substituted Committee Report and substituted new draft

To: Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Here is the final language. The mayor's signed copy is with the clerk. I don't have access to that.

----- Forwarded message -----

From: **Yasmine Raddassi** <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>

Date: Thu, Mar 31, 2022 at 7:08 PM

Subject: Fwd: Substituted Committee Report and substituted new draft

To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>

Date: Wed, Mar 30, 2022 at 11:18 AM

Subject: Substituted Committee Report and substituted new draft

To: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Hello,

I have attached the substituted committee report and the substituted new draft.

Thank you!  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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**YASMINE RADDASSI**

Director of Research, Policy, and Budget

[Office of City Councilor Ricardo Arroyo](#)

[1 City Hall Sq., Boston, MA 02201](#)

617-635-4210

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Sent from mobile, please excuse any typos and brevity.



# BOSTON CITY COUNCIL

Committee on Government Operations

Ricardo Arroyo, Chair

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One City Hall Square ♦ 5<sup>th</sup> Floor ♦ Boston, MA 02201 ♦ Phone: (617) 635-3040 ♦ Fax: (617) 635-4203

## REPORT OF COMMITTEE CHAIR

March 30, 2022

Dear Councilors:

*Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing*, was sponsored by Mayor Michelle Wu and referred to the Committee on March 2, 2022. The Committee held a hearing on March 14, 2022 where public comment was taken and a working session on March 25, 2022.

### Summary of Legislation As Filed:

The proposal would prohibit targeted residential picketing between the hours of 9:00pm and 9:00am. The term targeted residential picketing is defined as picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards a particular residence or one or more occupants of the residence, and which takes place before or about the targeted residence. All other ordinances and statutes would apply including laws regarding excessive noise, disturbing the peace, and blocking streets and sidewalks. The provisions of this proposal would be enforced by the Boston Police Department (“BPD”) and violators would be subject to fines of increasing amount based upon the number of offenses with \$100.00 for first offense, \$200.00 for the second offense, and \$300.00 for the third or subsequent offenses.

### Information Gathered at the Hearing:

Chair Arroyo and provided opening remarks explaining that the docket is a proposed ordinance sponsored by Mayor Michelle Wu that would regulate residential picketing. Councilor Arroyo summarized a letter written by Corporation Counsel Adam Cederbaum. The letter stated that the proposed ordinance serves as a reasonable time, place, and manner restriction on speech that is narrowly tailored to achieve a significant government interest. The letter cited the Frisby v. Shultz decision where the United States Supreme Court upheld a similar town ordinance prohibiting picketing targeted at a particular residence. See Frisby v. Shultz, 487 U.S. 474 (1988). The Chair explained that according to the letter the proposal is content-neutral regarding the restrictions on time, place, and manner of speech and that it’s narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes. Further, the proposal also leaves ample alternative channels of communication.

The Committee discussed the legal standard of narrowly tailored to serve a significant governmental interest and discussed the balance of individuals’ right to protest and individuals’ right to privacy in their homes. Councilors discussed that there should be a balance with reasonable restrictions on demonstrations and privacy rights in residential homes. Councilors

discussed enforcement of the proposal as well as the enforcement of current ordinances concerning noise, disturbing the peace, and blocking sidewalks and streets. Councilors discussed adding a sunset clause to the proposal. Councilors also discussed the enforcement by BPD and concerns about disproportionate impact on certain groups and unequal enforcement.

Brianna Millor, Chief of Community Engagement, participated on behalf of the Administration. Chief Millor testified in support of the legislation and explained that she will listen to the concerns of the Councilors. Chief Millor stated that the proposal does not prevent protests. Chief Millor explained that the legislation preserves the right to protest without interfering with the quality of life of residents in the City's neighborhoods, particularly the elderly and children. Chief Millor stated that the legislation places reasonable limitations of time, place, and manner on targeted protests and establishes necessary parameters to protect the health and well-being of individuals in their homes.

The Committee heard public testimony. Public comments reflected both support of the ordinance and opposition to the ordinance. Comments supporting the ordinance expressed support because of quality of life issues. Comments against the ordinance opposed it on the basis that it violates their freedom of speech rights and their right to protest.

#### **Information Gathered at the Working Session:**

The following individuals participated on behalf of the Administration:

- Brianna Millor, Office of Community Engagement, Chief;
- Corporation Counsel Adam Cederbaum, Esq., Law Department;
- Rob Arcangeli, Esq., Law Department, Assistant Corporation Counsel;
- Superintendent Gerard Bailey, Boston Police Department, Bureau of Field Services.

The Chair summarized the issues discussed at the hearing. The Chair and the Councilors provided opening remarks. Councilors inquired about the impact of this proposal with current City ordinances particularly the noise ordinance, the need for this proposal, the enforcement of other ordinances such as the noise ordinance and disturbing the peace, and inquired about protection of the Mayor. The Committee discussed concerns with the ordinance and its necessity because of existing laws. The Chair asked how violations of noise ordinances are handled at BPD and why the BPD has not enforced noise ordinances for protests in front of someone's home. Councilors asked for data on the numbers of citations of current noise ordinances within the last ten weeks and within the last year. The Committee discussed the fines and the appeals process.

Chief Millor stated that the ordinance is necessary in order to protect the quality of life, health, and well-being of all residents in the City. Chief Millor emphasized that this ordinance regulates targeted picketing while preserving the right to protest. The City lawyers provided clarity on the legal analysis and discussed the significant government interest in protecting individuals' privacy rights within their homes. Superintendent Bailey discussed the role of the BPD, stated that BPD's role is to ensure that neighborhoods are safe to live, discussed the balance of freedom of expression and the noise of the protests, stated that the objective of BPD is to de-escalate, divert, negotiate with arrest as a last resort. Superintendent Bailey stated that no citations for violations of the current noise ordinance have been issued for protected protests. Superintendent Bailey stated that BPD has contacted West Roxbury District Court in order to address noise violations.

Councilors offered language suggestions which included defining a kind of harm as a standard in order to provide context, for example regulating activity that rises above noise level and blocking public ways; removing the word “towards” and replacing it with “against or in opposition to”; and removing “a particular residence”. The Chair asked the City lawyers if the proposed language change would violate the content neutrality standard and asked for an interpretation of the meaning of the term “subsequent offense.” Corporation Counsel reiterated that targeted residential picketing is permissible for most of the day; however, there is a significant government interest in protecting privacy in homes for all times during the day. The Chair stated that the focus of the proposal is to provide protection of neighborhoods in general

### **Summary of Amendments:**

- Removing the words “a particular residence” after the term “towards”. The second paragraph now reads as follows: For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence.”
- Amending the fine structure to \$50 - \$150 - \$300, adding language that fines are determined within a 12 month period, and adding language about non-criminal disposition procedures. The fourth paragraph now reads as follows: Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G. L. c. 40, s. 21D, which procedures are incorporated herein by reference.
- In the third paragraph inserting the word “state” is inserted before the term “statutes”.
- Inserting the word "harassment" in the third paragraph after the phrase “disturbing the peace.”
- Inclusion of severability language at the end of Section 1 that provides as follows: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
- Inserting the following new sentence after “Boston Police Department”: Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

### **Rationale and Recommended Action:**

Passage of this docket in a new draft will ensure that the expectation of privacy that individuals have in their home is protected while maintaining freedom of speech and assembly rights. This docket regulates targeted residential picketing between certain hours and imposes reasonable limitations on the time, place, and manner of speech and is content neutral. The purpose of this ordinance is to protect the quality of residential life in our city, especially to protect residents' privacy, well-being and tranquility in the sanctity of their own homes and to protect individuals from becoming captive audiences in the privacy of their own home. Although these interests are important at all times, the ordinance seeks to protect individuals' privacy in their own homes during the night and early morning when such intentional intrusion into privacy is particularly invasive and burdensome. The proposal in its amended draft provides clarity. Removing the word “a particular residence” after the term “towards” eliminates ambiguity. Including severability language is standard practice for the City and ensures that if challenged and such challenge prevails only those challenged provisions would be impacted. The proposal allows



for demonstrations during certain hours. The proposal serves to address the significant government interest in protecting the right to privacy in homes and addresses the harm caused by targeting picketing is interfering with this protected right. The proposal is narrowly tailored to serve a significant government interest of protecting the privacy of individuals in their homes while leaving ample alternative channels of communication.

By the Chair of the Committee on Government Operations, to which the following was referred:

***Docket #0312, message and ordinance amending the City of Boston Code, Ordinances, Chapter XVI, regarding targeted residential picketing,***

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

A handwritten signature in blue ink, appearing to read "Ra", followed by a horizontal line.

Ricardo Arroyo, Chair  
Committee on Government Operations



## **CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** adrian.worrell@pd.boston.gov <adrian.worrell@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** agnaldo.monteiro@pd.boston.gov <agnaldo.monteiro@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** agnaldo.monteiro@pd.boston.gov <agnaldo.monteiro@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** agnaldo.monteiro@pd.boston.gov <agnaldo.monteiro@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Copley Square

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** allison.gunther@pd.boston.gov <allison.gunther@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**To:** allison.gunther@pd.boston.gov <allison.gunther@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** amy.erlandson@pd.boston.gov <amy.erlandson@pd.boston.gov>  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** amy.erlandson@pd.boston.gov <amy.erlandson@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** amy.erlandson@pd.boston.gov <amy.erlandson@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
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Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** amy.hamilton@pd.boston.gov <amy.hamilton@pd.boston.gov>  
**Subject:** Protesters

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District D4  
04-22-2022 16:54:00

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Message Sent By: Eva Santiago

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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** ana.almeida@pd.boston.gov <ana.almeida@pd.boston.gov>  
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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Thursday, April 14, 2022 12:54 PM EDT  
**To:** Scott, Ivy <ivy.scott@globe.com>  
**BCC:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: Police report for arrested Wu protester  
**Attachment(s):** "Clty Hall Incident.pdf"

Good Afternoon,  
Attached is the requested report.

On Thu, Apr 14, 2022 at 11:43 AM Scott, Ivy <[ivy.scott@globe.com](mailto:ivy.scott@globe.com)> wrote:

Hi,

Writing to ask if you could please send over the police report for Catherine Vitale, who was arrested yesterday for pushing a police officer at Wu's press conference on Tuesday?

Thanks,  
Ivy

--

*Ivy Scott*  
*Criminal Justice Reporter, Boston Globe*  
[ivy.scott@globe.com](mailto:ivy.scott@globe.com)  
*Twitter: [@itsivyscott](https://twitter.com/itsivyscott)*

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02109

 Boston Police Department  
 Boston PD

**# 222025692 - Offense/Incident Report**

REPORTED ON DATE / TIME Apr 12, 2022 14:22	DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUBDIVISION 2 A1 / A422	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Apr 12, 2022 12:52
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REPORTING OFFICER

JOSEPH CHEEVERS #010518

REPORT LOCATION

1 CITY HALL PLAZA, BOSTON, MA 02108

**NARRATIVE**

On 4/12/2022 Sgt Cheevers, Officers Kwong & Leary, assigned to Boston City Hall, were providing security for the building. At approximately 12:25 PM, Officers observed 2 females (Catherine Vitale & [REDACTED] known to Officers for causing previous disturbances in City Hall and the Boston City Council chambers arrive in the building. Soon after their arrival both females took out bull horns/ mega phones/ Loudspeakers and began screaming in an attempt to disrupt a press conference on the City Hall Mezzanine discussing the safety protocols for the upcoming Boston Marathon. The press conference was attended by the Mayor of Boston, Officials from the BPD, BFD, MBTA, Transit Police, Boston EMS, and Boston Athletic Association. Both females were escorted from the building where they continued to scream through their megaphones at the entrance of City Hall. During their attempt to disrupt the press conference their sound continued to echo throughout City Hall and City Hall Plaza causing passersby to stop on the Plaza and a crowd began to gather. Both females were chanting obscenities (Fuck your Mandate) through their devices. This continued for 15 to 20 minutes until Officers were approached by an upset female employee [REDACTED] who was complaining their employees and customers were unable to work due to the noise. Officers advised the 2 women to discontinue the use of bull horns due to disturbing employees working in local buildings. Both women then began to scream at the entrance doors of City Hall. The suspect, Catherine Vitale, attempted to reenter City Hall and was stopped by Officer Kwong. She continued to lean against and push Officer Kwong while blowing a whistle. Sgt Cheevers told Ms Vitale to stop or she was subject to arrest. Ms Vitale continued her attempt to force her way into the building and she was placed under arrest for Assault & Battery on a Police Officer and Disturbing the Peace. Her megaphone was seized as evidence, logged into the property management control log (Book #29, Page #35) at District 1.

REPORTING PARTY -1

REPORTING PARTY -1 ORGANIZATION

R-1 Myself

**OFFENSE-1**

OFFENSE CODE

DISTURBING THE PEACE/ DISORDERLY CONDUCT/ GATHERING CAUSING ANNOYANCE/ NOISY PARTY WITH ARREST

OCCURRED FROM DATE / TIME

Apr 12, 2022 12:52

SUSPECTED IN ARREST

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT. UNIT, SUITE / DESCRIPTION

1 CITY HALL PLAZA

REPORTING OFFICER SIGNATURE / DATE

JOSEPH CHEEVERS #010518 Apr 12, 2022 15:15 (e-signature)

PRINT NAME

JOSEPH CHEEVERS #010518

SUPERVISOR SIGNATURE / DATE

JASON CLUTTERBUCK #103789 Apr 12, 2022 15:19 (e-signature)

PRINT NAME

JASON CLUTTERBUCK #103789

CITY <b>BOSTON</b>		STATE <b>MA</b>	ZIP <b>02108</b>	COUNTRY CODE <b>US</b>
LOCATION CATEGORY <b>Government/ Public Building</b>		DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUBDIVISION 5 <b>A1 / A422</b>		PUBLIC / PRIVATE <b>Public</b>
VICTIMS-1 VICTIM-1 NAME <b>V-1 City of Boston</b>				
ORGANIZATION TYPE <b>Criminal Justice Enforcement Unit</b>		ORGANIZATION INDUSTRY <b>Government Administration</b>		
SUSPECTS-1 SUSPECT-1 NAME (LAST, FIRST MIDDLE) <b>S-1 Vitale, Catherine</b>				
DOB / ESTIMATED AGE RANGE <b>[REDACTED]</b>				
SEX <b>Female</b>	RACE / ETHNICITY <b>White</b>			
HOME ADDRESS <b>[REDACTED]</b>				
WITNESS-1 WITNESS-1 NAME (LAST, FIRST MIDDLE) <b>W-1 Kwong, Bruce</b>				
DOB / ESTIMATED AGE RANGE <b>18 - 99 years old</b>				
SEX <b>Male</b>				
WITNESS-2 WITNESS-2 NAME (LAST, FIRST MIDDLE) <b>[REDACTED]</b>				
DOB / ESTIMATED AGE RANGE <b>[REDACTED]</b>				
SEX <b>Female</b>	PHONE NUMBER <b>[REDACTED]</b>			

# RELATIONSHIPS ADDENDUM

NAME	RELATIONSHIP	SUBJECT
Catherine Vitale	RELATIONSHIP UNKNOWN	Bruce Kwong

REPORTING OFFICER SIGNATURE / DATE <b>JOSEPH CHEEVERS #010518 Apr 12, 2022 15:15 (e-signature)</b> PRINT NAME <b>JOSEPH CHEEVERS #010518</b>	SUPERVISOR SIGNATURE / DATE <b>JASON CLUTTERBUCK #103789 Apr 12, 2022 15:19 (e-signature)</b> PRINT NAME <b>JASON CLUTTERBUCK #103789</b>
---	--

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Tuesday, April 26, 2022 9:42 AM EDT  
**To:** Gavin, Christopher <christopher.gavin@globe.com>  
**BCC:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: Police report request  
**Attachment(s):** "20220425125736541.pdf"

Good Morning,  
Attached you will find a copy of this report.

On Tue, Apr 26, 2022 at 9:31 AM Gavin, Christopher <[christopher.gavin@globe.com](mailto:christopher.gavin@globe.com)> wrote:

Hi Officer Tavares,

I'm requesting a copy of the police report for the arrest of a protester outside Mayor Wu's Roslindale home around 7:45 Monday morning.

Any questions, please don't hesitate to contact me.

Thank you,

Chris

--

Christopher Gavin  
Staff Writer  
O: 617-929-3081  
[christopher.gavin@boston.com](mailto:christopher.gavin@boston.com)  
@chris\_m\_gavin



--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02110

Boston PD

**# 22028976 - Offense/Incident Report**

REPORTED ON DATE / TIME <b>Apr 25, 2022 08:18</b>	DISTRICT / SECTION / REPORTING AREA / SUBDIVISION / SUBORDINATES <b>E5 / E414</b>	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 25, 2022 07:18</b>
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## REPORTING OFFICER

**MATHEW PIEROWAY #106666**

## REPORT TAKEN LOCATION

**17 AUGUSTUS AVE, ROSLINDALE, MA 02131**

## EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                         | <input type="checkbox"/> Drugs             |
| <input type="checkbox"/> Sexual Assault              | <input type="checkbox"/> NIDV              |
| <input type="checkbox"/> Child Present               | <input type="checkbox"/> Homeless          |
| <input type="checkbox"/> CRU - Hate/Bias             | <input type="checkbox"/> Car Jack          |
| <input type="checkbox"/> Other Agency/Unit Notified  | <input type="checkbox"/> Bicycle           |
| <input type="checkbox"/> DVIP                        | <input type="checkbox"/> Licensed Premise  |
| <input type="checkbox"/> Warrant Arrest              | <input type="checkbox"/> School            |
| <input type="checkbox"/> Juvenile                    | <input type="checkbox"/> Disabled          |
| <input type="checkbox"/> Gang                        | <input type="checkbox"/> Search Warrant    |
| <input type="checkbox"/> Homeland Security           | <input type="checkbox"/> Shots Fired       |
| <input type="checkbox"/> Sex Offender                | <input type="checkbox"/> Elderly           |
| <input type="checkbox"/> Homeland Security UASI      | <input type="checkbox"/> Victim Shot       |
| <input type="checkbox"/> Home Invasion               | <input type="checkbox"/> Victim Stabbed    |
| <input type="checkbox"/> Human Trafficking           | <input type="checkbox"/> Child Abuse       |
| <input checked="" type="checkbox"/> Body Worn Camera | <input type="checkbox"/> Auto Investigator |

**NARRATIVE**

At about 7:45 AM on Monday April 25, 2022 Officer Pieroway in the E626D Unit, while on a fixed post at 17 Augustus Ave, did arrest Shannon Llewellyn DOB [REDACTED] for willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

At about 7:30 AM on the above date, Officer Pieroway in the E626D, while on a fix post at 17 Augustus Ave was speaking with a known neighbor, observed 1 unidentified male and 2 unidentified females as well as the Suspect, later identified as Shannon Llewellyn DOB [REDACTED] walk towards the corner of Augustus Ave and Crandell St. The Suspect was holding 2 signs a cooking pot with a cooking utensil. Officer Pieroway then contacted the Patrol Supervisor E901 Sgt. O'Brien of the protestors.

Sgt. O'Brien then arrived on scene and handed the protestors a copy of the City of Boston Ordinance 16-63 Regarding Targeted Residential Picketing. Officer Pieroway at this time activated his body worn camera.

## REPORTING OFFICER SIGNATURE / DATE

**MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)**

## PRINT NAME

**MATHEW PIEROWAY #106666**

## SUPERVISOR SIGNATURE / DATE

**JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)**

## PRINT NAME

**JOHN EARLEY #012114**

Sgt. O'Brien then explained the ordinance to the protestors and informed them they would be subject to arrest if they did not leave. One of the unidentified females stated she was a member of the press and was documenting the incident. The second female along with unidentified male then stated they could not get arrested and stated they were leaving. The Suspect then continued to argue with officers stating this was unconstitutional. Sgt. O'Brien then stated to the Suspect that she had five minutes to leave or she would be arrested for willful violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing pursuant to Mass General Law Chapter 272 Section 59. The Suspect was then given ample time to leave but she refused and began to banging the cooking utensil against the pot in a disturbing manner. Sgt. O'Brien then directed Officer Pieroway and Barboza to place the Suspect under arrest due to the Suspect knowing and willfully violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

The Suspect then put both of her arms out as Officer Pieroway and Officer Barboza (ET55) placed her into custody. Officer Barboza transported the Suspect to Area ES while Officer Pieroway followed behind. The Suspect was then transported without further incident.

Further investigation revealed the Suspect was at West Roxbury District Court on April 15, 2022 for a Clerks hearing and was advised by Clerk Magistrate Sean Murphy of the City Ordinance and MGL 272 59 (specifically of the time of 9:00AM to 9:00PM restriction in the ordinance). Also present at the hearing was Sgt. Brian Waters representing the City of Boston. It should be noted that this is the second time the Suspect has been charged with this offense.

Shannon Llewellyn is to be charged willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing in West Roxbury District Court.

## REPORTING PARTY-1

REPORTING PARTY-1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

## VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 25, 2022 07:18

SUSPECTED HATE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT. UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY	STATE	ZIP	COUNTRY CODE
ROSLINDALE	MA	02131	US
LOCATION CATEGORY	DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION 1 / SUBDIVISION 5		PUBLIC / PRIVATE
Highway/ Road/ Alley/ Street/ Sidewalk	E5 / E414		Public

VICTIMS-1

VICTIM-1 NAME

V-1 Commonwealth of Massachusetts

ORGANIZATION TYPE

Criminal Justice

ORGANIZATION INDUSTRY

Law Enforcement

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 Llewellyn, Shannon

DOB / ESTIMATED AGE RANGE

SEX	RACE / ETHNICITY	PHONE NUMBER
REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE	
MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)	JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)	
PRINT NAME	PRINT NAME	
MATHEW PIEROWAY #106666	JOHN EARLEY #012114	

Female	White / Not of Hispanic Origin	[REDACTED] (primary, Mobile Phone)
HOME ADDRESS [REDACTED]		

REPORTING OFFICER SIGNATURE / DATE MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)	SUPERVISOR SIGNATURE / DATE JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)
PRINT NAME MATHEW PIEROWAY #106666	PRINT NAME JOHN EARLEY #012114



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** andre.watson@pd.boston.gov <andre.watson@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** andre.watson@pd.boston.gov <andre.watson@pd.boston.gov>  
**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** Scott, Ivy <[ivy.scott@globe.com](mailto:ivy.scott@globe.com)>  
**Sent:** Thursday, April 14, 2022 1:21 PM EDT  
**To:** Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)>  
**Subject:** Re: Police report for arrested Wu protester

Thank you!

Ivy

Le jeu. 14 avr. 2022 à 12:55, Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)> a écrit :

Good Afternoon,  
Attached is the requested report.

On Thu, Apr 14, 2022 at 11:43 AM Scott, Ivy <[ivy.scott@globe.com](mailto:ivy.scott@globe.com)> wrote:

Hi,

Writing to ask if you could please send over the police report for Catherine Vitale, who was arrested yesterday for pushing a police officer at Wu's press conference on Tuesday?

Thanks,  
Ivy

--

*Ivy Scott*  
*Criminal Justice Reporter, Boston Globe*  
[ivy.scott@globe.com](mailto:ivy.scott@globe.com)  
Twitter: [@itsivyscott](https://twitter.com/itsivyscott)

--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)

--

*Ivy Scott*  
*Criminal Justice Reporter, Boston Globe*  
[ivy.scott@globe.com](mailto:ivy.scott@globe.com)  
Twitter: [@itsivyscott](https://twitter.com/itsivyscott)



**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Thursday, April 14, 2022 4:29 PM EDT  
**To:** Andre Watson <andre.watson@pd.boston.gov>  
**Subject:** Re: Police report for arrested Wu protester

Thank you

On Thu, Apr 14, 2022 at 12:55 PM Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)> wrote:

Good Afternoon,  
Attached is the requested report.

On Thu, Apr 14, 2022 at 11:43 AM Scott, Ivy <[ivy.scott@globe.com](mailto:ivy.scott@globe.com)> wrote:

Hi,

Writing to ask if you could please send over the police report for Catherine Vitale, who was arrested yesterday for pushing a police officer at Wu's press conference on Tuesday?

Thanks,

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*Ivy Scott*

*Criminal Justice Reporter, Boston Globe*

[ivy.scott@globe.com](mailto:ivy.scott@globe.com)

Twitter: [@itsivyscott](https://twitter.com/itsivyscott)

--

**Andre D. Watson**

Police Officer

Office of Media Relations

Boston Police Department

Phone: 617-343-4520

[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)

--

*Sergeant Detective John Boyle*

*Boston Police Department*

*Office of Media Relations*

*1 Schroeder Plaza*

*Boston, Massachusetts, 02120*

*617-343-4520*

**From:** Gavin, Christopher <christopher.gavin@globe.com>

**Sent:** Tuesday, April 26, 2022 9:59 AM EDT

**To:** Andre Watson <andre.watson@pd.boston.gov>

**Subject:** Re: Police report request

Thanks!

On Tue, Apr 26, 2022 at 9:43 AM Andre Watson <[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)> wrote:

Good Morning,

Attached you will find a copy of this report.

On Tue, Apr 26, 2022 at 9:31 AM Gavin, Christopher <[christopher.gavin@globe.com](mailto:christopher.gavin@globe.com)> wrote:

Hi Officer Tavares,

I'm requesting a copy of the police report for the arrest of a protester outside Mayor Wu's Roslindale home around 7:45 Monday morning.

Any questions, please don't hesitate to contact me.

Thank you,

Chris

--

Christopher Gavin  
Staff Writer  
O: 617-929-3081  
[christopher.gavin@boston.com](mailto:christopher.gavin@boston.com)  
[@chris\\_m\\_gavin](mailto:@chris_m_gavin)



--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
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Christopher Gavin  
Staff Writer  
O: 617-929-3081  
[christopher.gavin@boston.com](mailto:christopher.gavin@boston.com)  
[@chris\\_m\\_gavin](mailto:@chris_m_gavin)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** andrew.creed@pd.boston.gov <andrew.creed@pd.boston.gov>  
**Subject:** Protesters

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District A1  
03-31-2022 17:41:00

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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04-10-2022 13:41:00

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** andrew.hunter@pd.boston.gov <andrew.hunter@pd.boston.gov>  
**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P #220140756

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Event Location: Copley Square

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Message Sent By: Eva Santiago

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220154101  
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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** angelene.richardson@pd.boston.gov <angelene.richardson@pd.boston.gov>  
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Event Location: Copley Square

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Event P220173448  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**To:** anthony.braga@pd.boston.gov <anthony.braga@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Description: Protesters....Small group of people protesting Palestine

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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District A1  
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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** anthony.twining@pd.boston.gov <anthony.twining@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** ashley.clark@pd.boston.gov <ashley.clark@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** brendan.kelly@pd.boston.gov <brendan.kelly@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** brian.barcelou@pd.boston.gov <brian.barcelou@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** brian.delahanty@pd.boston.gov <brian.delahanty@pd.boston.gov>  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Eva Santiago

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event Location: Tremont St/Park St, BO

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** brian.leahy@pd.boston.gov <brian.leahy@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** BRIC BPD <bric@pd.boston.gov>  
**Sent:** Friday, April 22, 2022 2:43 PM EDT  
**To:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Subject:** Fwd: \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*  
**Attachment(s):** "Potential DxE Activists or Supporters.pdf", "RE: \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*\*"

For your entertainment

----- Forwarded message -----

From: **NBAGSOC** <[nbagsoc@nba.com](mailto:nbagsoc@nba.com)>  
Date: Fri, Apr 22, 2022 at 2:38 PM  
Subject: \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*  
To: AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>, Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>, DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>, John Altila <[jaltilla@torontoraptors.com](mailto:jaltilla@torontoraptors.com)>, Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>, [jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com) <[jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com)>, McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>, NBA Security <[NBAsecurity@nba.com](mailto:NBAsecurity@nba.com)>



**Alert Type:** Minnesota Timberwolves

**Description:** On April 21, 2022, activists associated with the animal rights organization Direct Action Everywhere (DxE) attempted a court intrusion during game 3 of the playoff series between the Memphis Grizzlies and Minnesota Timberwolves. The attempted court intrusion occurred during the 4th quarter of the game near the Grizzlies bench. Arena security prevented the court intrusion due to Johnson's odd behavior attracting attention. Johnson wore a hat, jacket, and glasses, in a possible attempt to disguise himself. Under the jacket Johnson wore an NBA Referee uniform. The ticket Johnson used for the game was purchased by a woman named Ashley Riddle. It is believed that Riddle did not attend the game herself. The GSOC investigation into Ashley Riddle identified her as an activist associated with a group called Animal Rights Coalition that is local to Minneapolis, MN.

This is the third court intrusion attempt by DxE activists that targeted Minnesota Timberwolves games. The Timberwolves are being targeted due to team owner Glen Taylor. Taylor also owns Rembrandt Enterprises, a factory egg farm in Iowa, where activists claim chickens have been killed in large numbers as a result of bird flu and that hundreds of employees were laid off since the chickens died. On April 13, 2022, DxE activist Alicia Santurio committed a court intrusion and glued herself to the court. On April 16, 2002, DxE activist Zoe Rosenberg chained herself to a hoop during a Timberwolves playoff game. These actions were marketed on social media by DxE with Santurio being dubbed "Glue Girl" and Rosenberg, being called "Chain Girl."

Activists associated with DxE and other animal rights organizations may continue to attempt to disrupt Timberwolves playoff games. While no other playoff series has been targeted by the activists, it cannot entirely be ruled out. Due to the recent failed court intrusion attempt activists may attempt to alter their tactics. This could include but is not limited to, an attempt to have one activist distract arena security, possibly with a court intrusion attempt, followed by another activist seated elsewhere attempting a court intrusion from a different location.

Direct Action Everywhere" (DxE) is an international grassroots organization of animal rights activists founded in 2013 in San Francisco, California, by lawyer Wayne Hsiung. DxE focuses on animals, their lives, and collective liberation as a social justice issue. DxE animal liberations are often directed at farms that supply food products to large US national retailers. DxE supporters also participate in various in-store demonstrations. Liberation attempts/protests may include occupation events with up to 150 participants (based on past demonstrations at farms), the release of animals from cages or constraints, and occupiers providing "nutrition and care" to the animals. All actions are video recorded for use in future propaganda. While members of the group have been arrested for past protest actions, the GSOC notes that the group does not appear to have a history of violence. Below and attached is a full list of potential additional activists associated with DxE, other animal rights organizations, or individuals who have potentially supported DxE activities on social media. Also attached is the previous GSOC Social Media Alert email chain about the group. The NBA GSOC will continue to monitor for additional information.

**Direct Action Everywhere Social Media Links:** [Website](#); [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [YouTube](#)

**Direct Action Everywhere Activists and Associates:**

**Name:** Matthew Johnson (Investigator and Press Coordinator with DxE – attempted court intrusion on 4/21/22)

**Username:** DxE\_Matt (Twitter and Instagram); matt.johnson.777158 (Facebook)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshots:**



**Name:** Zoe Rosenberg aka “Chain Girl”

**Username:** zoe\_rooster

**Location:** San Luis Obispo, California

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [16-year-old protester dragged from field at Levi's Stadium](#)

**Screenshot:**



**Name:** Alicia Santurio aka “Glue Girl”

**Username:** aliciasanturio (Twitter); alicia.santurio (Facebook)

**Location:** Fairfield, CA

**D.O.B:** 11/25/1981

**Social Media Links:** [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Priya Sawhney (Co-founder of DxE / Investigator)

**Username:** priyadx27 (Twitter); priyasawhney27 (Facebook); priyazalia (Instagram); Priyasawhney27 (TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#); [Facebook](#); [Instagram](#); [TikTok](#)

**Screenshot:**



**Name:** Wayne Hsiung (Co-founder of DxE)

**Username:** waynehhsiung (Twitter, TikTok, Facebook #2, and Instagram); wayne.hsiung (Facebook #1); WayneHsiung2020 (YouTube)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook #1](#); [Facebook #2](#); [Instagram](#); [YouTube](#); [TikTok](#); [Greenpill Podcast](#); [Linkedtree](#)

**Email Address:** [wayne@compassionatebay.org](mailto:wayne@compassionatebay.org)

**Screenshot:**



**Name:** Michelle Del Cueto (DxE Organizer)

**Username:** michelledlcueto (Twitter); Yanotereproduzcas (Facebook and Instagram);

**Location:** Unknown

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Brittany Drake (DxE Los Angeles Organizer)

**Username:** cinephilelinguist (Facebook); allnaturalchik (Twitter)

**Location:** Los Angeles, CA

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:**



**Name:** Rachel Ziegler (Organizer with DxE)

**Username:** rachel.ziegler.777 (Facebook) rachel.c.ziegler (Instagram #1); rachel.z.photography (Instagram #2); rachel.ziegler.777 (Instagram #3);

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Instagram #3](#); [Photography Website](#)

**Screenshot:**



**Name:** Joyce Lipener (Animal Rights Activist/ Possibly Associated with DxE)

**Username:** JoyceLipener (Twitter); joyce.lipener (Facebook); joy\_lipener (Instagram)

**Location:** Alameda, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#); [LinkedIn](#)

**Screenshot:**



**Name:** Matthew McKeefry (DxE Organizer)

**Username:** mtthw\_mckfry (Instagram #1); mtthw\_mckfry\_ (Instagram #2); MatthewMcKeefry (Twitter #1)

**Location:** Berkeley, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Twitter #1](#);

**Screenshot:**



**Name:** Cassie King (DxE Organizer)

**Username:** cassie\_dxe

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Sally Zito (Possibly attended 4/16/22 game with “Chain Girl” Zoe Rosenberg)

**Username:** sallyzito

**Possible Locations:** Las Vegas, Nevada and Los Angeles, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [Sally Zito's Music Website](#)

**Screenshot:**



**Name:** Rocky Ning (DxE Organizer)

**Username:** dxerocky (Twitter) & @mistergreensf (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Instagram](#); [Twitter](#); [Facebook](#)

**Screenshot:**





**Name:** Almira Tanner (Lead Organizer with DxE)

**Username:** almiratanner (Twitter) & @almiratheactivist (Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Chloe Leffakis (DxE Activist)

**Username:** ChloeLeffakis (Twitter and Instagram) Chloe.Leffakis (Facebook)

**Location:** Pittsburgh, PA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#);

**Screenshot:**



**Name:** Shweta Borgaonkar (DxE Organizer)

**Username:** shweta\_dxe (Twitter)

**Location:** Pune, India

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Lewis Bernier (Factor Farm Investigator)

**Username:** InvestigateLib1 (Twitter & Twitter)

**Location:** California

**Social Media Links:** [Twitter](#) , [Instagram](#)

**Screenshot:**



**Name:** Paul Darwin Picklesimer (DxE Organizer)

**Username:** 101Darwins (Twitter, Instagram, TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#), [Instagram](#), [TikTok](#), [YouTube](#)

**Screenshot:**





**Name:** Tonia Moore (Possible DxE Activist)

**Usernames:** toniathehuman (Twitter)

**Location:** San Mateo, CA

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Animal Rights Coalition Social Media Accounts:** <http://animalrightscoalition.com/about/>;  
<https://www.facebook.com/AnimalRightsCoalitionMN/>

**Animal Rights Coalition Activists and Associates:**

**Name:** Ashley Riddle (purchased ticket for Matthew Johnson to attempt court intrusion)

**Email Address:** [Ashleyriddle321@gmail.com](mailto:Ashleyriddle321@gmail.com)

**Username:** @AshWickety (Twitter, TikTok, Instagram); Ashley.Lane. (Facebook)

**Possible Location:** Minneapolis, MN

**Social Media Links:** [Facebook](#); [Twitter](#); [TikTok](#); [Instagram](#); [Ashley Riddle Animal Advocate Award winner](#); [Animal Rights Coalition Ashley Riddle](#);

**Social Media Screenshots:**



**Name:** Amy V. Leinen (Animal Rights Coalition Campaign Manager)

**Username:** @InmiddleisJoy (Twitter); Amy.Leinen (Facebook); amyleinen (Instagram and YouTube); chickenbuttsanctuary (TikTok)

**Location:** St. Paul, Minnesota

**Email Address:** [amy@mehndimoments.com](mailto:amy@mehndimoments.com); [amyjleinen@yahoo.com](mailto:amyjleinen@yahoo.com)

**Social Media Links:** [Facebook](#), [Twitter](#); [Instagram](#); [LinkedIn](#); [TikTok](#); [YouTube](#)

**Screenshot:**



**Name:** Kelsey Hambor (Animal Rights Coalition Outreach Manager)

**Username:** @kelseyhambor (Instagram); kelsey.hambor (Facebook)

**Location:** Minneapolis, MN

**Email Address:** [Kelsey@animalrightscoalition.com](mailto:Kelsey@animalrightscoalition.com)

**Social Media Links:** [Instagram](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Animal Rights Coalition

**Username:** AnimalRightsMN (Twitter), animalrightscoalition (Instagram), AnimalRightsCoalitionMN (Facebook)

**Location:** Minneapolis, MN

**Social Media Links:** [Instagram](#), [Twitter](#), [Facebook](#), [Website](#)

**Screenshot:**



**Other Animal Rights Activists:**

**Name:** Karen Hershenson

**Username:** HershensonKaren (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:**



**Name:** Jon Frohnmayer (Animal Right Activist)

**Username:** FrohnmayerJon (Twitter); jonfrohnmayer (TikTok, YouTube); jon.frohnmayer (Instagram and Facebook)

**Location:** Menlo Park, California / Berkeley, California

**Social Media Links:** [Twitter](#); [TikTok](#); [YouTube](#); [Instagram](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Crystal Heath (Co-Founder of Our Honor Animal Rights Organization)

**Username:** drcrystalheath (Twitter); dr.crystalheath (Instagram and TikTok); crystalheathdvm (Facebook)

**Location:** Berkley, CA

**Email Address:** [crystallynheath@yahoo.com](mailto:crystallynheath@yahoo.com)

**Social Media Links:** [Twitter](#); [Instagram](#); [TikTok](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Karen Rubio

**Username:** KarenInLG (Twitter);

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:**



**Name:** Randalyn Des Lauries (Animal Rights Activist)

**Username:** AnimalsVoice14 (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:** No Image Identified

**Name:** Chao Jian

**Username:** chaojiancj.he (Facebook); chaojiancj (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Geno Maurillo (“Animal Liberationist”)

**Username:** Geno Maurillo (Facebook); itzamegeno (Instagram #1); genoevolve (Instagram #2)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#)

**Screenshot:**



**Name:** Nena Salas (Animal Liberationist)

**Username:** lorena.salas.54 (Facebook)

**Location:** Richmond, Virginia

**Social Media Links:** [Facebook](#);

**Screenshot:**



**Name:** Melanie Sears

**Username:** ohhmelaneee (Facebook); melanie\_\_sears (Instagram); ohhmelaneee (Twitter)

**Location:** San Diego, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#)

**Screenshot:**



**Name:** Rachel Mei

**Username:** Rachel\_\_Mei (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Maya (Last Name Unknown)

**Username:** @sentient\_animal (Twitter)

**Location:** San Francisco, CA

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Cheryl Gallo

**Username:** CherylGallo5 (Twitter)

**Location:** Pittsburgh, PA,

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Neda Eftekhari

**Username:** NedaEftekhari (Twitter)

**Location:** Unknown, U.S.

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Karin Nelson

**Username:** veganspark (Twitter), karinnelson123 (Facebook)

**Location:** Edmonton, Canada, Victoria, Canada and Mississauga, Canada

**Social Media Links:** [Twitter](#), [Facebook](#)

**Screenshot:**



**Name:** Cinta Hondsmerk

**Username:** Cikalovee (Twitter) thatgreenstudent (Instagram)

**Location:** Oslo, Norway

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Antonelle (Last Name Unknown)

**Usernames:** antycr (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Animal Liberation Conference (ALC) (Co-founder of DxE)

**Usernames:** @ALCrevolution (Twitter and Instagram); liberationconference (Facebook); animalliberationconference (Instagram)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [Website](#)

**Email Address:** [info@liberationconference.com](mailto:info@liberationconference.com)

**Screenshot:**



**Name:** Animal Justice

**Usernames:** @AnimalJustice (Twitter), animaljustice\_ (Instagram), AnimalJusticeCanada (Facebook), animaljusticeofficial (Tik Tok)



**Location:** Canada

**Social Media Links:** [Twitter](#), [Instagram](#), [Website](#), [Facebook](#), [Tik Tok](#)

**Email Address:** [info@animaljustice.ca](mailto:info@animaljustice.ca)

**Screenshot:**



**Name:** In Defense of Animals

**Usernames:** IDAUSA (Twitter), indefenseofanimals (Facebook), ida\_international (Instagram)

**Location:** San Rafael, CA

**Social Media Links:** [Website](#), [Twitter](#), [Instagram](#), [Facebook](#)

**Screenshot:**



**Name:** Our Honor (animal rights organization)

**Username:** OurHonorVets (Facebook, TikTok, Twitter, and Instagram);

**Location:** Berkeley, CA

**Email Address:** [cheath@ourhonor.org](mailto:cheath@ourhonor.org)

**Social Media Links:** [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [Website](#)

**Screenshot:**



.....  
**Please email** [nbaintel@nba.com](mailto:nbaintel@nba.com) **or call** (212) 407-8800 **with any questions or concerns.**



**Jason Segal**

Manager

Global Security Operations Center

Phone: 212-407-8800

Cell: 201-618-7928

Matt Johnson (Investigator/Press Coordinator with DxE. Conducted failed court intrusion on 4/22/2022)



Zoe Rosenberg aka “Chain Girl” (chained herself to hoop on 4/16/22)



**Name:** Alicia Santurio aka “Glue Girl” (glued herself to court on 4/13/22)



**Name:** Cassie King (Organizer with DxE)



**Name:** Rocky Ning (Organizer with DxE)



**Possible Name:** Sally Zito



**Name:** Almira Tanner (Organizer with DxE)



**Name:** Chloe Leffakis (DxE Activist)



**Name:** Tonia Moore



**Name:** Priya Sawhney (Co-founder of DxE)



**Name:** Wayne Hsiung (Co-founder of DxE)



**Name:** Rachel Mei



**Name:** Maya (Last Name Unknown)



**Name:** Cherryl Gallo



**Name:** Neda Eftekhari





**Name:** Karin Nelson



**Name:** Cinta Hondsmerk



**Name:** Shweta Borgaonkar (DxE activist)



**Name:** Lewis Bernier (Factory Farm investigator)



**Name:** Paul Darwin Picklesimer (DxE activist) **Name:** Matthew Mckeefry (DxE Organizer)



**Name:** Antonelle (Last Name Unknown)



**Name:** Melanie Sears



**Name:** Nena Salas



**Name:** Geno Maurillo



**Name:** Chao Jian



**Name:** Brittany Drake (DxE - Los Angeles organizer)



**Name:** Rachel Ziegler (DxE organizer)



**Name:** Michelle Del Cueto (DxE organizer)



**Name:** Joyce Lipener (possible activist)



**Name:** Jon Frohnmayer (animal rights activist)



**Name:** Ashley Riddle  
(purchased ticket for 4/21 court intrusion attempt, animal rights coalition activist)





**Name:** Kelsey Hambor  
(Animal Rights Coalition Outreach Manager)



**Name:** Amy V. Leinen  
(Animal Rights Coalition Campaign Manager)



**Name:** Karen Hershenson (potential activist)



**Name:** Crystal Heath  
(Co-Founder of “Our Honor” activist group)



**Name:** Karen Rubio



**Name:** Randalyn Des Lauries



**From:** BRIC BPD <bric@pd.boston.gov>  
**Sent:** Tuesday, April 19, 2022 4:19 PM EDT  
**To:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Subject:** Fwd: \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*

----- Forwarded message -----

From: **NBAGSOC** <[nbagsoc@nba.com](mailto:nbagsoc@nba.com)>  
Date: Tue, Apr 19, 2022 at 3:48 PM  
Subject: RE: \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*  
To: AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>, Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>, DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>, John Altila <[jaltilia@torontoraptors.com](mailto:jaltilia@torontoraptors.com)>, Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>, [jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com) <[jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com)>, McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>, NBA Security <[NBAsecurity@nba.com](mailto:NBAsecurity@nba.com)>

**Update #1:** The NBA GSOC identified additional names associated with the animal rights activist group Direct Action Everywhere. Please see below for more information and a list of activists associated with Direct Action Everywhere and affiliated organizations.

**Name:** Rachel Ziegler (Organizer with Dx E)

**Username:** rachel.ziegler.777 (Facebook) rachel.c.ziegler (Instagram #1); rachel.z.photography (Instagram #2); rachel.ziegler.777 (Instagram #3);

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Instagram #3](#); [Photography Website](#)

**Screenshot:**



**Name:** Brittany Drake (Organizer with Dx E - Los Angeles)

**Username:** cinephilelinguist (Facebook); allnaturalchik (Twitter)

**Location:** Los Angeles, CA

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:**



**Name:** Chao Jian

**Username:** chaojiancj.he (Facebook); chaojiancj (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Geno Maurillo

**Username:** Geno Maurillo (Facebook); itzamegeno (Instagram #1); genoevolve (Instagram #2)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#)

**Screenshot:**



**Name:** Nena Salas

**Username:** lorena.salas.54 (Facebook)

**Location:** Richmond, Virginia

**Social Media Links:** [Facebook](#);

**Screenshot:**



**Name:** Melanie Sears

**Username:** ohhmelaneee (Facebook); melanie\_\_sears (Instagram); ohhmelaneee (Twitter)

**Location:** San Diego, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#)

**Screenshot:**



**Name:** Matthew Mckeeffry (Organizer with DxE)

**Username:** mtthw\_mckfry (Instagram #1); mtthw\_mckfry\_ (Instagram #2); MatthewMckeeffry (Twitter #1)

**Location:** Berkeley, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Twitter #1](#);

**Screenshot:**



**Dylan Hesterhagen**

Global Security Operations Center

Phone: 212-407-8800

---

**From:** NBAGSOC <[nbagsoc@nba.com](mailto:nbagsoc@nba.com)>

**Sent:** Monday, April 18, 2022 4:09 PM

**To:** AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>; Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>; DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>; John Altila <[jaltilia@torontoraptors.com](mailto:jaltilia@torontoraptors.com)>; Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>; [jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com); McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>; NBA Security <[NBAsecurity@nba.com](mailto:NBAsecurity@nba.com)>

**Subject:** \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*



GSOC Social Media Alert

**Alert Type:** NBA Playoffs

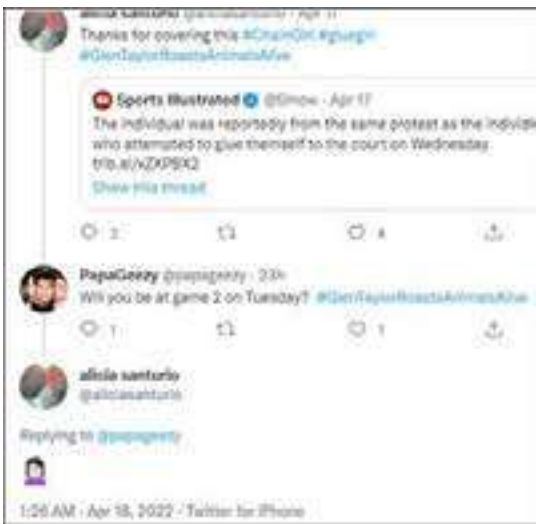
**Description:** The NBA GSOC has identified several individuals associated with the animal rights activist group "Direct Action Everywhere" (DxE) whose members have disrupted NBA playoff games involving the Minnesota Timberwolves. The activists are targeting the Timberwolves due to team owner Glen Taylor. Taylor also owns Rembrandt Enterprises, a factory egg farm in Iowa, where activists claim chickens have been killed in large numbers as a result of bird flu and that hundreds of employees there have been laid off since the chickens died. Activists at NBA games have run onto the court and glued

themselves to the floor, and have also chained themselves to the hoop while wearing shirts to protest Glen Taylor. In order to capitalize on the attention, DxE has marketed its activists' actions by naming them "Glue Girl" and "Chain Girl" on social media. Neither protest was advertised on social media until after the incidents occurred.

Of note, Zoe Rosenberg, aka "Chain Girl," was released from custody on April 17, 2022, following her protest action on April 16. Meanwhile, Alicia Santurio, aka "Glue Girl," who orchestrated the April 13, 2022, protest, responded to another user who asked if she would be present at the April 19, 2022, Timberwolves game with a "Woman shrugging" emoji. Santurio's reply could intentionally be cryptic and that she is deliberately not sharing information about a potential protest action, however, this could not be confirmed. No planned protest activity for the Minnesota Timberwolves vs. Memphis Grizzlies game on April 19, 2022, has currently been identified. However, as noted above, past protest actions were not advertised on social media ahead of time, likely in an effort to avoid detection. Please see below for more information and a list of activists associated with Direct Action Everywhere and affiliated organizations.

## Social Media Screenshots:





**News Link About Protest Action:** [Glen Taylor protester interrupts another Timberwolves game](#)

**Direct Action Everywhere Social Media Links:** [Website](#); [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [YouTube](#)

**Direct Action Everywhere Activists and Associates:**

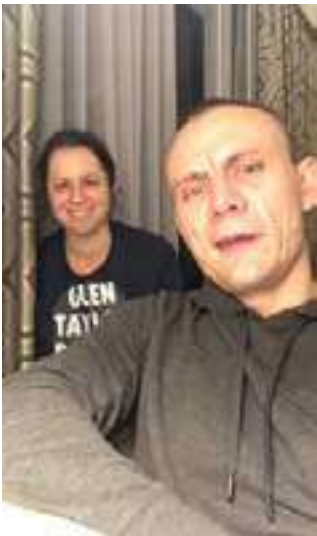
**Name:** Matt Johnson (Investigator and Press Coordinator with DxE)

**Username:** DxE\_Matt (Twitter and Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#)

**Screenshot:**



**Name:** Cassie King (Organizer with DxE)

**Username:** cassie\_dxe

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**





**Name:** Zoe Rosenberg aka “Chain Girl”

**Username:** zoe\_rooster

**Location:** San Luis Obispo, California

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [16-year-old protester dragged from field at Levi's Stadium](#)

**Screenshot:**



**Possible Name:** Sally Zito

**Username:** sallyzito

**Possible Locations:** Las Vegas, Nevada and Los Angeles, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [Sally Zito's Music Website](#)

**Screenshot:**



**Name:** Alicia Santurio aka “Glue Girl”

**Username:** aliciasanturio (Twitter); alicia.santurio (Facebook)

**Location:** Fairfield, CA

**D.O.B:** 11/25/1981

**Social Media Links:** [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Rocky Ning (Organizer with DxE)

**Username:** dxerocky (Twitter) & @mistergreensf (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Instagram](#); [Twitter](#); [Facebook](#)

**Screenshot:**





**Name:** Almira Tanner (Lead Organizer with DxE)

**Username:** almiratanner (Twitter) & @almiratheactivist (Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Chloe Leffakis (DxEAnimalRightsActivist)

**Username:** ChloeLeffakis (Twitter and Instagram) Chloe.Leffakis (Facebook)

**Location:** Pittsburgh, PA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#);

**Screenshot:**



**Name:** Tonia Moore

**Username:** toniathehuman (Twitter)

**Location:** San Mateo, CA

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Priya Sawhney (Co-founder of DxE / Investigator)

**Username:** priyadx27 (Twitter); priyasawhney27 (Facebook); priyazalia (Instagram); Priyasawhney27 (TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#); [Facebook](#); [Instagram](#); [TikTok](#)

**Screenshot:**



**Name:** Wayne Hsiung (Co-founder of DxE)

**Username:** waynehhsiung (Twitter, TikTok, Facebook #2, and Instagram); wayne.hsiung (Facebook #1); WayneHsiung2020 (YouTube)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook #1](#); [Facebook #2](#); [Instagram](#); [YouTube](#); [TikTok](#); [Greenpill Podcast](#); [Linkedtree](#)

**Email Address:** [wayne@compassionatebay.org](mailto:wayne@compassionatebay.org)

**Screenshot:**



**Name:** Rachel Mei

**Username:** Rachel\_\_Mei (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Maya (Last Name Unknown)

**Username:** @sentient\_animal (Twitter)

**Location:** San Francisco, CA

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Cheryl Gallo

**Username:** CherylGallo5 (Twitter)

**Location:** Pittsburgh, PA,

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Neda Eftekhari

**Username:** NedaEftekhari (Twitter)

**Location:** Unknown, U.S.

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Karin Nelson

**Username:** veganspark (Twitter), karinnelson123 (Facebook)

**Location:** Edmonton, Canada, Victoria, Canada and Mississauga, Canada

**Social Media Links:** [Twitter](#), [Facebook](#)

**Screenshot:**



**Name:** Cinta Hondsmerk

**Username:** Cikalovee (Twitter) thatgreenstudent (Instagram)

**Location:** Oslo, Norway

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Shweta Borgaonkar

**Usernames:** shweta\_dxe (Twitter)

**Location:** Pune, India

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Lewis Bernier

**Usernames:** InvestigateLib1 (Twitter & Twitter)

**Location:** California

**Social Media Links:** [Twitter](#) , [Instagram](#)

**Screenshot:**



**Name:** Paul Darwin Picklesimer

**Usernames:** 101Darwins (Twitter, Instagram, TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#), [Instagram](#), [TikTok](#), [YouTube](#)

**Screenshot:**



**Name:** Antonelle (Last Name Unknown)

**Username:** antycr (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Animal Liberation Conference (ALC) (Co-founder of DxE)

**Username:** @ALCrevolution (Twitter and Instagram); liberationconference (Facebook); animalliberationconference (Instagram)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [Website](#)

**Email Address:** [info@liberationconference.com](mailto:info@liberationconference.com)

**Screenshot:**



**Name:** Animal Justice

**Username:** @AnimalJustice (Twitter), animaljustice\_ (Instagram), AnimalJusticeCanada (Facebook), animaljusticeofficial (Tik Tok)

**Location:** Canada

**Social Media Links:** [Twitter](#), [Instagram](#), [Website](#), [Facebook](#), [Tik Tok](#)

**Email Address:** [info@animaljustice.ca](mailto:info@animaljustice.ca)

**Screenshot:**



**Name:** In Defense of Animals

**Username:** IDAUSA (Twitter), indefenseofanimals (Facebook), ida\_international (Instagram)

**Location:** San Rafael, CA

**Social Media Links:** [Website](#), [Twitter](#), [Instagram](#), [Facebook](#)

**Screenshot:**



.....  
**Please email [nbaintel@nba.com](mailto:nbaintel@nba.com) or call (212) 407-8800 with any questions or concerns.**



**Kevin Obrien**

GSOC Operator

Phone: +1 (212) 407-8800



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** daniel.freddo-miller@pd.boston.gov <daniel.freddo-miller@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220176905  
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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**To:** daniel.freddo-miller@pd.boston.gov <daniel.freddo-miller@pd.boston.gov>  
**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**To:** caitlin.haugh@pd.boston.gov <caitlin.haugh@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: Copley Square

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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04-10-2022 13:41:00

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** carolyn.flaherty@pd.boston.gov <carolyn.flaherty@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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District A1  
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Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

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Message Sent By: Eva Santiago

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**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 3:43 PM EDT  
**To:** Jessica Pierre <jessicah.pierre@boston.gov>; Emma Pettit <emma.pettit@boston.gov>; Ricardo Patrón <ricardo.patron@boston.gov>; Kelly Mitchell <kelly.mitchell@boston.gov>; Cary Chin <cary.chin@pd.boston.gov>  
**Subject:** Fwd: SCDAO News Release  
**Attachment(s):** "Vitale, Catherine - arr. (4.13.22).docx"

FYI

----- Forwarded message -----

From: **Algarin, Renee (SUF)** <[renee.algarin@state.ma.us](mailto:renee.algarin@state.ma.us)>  
Date: Wed, Apr 13, 2022 at 3:39 PM  
Subject: SCDAO News Release  
To:

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**Renee Algarin** (she/her)

**Deputy Director of Communications and Grant Writer**

**Communications Office**

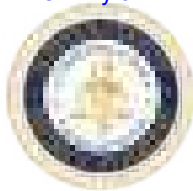
[Office of Suffolk County District Attorney Kevin Hayden](#)

One Bulfinch Place | Boston, MA 02114

**T:** (617) 619-4263 | **C:** (617) 780-6490

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*



**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE  
DISTRICT ATTORNEY KEVIN R. HAYDEN**

**Press Office**

News Release 22-047

Contact: Jim Borghesani  
Office: (617) 833-9327  
Email: [james.borghesani@mass.gov](mailto:james.borghesani@mass.gov)  
Contact: Renee Nadeau Algarin  
Office: (617) 619-4263  
Email: [renee.algarin@mass.gov](mailto:renee.algarin@mass.gov)

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**Subject:** Re: SCDAO News Release

Thanks for the update.

Sent from my BPD iPhone

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*Boston Police Department*  
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*Boston, Massachusetts, 02120*  
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	<p><b>Ricardo Patrón</b> Press Secretary Office of Mayor Michelle Wu (c) 617-447-7356</p>
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*617-343-4520*

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	<p><b>Ricardo Patrón</b> Press Secretary Office of Mayor Michelle Wu (c) 617-447-7356</p>
--	---

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** casey.mcdonough@pd.boston.gov <casey.mcdonough@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** charles.cellucci@pd.boston.gov <charles.cellucci@pd.boston.gov>  
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District D4  
04-10-2022 13:41:00

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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**From:** noreply@everbridge.net <noreply@everbridge.net>

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Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Friday, April 22, 2022 12:40 PM EDT

**To:** christine.doucette@pd.boston.gov <christine.doucette@pd.boston.gov>

**Subject:** Protesters

□

Event P220173448

District D4

04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division

Message Sent By: Sonya Bynoe

Supervisor: Sgt. McGillicuddy

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** christine.doucette@pd.boston.gov <christine.doucette@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905

District E13

04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division

Message Sent By: Keva Phillips

Supervisor: Sgt. Minichello

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Event P220138071

District A1

03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division

Message Sent By: Dawn Morse

Supervisor: Sgt. Zelvis

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Event P220160492

District E13

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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division

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**To:** christofer.steele@pd.boston.gov <christofer.steele@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Message Sent By: Keva Phillips  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** christopher.holt@pd.boston.gov <christopher.holt@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** christopher.kennedy@pd.boston.gov <christopher.kennedy@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
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Supervisor: Sgt. McGillicuddy

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Message Sent By: Eva Santiago

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District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District E13  
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Event Location: 445 Arborway, JP

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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**To:** chris.walsh@pd.boston.gov <chris.walsh@pd.boston.gov>  
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Event Description: Protesters...80 people protesting for healthy climate

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** connor.hardy@pd.boston.gov <connor.hardy@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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District A1  
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Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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Message Sent By: Eva Santiago

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**To:** daniel.duff@pd.boston.gov <daniel.duff@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** daniel.griffin@pd.boston.gov <daniel.griffin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: Tremont St/Park St, BO

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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District D4  
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**To:** daniel.griffin@pd.boston.gov <daniel.griffin@pd.boston.gov>  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** daniel.harlow@pd.boston.gov <daniel.harlow@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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04-14-2022 07:53:00

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**To:** daniel.hegerich@pd.boston.gov <daniel.hegerich@pd.boston.gov>  
**Subject:** Protesters

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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**To:** daniel.mccarthy@pd.boston.gov <daniel.mccarthy@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** daniel.pusey@pd.boston.gov <daniel.pusey@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**To:** daniel.quintiliani@pd.boston.gov <daniel.quintiliani@pd.boston.gov>  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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District A1  
03-31-2022 17:41:00

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Event Description: Protesters....Small group of people protesting Palestine

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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District E13  
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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event Location: Copley Square

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Message Sent By: Eva Santiago

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Event P220173880  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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Event Description: Protesters....Small group of people protesting Palestine

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** darlene.lagoa@pd.boston.gov <darlene.lagoa@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** darryn.brown@pd.boston.gov <darryn.brown@pd.boston.gov>  
**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Tremont St/Park St, BO

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** davidf.hernandez@pd.boston.gov <davidf.hernandez@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** david.fredette@pd.boston.gov <david.fredette@pd.boston.gov>  
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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** david.fredette@pd.boston.gov <david.fredette@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** david.fredette@pd.boston.gov <david.fredette@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** david.fredette@pd.boston.gov <david.fredette@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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**To:** david.lanteigne@pd.boston.gov <david.lanteigne@pd.boston.gov>  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: 5 Newbury St, BO

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**From:** Global Citizen Daily Digest <reply@globalcitizen.org>

**Sent:** Friday, April 15, 2022 8:52 AM EDT

**To:** david.reno@pd.boston.gov <david.reno@pd.boston.gov>

**Subject:** The Protester Who Superglued Her Hand to an NBA Court Won't Stop Until Factory Farms End

@DxEverywhere via Twitter

## The Protester Who Superglued Her Hand to an NBA Court Won't Stop Until Factory Farms End

Alicia Santurio wants everyone to know the industry's massive impact on food systems and the planet.

[READ MORE](#)

## 12 Ways Farmers Are Adapting to Climate Change Around the World

Farmers are leveraging new technologies, while also returning to traditional knowledge.

[READ MORE](#)

CGIAR System Organization via Flickr

Just Stop Oil

## We Asked a Climate Activist: What's It Like Locking Yourself to an Oil Refinery Pipe?

Climate change protesters, Just Stop Oil, are taking on the UK's addiction to oil by disrupting footy matches, awards galas, and oil refineries.

[READ MORE](#)

# Call Your Representative and Urge them to Support Biden's Historic Climate Budget

[CALL  
NOW](#)

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New York, NY 10003

[reply@globalcitizen.org](mailto:reply@globalcitizen.org)

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Global Poverty Project, 740 Broadway, 4th Floor, New York, NY 10003

**From:** Global Citizen Daily Digest <reply@globalcitizen.org>

**Sent:** Friday, April 15, 2022 8:46 AM EDT

**To:** renod.bpd@ci.boston.ma.us <renod.bpd@ci.boston.ma.us>

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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** david.singletary@pd.boston.gov <david.singletary@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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District D4  
04-10-2022 13:41:00

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Message Sent By: Dawn Morse  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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District D4  
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Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** delores.facey@pd.boston.gov <delores.facey@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**To:** derrick.harris@pd.boston.gov <derrick.harris@pd.boston.gov>  
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**To:** derrick.levy@pd.boston.gov <derrick.levy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** diamantino.araujo@pd.boston.gov <diamantino.araujo@pd.boston.gov>  
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04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District E13  
04-24-2022 16:37:14

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: 750 Boylston St, BO

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Event P #220140756

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Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** donald.keenan@pd.boston.gov <dona1d.keenan@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** donald.wightman@pd.boston.gov <donald.wightman@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P #220140756

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** eddy.pena@pd.boston.gov <eddy.pena@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** edgar.varela@pd.boston.gov <edgar.varela@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220176905  
District E13  
04-24-2022 16:37:14

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**To:** eileen.holmes@pd.boston.gov <eileen.holmes@pd.boston.gov>  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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**To:** eileen.holmes@pd.boston.gov <eileen.holmes@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event Location: Centre Street/South Street, JP

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Message Sent By: Keva Phillips  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
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**To:** eliseo.marrero@pd.boston.gov <eliseo.marrero@pd.boston.gov>  
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04-22-2022 16:54:00

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Event Description: Protesters...80 people protesting for healthy climate

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** ellys.lee@pd.boston.gov <ellys.lee@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** ellys.lee@pd.boston.gov <ellys.lee@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** ellys.lee@pd.boston.gov <ellys.lee@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**To:** ellys.lee@pd.boston.gov <ellys.lee@pd.boston.gov>  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** Ethan Cole <ethan.cole@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 6:59 AM EDT  
**To:** Emanuel Canuto <emanuel.canuto@pd.boston.gov>  
**Subject:** Fwd: [EXTERNAL EMAIL] - Threat to LE

This is in relation to joe cheevers locking up that woman at a wu press conference yesterday

[https://twitter.com/raddadne/status/1514169001395564544?s=10&t=L\\_B6aCWv0AyrjDtwWlq0Q](https://twitter.com/raddadne/status/1514169001395564544?s=10&t=L_B6aCWv0AyrjDtwWlq0Q)



06:50



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 @bostonpolice just unlawfully arrested Catherine Vitale (@WeThePeople\_MA) at Boston City Hall. They didn't say why she was arrested. She was protesting at @MayorWu's presser. Previous to that, Padma Scott witnessed her being assaulted by BPD. #bospoli #NoArroyo #ShameOnWu



3,315 views



**michele** @mjj4114 · 15h ...  
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**RadDad** @RadDadNE · 1h ...

Tweet your reply



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 Sergeant Detective Ethan Cole  
 Boston Police Department/FBI JTTF  
 Field Operations Group  
[201 Maple Street, Chelsea, MA 02150](mailto:ethan.cole@pd.boston.gov)  
[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)  
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**From:** Ethan Cole <ethan.cole@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 7:21 AM EDT  
**To:** Mark Bachta <mark.bachta@pd.boston.gov>  
**CC:** BRIC Supervisors <bricsupervisors@pd.boston.gov>  
**Subject:** Re: Tweet threat to LE

As always, thank you.

On Wed, Apr 13, 2022 at 06:58 Mark Bachta <mark.bachta@pd.boston.gov> wrote:  
10-4

On Wed, Apr 13, 2022 at 6:54 AM Ethan Cole <ethan.cole@pd.boston.gov> wrote:

This in relation to joe cheevers locking up that woman at a wu press conference yesterday



06:50



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3,315 views

15 31 38



**michele** @mjj4114 · 15h ...  
 @marcorandazza

2



**Katie Walker - Poet** @KLawsonP... · 11h ...  
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2 6



**RadDad** @RadDadNE · 1h ...

Tweet your reply



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 Field Operations Group  
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--

Mark W. Bachta  
Supervisory Homeland Security Intelligence Analyst  
Boston Regional Intelligence Center (BRIC)  
Main: 617-343-4328  
Desk: 617-343-5495  
Mobile: 617-593-6495  
[mark.bachta@pd.boston.gov](mailto:mark.bachta@pd.boston.gov)

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Cell 1-(617)-366-6525

**From:** Ethan Cole <ethan.cole@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 6:53 AM EDT  
**To:** BRIC Supervisors <bricsupervisors@pd.boston.gov>  
**Subject:** Re: Tweet threat to LE

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**RadDad** @RadDadNE · 1h ...

What we need to do is start following these cops home. They have addresses and families.



**Katie Walker - Poet** @KLawsonP... · 36m ...

Yeah not a solution at all. The fact that you have the mindset to mention the families is concerning. Sorry - but some kid doesn't need to be harassed or in fear due to actions beyond them. And having the intent to go to someone's home because they have "families" is fucked.



**RadDad** @RadDadNE ...

Replying to @KLawsonPoet @mjj4114 and 5 others

Wow that was long. I don't really care about your opinion. Cops who trample on people's rights deserve to pay a price

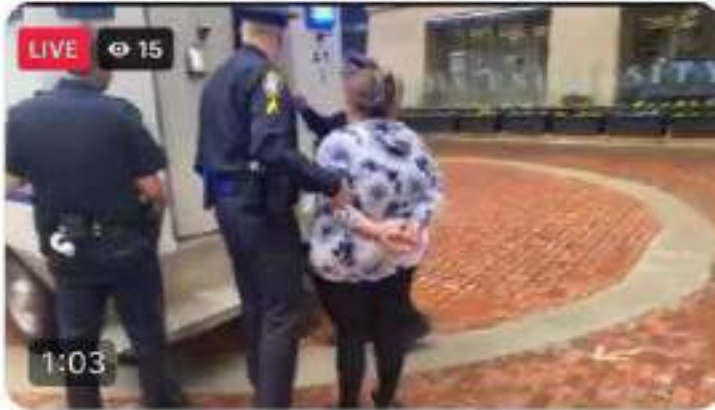
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**From:** Mark Bachta <mark.bachta@pd.boston.gov>

**Sent:** Wednesday, April 13, 2022 11:11 AM EDT

**To:** Emily Snow <emily.snow@pd.boston.gov>; Jennifer Seeley <jennifer.seeley@pd.boston.gov>; Evans Smalley <evans.smalley@pd.boston.gov>

**Subject:** Fwd: Tweet threat to LE

FYI took a preliminary look at ID with no luck. I entered into eGuardian. So no action needed. Just for awareness purposes.

----- Forwarded message -----

From: **Ethan Cole** <ethan.cole@pd.boston.gov>

Date: Wed, Apr 13, 2022 at 7:21 AM

Subject: Re: Tweet threat to LE

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Cc: BRIC Supervisors <bricsupervisors@pd.boston.gov>

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What we need to do is start following these cops home. They have addresses and families.

**Katie Walker - Poet** @KLawson... · 36m ...

Yeah not a solution at all. The fact that you have the mindset to mention the families is concerning. Sorry - but some kid doesn't need to be harassed or in fear due to actions beyond them. And having the intent to go to someone's home because they have "families" is fucked.

**RadDad**  
@RadDadNE ...

Replying to @KLawsonPoet @mjj4114 and 5 others

Wow that was long. I don't really care about your opinion. Cops who trample on people's rights deserve to pay a price

Tweet your reply



06:50



**Michelle Efendi** @EfendiMichelle · 17h ...  
 @bostonpolice just unlawfully arrested Catherine Vitale (@WeThePeople\_MA) at Boston City Hall. They didn't say why she was arrested. She was protesting at @MayorWu's presser. Previous to that, Padma Scott witnessed her being assaulted by BPD. #bospoli #NoArroyo #ShameOnWu



3,315 views

15 31 38



**michele** @mjj4114 · 15h ...  
 @marcorandazza

2



**Katie Walker - Poet** @KLawsonP... · 11h ...  
 This is ridiculous. Tells them to go to City Hall but then arrested her. So in other words, we just need to all shut the fuck up and let them do as they want. 🤔

2 6



**RadDad** @RadDadNE · 1h ...

Tweet your reply



On Wed, Apr 13, 2022 at 06:47 Ethan Cole <[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)> wrote:  
 Mark,

Can we put his in eGuardian.

[https://twitter.com/raddadne/status/1514169001395564544?s=10&t=\\_B6aCWv0AyrjDtwvWlq0Q](https://twitter.com/raddadne/status/1514169001395564544?s=10&t=_B6aCWv0AyrjDtwvWlq0Q)

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Sergeant Detective Ethan Cole  
 Boston Police Department/FBI JTTF  
 Field Operations Group  
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[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)  
 Office 1-(857)-386-2785

Cell 1-(617)-366-6525

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Copley Square

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□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** eric.merner@pd.boston.gov <eric.merner@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** eric.merner@pd.boston.gov <eric.merner@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** eric.merner@pd.boston.gov <eric.merner@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>  
**Subject:** Protesters

□

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>

**Subject:** Protesters

□

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Boston Police Department - Operations Division

Message Sent By: Sonya Bynoe

Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Thursday, March 31, 2022 5:51 PM EDT

**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>

**Subject:** Protesters

□

Event P220138071

District A1

03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division

Message Sent By: Dawn Morse

Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

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**Sent:** Friday, April 22, 2022 5:02 PM EDT

**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>

**Subject:** Protesters

□

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Event Description: Protesters...80 people protesting for healthy climate

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**From:** noreply@everbridge.net <noreply@everbridge.net>

**Sent:** Sunday, April 24, 2022 5:17 PM EDT

**To:** erin.schroeder-withington@pd.boston.gov <erin.schroeder-withington@pd.boston.gov>

**Subject:** Protesters

□

Event P220176905

District E13

04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division

Message Sent By: Keva Phillips

Supervisor: Sgt. Minichello

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** Brian LeBlanc <bpleblanc@fbi.gov>  
**Sent:** Wednesday, April 13, 2022 6:54 AM EDT  
**To:** ethan.cole@pd.boston.gov <ethan.cole@pd.boston.gov>; George Hurley <gphurley@fbi.gov>; john.strazzullo@state.ma.us <john.strazzullo@state.ma.us>  
**Subject:** Re: [EXTERNAL EMAIL] - Threat to LE

Copy thank you

Brian P. LeBlanc  
Supervisory Special Agent  
FBI Boston  
Joint Terrorism Task Force  
Squad CT-2 Domestic Terrorism/Threat Response  
Cell: 954-931-3667  
Email: BPLeBlanc@FBI.gov

---

**From:** Ethan Cole <ethan.cole@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 6:52:46 AM  
**To:** Hurley, George Paul (BS) (FBI) <gphurley@fbi.gov>; LeBlanc, Brian P. (BS) (FBI) <bpleblanc@fbi.gov>; Strazzullo, John <john.strazzullo@state.ma.us>  
**Subject:** [EXTERNAL EMAIL] - Threat to LE

This is in relation to joe cheevers locking up that woman at a wu press conference yesterday

[https://twitter.com/raddadne/status/1514169001395564544?s=10&t=\\_B6aCWv0AyrjDtwWIq0Q](https://twitter.com/raddadne/status/1514169001395564544?s=10&t=_B6aCWv0AyrjDtwWIq0Q)

06:50



**Katie Walker - Poet** @KLawsonP... · 11h ...

This is ridiculous. Tells them to go to City Hall but then arrested her. So in other words, we just need to all shut the fuck up and let them do as they want. 🤔



**RadDad** @RadDadNE · 1h ...

What we need to do is start following these cops home. They have addresses and families.



**Katie Walker - Poet** @KLawsonP... · 36m ...

Yeah not a solution at all. The fact that you have the mindset to mention the families is concerning. Sorry - but some kid doesn't need to be harassed or in fear due to actions beyond them. And having the intent to go to someone's home because they have "families" is fucked.



**RadDad** @RadDadNE ...

Replying to @KLawsonPoet @mjj4114 and 5 others

Wow that was long. I don't really care about your opinion. Cops who trample on people's rights deserve to pay a price

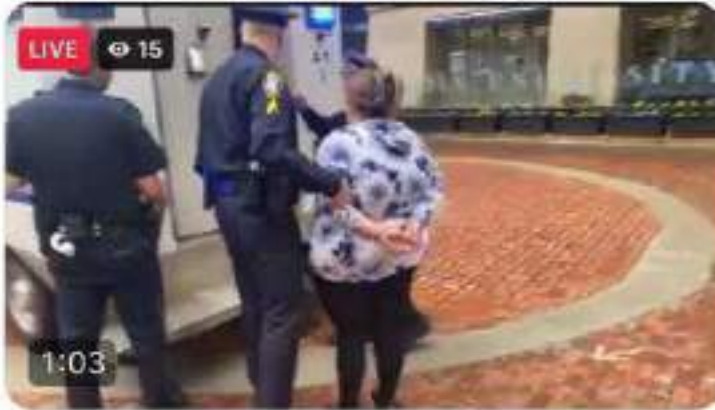
Tweet your reply



06:50



**Michelle Efendi** @EfendiMichelle · 17h ...  
@bostonpolice just unlawfully arrested Catherine Vitale (@WeThePeople\_MA) at Boston City Hall. They didn't say why she was arrested. She was protesting at @MayorWu's presser. Previous to that, Padma Scott witnessed her being assaulted by BPD. #bospoli #NoArroyo #ShameOnWu



3,315 views



**michele** @mjj4114 · 15h ...  
@marcorandazza



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**RadDad** @RadDadNE · 1h ...

Tweet your reply



Sergeant Detective Ethan Cole  
Boston Police Department/FBI JTTF  
Field Operations Group  
201 Maple Street, Chelsea, MA 02150  
[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)  
Office 1-(857)-386-2785  
Cell 1-(617)-366-6525

**From:** Strazzullo, John (POL) <john.strazzullo@state.ma.us>  
**Sent:** Wednesday, April 13, 2022 6:55 AM EDT  
**To:** Brian LeBlanc <bpleblanc@fbi.gov>  
**CC:** ethan.cole@pd.boston.gov <ethan.cole@pd.boston.gov>; George Hurley <gphurley@fbi.gov>  
**Subject:** Re: [EXTERNAL EMAIL] - Threat to LE  
**Attachment(s):** "IMG\_0076.jpg", "IMG\_0077.jpg"

Thank you

Sent from my iPhone

On Apr 13, 2022, at 6:55 AM, Brian LeBlanc <bpleblanc@fbi.gov> wrote:

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Copy thank you

Brian P. LeBlanc  
Supervisory Special Agent  
FBI Boston  
Joint Terrorism Task Force  
Squad CT-2 Domestic Terrorism/Threat Response  
Cell: 954-931-3667  
Email: BPLeBlanc@FBI.gov

---

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**Sent:** Wednesday, April 13, 2022 6:52:46 AM  
**To:** Hurley, George Paul (BS) (FBI) <gphurley@fbi.gov>; LeBlanc, Brian P. (BS) (FBI) <bpleblanc@fbi.gov>; Strazzullo, John <john.strazzullo@state.ma.us>  
**Subject:** [EXTERNAL EMAIL] - Threat to LE

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[https://twitter.com/raddadne/status/1514169001395564544?s=10&t=\\_B6aCWv0AyrjDtwvWlq0Q](https://twitter.com/raddadne/status/1514169001395564544?s=10&t=_B6aCWv0AyrjDtwvWlq0Q)

<IMG\_0077.jpg>

<IMG\_0076.jpg>

--

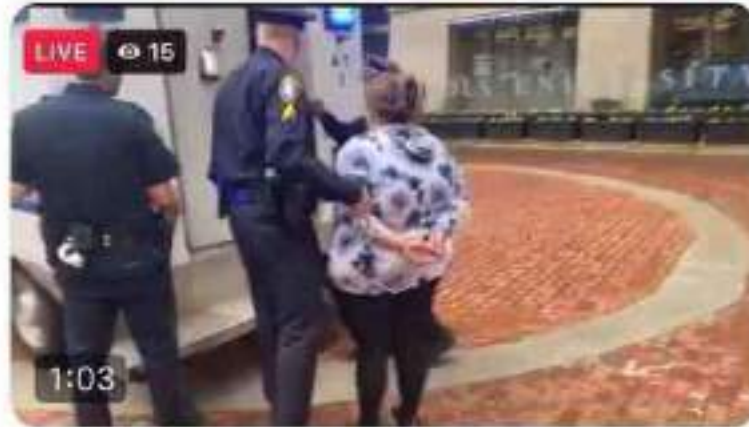
Sergeant Detective Ethan Cole  
Boston Police Department/FBI JTTF  
Field Operations Group  
201 Maple Street, Chelsea, MA 02150  
[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)  
Office 1-(857)-386-2785  
Cell 1-(617)-366-6525





**Michelle Efendi** @EfendiMichelle · 17h

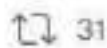
@bostonpolice just unlawfully arrested Catherine Vitale (@WeThePeople\_MA) at Boston City Hall. They didn't say why she was arrested. She was protesting at @MayorWu's presser. Previous to that, Padma Scott witnessed her being assaulted by BPD. #bospoli #NoArroyo #ShameOnWu



3,315 views



15



31



38



**michele** @mjj4114 · 15h

@marcorandazza



2

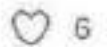


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2



6



**RadDad** @RadDadNE · 1h

Tweet your reply



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2



6

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1

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Yeah not a solution at all. The fact that you have the mindset to mention the families is concerning. Sorry - but some kid doesn't need to be harassed or in fear due to actions beyond them. And having the intent to go to someone's home because they have "families" is fucked.



1

**RadDad**  
@RadDadNE ...

Replying to @KLawsonPoet @mjj4114 and 5 others

Wow that was long. I don't really care about your opinion. Cops who trample on people's rights deserve to pay a price

Tweet your reply



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** ethan.cole@pd.boston.gov <ethan.cole@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** ethan.cole@pd.boston.gov <ethan.cole@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**To:** ethan.cole@pd.boston.gov <ethan.cole@pd.boston.gov>  
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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Supervisor: Sgt. Swan

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**From:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 3:55 PM EDT  
**To:** Shea Kelly <shea.kelly@pd.boston.gov>  
**Subject:** Deployment event list  
**Attachment(s):** "deployment\_events\_4\_14\_2022.pdf","deployment\_events\_4\_14\_2022.docx"

--

**Evans Smalley**  
**Intelligence Analyst**  
Boston Regional Intelligence Center (BRIC)  
Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

**From:** Mark Bachta <mark.bachta@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 9:18 AM EDT  
**To:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Subject:** Fwd: Tweet threat to LE

Are you already aware of who @RadDadNE is? If not, can you give it 30 min to see if he's easily ID'd. FBI gonna do their thing once I submit to eGuardian anyways, but if he's readily ID'd it'll give it a jump start.

----- Forwarded message -----

From: **Ethan Cole** <[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)>  
Date: Wed, Apr 13, 2022 at 6:54 AM  
Subject: Re: Tweet threat to LE  
To: BRIC Supervisors <[bricsupervisors@pd.boston.gov](mailto:bricsupervisors@pd.boston.gov)>

This in relation to joe cheevers locking up that woman at a wu press conference yesterday



06:50



**Katie Walker - Poet** @KLawsonP... · 11h ...

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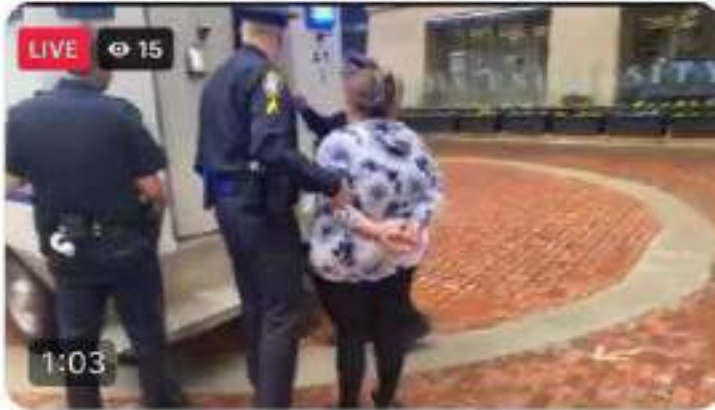
Tweet your reply



06:50



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3,315 views



**michele** @mjj4114 · 15h ...  
@marcorandazza



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**RadDad** @RadDadNE · 1h ...

Tweet your reply



On Wed, Apr 13, 2022 at 06:47 Ethan Cole <[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)> wrote:  
Mark,

Can we put his in eGuardian.

[https://twitter.com/raddadne/status/1514169001395564544?s=10&t=I\\_B6aCWv0AyrjDtwWlq0Q](https://twitter.com/raddadne/status/1514169001395564544?s=10&t=I_B6aCWv0AyrjDtwWlq0Q)

--

Sergeant Detective Ethan Cole  
Boston Police Department/FBI JTTF  
Field Operations Group  
201 Maple Street, Chelsea, MA 02150  
[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)  
Office 1-(857)-386-2785  
Cell 1-(617)-366-6525

--

Sergeant Detective Ethan Cole  
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Office 1-(857)-386-2785  
Cell 1-(617)-366-6525

--

Mark W. Bachta  
Supervisory Homeland Security Intelligence Analyst  
Boston Regional Intelligence Center (BRIC)  
Main: 617-343-4328  
Desk: 617-343-5495  
Mobile: 617-593-6495  
[mark.bachta@pd.boston.gov](mailto:mark.bachta@pd.boston.gov)

**From:** David Carabin <david.carabin@pd.boston.gov>  
**Sent:** Wednesday, April 20, 2022 2:03 PM EDT  
**To:** Evans Smalley <evans.smalley@pd.boston.gov>  
**CC:** Mark Bachta <mark.bachta@pd.boston.gov>; Brian Larkin <brian.larkin@pd.boston.gov>; Gerald Cahill <gerald.cahill@pd.boston.gov>  
**Subject:** Re: Concerning tweet

Thank you, Evans!

On Wed, Apr 20, 2022 at 1:17 PM Evans Smalley <evans.smalley@pd.boston.gov> wrote:  
Hi all,

The account in question (@dummbviewer, UserID:1462782416049819658) was created on November 22, 2021 and has tweeted only 74 times, all of them from an iPhone.

The username dummbviewer is not reused on Instagram, Facebook, TikTok, Telegram, Gab, or Parler. None of the 74 tweets reference any personal details such as a location, friends or family names, or other personal social media accounts. In the absence of other pivot points and short of requesting the email address and/or IP logs from Twitter, it will likely not be possible to ID this profile.

This account does appear to be local, given it has tweeted almost exclusively about local issues surrounding Covid-19 vaccine and mask mandates as well as the mayor. The account further states that they know "upwards of 50" Boston Public School employees which, if true, could indicate that they might work for or be otherwise affiliated with BPS in some way. This account has made vague references to participating in protests in front of Mayor Wu's residence, and has interacted with other accounts on Twitter known to have participated in residential protesting events, but has not claimed to do so directly.

This account has not tweeted any specific calls to or threats of violence as of publication.



On Wed, Apr 20, 2022 at 12:10 PM David Carabin <david.carabin@pd.boston.gov> wrote:

Hi Evans,

Can you please review the message below, see if you can identify the individual that posted this, and then determine if there is a reason for concern of a threatening nature?

Thank you,  
Dave

----- Forwarded message -----

**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Date:** Wed, Apr 20, 2022 at 12:04 PM  
**Subject:** Fwd: Concerning tweet  
**To:** David Carabin <david.carabin@pd.boston.gov>, Gerald Cahill <gerald.cahill@pd.boston.gov>  
**Cc:** Gregory Long <gregory.long@pd.boston.gov>

Dave,

As discussed on the phone.

----- Forwarded message -----

**From:** Latino, Jonathan <JLatino@bphc.org>  
**Date:** Wed, Apr 20, 2022 at 11:48 AM  
**Subject:** Concerning tweet  
**To:** John Boyle <johnt.boyle@pd.boston.gov>  
**Cc:** Kaiser, Johanna <JKaiser@bphc.org>

Hi Sgt. Boyle,



I saw this tweet yesterday while scrolling through BPHC's twitter. I've already informed City Hall comms, who suggested we flag it for you. Do you have any suggestions? Is there anything we should do? Based on the tweet alone, it does appear someone is watching Dr. Ojikutu drop her daughter off every morning.

Best,

Jon

1:00

LTE



**So Media** @dummbbyViewer · 1h

...

I'll ask Dr Ojikutu when she drops her kid off at a private school not wearing masks.



2



2



**Michelle Efendi** @EfendiMichelle · 1h

...

Do Dr. @OjikutuBisola's children really attend a private school and they do not wear masks?



1



1



**So Media**

...

@dummbbyViewer

Replying to @EfendiMichelle @HealthyBoston and 5 others

Can only confirm the private school doesn't require masks. Her child may wear it, not sure. But that is what we want, freedom to decide to wear them

or not.

12:30 PM · 4/19/22 · [Twitter for iPhone](#)

1 Like



Tweet your reply



Jon Latino

Media Relations Manager

857-288-9425

Boston Public Health Commission

1010 Massachusetts Ave.

Boston, Massachusetts 02118

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120*

617-343-4520

--

**David Carabin**

Assistant Chief, Bureau of Intelligence & Analysis  
Director, Boston Regional Intelligence Center  
Boston Police Department  
Office: 617-343-4328  
Email: [david.carabin@pd.boston.gov](mailto:david.carabin@pd.boston.gov)

--

**Evans Smalley**

**Intelligence Analyst**

Boston Regional Intelligence Center (BRIC)  
Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

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Director, Boston Regional Intelligence Center  
Boston Police Department  
Office: 617-343-4328  
Email: [david.carabin@pd.boston.gov](mailto:david.carabin@pd.boston.gov)

**From:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Sent:** Wednesday, April 20, 2022 1:16 PM EDT  
**To:** David Carabin <david.carabin@pd.boston.gov>  
**CC:** Mark Bachta <mark.bachta@pd.boston.gov>; Brian Larkin <brian.larkin@pd.boston.gov>; Gerald Cahill <gerald.cahill@pd.boston.gov>  
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As discussed on the phone.

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1:00



**So Media** @dummbbyViewer · 1h

...

I'll ask Dr Ojikutu when she drops her kid off at a private school not wearing masks.



**Michelle Efendi** @EfendiMichelle · 1h

...

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**So Media**

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Tweet your reply



Jon Latino

Media Relations Manager

857-288-9425

Boston Public Health Commission

1010 Massachusetts Ave.

Boston, Massachusetts 02118

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
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**David Carabin**

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Director, Boston Regional Intelligence Center  
Boston Police Department  
Office: 617-343-4328  
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--

**Evans Smalley**

**Intelligence Analyst**

Boston Regional Intelligence Center (BRIC)  
Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

**From:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 1:12 PM EDT  
**To:** Leonard, Rebecca <rleonard@cambridgepolice.org>  
**Subject:** Re: Protest in Cambridge

Hi Rebecca,

Sure thing! This is a climate change related protest. A group will gather to put up posters advocating to "Defund climate chaos" the group will also be advertising and recruiting participants for another scheduled event protesting climate change on April 22nd. Historically, these types of events have attracted approximately 10-30 people. There have not been any threats of violence or plans for disruptive activity observed in open sources related to this event as of publication.



***This information describes First Amendment protected activities. The BRIC recognizes that Americans have constitutionally protected rights to assemble, speak, and petition the government. The BRIC safeguards these rights and only reports on First Amendment protected activities for operational planning in the interest of assuring the safety and security of the demonstrators and the public. The BRIC has assessed these events to determine the potential for public safety concerns only. Please be advised that this information will not be retained by the BRIC beyond the event date and should be discarded by all recipients after that date.***

On Fri, Apr 1, 2022 at 12:27 PM Leonard, Rebecca <[rleonard@cambridgepolice.org](mailto:rleonard@cambridgepolice.org)> wrote:

Hi Evans,

Do you have any additional info or the website for the protest at Graffiti Alley in Cambridge tomorrow at 10am? I missed what the actual protest is about.

Sincerely,

**Rebecca (Burbank) Leonard**

Senior Crime Analyst  
Cambridge Police Department  
125 Sixth St  
Cambridge, MA 02142  
Office: (617)349-3330  
Cell: (978)269-4912

--  
**Evans Smalley**  
**Intelligence Analyst**  
Boston Regional Intelligence Center (BRIC)  
Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

**From:** Leonard, Rebecca <rleonard@cambridgepolice.org>  
**Sent:** Sunday, April 03, 2022 10:25 PM EDT  
**To:** Evans Smalley <evans.smalley@pd.boston.gov>  
**Subject:** RE: Protest in Cambridge

Thank you Evans!

Sincerely,  
**Rebecca (Burbank) Leonard**  
Senior Crime Analyst  
Cambridge Police Department  
125 Sixth St  
Cambridge, MA 02142  
Work: (617)349-3330  
Cell: (978)269-4912

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**Evans Smalley**  
**Intelligence Analyst**  
Boston Regional Intelligence Center (BRIC)

Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** evans.smalley@pd.boston.gov <evans.smalley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** eva.santiago@pd.boston.gov <eva.santiago@pd.boston.gov>  
**Subject:** Protesters

□

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District D4  
04-10-2022 13:41:00

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** fabian.belgrave@pd.boston.gov <fabian.belgrave@pd.boston.gov>  
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03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** fabian.belgrave@pd.boston.gov <fabian.belgrave@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** felipe.colon@pd.boston.gov <felipe.colon@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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District A1  
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**To:** finley.kemp@pd.boston.gov <finley.kemp@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Eva Santiago

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** garrett.mitchell@pd.boston.gov <garrett.mitchell@pd.boston.gov>  
**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District D4

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Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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**From:** Gary Eblan <gary.eblan@pd.boston.gov>  
**Sent:** Thursday, April 14, 2022 10:11 AM EDT  
**To:** Timothy Connolly <timothy.connolly@pd.boston.gov>  
**Subject:** PP  
**Attachment(s):** "BFD Cut Team Presentation 4-14-2022 [Autosaved].pptx"

As discussed

Lt. Gary J. Eblan,  
Special Event Management  
Boston Police Department  
617-343-5451 office  
617-343-4723 fax  
617-592-9254 cell





# PROTESTER GROUPS



ALF/ELF - Domestic Terrorists



PETA – Animal Rights



Greenpeace – Sponsors Funding



EARTH FIRST - Environmental



RUCKUS SOCIETY – Protestor Training



RISING TIDE – Civic Rights/Ecology



ANARCHISTS – Black Bloc /Violence



ADAPT - Handicapped



RAGING GRANNIES – Elder Issues



CRITICAL MASS – Bicycles used to Disrupts





# PROTESTERS

**ORGANIZERS** - Coordination

**MEDICAL TEAM/LEGAL ADVISORS** - Remember they are just protester.

**TACTICAL ADVISORS** – Planning and Tactics

**SCOUT/INTEL SPECIALIST** – Provide Information to protest organizers.

**ACTION ELVES** – Assist Protesters

**MESSENGERS** – Pass on Information

**POLICE LIAISON** – Stall police action under the guise of assisting.

# PROTESTER TACTICS

INCENDIARY DEVICES

SLEEPING DRAGON



# Direct Action Philosophy

**•Protesters are more organized.**

**•Different groups form coalitions.**

**•Goal to overburden law enforcement.**

**•Disrupt or terminate an event.**

**•Increase public and media attention.**

**•Obstruct transportation and infrastructure.**

**•Committed to carrying out civil disobedience and violent activities.**

**•Create appearance of police misconduct.**

## DYNAMICS OF UNRULY CROWDS

- Anonymity
- Numbers
- Contagion
- Imitation
- Rumor
- Social Media Issues  
Facebook Twitter etc.

KTLA

## PROTESTER TACTICS





# THE ARREST

- Supervisor is team leader.
- Gives clear and audible warnings.
- Additional officer in rear of group to ensure warning is heard.
- Standardized warnings.
- Establish standards on number of arrests per officer.
- Proper use of flex cuffs.
- Always walk prisoner backwards.
- Carry protesters with a 3 man or 4 man carry.



**They attend lectures  
on how to defeat our  
tactics.**



**They will lock arms or  
flex cuff themselves  
together.**



**They may conceal razors to defeat the flex  
cuffs or bobby pins to release the locking  
mechanism so a thorough search is an  
absolute.**





# REMEMBER

- Arrests must be controlled and professional.
- We are ALWAYS being videotaped.
- We decide when, where, and how an arrest occurs.
- We can't let our officers (or ourselves) react emotionally.
- Emotional reactions lead to lawsuits and unnecessary injury.



**Cut Teams will be activated as a reactionary force. A strong police presence will act as a deterrent to most protesters. Once it has been discovered that an individual or group has interfered with the race course a Cut Team will be activated. It may be by use of sleeping dragons, bike locks, chains, 55 gallon drums etc.**

**No person (s) should be cut out of a device as an individual act, we utilize team tactics in these situations.**

**A Boston Police Supervisor will direct the police officers at the scene to secure and cuff any individual cut from a device.**

**No individuals will be cut out of a device until they are told they are under arrest.**

**You should not cut any person out of a device unless you have been told they are under arrest.**





# THE ARREST

## **Cut Teams**

**Take your time cutting. As long as they are off the route and the race can continue it does not matter how long it takes.**

**Once the device is compromised the individual will be cuffed and brought to a transport wagon by an Officer.**

**Be wary of sleeping dragons with excessive duck tape. Under the tape we have seen chicken wire over rags soaked in gas, lighter fluid, or other flammable liquids. Cutting blade hits the chicken wire which causes a spark which catches the rags on fire.**

**We have also been advised of cases of smearing both animal and human feces on the sleeping dragon under the tape, once the blade cuts the device feces is propelled by the blade. Proper PPE should be utilized when cutting these devices.**

**From:** Michael Pavone <michael.pavone@boston.gov>

**Sent:** Friday, April 01, 2022 11:19 AM EDT

**To:** Gary Eblan <gary.eblan@pd.boston.gov>; Robert Bottary <robert.bottary@boston.gov>; Kenneth Hayes <kenneth.hayes@boston.gov>; Gary Dardia <gary.dardia@boston.gov>; Robert Calobrisi <robert.calobrisi@boston.gov>

**Subject:** Boston Fire Dept Protester teams

Lt Eblan,

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Moon Island  
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**To:** Michael Pavone <michael.pavone@boston.gov>  
**Subject:** Re: Boston Fire Dept Protester teams

We will be there.  
G

Lt. Gary J. Eblan,  
Special Event Management  
Boston Police Department  
617-343-5451 office  
617-343-4723 fax  
617-592-9254 cell

On Thu, Apr 14, 2022 at 9:49 AM Michael Pavone <michael.pavone@boston.gov> wrote:  
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Can we do 1:30pm on April 14Th

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> Michael Pavone

> Special Operations Command

> Moon Island

> Boston Fire Dept

> 617.343.2551 (office)

> 617.839.8919 (cell)

--

Michael Pavone

Special Operations Command

Moon Island

Boston Fire Dept

617.343.2551 (office)

617.947.1310 (cell)

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** gerald.cahill@pd.boston.gov <gerald.cahill@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** gerald.cahill@pd.boston.gov <gerald.cahill@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** gerald.cahill@pd.boston.gov <gerald.cahill@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**To:** gino.provenzano@pd.boston.gov <gino.provenzano@pd.boston.gov>  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** gregg.bowden@pd.boston.gov <gregg.bowden@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** gregg.bowden@pd.boston.gov <gregg.bowden@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** gregg.bowden@pd.boston.gov <gregg.bowden@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

Matt Johnson (Investigator/Press Coordinator with DxE. Conducted failed court intrusion on 4/22/2022)



Zoe Rosenberg aka “Chain Girl” (chained herself to hoop on 4/16/22)



**Name:** Alicia Santurio aka “Glue Girl” (glued herself to court on 4/13/22)





**Name:** Cassie King (Organizer with DxE)



**Name:** Rocky Ning (Organizer with DxE)



**Possible Name:** Sally Zito



**Name:** Almira Tanner (Organizer with DxE)



**Name:** Chloe Leffakis (DxE Activist)



**Name:** Tonia Moore



**Name:** Priya Sawhney (Co-founder of DxE)



**Name:** Wayne Hsiung (Co-founder of DxE)



**Name:** Rachel Mei



**Name:** Maya (Last Name Unknown)



**Name:** Cherryl Gallo



**Name:** Neda Eftekhari



**Name:** Karin Nelson



**Name:** Cinta Hondsmark



**Name:** Shweta Borgaonkar (DxE activist)



**Name:** Lewis Bernier (Factory Farm investigator)



**Name:** Paul Darwin Picklesimer (DxE activist) **Name:** Matthew Mckeefry (DxE Organizer)



**Name:** Antonelle (Last Name Unknown)



**Name:** Melanie Sears



**Name:** Nena Salas



**Name:** Geno Maurillo



**Name:** Chao Jian



**Name:** Brittany Drake (DxE - Los Angeles organizer)





**Name:** Rachel Ziegler (DxE organizer)



**Name:** Michelle Del Cueto (DxE organizer)



**Name:** Joyce Lipener (possible activist)



**Name:** Jon Frohnmayer (animal rights activist)



**Name:** Ashley Riddle  
(purchased ticket for 4/21 court intrusion attempt, animal rights coalition activist)



**Name:** Kelsey Hambor  
(Animal Rights Coalition Outreach Manager)



**Name:** Amy V. Leinen  
(Animal Rights Coalition Campaign Manager)



**Name:** Karen Hershenson (potential activist)



**Name:** Crystal Heath  
(Co-Founder of "Our Honor" activist group)



**Name:** Karen Rubio



**Name:** Randalyn Des Lauries



**From:** NBAGSOC <nbagsoc@nba.com>

**Sent:** Monday, April 18, 2022 4:08 PM EDT

**To:** AllDomesticSecurityAlerts <alldomesticsecurityalerts@nba.com>; Soifer, Edna <esoifersecrep@nba.com>; DiCosola, Michael <mdicosolasecrep@nba.com>; John Altila <jaltilla@torontoraptors.com>; Bill Bevan <bbevan@torontoraptors.com>; jennifer.sullivan@mlse.com <jennifer.sullivan@mlse.com>; McWilliams, Jim <jim.mcwilliams@mlse.com>; NBA Security <nbasecurity@nba.com>

**Subject:** \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*



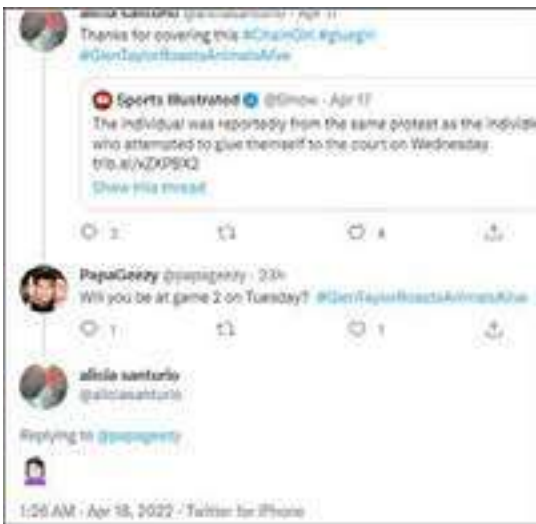
**Alert Type:** NBA Playoffs

**Description:** The NBA GSOC has identified several individuals associated with the animal rights activist group "Direct Action Everywhere" (DxE) whose members have disrupted NBA playoff games involving the Minnesota Timberwolves. The activists are targeting the Timberwolves due to team owner Glen Taylor. Taylor also owns Rembrandt Enterprises, a factory egg farm in Iowa, where activists claim chickens have been killed in large numbers as a result of bird flu and that hundreds of employees there have been laid off since the chickens died. Activists at NBA games have run onto the court and glued themselves to the floor, and have also chained themselves to the hoop while wearing shirts to protest Glen Taylor. In order to capitalize on the attention, DxE has marketed its activists' actions by naming them "Glue Girl" and "Chain Girl" on social media. Neither protest was advertised on social media until after the incidents occurred.

Of note, Zoe Rosenberg, aka "Chain Girl," was released from custody on April 17, 2022, following her protest action on April 16. Meanwhile, Alicia Santurio, aka "Glue Girl," who orchestrated the April 13, 2022, protest, responded to another user who asked if she would be present at the April 19, 2022, Timberwolves game with a "Woman shrugging" emoji. Santurio's reply could intentionally be cryptic and that she is deliberately not sharing information about a potential protest action, however, this could not be confirmed. No planned protest activity for the Minnesota Timberwolves vs. Memphis Grizzlies game on April 19, 2022, has currently been identified. However, as noted above, past protest actions were not advertised on social media ahead of time, likely in an effort to avoid detection. Please see below for more information and a list of activists associated with Direct Action Everywhere and affiliated organizations.

**Social Media Screenshots:**





**News Link About Protest Action:** [Glen Taylor protester interrupts another Timberwolves game](#)

**Direct Action Everywhere Social Media Links:** [Website](#); [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [YouTube](#)

**Direct Action Everywhere Activists and Associates:**

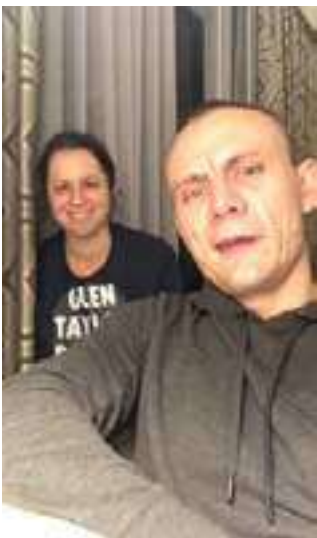
**Name:** Matt Johnson (Investigator and Press Coordinator with DxE)

**Username:** DxE\_Matt

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#)

**Screenshot:**



**Name:** Cassie King (Organizer with DxE)

**Username:** cassie\_dxe

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**





**Name:** Zoe Rosenberg aka “Chain Girl”

**Username:** zoe\_rooster

**Location:** San Luis Obispo, California

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [16-year-old protester dragged from field at Levi’s Stadium](#)

**Screenshot:**



**Possible Name:** Sally Zito

**Username:** sallyzito

**Possible Locations:** Las Vegas, Nevada and Los Angeles, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [Sally Zito’s Music Website](#)

**Screenshot:**



**Name:** Alicia Santurio aka “Glue Girl”

**Username:** aliciasanturio (Twitter); alicia.santurio (Facebook)

**Location:** Fairfield, CA

**D.O.B:** 11/25/1981

**Social Media Links:** [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Rocky Ning (Organizer with DxE)

**Username:** dxerocky (Twitter) & @mistergreensf (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Instagram](#); [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Almira Tanner (Lead Organizer with DxE)

**Username:** almiratanner (Twitter) & @almirattheactivist (Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Chloe Leffakis (DxEAnimalRightsActivist)

**Username:** ChloeLeffakis (Twitter and Instagram) Chloe.Leffakis (Facebook)

**Location:** Pittsburgh, PA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#);

**Screenshot:**



**Name:** Tonia Moore

**Username:** toniathehuman (Twitter)

**Location:** San Mateo, CA

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Priya Sawhney (Co-founder of DxE / Investigator)

**Username:** priyadx27 (Twitter); priyasawhney27 (Facebook); priyazalia (Instagram); Priyasawhney27 (TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#); [Facebook](#); [Instagram](#); [TikTok](#)

**Screenshot:**



**Name:** Wayne Hsiung (Co-founder of DxE)

**Username:** waynehhsiung (Twitter, TikTok, Facebook #2, and Instagram); wayne.hsiung (Facebook #1); WayneHsiung2020 (YouTube)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook #1](#); [Facebook #2](#); [Instagram](#); [YouTube](#); [TikTok](#); [Greenpill Podcast](#); [Linktree](#)

**Email Address:** [wayne@compassionatebay.org](mailto:wayne@compassionatebay.org)

**Screenshot:**



**Name:** Rachel Mei

**Username:** Rachel\_\_Mei (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Maya (Last Name Unknown)

**Username:** @sentient\_animal (Twitter)

**Location:** San Francisco, CA

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Cheryl Gallo

**Username:** CherylGallo5 (Twitter)

**Location:** Pittsburgh, PA,

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Neda Eftekhari

**Username:** NedaEftekhari (Twitter)

**Location:** Unknown, U.S.

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Karin Nelson

**Username:** veganspark (Twitter), karinnelson123 (Facebook)

**Location:** Edmonton, Canada, Victoria, Canada and Mississauga, Canada

**Social Media Links:** [Twitter](#), [Facebook](#)

**Screenshot:**



**Name:** Cinta Hondsmerk

**Username:** Cikalovee (Twitter) thatgreenstudent (Instagram)

**Location:** Oslo, Norway

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Shweta Borgaonkar

**Username:** shweta\_dxe (Twitter)

**Location:** Pune, India

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Lewis Bernier

**Username:** InvestigateLib1 (Twitter & Twitter)

**Location:** California

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Paul Darwin Picklesimer

**Username:** 101Darwins (Twitter, Instagram, TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#), [Instagram](#), [TikTok](#), [YouTube](#)



**Screenshot:**



**Name:** Antonelle (Last Name Unknown)

**Username:** antycr (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Animal Liberation Conference (ALC) (Co-founder of DxE)

**Username:** @ALCrevolution (Twitter and Instagram); liberationconference (Facebook); animalliberationconference (Instagram)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [Website](#)

**Email Address:** [info@liberationconference.com](mailto:info@liberationconference.com)

**Screenshot:**



**Name:** Animal Justice

**Username:** @AnimalJustice (Twitter), animaljustice\_ (Instagram), AnimalJusticeCanada (Facebook), animaljusticeofficial (Tik Tok)

**Location:** Canada

**Social Media Links:** [Twitter](#), [Instagram](#), [Website](#), [Facebook](#), [Tik Tok](#)

**Email Address:** [info@animaljustice.ca](mailto:info@animaljustice.ca)

**Screenshot:**



**Name:** In Defense of Animals

**Username:** IDAUSA (Twitter), indefenseofanimals (Facebook), ida\_international (Instagram)

**Location:** San Rafael, CA

**Social Media Links:** [Website](#), [Twitter](#), [Instagram](#), [Facebook](#)

**Screenshot:**



.....  
**Please email [nbaintel@nba.com](mailto:nbaintel@nba.com) or call (212) 407-8800 with any questions or concerns.**



**Kevin Obrien**

GSOC Operator

Phone: +1 (212) 407-8800



**From:** David Carabin <david.carabin@pd.boston.gov>  
**Sent:** Wednesday, April 20, 2022 2:07 PM EDT  
**To:** John Boyle (Media) <johnt.boyle@pd.boston.gov>  
**CC:** Gregory Long <gregory.long@pd.boston.gov>; Gerald Cahill <gerald.cahill@pd.boston.gov>  
**Subject:** Fwd: Concerning tweet

John,  
Please see below.

----- Forwarded message -----

From: **Evans Smalley** <evans.smalley@pd.boston.gov>  
Date: Wed, Apr 20, 2022 at 1:17 PM  
Subject: Re: Concerning tweet  
To: David Carabin <david.carabin@pd.boston.gov>  
Cc: Mark Bachta <mark.bachta@pd.boston.gov>, Brian Larkin <brian.larkin@pd.boston.gov>, Gerald Cahill <gerald.cahill@pd.boston.gov>

Hi all,

The account in question (@dumbyViewer, UserID:1462782416049819658) was created on November 22, 2021 and has tweeted only 74 times, all of them from an iPhone.

The username dumbyViewer is not reused on Instagram, Facebook, TikTok, Telegram, Gab, or Parler. None of the 74 tweets reference any personal details such as a location, friends or family names, or other personal social media accounts. In the absence of other pivot points and short of requesting the email address and/or IP logs from Twitter, it will likely not be possible to ID this profile.

This account does appear to be local, given it has tweeted almost exclusively about local issues surrounding Covid-19 vaccine and mask mandates as well as the mayor. The account further states that they know "upwards of 50" Boston Public School employees which, if true, could indicate that they might work for or be otherwise affiliated with BPS in some way. This account has made vague references to participating in protests in front of Mayor Wu's residence, and has interacted with other accounts on Twitter known to have participated in residential protesting events, but has not claimed to do so directly.

This account has not tweeted any specific calls to or threats of violence as of publication.



On Wed, Apr 20, 2022 at 12:10 PM David Carabin <david.carabin@pd.boston.gov> wrote:

Hi Evans,  
Can you please review the message below, see if you can identify the individual that posted this, and then determine if there is a reason for concern of a threatening nature?

Thank you,  
Dave

----- Forwarded message -----

From: **John Boyle** <johnt.boyle@pd.boston.gov>  
Date: Wed, Apr 20, 2022 at 12:04 PM  
Subject: Fwd: Concerning tweet  
To: David Carabin <david.carabin@pd.boston.gov>, Gerald Cahill <gerald.cahill@pd.boston.gov>  
Cc: Gregory Long <gregory.long@pd.boston.gov>

Dave,

As discussed on the phone.

----- Forwarded message -----

From: **Latino, Jonathan** <JLatino@bphc.org>  
Date: Wed, Apr 20, 2022 at 11:48 AM  
Subject: Concerning tweet

To: John Boyle <[Johnt.boyle@pd.boston.gov](mailto:Johnt.boyle@pd.boston.gov)>  
Cc: Kaiser, Johanna <[JKaiser@bphc.org](mailto:JKaiser@bphc.org)>

Hi Sgt. Boyle,

I saw this tweet yesterday while scrolling through BPHC's twitter. I've already informed City Hall comms, who suggested we flag it for you. Do you have any suggestions? Is there anything we should do? Based on the tweet alone, it does appear someone is watching Dr. Ojikutu drop her daughter off every morning.

Best,

Jon

1:00



**So Media** @dummbViewer · 1h

...

I'll ask Dr Ojikutu when she drops her kid off at a private school not wearing masks.



**Michelle Efendi** @EfendiMichelle · 1h

...

Do Dr. @OjikutuBisola's children really attend a private school and they do not wear masks?



**So Media**

...

@dummbViewer

Replying to @EfendiMichelle @HealthyBoston and 5 others

Can only confirm the private school doesn't require masks. Her child may

doesn't require masks. Her child may wear it, not sure. But that is what we want, freedom to decide to wear them or not.

12:30 PM · 4/19/22 · [Twitter for iPhone](#)

1 Like



Tweet your reply



Jon Latino

Media Relations Manager

857-288-9425

Boston Public Health Commission

1010 Massachusetts Ave.

Boston, Massachusetts 02118

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*

--

**David Carabin**

Assistant Chief, Bureau of Intelligence & Analysis  
Director, Boston Regional Intelligence Center  
Boston Police Department  
Office: 617-343-4328  
Email: [david.carabin@pd.boston.gov](mailto:david.carabin@pd.boston.gov)

--

**Evans Smalley**

**Intelligence Analyst**

Boston Regional Intelligence Center (BRIC)  
Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

--

**David Carabin**

Assistant Chief, Bureau of Intelligence & Analysis  
Director, Boston Regional Intelligence Center  
Boston Police Department  
Office: 617-343-4328  
Email: [david.carabin@pd.boston.gov](mailto:david.carabin@pd.boston.gov)

**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 8:44 PM EDT  
**To:** Gregory Long <gregory.long@pd.boston.gov>  
**Subject:** Fwd: Message from KM\_458  
**Attachment(s):** "ATT00001.bin", "SKM\_45822033117580.pdf"

Chief, here is the final ordinance re: residential protesting.  
Sent from my iPhone

Begin forwarded message:

**From:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
**Date:** March 31, 2022 at 7:26:59 PM EDT  
**To:** Adam Cederbaum <[adam.cederbaum@boston.gov](mailto:adam.cederbaum@boston.gov)>, Chris Osgood <[chris.osgood@boston.gov](mailto:chris.osgood@boston.gov)>, Clare Kelly <[clare.kelly@boston.gov](mailto:clare.kelly@boston.gov)>, David Fredette <[david.fredette@pd.boston.gov](mailto:david.fredette@pd.boston.gov)>, Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>  
**Subject:** Fwd: Message from KM\_458

Attested copy attached.

----- Forwarded message -----

From: **Patricia Finnigan** <[trisha.finnigan@boston.gov](mailto:trisha.finnigan@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:26 PM  
Subject: Fwd: Message from KM\_458  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

See attachment

----- Forwarded message -----

From: <[CityClerk@boston.gov](mailto:CityClerk@boston.gov)>  
Date: Thu, Mar 31, 2022 at 4:59 PM  
Subject: Message from KM\_458  
To: <[Trisha.Finnigan@boston.gov](mailto:Trisha.Finnigan@boston.gov)>

--

***Trisha Finnigan***

City Clerk's Office

1 City Hall Plaza Room 601

Boston, MA 02201

Phone 617-635-2690

Fax 617-635-4658

[Trisha.Finnigan@boston.gov](mailto:Trisha.Finnigan@boston.gov)

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Sent from mobile, please excuse any typos and brevity.



## **ORDINANCES OF 2022 – CHAPTER 2 CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.



This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

In City Council March 30, 2022. Passed: yeas 9, nays 4.  
Approved by the Mayor March 31, 2022.

Attest:

A handwritten signature in black ink, appearing to read "Alex Geourntas", written in a cursive style.

Alex Geourntas  
Assistant City Clerk

**From:** NBAGSOC <nbagsoc@nba.com>

**Sent:** Saturday, April 23, 2022 3:55 PM EDT

**To:** AllDomesticSecurityAlerts <alldomesticsecurityalerts@nba.com>; Soifer, Edna <esoifersecrep@nba.com>; DiCosola, Michael <mdicosolasecrep@nba.com>; John Altila <jaltilia@torontoraptors.com>; Bill Bevan <bbevan@torontoraptors.com>; jennifer.sullivan@mlse.com <jennifer.sullivan@mlse.com>; McWilliams, Jim <jim.mcwilliams@mlse.com>; NBA Security <nbasecurity@nba.com>

**Subject:** RE: \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*

**Attachment(s):** "RE: \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*", "Potential DxE Activists or Supporters.pdf"

**Update #1:** The NBA GSOC identified additional names associated with the animal rights activist groups Direct Action Everywhere and the Animal Rights Coalition. Please see below for more information and a list of activists associated with the organizations.

**Animal Rights Coalition Social Media Accounts:** [Website](#); [Facebook](#); [Instagram](#); [Twitter](#); [Linktree](#);

**Animal Rights Coalition Email:** [animalrightscoalition@msn.com](mailto:animalrightscoalition@msn.com)

**Animal Rights Coalition Phone Number:** (612) 822-6161

**Animal Rights Coalition Phone Address:** 317 W. 48th St., Minneapolis, MN 55419

**Animal Rights Coalition Activists and Associates:**

**Name:** Charlotte Cozzetto (President of Animal Rights Coalition)

**Username:** charlotte.cozzetto (Facebook); CharCozz (Twitter)

**Possible Location:** Minnesota

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:** No Images Found

**Name:** Raj Singh (Animal Rights Coalition Staff)

**Username:** Unknown

**Possible Location:** Minnesota

**Social Media Links:** [Board of Directors and Staff](#)

**Screenshot:** No Images Found

**Name:** Steve V. Leinen (Treasurer of Animal Rights Coalition)

**Username:** SteveLeinen (Facebook); vtxsteve (Instagram and Twitter)

**Possible Location:** St. Paul, Minnesota

**Possible Email Address:** [sleinen@reddyrents.com](mailto:sleinen@reddyrents.com)

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#);

**Screenshots:**



**Name:** Shaun McClay (Treasurer of Animal Rights Coalition)

**Username:** shaun.mcclay.1 (Facebook); smsunsparkle (Instagram)

**Possible Location:** Crystal, Minnesota

**Social Media Links:** [Facebook](#); [Instagram](#);

**Screenshots:**





**Direct Action Everywhere Activists and Associates:**

**Name:** Emek Echo (Former DxE Organizer)

**Username:** emek.echo (Facebook #1); GetOffYourBuns (Facebook #2); lavalaka (Instagram) EmekEcho (Twitter and TikTok)

**Possible Location:** Los Angeles, California

**Social Media Links:** [Facebook #1](#); [Facebook #2](#); [Facebook #3](#); [Twitter](#); [Instagram](#); [LinkedIn](#); [TikTok](#)

**Screenshots:**



**Dylan Hesterhagen**

Global Security Operations Center

Phone: 212-407-8800

**From:** NBAGSOC

**Sent:** Friday, April 22, 2022 2:37 PM

**To:** AllDomesticSecurityAlerts <AllDomesticSecurityAlerts@nba.com>; Soifer, Edna <ESoifersecrep@nba.com>; DiCosola, Michael <MDicosolasecrep@nba.com>; John Altila <jaltilla@torontoraptors.com>; Bill Bevan <bbevan@torontoraptors.com>; jennifer.sullivan@mlse.com; McWilliams, Jim <jim.mcwilliams@mlse.com>; NBA Security <NBASecurity@nba.com>

**Subject:** \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*



**Alert Type:** Minnesota Timberwolves

**Description:** On April 21, 2022, activists associated with the animal rights organization Direct Action Everywhere (DxE) attempted a court intrusion during game 3 of the playoff series between the Memphis Grizzlies and Minnesota Timberwolves. The attempted court intrusion occurred during the 4th quarter of the game near the Grizzlies bench. Arena security prevented the court intrusion due to Johnson's odd behavior attracting attention. Johnson wore a hat, jacket, and glasses, in a possible attempt to disguise himself. Under the jacket Johnson wore an NBA Referee uniform. The ticket Johnson used for the game was purchased by a woman named Ashley Riddle. It is believed that Riddle did not attend the game herself. The GSOC investigation into Ashley Riddle identified her as an activist associated with a group called Animal Rights Coalition that is local to Minneapolis, MN.

This is the third court intrusion attempt by DxE activists that targeted Minnesota Timberwolves games. The Timberwolves are being targeted due to team owner Glen Taylor. Taylor also owns Rembrandt Enterprises, a factory egg farm in Iowa, where activists claim chickens have been killed in large numbers as a result of bird flu and that hundreds of employees were laid off since the chickens died. On April 13, 2022, DxE activist Alicia Santurio committed a court intrusion and glued herself to the court. On April 16, 2002, DxE activist Zoe Rosenberg chained herself to a hoop during a Timberwolves playoff game. These actions were marketed on social media by DxE with Santurio being dubbed "Glue Girl" and Rosenberg, being called "Chain Girl."

Activists associated with DxE and other animal rights organizations may continue to attempt to disrupt Timberwolves playoff games. While no other playoff series has been targeted by the activists, it cannot entirely be ruled out. Due to the recent failed court intrusion attempt activists may attempt to alter their tactics. This could include but is not limited to, an attempt to have one activist distract arena security, possibly with a court intrusion attempt, followed by another activist seated elsewhere attempting a court intrusion from a different location.

Direct Action Everywhere" (DxE) is an international grassroots organization of animal rights activists founded in 2013 in San Francisco, California, by lawyer Wayne Hsiung. DxE focuses on animals, their lives, and collective liberation as a social justice issue. DxE animal liberations are often directed at farms that supply food products to large US national retailers. DxE supporters also participate in various in-store demonstrations. Liberation attempts/protests may include occupation events with up to 150 participants (based on past demonstrations at farms), the release of animals from cages or constraints, and occupiers providing "nutrition and care" to the animals. All actions are video recorded for use in future propaganda. While members of the group have been arrested for past protest actions, the GSOC notes that the group does not appear to have a history of violence. Below and attached is a full list of potential additional activists associated with DxE, other animal rights organizations, or individuals who have potentially supported DxE activities on social media. Also attached is the previous GSOC Social Media Alert email chain about the group. The NBA GSOC will continue to monitor for additional information.

**Direct Action Everywhere Social Media Links:** [Website](#); [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [YouTube](#)

**Direct Action Everywhere Activists and Associates:**

**Name:** Matthew Johnson (Investigator and Press Coordinator with DxE – attempted court intrusion on 4/21/22)

**Username:** DxE\_Matt (Twitter and Instagram); matt.johnson.777158 (Facebook)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshots:**



**Name:** Zoe Rosenberg aka "Chain Girl"

**Username:** zoe\_rooster

**Location:** San Luis Obispo, California

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [16-year-old protester dragged from field at Levi's Stadium](#)

**Screenshot:**



**Name:** Alicia Santurio aka "Glue Girl"

**Username:** aliciasanturio (Twitter); alicia.santurio (Facebook)

**Location:** Fairfield, CA

**D.O.B:** 11/25/1981

**Social Media Links:** [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Priya Sawhney (Co-founder of DxE / Investigator)

**Username:** priyadx27 (Twitter); priyasawhney27 (Facebook); priyazalia (Instagram); Priyasawhney27 (TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#); [Facebook](#); [Instagram](#); [TikTok](#)

**Screenshot:**



**Name:** Wayne Hsiung (Co-founder of DxE)

**Username:** waynehhsiung (Twitter, TikTok, Facebook #2, and Instagram); wayne.hsiung (Facebook #1); WayneHsiung2020 (YouTube)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook #1](#); [Facebook #2](#); [Instagram](#); [YouTube](#); [TikTok](#); [Greenpill Podcast](#); [Linkedtree](#)

**Email Address:** [wayne@compassionatebay.org](mailto:wayne@compassionatebay.org)

**Screenshot:**



**Name:** Michelle Del Cueto (DxE Organizer)

**Username:** michelledlcueto (Twitter); Yanotereproduzcas (Facebook and Instagram);

**Location:** Unknown

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Brittany Drake (DxE Los Angeles Organizer)

**Username:** cinephilelinguist (Facebook); allnaturalchik (Twitter)

**Location:** Los Angeles, CA

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:**



**Name:** Rachel Ziegler (Organizer with DxE)

**Username:** rachel.ziegler.777 (Facebook) rachel.c.ziegler (Instagram #1); rachel.z.photography (Instagram #2); rachel.ziegler.777 (Instagram #3);

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Instagram #3](#); [Photography Website](#)

**Screenshot:**



**Name:** Joyce Lipener (Animal Rights Activist/ Possibly Associated with DxE)

**Username:** Joycelipener (Twitter); joyce.lipener (Facebook); joy\_lipener (Instagram)

**Location:** Alameda, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#); [LinkedIn](#)

**Screenshot:**



**Name:** Matthew McKeefry (DxE Organizer)

**Username:** mtthw\_mckfry (Instagram #1); mtthw\_mckfry\_ (Instagram #2); MatthewMcKeefry (Twitter #1)

**Location:** Berkeley, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Twitter #1](#);

**Screenshot:**



**Name:** Cassie King (DxE Organizer)

**Username:** cassie\_dxe

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Sally Zito (Possibly attended 4/16/22 game with "Chain Girl" Zoe Rosenberg)

**Username:** sallyzito

**Possible Locations:** Las Vegas, Nevada and Los Angeles, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [Sally Zito's Music Website](#)

**Screenshot:**





**Name:** Rocky Ning (DxE Organizer)

**Username:** dxerocky (Twitter) & @mistergreensf (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Instagram](#); [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Almira Tanner (Lead Organizer with DxE)

**Username:** almiratanner (Twitter) & @almiratheactivist (Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Chloe Leffakis (DxE Activist)

**Username:** ChloeLeffakis (Twitter and Instagram) Chloe.Leffakis (Facebook)

**Location:** Pittsburgh, PA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#);

**Screenshot:**



**Name:** Shweta Borgaonkar (DxE Organizer)

**Username:** shweta\_dxe (Twitter)

**Location:** Pune, India

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Lewis Bernier (Factor Farm Investigator)

**Username:** InvestigateLib1 (Twitter & Twitter)

**Location:** California

**Social Media Links:** [Twitter](#) , [Instagram](#)

**Screenshot:**



**Name:** Paul Darwin Picklesimer (DxE Organizer)

**Username:** 101Darwins (Twitter, Instagram, TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#), [Instagram](#), [TikTok](#), [YouTube](#)

**Screenshot:**



**Name:** Tonia Moore (Possible DxE Activist)

**Username:** toniathehuman (Twitter)

**Location:** San Mateo, CA

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Animal Rights Coalition Social Media Accounts:** <http://animalrightscoalition.com/about/>;  
<https://www.facebook.com/AnimalRightsCoalitionMN/>

**Animal Rights Coalition Activists and Associates:**

**Name:** Ashley Riddle (purchased ticket for Matthew Johnson to attempt court intrusion)

**Email Address:** [Ashleyriddle321@gmail.com](mailto:Ashleyriddle321@gmail.com)

**Username:** @AshWickety (Twitter, TikTok, Instagram); Ashley.Lane. (Facebook)

**Possible Location:** Minneapolis, MN

**Social Media Links:** [Facebook](#); [Twitter](#); [TikTok](#); [Instagram](#); [Ashley Riddle Animal Advocate Award winner](#); [Animal Rights Coalition Ashley Riddle](#);

**Social Media Screenshots:**





**Name:** Amy V. Leinen (Animal Rights Coalition Campaign Manager)

**Username:** @InmiddleisJoy (Twitter); Amy.Leinen (Facebook); amyleinen (Instagram and YouTube); chickenbuttsanctuary (TikTok)

**Location:** St. Paul, Minnesota

**Email Address:** [amy@mehndimoments.com](mailto:amy@mehndimoments.com); [amyjleinen@yahoo.com](mailto:amyjleinen@yahoo.com)

**Social Media Links:** [Facebook](#), [Twitter](#); [Instagram](#); [LinkedIn](#); [TikTok](#); [YouTube](#)

**Screenshot:**



**Name:** Kelsey Hambor (Animal Rights Coalition Outreach Manager)

**Username:** @kelseyhambor (Instagram); kelsey.hambor (Facebook)

**Location:** Minneapolis, MN

**Email Address:** [Kelsey@animalrightscoalition.com](mailto:Kelsey@animalrightscoalition.com)

**Social Media Links:** [Instagram](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Animal Rights Coalition

**Username:** AnimalRightsMN (Twitter), animalrightscoalition (Instagram), AnimalRightsCoalitionMN (Facebook)

**Location:** Minneapolis, MN

**Social Media Links:** [Instagram](#), [Twitter](#), [Facebook](#), [Website](#)

**Screenshot:**



**Other Animal Rights Activists:**

**Name:** Karen Hershenson

**Username:** HershensonKaren (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:**



**Name:** Jon Frohnmayer (Animal Right Activist)

**Username:** FrohnmayerJon (Twitter); jonfrohnmayer (TikTok, YouTube); jon.frohnmayer (Instagram and Facebook)

**Location:** Menlo Park, California / Berkeley, California

**Social Media Links:** [Twitter](#); [TikTok](#); [YouTube](#); [Instagram](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Crystal Heath (Co-Founder of Our Honor Animal Rights Organization)

**Username:** drcrystalheath (Twitter); dr.crystalheath (Instagram and TikTok); crystalheathdvm (Facebook)

**Location:** Berkley, CA

**Email Address:** [crystallynheath@yahoo.com](mailto:crystallynheath@yahoo.com)

**Social Media Links:** [Twitter](#); [Instagram](#); [TikTok](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Karen Rubio

**Username:** KarenInLG (Twitter);

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:**



**Name:** Randalyn Des Lauries (Animal Rights Activist)

**Username:** AnimalsVoice14 (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:** No Image Identified

**Name:** Chao Jian

**Username:** chaojiancj.he (Facebook); chaojiancj (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Geno Maurillo ("Animal Liberationist")

**Username:** Geno Maurillo (Facebook); itzamegeno (Instagram #1); genoevolve (Instagram #2)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#)

**Screenshot:**



**Name:** Nena Salas (Animal Liberationist)

**Username:** lorena.salas.54 (Facebook)

**Location:** Richmond, Virginia

**Social Media Links:** [Facebook](#);

**Screenshot:**



**Name:** Melanie Sears

**Username:** ohhmelaniee (Facebook); melanie\_\_sears (Instagram); ohhmelaniee (Twitter)

**Location:** San Diego, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#)

**Screenshot:**



**Name:** Rachel Mei

**Username:** Rachel\_\_Mei (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Maya (Last Name Unknown)

**Username:** @sentient\_animal (Twitter)

**Location:** San Francisco, CA

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Cheryl Gallo

**Username:** CherylGallo5 (Twitter)

**Location:** Pittsburgh, PA,

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Neda Eftekhari

**Username:** NedaEftekhari (Twitter)

**Location:** Unknown, U.S.

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Karin Nelson

**Username:** veganspark (Twitter), karinnelson123 (Facebook)

**Location:** Edmonton, Canada, Victoria, Canada and Mississauga, Canada

**Social Media Links:** [Twitter](#), [Facebook](#)

**Screenshot:**



**Name:** Cinta Hondsmerk

**Username:** Cikalovee (Twitter) thatgreenstudent (Instagram)

**Location:** Oslo, Norway

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Antonelle (Last Name Unknown)

**Username:** antycr (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Animal Liberation Conference (ALC) (Co-founder of DxE)

**Username:** @ALCrevolution (Twitter and Instagram); liberationconference (Facebook); animalliberationconference (Instagram)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [Website](#)

**Email Address:** [info@liberationconference.com](mailto:info@liberationconference.com)

**Screenshot:**



**Name:** Animal Justice

**Username:** @AnimalJustice (Twitter), animaljustice\_ (Instagram), AnimalJusticeCanada (Facebook), animaljusticeofficial (Tik Tok)

**Location:** Canada

**Social Media Links:** [Twitter](#), [Instagram](#), [Website](#), [Facebook](#), [Tik Tok](#)

**Email Address:** [info@animaljustice.ca](mailto:info@animaljustice.ca)

**Screenshot:**



**Name:** In Defense of Animals

**Username:** IDAUSA (Twitter), indefenseofanimals (Facebook), ida\_international (Instagram)

**Location:** San Rafael, CA

**Social Media Links:** [Website](#), [Twitter](#), [Instagram](#), [Facebook](#)

**Screenshot:**



**Name:** Our Honor (animal rights organization)

**Username:** OurHonorVets (Facebook, TikTok, Twitter, and Instagram);

**Location:** Berkeley, CA

**Email Address:** [cheath@ourhonor.org](mailto:cheath@ourhonor.org)

**Social Media Links:** [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [Website](#)

**Screenshot:**





**Jason Segal**

Manager

Global Security Operations Center

Phone: 212-407-8800

Cell: 201-618-7928



Matt Johnson (Investigator/Press Coordinator with DxE. Conducted failed court intrusion on 4/22/2022)



Zoe Rosenberg aka “Chain Girl” (chained herself to hoop on 4/16/22)



**Name:** Alicia Santurio aka “Glue Girl” (glued herself to court on 4/13/22)



**Name:** Cassie King (Organizer with DxE)



**Name:** Rocky Ning (Organizer with DxE)



**Possible Name:** Sally Zito



**Name:** Almira Tanner (Organizer with DxE)



**Name:** Chloe Leffakis (DxE Activist)



**Name:** Tonia Moore



**Name:** Priya Sawhney (Co-founder of DxE)



**Name:** Wayne Hsiung (Co-founder of DxE)



**Name:** Rachel Mei



**Name:** Maya (Last Name Unknown)



**Name:** Cherryl Gallo



**Name:** Neda Eftekhari



**Name:** Karin Nelson



**Name:** Cinta Hondsmark



**Name:** Shweta Borgaonkar (DxE activist)



**Name:** Lewis Bernier (Factory Farm investigator)



**Name:** Paul Darwin Picklesimer (DxE activist) **Name:** Matthew Mckeefry (DxE Organizer)





**Name:** Antonelle (Last Name Unknown)



**Name:** Melanie Sears



**Name:** Nena Salas



**Name:** Geno Maurillo



**Name:** Chao Jian



**Name:** Brittany Drake (DxE - Los Angeles organizer)



**Name:** Rachel Ziegler (DxE organizer)



**Name:** Michelle Del Cueto (DxE organizer)



**Name:** Joyce Lipener (possible activist)



**Name:** Jon Frohnmayer (animal rights activist)



**Name:** Ashley Riddle  
(purchased ticket for 4/21 court intrusion attempt, animal rights coalition activist)



**Name:** Kelsey Hambor  
(Animal Rights Coalition Outreach Manager)



**Name:** Amy V. Leinen  
(Animal Rights Coalition Campaign Manager)



**Name:** Karen Hershenson (potential activist)



**Name:** Crystal Heath  
(Co-Founder of "Our Honor" activist group)



**Name:** Karen Rubio



**Name:** Randalyn Des Lauries



**Name:** Emek Echo  
(Former DxE Organizer)



**Name:** Shaun McClay (Treasurer of Animal Rights Coalition)



**Name:** Charlotte Cozzetto  
(President of Animal Rights Coalition)



**Name:** Steve V. Leinen (Treasurer of Animal Rights Coalition)



**Name:** Raj Singh (Animal Rights Coalition Staff)





**From:** NBAGSOC <nbagsoc@nba.com>

**Sent:** Sunday, April 24, 2022 3:00 PM EDT

**To:** AllDomesticSecurityAlerts <alldomesticsecurityalerts@nba.com>; Soifer, Edna <esoifersecrep@nba.com>; DiCosola, Michael <mdicosolasecrep@nba.com>; John Altila <jaltilia@torontoraptors.com>; Bill Bevan <bbevan@torontoraptors.com>; jennifer.sullivan@mlse.com <jennifer.sullivan@mlse.com>; McWilliams, Jim <jim.mcwilliams@mlse.com>; NBA Security <nbasecurity@nba.com>

**Subject:** RE: \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*

**Update #3:** The NBA GSOC conducted a open source search on the username @SashaMonik that identified a Linktree and Twitter accounts associated with Direct Action Everywhere (DxE) activist Sasha Zemmel. @SashaMonik joined Twitter in August of 2016, has tweeted 96 times, has 384 followers, and follows 379 accounts. The user mainly follows animal activist including members of the Direct Action Everywhere (DxE) group. @SashaMonik generally tweets about demonstrations held by DxE, and animal rights issues. On the Twitter profile there is a link to a petition from Direct Action Everywhere claiming Shriners Circus abuses animals. The petition currently has 1,208 signatures and the group is asking for 1,500 signatures.

The Linktree account included links to a Tik Tok and Only Fans accounts. The Tik Tok account posts one video of Sasha asking users to "not exploit animals," and the remaining of her posts are videos of her pole dancing. On the OnlyFans account her name is Sasha Fuego, and last seen April 18 on the account. The account can only viewed with a subscription. OnlyFans is an internet content subscription service where people can earn money from users who subscribe to their content. No additional identifiable information was found on the social media accounts. An open-source search for "just\_sash" yielded no results. The open source search for the username "sashafuego" identified a Reddit account. The Reddit account listed her birthdate as September 25, and mainly posts explicit content that links to Sasha's OnlyFans account. Additionally, Alicia Santurio aka "Glue Girl" expressed her support for Zemmel's actions on April 23, 2022 in a Twitter post, where she described Zemmel as her "friend." The NBA GSOC will continue to monitor for additional information.

**Name:** Sasha Zemmel

**Username:** SashaMonik (Twitter); just\_sash (Tik Tok); sashafuego (OnlyFans)

**Possible Birthdate:** September 25

**Possible Location:** St. Louis, MO

**Social Media Accounts:** <https://twitter.com/SashaMonik> (Twitter); <https://linktr.ee/SashaMonik> (Linktree); [https://www.tiktok.com/@just\\_sash](https://www.tiktok.com/@just_sash) (Tik Tok); <https://onlyfans.com/sashafuego> (Onlyfans); <https://www.reddit.com/user/sashafuego/> (Reddit)

**Direct Action Everywhere (DxE) Petition Shriners Circus:** <https://www.change.org/p/shriners-international-and-moolah-shrine-temple-shriners-stop-using-animals-in-your-circuses?redirect=false>

**Social Media Screenshots:**





©Sage Publications

 datacamp

279 Following

Not followed by anyone you're following

 TikTok

Search for:

a

 For You

 Following



Learn to follow creation like  
water and my children.

Long 34



just\_sash

Sasha

Follows

130 February 1997 197 February 1997 549 Lohm



**Video:**

**Abstract**



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something beautiful is finally to show the gay, all rights, community in a positive way and I have to say... @CoryGardner did it so effectively, showing our LGBTQ people that we are not alone! ❤️👏

@chadwickbaker  
 Assistant Secretary for Policy and Communications  
 U.S. Department of Education

Tweets by @chadwickbaker



**Chanel Warden**  
 Operator - Security Operations Center  
 Phone: +1 (212) 407-8800  
 Mobile: +1 (347) 749-7161

**From:** NBAGSOC  
**Sent:** Sunday, April 24, 2022 4:19 AM  
**To:** AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>; Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>; DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>; John Altia <[jaltitia@torontoraptors.com](mailto:jaltitia@torontoraptors.com)>; Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>; [jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com); McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>; NBA Security <[NBAsecurity@nba.com](mailto:NBAsecurity@nba.com)>  
**Subject:** RE: \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*

**Update #2:** On April 23, 2022, an activist associated with the animal rights organization Direct Action Everywhere (DxE) attempted a court intrusion during game 4 of the playoff series between the Memphis Grizzlies and Minnesota Timberwolves. The attempted court intrusion occurred with 10:44 remaining in the 3rd quarter. Play was stopped after a fan sitting along the sideline at Target Center ran onto the court. DxE released a press release immediately following the incident, claiming responsibility and identifying the activist as Sasha Zemmel, who is now known on social media as "Ref Girl". DxE members began retweeting the DxE announcement, expressing pride over Zemmel's actions. Similar to the incident from game 3, Zemmel wore an NBA referee uniform. The GSOC will continue to monitor this group as the series unfolds.

**Name:** Sasha Zemmel

**Username:** SashaMonik (Twitter)

**Possible Location:** St. Louis, MO

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Nahide Bayrasli**

GSOC Operator

Phone: +1 (212) 407-8800

Mobile: +1 (347) 631-5278

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**From:** NBAGSOC <[nbagsoc@nba.com](mailto:nbagsoc@nba.com)>

**Sent:** Saturday, April 23, 2022 3:56 PM

**To:** AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>; Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>; DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>; John Altila <[jaltilla@torontoraptors.com](mailto:jaltilla@torontoraptors.com)>; Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>; [jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com); McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>; NBA Security <[NBASecurity@nba.com](mailto:NBASecurity@nba.com)>

**Subject:** RE: \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*

**Update #1:** The NBA GSOC identified additional names associated with the animal rights activist groups Direct Action Everywhere and the Animal Rights Coalition. Please see below for more information and a list of activists associated with the organizations.

**Animal Rights Coalition Social Media Accounts:** [Website](#); [Facebook](#); [Instagram](#); [Twitter](#); [Linktree](#);

**Animal Rights Coalition Email:** [animalrightscalition@msn.com](mailto:animalrightscalition@msn.com)

**Animal Rights Coalition Phone Number:** (612) 822-6161

**Animal Rights Coalition Phone Address:** 317 W. 48th St., Minneapolis, MN 55419

**Animal Rights Coalition Activists and Associates:**

**Name:** Charlotte Cozzetto (President of Animal Rights Coalition)

**Username:** charlotte.cozzetto (Facebook); CharCozz (Twitter)

**Possible Location:** Minnesota

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:** No Images Found

**Name:** Raj Singh (Animal Rights Coalition Staff)

**Username:** Unknown

**Possible Location:** Minnesota

**Social Media Links:** [Board of Directors and Staff](#)

**Screenshot:** No Images Found

**Name:** Steve V. Leinen (Treasurer of Animal Rights Coalition)

**Username:** SteveLeinen (Facebook); vtxsteve (Instagram and Twitter)

**Possible Location:** St. Paul, Minnesota

**Possible Email Address:** [sleinen@reddyrents.com](mailto:sleinen@reddyrents.com)

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#);

**Screenshots:**



**Name:** Shaun McClay (Treasurer of Animal Rights Coalition)

**Username:** shaun.mcclay.1 (Facebook); smsunsparkle (Instagram)

**Possible Location:** Crystal, Minnesota

**Social Media Links:** [Facebook](#); [Instagram](#);

**Screenshots:**



**Direct Action Everywhere Activists and Associates:**

**Name:** Emek Echo (Former DxE Organizer)

**Username:** emek.echo (Facebook #1); GetOffYourBuns (Facebook #2); lavalaka (Instagram) EmekEcho (Twitter and TikTok)

**Possible Location:** Los Angeles, California

**Social Media Links:** [Facebook #1](#); [Facebook #2](#); [Facebook #3](#); [Twitter](#); [Instagram](#); [LinkedIn](#); [TikTok](#)

**Screenshots:**



**Dylan Hesterhagen**

Global Security Operations Center

Phone: 212-407-8800

**From:** NBAGSOC

**Sent:** Friday, April 22, 2022 2:37 PM

**To:** AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>; Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>; DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>; John Altilla <[jaltilla@torontoraptors.com](mailto:jaltilla@torontoraptors.com)>; Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>; jennifer.sullivan@mlse.com; McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>; NBA Security <[NBAsecurity@nba.com](mailto:NBAsecurity@nba.com)>

**Subject:** \*\*\*GSOC Social Media Alert (Minnesota Timberwolves) \*\*\*



**Alert Type:** Minnesota Timberwolves

**Description:** On April 21, 2022, activists associated with the animal rights organization Direct Action Everywhere (DxE) attempted a court intrusion during game 3 of the playoff series between the Memphis Grizzlies and Minnesota Timberwolves. The attempted



court intrusion occurred during the 4th quarter of the game near the Grizzlies bench. Arena security prevented the court intrusion due to Johnson's odd behavior attracting attention. Johnson wore a hat, jacket, and glasses, in a possible attempt to disguise himself. Under the jacket Johnson wore an NBA Referee uniform. The ticket Johnson used for the game was purchased by a woman named Ashley Riddle. It is believed that Riddle did not attend the game herself. The GSOC investigation into Ashley Riddle identified her as an activist associated with a group called Animal Rights Coalition that is local to Minneapolis, MN.

This is the third court intrusion attempt by DxE activists that targeted Minnesota Timberwolves games. The Timberwolves are being targeted due to team owner Glen Taylor. Taylor also owns Rembrandt Enterprises, a factory egg farm in Iowa, where activists claim chickens have been killed in large numbers as a result of bird flu and that hundreds of employees were laid off since the chickens died. On April 13, 2022, DxE activist Alicia Santurio committed a court intrusion and glued herself to the court. On April 16, 2022, DxE activist Zoe Rosenberg chained herself to a hoop during a Timberwolves playoff game. These actions were marketed on social media by DxE with Santurio being dubbed "Glue Girl" and Rosenberg, being called "Chain Girl."

Activists associated with DxE and other animal rights organizations may continue to attempt to disrupt Timberwolves playoff games. While no other playoff series has been targeted by the activists, it cannot entirely be ruled out. Due to the recent failed court intrusion attempt activists may attempt to alter their tactics. This could include but is not limited to, an attempt to have one activist distract arena security, possibly with a court intrusion attempt, followed by another activist seated elsewhere attempting a court intrusion from a different location.

Direct Action Everywhere" (DxE) is an international grassroots organization of animal rights activists founded in 2013 in San Francisco, California, by lawyer Wayne Hsiung. DxE focuses on animals, their lives, and collective liberation as a social justice issue. DxE animal liberations are often directed at farms that supply food products to large US national retailers. DxE supporters also participate in various in-store demonstrations. Liberation attempts/protests may include occupation events with up to 150 participants (based on past demonstrations at farms), the release of animals from cages or constraints, and occupiers providing "nutrition and care" to the animals. All actions are video recorded for use in future propaganda. While members of the group have been arrested for past protest actions, the GSOC notes that the group does not appear to have a history of violence. Below and attached is a full list of potential additional activists associated with DxE, other animal rights organizations, or individuals who have potentially supported DxE activities on social media. Also attached is the previous GSOC Social Media Alert email chain about the group. The NBA GSOC will continue to monitor for additional information.

**Direct Action Everywhere Social Media Links:** [Website](#); [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [YouTube](#)

**Direct Action Everywhere Activists and Associates:**

**Name:** Matthew Johnson (Investigator and Press Coordinator with DxE – attempted court intrusion on 4/21/22)

**Username:** DxE\_Matt (Twitter and Instagram); matt.johnson.777158 (Facebook)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshots:**



**Name:** Zoe Rosenberg aka "Chain Girl"

**Username:** zoe\_rooster

**Location:** San Luis Obispo, California

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [16-year-old protester dragged from field at Levi's Stadium](#)

**Screenshot:**



**Name:** Alicia Santurio aka "Glue Girl"

**Username:** aliciasanturio (Twitter); alicia.santurio (Facebook)

**Location:** Fairfield, CA

**D.O.B:** 11/25/1981

**Social Media Links:** [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Priya Sawhney (Co-founder of DxE / Investigator)

**Username:** priyadxe27 (Twitter); priyasawhney27 (Facebook); priyazalia (Instagram); Priyasawhney27 (TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#); [Facebook](#); [Instagram](#); [TikTok](#)

**Screenshot:**



**Name:** Wayne Hsiung (Co-founder of DxE)

**Username:** waynehhsiung (Twitter, TikTok, Facebook #2, and Instagram); wayne.hsiung (Facebook #1); WayneHsiung2020 (YouTube)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook #1](#); [Facebook #2](#); [Instagram](#); [YouTube](#); [TikTok](#); [Greenpill Podcast](#); [Linktree](#)

**Email Address:** [wayne@compassionatebay.org](mailto:wayne@compassionatebay.org)

**Screenshot:**



**Name:** Michelle Del Cueto (DxE Organizer)

**Username:** michelledlcueto (Twitter); Yanotereproduzcas (Facebook and Instagram);

**Location:** Unknown

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Brittany Drake (DxE Los Angeles Organizer)

**Username:** cinephilelinguist (Facebook); allnaturalchik (Twitter)

**Location:** Los Angeles, CA

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:**



**Name:** Rachel Ziegler (Organizer with DxE)

**Username:** rachel.ziegler.777 (Facebook) rachel.c.ziegler (Instagram #1); rachel.z.photography (Instagram #2); rachel.ziegler.777 (Instagram #3);

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Instagram #3](#); [Photography Website](#)

**Screenshot:**



**Name:** Joyce Lipener (Animal Rights Activist/ Possibly Associated with DxE)

**Username:** Joycelipener (Twitter); joyce.lipener (Facebook); joy\_lipener (Instagram)

**Location:** Alameda, CA



**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#); [LinkedIn](#)

**Screenshot:**



**Name:** Matthew McKeefry (DxE Organizer)

**Username:** mtthw\_mckfry (Instagram #1); mtthw\_mckfry\_ (Instagram #2); MatthewMcKeefry (Twitter #1)

**Location:** Berkeley, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Twitter #1](#);

**Screenshot:**



**Name:** Cassie King (DxE Organizer)

**Username:** cassie\_dxe

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Sally Zito (Possibly attended 4/16/22 game with "Chain Girl" Zoe Rosenberg)

**Username:** sallyzito

**Possible Locations:** Las Vegas, Nevada and Los Angeles, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [Sally Zito's Music Website](#)

**Screenshot:**



**Name:** Rocky Ning (DxE Organizer)

**Username:** dxerocky (Twitter) & @mistergreensf (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Instagram](#); [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Almira Tanner (Lead Organizer with DxE)

**Username:** almiratanner (Twitter) & @almirattheactivist (Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Chloe Leffakis (DxE Activist)

**Username:** ChloeLeffakis (Twitter and Instagram) Chloe.Leffakis (Facebook)

**Location:** Pittsburgh, PA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#);

**Screenshot:**



**Name:** Shweta Borgaonkar (DxE Organizer)

**Username:** shweta\_dxe (Twitter)

**Location:** Pune, India

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Lewis Bernier (Factor Farm Investigator)

**Username:** InvestigateLib1 (Twitter & Twitter)

**Location:** California

**Social Media Links:** [Twitter](#) , [Instagram](#)

**Screenshot:**



**Name:** Paul Darwin Picklesimer (DxE Organizer)

**Username:** 101Darwins (Twitter, Instagram, TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#), [Instagram](#), [TikTok](#), [YouTube](#)

**Screenshot:**



**Name:** Tonia Moore (Possible DxE Activist)

**Username:** toniathehuman (Twitter)

**Location:** San Mateo, CA

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Animal Rights Coalition Social Media Accounts:** <http://animalrightscoalition.com/about/>;  
<https://www.facebook.com/AnimalRightsCoalitionMN/>

**Animal Rights Coalition Activists and Associates:**

**Name:** Ashley Riddle (purchased ticket for Matthew Johnson to attempt court intrusion)

**Email Address:** [Ashleyriddle321@gmail.com](mailto:Ashleyriddle321@gmail.com)

**Username:** @AshWickety (Twitter, TikTok, Instagram); Ashley.Lane. (Facebook)

**Possible Location:** Minneapolis, MN

**Social Media Links:** [Facebook](#); [Twitter](#); [TikTok](#); [Instagram](#); [Ashley Riddle Animal Advocate Award winner](#); [Animal Rights Coalition Ashley Riddle](#);

**Social Media Screenshots:**



**Name:** Amy V. Leinen (Animal Rights Coalition Campaign Manager)

**Username:** @InmiddleisJoy (Twitter); Amy.Leinen (Facebook); amyleinen (Instagram and YouTube); chickenbuttsanctuary (TikTok)

**Location:** St. Paul, Minnesota

**Email Address:** [amy@mehndimoments.com](mailto:amy@mehndimoments.com); [amyjleinen@yahoo.com](mailto:amyjleinen@yahoo.com)

**Social Media Links:** [Facebook](#), [Twitter](#); [Instagram](#); [LinkedIn](#); [TikTok](#); [YouTube](#)

**Screenshot:**



**Name:** Kelsey Hambor (Animal Rights Coalition Outreach Manager)

**Username:** @kelseyhambor (Instagram); kelsey.hambor (Facebook)

**Location:** Minneapolis, MN

**Email Address:** [Kelsey@animalrightscoalition.com](mailto:Kelsey@animalrightscoalition.com)

**Social Media Links:** [Instagram](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Animal Rights Coalition

**Username:** AnimalRightsMN (Twitter), animalrightscoalition (Instagram), AnimalRightsCoalitionMN (Facebook)

**Location:** Minneapolis, MN

**Social Media Links:** [Instagram](#), [Twitter](#), [Facebook](#), [Website](#)

**Screenshot:**



**Other Animal Rights Activists:**

**Name:** Karen Hershenson

**Username:** HershensonKaren (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:**



**Name:** Jon Frohnmayer (Animal Right Activist)

**Username:** FrohnmayerJon (Twitter); jonfrohnmayer (TikTok, YouTube); jon.frohnmayer (Instagram and Facebook)

**Location:** Menlo Park, California / Berkeley, California

**Social Media Links:** [Twitter](#); [TikTok](#); [YouTube](#); [Instagram](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Crystal Heath (Co-Founder of Our Honor Animal Rights Organization)

**Username:** drcrystalheath (Twitter); dr.crystalheath (Instagram and TikTok); crystalheathdvm (Facebook)

**Location:** Berkley, CA

**Email Address:** [crystallynheath@yahoo.com](mailto:crystallynheath@yahoo.com)

**Social Media Links:** [Twitter](#); [Instagram](#); [TikTok](#); [Facebook](#); [LinkedIn](#)

**Screenshot:**



**Name:** Karen Rubio

**Username:** KarenInLG (Twitter);

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:**



**Name:** Randalyn Des Lauries (Animal Rights Activist)

**Username:** AnimalsVoice14 (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#);

**Screenshot:** No Image Identified

**Name:** Chao Jian

**Username:** chaojiancj.he (Facebook); chaojiancj (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Geno Maurillo ("Animal Liberationist")

**Username:** Geno Maurillo (Facebook); itzamegeno (Instagram #1); genoevolve (Instagram #2)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#)

**Screenshot:**





**Name:** Nena Salas (Animal Liberationist)

**Username:** lorena.salas.54 (Facebook)

**Location:** Richmond, Virginia

**Social Media Links:** [Facebook](#);

**Screenshot:**



**Name:** Melanie Sears

**Username:** ohhmelaniee (Facebook); melanie\_\_sears (Instagram); ohhmelaniee (Twitter)

**Location:** San Diego, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#)

**Screenshot:**



**Name:** Rachel Mei

**Username:** Rachel\_\_Mei (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**





**Name:** Maya (Last Name Unknown)

**Username:** @sentient\_animal (Twitter)

**Location:** San Francisco, CA

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Cheryl Gallo

**Username:** CherylGallo5 (Twitter)

**Location:** Pittsburgh, PA,

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Neda Eftekhari

**Username:** NedaEftekhari (Twitter)

**Location:** Unknown, U.S.

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Karin Nelson

**Username:** veganspark (Twitter), karinnelson123 (Facebook)

**Location:** Edmonton, Canada, Victoria, Canada and Mississauga, Canada

**Social Media Links:** [Twitter](#), [Facebook](#)

**Screenshot:**



**Name:** Cinta Hondsmerk

**Username:** Cikalovee (Twitter) thatgreenstudent (Instagram)

**Location:** Oslo, Norway

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Antonelle (Last Name Unknown)

**Username:** antycr (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Animal Liberation Conference (ALC) (Co-founder of DxE)

**Username:** @ALCrevolution (Twitter and Instagram); liberationconference (Facebook); animalliberationconference (Instagram)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [Website](#)

**Email Address:** [info@liberationconference.com](mailto:info@liberationconference.com)

**Screenshot:**



**Name:** Animal Justice

**Username:** @AnimalJustice (Twitter), animaljustice\_ (Instagram), AnimalJusticeCanada (Facebook), animaljusticeofficial (Tik Tok)

**Location:** Canada

**Social Media Links:** [Twitter](#), [Instagram](#), [Website](#), [Facebook](#), [Tik Tok](#)

**Email Address:** [info@animaljustice.ca](mailto:info@animaljustice.ca)

**Screenshot:**



**Name:** In Defense of Animals

**Username:** IDAUSA (Twitter), indefenseofanimals (Facebook), ida\_international (Instagram)

**Location:** San Rafael, CA

**Social Media Links:** [Website](#), [Twitter](#), [Instagram](#), [Facebook](#)

**Screenshot:**



**Name:** Our Honor (animal rights organization)

**Username:** OurHonorVets (Facebook, TikTok, Twitter, and Instagram);

**Location:** Berkeley, CA

**Email Address:** [cheath@ourhonor.org](mailto:cheath@ourhonor.org)

**Social Media Links:** [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [Website](#)

**Screenshot:**



.....  
**Please email [nbaintel@nba.com](mailto:nbaintel@nba.com) or call (212) 407-8800 with any questions or concerns.**



**Jason Segal**

Manager

Global Security Operations Center

Phone: 212-407-8800

Cell: 201-618-7928

*Follow the live press release at [DxE.io/PressRelease](http://DxE.io/PressRelease) for updated information throughout the game, including photo and video content.*

# **DIRECT ACTION EVERYWHERE**

Contact: Matt Johnson, (319) 464-5985, [matt@directactioneverywhere.com](mailto:matt@directactioneverywhere.com)

## **Protester Dressed as NBA Ref Runs on Court, Attempts to “Eject” and “Fine” Timberwolves Owner**

*Third disruption by animal rights activists this month follows exposé of chickens being “roasted alive” at team owner Glen Taylor’s factory farm*

[PHOTOS/VIDEO](#)

*(Credit: Direct Action Everywhere)*



*Zemmel sporting her makeshift referee apparel before Saturday’s protest (Credit: Direct Action Everywhere)*

*APRIL 23, MINNEAPOLIS, MN* - The activist campaign exposing taxpayer-funded animal cruelty took a turn for the literal Saturday night, as a demonstrator posing as a referee attempted to have Timberwolves majority team owner Glen Taylor removed from his own team's home arena.

Sasha Zimmel of St. Louis, MO attempted to shed an outer jacket as she entered the court, to reveal an outfit matching the three officials present. She attempted to whistle to stop play as she approached Taylor at his courtside seat, to issue a "technical foul and ejection," along with a "fine" against [Forbes' richest billionaire in Minnesota](#).

Zimmel was removed shortly after entering court. It's unknown whether she will face charges; follow the live press release at [DxE.io/PressRelease](#) for the latest.

Saturday's action continues a campaign led by [Direct Action Everywhere \(DxE\)](#), the grassroots animal rights network that released an [investigation](#) this month, exposing animal cruelty at Rembrandt Enterprises, Taylor's factory egg farm in Iowa. DxE followed up the exposé with now three disruptive protests during Timberwolves games, including victories in their [April 12 play-in game](#) and [Game 1 Saturday in Memphis](#).

Zimmel's makeshift referee jersey had the jersey number 5.3 displayed on the back, in honor of the 5.3 million chickens killed at Rembrandt following an outbreak of "highly pathogenic avian influenza" (HPAI). DxE's video shows birds on-site which survived "[ventilation shutdown plus](#)" (VSD+), a mass killing method whereby ventilation openings in the industrial sheds full of birds are closed, and some combination of heat, steam and/or carbon dioxide gas are introduced, eventually killing the animals via suffocation. Dozens of surviving birds were found still in their cages, running loose in the sheds, even **buried alive**.

A similar protest to Zimmel's was also attempted Thursday night, but [protester Matt Johnson](#) was stopped and [aggressively shoved to the ground](#) by Target Center security and Minneapolis police officers. Johnson was arrested, banned from the facility for a year, and faces a disorderly conduct charge. Johnson says he was treated with excessive force as a peaceful demonstrator, and is considering his legal options. Police also confiscated an SD card from a camera Johnson was wearing when he was apprehended. Johnson previously led an investigation of his own, [exposing the use of VSD](#) on pigs. He subsequently faced a felony prosecution which was [dismissed one day before he was set to face trial](#).

VSD+ has been [widely criticized](#) as inhumane by animal protection organizations, while [veterinary and legal experts](#) say Rembrandt's conduct is not just cruel but violates state law. Neither Rembrandt nor the Timberwolves have commented on the investigation.

Disease outbreaks such as HPAI, as well as deadly diseases in humans, are an inevitable result of intensive confinement of animals, says Dr. Mike Martin, a professor in University of California San Francisco's Department of Epidemiology and Biostatistics. "We are risking our health when we cram chickens together in commercial

poultry facilities like Rembrandt. As we're seeing, close confinement promotes the spread of viral diseases among the animal population, which increases the risk of a mutation that allows a deadly virus to spread to humans. It has happened before, and it is almost certain to happen again, given the omnipresence of commercial animal agricultural facilities."

Yet despite the animal welfare and public health concerns, this business model is not just permitted but actively funded by the federal government. Taylor received \$11.3 million in USDA subsidies when Rembrandt had an HPAI outbreak in 2015, and it is set to receive millions more for this one (as authorized by [The Animal Health Protection Act](#), and reiterated by USDA public releases in [January](#) and in [March](#)).

The group is requesting that Taylor donate all HPAI-related subsidies he received to public health charities and animal sanctuaries as a "fine," and commit to not taking any such funds in relation to the recent outbreak and mass killing. Saying the NBA is no place for abusive factory farmers, DxE is also asking that the sale of the team -- set to transfer majority ownership to baseball hall-of-famer Alex Rodriguez and businessman Marc Lore in 2023 -- be expedited, with Taylor immediately stepping down from day-to-day operations.

"It's a particularly striking instance of a familiar US political theme," Zimmel said. "Those at the top invest in speculative, destructive business models, empowered with the knowledge that they can privatize gains and socialize much of the inevitable losses. It has to stop."

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*Investigators with [Direct Action Everywhere \(DxE\)](#) enter farms, slaughterhouses, and other agricultural facilities to document abuses, and to rescue sick and injured animals. DxE's investigatory work has been featured in [The New York Times](#), [ABC Nightline](#), and a [brutal mass pig killing exposé](#). DxE activists have been [subjected to FBI raids](#) and [felony prosecutions](#) for their investigative work. The group led the 2019 grassroots effort to [ban fur products in California](#) and the 2021 effort to transition Berkeley, California city purchases to [100% plant based foods](#). Visit DxE on [Facebook](#), [Twitter](#) and at [directactioneverywhere.com](#).*

###



**From:** NBAGSOC <nbagsoc@nba.com>

**Sent:** Tuesday, April 19, 2022 3:47 PM EDT

**To:** AllDomesticSecurityAlerts <alldomesticsecurityalerts@nba.com>; Soifer, Edna <esoifersecrep@nba.com>; DiCosola, Michael <mdicosolasecrep@nba.com>; John Altila <jaltilla@torontoraptors.com>; Bill Bevan <bbevan@torontoraptors.com>; jennifer.sullivan@mlse.com <jennifer.sullivan@mlse.com>; McWilliams, Jim <jim.mcwilliams@mlse.com>; NBA Security <nbasecurity@nba.com>

**Subject:** RE: \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*

**Update #1:** The NBA GSOC identified additional names associated with the animal rights activist group Direct Action Everywhere. Please see below for more information and a list of activists associated with Direct Action Everywhere and affiliated organizations.

**Name:** Rachel Ziegler (Organizer with DxE)

**Username:** rachel.ziegler.777 (Facebook) rachel.c.ziegler (Instagram #1); rachel.z.photography (Instagram #2); rachel.ziegler.777 (Instagram #3);

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Instagram #3](#); [Photography Website](#)

**Screenshot:**



**Name:** Brittany Drake (Organizer with Dx E - Los Angeles)

**Username:** cinephilelinguist (Facebook); allnaturalchik (Twitter)

**Location:** Los Angeles, CA

**Social Media Links:** [Facebook](#); [Twitter](#)

**Screenshot:**



**Name:** Chao Jian

**Username:** chaojiancj.he (Facebook); chaojiancj (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram](#)

**Screenshot:**



**Name:** Geno Maurillo

**Username:** Geno Maurillo (Facebook); itzamegeno (Instagram #1); genoevolve (Instagram #2)

**Location:** San Francisco, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#)

**Screenshot:**





**Name:** Nena Salas

**Username:** lorena.salas.54 (Facebook)

**Location:** Richmond, Virginia

**Social Media Links:** [Facebook](#);

**Screenshot:**



**Name:** Melanie Sears

**Username:** ohhmelanee (Facebook); melanie\_\_sears (Instagram); ohhmelanee (Twitter)

**Location:** San Diego, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#)

**Screenshot:**



**Name:** Matthew McKeefry (Organizer with DxE)

**Username:** mtthw\_mckfry (Instagram #1); mtthw\_mckfry\_ (Instagram #2); MatthewMcKeefry (Twitter #1)

**Location:** Berkeley, CA

**Social Media Links:** [Facebook](#); [Instagram #1](#); [Instagram #2](#); [Twitter #1](#);

**Screenshot:**





**Dylan Hesterhagen**

Global Security Operations Center  
Phone: 212-407-8800

**From:** NBAGSOC <[nbagsoc@nba.com](mailto:nbagsoc@nba.com)>

**Sent:** Monday, April 18, 2022 4:09 PM

**To:** AllDomesticSecurityAlerts <[AllDomesticSecurityAlerts@nba.com](mailto:AllDomesticSecurityAlerts@nba.com)>; Soifer, Edna <[ESoifersecrep@nba.com](mailto:ESoifersecrep@nba.com)>; DiCosola, Michael <[MDicosolasecrep@nba.com](mailto:MDicosolasecrep@nba.com)>; John Altia <[jaltia@torontoraptors.com](mailto:jaltia@torontoraptors.com)>; Bill Bevan <[bbevan@torontoraptors.com](mailto:bbevan@torontoraptors.com)>; [jennifer.sullivan@mlse.com](mailto:jennifer.sullivan@mlse.com); McWilliams, Jim <[jim.mcwilliams@mlse.com](mailto:jim.mcwilliams@mlse.com)>; NBA Security <[NBAsecurity@nba.com](mailto:NBAsecurity@nba.com)>

**Subject:** \*\*\*GSOC Social Media Alert (NBA Playoffs)\*\*\*



**Alert Type:** NBA Playoffs

**Description:** The NBA GSOC has identified several individuals associated with the animal rights activist group "Direct Action Everywhere" (DxE) whose members have disrupted NBA playoff games involving the Minnesota Timberwolves. The activists are targeting the Timberwolves due to team owner Glen Taylor. Taylor also owns Rembrandt Enterprises, a factory egg farm in Iowa, where activists claim chickens have been killed in large numbers as a result of bird flu and that hundreds of employees there have been laid off since the chickens died. Activists at NBA games have run onto the court and glued themselves to the floor, and have also chained themselves to the hoop while wearing shirts to protest Glen Taylor. In order to capitalize on the attention, DxE has marketed its activists' actions by naming them "Glue Girl" and "Chain Girl" on social media. Neither protest was advertised on social media until after the incidents occurred.

Of note, Zoe Rosenberg, aka "Chain Girl," was released from custody on April 17, 2022, following her protest action on April 16. Meanwhile, Alicia Santurio, aka "Glue Girl," who orchestrated the April 13, 2022, protest, responded to another user who asked if she would be present at the April 19, 2022, Timberwolves game with a "Woman shrugging" emoji. Santurio's reply could intentionally be cryptic and that she is deliberately not sharing information about a potential protest action, however, this could not be confirmed. No planned protest activity for the Minnesota Timberwolves vs. Memphis Grizzlies game on April 19, 2022, has currently been identified. However, as noted above, past protest actions were not advertised on social media ahead of time, likely in an effort to avoid detection. Please see below for more information and a list of activists associated with Direct Action Everywhere and affiliated organizations.

**Social Media Screenshots:**





**News Link About Protest Action:** [Glen Taylor protester interrupts another Timberwolves game](#)

**Direct Action Everywhere Social Media Links:** [Website](#); [Facebook](#); [Instagram](#); [TikTok](#); [Twitter](#); [YouTube](#)

**Direct Action Everywhere Activists and Associates:**

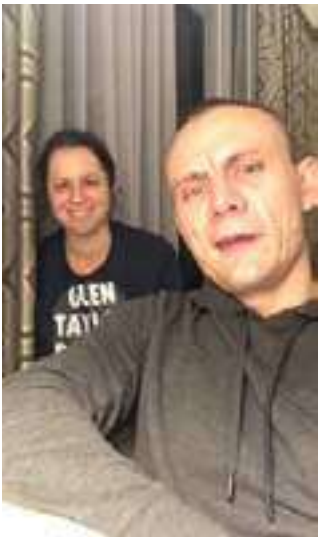
**Name:** Matt Johnson (Investigator and Press Coordinator with DxE)

**Username:** DxE\_Matt (Twitter and Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#)

**Screenshot:**



**Name:** Cassie King (Organizer with DxE)

**Username:** cassie\_dxe

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Zoe Rosenberg aka “Chain Girl”

**Username:** zoe\_rooster

**Location:** San Luis Obispo, California

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [16-year-old protester dragged from field at Levi’s Stadium](#)

**Screenshot:**



**Possible Name:** Sally Zito

**Username:** sallyzito

**Possible Locations:** Las Vegas, Nevada and Los Angeles, CA

**Social Media Links:** [Facebook](#); [Instagram](#); [Twitter](#); [Sally Zito’s Music Website](#)

**Screenshot:**



**Name:** Alicia Santurio aka “Glue Girl”

**Username:** aliciasanturio (Twitter); alicia.santurio (Facebook)

**Location:** Fairfield, CA

**D.O.B:** 11/25/1981

**Social Media Links:** [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Rocky Ning (Organizer with DxE)

**Username:** dxerocky (Twitter) & @mistergreensf (Instagram)

**Location:** San Francisco, CA

**Social Media Links:** [Instagram](#); [Twitter](#); [Facebook](#)

**Screenshot:**



**Name:** Almira Tanner (Lead Organizer with DxE)

**Username:** almiratanner (Twitter) & @almirattheactivist (Instagram)

**Location:** Berkley, CA

**Social Media Links:** [Twitter](#); [Instagram](#); [Facebook](#)

**Screenshot:**



**Name:** Chloe Leffakis (DxEAnimalRightsActivist)

**Username:** ChloeLeffakis (Twitter and Instagram) Chloe.Leffakis (Facebook)

**Location:** Pittsburgh, PA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [YouTube](#);

**Screenshot:**



**Name:** Tonia Moore

**Username:** toniathehuman (Twitter)

**Location:** San Mateo, CA

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Priya Sawhney (Co-founder of DxE / Investigator)



**Username:** priyadx27 (Twitter); priyasawhney27 (Facebook); priyazalia (Instagram); Priyasawhney27 (TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [LinkedIn #1](#); [LinkedIn #2](#); [Facebook](#); [Instagram](#); [TikTok](#)

**Screenshot:**



**Name:** Wayne Hsiung (Co-founder of DxE)

**Username:** waynehhsiung (Twitter, TikTok, Facebook #2, and Instagram); wayne.hsiung (Facebook #1); WayneHsiung2020 (YouTube)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook #1](#); [Facebook #2](#); [Instagram](#); [YouTube](#); [TikTok](#); [Greenpill Podcast](#); [Linktree](#)

**Email Address:** [wayne@compassionatebay.org](mailto:wayne@compassionatebay.org)

**Screenshot:**



**Name:** Rachel Mei

**Username:** Rachel\_\_Mei (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Maya (Last Name Unknown)

**Username:** @sentient\_animal (Twitter)

**Location:** San Francisco, CA

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Cheryl Gallo

**Username:** CherylGallo5 (Twitter)

**Location:** Pittsburgh, PA,

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Neda Eftekhar

**Username:** NedaEftekhar (Twitter)

**Location:** Unknown, U.S.

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Karin Nelson

**Username:** veganspark (Twitter), karinnelson123 (Facebook)

**Location:** Edmonton, Canada, Victoria, Canada and Mississauga, Canada

**Social Media Links:** [Twitter](#), [Facebook](#)

**Screenshot:**





**Name:** Cinta Hondsmerk

**Username:** Cikalovee (Twitter) thatgreenstudent (Instagram)

**Location:** Oslo, Norway

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Shweta Borgaonkar

**Username:** shweta\_dxe (Twitter)

**Location:** Pune, India

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Lewis Bernier

**Username:** InvestigateLib1 (Twitter & Twitter)

**Location:** California

**Social Media Links:** [Twitter](#), [Instagram](#)

**Screenshot:**



**Name:** Paul Darwin Picklesimer

**Username:** 101Darwins (Twitter, Instagram, TikTok)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#), [Instagram](#), [TikTok](#), [YouTube](#)

**Screenshot:**



**Name:** Antonelle (Last Name Unknown)

**Username:** antycr (Twitter)

**Location:** Unknown

**Social Media Links:** [Twitter](#)

**Screenshot:**



**Name:** Animal Liberation Conference (ALC) (Co-founder of DxE)

**Username:** @ALCrevolution (Twitter and Instagram); liberationconference (Facebook); animalliberationconference (Instagram)

**Location:** Berkeley, CA

**Social Media Links:** [Twitter](#); [Facebook](#); [Instagram](#); [Website](#)

**Email Address:** [info@liberationconference.com](mailto:info@liberationconference.com)

**Screenshot:**



**Name:** Animal Justice

**Username:** @AnimalJustice (Twitter), animaljustice\_ (Instagram), AnimalJusticeCanada (Facebook), animaljusticeofficial (Tik Tok)

**Location:** Canada

**Social Media Links:** [Twitter](#), [Instagram](#), [Website](#), [Facebook](#), [Tik Tok](#)

**Email Address:** [info@animaljustice.ca](mailto:info@animaljustice.ca)

**Screenshot:**



**Name:** In Defense of Animals

**Username:** IDAUSA (Twitter), indefenseofanimals (Facebook), ida\_international (Instagram)

**Location:** San Rafael, CA

**Social Media Links:** [Website](#), [Twitter](#), [Instagram](#), [Facebook](#)

**Screenshot:**



.....  
**Please email [nbaintel@nba.com](mailto:nbaintel@nba.com) or call (212) 407-8800 with any questions or concerns.**



**Kevin Obrien**

GSOC Operator

Phone: +1 (212) 407-8800

**From:** Gregory Long <gregory.long@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 10:52 PM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Re: SCDAO News Release  
**Attachment(s):** "Vitale, Catherine - arr. (4.13.22).docx"

Thank you.

Sent from my iPhone

On Apr 13, 2022, at 3:42 PM, John Boyle <johnt.boyle@pd.boston.gov> wrote:

FYI

----- Forwarded message -----

**From:** **Algarin, Renee (SUF)** <[renee.algarin@state.ma.us](mailto:renee.algarin@state.ma.us)>  
**Date:** Wed, Apr 13, 2022 at 3:39 PM  
**Subject:** SCDAO News Release  
**To:**

### **Protester Arraigned for Assault on Officer**

BOSTON, April 13, 2022— A Dorchester woman was arraigned today for interrupting a Boston City Hall press conference with a megaphone, District Attorney Kevin Hayden said.

CATHERINE VITALE, 31, was arraigned today in the Central Division of Boston Municipal Court on charges of disturbing the police and assault and battery on a police officer. Judge Richard Sinnott released her on personal recognizance.

Vitale and a second individual arrived at Boston City Hall at approximately 12:25 p.m. on April 12 and began shouting into megaphones in an attempt to interrupt a press conference regarding Boston Marathon safety measures. Officers escorted both outside of the building, and they continued to shout through her megaphone at City Hall Plaza.

A crowd gathered around the two, and an employee of an area business approached police about the disruption to employees and customers. The officers instructed both individuals to stop. Vitale instead attempted to force her way back into City Hall by pushing an officer. Officers warned that she would be arrested if she continued, but the defendant continued to push the officer.

"The right to protest and to dissent are central to our democracy and will be protected. Physical assaults, however, are not a valid form of protest," Hayden said.

Vitale returns to court on May 13. She was represented by Steven Topazio for arraignment only.

*All charged individuals are presumed innocent until and unless proven guilty beyond a reasonable doubt.*

Suffolk County District Attorney Kevin Hayden's office serves the communities of Boston, Chelsea, Revere, and Winthrop, Mass. The office handles over 20,000 cases a year. More than 160 attorneys in the office practice in nine district and municipal courts, Suffolk Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Boston Juvenile Courts. The office employs some 300 people and offers a wide range of services and programs to serve anyone who comes in contact with the criminal justice system. This office is committed to educating the public about the services we provide, our commitment to crime prevention, and our dedication to keeping the residents of Suffolk County safe.

---

**Renee Algarin** (she/her)

**Deputy Director of Communications and Grant Writer**

**Communications Office**

[Office of Suffolk County District Attorney Kevin Hayden](#)

One Bulfinch Place | Boston, MA 02114

**T:** (617) 619-4263 | **C:** (617) 780-6490

--

*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*



**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE  
DISTRICT ATTORNEY KEVIN R. HAYDEN**

**Press Office**

News Release 22-047

Contact: Jim Borghesani  
Office: (617) 833-9327  
Email: [james.borghesani@mass.gov](mailto:james.borghesani@mass.gov)  
Contact: Renee Nadeau Algarin  
Office: (617) 619-4263  
Email: [renee.algarin@mass.gov](mailto:renee.algarin@mass.gov)

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** gregory.long@pd.boston.gov <gregory.long@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Friday, April 22, 2022 12:41 PM EDT  
**To:** gregory.long@pd.boston.gov <gregory.long@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
04-22-2022 16:54:00

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Event Description: Protesters...80 people protesting for healthy climate

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**To:** gregory.long@pd.boston.gov <gregory.long@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** gregory.long@pd.boston.gov <gregory.long@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** greg.walsh@pd.boston.gov <greg.walsh@pd.boston.gov>  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** harold.white@pd.boston.gov <harold.white@pd.boston.gov>  
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04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** haseeb.hosein@pd.boston.gov <haseeb.hosein@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**To:** haseeb.hosein@pd.boston.gov <haseeb.hosein@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** henry.staines@pd.boston.gov <henry.staines@pd.boston.gov>  
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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
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**To:** jacqueline.creaven@pd.boston.gov <jacqueline.creaven@pd.boston.gov>  
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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** jamesb.conley@pd.boston.gov <jamesb.conley@pd.boston.gov>  
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**To:** james.chin@pd.boston.gov <james.chin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** james.clark@pd.boston.gov <james.clark@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**To:** james.defeo@pd.boston.gov <james.defeo@pd.boston.gov>  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event Location: 100 Huntington Ave, BO

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** james.kenneally@pd.boston.gov <james.kenneally@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4

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Event Location: Copley Square

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**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 3:42 PM EDT  
**To:** Gregory Long <gregory.long@pd.boston.gov>; David Fredette <david.fredette@pd.boston.gov>; Gerard Bailey <gerard.bailey@pd.boston.gov>; Jeffrey Walcott <jeffrey.walcott@pd.boston.gov>; Joseph Cheevers <joseph.cheevers@pd.boston.gov>; Robert Ciccolo <robert.ciccolo@pd.boston.gov>; James Megee <james.megee@pd.boston.gov>  
**Subject:** Fwd: SCDAO News Release  
**Attachment(s):** "Vitale, Catherine - arr. (4.13.22).docx"  
FYI

----- Forwarded message -----

From: **Algarin, Renee (SUF)** <[renee.algarin@state.ma.us](mailto:renee.algarin@state.ma.us)>  
Date: Wed, Apr 13, 2022 at 3:39 PM  
Subject: SCDAO News Release  
To:

### **Protester Arraigned for Assault on Officer**

BOSTON, April 13, 2022— A Dorchester woman was arraigned today for interrupting a Boston City Hall press conference with a megaphone, District Attorney Kevin Hayden said.

CATHERINE VITALE, 31, was arraigned today in the Central Division of Boston Municipal Court on charges of disturbing the police and assault and battery on a police officer. Judge Richard Sinnott released her on personal recognizance.

Vitale and a second individual arrived at Boston City Hall at approximately 12:25 p.m. on April 12 and began shouting into megaphones in an attempt to interrupt a press conference regarding Boston Marathon safety measures. Officers escorted both outside of the building, and they continued to shout through her megaphone at City Hall Plaza.

A crowd gathered around the two, and an employee of an area business approached police about the disruption to employees and customers. The officers instructed both individuals to stop. Vitale instead attempted to force her way back into City Hall by pushing an officer. Officers warned that she would be arrested if she continued, but the defendant continued to push the officer.

“The right to protest and to dissent are central to our democracy and will be protected. Physical assaults, however, are not a valid form of protest,” Hayden said.

Vitale returns to court on May 13. She was represented by Steven Topazio for arraignment only.

*All charged individuals are presumed innocent until and unless proven guilty beyond a reasonable doubt.*

Suffolk County District Attorney Kevin Hayden's office serves the communities of Boston, Chelsea, Revere, and Winthrop, Mass. The office handles over 20,000 cases a year. More than 160 attorneys in the office practice in nine district and municipal courts, Suffolk Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Boston Juvenile Courts. The office employs some 300 people and offers a wide range of services and programs to serve anyone who comes in contact with the criminal justice system. This office is committed to educating the public about the services we provide, our commitment to crime prevention, and our dedication to keeping the residents of Suffolk County safe.

**Renee Algarin** (she/her)

**Deputy Director of Communications and Grant Writer**

**Communications Office**

Office of Suffolk County District Attorney Kevin Hayden

One Bulfinch Place | Boston, MA 02114

**T:** (617) 619-4263 | **C:** (617) 780-6490

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*



**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE  
DISTRICT ATTORNEY KEVIN R. HAYDEN**

**Press Office**

News Release 22-047

Contact: Jim Borghesani  
Office: (617) 833-9327  
Email: [james.borghesani@mass.gov](mailto:james.borghesani@mass.gov)  
Contact: Renee Nadeau Algarin  
Office: (617) 619-4263  
Email: [renee.algarin@mass.gov](mailto:renee.algarin@mass.gov)

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** james.meredith@pd.boston.gov <james.meredith@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** Scott, Ivy <ivy.scott@globe.com>  
**Sent:** Thursday, April 14, 2022 11:43 AM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>  
**CC:** Andre Watson <andre.watson@pd.boston.gov>; Kim Tavares <mediarelations@pd.boston.gov>  
**Subject:** Police report for arrested Wu protester

Hi,

Writing to ask if you could please send over the police report for Catherine Vitale, who was arrested yesterday for pushing a police officer at Wu's press conference on Tuesday?

Thanks,

Ivy

--

*Ivy Scott*

*Criminal Justice Reporter, Boston Globe*

[ivy.scott@globe.com](mailto:ivy.scott@globe.com)

Twitter: [@itsivyscott](https://twitter.com/itsivyscott)

**From:** Gavin, Christopher <christopher.gavin@globe.com>

**Sent:** Tuesday, April 26, 2022 9:31 AM EDT

**To:** Media Relations <mediarelations@pd.boston.gov>

**Subject:** Police report request

Hi Officer Tavares,

I'm requesting a copy of the police report for the arrest of a protester outside Mayor Wu's Roslindale home around 7:45 Monday morning.

Any questions, please don't hesitate to contact me.

Thank you,

Chris

--

Christopher Gavin

Staff Writer

O: 617-929-3081

[christopher.gavin@boston.com](mailto:christopher.gavin@boston.com)

@chris\_m\_gavin



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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** james.moccia@pd.boston.gov <james.moccia@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
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Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** janine.busby@pd.boston.gov <janine.busby@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** jarrod.gero@pd.boston.gov <jarrod.gero@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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District D4  
04-10-2022 13:41:00

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** jay.tully@pd.boston.gov <jay.tully@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District D4  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** jeffrey.cecil@pd.boston.gov <jeffrey.cecil@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: 5 Newbury St, BO

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04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** jenna.savage@pd.boston.gov <jenna.savage@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** jennifer.bencivenga@pd.boston.gov <jennifer.bencivenga@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** jennifer.bencivenga@pd.boston.gov <jennifer.bencivenga@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** jennifer.bencivenga@pd.boston.gov <jennifer.bencivenga@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
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Event P220173448  
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04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** jennifer.connolly@pd.boston.gov <jennifer.connolly@pd.boston.gov>  
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Event Location: Tremont St/Park St, BO

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**To:** jennifer.connolly@pd.boston.gov <jennifer.connolly@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** jennifer.durden@pd.boston.gov <jennifer.durden@pd.boston.gov>  
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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**To:** jennifer.durden@pd.boston.gov <jennifer.durden@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
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**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 8:44 PM EDT  
**To:** Gregory Long <gregory.long@pd.boston.gov>  
**Subject:** Fwd: Message from KM\_458  
**Attachment(s):** "SKM\_45822033117580.pdf", "ATT00002.bin"

Chief, here is the final ordinance re: residential protesting.  
Sent from my iPhone

Begin forwarded message:

**From:** Neil Doherty <neil.doherty@boston.gov>  
**Date:** March 31, 2022 at 7:26:59 PM EDT  
**To:** Adam Cederbaum <adam.cederbaum@boston.gov>, Chris Osgood <chris.osgood@boston.gov>, Clare Kelly <clare.kelly@boston.gov>, David Fredette <david.fredette@pd.boston.gov>, Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Subject:** Fwd: **Message from KM\_458**

Attested copy attached.

----- Forwarded message -----

From: **Patricia Finnigan** <[trisha.finnigan@boston.gov](mailto:trisha.finnigan@boston.gov)>  
Date: Thu, Mar 31, 2022 at 7:26 PM  
Subject: Fwd: Message from KM\_458  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

See attachment

----- Forwarded message -----

From: <[CityClerk@boston.gov](mailto:CityClerk@boston.gov)>  
Date: Thu, Mar 31, 2022 at 4:59 PM  
Subject: Message from KM\_458  
To: <[Trisha.Finnigan@boston.gov](mailto:Trisha.Finnigan@boston.gov)>

--

***Trisha Finnigan***

City Clerk's Office

1 City Hall Plaza Room 601

Boston, MA 02201

Phone 617-635-2690

Fax 617-635-4658

[Trisha.Finnigan@boston.gov](mailto:Trisha.Finnigan@boston.gov)

--

Sent from mobile, please excuse any typos and brevity.



## **ORDINANCES OF 2022 – CHAPTER 2 CITY OF BOSTON IN CITY COUNCIL**

**Be it ordained by the City Council of Boston, as follows:**

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter XVI by inserting the following new section after the existing Section 16-62:

### **16-63 An Ordinance Regarding Targeted Residential Picketing**

It shall be unlawful for any person to engage in targeted residential picketing between the hours of 9:00 p.m and 9:00 a.m.

For the purpose of this section, targeted residential picketing means picketing, protesting, or demonstrating, with or without signs, that is specifically directed towards one or more occupants of a particular residence, and which takes place before or about the particular targeted residence. Those engaged in targeted residential picketing between the hours of 9:00 a.m. and 9:00 p.m. remain subject to all other ordinances and state statutes, including but not limited to laws concerning excessive noise, disturbing the peace, harassment, and blocking of streets and sidewalks.

Any violation of this section shall be punishable by a fine of fifty (\$50.00) dollars for the first offense in any twelve (12) month period, one hundred and fifty (\$150.00) dollars for the second offense in any twelve (12) month period, and three hundred (\$300.00) dollars for any third and subsequent offense in any twelve (12) month period. All fines issued under this section shall be enforced pursuant to the non-criminal disposition procedures of G.L. c.40, s.21D, which procedures are incorporated herein by reference.

This section shall be enforced by the Boston Police Department. Any information obtained from enforcement of this ordinance shall not be included in any database maintained by the Boston Regional Intelligence Center.

If any provision of this shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 2. This Section 16-63 shall take effect upon passage.

Filed in Council: March 30, 2022.

In City Council March 30, 2022. Passed: yeas 9, nays 4.  
Approved by the Mayor March 31, 2022.

Attest:

A handwritten signature in black ink, appearing to read "Alex Geourntas", written in a cursive style.

Alex Geourntas  
Assistant City Clerk

**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

**Sent:** Friday, April 01, 2022 8:38 AM EDT

**To:** Gerard Bailey <gerard.bailey@pd.boston.gov>; James Tarantino <james.tarantino@pd.boston.gov>

**Subject:** Fwd: Requests for Information Working Session Docket #0312

Supt. Bailey and Deputy Tarantino,  
Good morning. Does BFS track these citations from the districts?

Supt. Colon,  
Does the Licensing Unit track citations that they give out?

Thank you.  
Jen

----- Forwarded message -----

From: **Neil Doherty** <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>

Date: Thu, Mar 31, 2022 at 2:38 PM

Subject: Fwd: Requests for Information Working Session Docket #0312

To: Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>

Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>

Date: Thu, Mar 31, 2022 at 2:36 PM

Subject: Requests for Information Working Session Docket #0312

To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Good Afternoon,

On behalf of the Chair, below are the information requests from the working session on Docket #0312:

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;
  - The City of Boston municipal laws concerning disturbing the peace;
  - The City of Boston municipal laws concerning blocking of streets and sidewalks?

Please send the information so that we have it for the hearing file,

Thank you,  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--

	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
--	---

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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)



**From:** Neil Doherty <neil.doherty@boston.gov>  
**Sent:** Thursday, March 31, 2022 2:37 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Subject:** Fwd: Requests for Information Working Session Docket #0312

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Date: Thu, Mar 31, 2022 at 2:36 PM  
Subject: Requests for Information Working Session Docket #0312  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>  
Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

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--

	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations 617.635.4196 (w)
--	--

**From:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 3:26 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**CC:** William Gallagher <william.gallagher@pd.boston.gov>  
**Subject:** Fwd: Requests for Information Working Session Docket #0312

Sent from my iPhone

Begin forwarded message:

**From:** Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>  
**Date:** April 1, 2022 at 11:31:21 AM EDT  
**To:** William Gallagher <[william.gallagher@pd.boston.gov](mailto:william.gallagher@pd.boston.gov)>  
**Subject:** Re: Requests for Information Working Session Docket #0312

Hi

We just want the ones for noise violations and noise alone

Sent from my iPhone

On Apr 1, 2022, at 11:29 AM, William Gallagher <[william.gallagher@pd.boston.gov](mailto:william.gallagher@pd.boston.gov)> wrote:

We give out license premise violation notices that are different from municipal ordinance

Sent from my iPhone

On Apr 1, 2022, at 10:51 AM, Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)> wrote:

Hi Jen

I included Sgt. Dt. Gallagher of the licensing unit  
on the email  
I believe he has written a few  
Noise violations at some different venues

Thank you,  
Gerard

Sent from my iPhone

On Apr 1, 2022, at 8:38 AM, Jennifer Maconochie  
<[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)> wrote:

Supt. Bailey and Deputy Tarantino,  
Good morning. Does BFS track these citations from the districts?

Supt. Colon,  
Does the Licensing Unit track citations that they give out?

Thank you.  
Jen

----- Forwarded message -----

From: **Neil Doherty** <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
Date: Thu, Mar 31, 2022 at 2:38 PM  
Subject: Fwd: Requests for Information Working Session Docket #0312

To: Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>

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Date: Thu, Mar 31, 2022 at 2:36 PM

Subject: Requests for Information Working Session Docket #0312

To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz  
<[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson  
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Compliance Director & Staff Counsel

Boston City Council

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Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
--	---

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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 3:10 PM EDT  
**To:** Neil Doherty <neil.doherty@boston.gov>  
**CC:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**Subject:** Fwd: Requests for Information Working Session Docket #0312

Neil,  
Good afternoon. Here are BPD responses to the follow up request from Docket #0312.  
Thank you.  
Jen

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
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From January 2021 to present there were four licensed premises that received in total five citations for violating the noise ordinance:

El Dimante, 02/26/2022  
Lolita Seaport. 06/26/2021 and 07/22/2021  
White Bull, 07/02/2021  
Beacon Hill Pub, 12/18/2021

- The City of Boston municipal laws concerning disturbing the peace;

BPD has been unable to identify any cases of a violation of municipal ordinance for disturbing the peace. There have been, however, instances where individuals have been arrested and charged with the Massachusetts criminal statute of disturbing the peace. This may have been the only offense the person was charged with, or one of many.

Since the start of 2021 91 individuals have been arrested in 94 arrests across 86 incidents (3 ppl were arrested twice) where one of the charges was "Disturbing the Peace".

- The City of Boston municipal laws concerning blocking of streets and sidewalks?

BPD has been unable to identify any cases of a violation of municipal ordinance for blocking streets and sidewalks for the 2021- present time period.

On Thu, Mar 31, 2022 at 2:38 PM Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)> wrote:  
Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

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**From:** Christine O'Donnell <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 2:36 PM  
**Subject:** Requests for Information Working Session Docket #0312  
**To:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>  
**Cc:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

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Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

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	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
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One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** jennifer.maconochie@pd.boston.gov <jennifer.maconochie@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** Neil Doherty <neil.doherty@boston.gov>  
**Sent:** Wednesday, April 06, 2022 1:53 PM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**CC:** Pilar Ortiz <pilar.ortiz@boston.gov>  
**Subject:** Re: Requests for Information Working Session Docket #0312

Yes, it has been sent. Thank you!

On Wed, Apr 6, 2022 at 1:29 PM Jennifer Maconochie <jennifer.maconochie@pd.boston.gov> wrote:  
Hi Neil and Pilar. Just checking to make sure this information got sent to the Council.  
Jen

On Mon, Apr 4, 2022 at 3:10 PM Jennifer Maconochie <jennifer.maconochie@pd.boston.gov> wrote:  
Neil,  
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Thank you.  
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----- Forwarded message -----

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**To:** Neil Doherty <neil.doherty@boston.gov>, Pilar Ortiz <pilar.ortiz@boston.gov>  
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Compliance Director & Staff Counsel

Boston City Council

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Boston City Hall


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Tel: 617-635-1185

Fax: 617-635-4203

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Subject: Requests for Information Working Session Docket #0312  
To: Neil Doherty <neil.doherty@boston.gov>, Pilar Ortiz <pilar.ortiz@boston.gov>  
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Boston City Council

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Boston City Council, 5<sup>th</sup> Floor

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[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
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Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)


This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

--

Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

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	<p><b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)</p>
---	---

**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Wednesday, April 06, 2022 1:29 PM EDT  
**To:** Neil Doherty <neil.doherty@boston.gov>  
**CC:** Pilar Ortiz <pilar.ortiz@boston.gov>  
**Subject:** Re: Requests for Information Working Session Docket #0312

Hi Neil and Pilar. Just checking to make sure this information got sent to the Council.  
Jen

On Mon, Apr 4, 2022 at 3:10 PM Jennifer Maconochie <jennifer.maconochie@pd.boston.gov> wrote:

Neil,

Good afternoon. Here are BPD responses to the follow up request from Docket #0312.

Thank you.

Jen

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;

From January 2021 to present there were four licensed premises that received in total five citations for violating the noise ordinance:

El Dimante, 02/26/2022

Lolita Seaport. 06/26/2021 and 07/22/2021

White Bull, 07/02/2021

Beacon Hill Pub, 12/18/2021

- The City of Boston municipal laws concerning disturbing the peace;

BPD has been unable to identify any cases of a violation of municipal ordinance for disturbing the peace. There have been, however, instances where individuals have been arrested and charged with the Massachusetts criminal statute of disturbing the peace. This may have been the only offense the person was charged with, or one of many.

Since the start of 2021 91 individuals have been arrested in 94 arrests across 86 incidents (3 ppl were arrested twice) where one of the charges was "Disturbing the Peace".

- The City of Boston municipal laws concerning blocking of streets and sidewalks?

BPD has been unable to identify any cases of a violation of municipal ordinance for blocking streets and sidewalks for the 2021- present time period.

On Thu, Mar 31, 2022 at 2:38 PM Neil Doherty <neil.doherty@boston.gov> wrote:

Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

----- Forwarded message -----

From: **Christine O'Donnell** <christine.odonnell@boston.gov>

Date: Thu, Mar 31, 2022 at 2:36 PM

Subject: Requests for Information Working Session Docket #0312

To: Neil Doherty <neil.doherty@boston.gov>, Pilar Ortiz <pilar.ortiz@boston.gov>

Cc: Yasmine Raddassi <yasmine.raddassi@boston.gov>, Michelle Laibson Goldberg <michelle.a.goldberg@boston.gov>

Good Afternoon,

On behalf of the Chair, below are the information requests from the working session on Docket #0312:

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;
  - The City of Boston municipal laws concerning disturbing the peace;
  - The City of Boston municipal laws concerning blocking of streets and sidewalks?

Please send the information so that we have it for the hearing file,

Thank you,  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall

Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--



**Neil Doherty**

Chief of Staff

Mayor's Office of Intergovernmental Relations

[617.635.4196](tel:617.635.4196) (w)

--

Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

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[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Thursday, March 31, 2022 2:40 PM EDT  
**To:** Neil Doherty <neil.doherty@boston.gov>  
**Subject:** Re: Requests for Information Working Session Docket #0312  
got it, thanks!

On Thu, Mar 31, 2022 at 2:38 PM Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)> wrote:  
Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
Date: Thu, Mar 31, 2022 at 2:36 PM  
Subject: Requests for Information Working Session Docket #0312  
To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>  
Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Good Afternoon,

On behalf of the Chair, below are the information requests from the working session on Docket #0312:

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;
  - The City of Boston municipal laws concerning disturbing the peace;
  - The City of Boston municipal laws concerning blocking of streets and sidewalks?

Please send the information so that we have it for the hearing file,

Thank you,  
Christine

--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

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Boston City Hall


Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--

	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
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[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

**From:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 10:51 AM EDT  
**To:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**CC:** James Tarantino <james.tarantino@pd.boston.gov>  
**Subject:** Re: Requests for Information Working Session Docket #0312

Hi Jen

I included Sgt. Dt. Gallagher of the licensing unit  
on the email  
I believe he has written a few  
Noise violations at some different venues

Thank you,  
Gerard

Sent from my iPhone

On Apr 1, 2022, at 8:38 AM, Jennifer Maconochie <jennifer.maconochie@pd.boston.gov> wrote:

Supt. Bailey and Deputy Tarantino,  
Good morning. Does BFS track these citations from the districts?

Supt. Colon,  
Does the Licensing Unit track citations that they give out?

Thank you.  
Jen

----- Forwarded message -----

From: **Neil Doherty** <neil.doherty@boston.gov>  
Date: Thu, Mar 31, 2022 at 2:38 PM  
Subject: Fwd: Requests for Information Working Session Docket #0312  
To: Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

----- Forwarded message -----

From: **Christine O'Donnell** <christine.odonnell@boston.gov>  
Date: Thu, Mar 31, 2022 at 2:36 PM  
Subject: Requests for Information Working Session Docket #0312  
To: Neil Doherty <neil.doherty@boston.gov>, Pilar Ortiz <pilar.ortiz@boston.gov>  
Cc: Yasmine Raddassi <yasmine.raddassi@boston.gov>, Michelle Laibson Goldberg <michelle.a.goldberg@boston.gov>

Good Afternoon,

On behalf of the Chair, below are the information requests from the working session on Docket #0312:

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;
  - The City of Boston municipal laws concerning disturbing the peace;
  - The City of Boston municipal laws concerning blocking of streets and sidewalks?

Please send the information so that we have it for the hearing file,

Thank you,  
Christine



--

Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

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Boston City Hall

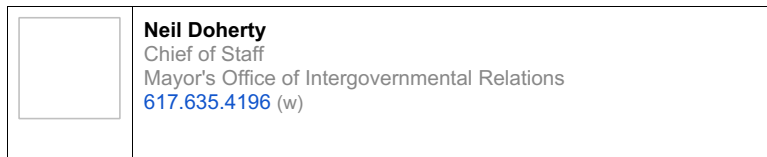
Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

This email is subject to [MGL: Chapt.66, Sec.10 Public Records Law](#)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** briccontractor8@pd.boston.gov <briccontractor8@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Protesters

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District E13  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** jerome.hall@pd.boston.gov <jerome.hall@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** jessica.gardner@pd.boston.gov <jessica.gardner@pd.boston.gov>  
**Subject:** Protesters

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Keva Phillips  
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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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**Subject:** Protesters

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Event P220154101  
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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** jessica.wagner@pd.boston.gov <jessica.wagner@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** jessica.wagner@pd.boston.gov <jessica.wagner@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220176905  
District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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04-24-2022 16:37:14

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** joel.mccarthy@pd.boston.gov <joel.mccarthy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Friday, April 22, 2022 12:41 PM EDT  
**To:** joel.mccarthy@pd.boston.gov <joel.mccarthy@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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**From:** NESPIN Training <training@nespin.riss.net>  
**Sent:** Tuesday, April 26, 2022 4:11 PM EDT  
**To:** john.brown@pd.boston.gov <john.brown@pd.boston.gov>  
**Subject:** Crowd Event Operations ONLINE Series for May

Training Announcement

## **CROWD OPERATIONS DYNAMIX**

### **May 2022 ONLINE Training Schedule**

**Offerings May 17th and May 24th**

Cost: Priced per class

## **Crowd Operations Dynamix**

## **Online Series Presentation**

### **May 2022 ONLINE TRAINING SCHEDULE**

Crowd Operations Dynamix, Inc. is pleased to announce its online training schedule for May 2022.

**Please use the [pre-registration form](#) to initiate the vetting and registration process for each training. Note: all trainings start at 1000 hrs Eastern Time unless otherwise indicated.**

**May 17, 2022: Crowd Incident Management for Police Commanders:** For command and supervisory-level personnel, this five-hour, online training offers insights and considerations for those responsible for planning a response to protest crowd events. The six modules presented will cover historic and current events, legal issues, planning, crowd dynamics, protester tactics, and crowd management and control tactics for police. This training will provide commanders and supervisors with knowledge needed to better inform their decision-making while planning for such events. At all times, adherence to constitutional rights and the principles of fair and equitable policing are stressed. (5 hrs, \$175 pp)

**May 24, 2022: Protester Devices:** Homemade devices used by protesters to lock themselves together, or to other objects, have become more and more prevalent in America. From simple PVC tubing to concrete-encased cast iron devices, these implements, also known as "sleeping dragons", present a confounding impediment to law enforcement efforts at removing protesters from an area.

Crowd Operations Dynamix, Inc. invites you to our two-hour, online "sleeping dragon" familiarization training. This two-hour event will familiarize you with the uses, the types, and the construction of these devices. Please note, the training is for familiarization purposes only and does not teach how to actually defeat these devices. (2 hours, \$150 per person)

#### **Pre-Registration Form**

Email Pre- registration form to: [robert@crowdoperationsdynamix.com](mailto:robert@crowdoperationsdynamix.com).

Once we verify your law enforcement employment status, you will receive instructions on how to complete the registration process.

For more information on this class visit our website at [www.crowdoperationsdynamix.com](http://www.crowdoperationsdynamix.com) or contact us at 508-507-8574.

The views, thoughts, materials and opinions articulated by the instructor(s) of this training belong solely to the instructor(s) and do not necessarily represent the official position or views of NESPIN.

It is the responsibility of attendees to determine if their applicable state regulatory agency will allow full, or partial, CEU credit(s) for this course.

Health & Safety Notice: NESPIN reminds anyone attending in person training to take appropriate precautions relating to COVID 19 and to check with the jurisdiction hosting the training as to any health and safety restrictions.

Please do not reply to this e-mail as it is an unmonitored alias.

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124 Grove Street Suite 105  
Franklin, MA | 02038 US

This email was sent to john.brown@pd.boston.gov.  
To continue receiving our emails, add us to your address book.

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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** john.brown@pd.boston.gov <john.brown@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** john.burrows@pd.boston.gov <john.burrows@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**To:** john.ciccolo@pd.boston.gov <john.ciccolo@pd.boston.gov>  
**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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Event Location: Copley Square

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** john.davin@pd.boston.gov <john.davin@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Eva Santiago

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District A1  
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District D4  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** john.fitzgerald@pd.boston.gov <john.fitzgerald@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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**From:** NESPIN Training <training@nespin.riss.net>  
**Sent:** Tuesday, April 26, 2022 4:11 PM EDT  
**To:** john.kacvinsky@pd.boston.gov <john.kacvinsky@pd.boston.gov>  
**Subject:** Crowd Event Operations ONLINE Series for May

Training Announcement

## **CROWD OPERATIONS DYNAMICS**

### **May 2022 ONLINE Training Schedule**

**Offerings May 17th and May 24th**

Cost: Priced per class

## **Crowd Operations Dynamix**

## **Online Series Presentation**

### **May 2022 ONLINE TRAINING SCHEDULE**

Crowd Operations Dynamix, Inc. is pleased to announce its online training schedule for May 2022.

**Please use the [pre-registration form](#) to initiate the vetting and registration process for each training. Note: all trainings start at 1000 hrs Eastern Time unless otherwise indicated.**

**May 17, 2022: Crowd Incident Management for Police Commanders:** For command and supervisory-level personnel, this five-hour, online training offers insights and considerations for those responsible for planning a response to protest crowd events. The six modules presented will cover historic and current events, legal issues, planning, crowd dynamics, protester tactics, and crowd management and control tactics for police. This training will provide commanders and supervisors with knowledge needed to better inform their decision-making while planning for such events. At all times, adherence to constitutional rights and the principles of fair and equitable policing are stressed. (5 hrs, \$175 pp)

**May 24, 2022: Protester Devices:** Homemade devices used by protesters to lock themselves together, or to other objects, have become more and more prevalent in America. From simple PVC tubing to concrete-encased cast iron devices, these implements, also known as "sleeping dragons", present a confounding impediment to law enforcement efforts at removing protesters from an area.

Crowd Operations Dynamix, Inc. invites you to our two-hour, online "sleeping dragon" familiarization training. This two-hour event will familiarize you with the uses, the types, and the construction of these devices. Please note, the training is for familiarization purposes only and does not teach how to actually defeat these devices. (2 hours, \$150 per person)

#### **Pre-Registration Form**

Email Pre- registration form to: [robert@crowdoperationsdynamix.com](mailto:robert@crowdoperationsdynamix.com).

Once we verify your law enforcement employment status, you will receive instructions on how to complete the registration process.

For more information on this class visit our website at [www.crowdoperationsdynamix.com](http://www.crowdoperationsdynamix.com) or contact us at 508-507-8574.

The views, thoughts, materials and opinions articulated by the instructor(s) of this training belong solely to the instructor(s) and do not necessarily represent the official position or views of NESPIN.

It is the responsibility of attendees to determine if their applicable state regulatory agency will allow full, or partial, CEU credit(s) for this course.

Health & Safety Notice: NESPIN reminds anyone attending in person training to take appropriate precautions relating to COVID 19 and to check with the jurisdiction hosting the training as to any health and safety restrictions.

Please do not reply to this e-mail as it is an unmonitored alias.

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124 Grove Street Suite 105  
Franklin, MA | 02038 US

This email was sent to john.kacvinsky@pd.boston.gov.  
To continue receiving our emails, add us to your address book.

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**Subject:** Protesters

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Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** john.quinn@pd.boston.gov <john.quinn@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** john.shaughnessy@pd.boston.gov <john.shaughnessy@pd.boston.gov>  
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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Supervisor: Sgt. Zelvis

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**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Thursday, April 14, 2022 12:54 PM EDT  
**To:** Scott, Ivy <ivy.scott@globe.com>  
**Subject:** Re: Police report for arrested Wu protester  
**Attachment(s):** "Clty Hall Incident.pdf"

Good Afternoon,  
Attached is the requested report.

On Thu, Apr 14, 2022 at 11:43 AM Scott, Ivy <[ivy.scott@globe.com](mailto:ivy.scott@globe.com)> wrote:

Hi,

Writing to ask if you could please send over the police report for Catherine Vitale, who was arrested yesterday for pushing a police officer at Wu's press conference on Tuesday?

Thanks,

Ivy

--

*Ivy Scott*

*Criminal Justice Reporter, Boston Globe*

[ivy.scott@globe.com](mailto:ivy.scott@globe.com)

Twitter: [@itsivyscott](https://twitter.com/itsivyscott)

--

Andre D. Watson

Police Officer

Office of Media Relations

Boston Police Department

Phone: 617-343-4520

[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02109

 Boston Police Department  
 Boston PD

**# 222025692 - Offense/Incident Report**

REPORTED ON DATE / TIME Apr 12, 2022 14:22	DISTRICT / SECTION / REPORTING AREA / SUBDIVISION 1 / SUBDIVISIONS A1 / A422	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME Apr 12, 2022 12:52
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REPORTING OFFICER

JOSEPH CHEEVERS #010518

REPORT LOCATION

1 CITY HALL PLAZA, BOSTON, MA 02108

**NARRATIVE**

On 4/12/2022 Sgt Cheevers, Officers Kwong & Leary, assigned to Boston City Hall, were providing security for the building. At approximately 12:25 PM, Officers observed 2 females (Catherine Vitale & [REDACTED] known to Officers for causing previous disturbances in City Hall and the Boston City Council chambers arrive in the building. Soon after their arrival both females took out bull horns/ mega phones/ Loudspeakers and began screaming in an attempt to disrupt a press conference on the City Hall Mezzanine discussing the safety protocols for the upcoming Boston Marathon. The press conference was attended by the Mayor of Boston, Officials from the BPD, BFD, MBTA, Transit Police, Boston EMS, and Boston Athletic Association. Both females were escorted from the building where they continued to scream through their megaphones at the entrance of City Hall. During their attempt to disrupt the press conference their sound continued to echo throughout City Hall and City Hall Plaza causing passersby to stop on the Plaza and a crowd began to gather. Both females were chanting obscenities (Fuck your Mandate) through their devices. This continued for 15 to 20 minutes until Officers were approached by an upset female employee [REDACTED] who was complaining their employees and customers were unable to work due to the noise. Officers advised the 2 women to discontinue the use of bull horns due to disturbing employees working in local buildings. Both women then began to scream at the entrance doors of City Hall. The suspect, Catherine Vitale, attempted to reenter City Hall and was stopped by Officer Kwong. She continued to lean against and push Officer Kwong while blowing a whistle. Sgt Cheevers told Ms Vitale to stop or she was subject to arrest. Ms Vitale continued her attempt to force her way into the building and she was placed under arrest for Assault & Battery on a Police Officer and Disturbing the Peace. Her megaphone was seized as evidence, logged into the property management control log (Book #29, Page #35) at District 1.

REPORTING PARTY -1

REPORTING PARTY -1 ORGANIZATION

R-1 Myself

**OFFENSE-1**

OFFENSE CODE

DISTURBING THE PEACE/ DISORDERLY CONDUCT/ GATHERING CAUSING ANNOYANCE/ NOISY PARTY WITH ARREST

OCCURRED FROM DATE / TIME

Apr 12, 2022 12:52

SUSPECTED IN ARREST

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS / LOCATION NAME / APT. UNIT, SUITE / DESCRIPTION

1 CITY HALL PLAZA

REPORTING OFFICER SIGNATURE / DATE

JOSEPH CHEEVERS #010518 Apr 12, 2022 15:15 (e-signature)

PRINT NAME

JOSEPH CHEEVERS #010518

SUPERVISOR SIGNATURE / DATE

JASON CLUTTERBUCK #103789 Apr 12, 2022 15:19 (e-signature)

PRINT NAME

JASON CLUTTERBUCK #103789

## RELATIONSHIPS ADDENDUM

NAME	RELATIONSHIP	SUBJECT
Catherine Vitale	RELATIONSHIP UNKNOWN	Bruce Kwong

REPORTING OFFICER SIGNATURE/DATE JOSEPH CHEEVERS #010518 Apr 12, 2022 15:15 (e-signature) PRINT NAME JOSEPH CHEEVERS #010518	SUPERVISOR SIGNATURE/DATE JASON CLUTTERBUCK #103789 Apr 12, 2022 15:19 (e-signature) PRINT NAME JASON CLUTTERBUCK #103789
---	--

**From:** Andre Watson <andre.watson@pd.boston.gov>  
**Sent:** Tuesday, April 26, 2022 9:42 AM EDT  
**To:** Gavin, Christopher <christopher.gavin@globe.com>  
**Subject:** Re: Police report request  
**Attachment(s):** "20220425125736541.pdf"

Good Morning,  
Attached you will find a copy of this report.

On Tue, Apr 26, 2022 at 9:31 AM Gavin, Christopher <[christopher.gavin@globe.com](mailto:christopher.gavin@globe.com)> wrote:

Hi Officer Tavares,

I'm requesting a copy of the police report for the arrest of a protester outside Mayor Wu's Roslindale home around 7:45 Monday morning.

Any questions, please don't hesitate to contact me.

Thank you,

Chris

--

Christopher Gavin  
Staff Writer  
O: 617-929-3081  
[christopher.gavin@boston.com](mailto:christopher.gavin@boston.com)  
[@chris\\_m\\_gavin](https://twitter.com/chris_m_gavin)



--

Andre D. Watson  
Police Officer  
Office of Media Relations  
Boston Police Department  
Phone: 617-343-4520  
[andre.watson@pd.boston.gov](mailto:andre.watson@pd.boston.gov)


**Boston Police**  
 DEPARTMENT

1 SCHROEDER PLAZA | BOSTON, MA 02110

Boston PD

**# 22028976 - Offense/Incident Report**

REPORTED ON DATE / TIME <b>Apr 25, 2022 08:18</b>	DISTRICT / SECTION / REPORTING AREA / SUBDIVISION / SUBORDINATES <b>E5 / E414</b>	OCCURRED FROM DATE / TIME - OCCURRED TO DATE / TIME <b>Apr 25, 2022 07:18</b>
--	--	--

## REPORTING OFFICER

**MATHEW PIEROWAY #106666**

## REPORT TAKEN LOCATION

**17 AUGUSTUS AVE, ROSLINDALE, MA 02131**

## EVENT STATISTICS

- |  |  |
|--|--|
| <input type="checkbox"/> Gun                         | <input type="checkbox"/> Drugs             |
| <input type="checkbox"/> Sexual Assault              | <input type="checkbox"/> NIDV              |
| <input type="checkbox"/> Child Present               | <input type="checkbox"/> Homeless          |
| <input type="checkbox"/> CRU - Hate/Bias             | <input type="checkbox"/> Car Jack          |
| <input type="checkbox"/> Other Agency/Unit Notified  | <input type="checkbox"/> Bicycle           |
| <input type="checkbox"/> DVIP                        | <input type="checkbox"/> Licensed Premise  |
| <input type="checkbox"/> Warrant Arrest              | <input type="checkbox"/> School            |
| <input type="checkbox"/> Juvenile                    | <input type="checkbox"/> Disabled          |
| <input type="checkbox"/> Gang                        | <input type="checkbox"/> Search Warrant    |
| <input type="checkbox"/> Homeland Security           | <input type="checkbox"/> Shots Fired       |
| <input type="checkbox"/> Sex Offender                | <input type="checkbox"/> Elderly           |
| <input type="checkbox"/> Homeland Security UASI      | <input type="checkbox"/> Victim Shot       |
| <input type="checkbox"/> Home Invasion               | <input type="checkbox"/> Victim Stabbed    |
| <input type="checkbox"/> Human Trafficking           | <input type="checkbox"/> Child Abuse       |
| <input checked="" type="checkbox"/> Body Worn Camera | <input type="checkbox"/> Auto Investigator |

**NARRATIVE**

At about 7:45 AM on Monday April 25, 2022 Officer Pieroway in the E626D Unit, while on a fixed post at 17 Augustus Ave, did arrest Shannon Llewellyn DOB [REDACTED] for willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

At about 7:30 AM on the above date, Officer Pieroway in the E626D, while on a fix post at 17 Augustus Ave was speaking with a known neighbor, observed 1 unidentified male and 2 unidentified females as well as the Suspect, later identified as Shannon Llewellyn DOB [REDACTED] walk towards the corner of Augustus Ave and Crandell St. The Suspect was holding 2 signs a cooking pot with a cooking utensil. Officer Pieroway then contacted the Patrol Supervisor E901 Sgt. O'Brien of the protestors.

Sgt. O'Brien then arrived on scene and handed the protestors a copy of the City of Boston Ordinance 16-63 Regarding Targeted Residential Picketing. Officer Pieroway at this time activated his body worn camera.

## REPORTING OFFICER SIGNATURE / DATE

**MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)**

## PRINT NAME

**MATHEW PIEROWAY #106666**

## SUPERVISOR SIGNATURE / DATE

**JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)**

## PRINT NAME

**JOHN EARLEY #012114**

Sgt. O'Brien then explained the ordinance to the protestors and informed them they would be subject to arrest if they did not leave. One of the unidentified females stated she was a member of the press and was documenting the incident. The second female along with unidentified male then stated they could not get arrested and stated they were leaving. The Suspect then continued to argue with officers stating this was unconstitutional. Sgt. O'Brien then stated to the Suspect that she had five minutes to leave or she would be arrested for willful violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing pursuant to Mass General Law Chapter 272 Section 59. The Suspect was then given ample time to leave but she refused and began to banging the cooking utensil against the pot in a disturbing manner. Sgt. O'Brien then directed Officer Pieroway and Barboza to place the Suspect under arrest due to the Suspect knowing and willfully violating City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing.

The Suspect then put both of her arms out as Officer Pieroway and Officer Barboza (ET55) placed her into custody. Officer Barboza transported the Suspect to Area ES while Officer Pieroway followed behind. The Suspect was then transported without further incident.

Further investigation revealed the Suspect was at West Roxbury District Court on April 15, 2022 for a Clerks hearing and was advised by Clerk Magistrate Sean Murphy of the City Ordinance and MGL 272 59 (specifically of the time of 9:00AM to 9:00PM restriction in the ordinance). Also present at the hearing was Sgt. Brian Waters representing the City of Boston. It should be noted that this is the second time the Suspect has been charged with this offense.

Shannon Llewellyn is to be charged willful violation of City of Boston Ordinance 16-63, Regarding Targeted Residential Picketing in West Roxbury District Court.

## REPORTING PARTY-1

REPORTING PARTY-1 (ORGANIZATION)

R-1 Myself

## OFFENSE-1

OFFENSE CODE

## VIOLATION - CITY ORDINANCE

OCCURRED FROM DATE/TIME

Apr 25, 2022 07:18

SUSPECTED HATE CRIME

☐ YES ☒ NO

OFFENSE LOCATION

LOCATION NAME / STREET ADDRESS/LOCATION NAME / APT. UNIT, SUITE / DESCRIPTION

17 AUGUSTUS AVE

CITY	STATE	ZIP	COUNTRY CODE
ROSLINDALE	MA	02131	US
LOCATION CATEGORY	DISTRICT / SECTOR / REPORTING AREA / SUBDIVISION 1 / SUBDIVISION 5		PUBLIC / PRIVATE
Highway/ Road/ Alley/ Street/ Sidewalk	E5 / E414		Public

VICTIMS-1

VICTIM-1 NAME

V-1 Commonwealth of Massachusetts

ORGANIZATION TYPE

Criminal Justice

ORGANIZATION INDUSTRY

Law Enforcement

SUSPECTS-1

SUSPECTS-1 NAME (LAST, FIRST MIDDLE)

S-1 Llewellyn, Shannon

DOB / ESTIMATED AGE RANGE

SEX / RACE / ETHNICITY / PHONE NUMBER

REPORTING OFFICER SIGNATURE / DATE

MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)

PRINT NAME

MATHEW PIEROWAY #106666

SUPERVISOR SIGNATURE / DATE

JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)

PRINT NAME

JOHN EARLEY #012114



Female	White / Not of Hispanic Origin	[REDACTED] (primary, Mobile Phone)
HOME ADDRESS [REDACTED]		

REPORTING OFFICER SIGNATURE / DATE MATHEW PIEROWAY #106666 Apr 25, 2022 10:10 (e-signature)	SUPERVISOR SIGNATURE / DATE JOHN EARLEY #012114 Apr 25, 2022 10:11 (e-signature)
PRINT NAME MATHEW PIEROWAY #106666	PRINT NAME JOHN EARLEY #012114

**From:** Algarin, Renee (SUF) <renee.algarin@state.ma.us>  
**Sent:** Wednesday, April 13, 2022 3:35 PM EDT  
**To:** Undisclosed recipients;;  
**Subject:** SCDAO News Release  
**Attachment(s):** "Vitale, Catherine - arr. (4.13.22).docx"

**Protester Arraigned for Assault on Officer**

BOSTON, April 13, 2022— A Dorchester woman was arraigned today for interrupting a Boston City Hall press conference with a megaphone, District Attorney Kevin Hayden said.

CATHERINE VITALE, 31, was arraigned today in the Central Division of Boston Municipal Court on charges of disturbing the police and assault and battery on a police officer. Judge Richard Sinnott released her on personal recognizance.

Vitale and a second individual arrived at Boston City Hall at approximately 12:25 p.m. on April 12 and began shouting into megaphones in an attempt to interrupt a press conference regarding Boston Marathon safety measures. Officers escorted both outside of the building, and they continued to shout through her megaphone at City Hall Plaza.

A crowd gathered around the two, and an employee of an area business approached police about the disruption to employees and customers. The officers instructed both individuals to stop. Vitale instead attempted to force her way back into City Hall by pushing an officer. Officers warned that she would be arrested if she continued, but the defendant continued to push the officer.

"The right to protest and to dissent are central to our democracy and will be protected. Physical assaults, however, are not a valid form of protest," Hayden said.

Vitale returns to court on May 13. She was represented by Steven Topazio for arraignment only.

*All charged individuals are presumed innocent until and unless proven guilty beyond a reasonable doubt.*

Suffolk County District Attorney Kevin Hayden's office serves the communities of Boston, Chelsea, Revere, and Winthrop, Mass. The office handles over 20,000 cases a year. More than 160 attorneys in the office practice in nine district and municipal courts, Suffolk Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Boston Juvenile Courts. The office employs some 300 people and offers a wide range of services and programs to serve anyone who comes in contact with the criminal justice system. This office is committed to educating the public about the services we provide, our commitment to crime prevention, and our dedication to keeping the residents of Suffolk County safe.

---

**Renee Algarin** (she/her)  
**Deputy Director of Communications and Grant Writer**  
**Communications Office**  
[Office of Suffolk County District Attorney Kevin Hayden](#)  
One Bulfinch Place | Boston, MA 02114  
**T:** (617) 619-4263 | **C:** (617) 780-6490



**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE  
DISTRICT ATTORNEY KEVIN R. HAYDEN**

**Press Office**

News Release 22-047

Contact: Jim Borghesani  
Office: (617) 833-9327  
Email: [james.borghesani@mass.gov](mailto:james.borghesani@mass.gov)  
Contact: Renee Nadeau Algarin  
Office: (617) 619-4263  
Email: [renee.algarin@mass.gov](mailto:renee.algarin@mass.gov)

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**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Wednesday, April 13, 2022 3:42 AM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** [GovQA] New Assignment - B000939-041222

☐ A request has been **assigned** to you

## Police Records Request / [B000939-041222](#)

### **Request Information**

Assigned Staff: John Boyle

Status: New Request

Create Date: 4/12/2022 9:00:00 AM

Requester: Sean Cotter , The Boston Herald

Type of Request: Media Request

Record(s) Requested: Hi all, I understand police arrested a protester at city hall. What was that person charged with, and could I have a copy of the police report? Thanks, Sean

Case / Incident Number

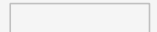
Date or Date Range of

Record(s)

Location / Address of  
Incident

To access the request, please access the [Boston Public Records Center](#)

This is an auto-generated email and has originated from an unmonitored email account. Please DO NOT REPLY.



**From:** City of Boston <cityofboston@govqa.us>  
**Sent:** Tuesday, April 26, 2022 10:41 AM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** [GovQA] New Assignment - B001070-042622

☐ A request has been **assigned** to you

## Police Records Request / [B001070-042622](#)

### **Request Information**

Assigned Staff: John Boyle

Status: New Request

Create Date: 4/26/2022 9:00:00 AM

Requester: Christopher Gavin ,

Type of Media Request

Request:

Record(s) Hi Officer Tavares, I'm requesting a copy of the police report for the arrest of a protester outside Mayor Wu's

Requested: Roslindale home around 7:45 Monday morning. Any questions, please don't hesitate to contact me. Thank you,

Case / Incident Chris

Number

Date or Date

Range of

Record(s)

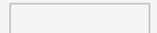
Location /

Address of

Incident

To access the request, please access the [Boston Public Records Center](#)

This is an auto-generated email and has originated from an unmonitored email account. Please DO NOT REPLY.



**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 10:36 PM EDT  
**To:** John Boyle <johnt.boyle@pd.boston.gov>  
**Subject:** Boston protester charged with assaulting police officer – Boston Herald

<https://www.bostonherald.com/2022/04/13/boston-protester-charged-with-assaulting-police-officer/>

Sent from my iPhone

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** johnt.boyle@pd.boston.gov <johnt.boyle@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** jonathan.gunn@pd.boston.gov <jonathan.gunn@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**To:** jonathan.gunn@pd.boston.gov <jonathan.gunn@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
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Event Description: Protesters...80 people protesting for healthy climate

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
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**To:** jonathan.hester@pd.boston.gov <jonathan.hester@pd.boston.gov>  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event Location: Copley Square

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Message Sent By: Eva Santiago

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Message Sent By: Sonya Bynoe  
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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** jose.araujo@pd.boston.gov <jose.araujo@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** jose.araujo@pd.boston.gov <jose.araujo@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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**To:** jose.pereyra@pd.boston.gov <jose.pereyra@pd.boston.gov>  
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04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** joseph.boyle@pd.boston.gov <joseph.boyle@pd.boston.gov>  
**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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**To:** joseph.digirolamo@pd.boston.gov <joseph.digirolamo@pd.boston.gov>

**Subject:** Protesters

□

Event P220176905

District E13

04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division

Message Sent By: Keva Phillips

Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173880  
District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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District D4  
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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District E13  
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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** joseph.maguire@pd.boston.gov <joseph.maguire@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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District A1  
03-31-2022 17:41:00

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Event Description: Protesters....Small group of people protesting Palestine

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** joseph.tse@pd.boston.gov <joseph.tse@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** juan.estevez@pd.boston.gov <juan.estevez@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** julian.turner@pd.boston.gov <julian.turner@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
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Event Location: 750 Boylston St, BO

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**To:** katherine.shea@pd.boston.gov <katherine.shea@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** katherine.shea@pd.boston.gov <katherine.shea@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** kathy.kearney@pd.boston.gov <kathy.kearney@pd.boston.gov>  
**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** kaylee.hutchinson@pd.boston.gov <kaylee.hutchinson@pd.boston.gov>  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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**To:** kelley.mccormick@pd.boston.gov <kelley.mccormick@pd.boston.gov>  
**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** kenneth.autio@pd.boston.gov <kenneth.autio@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Event P220173448  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** kevin.cahill@pd.boston.gov <kevin.cahill@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Message Sent By: Eva Santiago

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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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District D4  
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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** kevinp.mcgoldrick@pd.boston.gov <kevinp.mcgoldrick@pd.boston.gov>  
**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event Location: Copley Square

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Message Sent By: Eva Santiago

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Event Description: Protesters...80 people protesting for healthy climate

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** kim.tavares@pd.boston.gov <kim.tavares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220138071  
District A1  
03-31-2022 17:41:00

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Event Location: 445 Arborway, JP

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Eva Santiago

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** latoya.gamble@pd.boston.gov <latoya.gamble@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** laura.dickerson@pd.boston.gov <laura.dickerson@pd.boston.gov>  
**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P #220140756

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event Location: Tremont St/Park St, BO

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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** laurie.farrell@pd.boston.gov <laurie.farrell@pd.boston.gov>  
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Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** leanne.hurley@pd.boston.gov <leanne.hurley@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** lee.merlino@pd.boston.gov <lee.merlino@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** leighton.facey@pd.boston.gov <leighton.facey@pd.boston.gov>  
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Event P220154101  
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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event Location: Copley Square

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** louisimond.vertyl@pd.boston.gov <louisimond.vertyl@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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Supervisor: Sgt. McGillicuddy

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**To:** louis.relerford@pd.boston.gov <louis.relerford@pd.boston.gov>  
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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** Lucia Palomares <lucy.palomares@pd.boston.gov>

**Sent:** Tuesday, April 12, 2022 2:45 PM EDT

**To:** Lucia Palomares <lucy.palomares@pd.boston.gov>

**Subject:** Cottone

**Attachment(s):** "Sergeant Findings Report-Cottone.docx", "BWC Dowling Investigation.docx"

[Sgt\\_Cottone\\_Protest.mp4](#)

[Assist\\_D909\\_1340\\_Boylston\\_St.mp4](#)

[Pizzeria\\_Reginas\\_vaccine\\_mandate.mp4](#)

[1330\\_Boylston\\_Street\\_\(2\).mp4](#)



BWC of Dowling the 15<sup>th</sup> of January of 2022 at Regina Pizzeria responding to a radio call at 1330 Boyleston Street for protestors. On scene Officer Aragaones is speaking to Sergeant Cottone (wearing a cap, overalls and sweatshirt) she is stating that the police are not supposed to enforce the mandate you see this is the water bottle I purchased. Aragones requests to see vaccination papers which she refuses and states that they will sit there and another female also states we can sit here. Dowling states to call a patrol supervisor and one can hear Cottone stating to Officer Aragones that he is violating their rights. She continues by stating that they are violating their rights and enforcing the vaccine mandate and why are they doing that. She also asks for Aragones name and badge number.

The manager is speaking to the officers and the groups calls out "Nazis" and a black female protester states that it is a shame black people discriminating and turning your back on your people. Segregation started on this holiday and everyone has an opinion and a choice. We just working doing our job. The states so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis. One says Your mayor is not my mayor. Cottone returns to the table and states to the officers, "if you not going by your oath you shouldn't being doing this job, you understand. Just working. It's a cop out and you on the work side copping out to violating our rights. Cottone stating you being naughty boys, history has shown how you trample on the rights on people and you guys are the bad guys. A female states that Martin Luther King stated: "that it is our moral obligation to not obey unjust law."

Officer Dowling inquires if they had purchased the water there. The water holding by Cottone. This is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don't want to do this but you need to be on the right side of this one. 14 years, 14 years! 14 years of what asks Dowling. You know that. Time to make a choice boys. You don't have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don't walk away from me, you don't have to do this.

Mr. Johnson feels that the group is harassing him. He trying to run a business. He has explained that he is following the rules. The group did not order food. A person keeps calling stating that my friends are being harassed by the police. Also said give them the pizza. Only a bottle of water was purchased.

Sgt. Wright arrives and speaks to Mr. Johnson and explains the mandate. Mandate that they have to show the vaccination card they cannot be served. He speaks to the group that if they did not show the vaccination card they will have to leave. Cottone states that she purchased an item and enjoying her beverage and he will leave her alone. Cottone speaks of Mayor WU stated that the police would not be involved regarding the mandate and asks Wright what is he doing there. You gonna leave me alone and I am gonna enjoy my beverage.

Wrights asks what time does the pizzeria close at 8:30 p.m., and he and the officers sit down. Mr. Johnson discusses the purchase of the water with Officer Aragones. Cottone hears the conversation and states, I put it in the tip jar you little liar!" You lying! Johnson and Cotton argue over the the purchase. Cottone states that I put it in the tip jar Johnson states that she did not put money in the tip jar. He speaks to Wright and states that he does not this the cameras are working but that he would prefer that they leave. Cottone demands that they view the cameras. Wright explains that the tip jar is for tips. Cottone raises her voice stating "do not play these games with me! You go view the cameras right now. Don't play these games with me. It like when they give you free coffee you put the money in the tip jar. Don't go down this road. You

want to go down this road, don't play games with me, and go back there and view the camera!" She tried to pay and the the employee would not take it.

Sergeant Wright states that they will take a report and she states "no you will not take a report!" Go look at the footage! You a corrupt cop and you are falsely testifying. Are you willing to give your name and identification? No, I am not! Sergeant Wright asks Johnson if he has access to the video and he states yes. At this point, Cottone yells out fucking liar!

Johnson speaks to Wright in private and states that there is no video but that he did not want to say that in front of them. Wright heads back to the group and Dowling asks Wright "you know who that is right?" The groups states that these mandates are not laws. The officers asks if anyone wants to identify themselves for the report. Everyone states no. A female states that her father was a police officer and shot nine times in the head put his life on the line he would be disgusted Tommy Jauvers.

The group was left alone and they ate the pizzas at the tables. The group kept talking about how COttone is a hero and this is how she is being treated. Cottone replied that it only takes one person to make difference. He will have a discussion with the North end pizzeria regarding the manager being a little liar and she will be suing. They know that I paid for that water and this is a juvenile matter. If security video is missing. One states that its oon video will send it to to Sgt, Wright and they will do his job for him. He does not want to go after criminals, drug-addicted people or help the homeless prefers to be with them. He is choosing to be there and could go Charlie Robert and there is no crime. If there is no crime here you are wasting taxpayers' money that is in the rules and regulations. Your mere presence as a police state standing there watching us eat is intimidating. 5 women and a child is intimidating. You should go and do your job because this is not part of your job. Mayor Wu has confused you and you this is part of your job.

Mayor Wu said the police were not enforcing this. The video ends and it is 37:00 minutes inside of pizzeria Regina.

### **Officer Jordan Aragones**

Manager tell Officer Aragones that the wants them to leave and won't leave. Why are you, police have been called here, what is your purpose. PO manager says you wont show your vaccination cards and you won't show it. Cottone states ya we wont and PO states that it is a private establishment and that they have to show that and if not they need to leave. Cottone states no you need to leave. Listen, police are not enforcing this. You better watch what you doing you are walking a thin line right now. They argue back and forth Cottone stating that they are violating their rights. "I can still talk clearer than you can without a mask. Why are you doing that . Vaccine mandate police not to be involved. Dowling advises him who the female arguing with him is a police officer. He advises Sgt. Rodriguez that there is a group and one of them is an officer and they won't show their vaccination cards. Kenneth my boss is coming. On the phone someone is calling his phone. Nazi Germany. Brother you discriminating against other black people. Segregation started on this holiday. Cottone stepped away from the table. Pick a side. .The guy is trying to run a restaurant. You can eat but you have to do what the mayor says not us. COttone returns and tells the officers that they on the wrong side and if they can't follow oath they shouldn't be on the job. You being naught boys. Highsteppers look you

trample on the rights of the people. Did you buy something here, yes this bottle of water. She will enjoy the product and if they don't she will sue. You gotta be on the right side of this one. 14 years, 14 years. 14 years what? You know exactly. Time to make a choice boys. You don't have to do this Anthony. Anthony I have known you on this job. This is not how policing is done. We don't protect mandate we protect rights. Don't walk away from me. You know my class Fernandez just resigned. They took my badge a week and half ago. Bribed by money, corrupted by money. This is wrong guys, you don't have to do this. I am looking out for you. Comments about I don't feel safe. You guys are not being aggressive.

Will not show vaccine cards and can only take out and cannot sit down. Aragones meets Sgt. Wright at the door. People from protest and officer out suspended won't leave, want to get food but will not show card. They did not order food but water. Wrights speaks to Johnson regarding the policy. If do not present vaccination cards cannot be served. Confirmed by Wright. Aragones gathering information from Johnson. Wright will wait and allow them to enjoy water. Asked employees what time closed. At 830 pm. Water was given to Cottone and no money in tip jar. Employee thought she was going to pay. Dispute goes on and inquired if on film. "You are a lair!" He did not see it the employee and no one purchased anything and make racial remarks and threats. Don't play with me. Free coffee and put money in tip jar. Go back and look at footage. You are a corrupt cop and you are falsily testifying, I will see you, will you give us your information no I will not.

Sgt. Wright asks if there is footage yes and follow Johnson to the back. Will atke a report he said she said. Cottone states you have access to the video. No bullshit, your bullshit. Inofmrtaion requested and will n ot comply. Hey, hey baldie! He cannot testify listen to me listen to me he wasn't here he can't file a report he cant get his testimony you got it he is not a credible witness thened. You hear me Sgt Wright. Knock it off you a courput cop. You entitle to your opinions no its uyour actions. You choosing to be corrupt. Gove me you badge number. Wright gives his information. Shame on you. Disgusting youre a disgrace. You want to be part of this corrupt system. Nauhty boy. That man can't tesify to something he didn't see. No nod your head. The employee thought that he handed over the water. Christian Mendes. Gathering information for the report.

**To:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Lucia Palomares  
Internal Investigations Unit  
Bureau of Professional Standards

**Date:** April 5, 2022

**Subject:** IAD Complaint No. 2022-0015

**Employee:** Sergeant Shana Cottone ID# 106714

**Violation:** Rule 102, § 3 Conduct Unbecoming  
Rule 102, § 9 Respectful Treatment  
Rule 102, § 19 Statement of Opinion  
Rule 102, § 35 Conformance to Laws

**Complainant:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards  
Internal Investigations Unit  
Boston Police Department  
1 Schroeder Plaza  
Boston, MA 02120-2014

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2022-0015.

**Summary of Complaint:**

*“The following narrative was taken from Boston Police Report I# 222003233:  
At about 3:20 PM on Saturday 01/15/2022 Officers Aragonés and Dowling in the D201D responded to a radio call for a protest at 1330 Boylston Street (Regina Pizzeria) Boston, Ma. The following is summary of the events that took place not a word for word account:*

*Upon arrival officers met with the store manager (Kenneth Johnson) who stated that a group of females came into the store and sat down and wanted to order food. Mr. Johnson stated he asked*

*the group for proof of their Covid-19 vaccine due to the new city mandate. The group then refused to show Mr. Johnson any proof of vaccination. Mr. Johnson stated he then called the police to remove the group due to them not following the new mandate.*

*Officers then spoke to the group that consisted of Ms. Shana Cottone and 5 unknown females who refused to identify themselves. The group stated that they were not going to show proof of vaccination and that they bought one bottle of water. Officers spoke to Mr. Johnson again who stated that one of the workers handed Ms. Cottone a bottle of water assuming she would go pay for it at the register. He stated that she did not pay for the water at the register and there is no record of her purchase of the water. Officers attempted to obtain video surveillance to which Mr. Johnson stated the cameras were not working. Ms. Cottone stated that she put \$2 in the tip jar for the bottled water. Officers asked the group to leave the restaurant several times and refused. Officers then requested a patrol supervisor to the scene. D909 (Wright) arrived on scene and spoke with the group. The group again refused to leave and officers stated that they were remaining on scene until the group left the premises. An unknown male then dropped two pizzas off to the group at their table and then left the restaurant. Officers Aragonese and Dowling were then relieved at the scene at about 4:10PM by the DT55F (Keaton) and the D499F (Antonino) still accompanied by the D909. The group then finished their pizza and left the restaurant.”*

**Summary of Interview with Officer Jordan Aragonese ID# 153073 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Jordan Aragonese provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonese (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonese was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Aragonese was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Aragonese relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Aragonese reported that his badge number was 5230, that his department ID number was 153073, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the day shift.

Sergeant Palomares inquired about what took place at 1330 Pizzeria Regina on the 15<sup>th</sup> of January of 2022. Officer Aragonés stated that his unit the D201D was dispatched to 1330 Boylston Street for a protest. Officer Aragonés stepped out of the wagon and did not observe any protesters outside of Regina Pizzeria. The officer walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officer that there was a group inside the pizzeria protesting the city vaccine mandate.

Officer Aragonés notified his partner and informed him (Officer Dowling) that the protest was inside. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. They could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside but the group did not want to speak outside. At this time, Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer. Dowling notified the dispatcher and requested for a patrol supervisor to respond to the call.

Sergeant Cottone requested the names and badge numbers of the officers. The officers complied and gave their names and badge numbers. Officer Aragonés also stated he and Dowling were wearing face masks and were not recognizable. Upon giving the group their names, the female (Sergeant Cottone) started calling Dowling by his first name (Anthony) and calling them naughty boys. Sergeant John Wright arrived at the scene and spoke to the manager (Mr. Johnson) about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of Regina pizzas. The group sat there and ate the pizzas.

Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved and they headed back to the station.

Officer Dowling recognized Sergeant Shana Cottone because she had been his supervisor when he was assigned to District E5 (Roslindale/West Roxbury Police Station) as a patrol supervisor. Officer Aragonés stated that she (Sergeant Cottone) was the main speaker of the group. The officers were called “Nazis” and “naughty boys.” The group was asked to leave several times.

This interview concluded at about 10:31 a.m.

**Summary of Interview with Officer Anthony Dowling ID# 153152 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Anthony Dowling provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Dowling was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Dowling relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Dowling reported that his badge number was 5162, that his department ID number was 153152, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

He was asked if he was working on the 15<sup>th</sup> of January of 2022 at 3:20 p.m. Officer Dowling stated that he was working that day as the D201D with Officer Aragonese and they responded to a protest at 1330 Boylston Street at Regina Pizzeria.

They responded to the location and did not observe any protestors outside. They went inside and observed a group of women with a child at the table. He observed Sergeant Cottone sitting at a table and knew that she worked at E5 (West Roxbury/Roslindale Police Station). Officer Dowling attempted to limit engagement with Sergeant Cottone and the group. They asked the group if they ordered food. There was a dispute over a bottle of water and whether she had paid or put the money in the tip jar. Someone ordered two boxes of pizzas and dropped them off at the table and the group started to eat in front of the officers. Sergeant Wright had advised them of the mandate.

The interaction between Sergeant Cottone and Officer Dowling started when he asked the group if they had ordered food. She asked for his name and badge number. That was when she recognized him and kept calling him Anthony and that he was being a naughty boy and don't do this. Dowling had worked at E5 for 6 months in 2019 and Sergeant Cottone was one of his supervisors. He called for a patrol supervisor to respond to the scene. The investigators asked if there was evidence of Sergeant Cottone putting money in the tip jar? Dowling stated that there



was no evidence and the manager had informed the officers upon arriving at the scene. The officers were later relieved by Officers Keaton and Antonino. It was also stated that the vaccination mandate (proof of vaccination) policy had gone into effect that day and the group refused to show papers to the manager and it was the manager who initiated the 911 call.

This recorded interview concluded at 10:52 a.m.

**Summary of Interview with Sergeant John Wright ID# 10746 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant John Wright provided the following information in narrative form and direct questioning.

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

Prior to the interview, Sergeant Wright was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Wright relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Wright reported that his badge number was 469, that his department ID number was 10746, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Sergeant Wright was asked if he was working on the date of the incident and he stated that he was working the First Half shift and responded to 1330 Boylston Street. He stated that the rapid (D201D/Aragones-Dowling) at the scene had requested a Patrol Supervisor to respond to the scene. He further stated that the 15<sup>th</sup> of January was the first day of the vaccine mandate and there was a group refusing to wear a mask and refusing to provide proof of vaccination. Officer Aragon had advised him of the group. Sergeant Wright passed on the information on the vaccine mandate to the manager of the pizzeria (Mr. Johnson) and the group. There was someone who purchased a pizza for the group. The group berated the officers, ate their food, and then left. He was asked if he knew the white female (Sergeant Cottone) in the overalls. He stated that he recognized her from when she worked at District B2 (Roxbury Police Station) and when they were students at Curry College.



At the scene, Sergeant Cottone asked for Sergeant Wright's name badge number and he gave it to her. She was confrontational with him and called him corrupt. Mr. Johnson (manager) had a dispute over the payment of the bottle of water. It was later determined that the money was placed in the tip jar. She stated to him "don't be wrong Wright." Sergeant Wright called the Duty Supervisor at the station and advised the supervisor that the officers would wait out the group and to please send relief. The officers waited till the group left.

Sergeant Palomares inquired how he felt about the situation. He stated that he felt disrespected and that when dealing with the public and other officers it should not be personal. She made it personal when she called the officers corrupt with no proof. Sergeant Wright stated that Sergeant Cottone stated that they (officers) were picking on women and a child. The sergeant believed that she was looking for a situation to incite the officers.

The officers waited till the group finished eating and they left the pizzeria. The incident was documented and his commander was notified of the situation. In the incident regarding the water bottle, she had tried to pay the employee behind the counter. The employee had told her that she was all set and she then placed the money in the tip jar as payment for the water. Sergeant Cottone had attempted to pay the employee but he did not take the money because she was not wearing a mask. Mr. Johnson was not present for that exchange. She taunted the Sergeant and another officer who she recognized. Sergeant Cottone tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated.

Sergeant Wright also spoke of the video dispute at the restaurant. He spoke to Mr. Johnson and requested to view the video but there was no video to view to help clarify the tip jar incident. The manager stated that there was no video because the video system was not working. The group was advised several times of the mandate in regards to eating inside of the establishment. No charges were brought against any of the group members. The sergeant decided it was in the best interest of everyone to wait it out and let the group eat their food. He stated that he used prudence because it was the first day of the mandate and it could have turned out worst if arrests were made.

This recorded interview concluded at 3:25 p.m.

**Summary of Interview with Officer Christopher Keaton ID# 126508 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Christopher Keaton provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Keaton was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Keaton relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Keaton recalled what happened at the location of Regina Pizzeria. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the officers there. Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and the comments directed at the manager (Mr. Johnson).

Sergeant Palomares inquired how he knew Sergeant Cottone? Officer Keaton stated his father worked at A1 (Downtown/Charlestown Police Station) and when he would visit his father he would see Shana Cottone who was a patrol officer at the time. Officer Keaton was aware of the group that was at the pizzeria. She spoke of suing him but believed that she did not recognize him because he was wearing a mask. The group finished eating and left on their own.

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonés and Dowling. The Officers Aragonés and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group was about five females who were very rude to the manager. Officer Antonino was asked for his name and badge number for the lawsuit. Sergeant Cottone directed comments at Sergeant Wright. Officer Antonino had been advised of Sergeant Cottone before heading to relieve the officers. Sergeant Cottone was the main speaker of the group and directed derogatory comments to the manager (Mr. Johnson) and Sergeant Wright. Officer Antonino stated that once the group finished eating they left. The officers had no interaction with the group and let them eat their pizzas. Sergeant Wright never got into a confrontation with the group or Sergeant Cottone when she was directing statements to Sergeant Wright regarding his family and children.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.

On Thursday, the 10<sup>th</sup> of March of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

**Summary of Interview with Kenneth Johnson (manager of Regina Pizzeria/WITNESS):**

Sergeant Lucia Palomares has made attempts to speak to Mr. Johnson regarding the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022. A certified contact letter was also sent and another phone call was made on the 3<sup>rd</sup> of April 2022.

**Review of Officer Dowling and Officer Aragon's Body-Worn Camera Videos**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera videos of Officer Dowling and Officer Aragon's regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officers had responded to a radio call at 1330 Boylston Street for protestors. Officer Aragon's was speaking to Sergeant Cottone (white female, wearing a cap, overalls, and sweatshirt) and she stated: "why are you here, what is your purpose?" She further stated that the police were not supposed to enforce the mandate, she would not show papers, and that she purchased a bottle of water. Aragon's requested to see their vaccination papers, but the group refused and stated that they would sit there. Dowling called for a patrol supervisor to the scene, Cottone stated to Officer Aragon's that he was violating their rights. She continued by stating that they were violating their rights by enforcing the vaccine mandate and why were they doing that. She later asked for Aragon's name and badge number. Cottone stepped away from the table and the group continued their confrontation with the officers.

Mr. Johnson (manager, black male, 50-60-yrs-old) explained to the officers that he was trying to get them to leave and that he was trying to run a business. While the manager was speaking to the officers and the group yelled out "Nazis" and a black female protester stated "it was a shame black people discriminate and you turning your back on your people. Segregation was started on this holiday and everyone has an opinion and a choice." The officers stated in response, "we just working doing our job." The group stated "so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis."

One of the females stated to the officers "your mayor is not my mayor." Cottone returned to the table and stated to the officers, "if you not going by your oath you shouldn't be doing this job, you understand. Just working. It's a cop-out and you on the wrong side copping out to violating our rights." Cottone repeatedly stated to the officers "you being naughty boys, history has shown how you trample on the rights of people and you guys are the bad guys." The officers listened and one of the females stated "Martin Luther King said that it is our moral obligation to not obey an unjust law."

Officer Dowling inquired if they had purchased the water there, as Sergeant Cottone was sat at the table drinking her water. She then stated "this is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don't want to do

this but you need to be on the right side of this one. 14 years, 14 years!" 14 years of what asked Dowling and she stated "you know that." Cottone continued speaking and stated, "time to make a choice boys." "You don't have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don't walk away from me, you don't have to do this." Officer Dowling walked away from Sergeant Cottone to keep his distance.

Mr. Johnson (manager) expressed to the officers that he felt that the group was harassing him. He was trying to run a business and explained to the group that he was following the rules. The group did not order food and a person kept calling and stating that my friends were being harassed by the police. The caller also stated to give them the pizza. Mr. Johnson stated that only a bottle of water had been purchased.

Sgt. Wright arrived at the scene and spoke to Mr. Johnson and explained that a vaccination card has to be shown or they cannot be served. The supervisor also spoke to the group that if they did not show a vaccination card they would have to leave. Cottone replied that she had purchased an item and was enjoying her beverage and he (Sergeant Wright) would leave her alone. Cottone stated that Mayor Wu had said that the police would not be involved regarding the mandate and asked Wright what was he doing there. She further stated, "you gonna leave me alone and I am gonna enjoy my beverage!"

Sergeant Wright then asked the employees what time they closed and they stated 8:30 p.m., and he and the officers sat down at one of the tables. Mr. Johnson discussed the purchase of the water with Officer Aragon. Sergeant Cottone heard the conversation and stated, "I put it in the tip jar you little liar! You lying!" Mr. Johnson and Cottone argued over the purchase of the water. Cottone stated that I put it in the tip jar and Johnson stated that she did not put money in the tip jar. Cottone demanded that the officers view the cameras. Mr. Johnson speaks to Sergeant Wright and stated that the cameras were not working but that he would prefer that they (group) leave. Wright explained to the group that the tip jar was for tips. Cottone confronted Sergeant Wright and stated "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view the camera!" She further stated that she tried to pay but the employee would not take it.

Sergeant Wright stated to her that they would take a report and take both statements. She stated "no you will not take a report! Go look at the footage! You a corrupt cop and you are falsely testifying!" Sergeant Wright asked her if she was willing to give her name and identification and she stated "no, I am not!" Sergeant Wright asked Mr. Johnson if he has access to the video and he stated yes. At this point, a female yelled out "fucking liar!"

Mr. Johnson spoke to Sergeant Wright in private and stated that there was no video but that he did not want to say that in front of them (group). Wright headed back to the group and

Dowling asked Wright “you know who that is right?” and he stated “yes.” The group states to the officers that these mandates were not laws. The officers inquired if anyone wanted to identify themselves for the report. Everyone stated no. One of the females stated that her father was a police officer and was shot nine times in the head putting his life on the line and Tommy Gamperts would be disgusted.

The group was left alone and they ate their pizzas. The group kept talking about how Cottone was a hero and how she was being treated. Sergeant Cottone replied that it only takes one person to make difference. She further stated that she would have a discussion with the North end pizzeria regarding the manager being a little liar and that she would be suing. She stated, “they know that I paid for that water and this is a juvenile matter.” One of the females stated that it’s on live video. Sergeant Cottone stated that they will send it to Sergeant Wright and do his job for him. She continued confronting him and stated he does not want to go after criminals, drug-addicted people, or help the homeless, he preferred to be with them. He was choosing to be there and could go Charlie Robert and that there was no crime. Cottone further stated to Sergeant Wright that he was wasting taxpayers’ money and that was in the rules and regulations. She addressed his presence as a “police state” standing there watching them eat which was intimidating because there were five women and a child it was intimidating. Sergeant Wright was calm and did not state anything to her. She continued berating him and stated “you should go and do your job because this is not part of your job. Mayor Wu has confused you and this is not part of your job. Mayor Wu said the police were not enforcing this.” Officer Dowling’s video ends and it is 37:00 minutes long. Officer Aragon’s video ends and it’s 38:00 minutes long.

### **Review of Officer Keating and Officer Antonino Body-Worn Camera Videos**

The following paragraphs are synopses and not verbatim accounts of the video.

The officers responded to 1330 Boylston Street and Sergeant Cottone asked for their names and badge numbers. They complied and gave their information to her. The officers watched the group and do not interfere with them or have contact with the group. Sergeant Cottone can be heard stating that the manager (Mr. Johnson) must have turned off the phone inside the pizzeria and called him “tyrant man.” She ranted about leaders acting as tyrants and people thinking that they can act as tyrants. She stated “this is not normal, three years ago, we would have laughed and said not in our country. This is not our country guys.” She then rants on about Mayor Wu and “she does not belong in politics, that she is not a leader and shouldn’t be in politics.” She states to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civic lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. Most dysfunctional family I belonged to and I’m not being quiet anymore, going to take my job but I won’t!” As the group started to leave, she states to Sergeant Wright “you will have to tell your kids and grandkids what you did.” “You are corrupt, you are a yes man. I didn’t sign up to do this. Maybe if you would have showed up to

my roll call leading up to this, you would understand.” Officer Keaton’s video ends and it is 13:00 minutes long. Officer Antonino’s video ends and it’s 20:00 minutes long.

**Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.
- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragones, Dowling, Keaton, and Antonino.
- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone’s residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D’Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not working at that time but that the cameras were now working. No video footage for that date.
- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:



- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).
- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for



Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

- On Thursday, the 10<sup>th</sup> of March of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

### **Investigation Summary:**

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph interviewed Officer Jordan Aragonés. Sergeant Palomares inquired as to what took place at 1330 Regina Pizzeria on the 15<sup>th</sup> of January of 2022. He stated that his unit the D201D was dispatched to 1330 Boylston street for a protest. He was working with Officer Anthony Dowling in the wagon. The officers walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officers that there was a group inside the pizzeria protesting the city vaccine mandate. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. He advised the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside as well and they did not want to speak outside. Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer and she had been one of his supervisors. Officer Dowling requested a patrol supervisor respond to the scene. Sergeant Cottone had requested the names and badge numbers of the officers and they complied and gave the information. Officer Aragonés also stated they had their faces covered with masks and it was not very easy to recognize them. When the officers gave their names, Sergeant Cottone recognized Officer Dowling and started calling him Anthony and called them naughty boys.

Sergeant John Wright arrived at the scene and spoke to the manager about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of pizzas. The group sat there and ate the pizzas. Mr. Johnson (manager) spoke to

Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved by Officers Keaton and Antonino and they headed back to the station to write the police report.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Officer Anthony Dowling. Officer Dowling stated that he and Officer Aragonés responded to the protest at Regina Pizzeria. Upon entering the pizzeria, he recognized Sergeant Cottone. Sergeant Palomares asked how he knew Sergeant Cottone and he stated from visiting his father at A1 she was a patrol officer there. Sergeant Cottone had asked for the officers' names and badge numbers. When Dowling gave his name, she recognized him and began calling him Anthony. Also stating to him "you don't want to do this, this is not how policing is done."

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Sergeant John Wright. Sergeant Wright stated that the police officers at Regina Pizzeria requested a patrol supervisor to respond to the scene. He responded and spoke to the manager and the group about the mandate. The group did not want to wear a mask or show proof of vaccination to eat inside of the pizzeria. Sergeant Cottone asked for the supervisor's name and badge. Mr. Johnson stated that Cottone had not paid for the bottle of water. Sergeant Cottone stated that she had attempted to pay the employee but he did not take the money because she was not wearing a mask. She decided to place the money inside the tip jar and Mr. Johnson was not present for that exchange. Sergeant Cottone also tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated. She was also very confrontational with Sergeant Wright at the scene. Sergeant Palomares inquired how he felt about the situation and he stated he felt disrespected and that Sergeant Cottone made the situation personal. The investigators also asked about the group trespassing at the pizzeria. Sergeant Wright stated that he used prudence to assess the situation because it was the first day of the mandate. He used his discretion and let the group finish eating and let the group leave on their own. He felt that if they had been arrested for trespass it would have turned out worst in the end.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Christopher Keaton. Sergeant Palomares inquired what he recalled of the incident on the 15<sup>th</sup> of January 2022. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the day shift officers (Aragonés/Dowling). Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that

he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and comments directed at the manager (Mr. Johnson).

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Thomas Antonino. Sergeant Palomares inquired if he had responded to Regina Pizzeria on January 15<sup>th</sup> of 2022. He stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonés and Dowling. The officers left the scene to write the police report and Sergeant Wright stayed at the scene. The group consisted of five females who were very rude to the manager (Mr. Johnson). Sergeant Cottone asked Officer Antonino for his name and badge number for the lawsuit. Sergeant Cottone was the speaker of the group and directed derogatory comments to the manager and Sergeant Wright. Once the group was done eating they left the pizzeria.

On Thursday, 10<sup>th</sup> of March 2022 at 10:00 a.m., Sergeant Shana Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone exercised her 5<sup>th</sup> amendment right and signed a waiver. She was legally represented by her own personal attorney William Gans along with Attorney Patrick Bryant representing the Boston Police Superior Officers Federation.

Sergeant Palomares has made attempts to contact Kenneth Johnson for an interview regarding this investigation. At this time, Mr. Johnson has not contacted Sergeant Palomares regarding an interview. A certified contact letter has been sent to his residence.

As part of this investigation, the investigator viewed all of the officer's body-worn camera videos. The officers (Aragonés and Dowling) had responded to a 911 call that was initiated by Kenneth Johnson, the manager of the pizzeria. The officers speak to Mr. Johnson and he stated the group was not being cooperative regarding the mandate and would not wear masks or leave. The officers explained the mandate to the group. If they do not want to comply with the mandate they must leave. That day was the first day of the vaccination mandate policy initiated by Mayor Wu. The group was at the pizzeria protesting the mandate. The group was being led by Sergeant Cottone who was also recognized by Officer Dowling at the scene. She also recognized Officer Dowling after she obtained their names and badges for her lawsuit. In the video, she called him "Anthony." She further stated to Officer Dowling that he was being a naughty boy, don't do this, this is not how policing is done, don't walk away from me." The group was confrontational and disrespectful. Sergeant Cottone never identified herself to the officers or Sergeant Wright. The entire time she was confrontational and questioned and challenged the officer's authority and presence at the pizzeria.

When the dispute over the water was brought to the attention of the officers she demanded that the officers not take a police report. Sergeant Wright tried to explain that a police

report would document both sides of the dispute regarding payment of the water. She stated “do not play these games with me! You go view the cameras right now. Don’t play these games with me. It’s like when they give you free coffee you put the money in the tip jar. Don’t go down this road. You want to go down this road, don’t play games with me, and go back there and view the camera!” She was confrontational and disrespectful towards Sergeant Wright and Mr. Johnson. She directed comments to Sergeant Wright repeatedly calling him a corrupt cop. The matter could have been resolved in a different manner or in a nonconfrontational manner without the level of disrespect. The officers at the scene had been called Nazis, and Cottone referred to them as “high-steppers” for doing their job and that they didn’t want to do the right thing. She also questioned their oath and duty as police officers because they had to address the group’s behavior at the pizzeria. When she was asked to identify herself for the police report to document the dispute of payment she stated “no.” She demanded that every officer give their name and badge number for her list. She threatened the officers and the manager with lawsuits.

Mr. Johnson in the videos stated that he wanted the group to leave, he was just trying to run a business and was following the mandate. He was doing everything that the Mayor of Boston set forth in the mandate. The mandate had gone into effect on the 15<sup>th</sup> of January 2022 and required proof of COVID-19 vaccination for entry into indoor dining, entertainment, recreation, and fitness establishments. Businesses were required to place a sign at the front entrance and check customers’ vaccination proof upon entry. On the date of the incident, Mr. Johnson was abiding by the mandate and was placed in a difficult position by having to call 911 to address the disturbance inside the pizzeria by Sergeant Cottone’s group.

The entire time the group was at the pizzeria Sergeant Cottone ranted about Mayor Wu. She spoke of leaders acting as tyrants and people think that they can act as tyrants. “This is not normal. Three years ago, we would have laughed and said not in our country. This is not our country guys. She does not belong in politics, that she is not a leader and shouldn’t be in politics.” She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing.” The officers at the scene along with Sergeant Wright never discussed the politics and were professional. Sergeant Wright never responded back to the unprofessional and disrespectful comments directed at him.

Officers have been trained in the police academy on the rules and procedures of the Boston Police Department. “Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department.” Sergeant Cottone’s conduct was inappropriate and unbecoming a Boston Police Superior Officer. Officers have also been trained in the respectful treatment of others. “Employees shall, on all occasions be civil, respectful, courteous, and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public.” Sergeant Cottone did not exhibit any of

these qualities on the 15<sup>th</sup> of January. What was exhibited to the police officers and Mr. Johnson was contemptuous and discourteous conduct.

An officer has opinions. The manner in which Sergeant Cottone expressed her opinions was not within the rules and procedures. “Employees shall not publicly criticize or ridicule the Department, its policies, or other employees by speech, writing, or expression in any manner when such speech, writing, or other expression is defamatory, unlawful, interferes with the maintenance of discipline, or is made with reckless disregard of its truth or falsity.

Sergeant Wright utilized his discretion in dealing with the group and Sergeant Cotton. Mr. Johnson had requested several times that he wanted the group to leave and had stated it to the officers. During Sergeant Wright’s interview, he was asked about the group trespassing. He stated that he used his discretion and was prudent in whether or not to arrest. He believed that it was better to let the group finish eating and they would leave on their own. It was the first day of the mandate and it could have turned out worst to arrest the group for trespassing.

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard

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Legal Advisor

## **Attachments**

- 1. Complaint Submission by Deputy Superintendent Eddy Chrispin.**
- 2. Boston Police Incident Report CC# 222003233.**
- 3. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.**
- 4. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.**
- 5. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.**
- 6. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.**
- 7. Form 26 reports from the officers who responded to the scene.**
- 8. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.**
- 9. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit**
- 10. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.**
- 11. Sergeant Cottone's Signed Carney Waiver**

**From:** Lucia Palomares <lucy.palomares@pd.boston.gov>  
**Sent:** Sunday, April 24, 2022 10:23 PM EDT  
**To:** Lucia Palomares <lucy.palomares@pd.boston.gov>  
**Subject:** draft  
**Attachment(s):** "Sergeant Findings Report-Greer.docx"



**To:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Lucia Palomares  
Internal Investigations Unit  
Bureau of Professional Standards

**Date:** April 22, 2022

**Subject:** IAD Complaint No. 2019-0181

**Employee:** Detective Timoth Murray ID# 98635

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Detective Jeffrey Cahill ID# 93859

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Officer Robert Flynn ID# 81082

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Officer Latoya Gamble ID# 102949

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Officer David Malcolm ID# 81127

**Violation:** Rule 102, § 9 Respectful Treatment

**Complainant:** Ben Greer  
1082 Commonwealth Avenue #500  
Boston, MA 02215

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2019-0181.

### **Summary of Complaint:**

*“Citizens called on call investigator about an arrest that he witnessed. He stated that 2-3 plain clothes officers were subduing a suspect and were mocking him while he was on the ground, telling the person being arrested to stop complaining and be a man. The complainant stated that he only witnessed the PO’s when they had the suspect on the ground and it looked like they were waiting for back up. He stated that he feels that there are better ways to arrest someone. He stated that one officer yelled at him to get away and threatened him with arrest if he didn’t move away.*

*The complainant stated that he told the officers that the man looked like he was in medical trouble and the officer said, “Oh are you a doctor?” The complaint stated that he did approach the officers on the sidewalk while the arrest was taking place and started questioning them.*

*The complainant does not recall any specifics about the officers description except to say that the officer looked like a regular white police officer. He also stated that other officers arrived on scene. One appeared to be a bicycle officer and the others were in regular cruisers.”*

### **Summary of Interview with Officer Benjamin Greer (Complainant):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Benjamin Greer provided the following information in narrative form and direct questioning.

On Monday, January 17, 2022, at about 11:17 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded phone interview with Benjamin Greer (Complainant), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston.

Sergeant Palomares asked Mr. Greer to explain in his words what happened on May 13, 2019 at Avenue DeLafayette. Mr. Greer stated that he was an architect and that his architectural firm was located at 115 Kingtson Street. It was after 5:00 p.m. and he was walking towards the train station. He stated that as he turned the corner he observed a black male on the ground and two white males on top of him. He stated that the white males were plain clothes officers and that officer A was kneeling on the black male’s legs and hold his hands. The second officer had the suspect in a choke that he described as a headlock. He further described the suspect as face down on the ground and gasping for air. Mr. Greer further stated that other officers arrived at the scene. He stated that Officer D was a small black female in plain clothes who assisted Officer A in subduing the suspects legs and a white male Officer E hovered over the officers but did not get involved. Mr. Greer stated that it was visible on the black male’s face that he was gasping for air

and was able to verbalize that he couldn't breathe and other civilians watching began to voice concern for the black male. Mr. Greer described the officers as AB and DE. He described officer A as a white male medium build in his 30's, officer B as a white male medium build, officer D black female small and slim build in her 30's and officer E white male 30's, 5'4-5'11. Mr. Greer stated that the situation was comparable to the Eric Garner video because the black male could not breathe, was gasping for air and was struggling to get free and one could see the fear on the male's face. He also stated that he had been confronted by officer D to stop interfering and asked Mr. Greer if he was a doctor. Mr. Greer stated that he was not a doctor and stated to the officer "he is a human being, please he needs help." Officer D threatened to arrest Mr. Greer and stated that the black male was still gasping for air and twitching.

Sergeant Detective Joseph asked Mr. Greer if the black male was resting arrest. Mr. Greer stated that he was not trying to flee from the police but break free from the headlock. Sergeant Detective Joseph also inquired if he knew the difference between a chokehold and a headlock. Mr. Greer stated that to him it appeared the same. The officer had one arm around the neck area and the other arm controlling the head. The investigator also inquired as to the size of the black male. Mr. Greer stated that he was medium build and that he was in his 30's-40's years old. He further stated that he had several officers on him and the officers on bicycles and in cars showed up to the scene. He further inquired why the investigation took so long. The incident was reported in 2019 and now it was being investigated. Sergeant Palomares explained that she had recently been assigned the case and recently started the investigation. Mr. Greer at the end stated that he felt that there were officers who could have stopped officer B from choking the black male. He stated that Officers A, D and E chose not to take any action to stop officer B's actions. Mr. Greer during the interview spoke of a letter that he submitted with the complaint detailing the incident. Sergeant Palomares requested that he email the item to her. The item was emailed to the investigator by Mr. Greer.

This interview concluded at about 11:46 a.m.

**Summary of Interview with Officer Latoya Gamble ID# 102949:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer LaToya Gamble provided the following information in narrative form and direct questioning.

On Tuesday, January 25, 2022, at about 12:53 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Phillip Morgan, conducted a recorded interview with Officer LaToya Gamble within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room acting as Officer Gamble's union representative was Officer Patrick Murphy of the Boston Police Patrolmen's Association.

Prior to the interview, Officer Gamble was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Gamble relayed that she read the memo, understood the memo and she did not have any questions regarding the memo.

When asked, Officer Gamble reported that her badge number was 3441, that her department ID number was 102949, and that she was currently assigned to Homicide Unit on the Day shift.

Officer Gamble was asked if she was working on the 13<sup>th</sup> of May of 2019 at 5:12 p.m. Officer Gamble stated that she was working that day in the Drug Control Unit in A1 (Downtown/Charlestown Police Station). Officer Gamble stated she was with Detective Murray, Officer Cahill (presently a detective), Officer Malcolm and Officer Flynn. Sergeant Palomares inquired if she had responded to Avenue DeLafayette. She stated that she did not recall being at a call there or dispatched to that location. She recalled Antonio Jones (also known as Shaheed Flowers) being arrested and did not recall anything else. A member of the unit had knowledge that Mr. Jones had warrants. One of the members of the unit observed Mr. Jones in the downtown area.

Sergeant Palomares inquired if she recalled anything about the arrest. Officer Gamble stated that she did not recall anything about the arrest. The investigator informed the officer that further information had been gathered from the complainant. The complainant described a black female officer holding down Mr. Jones legs assisting in the arrest.

Sergeant Palomares asked what type of dealings did she have with Mr. Jones. Officer Gamble stated that he could be combative at times and compliant. She had numerous dealings with him regarding drug violations. She further stated that she also did not recall if in 2019 she was working by herself or with someone else and did not recall the incident or being at the incident.

This recorded interview concluded at 1:08 p.m.

**Summary of Interview with Officer Robert Flynn ID# 81082:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Robert Flynn provided the following information in narrative form and direct questioning.

On Monday, January 31, 2022, at about 5:23 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer

Robert Flynn within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Flynn was Officer Michael Paradis representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Flynn was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Flynn relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Flynn reported that his badge number was 4343, that his department ID number was 81082, and that he was currently assigned to A1 Drug Control Unit (Downtown/Chinatown Police Station) on the First Half shift.

Officer Flynn was asked if he was working on the date of the incident 13<sup>th</sup> of May 2019 at 5:12 p.m., and he stated that he did not recall anything. He stated that he viewed the police report regarding the arrest of Antonio Jones a.k.a Shaheed Flowers. He was working with his partner, Officer Malcom. He has been working with Officer Malcom for several years and the regular area of patrol the Chauncy/Chinatown area. Sergeant Palomares asked if he recalled responding to that area for anything and he stated that he did not respond to that area for anything. He stated that Antonio Jones was know to him due to several arrest made of Mr. Jones. This particular arrest does not stick out at all. Sergeant Palomares inquired what has been Mr. Jones demeanor in the past. Officer Flynn stated Jones had a different temperament on different days depending on the charges if it was drug possession or drug distribution.

Sergeant Palomares asked if he recalled a struggle involving Mr. Jones and he stated that her did not recall a struggle. Sergeant Palomares spoke of the 911 call made by a citizen requesting help on behalf of the police. Officer Flynn stated that he did not recall anything except what was in the report. Offiecr Flynn also stated that Jones was a regular in the Chinatown area as well as St. Francis Shelter. Officer Flynn stated that he did not recall anything about the incident and that his team was made up of 5 members and they have made between 300-500 hundred arrests a year. He stated that in the police report there was no mention of injuries regarding Jones or on the booking sheet.

Officer Paradis (union representative) stated that this was a simple warrant arrest and if there had been a struggle there would have been additional charges. It was clarified during the interview that Mr. Jones was known to all of the officers of the drug control unit and on the day of the incident arrested for warrants. During the interview Officer Flynn asked about the Body Camera. Sergeant Palomares informed him that In May of 2019 the Body Camera Pilot Program had not been initiated by the Boston Police Department. It had been initiated in June of 2019.

This recorded interview concluded at 5:35 p.m.

**Summary of Interview with Officer David Malcom ID# 81127:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer David Malcom provided the following information in narrative form and direct questioning.

On Monday, January 31, 2022, at about 5:36 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Jospheh, conducted a recorded interview with Officer David Malcolm within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Malcolm acting as his union representation was Officer Michael Paradis of the Boston Police Patrolmen's Association.

Prior to the interview, Officer Malcom was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Malcolm relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Malcolm recalled working on the 13<sup>th</sup> of May of 2019 at 5:12 p.m. Officer Malcolm stated that he did not recall working on that date and that Officer Flynn was his partner and did not recall working with him. The investigator inquired if he had an investigation in the area of where the incident (Avenue De Lafayette) took place. He stated that he had no recollection of in the area. He stated that he recalled being down there every day and having past dealings with Antonio Jones. Sergeant Palomares asked what was Jones demeanor on the date of the incident and he did not remember arresting him that day and did not remember being in an altercation with him. Investigator asked what was Jones demeanor is the past and he stated "belligerent at times."

The investigator asked the officer if he recalled confrontation with a civilian due to Jones being choked by officers. He stated that he had no recollection of a confrontation with a civilian or recollection of a struggle. He was also asked who was working that day and he stated Cahill, Murray, Flynn and Gamble and the supervisor was out injured.

Sergeant Detective Paul Joseph asked about the veracity of the police report. Officer Malcolm stated that he had no independent recollection of the incident but that the police report stated that he was working on that date. He further stated that if someone had been choked out he would have remembered.

The investigators also inquired about the 911 call made by an unknown citizen on behalf of the police. The officers were asking for help and call 911. Officer had no recollection.

Officer Paradis

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.

On Thursday, the 10th of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and invoked her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

The recorded interview concluded at 12:51 p.m.

### **Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.
- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragones, Dowling, Keaton, and Antonino.
- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone's residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D'Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not



working at that time but that the cameras were now working. No video footage for that date.

- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:

- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).
- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for

Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, the 20th of April of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

**Investigation Summary:**

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard

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Legal Advisor

## **Attachments**

1. Complaint Submission by Deputy Superintendent Eddy Chrispin.
2. Boston Police Incident Report CC# 222003233.
3. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.
4. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.
5. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.
6. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.
7. Form 26 reports from the officers who responded to the scene.
8. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.
9. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit
10. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.
11. Sergeant Cottone's Signed Carney Waiver

**Violation:**                Rule 102, § 3 Conduct Unbecoming  
                                 Rule 102, § 9 Respectful Treatment  
                                 Rule 102, § 19 Statement of Opinion  
                                 Rule 102, § 35 Conformance to Laws

**Complainant:**        Deputy Superintendent Eddy Chrispin  
                                 Assistant Chief, Bureau of Professional Standards  
                                 Internal Investigations Unit  
                                 Boston Police Department  
                                 1 Schroeder Plaza  
                                 Boston, MA 02120-2014

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2022-0015.

### **Summary of Complaint:**

*“The following narrative was taken from Boston Police Report I# 222003233:*

*At about 3:20 PM on Saturday 01/15/2022 Officers Aragonés and Dowling in the D201D responded to a radio call for a protest at 1330 Boylston Street (Regina Pizzeria) Boston, Ma. The following is summary of the events that took place not a word for word account:*

*Upon arrival officers met with the store manager (Kenneth Johnson) who stated that a group of females came into the store and sat down and wanted to order food. Mr. Johnson stated he asked the group for proof of their Covid-19 vaccine due to the new city mandate. The group then refused to show Mr. Johnson any proof of vaccination. Mr. Johnson stated he then called the police to remove the group due to them not following the new mandate.*

*Officers then spoke to the group that consisted of Ms. Shana Cottone and 5 unknown females who refused to identify themselves. The group stated that they were not going to show proof of vaccination and that they bought one bottle of water. Officers spoke to Mr. Johnson again who stated that one of the workers handed Ms. Cottone a bottle of water assuming she would go pay for it at the register. He stated that she did not pay for the water at the register and there is no record of her purchase of the water. Officers attempted to obtain video surveillance to which Mr. Johnson stated the cameras were not working. Ms. Cottone stated that she put \$2 in the tip jar for the bottled water. Officers asked the group to leave the restaurant several times and refused. Officers then requested a patrol supervisor to the scene. D909 (Wright) arrived on scene and spoke with the group. The group again refused to leave and officers stated that they were remaining on scene until the group left the premises. An unknown male then dropped two pizzas off to the group at their table and then left the restaurant. Officers Aragonés and Dowling were then relieved at the scene at about 4:10PM by the DT55F (Keaton) and the D499F (Antonino) still accompanied by the D909. The group then finished their pizza and left the restaurant.”*

**Summary of Interview with Officer Jordan Aragonés ID# 153073 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Jordan Aragonés provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Aragonés was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement.

Officer Aragonés relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Aragonés reported that his badge number was 5230, that his department ID number was 153073, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the day shift.

Sergeant Palomares inquired about what took place at 1330 Pizzeria Regina on the 15<sup>th</sup> of January of 2022. Officer Aragonés stated that his unit the D201D was dispatched to 1330 Boylston Street for a protest. Officer Aragonés stepped out of the wagon and did not observe any protesters outside of Regina Pizzeria. The officer walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officer that there was a group inside the pizzeria protesting the city vaccine mandate.

Officer Aragonés notified his partner and informed him (Officer Dowling) that the protest was inside. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. They could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside but the group did not want to speak outside. At this time, Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer. Dowling notified the dispatcher and requested for a patrol supervisor to respond to the call.

Sergeant Cottone requested the names and badge numbers of the officers. The officers complied and gave their names and badge numbers. Officer Aragonés also stated he and Dowling were wearing face masks and were not recognizable. Upon giving the group their names, the female (Sergeant Cottone) started calling Dowling by his first name (Anthony) and calling them naughty boys. Sergeant John Wright arrived at the scene and spoke to the manager (Mr. Johnson) about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of Regina pizzas. The group sat there and ate the pizzas.

Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved and they headed back to the station.

Officer Dowling recognized Sergeant Shana Cottone because she had been his supervisor when he was assigned to District E5 (Roslindale/West Roxbury Police Station) as a patrol supervisor. Officer Aragonés stated that she (Sergeant Cottone) was the main speaker of the

group. The officers were called “Nazis” and “naughty boys.” The group was asked to leave several times.

This interview concluded at about 10:31 a.m.

**Summary of Interview with Officer Anthony Dowling ID# 153152 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Anthony Dowling provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Dowling was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Dowling relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Dowling reported that his badge number was 5162, that his department ID number was 153152, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

He was asked if he was working on the 15<sup>th</sup> of January of 2022 at 3:20 p.m. Officer Dowling stated that he was working that day as the D201D with Officer Aragonés and they responded to a protest at 1330 Boylston Street at Regina Pizzeria.

They responded to the location and did not observe any protestors outside. They went inside and observed a group of women with a child at the table. He observed Sergeant Cottone sitting at a table and knew that she worked at E5 (West Roxbury/Roslindale Police Station). Officer Dowling attempted to limit engagement with Sergeant Cottone and the group. They asked the group if they ordered food. There was a dispute over a bottle of water and whether she had paid or put the money in the tip jar. Someone ordered two boxes of pizzas and dropped them

off at the table and the group started to eat in front of the officers. Sergeant Wright had advised them of the mandate.

The interaction between Sergeant Cottone and Officer Dowling started when he asked the group if they had ordered food. She asked for his name and badge number. That was when she recognized him and kept calling him Anthony and that he was being a naughty boy and don't do this. Dowling had worked at E5 for 6 months in 2019 and Sergeant Cottone was one of his supervisors. He called for a patrol supervisor to respond to the scene. The investigators asked if there was evidence of Sergeant Cottone putting money in the tip jar? Dowling stated that there was no evidence and the manager had informed the officers upon arriving at the scene. The officers were later relieved by Officers Keaton and Antonino. It was also stated that the vaccination mandate (proof of vaccination) policy had gone into effect that day and the group refused to show papers to the manager and it was the manager who initiated the 911 call.

This recorded interview concluded at 10:52 a.m.

**Summary of Interview with Sergeant John Wright ID# 10746 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant John Wright provided the following information in narrative form and direct questioning.

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

Prior to the interview, Sergeant Wright was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Wright relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Wright reported that his badge number was 469, that his department ID number was 10746, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Sergeant Wright was asked if he was working on the date of the incident and he stated that he was working the First Half shift and responded to 1330 Boylston Street. He stated that



the rapid (D201D/Aragones-Dowling) at the scene had requested a Patrol Supervisor to respond to the scene. He further stated that the 15<sup>th</sup> of January was the first day of the vaccine mandate and there was a group refusing to wear a mask and refusing to provide proof of vaccination. Officer Aragones had advised him of the group. Sergeant Wright passed on the information on the vaccine mandate to the manager of the pizzeria (Mr. Johnson) and the group. There was someone who purchased a pizza for the group. The group berated the officers, ate their food, and then left. He was asked if he knew the white female (Sergeant Cottone) in the overalls. He stated that he recognized her from when she worked at District B2 (Roxbury Police Station) and when they were students at Curry College.

At the scene, Sergeant Cottone asked for Sergeant Wright's name badge number and he gave it to her. She was confrontational with him and called him corrupt. Mr. Johnson (manager) had a dispute over the payment of the bottle of water. It was later determined that the money was placed in the tip jar. She stated to him "don't be wrong Wright." Sergeant Wright called the Duty Supervisor at the station and advised the supervisor that the officers would wait out the group and to please send relief. The officers waited till the group left.

Sergeant Palomares inquired how he felt about the situation. He stated that he felt disrespected and that when dealing with the public and other officers it should not be personal. She made it personal when she called the officers corrupt with no proof. Sergeant Wright stated that Sergeant Cottone stated that they (officers) were picking on women and a child. The sergeant believed that she was looking for a situation to incite the officers.

The officers waited till the group finished eating and they left the pizzeria. The incident was documented and his commander was notified of the situation. In the incident regarding the water bottle, she had tried to pay the employee behind the counter. The employee had told her that she was all set and she then placed the money in the tip jar as payment for the water. Sergeant Cottone had attempted to pay the employee but he did not take the money because she was not wearing a mask. Mr. Johnson was not present for that exchange. She taunted the Sergeant and another officer who she recognized. Sergeant Cottone tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated.

Sergeant Wright also spoke of the video dispute at the restaurant. He spoke to Mr. Johnson and requested to view the video but there was no video to view to help clarify the tip jar incident. The manager stated that there was no video because the video system was not working. The group was advised several times of the mandate in regards to eating inside of the establishment. No charges were brought against any of the group members. The sergeant decided it was in the best interest of everyone to wait it out and let the group eat their food. He

stated that he used prudence because it was the first day of the mandate and it could have turned out worst if arrests were made.

This recorded interview concluded at 3:25 p.m.

**Summary of Interview with Officer Christopher Keaton ID# 126508 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Christopher Keaton provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Keaton was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Keaton relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Keaton recalled what happened at the location of Regina Pizzeria. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the officers there. Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and the comments directed at the manager (Mr. Johnson).

Sergeant Palomares inquired how he knew Sergeant Cottone? Officer Keaton stated his father worked at A1 (Downtown/Charlestown Police Station) and when he would visit his father he would see Shana Cottone who was a patrol officer at the time. Officer Keaton was aware of the group that was at the pizzeria. She spoke of suing him but believed that she did not recognize him because he was wearing a mask. The group finished eating and left on their own.

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonés and Dowling. The Officers Aragonés and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group was about five females who were very rude to the manager. Officer Antonino was asked for his name and badge number for the lawsuit. Sergeant Cottone directed comments at Sergeant Wright. Officer Antonino had been advised of Sergeant Cottone before heading to relieve the officers. Sergeant Cottone was the main speaker of the group and directed derogatory comments to the manager (Mr. Johnson) and Sergeant Wright. Officer Antonino stated that once the group finished eating they left. The officers had no interaction with the group and let them eat their pizzas. Sergeant Wright never got into a confrontation with the group or Sergeant Cottone when she was directing statements to Sergeant Wright regarding his family and children.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.

On Thursday, the 10th of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and invoked her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

On Wednesday, the 20<sup>th</sup> of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled second interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation). The interview was audio-recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift.

Sergeant Cottone did not answer questions and was on record invoking her Carney privilege to all the questions asked by Sergeant Palomares.

The recorded interview concluded at 12:51 p.m.

#### **Summary of Interview with Kenneth Johnson (manager of Regina Pizzeria/WITNESS):**

Sergeant Lucia Palomares has made attempts to speak to Mr. Johnson regarding the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022. A certified contact letter was also sent and another phone call was made on the 3<sup>rd</sup> of April 2022.

#### **Review of Officer Dowling Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Dowling and regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officers had responded to a radio call at 1330 Boylston Street for protestors. Officer Aragon was speaking to Sergeant

Cottone (white female, wearing a cap, overalls, and sweatshirt) and she stated: “why are you here, what is your purpose?” She further stated that the police were not supposed to enforce the mandate, she would not show papers, and that she purchased a bottle of water. Aragonese requested to see their vaccination papers, but the group refused and stated that they would sit there. Dowling called for a patrol supervisor to the scene, Cottone stated to Officer Aragonese that he was violating their rights. She continued by stating that they were violating their rights by enforcing the vaccine mandate and why were they doing that. She later asked for Aragonese name and badge number. Cottone stepped away from the table and the group continued their confrontation with the officers.

Mr. Johnson (manager, black male, 50-60-yrs-old) explained to the officers that he was trying to get them to leave and that he was trying to run a business. While the manager was speaking to the officers and the group yelled out “Nazis” and a black female protester stated “it was a shame black people discriminate and you turning your back on your people. Segregation was started on this holiday and everyone has an opinion and a choice.” The officers stated in response, “we just working doing our job.” The group stated “so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis.”

One of the females stated to the officers “your mayor is not my mayor.” Cottone returned to the table and stated to the officers, “if you not going by your oath you shouldn’t be doing this job, you understand. Just working. It’s a cop-out and you on the wrong side copping out to violating our rights.” Cottone repeatedly stated to the officers “you being naughty boys, history has shown how you trample on the rights of people and you guys are the bad guys.” The officers listened and one of the females stated “Martin Luther King said that it is our moral obligation to not obey an unjust law.”

Officer Dowling inquired if they had purchased the water there, as Sergeant Cottone sat at the table drinking her water. She then stated “this is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don’t want to do this but you need to be on the right side of this one. 14 years, 14 years!” 14 years of what asked Dowling and she stated “you know that.” Cottone continued speaking and stated, “time to make a choice boys.” “You don’t have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don’t walk away from me, you don’t have to do this.” Officer Dowling walked away from Sergeant Cottone to keep his distance.

Mr. Johnson (manager) expressed to the officers that he felt that the group was harassing him. He was trying to run a business and explained to the group that he was following the rules. The group did not order food and a person kept calling and stating that my friends were being harassed by the police. The caller also stated to give them the pizza. Mr. Johnson stated that only a bottle of water had been purchased.

Sergeant Wright arrived at the scene and spoke to Mr. Johnson and explained that a vaccination card has to be shown or they cannot be served. Sergeant Wright also spoke to the group that if they did not show a vaccination card they would have to leave. Cottone replied that she had purchased an item and was enjoying her beverage and he (Sergeant Wright) was going to leave her alone. Cottone stated that Mayor Wu said that the police would not be involved regarding the mandate and asked Wright what was he doing there. She further stated, "you gonna leave me alone and I am gonna enjoy my beverage!"

Sergeant Wright then asked the employees what time the pizzeria closed and they stated 8:30 p.m., and he and the officers sat down at one of the tables. Mr. Johnson advised Officer Aragonese that Sergeant Cottone had not paid for the bottle of water. Sergeant Cottone heard the conversation and stated, "I put it in the tip jar you little liar! You lying!" Mr. Johnson and Cottone argued over the purchase of the water. Cottone stated that I put it in the tip jar and Johnson stated that she did not put money in the tip jar. Cottone demanded that the officers view the cameras. Sergeant Wright and Officer Dowling walk back out to the group and Sergeant Wright stated to the group that the tip jar was for tips. Cottone confronted Sergeant Wright and stated "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee, you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view the camera!" She further stated that she tried to pay but the employee would not take the money.

Sergeant Wright stated to her that they would take a police report and take both statements. She stated "no you will not take a report! Go look at the footage! You are a corrupt cop and you are falsely testifying!" Sergeant Wright asked her if she was willing to give her name and identification and she stated "no, I am not!" Sergeant Wright asked Mr. Johnson if he has access to the video and he stated yes. At this point, a female yelled out "fucking liar!"

Mr. Johnson spoke to Sergeant Wright in private and stated that there was no video but that he did not want to say that in front of them (group). Wright headed back to the group and Dowling asked Wright "you know who that is right?" and Sergeant Wright stated "yes." The group stated to the officers that these mandates were not laws. The officers inquired if anyone wanted to identify themselves for the report. Everyone stated no. One of the females stated that her father was a police officer and was shot nine times in the head putting his life on the line and Tommy Gamperts would be disgusted.

The group was left alone and they ate their pizzas. The group kept talking about how Cottone was a hero and how she was being treated. Sergeant Cottone replied that it only takes one person to make difference. She further stated that she would have a discussion with the North End pizzeria regarding the manager (Mr. Johnson) being a little liar and that she would be suing. She stated, "they know that I paid for that water and this is a juvenile matter." One of the females stated that it's on live video. Sergeant Cottone stated that they will send it to

Sergeant Wright and do his job for him. She continued confronting Sergeant Wright and stated that he did not want to go after criminals, drug-addicted people, or help the homeless, he preferred to be with them (group). She further stated that Sergeant Wright was choosing to be there and could go Charlie Robert (clear from the call) and that there was no crime at that location. Cottone further stated to Sergeant Wright that he was wasting taxpayers' money and that was in the rules and regulations (Boston Police Rules and Regulations).

She addressed his presence as a "police state" standing there watching them eat as a show of force was intimidating because there were five women and a child and it was intimidating. Sergeant Wright was calm and did not state anything to her. She continued berating him and stated "you should go and do your job because this is not part of your job. Mayor Wu has confused you and this is not part of your job. Mayor Wu said the police were not enforcing this." Officer Dowling's video ended and it was 37:00 minutes long.

### **Review of Officer Aragon's Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Aragon's regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officer had responded to a radio call at 1330 Boylston Street for protestors.

Officer Aragon's spoke to the manager (Kenneth Johnson) who stated that they (a group of protestors) won't buy anything and wanted them to leave but they would not leave. Aragon's was joined by his partner Officer Dowling. Sergeant Cottone questioned Aragon's as to what was his purpose and why was he there. Officer Aragon's clarified to her that the pizzeria was a private establishment and that if they (the group) did not show papers (vaccination cards) they would have to leave. Sergeant Cottone stated to Officer Aragon's that they were not showing papers. Officer Aragon's clarified to the group that they could not dine in but could order the food to go and would have to leave.

Sergeant Cottone stated, "listen to me, listen to me, you are walking thin line and police are not supposed to enforce the mandate!" Officer Aragon's stated to Sergeant Cottone "you can leave" and the group stated that they can stay. Officers Aragon's and Dowling stated to Cottone that they were not violating their rights. Officer Dowling advised Officer Aragon's to call for a supervisor to the scene.

Sergeant Cottone was hostile and warned the officers that they were violating their (group) rights and asked for Officer Aragon's name and badge number. Sergeant Cottone stated to Officer Aragon's "why are you enforcing the vaccine "passport" and why are you doing that?" Aragon's advised Sergeant Rodriguez on the phone that they had protestors at Regina Pizzeria who would not show vaccine cards and one of them was an officer.



Officer Aragonés notified Mr. Johnson that a supervisor was responding to the location. Mr. Johnson advised Officer Aragonés that there was a person calling about the group. The group leveled comments at the officers regarding choices, opinions, comparing the officers to Nazi Germany, and segregation. One of the females stated, "Nazi's also said doing my job, rights are being violated and your Mayor is not my Mayor." Sergeant Cottone had stepped away from the table and later walked back to the group and sat down. Cottone stated to the officers that they were on the wrong side of this and if they won't stand by their oath they shouldn't be on the job. The officers stated to her "just working." Sergeant Cottone stated "coping out to violating our rights. You're being naughty boys." "History has shown us that high steppers like you trample on the rights of the innocent. You go down in history as the bad guys." One of the females stated to Aragonés "Martin Luther King said it is our obligation to disobey an unjust law."

Did you buy something here Dowling asked the group? Cottone stated you gonna leave me alone and enjoy my beverage. She continues on about "14 years, 14 years. Dowling asked 14 years what? "You know what! Time to make a choice boys. You don't have to do this Anthony, this is not how it's done." She further stated that a classmate resigned and gave away his gun and badge. Cottone stated, "they took my gun and badge a week and a half ago." "You are corrupted by money. This is wrong." Officer Aragonés stated to the group "you are all being recorded and you are all expressing opinions." Aragonés also advised them that he was not threatened by the group.

Sergeant Wright arrived at the scene Officer Aragonés advised him of the group protesting the vaccine mandate and that one of the protesters was a police officer and they did not order anything except a bottle of water. Sergeant Wright spoke to Mr. Johnson (manager) about the mandate. Sergeant Wright advised Mr. Johnson that if they do not show a vaccination card they cannot be served in the city. Johnson stated that he understood the mandate. Officer Aragonés asked Johnson for his information for the police report.

Wright and Dowling spoke to the group. Cottone was the speaker for the group. Sergeant Wright stated, "we will wait and let her enjoy her water" and asked Johnson what time they closed Johnson stated at 8:30 p.m. Wright advised the officers (Aragonés and Dowling) that they would wait it out.

Mr. Johnson explained the situation regarding the bottle of water to Officer Aragonés. An employee gave Cottone a bottle of water and he assumed that she would pay. She did not pay or put anything in the tip jar. The dispute continued between Johnson and Cottone in front of the officers and the group. Cottone yelled out "he is a liar." Mr. Johnson stated that they (the group) made racial comments and threats toward him. Sergeant Cottone yelled out "don't play these games with me, I tried to pay for the bottle of water and he (the employee) would not take the money. It's like when you get free coffee you put the money in the tip jar."



Sergeant Wright informed her that the officers would take a police report and she yelled back “no you will not take a report. You gonna get the footage, don’t play with me. Don’t play games with me, you gonna look at the footage.” Sergeant Wright requested Cottone’s name for the report and she would not cooperate and kept stating to look at the footage. She stated “You are a corrupt, corrupt man! You are falsely testifying I will sue you. I want the footage.”

Sergeant Wright inquired if Mr. Johnson had access to the video and Mr. Johnson, stated “yes” and the officers walked to the back area of the kitchen. One of the females in the group yelled out “you fucking liar” directed at Mr. Johnson. Another female wanted to know if the police will reprimand the manager for filing a false police report.

Sergeant Wright walked back to speak to the group. Sergeant Wright advised the manager that the police would take a police report of “he said she said.” This angered Sergeant Cottone who stated, “this is not he said she said and you have access to the video.” The group challenged Sergeant Wright regarding the police report. Sergeant Cottone stated to Sergeant Wright “bullshit, you’re bullshit!” Sergeant Wright continued explaining that both sides would be represented in the report. Officer Aragonese requested Sergeant Cottone’s name and she stated “no.” Officer Aragonese was gathering information for the police report and Sergeant Cottone yelled out “you can’t take the report, he is not a credible witness, Sergeant Wright you hear me!” Sergeant Wright replied, “yeah I hear you.”

Sergeant Cottone replied “You are a corrupt cop. It is your opinion, not based on observations and you choose to be a corrupt cop. What is your name and badge name?” Sergeant Wright calmly gave his name and badge number. Sergeant Cottone continued being confrontational towards the supervisor and stated “Shame on you, disgusting, you’re a disgrace. You have the choice to do the right thing but you choose to be part of this corrupt system. Officer Aragonese spoke to the employees regarding the situation and the employee believed that she would pay for the water.

The group stated to the officers “your Mayor does not care about you. We stand on your side for you. You are ashamed you can’t look me in the eye. Mayor Wu said the police would not be involved. You are ashamed and you need to take a stand, not personal guys.” Sergeant Cottone stated “you don’t know me, I am a person. Can’t tell us we can’t eat.” Two boxes of pizzas were dropped off at the group’s table. They were taking photos and videos of themselves eating the pizza and the officers standing nearby. She stated, “I want to give a shout out to Eddy Chrispin to stop violating my rights.” The officers watched the group as they ate their pizzas.

Officer Aragonese inquired from the group if anyone wanted to identify themselves for the police report. Sergeant Cottone stated “they have not done anything to identify themselves.” One of the females stated that her father was a Boston Police Officer and was shot 9 times in the head. She stated “he put his life on the line.” Sergeant Cottone stated to Sergeant Wright “we can’t eat pizza because we’re unclean and unvaccinated people.” Sergeant Wright replied “you are eating

pizza right now.” Sergeant Cottone replied, “you wanted to kick us out remember.” Sergeant Wright stated to the female “I knew your father and he was a good man and tell him I say hello.” She stated “he would be very disappointed with you.

One of the females described Sergeant Cottone as a hero and that this was how she was treated. Sergeant Cottone replied that it takes one person to make a difference. Cottone further stated that she would have a conversation with Regina Pizzeria headquarters and report the manager (Mr. Johnson) and how he falsely testified against customers. She stated “I don’t want to sue Regina Pizzeria; the manager was lying and they know that I paid for the water.” One of the women stated it was on video in real-time that Sergeant Cottone paid for the water. Sergeant Cottone confronted Sergeant Wright and stated that he did not want to do his job and help others or fight crime. She stated that he would rather stay there with them and waste taxpayer dollars. Sergeant Wright replied that he answered a call for service.

Officer Aragon’s video ended and it was 37 minutes long.

#### **Review of Officer Keating Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Keaton responded to 1330 Boylston Street and Sergeant Cottone asked for his name and badge number. He complied and gave his information to her. Officer Antonino was already there with Sergeant Wright. The officers watched the group and did not have contact with the group. Sergeant Cottone can be heard stating that the manager (Mr. Johnson) must have turned off the phone inside the pizzeria and called him “tyrant man.” She ranted about leaders acting as tyrants and people thinking that they can act as tyrants. She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civic lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. Most dysfunctional family I belonged to and I’m not being quiet anymore, going to take my job but I won’t!” As the group started to leave, she states to Sergeant Wright “you will have to tell your kids and grandkids what you did.” “You are corrupt, you are a yes man. I didn’t sign up to do this. I signed up to care for people and protect their rights. Maybe if you would have showed up to my roll call leading up to this, you would understand.” Officer Keaton’s video ended and it was 13 minutes long.

#### **Review of Officer Antonino Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Antonino responded to 1330 Boylston Street to relieve the day shift officers (Aragones and Dowling). Sergeant Cottone stated to Officer Antonino that because Sergeant Wright brought him there, she would need his name and badge number. Officer Antonino gave his name and badge number to Sergeant Cottone. She yelled out to Mr. Johnson, “manager man,

did you turn off the phones because you're being a little tyrant." One of the females in the group was laughing at the statement and stated "manager man did you turn the phone off." She then stated "Tyranny is contagious when they think they can act like their leaders they act like tyrants. Very dangerous, this status quo happens people think that this is normal. This is not normal guys."

Sergeant Cottone stated to customers "guys make sure that you check your receipts cause he (Mr. Johnson) is a liar, he tried to get me in trouble that I didn't pay for my pizza and that he is charging the proper price of the pizza. Officer Keaton arrived on the scene and Sergeant Cottone requested his name and badge number.

Sergeant Cottone stated "this is not normal, three years ago, we would have laughed and said not in our country. This is not our country guys." She then rants on about Mayor Wu and stated "she does not belong in politics, that she is not a leader and shouldn't be in politics." Sergeant Cottone stated to Sergeant Wright, "little tyrant mayor man, we can teach you about people's rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. The most dysfunctional family I belonged to and I'm not being quiet anymore, going to take my job but I won't!" As the group left, Sergeant Cottone stated to Sergeant Wright "you will have to tell your kids and grandkids what you did." "You are corrupt, you are a yes man. I didn't sign up to do this. I signed up to care for people and protect rights. Maybe if you would have showed up to my roll call leading up to this, you would understand." Officer Antonino's video ended and it was 20 minutes long.

### **Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.

- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragonés, Dowling, Keaton, and Antonino.
- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone's residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D'Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not working at that time but that the cameras were now working. No video footage for that date.
- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:

- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of

the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, the 20th of April of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

### **Investigation Summary:**

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph interviewed Officer Jordan Aragon. Sergeant Palomares inquired as to what took place at 1330 Regina Pizzeria on the 15<sup>th</sup> of January of 2022. He stated that his unit the D201D was dispatched to 1330 Boylston street for a protest. He was working with Officer Anthony Dowling in the wagon. The officers walked inside the

establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officers that there was a group inside the pizzeria protesting the city vaccine mandate. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. He advised the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside as well and they did not want to speak outside. Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer and she had been one of his supervisors. Officer Dowling requested a patrol supervisor respond to the scene. Sergeant Cottone had requested the names and badge numbers of the officers and they complied and gave the information. Officer Aragonés also stated they had their faces covered with masks and it was not very easy to recognize them. When the officers gave their names, Sergeant Cottone recognized Officer Dowling and started calling him Anthony and called them naughty boys.

Sergeant John Wright arrived at the scene and spoke to the manager about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of pizzas. The group sat there and ate the pizzas. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved by Officers Keaton and Antonino and they headed back to the station to write the police report.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Officer Anthony Dowling. Officer Dowling stated that he and Officer Aragonés responded to the protest at Regina Pizzeria. Upon entering the pizzeria, he recognized Sergeant Cottone. Sergeant Palomares asked how he knew Sergeant Cottone and he stated she worked at A1 with his father. Sergeant Cottone had asked for the officers' names and badge numbers. When Dowling gave his name, she recognized him and began calling him Anthony. Also stated to him "you don't want to do this, this is not how policing is done."

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Sergeant John Wright. Sergeant Wright stated that the police officers at Regina Pizzeria requested a patrol supervisor to respond to the scene. He responded and spoke to the manager (Mr. Johnson) and the group about the mandate. The group did not want to wear a mask or show proof of vaccination to eat inside of the pizzeria. Sergeant Cottone asked for the supervisor's name and badge. Mr. Johnson stated that Cottone had not paid for the bottle of water. Sergeant Cottone stated that she had attempted to pay the employee but he did not take the money because she was not wearing a mask. She

decided to place the money inside the tip jar and Mr. Johnson was not present for that exchange. Sergeant Cottone also tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated. She was also very confrontational with Sergeant Wright at the scene. Sergeant Palomares inquired how he felt about the situation and he stated he felt disrespected and that Sergeant Cottone made the situation personal. The investigators also asked about the group trespassing at the pizzeria. Sergeant Wright stated that he used prudence to assess the situation because it was the first day of the mandate. He used his discretion and let the group finish eating and let the group leave on their own. He felt that if they had been arrested for trespass it would have turned out worst in the end.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Christopher Keaton. Sergeant Palomares inquired what he recalled of the incident on the 15<sup>th</sup> of January 2022. Officer Keaton stated that he had worked a day tour on overtime at D4 (South End/Back Bay Police Station). The duty supervisor requested that he head over to Regina Pizzeria to relieve the day shift officers (Aragones/Dowling). Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and comments directed at the manager (Mr. Johnson).

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Thomas Antonino. Sergeant Palomares inquired if he had responded to Regina Pizzeria on January 15<sup>th</sup> of 2022. He stated that he had responded to relieve the day units. Sergeant Wright and Officers Aragones and Dowling were on the scene. Officers Aragones and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group consisted of five females who were very rude to the manager (Mr. Johnson). Sergeant Cottone asked Officer Antonino for his name and badge number for the lawsuit. Sergeant Cottone was the speaker of the group and directed derogatory comments toward Mr. Johnson and Sergeant Wright. Once the group was done eating they left the pizzeria.

On Thursday, 10<sup>th</sup> of March 2022 at 10:00 a.m., Sergeant Shana Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone invoked her Carney rights and signed a waiver. She was legally represented by her own personal attorney William Gans along with Attorney Patrick Bryant representing the Boston Police Superior Officers Federation. Sergeant Jeanie Carroll and Lieutenant Timothy Kervin were also present as her union representatives (Boston Superior Officers Federation). On that date, she was not interviewed.



A second interview was requested and scheduled for Wednesday, 20<sup>th</sup> of April 2022 at 11:00 a.m. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Superior Officers Federation along with union representative Sergeant Jeanie Carroll of the Federation. The interview was audio recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo. When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift. Sergeant Cottone did not answer investigatory questions and was on record invoking her Carney privilege to all the questions.

Sergeant Palomares has made attempts to contact Kenneth Johnson for an interview regarding this investigation. At this time, Mr. Johnson has not contacted Sergeant Palomares regarding an interview. A certified contact letter was sent to his residence. Sergeant Palomares received the certified letter marked "unable to forward."

As part of this investigation, the investigator viewed all of the officer's body-worn camera videos. The officers (Aragones and Dowling) had responded to a 911 call that was initiated by Kenneth Johnson, the manager of the pizzeria. The officers spoke to Mr. Johnson and he stated the group was not cooperative regarding the mandate and would not wear masks or leave the premises. The officers explained the mandate to the group. If they did not comply with the mandate they would have to leave. That day was the first day of the vaccination mandate policy initiated by Mayor Wu.

The group was at the pizzeria protesting the mandate. The group was led by Sergeant Cottone who was recognized by Officer Dowling at the scene. She also recognized Officer Dowling after she obtained their names and badge numbers for her lawsuit. In the video, she called him "Anthony." She further stated to Officer Dowling that he was being a naughty boy, don't do this, this is not how policing is done, don't walk away from me." The group was argumentative and disrespectful. Sergeant Cottone never identified herself to the officers or Sergeant Wright. The entire time she was offensive, quarrelsome, and challenged the officer's authority at the pizzeria.

When the dispute over the water was brought to the attention of the officers she demanded that the officers not take a police report. Sergeant Wright tried to explain that a police report would document both sides of the dispute regarding payment of the water. She replied "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view



the camera!” She was belligerent and insolent towards Sergeant Wright and Mr. Johnson. She directed comments to Sergeant Wright repeatedly calling him a corrupt cop.

The matter could have been resolved in a different manner or in a nonconfrontational manner. The officers at the scene had been called Nazis, and Cottone referred to them as “high-steppers” for doing their job and that they didn’t want to do the right thing. She also questioned their oath and duty as police officers because they had to address the group’s behavior at the pizzeria. When she was asked to identify herself for the police report to document the dispute over payment she stated “no.” She demanded that every officer give their name and badge number for her list to sue. She threatened the officers and the manager with lawsuits.

Mr. Johnson stated that he wanted the group to leave, he was just trying to run a business and was following the mandate. He was doing everything that the Mayor of Boston set forth in the mandate. The mandate had gone into effect on the 15<sup>th</sup> of January 2022 and required proof of COVID-19 vaccination for entry into indoor dining, entertainment, recreation, and fitness establishments. Businesses were required to place a sign at the front entrance and check customers’ vaccination proof upon entry. On the date of the incident, Mr. Johnson was abiding by the mandate and was placed in a difficult position by having to call 911 to address the disturbance inside the pizzeria by Sergeant Cottone’s group.

The entire time the group was at the pizzeria Sergeant Cottone fumed about Mayor Wu. She spoke of leaders acting as tyrants and people think that they can act as tyrants. “This is not normal. Three years ago, we would have laughed and said not in our country. This is not our country guys. She does not belong in politics, that she is not a leader and shouldn’t be in politics.” She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing.” The officers at the scene along with Sergeant Wright never discussed politics and were professional. Sergeant Wright never responded to the unprofessional and disrespectful comments directed at him.

Officers have been trained in the police academy on the rules and procedures of the Boston Police Department. “Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department.” Sergeant Cottone’s conduct was inappropriate and unbefitting a Boston Police Superior Officer. Officers have also been trained in the respectful treatment of others. “Employees shall, on all occasions be civil, respectful, courteous, and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public.” Sergeant Cottone did not exhibit any of these qualities on the 15<sup>th</sup> of January. What was exhibited to the police officers and Mr. Johnson was contemptuous and discourteous conduct.

An officer has opinions. The manner in which Sergeant Cottone expressed her opinions was not within the rules and procedures. “Employees shall not publicly criticize or ridicule the Department, its policies, or other employees by speech, writing, or expression in any manner when such speech, writing, or other expression is defamatory, unlawful, interferes with the maintenance of discipline, or is made with reckless disregard of its truth or falsity.

Sergeant Wright utilized his discretion in dealing with the group trespassing at the pizzeria. Mr. Johnson had requested several times that he wanted the group to leave and had stated it to the officers. During Sergeant Wright’s interview, he was asked about the group trespassing. He stated that he used his discretion and was prudent in whether or not to arrest. He believed that it was better to let the group finish eating and they would leave on their own. It was the first day of the mandate and it could have turned out worst to arrest the group for trespassing.

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard

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Legal Advisor

## **Attachments**

- 12. Complaint Submission by Deputy Superintendent Eddy Chrispin.**
- 13. Boston Police Incident Report CC# 222003233.**
- 14. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.**
- 15. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.**
- 16. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.**
- 17. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.**
- 18. Form 26 reports from the officers who responded to the scene.**
- 19. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.**
- 20. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit**
- 21. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.**
- 22. Sergeant Cottone's Signed Carney Waiver**

**To:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Lucia Palomares  
Internal Investigations Unit  
Bureau of Professional Standards

**Date:** April 22, 2022

**Subject:** IAD Complaint No. 2019-0181

**Employee:** Detective Timoth Murray ID# 98635

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Detective Jeffrey Cahill ID# 93859

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Officer Robert Flynn ID# 81082

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Officer Latoya Gamble ID# 102949

**Violation:** Rule 102, § 9 Respectful Treatment

**Employee:** Officer David Malcolm ID# 81127

**Violation:** Rule 102, § 9 Respectful Treatment

**Complainant:** Ben Greer  
1082 Commonwealth Avenue #500  
Boston, MA 02215

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2019-0181.

**Summary of Complaint:**

*“The following narrative was taken from Boston Police Report I# 222003233:  
At about 3:20 PM on Saturday 01/15/2022 Officers Aragones and Dowling in the D201D responded to a radio call for a protest at 1330 Boylston Street (Regina Pizzeria) Boston, Ma. The following is summary of the events that took place not a word for word account:*

*Upon arrival officers met with the store manager (Kenneth Johnson) who stated that a group of females came into the store and sat down and wanted to order food. Mr. Johnson stated he asked the group for proof of their Covid-19 vaccine due to the new city mandate. The group then refused to show Mr. Johnson any proof of vaccination. Mr. Johnson stated he then called the police to remove the group due to them not following the new mandate.*

*Officers then spoke to the group that consisted of Ms. Shana Cottone and 5 unknown females who refused to identify themselves. The group stated that they were not going to show proof of vaccination and that they bought one bottle of water. Officers spoke to Mr. Johnson again who stated that one of the workers handed Ms. Cottone a bottle of water assuming she would go pay for it at the register. He stated that she did not pay for the water at the register and there is no record of her purchase of the water. Officers attempted to obtain video surveillance to which Mr. Johnson stated the cameras were not working. Ms. Cottone stated that she put \$2 in the tip jar for the bottled water. Officers asked the group to leave the restaurant several times and refused. Officers then requested a patrol supervisor to the scene. D909 (Wright) arrived on scene and spoke with the group. The group again refused to leave and officers stated that they were remaining on scene until the group left the premises. An unknown male then dropped two pizzas off to the group at their table and then left the restaurant. Officers Aragones and Dowling were then relieved at the scene at about 4:10PM by the DT55F (Keaton) and the D499F (Antonino) still accompanied by the D909. The group then finished their pizza and left the restaurant.”*

**Summary of Interview with Officer Jordan Aragones ID# 153073 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Jordan Aragones provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragones (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragones was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Aragonés was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Aragonés relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Aragonés reported that his badge number was 5230, that his department ID number was 153073, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the day shift.

Sergeant Palomares inquired about what took place at 1330 Pizzeria Regina on the 15<sup>th</sup> of January of 2022. Officer Aragonés stated that his unit the D201D was dispatched to 1330 Boylston Street for a protest. Officer Aragonés stepped out of the wagon and did not observe any protesters outside of Regina Pizzeria. The officer walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officer that there was a group inside the pizzeria protesting the city vaccine mandate.

Officer Aragonés notified his partner and informed him (Officer Dowling) that the protest was inside. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. They could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside but the group did not want to speak outside. At this time, Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer. Dowling notified the dispatcher and requested for a patrol supervisor to respond to the call.

Sergeant Cottone requested the names and badge numbers of the officers. The officers complied and gave their names and badge numbers. Officer Aragonés also stated he and Dowling were wearing face masks and were not recognizable. Upon giving the group their names, the female (Sergeant Cottone) started calling Dowling by his first name (Anthony) and calling them naughty boys. Sergeant John Wright arrived at the scene and spoke to the manager (Mr. Johnson) about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of Regina pizzas. The group sat there and ate the pizzas.

Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved and they headed back to the station.

Officer Dowling recognized Sergeant Shana Cottone because she had been his supervisor when he was assigned to District E5 (Roslindale/West Roxbury Police Station) as a patrol supervisor. Officer Aragonés stated that she (Sergeant Cottone) was the main speaker of the group. The officers were called “Nazis” and “naughty boys.” The group was asked to leave several times.

This interview concluded at about 10:31 a.m.

**Summary of Interview with Officer Anthony Dowling ID# 153152 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Anthony Dowling provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Dowling was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Dowling relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Dowling reported that his badge number was 5162, that his department ID number was 153152, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

He was asked if he was working on the 15<sup>th</sup> of January of 2022 at 3:20 p.m. Officer Dowling stated that he was working that day as the D201D with Officer Aragonés and they responded to a protest at 1330 Boylston Street at Regina Pizzeria.

They responded to the location and did not observe any protestors outside. They went inside and observed a group of women with a child at the table. He observed Sergeant Cottone sitting at a table and knew that she worked at E5 (West Roxbury/Roslindale Police Station). Officer Dowling attempted to limit engagement with Sergeant Cottone and the group. They



asked the group if they ordered food. There was a dispute over a bottle of water and whether she had paid or put the money in the tip jar. Someone ordered two boxes of pizzas and dropped them off at the table and the group started to eat in front of the officers. Sergeant Wright had advised them of the mandate.

The interaction between Sergeant Cottone and Officer Dowling started when he asked the group if they had ordered food. She asked for his name and badge number. That was when she recognized him and kept calling him Anthony and that he was being a naughty boy and don't do this. Dowling had worked at E5 for 6 months in 2019 and Sergeant Cottone was one of his supervisors. He called for a patrol supervisor to respond to the scene. The investigators asked if there was evidence of Sergeant Cottone putting money in the tip jar? Dowling stated that there was no evidence and the manager had informed the officers upon arriving at the scene. The officers were later relieved by Officers Keaton and Antonino. It was also stated that the vaccination mandate (proof of vaccination) policy had gone into effect that day and the group refused to show papers to the manager and it was the manager who initiated the 911 call.

This recorded interview concluded at 10:52 a.m.

**Summary of Interview with Sergeant John Wright ID# 10746 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant John Wright provided the following information in narrative form and direct questioning.

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

Prior to the interview, Sergeant Wright was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Wright relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Wright reported that his badge number was 469, that his department ID number was 10746, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Sergeant Wright was asked if he was working on the date of the incident and he stated that he was working the First Half shift and responded to 1330 Boylston Street. He stated that the rapid (D201D/Aragones-Dowling) at the scene had requested a Patrol Supervisor to respond to the scene. He further stated that the 15<sup>th</sup> of January was the first day of the vaccine mandate and there was a group refusing to wear a mask and refusing to provide proof of vaccination. Officer Aragones had advised him of the group. Sergeant Wright passed on the information on the vaccine mandate to the manager of the pizzeria (Mr. Johnson) and the group. There was someone who purchased a pizza for the group. The group berated the officers, ate their food, and then left. He was asked if he knew the white female (Sergeant Cottone) in the overalls. He stated that he recognized her from when she worked at District B2 (Roxbury Police Station) and when they were students at Curry College.

At the scene, Sergeant Cottone asked for Sergeant Wright's name badge number and he gave it to her. She was confrontational with him and called him corrupt. Mr. Johnson (manager) had a dispute over the payment of the bottle of water. It was later determined that the money was placed in the tip jar. She stated to him "don't be wrong Wright." Sergeant Wright called the Duty Supervisor at the station and advised the supervisor that the officers would wait out the group and to please send relief. The officers waited till the group left.

Sergeant Palomares inquired how he felt about the situation. He stated that he felt disrespected and that when dealing with the public and other officers it should not be personal. She made it personal when she called the officers corrupt with no proof. Sergeant Wright stated that Sergeant Cottone stated that they (officers) were picking on women and a child. The sergeant believed that she was looking for a situation to incite the officers.

The officers waited till the group finished eating and they left the pizzeria. The incident was documented and his commander was notified of the situation. In the incident regarding the water bottle, she had tried to pay the employee behind the counter. The employee had told her that she was all set and she then placed the money in the tip jar as payment for the water. Sergeant Cottone had attempted to pay the employee but he did not take the money because she was not wearing a mask. Mr. Johnson was not present for that exchange. She taunted the Sergeant and another officer who she recognized. Sergeant Cottone tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated.

Sergeant Wright also spoke of the video dispute at the restaurant. He spoke to Mr. Johnson and requested to view the video but there was no video to view to help clarify the tip jar incident. The manager stated that there was no video because the video system was not working. The group was advised several times of the mandate in regards to eating inside of the establishment. No charges were brought against any of the group members. The sergeant

decided it was in the best interest of everyone to wait it out and let the group eat their food. He stated that he used prudence because it was the first day of the mandate and it could have turned out worst if arrests were made.

This recorded interview concluded at 3:25 p.m.

**Summary of Interview with Officer Christopher Keaton ID# 126508 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Christopher Keaton provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Keaton was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Keaton relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Keaton recalled what happened at the location of Regina Pizzeria. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the officers there. Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and the comments directed at the manager (Mr. Johnson).

Sergeant Palomares inquired how he knew Sergeant Cottone? Officer Keaton stated his father worked at A1 (Downtown/Charlestown Police Station) and when he would visit his father he would see Shana Cottone who was a patrol officer at the time. Officer Keaton was aware of the group that was at the pizzeria. She spoke of suing him but believed that she did not recognize him because he was wearing a mask. The group finished eating and left on their own.

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonés and Dowling. The Officers Aragonés and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group was about five females who were very rude to the manager. Officer Antonino was asked for his name and badge number for the lawsuit. Sergeant Cottone directed comments at Sergeant Wright. Officer Antonino had been advised of Sergeant Cottone before heading to relieve the officers. Sergeant Cottone was the main speaker of the group and directed derogatory comments to the manager (Mr. Johnson) and Sergeant Wright. Officer Antonino stated that once the group finished eating they left. The officers had no interaction with the group and let them eat their pizzas. Sergeant Wright never got into a confrontation with the group or Sergeant Cottone when she was directing statements to Sergeant Wright regarding his family and children.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.

On Thursday, the 10th of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and invoked her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

On Wednesday, the 20<sup>th</sup> of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled second interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation). The interview was audio-recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift.

Sergeant Cottone did not answer questions and was on record invoking her Carney privilege to all the questions asked by Sergeant Palomares.

The recorded interview concluded at 12:51 p.m.

**Summary of Interview with Kenneth Johnson (manager of Regina Pizzeria/WITNESS):**

Sergeant Lucia Palomares has made attempts to speak to Mr. Johnson regarding the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022. A certified contact letter was also sent and another phone call was made on the 3<sup>rd</sup> of April 2022.

**Review of Officer Dowling Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Dowling and regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officers had responded to a radio call at 1330 Boylston Street for protestors. Officer Aragon was speaking to Sergeant

Cottone (white female, wearing a cap, overalls, and sweatshirt) and she stated: “why are you here, what is your purpose?” She further stated that the police were not supposed to enforce the mandate, she would not show papers, and that she purchased a bottle of water. Aragonés requested to see their vaccination papers, but the group refused and stated that they would sit there. Dowling called for a patrol supervisor to the scene, Cottone stated to Officer Aragonés that he was violating their rights. She continued by stating that they were violating their rights by enforcing the vaccine mandate and why were they doing that. She later asked for Aragonés name and badge number. Cottone stepped away from the table and the group continued their confrontation with the officers.

Mr. Johnson (manager, black male, 50-60-yrs-old) explained to the officers that he was trying to get them to leave and that he was trying to run a business. While the manager was speaking to the officers and the group yelled out “Nazis” and a black female protester stated “it was a shame black people discriminate and you turning your back on your people. Segregation was started on this holiday and everyone has an opinion and a choice.” The officers stated in response, “we just working doing our job.” The group stated “so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis.”

One of the females stated to the officers “your mayor is not my mayor.” Cottone returned to the table and stated to the officers, “if you not going by your oath you shouldn’t be doing this job, you understand. Just working. It’s a cop-out and you on the wrong side copping out to violating our rights.” Cottone repeatedly stated to the officers “you being naughty boys, history has shown how you trample on the rights of people and you guys are the bad guys.” The officers listened and one of the females stated “Martin Luther King said that it is our moral obligation to not obey an unjust law.”

Officer Dowling inquired if they had purchased the water there, as Sergeant Cottone sat at the table drinking her water. She then stated “this is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don’t want to do this but you need to be on the right side of this one. 14 years, 14 years!” 14 years of what asked Dowling and she stated “you know that.” Cottone continued speaking and stated, “time to make a choice boys.” “You don’t have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don’t walk away from me, you don’t have to do this.” Officer Dowling walked away from Sergeant Cottone to keep his distance.

Mr. Johnson (manager) expressed to the officers that he felt that the group was harassing him. He was trying to run a business and explained to the group that he was following the rules. The group did not order food and a person kept calling and stating that my friends were being harassed by the police. The caller also stated to give them the pizza. Mr. Johnson stated that only a bottle of water had been purchased.

Sergeant Wright arrived at the scene and spoke to Mr. Johnson and explained that a vaccination card has to be shown or they cannot be served. Sergeant Wright also spoke to the group that if they did not show a vaccination card they would have to leave. Cottone replied that she had purchased an item and was enjoying her beverage and he (Sergeant Wright) was going to leave her alone. Cottone stated that Mayor Wu said that the police would not be involved regarding the mandate and asked Wright what was he doing there. She further stated, "you gonna leave me alone and I am gonna enjoy my beverage!"

Sergeant Wright then asked the employees what time the pizzeria closed and they stated 8:30 p.m., and he and the officers sat down at one of the tables. Mr. Johnson advised Officer Aragonese that Sergeant Cottone had not paid for the bottle of water. Sergeant Cottone heard the conversation and stated, "I put it in the tip jar you little liar! You lying!" Mr. Johnson and Cottone argued over the purchase of the water. Cottone stated that I put it in the tip jar and Johnson stated that she did not put money in the tip jar. Cottone demanded that the officers view the cameras. Sergeant Wright and Officer Dowling walk back out to the group and Sergeant Wright stated to the group that the tip jar was for tips. Cottone confronted Sergeant Wright and stated "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee, you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view the camera!" She further stated that she tried to pay but the employee would not take the money.

Sergeant Wright stated to her that they would take a police report and take both statements. She stated "no you will not take a report! Go look at the footage! You are a corrupt cop and you are falsely testifying!" Sergeant Wright asked her if she was willing to give her name and identification and she stated "no, I am not!" Sergeant Wright asked Mr. Johnson if he has access to the video and he stated yes. At this point, a female yelled out "fucking liar!"

Mr. Johnson spoke to Sergeant Wright in private and stated that there was no video but that he did not want to say that in front of them (group). Wright headed back to the group and Dowling asked Wright "you know who that is right?" and Sergeant Wright stated "yes." The group stated to the officers that these mandates were not laws. The officers inquired if anyone wanted to identify themselves for the report. Everyone stated no. One of the females stated that her father was a police officer and was shot nine times in the head putting his life on the line and Tommy Gamperts would be disgusted.

The group was left alone and they ate their pizzas. The group kept talking about how Cottone was a hero and how she was being treated. Sergeant Cottone replied that it only takes one person to make difference. She further stated that she would have a discussion with the North End pizzeria regarding the manager (Mr. Johnson) being a little liar and that she would be suing. She stated, "they know that I paid for that water and this is a juvenile matter." One of the females stated that it's on live video. Sergeant Cottone stated that they will send it to



Sergeant Wright and do his job for him. She continued confronting Sergeant Wright and stated that he did not want to go after criminals, drug-addicted people, or help the homeless, he preferred to be with them (group). She further stated that Sergeant Wright was choosing to be there and could go Charlie Robert (clear from the call) and that there was no crime at that location. Cottone further stated to Sergeant Wright that he was wasting taxpayers' money and that was in the rules and regulations (Boston Police Rules and Regulations).

She addressed his presence as a "police state" standing there watching them eat as a show of force was intimidating because there were five women and a child and it was intimidating. Sergeant Wright was calm and did not state anything to her. She continued berating him and stated "you should go and do your job because this is not part of your job. Mayor Wu has confused you and this is not part of your job. Mayor Wu said the police were not enforcing this." Officer Dowling's video ended and it was 37:00 minutes long.

### **Review of Officer Aragon's Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Aragon's regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officer had responded to a radio call at 1330 Boylston Street for protestors.

Officer Aragon's spoke to the manager (Kenneth Johnson) who stated that they (a group of protestors) won't buy anything and wanted them to leave but they would not leave. Aragon's was joined by his partner Officer Dowling. Sergeant Cottone questioned Aragon's as to what was his purpose and why was he there. Officer Aragon's clarified to her that the pizzeria was a private establishment and that if they (the group) did not show papers (vaccination cards) they would have to leave. Sergeant Cottone stated to Officer Aragon's that they were not showing papers. Officer Aragon's clarified to the group that they could not dine in but could order the food to go and would have to leave.

Sergeant Cottone stated, "listen to me, listen to me, you are walking thin line and police are not supposed to enforce the mandate!" Officer Aragon's stated to Sergeant Cottone "you can leave" and the group stated that they can stay. Officers Aragon's and Dowling stated to Cottone that they were not violating their rights. Officer Dowling advised Officer Aragon's to call for a supervisor to the scene.

Sergeant Cottone was hostile and warned the officers that they were violating their (group) rights and asked for Officer Aragon's name and badge number. Sergeant Cottone stated to Officer Aragon's "why are you enforcing the vaccine "passport" and why are you doing that?" Aragon's advised Sergeant Rodriguez on the phone that they had protestors at Regina Pizzeria who would not show vaccine cards and one of them was an officer.



Officer Aragonés notified Mr. Johnson that a supervisor was responding to the location. Mr. Johnson advised Officer Aragonés that there was a person calling about the group. The group leveled comments at the officers regarding choices, opinions, comparing the officers to Nazi Germany, and segregation. One of the females stated, "Nazi's also said doing my job, rights are being violated and your Mayor is not my Mayor." Sergeant Cottone had stepped away from the table and later walked back to the group and sat down. Cottone stated to the officers that they were on the wrong side of this and if they won't stand by their oath they shouldn't be on the job. The officers stated to her "just working." Sergeant Cottone stated "coping out to violating our rights. You're being naughty boys." "History has shown us that high steppers like you trample on the rights of the innocent. You go down in history as the bad guys." One of the females stated to Aragonés "Martin Luther King said it is our obligation to disobey an unjust law."

Did you buy something here Dowling asked the group? Cottone stated you gonna leave me alone and enjoy my beverage. She continues on about "14 years, 14 years. Dowling asked 14 years what? "You know what! Time to make a choice boys. You don't have to do this Anthony, this is not how it's done." She further stated that a classmate resigned and gave away his gun and badge. Cottone stated, "they took my gun and badge a week and a half ago." "You are corrupted by money. This is wrong." Officer Aragonés stated to the group "you are all being recorded and you are all expressing opinions." Aragonés also advised them that he was not threatened by the group.

Sergeant Wright arrived at the scene Officer Aragonés advised him of the group protesting the vaccine mandate and that one of the protesters was a police officer and they did not order anything except a bottle of water. Sergeant Wright spoke to Mr. Johnson (manager) about the mandate. Sergeant Wright advised Mr. Johnson that if they do not show a vaccination card they cannot be served in the city. Johnson stated that he understood the mandate. Officer Aragonés asked Johnson for his information for the police report.

Wright and Dowling spoke to the group. Cottone was the speaker for the group. Sergeant Wright stated, "we will wait and let her enjoy her water" and asked Johnson what time they closed Johnson stated at 8:30 p.m. Wright advised the officers (Aragonés and Dowling) that they would wait it out.

Mr. Johnson explained the situation regarding the bottle of water to Officer Aragonés. An employee gave Cottone a bottle of water and he assumed that she would pay. She did not pay or put anything in the tip jar. The dispute continued between Johnson and Cottone in front of the officers and the group. Cottone yelled out "he is a liar." Mr. Johnson stated that they (the group) made racial comments and threats toward him. Sergeant Cottone yelled out "don't play these games with me, I tried to pay for the bottle of water and he (the employee) would not take the money. It's like when you get free coffee you put the money in the tip jar."

Sergeant Wright informed her that the officers would take a police report and she yelled back “no you will not take a report. You gonna get the footage, don’t play with me. Don’t play games with me, you gonna look at the footage.” Sergeant Wright requested Cottone’s name for the report and she would not cooperate and kept stating to look at the footage. She stated “You are a corrupt, corrupt man! You are falsely testifying I will sue you. I want the footage.”

Sergeant Wright inquired if Mr. Johnson had access to the video and Mr. Johnson, stated “yes” and the officers walked to the back area of the kitchen. One of the females in the group yelled out “you fucking liar” directed at Mr. Johnson. Another female wanted to know if the police will reprimand the manager for filing a false police report.

Sergeant Wright walked back to speak to the group. Sergeant Wright advised the manager that the police would take a police report of “he said she said.” This angered Sergeant Cottone who stated, “this is not he said she said and you have access to the video.” The group challenged Sergeant Wright regarding the police report. Sergeant Cottone stated to Sergeant Wright “bullshit, you’re bullshit!” Sergeant Wright continued explaining that both sides would be represented in the report. Officer Aragonese requested Sergeant Cottone’s name and she stated “no.” Officer Aragonese was gathering information for the police report and Sergeant Cottone yelled out “you can’t take the report, he is not a credible witness, Sergeant Wright you hear me!” Sergeant Wright replied, “yeah I hear you.”

Sergeant Cottone replied “You are a corrupt cop. It is your opinion, not based on observations and you choose to be a corrupt cop. What is your name and badge name?” Sergeant Wright calmly gave his name and badge number. Sergeant Cottone continued being confrontational towards the supervisor and stated “Shame on you, disgusting, you’re a disgrace. You have the choice to do the right thing but you choose to be part of this corrupt system. Officer Aragonese spoke to the employees regarding the situation and the employee believed that she would pay for the water.

The group stated to the officers “your Mayor does not care about you. We stand on your side for you. You are ashamed you can’t look me in the eye. Mayor Wu said the police would not be involved. You are ashamed and you need to take a stand, not personal guys.” Sergeant Cottone stated “you don’t know me, I am a person. Can’t tell us we can’t eat.” Two boxes of pizzas were dropped off at the group’s table. They were taking photos and videos of themselves eating the pizza and the officers standing nearby. She stated, “I want to give a shout out to Eddy Chrispin to stop violating my rights.” The officers watched the group as they ate their pizzas.

Officer Aragonese inquired from the group if anyone wanted to identify themselves for the police report. Sergeant Cottone stated “they have not done anything to identify themselves.” One of the females stated that her father was a Boston Police Officer and was shot 9 times in the head. She stated “he put his life on the line.” Sergeant Cottone stated to Sergeant Wright “we can’t eat pizza because we’re unclean and unvaccinated people.” Sergeant Wright replied “you are eating

pizza right now.” Sergeant Cottone replied, “you wanted to kick us out remember.” Sergeant Wright stated to the female “I knew your father and he was a good man and tell him I say hello.” She stated “he would be very disappointed with you.

One of the females described Sergeant Cottone as a hero and that this was how she was treated. Sergeant Cottone replied that it takes one person to make a difference. Cottone further stated that she would have a conversation with Regina Pizzeria headquarters and report the manager (Mr. Johnson) and how he falsely testified against customers. She stated “I don’t want to sue Regina Pizzeria; the manager was lying and they know that I paid for the water.” One of the women stated it was on video in real-time that Sergeant Cottone paid for the water. Sergeant Cottone confronted Sergeant Wright and stated that he did not want to do his job and help others or fight crime. She stated that he would rather stay there with them and waste taxpayer dollars. Sergeant Wright replied that he answered a call for service.

Officer Aragon’s video ended and it was 37 minutes long.

#### **Review of Officer Keating Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Keaton responded to 1330 Boylston Street and Sergeant Cottone asked for his name and badge number. He complied and gave his information to her. Officer Antonino was already there with Sergeant Wright. The officers watched the group and did not have contact with the group. Sergeant Cottone can be heard stating that the manager (Mr. Johnson) must have turned off the phone inside the pizzeria and called him “tyrant man.” She ranted about leaders acting as tyrants and people thinking that they can act as tyrants. She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civic lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. Most dysfunctional family I belonged to and I’m not being quiet anymore, going to take my job but I won’t!” As the group started to leave, she states to Sergeant Wright “you will have to tell your kids and grandkids what you did.” “You are corrupt, you are a yes man. I didn’t sign up to do this. I signed up to care for people and protect their rights. Maybe if you would have showed up to my roll call leading up to this, you would understand.” Officer Keaton’s video ended and it was 13 minutes long.

#### **Review of Officer Antonino Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Antonino responded to 1330 Boylston Street to relieve the day shift officers (Aragones and Dowling). Sergeant Cottone stated to Officer Antonino that because Sergeant Wright brought him there, she would need his name and badge number. Officer Antonino gave his name and badge number to Sergeant Cottone. She yelled out to Mr. Johnson, “manager man,

did you turn off the phones because you're being a little tyrant." One of the females in the group was laughing at the statement and stated "manager man did you turn the phone off." She then stated "Tyranny is contagious when they think they can act like their leaders they act like tyrants. Very dangerous, this status quo happens people think that this is normal. This is not normal guys."

Sergeant Cottone stated to customers "guys make sure that you check your receipts cause he (Mr. Johnson) is a liar, he tried to get me in trouble that I didn't pay for my pizza and that he is charging the proper price of the pizza. Officer Keaton arrived on the scene and Sergeant Cottone requested his name and badge number.

Sergeant Cottone stated "this is not normal, three years ago, we would have laughed and said not in our country. This is not our country guys." She then rants on about Mayor Wu and stated "she does not belong in politics, that she is not a leader and shouldn't be in politics." Sergeant Cottone stated to Sergeant Wright, "little tyrant mayor man, we can teach you about people's rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. The most dysfunctional family I belonged to and I'm not being quiet anymore, going to take my job but I won't!" As the group left, Sergeant Cottone stated to Sergeant Wright "you will have to tell your kids and grandkids what you did." "You are corrupt, you are a yes man. I didn't sign up to do this. I signed up to care for people and protect rights. Maybe if you would have showed up to my roll call leading up to this, you would understand." Officer Antonino's video ended and it was 20 minutes long.

### **Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.

- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragonés, Dowling, Keaton, and Antonino.
- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone's residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D'Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not working at that time but that the cameras were now working. No video footage for that date.
- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:

- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of

the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, the 20th of April of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

### **Investigation Summary:**

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph interviewed Officer Jordan Aragon. Sergeant Palomares inquired as to what took place at 1330 Regina Pizzeria on the 15<sup>th</sup> of January of 2022. He stated that his unit the D201D was dispatched to 1330 Boylston street for a protest. He was working with Officer Anthony Dowling in the wagon. The officers walked inside the

establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officers that there was a group inside the pizzeria protesting the city vaccine mandate. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. He advised the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside as well and they did not want to speak outside. Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer and she had been one of his supervisors. Officer Dowling requested a patrol supervisor respond to the scene. Sergeant Cottone had requested the names and badge numbers of the officers and they complied and gave the information. Officer Aragonés also stated they had their faces covered with masks and it was not very easy to recognize them. When the officers gave their names, Sergeant Cottone recognized Officer Dowling and started calling him Anthony and called them naughty boys.

Sergeant John Wright arrived at the scene and spoke to the manager about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of pizzas. The group sat there and ate the pizzas. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved by Officers Keaton and Antonino and they headed back to the station to write the police report.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Officer Anthony Dowling. Officer Dowling stated that he and Officer Aragonés responded to the protest at Regina Pizzeria. Upon entering the pizzeria, he recognized Sergeant Cottone. Sergeant Palomares asked how he knew Sergeant Cottone and he stated she worked at A1 with his father. Sergeant Cottone had asked for the officers' names and badge numbers. When Dowling gave his name, she recognized him and began calling him Anthony. Also stated to him "you don't want to do this, this is not how policing is done."

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Sergeant John Wright. Sergeant Wright stated that the police officers at Regina Pizzeria requested a patrol supervisor to respond to the scene. He responded and spoke to the manager (Mr. Johnson) and the group about the mandate. The group did not want to wear a mask or show proof of vaccination to eat inside of the pizzeria. Sergeant Cottone asked for the supervisor's name and badge. Mr. Johnson stated that Cottone had not paid for the bottle of water. Sergeant Cottone stated that she had attempted to pay the employee but he did not take the money because she was not wearing a mask. She



decided to place the money inside the tip jar and Mr. Johnson was not present for that exchange. Sergeant Cottone also tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated. She was also very confrontational with Sergeant Wright at the scene. Sergeant Palomares inquired how he felt about the situation and he stated he felt disrespected and that Sergeant Cottone made the situation personal. The investigators also asked about the group trespassing at the pizzeria. Sergeant Wright stated that he used prudence to assess the situation because it was the first day of the mandate. He used his discretion and let the group finish eating and let the group leave on their own. He felt that if they had been arrested for trespass it would have turned out worst in the end.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Christopher Keaton. Sergeant Palomares inquired what he recalled of the incident on the 15<sup>th</sup> of January 2022. Officer Keaton stated that he had worked a day tour on overtime at D4 (South End/Back Bay Police Station). The duty supervisor requested that he head over to Regina Pizzeria to relieve the day shift officers (Aragones/Dowling). Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and comments directed at the manager (Mr. Johnson).

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Thomas Antonino. Sergeant Palomares inquired if he had responded to Regina Pizzeria on January 15<sup>th</sup> of 2022. He stated that he had responded to relieve the day units. Sergeant Wright and Officers Aragones and Dowling were on the scene. Officers Aragones and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group consisted of five females who were very rude to the manager (Mr. Johnson). Sergeant Cottone asked Officer Antonino for his name and badge number for the lawsuit. Sergeant Cottone was the speaker of the group and directed derogatory comments toward Mr. Johnson and Sergeant Wright. Once the group was done eating they left the pizzeria.

On Thursday, 10<sup>th</sup> of March 2022 at 10:00 a.m., Sergeant Shana Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone invoked her Carney rights and signed a waiver. She was legally represented by her own personal attorney William Gans along with Attorney Patrick Bryant representing the Boston Police Superior Officers Federation. Sergeant Jeanie Carroll and Lieutenant Timothy Kervin were also present as her union representatives (Boston Superior Officers Federation). On that date, she was not interviewed.



A second interview was requested and scheduled for Wednesday, 20<sup>th</sup> of April 2022 at 11:00 a.m. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Superior Officers Federation along with union representative Sergeant Jeanie Carroll of the Federation. The interview was audio recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo. When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift. Sergeant Cottone did not answer investigatory questions and was on record invoking her Carney privilege to all the questions.

Sergeant Palomares has made attempts to contact Kenneth Johnson for an interview regarding this investigation. At this time, Mr. Johnson has not contacted Sergeant Palomares regarding an interview. A certified contact letter was sent to his residence. Sergeant Palomares received the certified letter marked "unable to forward."

As part of this investigation, the investigator viewed all of the officer's body-worn camera videos. The officers (Aragones and Dowling) had responded to a 911 call that was initiated by Kenneth Johnson, the manager of the pizzeria. The officers spoke to Mr. Johnson and he stated the group was not cooperative regarding the mandate and would not wear masks or leave the premises. The officers explained the mandate to the group. If they did not comply with the mandate they would have to leave. That day was the first day of the vaccination mandate policy initiated by Mayor Wu.

The group was at the pizzeria protesting the mandate. The group was led by Sergeant Cottone who was recognized by Officer Dowling at the scene. She also recognized Officer Dowling after she obtained their names and badge numbers for her lawsuit. In the video, she called him "Anthony." She further stated to Officer Dowling that he was being a naughty boy, don't do this, this is not how policing is done, don't walk away from me." The group was argumentative and disrespectful. Sergeant Cottone never identified herself to the officers or Sergeant Wright. The entire time she was offensive, quarrelsome, and challenged the officer's authority at the pizzeria.

When the dispute over the water was brought to the attention of the officers she demanded that the officers not take a police report. Sergeant Wright tried to explain that a police report would document both sides of the dispute regarding payment of the water. She replied "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view

the camera!” She was belligerent and insolent towards Sergeant Wright and Mr. Johnson. She directed comments to Sergeant Wright repeatedly calling him a corrupt cop.

The matter could have been resolved in a different manner or in a nonconfrontational manner. The officers at the scene had been called Nazis, and Cottone referred to them as “high-steppers” for doing their job and that they didn’t want to do the right thing. She also questioned their oath and duty as police officers because they had to address the group’s behavior at the pizzeria. When she was asked to identify herself for the police report to document the dispute over payment she stated “no.” She demanded that every officer give their name and badge number for her list to sue. She threatened the officers and the manager with lawsuits.

Mr. Johnson stated that he wanted the group to leave, he was just trying to run a business and was following the mandate. He was doing everything that the Mayor of Boston set forth in the mandate. The mandate had gone into effect on the 15<sup>th</sup> of January 2022 and required proof of COVID-19 vaccination for entry into indoor dining, entertainment, recreation, and fitness establishments. Businesses were required to place a sign at the front entrance and check customers’ vaccination proof upon entry. On the date of the incident, Mr. Johnson was abiding by the mandate and was placed in a difficult position by having to call 911 to address the disturbance inside the pizzeria by Sergeant Cottone’s group.

The entire time the group was at the pizzeria Sergeant Cottone fumed about Mayor Wu. She spoke of leaders acting as tyrants and people think that they can act as tyrants. “This is not normal. Three years ago, we would have laughed and said not in our country. This is not our country guys. She does not belong in politics, that she is not a leader and shouldn’t be in politics.” She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing.” The officers at the scene along with Sergeant Wright never discussed politics and were professional. Sergeant Wright never responded to the unprofessional and disrespectful comments directed at him.

Officers have been trained in the police academy on the rules and procedures of the Boston Police Department. “Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department.” Sergeant Cottone’s conduct was inappropriate and unbefitting a Boston Police Superior Officer. Officers have also been trained in the respectful treatment of others. “Employees shall, on all occasions be civil, respectful, courteous, and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public.” Sergeant Cottone did not exhibit any of these qualities on the 15<sup>th</sup> of January. What was exhibited to the police officers and Mr. Johnson was contemptuous and discourteous conduct.

An officer has opinions. The manner in which Sergeant Cottone expressed her opinions was not within the rules and procedures. “Employees shall not publicly criticize or ridicule the Department, its policies, or other employees by speech, writing, or expression in any manner when such speech, writing, or other expression is defamatory, unlawful, interferes with the maintenance of discipline, or is made with reckless disregard of its truth or falsity.

Sergeant Wright utilized his discretion in dealing with the group trespassing at the pizzeria. Mr. Johnson had requested several times that he wanted the group to leave and had stated it to the officers. During Sergeant Wright’s interview, he was asked about the group trespassing. He stated that he used his discretion and was prudent in whether or not to arrest. He believed that it was better to let the group finish eating and they would leave on their own. It was the first day of the mandate and it could have turned out worst to arrest the group for trespassing.

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard

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Legal Advisor

## **Attachments**

1. Complaint Submission by Deputy Superintendent Eddy Chrispin.
2. Boston Police Incident Report CC# 222003233.
3. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.
4. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.
5. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.
6. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.
7. Form 26 reports from the officers who responded to the scene.
8. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.
9. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit
10. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.
11. Sergeant Cottone's Signed Carney Waiver

**Violation:**                    Rule 102, § 3 Conduct Unbecoming  
                                     Rule 102, § 9 Respectful Treatment  
                                     Rule 102, § 19 Statement of Opinion  
                                     Rule 102, § 35 Conformance to Laws

**Complainant:**            Deputy Superintendent Eddy Chrispin  
                                     Assistant Chief, Bureau of Professional Standards  
                                     Internal Investigations Unit  
                                     Boston Police Department  
                                     1 Schroeder Plaza  
                                     Boston, MA 02120-2014

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2022-0015.

### **Summary of Complaint:**

*“The following narrative was taken from Boston Police Report I# 222003233:*

*At about 3:20 PM on Saturday 01/15/2022 Officers Aragonés and Dowling in the D201D responded to a radio call for a protest at 1330 Boylston Street (Regina Pizzeria) Boston, Ma. The following is summary of the events that took place not a word for word account:*

*Upon arrival officers met with the store manager (Kenneth Johnson) who stated that a group of females came into the store and sat down and wanted to order food. Mr. Johnson stated he asked the group for proof of their Covid-19 vaccine due to the new city mandate. The group then refused to show Mr. Johnson any proof of vaccination. Mr. Johnson stated he then called the police to remove the group due to them not following the new mandate.*

*Officers then spoke to the group that consisted of Ms. Shana Cottone and 5 unknown females who refused to identify themselves. The group stated that they were not going to show proof of vaccination and that they bought one bottle of water. Officers spoke to Mr. Johnson again who stated that one of the workers handed Ms. Cottone a bottle of water assuming she would go pay for it at the register. He stated that she did not pay for the water at the register and there is no record of her purchase of the water. Officers attempted to obtain video surveillance to which Mr. Johnson stated the cameras were not working. Ms. Cottone stated that she put \$2 in the tip jar for the bottled water. Officers asked the group to leave the restaurant several times and refused. Officers then requested a patrol supervisor to the scene. D909 (Wright) arrived on scene and spoke with the group. The group again refused to leave and officers stated that they were remaining on scene until the group left the premises. An unknown male then dropped two pizzas off to the group at their table and then left the restaurant. Officers Aragonés and Dowling were then relieved at the scene at about 4:10PM by the DT55F (Keaton) and the D499F (Antonino) still accompanied by the D909. The group then finished their pizza and left the restaurant.”*

**Summary of Interview with Officer Jordan Aragonés ID# 153073 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Jordan Aragonés provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Aragonés was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement.

Officer Aragonés relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Aragonés reported that his badge number was 5230, that his department ID number was 153073, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the day shift.

Sergeant Palomares inquired about what took place at 1330 Pizzeria Regina on the 15<sup>th</sup> of January of 2022. Officer Aragonés stated that his unit the D201D was dispatched to 1330 Boylston Street for a protest. Officer Aragonés stepped out of the wagon and did not observe any protesters outside of Regina Pizzeria. The officer walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officer that there was a group inside the pizzeria protesting the city vaccine mandate.

Officer Aragonés notified his partner and informed him (Officer Dowling) that the protest was inside. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. They could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside but the group did not want to speak outside. At this time, Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer. Dowling notified the dispatcher and requested for a patrol supervisor to respond to the call.

Sergeant Cottone requested the names and badge numbers of the officers. The officers complied and gave their names and badge numbers. Officer Aragonés also stated he and Dowling were wearing face masks and were not recognizable. Upon giving the group their names, the female (Sergeant Cottone) started calling Dowling by his first name (Anthony) and calling them naughty boys. Sergeant John Wright arrived at the scene and spoke to the manager (Mr. Johnson) about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of Regina pizzas. The group sat there and ate the pizzas.

Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved and they headed back to the station.

Officer Dowling recognized Sergeant Shana Cottone because she had been his supervisor when he was assigned to District E5 (Roslindale/West Roxbury Police Station) as a patrol supervisor. Officer Aragonés stated that she (Sergeant Cottone) was the main speaker of the

group. The officers were called “Nazis” and “naughty boys.” The group was asked to leave several times.

This interview concluded at about 10:31 a.m.

**Summary of Interview with Officer Anthony Dowling ID# 153152 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Anthony Dowling provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Dowling was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Dowling relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Dowling reported that his badge number was 5162, that his department ID number was 153152, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

He was asked if he was working on the 15<sup>th</sup> of January of 2022 at 3:20 p.m. Officer Dowling stated that he was working that day as the D201D with Officer Aragonés and they responded to a protest at 1330 Boylston Street at Regina Pizzeria.

They responded to the location and did not observe any protestors outside. They went inside and observed a group of women with a child at the table. He observed Sergeant Cottone sitting at a table and knew that she worked at E5 (West Roxbury/Roslindale Police Station). Officer Dowling attempted to limit engagement with Sergeant Cottone and the group. They asked the group if they ordered food. There was a dispute over a bottle of water and whether she had paid or put the money in the tip jar. Someone ordered two boxes of pizzas and dropped them



off at the table and the group started to eat in front of the officers. Sergeant Wright had advised them of the mandate.

The interaction between Sergeant Cottone and Officer Dowling started when he asked the group if they had ordered food. She asked for his name and badge number. That was when she recognized him and kept calling him Anthony and that he was being a naughty boy and don't do this. Dowling had worked at E5 for 6 months in 2019 and Sergeant Cottone was one of his supervisors. He called for a patrol supervisor to respond to the scene. The investigators asked if there was evidence of Sergeant Cottone putting money in the tip jar? Dowling stated that there was no evidence and the manager had informed the officers upon arriving at the scene. The officers were later relieved by Officers Keaton and Antonino. It was also stated that the vaccination mandate (proof of vaccination) policy had gone into effect that day and the group refused to show papers to the manager and it was the manager who initiated the 911 call.

This recorded interview concluded at 10:52 a.m.

**Summary of Interview with Sergeant John Wright ID# 10746 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant John Wright provided the following information in narrative form and direct questioning.

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

Prior to the interview, Sergeant Wright was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Wright relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Wright reported that his badge number was 469, that his department ID number was 10746, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Sergeant Wright was asked if he was working on the date of the incident and he stated that he was working the First Half shift and responded to 1330 Boylston Street. He stated that

the rapid (D201D/Aragones-Dowling) at the scene had requested a Patrol Supervisor to respond to the scene. He further stated that the 15<sup>th</sup> of January was the first day of the vaccine mandate and there was a group refusing to wear a mask and refusing to provide proof of vaccination. Officer Aragones had advised him of the group. Sergeant Wright passed on the information on the vaccine mandate to the manager of the pizzeria (Mr. Johnson) and the group. There was someone who purchased a pizza for the group. The group berated the officers, ate their food, and then left. He was asked if he knew the white female (Sergeant Cottone) in the overalls. He stated that he recognized her from when she worked at District B2 (Roxbury Police Station) and when they were students at Curry College.

At the scene, Sergeant Cottone asked for Sergeant Wright's name badge number and he gave it to her. She was confrontational with him and called him corrupt. Mr. Johnson (manager) had a dispute over the payment of the bottle of water. It was later determined that the money was placed in the tip jar. She stated to him "don't be wrong Wright." Sergeant Wright called the Duty Supervisor at the station and advised the supervisor that the officers would wait out the group and to please send relief. The officers waited till the group left.

Sergeant Palomares inquired how he felt about the situation. He stated that he felt disrespected and that when dealing with the public and other officers it should not be personal. She made it personal when she called the officers corrupt with no proof. Sergeant Wright stated that Sergeant Cottone stated that they (officers) were picking on women and a child. The sergeant believed that she was looking for a situation to incite the officers.

The officers waited till the group finished eating and they left the pizzeria. The incident was documented and his commander was notified of the situation. In the incident regarding the water bottle, she had tried to pay the employee behind the counter. The employee had told her that she was all set and she then placed the money in the tip jar as payment for the water. Sergeant Cottone had attempted to pay the employee but he did not take the money because she was not wearing a mask. Mr. Johnson was not present for that exchange. She taunted the Sergeant and another officer who she recognized. Sergeant Cottone tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated.

Sergeant Wright also spoke of the video dispute at the restaurant. He spoke to Mr. Johnson and requested to view the video but there was no video to view to help clarify the tip jar incident. The manager stated that there was no video because the video system was not working. The group was advised several times of the mandate in regards to eating inside of the establishment. No charges were brought against any of the group members. The sergeant decided it was in the best interest of everyone to wait it out and let the group eat their food. He

stated that he used prudence because it was the first day of the mandate and it could have turned out worst if arrests were made.

This recorded interview concluded at 3:25 p.m.

**Summary of Interview with Officer Christopher Keaton ID# 126508 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Christopher Keaton provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Keaton was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Keaton relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Keaton recalled what happened at the location of Regina Pizzeria. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the officers there. Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and the comments directed at the manager (Mr. Johnson).

Sergeant Palomares inquired how he knew Sergeant Cottone? Officer Keaton stated his father worked at A1 (Downtown/Charlestown Police Station) and when he would visit his father he would see Shana Cottone who was a patrol officer at the time. Officer Keaton was aware of the group that was at the pizzeria. She spoke of suing him but believed that she did not recognize him because he was wearing a mask. The group finished eating and left on their own.

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonese and Dowling. The Officers Aragonese and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group was about five females who were very rude to the manager. Officer Antonino was asked for his name and badge number for the lawsuit. Sergeant Cottone directed comments at Sergeant Wright. Officer Antonino had been advised of Sergeant Cottone before heading to relieve the officers. Sergeant Cottone was the main speaker of the group and directed derogatory comments to the manager (Mr. Johnson) and Sergeant Wright. Officer Antonino stated that once the group finished eating they left. The officers had no interaction with the group and let them eat their pizzas. Sergeant Wright never got into a confrontation with the group or Sergeant Cottone when she was directing statements to Sergeant Wright regarding his family and children.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.

On Thursday, the 10th of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and invoked her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

On Wednesday, the 20<sup>th</sup> of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled second interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation). The interview was audio-recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift.

Sergeant Cottone did not answer questions and was on record invoking her Carney privilege to all the questions asked by Sergeant Palomares.

The recorded interview concluded at 12:51 p.m.

**Summary of Interview with Kenneth Johnson (manager of Regina Pizzeria/WITNESS):**

Sergeant Lucia Palomares has made attempts to speak to Mr. Johnson regarding the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022. A certified contact letter was also sent and another phone call was made on the 3<sup>rd</sup> of April 2022.

**Review of Officer Dowling Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Dowling and regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officers had responded to a radio call at 1330 Boylston Street for protestors. Officer Aragon was speaking to Sergeant

Cottone (white female, wearing a cap, overalls, and sweatshirt) and she stated: “why are you here, what is your purpose?” She further stated that the police were not supposed to enforce the mandate, she would not show papers, and that she purchased a bottle of water. Aragonese requested to see their vaccination papers, but the group refused and stated that they would sit there. Dowling called for a patrol supervisor to the scene, Cottone stated to Officer Aragonese that he was violating their rights. She continued by stating that they were violating their rights by enforcing the vaccine mandate and why were they doing that. She later asked for Aragonese name and badge number. Cottone stepped away from the table and the group continued their confrontation with the officers.

Mr. Johnson (manager, black male, 50-60-yrs-old) explained to the officers that he was trying to get them to leave and that he was trying to run a business. While the manager was speaking to the officers and the group yelled out “Nazis” and a black female protester stated “it was a shame black people discriminate and you turning your back on your people. Segregation was started on this holiday and everyone has an opinion and a choice.” The officers stated in response, “we just working doing our job.” The group stated “so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis.”

One of the females stated to the officers “your mayor is not my mayor.” Cottone returned to the table and stated to the officers, “if you not going by your oath you shouldn’t be doing this job, you understand. Just working. It’s a cop-out and you on the wrong side copping out to violating our rights.” Cottone repeatedly stated to the officers “you being naughty boys, history has shown how you trample on the rights of people and you guys are the bad guys.” The officers listened and one of the females stated “Martin Luther King said that it is our moral obligation to not obey an unjust law.”

Officer Dowling inquired if they had purchased the water there, as Sergeant Cottone sat at the table drinking her water. She then stated “this is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don’t want to do this but you need to be on the right side of this one. 14 years, 14 years!” 14 years of what asked Dowling and she stated “you know that.” Cottone continued speaking and stated, “time to make a choice boys.” “You don’t have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don’t walk away from me, you don’t have to do this.” Officer Dowling walked away from Sergeant Cottone to keep his distance.

Mr. Johnson (manager) expressed to the officers that he felt that the group was harassing him. He was trying to run a business and explained to the group that he was following the rules. The group did not order food and a person kept calling and stating that my friends were being harassed by the police. The caller also stated to give them the pizza. Mr. Johnson stated that only a bottle of water had been purchased.

Sergeant Wright arrived at the scene and spoke to Mr. Johnson and explained that a vaccination card has to be shown or they cannot be served. Sergeant Wright also spoke to the group that if they did not show a vaccination card they would have to leave. Cottone replied that she had purchased an item and was enjoying her beverage and he (Sergeant Wright) was going to leave her alone. Cottone stated that Mayor Wu said that the police would not be involved regarding the mandate and asked Wright what was he doing there. She further stated, "you gonna leave me alone and I am gonna enjoy my beverage!"

Sergeant Wright then asked the employees what time the pizzeria closed and they stated 8:30 p.m., and he and the officers sat down at one of the tables. Mr. Johnson advised Officer Aragonese that Sergeant Cottone had not paid for the bottle of water. Sergeant Cottone heard the conversation and stated, "I put it in the tip jar you little liar! You lying!" Mr. Johnson and Cottone argued over the purchase of the water. Cottone stated that I put it in the tip jar and Johnson stated that she did not put money in the tip jar. Cottone demanded that the officers view the cameras. Sergeant Wright and Officer Dowling walk back out to the group and Sergeant Wright stated to the group that the tip jar was for tips. Cottone confronted Sergeant Wright and stated "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee, you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view the camera!" She further stated that she tried to pay but the employee would not take the money.

Sergeant Wright stated to her that they would take a police report and take both statements. She stated "no you will not take a report! Go look at the footage! You are a corrupt cop and you are falsely testifying!" Sergeant Wright asked her if she was willing to give her name and identification and she stated "no, I am not!" Sergeant Wright asked Mr. Johnson if he has access to the video and he stated yes. At this point, a female yelled out "fucking liar!"

Mr. Johnson spoke to Sergeant Wright in private and stated that there was no video but that he did not want to say that in front of them (group). Wright headed back to the group and Dowling asked Wright "you know who that is right?" and Sergeant Wright stated "yes." The group stated to the officers that these mandates were not laws. The officers inquired if anyone wanted to identify themselves for the report. Everyone stated no. One of the females stated that her father was a police officer and was shot nine times in the head putting his life on the line and Tommy Gamperts would be disgusted.

The group was left alone and they ate their pizzas. The group kept talking about how Cottone was a hero and how she was being treated. Sergeant Cottone replied that it only takes one person to make difference. She further stated that she would have a discussion with the North End pizzeria regarding the manager (Mr. Johnson) being a little liar and that she would be suing. She stated, "they know that I paid for that water and this is a juvenile matter." One of the females stated that it's on live video. Sergeant Cottone stated that they will send it to



Sergeant Wright and do his job for him. She continued confronting Sergeant Wright and stated that he did not want to go after criminals, drug-addicted people, or help the homeless, he preferred to be with them (group). She further stated that Sergeant Wright was choosing to be there and could go Charlie Robert (clear from the call) and that there was no crime at that location. Cottone further stated to Sergeant Wright that he was wasting taxpayers' money and that was in the rules and regulations (Boston Police Rules and Regulations).

She addressed his presence as a "police state" standing there watching them eat as a show of force was intimidating because there were five women and a child and it was intimidating. Sergeant Wright was calm and did not state anything to her. She continued berating him and stated "you should go and do your job because this is not part of your job. Mayor Wu has confused you and this is not part of your job. Mayor Wu said the police were not enforcing this." Officer Dowling's video ended and it was 37:00 minutes long.

### **Review of Officer Aragon's Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Aragon's regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officer had responded to a radio call at 1330 Boylston Street for protestors.

Officer Aragon's spoke to the manager (Kenneth Johnson) who stated that they (a group of protestors) won't buy anything and wanted them to leave but they would not leave. Aragon's was joined by his partner Officer Dowling. Sergeant Cottone questioned Aragon's as to what was his purpose and why was he there. Officer Aragon's clarified to her that the pizzeria was a private establishment and that if they (the group) did not show papers (vaccination cards) they would have to leave. Sergeant Cottone stated to Officer Aragon's that they were not showing papers. Officer Aragon's clarified to the group that they could not dine in but could order the food to go and would have to leave.

Sergeant Cottone stated, "listen to me, listen to me, you are walking thin line and police are not supposed to enforce the mandate!" Officer Aragon's stated to Sergeant Cottone "you can leave" and the group stated that they can stay. Officers Aragon's and Dowling stated to Cottone that they were not violating their rights. Officer Dowling advised Officer Aragon's to call for a supervisor to the scene.

Sergeant Cottone was hostile and warned the officers that they were violating their (group) rights and asked for Officer Aragon's name and badge number. Sergeant Cottone stated to Officer Aragon's "why are you enforcing the vaccine "passport" and why are you doing that?" Aragon's advised Sergeant Rodriguez on the phone that they had protestors at Regina Pizzeria who would not show vaccine cards and one of them was an officer.



Officer Aragonés notified Mr. Johnson that a supervisor was responding to the location. Mr. Johnson advised Officer Aragonés that there was a person calling about the group. The group leveled comments at the officers regarding choices, opinions, comparing the officers to Nazi Germany, and segregation. One of the females stated, "Nazi's also said doing my job, rights are being violated and your Mayor is not my Mayor." Sergeant Cottone had stepped away from the table and later walked back to the group and sat down. Cottone stated to the officers that they were on the wrong side of this and if they won't stand by their oath they shouldn't be on the job. The officers stated to her "just working." Sergeant Cottone stated "coping out to violating our rights. You're being naughty boys." "History has shown us that high steppers like you trample on the rights of the innocent. You go down in history as the bad guys." One of the females stated to Aragonés "Martin Luther King said it is our obligation to disobey an unjust law."

Did you buy something here Dowling asked the group? Cottone stated you gonna leave me alone and enjoy my beverage. She continues on about "14 years, 14 years. Dowling asked 14 years what? "You know what! Time to make a choice boys. You don't have to do this Anthony, this is not how it's done." She further stated that a classmate resigned and gave away his gun and badge. Cottone stated, "they took my gun and badge a week and a half ago." "You are corrupted by money. This is wrong." Officer Aragonés stated to the group "you are all being recorded and you are all expressing opinions." Aragonés also advised them that he was not threatened by the group.

Sergeant Wright arrived at the scene Officer Aragonés advised him of the group protesting the vaccine mandate and that one of the protesters was a police officer and they did not order anything except a bottle of water. Sergeant Wright spoke to Mr. Johnson (manager) about the mandate. Sergeant Wright advised Mr. Johnson that if they do not show a vaccination card they cannot be served in the city. Johnson stated that he understood the mandate. Officer Aragonés asked Johnson for his information for the police report.

Wright and Dowling spoke to the group. Cottone was the speaker for the group. Sergeant Wright stated, "we will wait and let her enjoy her water" and asked Johnson what time they closed Johnson stated at 8:30 p.m. Wright advised the officers (Aragonés and Dowling) that they would wait it out.

Mr. Johnson explained the situation regarding the bottle of water to Officer Aragonés. An employee gave Cottone a bottle of water and he assumed that she would pay. She did not pay or put anything in the tip jar. The dispute continued between Johnson and Cottone in front of the officers and the group. Cottone yelled out "he is a liar." Mr. Johnson stated that they (the group) made racial comments and threats toward him. Sergeant Cottone yelled out "don't play these games with me, I tried to pay for the bottle of water and he (the employee) would not take the money. It's like when you get free coffee you put the money in the tip jar."

Sergeant Wright informed her that the officers would take a police report and she yelled back “no you will not take a report. You gonna get the footage, don’t play with me. Don’t play games with me, you gonna look at the footage.” Sergeant Wright requested Cottone’s name for the report and she would not cooperate and kept stating to look at the footage. She stated “You are a corrupt, corrupt man! You are falsely testifying I will sue you. I want the footage.”

Sergeant Wright inquired if Mr. Johnson had access to the video and Mr. Johnson, stated “yes” and the officers walked to the back area of the kitchen. One of the females in the group yelled out “you fucking liar” directed at Mr. Johnson. Another female wanted to know if the police will reprimand the manager for filing a false police report.

Sergeant Wright walked back to speak to the group. Sergeant Wright advised the manager that the police would take a police report of “he said she said.” This angered Sergeant Cottone who stated, “this is not he said she said and you have access to the video.” The group challenged Sergeant Wright regarding the police report. Sergeant Cottone stated to Sergeant Wright “bullshit, you’re bullshit!” Sergeant Wright continued explaining that both sides would be represented in the report. Officer Aragonese requested Sergeant Cottone’s name and she stated “no.” Officer Aragonese was gathering information for the police report and Sergeant Cottone yelled out “you can’t take the report, he is not a credible witness, Sergeant Wright you hear me!” Sergeant Wright replied, “yeah I hear you.”

Sergeant Cottone replied “You are a corrupt cop. It is your opinion, not based on observations and you choose to be a corrupt cop. What is your name and badge name?” Sergeant Wright calmly gave his name and badge number. Sergeant Cottone continued being confrontational towards the supervisor and stated “Shame on you, disgusting, you’re a disgrace. You have the choice to do the right thing but you choose to be part of this corrupt system. Officer Aragonese spoke to the employees regarding the situation and the employee believed that she would pay for the water.

The group stated to the officers “your Mayor does not care about you. We stand on your side for you. You are ashamed you can’t look me in the eye. Mayor Wu said the police would not be involved. You are ashamed and you need to take a stand, not personal guys.” Sergeant Cottone stated “you don’t know me, I am a person. Can’t tell us we can’t eat.” Two boxes of pizzas were dropped off at the group’s table. They were taking photos and videos of themselves eating the pizza and the officers standing nearby. She stated, “I want to give a shout out to Eddy Chrispin to stop violating my rights.” The officers watched the group as they ate their pizzas.

Officer Aragonese inquired from the group if anyone wanted to identify themselves for the police report. Sergeant Cottone stated “they have not done anything to identify themselves.” One of the females stated that her father was a Boston Police Officer and was shot 9 times in the head. She stated “he put his life on the line.” Sergeant Cottone stated to Sergeant Wright “we can’t eat pizza because we’re unclean and unvaccinated people.” Sergeant Wright replied “you are eating

pizza right now.” Sergeant Cottone replied, “you wanted to kick us out remember.” Sergeant Wright stated to the female “I knew your father and he was a good man and tell him I say hello.” She stated “he would be very disappointed with you.

One of the females described Sergeant Cottone as a hero and that this was how she was treated. Sergeant Cottone replied that it takes one person to make a difference. Cottone further stated that she would have a conversation with Regina Pizzeria headquarters and report the manager (Mr. Johnson) and how he falsely testified against customers. She stated “I don’t want to sue Regina Pizzeria; the manager was lying and they know that I paid for the water.” One of the women stated it was on video in real-time that Sergeant Cottone paid for the water. Sergeant Cottone confronted Sergeant Wright and stated that he did not want to do his job and help others or fight crime. She stated that he would rather stay there with them and waste taxpayer dollars. Sergeant Wright replied that he answered a call for service.

Officer Aragon’s video ended and it was 37 minutes long.

#### **Review of Officer Keating Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Keaton responded to 1330 Boylston Street and Sergeant Cottone asked for his name and badge number. He complied and gave his information to her. Officer Antonino was already there with Sergeant Wright. The officers watched the group and did not have contact with the group. Sergeant Cottone can be heard stating that the manager (Mr. Johnson) must have turned off the phone inside the pizzeria and called him “tyrant man.” She ranted about leaders acting as tyrants and people thinking that they can act as tyrants. She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civic lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. Most dysfunctional family I belonged to and I’m not being quiet anymore, going to take my job but I won’t!” As the group started to leave, she states to Sergeant Wright “you will have to tell your kids and grandkids what you did.” “You are corrupt, you are a yes man. I didn’t sign up to do this. I signed up to care for people and protect their rights. Maybe if you would have showed up to my roll call leading up to this, you would understand.” Officer Keaton’s video ended and it was 13 minutes long.

#### **Review of Officer Antonino Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Antonino responded to 1330 Boylston Street to relieve the day shift officers (Aragones and Dowling). Sergeant Cottone stated to Officer Antonino that because Sergeant Wright brought him there, she would need his name and badge number. Officer Antonino gave his name and badge number to Sergeant Cottone. She yelled out to Mr. Johnson, “manager man,

did you turn off the phones because you're being a little tyrant." One of the females in the group was laughing at the statement and stated "manager man did you turn the phone off." She then stated "Tyranny is contagious when they think they can act like their leaders they act like tyrants. Very dangerous, this status quo happens people think that this is normal. This is not normal guys."

Sergeant Cottone stated to customers "guys make sure that you check your receipts cause he (Mr. Johnson) is a liar, he tried to get me in trouble that I didn't pay for my pizza and that he is charging the proper price of the pizza. Officer Keaton arrived on the scene and Sergeant Cottone requested his name and badge number.

Sergeant Cottone stated "this is not normal, three years ago, we would have laughed and said not in our country. This is not our country guys." She then rants on about Mayor Wu and stated "she does not belong in politics, that she is not a leader and shouldn't be in politics." Sergeant Cottone stated to Sergeant Wright, "little tyrant mayor man, we can teach you about people's rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. The most dysfunctional family I belonged to and I'm not being quiet anymore, going to take my job but I won't!" As the group left, Sergeant Cottone stated to Sergeant Wright "you will have to tell your kids and grandkids what you did." "You are corrupt, you are a yes man. I didn't sign up to do this. I signed up to care for people and protect rights. Maybe if you would have showed up to my roll call leading up to this, you would understand." Officer Antonino's video ended and it was 20 minutes long.

### **Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.

- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragonés, Dowling, Keaton, and Antonino.
- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone's residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D'Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not working at that time but that the cameras were now working. No video footage for that date.
- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:

- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of

the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, the 20th of April of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

### **Investigation Summary:**

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph interviewed Officer Jordan Aragon. Sergeant Palomares inquired as to what took place at 1330 Regina Pizzeria on the 15<sup>th</sup> of January of 2022. He stated that his unit the D201D was dispatched to 1330 Boylston street for a protest. He was working with Officer Anthony Dowling in the wagon. The officers walked inside the

establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officers that there was a group inside the pizzeria protesting the city vaccine mandate. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. He advised the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside as well and they did not want to speak outside. Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer and she had been one of his supervisors. Officer Dowling requested a patrol supervisor respond to the scene. Sergeant Cottone had requested the names and badge numbers of the officers and they complied and gave the information. Officer Aragonés also stated they had their faces covered with masks and it was not very easy to recognize them. When the officers gave their names, Sergeant Cottone recognized Officer Dowling and started calling him Anthony and called them naughty boys.

Sergeant John Wright arrived at the scene and spoke to the manager about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of pizzas. The group sat there and ate the pizzas. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved by Officers Keaton and Antonino and they headed back to the station to write the police report.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Officer Anthony Dowling. Officer Dowling stated that he and Officer Aragonés responded to the protest at Regina Pizzeria. Upon entering the pizzeria, he recognized Sergeant Cottone. Sergeant Palomares asked how he knew Sergeant Cottone and he stated she worked at A1 with his father. Sergeant Cottone had asked for the officers' names and badge numbers. When Dowling gave his name, she recognized him and began calling him Anthony. Also stated to him "you don't want to do this, this is not how policing is done."

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Sergeant John Wright. Sergeant Wright stated that the police officers at Regina Pizzeria requested a patrol supervisor to respond to the scene. He responded and spoke to the manager (Mr. Johnson) and the group about the mandate. The group did not want to wear a mask or show proof of vaccination to eat inside of the pizzeria. Sergeant Cottone asked for the supervisor's name and badge. Mr. Johnson stated that Cottone had not paid for the bottle of water. Sergeant Cottone stated that she had attempted to pay the employee but he did not take the money because she was not wearing a mask. She



decided to place the money inside the tip jar and Mr. Johnson was not present for that exchange. Sergeant Cottone also tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated. She was also very confrontational with Sergeant Wright at the scene. Sergeant Palomares inquired how he felt about the situation and he stated he felt disrespected and that Sergeant Cottone made the situation personal. The investigators also asked about the group trespassing at the pizzeria. Sergeant Wright stated that he used prudence to assess the situation because it was the first day of the mandate. He used his discretion and let the group finish eating and let the group leave on their own. He felt that if they had been arrested for trespass it would have turned out worst in the end.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Christopher Keaton. Sergeant Palomares inquired what he recalled of the incident on the 15<sup>th</sup> of January 2022. Officer Keaton stated that he had worked a day tour on overtime at D4 (South End/Back Bay Police Station). The duty supervisor requested that he head over to Regina Pizzeria to relieve the day shift officers (Aragones/Dowling). Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and comments directed at the manager (Mr. Johnson).

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Thomas Antonino. Sergeant Palomares inquired if he had responded to Regina Pizzeria on January 15<sup>th</sup> of 2022. He stated that he had responded to relieve the day units. Sergeant Wright and Officers Aragones and Dowling were on the scene. Officers Aragones and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group consisted of five females who were very rude to the manager (Mr. Johnson). Sergeant Cottone asked Officer Antonino for his name and badge number for the lawsuit. Sergeant Cottone was the speaker of the group and directed derogatory comments toward Mr. Johnson and Sergeant Wright. Once the group was done eating they left the pizzeria.

On Thursday, 10<sup>th</sup> of March 2022 at 10:00 a.m., Sergeant Shana Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone invoked her Carney rights and signed a waiver. She was legally represented by her own personal attorney William Gans along with Attorney Patrick Bryant representing the Boston Police Superior Officers Federation. Sergeant Jeanie Carroll and Lieutenant Timothy Kervin were also present as her union representatives (Boston Superior Officers Federation). On that date, she was not interviewed.



A second interview was requested and scheduled for Wednesday, 20<sup>th</sup> of April 2022 at 11:00 a.m. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Superior Officers Federation along with union representative Sergeant Jeanie Carroll of the Federation. The interview was audio recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo. When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift. Sergeant Cottone did not answer investigatory questions and was on record invoking her Carney privilege to all the questions.

Sergeant Palomares has made attempts to contact Kenneth Johnson for an interview regarding this investigation. At this time, Mr. Johnson has not contacted Sergeant Palomares regarding an interview. A certified contact letter was sent to his residence. Sergeant Palomares received the certified letter marked "unable to forward."

As part of this investigation, the investigator viewed all of the officer's body-worn camera videos. The officers (Aragones and Dowling) had responded to a 911 call that was initiated by Kenneth Johnson, the manager of the pizzeria. The officers spoke to Mr. Johnson and he stated the group was not cooperative regarding the mandate and would not wear masks or leave the premises. The officers explained the mandate to the group. If they did not comply with the mandate they would have to leave. That day was the first day of the vaccination mandate policy initiated by Mayor Wu.

The group was at the pizzeria protesting the mandate. The group was led by Sergeant Cottone who was recognized by Officer Dowling at the scene. She also recognized Officer Dowling after she obtained their names and badge numbers for her lawsuit. In the video, she called him "Anthony." She further stated to Officer Dowling that he was being a naughty boy, don't do this, this is not how policing is done, don't walk away from me." The group was argumentative and disrespectful. Sergeant Cottone never identified herself to the officers or Sergeant Wright. The entire time she was offensive, quarrelsome, and challenged the officer's authority at the pizzeria.

When the dispute over the water was brought to the attention of the officers she demanded that the officers not take a police report. Sergeant Wright tried to explain that a police report would document both sides of the dispute regarding payment of the water. She replied "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view

the camera!” She was belligerent and insolent towards Sergeant Wright and Mr. Johnson. She directed comments to Sergeant Wright repeatedly calling him a corrupt cop.

The matter could have been resolved in a different manner or in a nonconfrontational manner. The officers at the scene had been called Nazis, and Cottone referred to them as “high-steppers” for doing their job and that they didn’t want to do the right thing. She also questioned their oath and duty as police officers because they had to address the group’s behavior at the pizzeria. When she was asked to identify herself for the police report to document the dispute over payment she stated “no.” She demanded that every officer give their name and badge number for her list to sue. She threatened the officers and the manager with lawsuits.

Mr. Johnson stated that he wanted the group to leave, he was just trying to run a business and was following the mandate. He was doing everything that the Mayor of Boston set forth in the mandate. The mandate had gone into effect on the 15<sup>th</sup> of January 2022 and required proof of COVID-19 vaccination for entry into indoor dining, entertainment, recreation, and fitness establishments. Businesses were required to place a sign at the front entrance and check customers’ vaccination proof upon entry. On the date of the incident, Mr. Johnson was abiding by the mandate and was placed in a difficult position by having to call 911 to address the disturbance inside the pizzeria by Sergeant Cottone’s group.

The entire time the group was at the pizzeria Sergeant Cottone fumed about Mayor Wu. She spoke of leaders acting as tyrants and people think that they can act as tyrants. “This is not normal. Three years ago, we would have laughed and said not in our country. This is not our country guys. She does not belong in politics, that she is not a leader and shouldn’t be in politics.” She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing.” The officers at the scene along with Sergeant Wright never discussed politics and were professional. Sergeant Wright never responded to the unprofessional and disrespectful comments directed at him.

Officers have been trained in the police academy on the rules and procedures of the Boston Police Department. “Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department.” Sergeant Cottone’s conduct was inappropriate and unbefitting a Boston Police Superior Officer. Officers have also been trained in the respectful treatment of others. “Employees shall, on all occasions be civil, respectful, courteous, and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public.” Sergeant Cottone did not exhibit any of these qualities on the 15<sup>th</sup> of January. What was exhibited to the police officers and Mr. Johnson was contemptuous and discourteous conduct.

An officer has opinions. The manner in which Sergeant Cottone expressed her opinions was not within the rules and procedures. “Employees shall not publicly criticize or ridicule the Department, its policies, or other employees by speech, writing, or expression in any manner when such speech, writing, or other expression is defamatory, unlawful, interferes with the maintenance of discipline, or is made with reckless disregard of its truth or falsity.

Sergeant Wright utilized his discretion in dealing with the group trespassing at the pizzeria. Mr. Johnson had requested several times that he wanted the group to leave and had stated it to the officers. During Sergeant Wright’s interview, he was asked about the group trespassing. He stated that he used his discretion and was prudent in whether or not to arrest. He believed that it was better to let the group finish eating and they would leave on their own. It was the first day of the mandate and it could have turned out worst to arrest the group for trespassing.

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard

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Legal Advisor

## **Attachments**

- 12. Complaint Submission by Deputy Superintendent Eddy Chrispin.**
- 13. Boston Police Incident Report CC# 222003233.**
- 14. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.**
- 15. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.**
- 16. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.**
- 17. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.**
- 18. Form 26 reports from the officers who responded to the scene.**
- 19. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.**
- 20. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit**
- 21. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.**
- 22. Sergeant Cottone's Signed Carney Waiver**

**Citizen complaint    IA No: IAD2020-0214    Received: Jun 18, 2020**

Case No: 202042508

**Classification/Sub-classification: Rights & Responsibilities - 102 / Sec 37 - Involved w/Family - Friends**

**Involved citizen:**

**Alexis   Aggouras**

**Linked address(s):**

Home Address: 47 Deer Path Lane    Weston MA 02493

**Linked phone(s):**

Cell: (617) 699-3426

**Elise   Rosen**

**Linked address(s):**

Home Address: 10 Wave Avenue    Boston MA 02125

**Linked phone(s):**

Cell: (774) 210-0425

**Charles   Aggouras**

**Linked address(s):**

Home Address: 47 Deer Path Lane    Weston MA 02493

**Linked phone(s):**

Cell: (617) 504-4471

**Officers involved:**

**Ptl Daniel A A Fitzgerald [02680/009575]**

**Officer current info:**

Bureau : Bureau Investigative Services  
Zone / Division: Major Case Division  
Area:

**Snapshot - Officer information at time of incident:**

Employee ID Number: 009575  
Bureau : Bureau Investigative Services  
Zone / Division: Major Case Division  
Area:  
Unit: S.o.r.i. Unit  
Rank/title: Ptl  
Age: 59    Years of employment: 34    Years with unit:  
Off duty:    Off duty employed:

Allegations:

Situations Involving Off-Duty Boston Police Officers  
< Open allegation - no finding >

**Ptl Brian Fitzgerald [05248/112056]**

**Officer current info:**

Bureau : Bureau Of Field Services  
Zone / Division: Two  
Area: C

**Snapshot - Officer information at time of incident:**

Employee ID Number: 112056  
Bureau : Bureau Of Field Services  
Zone / Division: Two  
Area: C  
District: 06  
Rank/title: Ptl  
Age: 25 Years of employment: 9 Years with unit:  
Off duty: Off duty employed:

Allegations:

Situations Involving Family & Friend  
< Open allegation - no finding >  
Situations Involving Off-Duty Boston Police Officers  
< Open allegation - no finding >  
Body Worn Policy - Activation & Incidents of Use  
< Open allegation - no finding >

**Ptl Arthur G. Fritch [01677/116743]**

**Officer current info:**

Bureau : Bureau Investigative Services  
Zone / Division: Major Case Division  
Area:

**Snapshot - Officer information at time of incident:**

Employee ID Number: 116743  
Bureau : Bureau Of Field Services  
Zone / Division: Two  
Area: C  
District: 11  
Rank/title: Ptl  
Age: 35 Years of employment: 6 Years with unit:  
Off duty: Off duty employed:

Allegations:

Situations Involving Off-Duty Boston Police Officers  
< Open allegation - no finding >

**Witnesses:**

Brady Deangelo

**Linked address(s):**

Home Address: 42 Hollis Street Holliston MA 01746 -

Linked phone(s):  
Cell: (617) 686-0298

### Summary:

About 10:38pm on Wednesday 06/17/2020, Officer Beggan assigned to the F441F responded to a radio call for a Assault and Battery in Progress at the intersection of Hardy Street and East 8th Street, Boston.

Assisting units on scene were the F411F (Brian Fitzgerald) and F431F(Arthur Fritch).

Upon arrival, officers observed two males standing outside of 2 Hardy Street on the sidewalk. Officers also observed two females and a male on the sidewalk in front of 1 Hardy Street.

Officers approached the two females and a male outside of 1 Hardy Street due to one of the females visibly upset sitting on the curb. Officer Beggan spoke with the reporting party, Mr. Brady DeAngelo, who stated he and his two friends arrived in the area of Hardy Street looking for a lost cell phone. Mr. DeAngelo stated they eventually were able to ping the location of the missing phone to the area of 2 Hardy Street. Mr. DeAngelo stated he and his two friends were continuously walking the premise around 2 Hardy Street then attempted to make contact with the residents. Mr. DeAngelo stated his two female friends began ringing the door bell and knocking on the front door.

Officers then spoke to Ms. Alexis Aggouras, who was visibly upset while sitting on the sidewalk opposite 2 Hardy Street. When asked what had happened, Ms. Aggouras stated she lost her phone after spending the day at the beach and eventually pinged its location to the area of Hardy Street. Ms. Aggouras stated she and her two friends were looking under vehicles, in the street, and around the premise of 2 Hardy Street. Ms. Aggouras stated she believed her phone could possibly be inside the residence of 2 Hardy Street. Ms. Aggouras stated she repeatedly rang the doorbell and knocked several times on the front door in an attempt to make contact with the residents. After ringing and knocking on the door, an unknown male exited the front door of the residence and grabbed her and her friend in neck area. At this moment, the male began forcing Ms. Aggouras and her friend off of the stairs at 2 Hardy Street. Ms. Aggouras denied EMS on scene and stated she did not suffer any injuries. While speaking with Ms. Aggouras, officers could smell a strong scent consistent with the smell of an alcohol beverage mixture emanating from her breathe.

Officers spoke with Ms. Elise Rosen, who stated she was accompanying Ms. Aggouras at the front door of 2 Hardy Street. Ms. Rosen stated she and Ms. Aggouras attempted to locate Ms. Aggouras' phone by attempting to get in contact with the residents of 2 Hardy Street. Ms. Rosen stated she and Ms. Aggouras began ringing the door bell and knocking on the front door. Ms. Rosen stated after knocking on the door and ringing the bell, a male eventually exited 2 Hardy Street and physically grabbed her and Ms. Aggouras in the neck area. Ms. Rosen stated the male physically pushed her and Ms. Aggouras off of the front stairs, yelling in their faces. Ms. Rosen stated she, Ms. Aggouras, and Mr. DeAngelo separated from the unknown male and notified police. Ms. Rosen informed officers she and Ms. Aggouras spent a day at the beach and admitted to consuming alcohol throughout the day.

Officers spoke to Mr. Daniel Fitzgerald, who stated he was suddenly woken up when he heard his doorbell being continually rung. Mr. Fitzgerald stated he then heard excessively loud banging, consistent with the noise of trying to gain access into a locked door. Mr. Fitzgerald stated he was unsure if someone was trying to break in. Mr. Fitzgerald stated he got dressed and quickly ran down to his front door to confront the excessive banging. Mr. Fitzgerald stated he opened his front door, in the darkness, and observed three unknown parties on the front porch of his property aggressively demanding for a cell phone. The three parties began to yell, shout, and accuse him of stealing a phone while stepping closer towards the front door of Mr. Fitzgerald's residence. At this moment, Mr. Fitzgerald grabbed two parties, independently and attempted to escort them off of the property. Mr. Fitzgerald



relayed that he verbally demanded the parties to get off his property as they continued to accuse him for stealing a cell phone. Mr. Fitzgerald stated he was able to escort the parties on to the public sidewalk outside of his residence. Mr. Fitzgerald stated the two females involved in the altercation were intoxicated and acting hysterically. Mr. Fitzgerald informed officers that the three parties stated they were calling police to which Mr. Fitzgerald responded "please do." Mr. Fitzgerald stated he was unaware of the situation regarding a lost phone and was concerned as to why three unknown parties were at his front door aggressively shouting and making false accusations.

Officers spoke with Ms. Rosen a second time who stated a neighbor, who resides on the first floor apartment of 2 Hardy Street, stated he located a bag on his front steps. The neighbor, later identified as Mr. Lawrence Norton, stated to Ms. Rosen he located a cell phone in the bag but it was out of battery power. In order to attempt to locate the owner, Mr. Norton began charging the phone. While the phone was charging, Mr. Norton heard a loud commotion outside of his home and exited his residence. Mr. Norton eventually learned he was in possession of the lost phone, and was able to return it to Ms. Aggouras. Officers spoke with both Ms. Aggouras and Ms. Rosen who stated the phone was returned along with the bag it was left in. Both Ms. Aggouras and Ms. Rosen confirmed nothing from the bag was missing. Ms. Rosen also confirmed the phone was possibly dead or shut off due to not being able to ping the location of the phone right away.

Speaking with Ms. Aggouras, Ms. Rosen, and Mr. DeAngelo officers offered to request Boston EMS on scene for a medical evaluation to which both Ms. Aggouras and Ms. Rosen denied repeatedly. Officers asked the parties where they would be staying for the night to which they replied Ms. Rosen's residence in Dorchester. Concerned with both Ms. Aggouras and Ms. Rosen being under the influence due to her own omission, officers offered to drive the parties home. Mr. DeAngelo informed officers he had his motor vehicle on scene. Mr. DeAngelo did not appear to be under the influence of alcohol and was in a safe condition to operate a motor vehicle. Prior to leaving the scene, Ms. Aggouras was visibly upset and stated "I'm sorry" several times to which officers informed her she had nothing to apologize for. Mr. DeAngelo and Ms. Rosen stated they were thankful for the officers on scene and proceeded to return back to Ms. Rosen's residence.

It should be known there was an unidentified male on scene who did not wish to answer any questions. The unidentified male was a white male, about nineteen to twenty-two years of age, with curly dark hair, and a green shirt.

I was notified of the incident after the officers had returned to the station. Officer Brian Fitzgerald told me that Daniel Fitzgerald is his uncle and is also a Boston Police officer, currently assigned to the SORI unit. While the call was ongoing, I was checking the Netviewer system and had actually called Officer Brian Fitzgerald to channel 7 and requested him to call the DS line at 617-343-4737. I asked if they were all set on the call (ie locating victim) and I was advised that they were almost done. At no time did Officer Fitzgerald notify me that the incident was an alleged assault and battery involving his uncle (family) nor a police officer. He told me when he got back to the station, well after the complainants had left the area. He also did not have his Bodycam operating while he was attending to the incident.

At no time did off-duty Daniel Fitzgerald ask for a Patrol Supervisor to respond to the scene as well.

Officer Arthur Fritz responded to assist Officer Brian Fitzgerald and Officer Matt Beggan during the incident. While investigating, he became aware that the involved party that was alleged to have assaulted the complainants was a Boston Police officer.

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#### **Investigative tasks:**

Due dt	Done dt	Type
Jun 21, 2020	Jun 18, 2020	Contact Complainant

Assigned To: Un-assigned

Automatically generated

Sep 16, 2020	Jun 18, 2020	90 Day Citizen Status Notification
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Assigned To: Un-assigned

Automatically generated

Aug 17, 2020	Sep 11, 2020	60 Day Citizen Status Notification
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Assigned To: Un-assigned

Mr. Lawson telephoned and stated he and his clients will cooperate in anyway possible with both the criminal investigation and administrative investigation. I informed him that I would coordinate with Lt. Det. Mike McCarthy and let him know how to proceed.

Mr. Jim Lawson's telephone number is 617-680-3337

Also spoke with Lt. Det. McCarthy about criminal investigation. He informed me that his investigation has been slow due to COVID-19 and the limited court cases being presented at the the municipal courts. He has communicated with the complainants attorney several times. He will inform me once the criminal investigation is completed.

Spoke with Mr. Lawson and provided status of investigation - 9/11/20

< N/A > Jun 18, 2020 Contact Complainants Attorney

Assigned To: Sergeant Detective Michael Hanson

I telephoned Alexis Aggouras but she did not answer. I was unable to leave a voice message because her voice message service was not activated. I also called Elise Rosen. She also did not answer. I left a voice message identifying myself and asked she contact me at IAD. I then spoke with Mr. Charles Aggouras and during this conversation I informed him that I have been assigned as the investigator for this case. I also read to him the narrative of the incident report.

< N/A > Jun 19, 2020 Documents added to Case

Assigned To: Sergeant Detective Michael Hanson

Documents added to IAPro

< N/A > Jun 19, 2020 Request for Radio Transmission

Assigned To: Sergeant Detective Michael Hanson

Request was made for the 911 calls and radio transmission

< N/A > Jun 26, 2020 Notes

Assigned To: Sergeant Detective Michael Hanson

A redacted copy of the incident report was emailed to Charles Aggouras. I also telephoned him but he did not answer and his voice mailbox was full and not accepting voice messages.

Attorney Lawson telephoned and identified himself as the legal representative for the Aggouras family. A redacted copy of the incident report was emailed to him as well.

< N/A > Jun 30, 2020 Spoke with Complainants Attorney

Assigned To: Sergeant Detective Michael Hanson

Mr. Lawson telephoned and stated he and his clients will cooperate in anyway possible with both the criminal investigation and administrative investigation. I informed him that I would coordinate with Lt. Det. Mike McCarthy and let him know how to proceed.

Mr. Jim Lawson's telephone number is 617-680-3337

< N/A > Jul 24, 2020 Notified involved Officers

Assigned To: Sergeant Detective Michael Hanson

All involved officers were notified of this complaint.

< N/A > Aug 20, 2020 Notes

Assigned To: Sergeant Detective Michael Hanson

Spoke with Lt. Det. McCarthy about criminal investigation. He informed me that his investigation has been slow due to COVID-19 and the limited court cases being presented at the the municipal courts. He has communicated with the complainants attorney several times. He will inform me once the criminal investigation is completed.

< N/A > Sep 10, 2020 Spoke with Complainant Attorney

Assigned To: Sergeant Detective Michael Hanson

Spoke with Attorney Lawson -- he was looking to discuss the criminal matter -- Lt. Det, Mike McCarthy will call him to update him regarding criminal investigation.

< N/A > Sep 11, 2020 Notes

Assigned To: Sergeant Detective Michael Hanson

Spoke with Attorney Lawson again -- he has communicated with Lt. Det McCarthy.

Lt. Det McCarthy advised him that he has referred the case to the DA's office for review.

As of this date no person has been interviewed for this administrative investigation because all parties have a 5th amendment right.

< N/A > Dec 23, 2020 Contact Complainant's Attorney

Assigned To: Sergeant Detective Michael Hanson

Called and left a voice message and provided status update regarding the investigation.

< N/A > Jan 11, 2021 Contact Attorney

Assigned To: Sergeant Detective Michael Hanson

Called Attorney Lawson and left a voice message requesting to schedule interviews with his clients.

< N/A > Jan 11, 2021 Notes

Assigned To: Sergeant Detective Michael Hanson

Spoke with Clerk Peggy Albertson (South Boston District Court - CLerk's Office) regarding case -- (no application complaint #)

< N/A > Jan 12, 2021 Contacted Attorney

Assigned To: Sergeant Detective Michael Hanson

Left a message for Attorney Lawson about scheduling interviews with his clients.

< N/A > Jan 12, 2021 Notes

Assigned To: Sergeant Detective Michael Hanson

Spoke with Lt. Det. McCarthy today. He informed me that no criminal charges will be sought against either party and has closed his investigation. (no application complaint #)

< N/A > Jan 12, 2021 Spoke with Attorney

Assigned To: Sergeant Detective Michael Hanson

Spoke with Attorney Lawson regarding the criminal investigation. He is working with Ms. Michelle Granda from the Suffolk County District Attorney's Office. He will proceed with the criminal investigation before having his clients participate in the administrative investigation.

< N/A > May 5, 2021 Telephoned Attorney

Assigned To: Sergeant Detective Michael Hanson

Telephoned Attorney Lawson and left a voice message.

< N/A > Jun 28, 2021 Spoke with Attorney Lawson

Assigned To: Sergeant Detective Michael Hanson

He informed me he was having dinner with friends and would contact me on Tuesday, June 29, 2021.

< N/A > Aug 13, 2021 Spoke with Attorney

Assigned To: Sergeant Detective Michael Hanson

Attorney Lawson called and stated his client is out of the country and won't return until the end of August. Once he speaks with his client he will call with potential dates for interviews.

< N/A > Oct 12, 2021 Obtained Recorded Interviews

Assigned To: Sergeant Detective Michael Hanson

Obtained copies of the recorded interviews conducted with Lt. Det. McCarthy

< N/A > Jan 31, 2022 Re-assigned

Assigned To: Sergeant Lucia Palomares

Per Deputy Chrispin re-assigned from Sgt. Hanson to Sgt. Palomares.

< N/A > Feb 10, 2022 Certified Contact Ltr

Assigned To: Sergeant Lucia Palomares

On 2/10/22 Sergeant Palomares sent a certified contact letter to Alexis Aggouras. Unable to reach her or leave voicemail on the cell phone.

Complainant received the certified letter no response from her at this time.

< N/A > Feb 28, 2022 Interviews

Assigned To: Sergeant Lucia Palomares

Sgt. Palomares sent out Administrative Interview Notices to Officers Fitzgerald in SORI, Fitzgerald in C6 and Fritch in DCU. Officer Daniel Fitzgerald is retiring at the end of March. They all have interviews in March to close the case before his last date at work 3/31/22.

< N/A > Mar 3, 2022 Contact Letters sent

Assigned To: Sergeant Lucia Palomares

On 3/2/22 Sergeant Palomares mailed contact certified letters to following persons: Elie Rosem, Charles Aggouras, Brady DeAngelo and Lawrence Norton. Aggouras and Rosen were also complainants. Norton and DeAngelo witnesses.

< N/A > Mar 4, 2022 Interview of PO Fitzgerald

Assigned To: Sergeant Lucia Palomares

On 3/2/22 Sergeant Palomares interviewed Officer Daniel Fitzgerald. He was accompanied by Atty Ken Anderson.

< N/A > Mar 4, 2022 Interviewed PO Fritch

Assigned To: Sergeant Lucia Palomares

On 3/4/22 Sergeant Palomares interviewed Officer Fritch regarding the incident involving PO Daniel Fitzgerald. The officer was accompanied by BPPA union representative Derek Kelley. The interview was recorded.

< N/A > Mar 8, 2022 Interviewed PO Brian Fitzgerald

Assigned To: Sergeant Lucia Palomares

On 3/8/22 Sergeant Palomares along with Sergeant Detective Phil Morgan interviewed PO Brian Fitzgerald at 6:30 am.

< N/A > Mar 8, 2022 Call from Charles Aggouras

Assigned To: Sergeant Lucia Palomares

On 3/8/22 Charles Aggouras called Sgt. Palomares in regards to the contact letter sent. He wishes to speak to the investigator and wants his daughter to speak on record as well. He further stated that he feels that he has been given the run around for two years regarding the complaint that his attorney filed regarding the incident. He will call back with a confirmation for the week of the 28th.

< N/A > Mar 8, 2022 Reviewed recording of CASECRACKER

Assigned To: Sergeant Lucia Palomares

Sgt. Palomares reviewed the CASECRACKER recording of the criminal investigation into the incident. Lt. Det. McCarthy along with one of his detectives conducted the interview. Also a full report by Lt. McCarthy was attached to IAPro.

< N/A > Mar 10, 2022 Officers Fritch/Fitzgerald

Assigned To: Sergeant Lucia Palomares

Officers Fritch and Fitzgerald need to return for to answer a couple of question regarding the investigation.

#### **When/where:**

Date/time occurred: Jun 17 2020 22:38

Incident location: 2 Hardy Street South Boston MA 02127 Precinct: C-6  
Home Address: 47 Deer Path Lane Weston MA 02493  
Home Address: 10 Wave Avenue Boston MA 02125  
Home Address: 47 Deer Path Lane Weston MA 02493  
Home Address: 42 Hollis Street Holliston MA 01746  
County: C-6

#### **Linked files:**

Incident History 2020-0214 (pdf)  
I\_202042508 - Combined Reports (pdf)  
Employee Data Sheet Dan Fitzgerald 2020-0214 (pdf)  
Employee Data Sheet Brian Fitzgerald 2020-0214 (pdf)  
Employee Data Sheet Fritch 2020-0214 (pdf)  
C6FH061720 (xls)  
DEPSUPMILLER INV (pdf)  
Admin Interview Notice-FritchA (pdf)  
Admin Notice Fitzgerald B (pdf)  
Admin Notice Fitzgerald D (pdf)  
Details-Beggan (pdf)  
Details-Crabbe (pdf)  
Documents Fitzgerald Case (pdf)  
PO Brian Fitzgerald Recorded Interview (m4a)

#### **Status/assignment information:**

Status: Active

Opened: 06/18/2020 Assigned: 06/18/2020 Due: 09/16/2020

Completed:

Disposition: Pending

Unit assigned: Internal Affairs

Handled at field/unit level: No

Investigator assign: Sergeant Lucia Palomares

Supervisor assign: Lieutenant Detective Thomas Lema

Source of information: Form 1920

**Organizational component(s):**

Bureau : Bureau Investigative Services

Zone / Division: Major Case Division

Unit: S.o.r.i. Unit

**Entered via BlueTeam by: Sergt David D. Crabbe [06572/103751] on Jun 18, 2020 at 09:15**

**To:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Lucia Palomares  
Internal Investigations Unit  
Bureau of Professional Standards

**Date:** April 21, 2022

**Subject:** IAD Complaint No. 2022-0015

**Employee:** Sergeant Shana Cottone ID# 106714

**Violation:** Rule 102, § 3 Conduct Unbecoming  
Rule 102, § 9 Respectful Treatment  
Rule 102, § 19 Statement of Opinion  
Rule 102, § 35 Conformance to Laws

**Complainant:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards  
Internal Investigations Unit  
Boston Police Department  
1 Schroeder Plaza  
Boston, MA 02120-2014

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2022-0015.

**Summary of Complaint:**

*“The following narrative was taken from Boston Police Report I# 222003233:  
At about 3:20 PM on Saturday 01/15/2022 Officers Aragonés and Dowling in the D201D responded to a radio call for a protest at 1330 Boylston Street (Regina Pizzeria) Boston, Ma. The following is summary of the events that took place not a word for word account:*

*Upon arrival officers met with the store manager (Kenneth Johnson) who stated that a group of females came into the store and sat down and wanted to order food. Mr. Johnson stated he asked*



*the group for proof of their Covid-19 vaccine due to the new city mandate. The group then refused to show Mr. Johnson any proof of vaccination. Mr. Johnson stated he then called the police to remove the group due to them not following the new mandate.*

*Officers then spoke to the group that consisted of Ms. Shana Cottone and 5 unknown females who refused to identify themselves. The group stated that they were not going to show proof of vaccination and that they bought one bottle of water. Officers spoke to Mr. Johnson again who stated that one of the workers handed Ms. Cottone a bottle of water assuming she would go pay for it at the register. He stated that she did not pay for the water at the register and there is no record of her purchase of the water. Officers attempted to obtain video surveillance to which Mr. Johnson stated the cameras were not working. Ms. Cottone stated that she put \$2 in the tip jar for the bottled water. Officers asked the group to leave the restaurant several times and refused. Officers then requested a patrol supervisor to the scene. D909 (Wright) arrived on scene and spoke with the group. The group again refused to leave and officers stated that they were remaining on scene until the group left the premises. An unknown male then dropped two pizzas off to the group at their table and then left the restaurant. Officers Aragonese and Dowling were then relieved at the scene at about 4:10PM by the DT55F (Keaton) and the D499F (Antonino) still accompanied by the D909. The group then finished their pizza and left the restaurant.”*

**Summary of Interview with Officer Jordan Aragonese ID# 153073 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Jordan Aragonese provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonese (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonese was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Aragonese was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Aragonese relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Aragonese reported that his badge number was 5230, that his department ID number was 153073, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

Sergeant Palomares inquired about what took place at 1330 Pizzeria Regina on the 15<sup>th</sup> of January of 2022. Officer Aragonés stated that his unit the D201D was dispatched to 1330 Boylston Street for a protest. Officer Aragonés stepped out of the wagon and did not observe any protesters outside of Regina Pizzeria. The officer walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officer that there was a group inside the pizzeria protesting the city vaccine mandate.

Officer Aragonés stated that he notified his partner and informed him (Officer Dowling) that the protest was inside. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. Officer Aragonés stated that he communicated to the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Officer Aragonés stated that he conveyed to the group several times that they had to leave. He stated that the group did not leave and called the officers various names. Officer Aragonés stated that he requested to speak to the group outside but the group would not speak outside. Officer Aragonés stated that his partner advised him that one of the females in the group was a police officer and a patrol supervisor was requested on the radio to respond to the call.

Officer Aragonés stated that Sergeant Cottone (female officer) requested the names and badge numbers of the officers. He stated that they complied and gave their names and badge numbers. Officer Aragonés also stated that he and Dowling were wearing face masks and they were not recognizable. Upon giving the group their names, the female officer (Sergeant Cottone) called Dowling by his first name (Anthony) and called them naughty boys. Officer Aragonés stated that Sergeant John Wright arrived at the scene and spoke to the manager (Mr. Johnson) about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. Officer Aragonés stated that an unidentified male walked over to the group and dropped off two boxes of Regina pizzas. The group sat there and ate the pizzas.

Officer Aragonés also spoke of the dispute regarding the payment of the water bottle. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. The officer further stated that Sergeant Wright also advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were released from the location and headed back to the station.

Officer Aragonés stated that Officer Dowling recognized Sergeant Shana Cottone because she was his supervisor at District E5 (Roslindale/West Roxbury Police Station) when he was assigned to that district. Officer Aragonés stated that she (Sergeant Cottone) was the main speaker of the group. The officers were called “Nazis” and “naughty boys.” He also stated that the group had been asked to leave several times.

This interview concluded at about 10:31 a.m.

**Summary of Interview with Officer Anthony Dowling ID# 153152 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Anthony Dowling provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Dowling was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Dowling relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Dowling reported that his badge number was 5162, that his department ID number was 153152, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

He was asked if he was working on the 15<sup>th</sup> of January of 2022 at 3:20 p.m. Officer Dowling stated that he was working the day as the D201D with Officer Aragonés and they responded to a protest at 1330 Boylston Street at Regina Pizzeria.

Officer Dowling stated that they responded to the location and did not observe any protestors outside. They went inside and observed a group of women with a child at the table. He observed Sergeant Cottone sitting at a table and knew that she worked at E5 (West Roxbury/Roslindale Police Station). Officer Dowling attempted to limit the interaction with Sergeant Cottone and the group. Officer Dowling stated that they asked the group if they ordered food. There was a dispute over a bottle of water and whether Sergeant Cottone had paid or put the money in the tip jar. He stated that someone ordered two boxes of pizzas and dropped them off at the table and the group started to eat in front of the officers. Officer Dowling stated that Sergeant Wright had advised them of the mandate.

Officer Dowling stated that the interaction with Sergeant Cottone started when he asked the group if they had ordered food. She asked for his name and badge number. He stated that was when Sergeant Cottone recognized him and kept calling him Anthony and that he was being a naughty boy and don't do this. Officer Dowling stated that he had worked at E5 for 6 months in 2019 and Sergeant Cottone was one of his supervisors. Officer Dowling stated that he called for a patrol supervisor to respond to the scene. The investigators asked if there was evidence of Sergeant Cottone putting money in the tip jar? Officer Dowling stated that there was no evidence and the manager had informed the officers of the dispute upon arriving at the scene. Officer Dowling stated they were later relieved by Officers Keaton and Antonino. He further stated that the vaccination mandate (proof of vaccination) policy had gone into effect that day and the group refused to show papers to the manager and it was the manager who initiated the 911 call.

This recorded interview concluded at 10:52 a.m.

**Summary of Interview with Sergeant John Wright ID# 10746 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant John Wright provided the following information in narrative form and direct questioning.

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

Prior to the interview, Sergeant Wright was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Wright relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Wright reported that his badge number was 469, that his department ID number was 10746, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Sergeant Wright was asked if he was working on the date of the incident and he stated that he was working the First Half shift and responded to 1330 Boylston Street. He stated that the rapid (D201D/Aragones-Dowling) at the scene had requested a Patrol Supervisor to respond

to the scene. He further stated that the 15<sup>th</sup> of January was the first day of the vaccine mandate and there was a group refusing to wear a mask and refusing to provide proof of vaccination. Sergeant Wright stated that Officer Aragonés had advised him of the group. He stated that he passed out information on the vaccine mandate to the manager of the pizzeria (Mr. Johnson) and the group. He stated that someone had purchased a pizza for the group. Sergeant Wright stated that the group berated the officers, ate their food, and then left. He was asked if he knew the white female (Sergeant Cottone) in the overalls. He stated that he recognized her from when she worked at District B2 (Roxbury Police Station) and when they were students at Curry College.

At the scene, Sergeant Cottone asked for Sergeant Wright's name badge number and he gave it to her. She was confrontational with him and called him corrupt. Mr. Johnson (manager) had a dispute over the payment of the bottle of water. It was later determined that the money was placed in the tip jar. She stated to him "don't be wrong Wright." Sergeant Wright called the Duty Supervisor at the station and advised the supervisor that the officers would wait out the group and to please send relief. The officers waited till the group left.

Sergeant Palomares inquired how he felt about the situation. He stated that he felt disrespected and that when dealing with the public and other officers it should not be personal. She made it personal when she called the officers corrupt with no proof. Sergeant Wright stated that Sergeant Cottone stated that they (officers) were picking on women and a child. The sergeant believed that she was looking for a situation to incite the officers.

The officers waited till the group finished eating and they left the pizzeria. The incident was documented and his commander was notified of the situation. In the incident regarding the water bottle, she had tried to pay the employee behind the counter. The employee had told her that she was all set and she then placed the money in the tip jar as payment for the water. Sergeant Cottone had attempted to pay the employee but he did not take the money because she was not wearing a mask. Mr. Johnson was not present for that exchange. She taunted the Sergeant and another officer who she recognized. Sergeant Cottone tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated.

Sergeant Wright also spoke of the video dispute at the restaurant. He spoke to Mr. Johnson and requested to view the video but there was no video to view to help clarify the tip jar incident. The manager stated that there was no video because the video system was not working. The group was advised several times of the mandate in regards to eating inside of the establishment. No charges were brought against any of the group members. The sergeant decided it was in the best interest of everyone to wait it out and let the group eat their food. He stated that he used prudence because it was the first day of the mandate and it could have turned out worst if arrests were made.

This recorded interview concluded at 3:25 p.m.

**Summary of Interview with Officer Christopher Keaton ID# 126508 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Christopher Keaton provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Keaton was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Keaton relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Keaton recalled what happened at the location of Regina Pizzeria. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the officers there. Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and the comments directed at the manager (Mr. Johnson).

Sergeant Palomares inquired how he knew Sergeant Cottone? Officer Keaton stated his father worked at A1 (Downtown/Charlestown Police Station) and when he would visit his father he would see Shana Cottone who was a patrol officer at the time. Officer Keaton was aware of the group that was at the pizzeria. She spoke of suing him but believed that she did not recognize him because he was wearing a mask. The group finished eating and left on their own.

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonese and Dowling. The Officers Aragonese and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group was about five females who were very rude to the manager. Officer Antonino was asked for his name and badge number for the lawsuit. Sergeant Cottone directed comments at Sergeant Wright. Officer Antonino had been advised of Sergeant Cottone before heading to relieve the officers. Sergeant Cottone was the main speaker of the group and directed derogatory comments to the manager (Mr. Johnson) and Sergeant Wright. Officer Antonino stated that once the group finished eating they left. The officers had no interaction with the group and let them eat their pizzas. Sergeant Wright never got into a confrontation with the group or Sergeant Cottone when she was directing statements to Sergeant Wright regarding his family and children.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.



On Thursday, the 10th of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and invoked her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

On Wednesday, the 20<sup>th</sup> of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled second interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation). The interview was audio-recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift.

Sergeant Cottone did not answer questions and was on record invoking her Carney privilege to all the questions asked by Sergeant Palomares.

The recorded interview concluded at 12:51 p.m.

**Summary of Interview with Kenneth Johnson (manager of Regina Pizzeria/WITNESS):**

Sergeant Lucia Palomares has made attempts to speak to Mr. Johnson regarding the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022. A certified contact letter was also sent and another phone call was made on the 3<sup>rd</sup> of April 2022.

**Review of Officer Dowling Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Dowling and regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officers had responded to a radio call at 1330 Boylston Street for protestors. Officer Aragon was speaking to Sergeant



Cottone (white female, wearing a cap, overalls, and sweatshirt) and she stated: “why are you here, what is your purpose?” She further stated that the police were not supposed to enforce the mandate, she would not show papers, and that she purchased a bottle of water. Aragonés requested to see their vaccination papers, but the group refused and stated that they would sit there. Dowling called for a patrol supervisor to the scene, Cottone stated to Officer Aragonés that he was violating their rights. She continued by stating that they were violating their rights by enforcing the vaccine mandate and why were they doing that. She later asked for Aragonés name and badge number. Cottone stepped away from the table and the group continued their confrontation with the officers.

Mr. Johnson (manager, black male, 50-60-yrs-old) explained to the officers that he was trying to get them to leave and that he was trying to run a business. While the manager was speaking to the officers and the group yelled out “Nazis” and a black female protester stated “it was a shame black people discriminate and you turning your back on your people. Segregation was started on this holiday and everyone has an opinion and a choice.” The officers stated in response, “we just working doing our job.” The group stated “so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis.”

One of the females stated to the officers “your mayor is not my mayor.” Cottone returned to the table and stated to the officers, “if you not going by your oath you shouldn’t be doing this job, you understand. Just working. It’s a cop-out and you on the wrong side copping out to violating our rights.” Cottone repeatedly stated to the officers “you being naughty boys, history has shown how you trample on the rights of people and you guys are the bad guys.” The officers listened and one of the females stated “Martin Luther King said that it is our moral obligation to not obey an unjust law.”

Officer Dowling inquired if they had purchased the water there, as Sergeant Cottone sat at the table drinking her water. She then stated “this is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don’t want to do this but you need to be on the right side of this one. 14 years, 14 years!” 14 years of what asked Dowling and she stated “you know that.” Cottone continued speaking and stated, “time to make a choice boys.” “You don’t have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don’t walk away from me, you don’t have to do this.” Officer Dowling walked away from Sergeant Cottone to keep his distance.

Mr. Johnson (manager) expressed to the officers that he felt that the group was harassing him. He was trying to run a business and explained to the group that he was following the rules. The group did not order food and a person kept calling and stating that my friends were being harassed by the police. The caller also stated to give them the pizza. Mr. Johnson stated that only a bottle of water had been purchased.

Sergeant Wright arrived at the scene and spoke to Mr. Johnson and explained that a vaccination card has to be shown or they cannot be served. Sergeant Wright also spoke to the group that if they did not show a vaccination card they would have to leave. Cottone replied that she had purchased an item and was enjoying her beverage and he (Sergeant Wright) was going to leave her alone. Cottone stated that Mayor Wu said that the police would not be involved regarding the mandate and asked Wright what was he doing there. She further stated, "you gonna leave me alone and I am gonna enjoy my beverage!"

Sergeant Wright then asked the employees what time the pizzeria closed and they stated 8:30 p.m., and he and the officers sat down at one of the tables. Mr. Johnson advised Officer Aragonese that Sergeant Cottone had not paid for the bottle of water. Sergeant Cottone heard the conversation and stated, "I put it in the tip jar you little liar! You lying!" Mr. Johnson and Cottone argued over the purchase of the water. Cottone stated that I put it in the tip jar and Johnson stated that she did not put money in the tip jar. Cottone demanded that the officers view the cameras. Sergeant Wright and Officer Dowling walk back out to the group and Sergeant Wright stated to the group that the tip jar was for tips. Cottone confronted Sergeant Wright and stated "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee, you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view the camera!" She further stated that she tried to pay but the employee would not take the money.

Sergeant Wright stated to her that they would take a police report and take both statements. She stated "no you will not take a report! Go look at the footage! You are a corrupt cop and you are falsely testifying!" Sergeant Wright asked her if she was willing to give her name and identification and she stated "no, I am not!" Sergeant Wright asked Mr. Johnson if he has access to the video and he stated yes. At this point, a female yelled out "fucking liar!"

Mr. Johnson spoke to Sergeant Wright in private and stated that there was no video but that he did not want to say that in front of them (group). Wright headed back to the group and Dowling asked Wright "you know who that is right?" and Sergeant Wright stated "yes." The group stated to the officers that these mandates were not laws. The officers inquired if anyone wanted to identify themselves for the report. Everyone stated no. One of the females stated that her father was a police officer and was shot nine times in the head putting his life on the line and Tommy Gamperts would be disgusted.

The group was left alone and they ate their pizzas. The group kept talking about how Cottone was a hero and how she was being treated. Sergeant Cottone replied that it only takes one person to make difference. She further stated that she would have a discussion with the North End pizzeria regarding the manager (Mr. Johnson) being a little liar and that she would be suing. She stated, "they know that I paid for that water and this is a juvenile matter." One of the females stated that it's on live video. Sergeant Cottone stated that they will send it to

Sergeant Wright and do his job for him. She continued confronting Sergeant Wright and stated that he did not want to go after criminals, drug-addicted people, or help the homeless, he preferred to be with them (group). She further stated that Sergeant Wright was choosing to be there and could go Charlie Robert (clear from the call) and that there was no crime at that location. Cottone further stated to Sergeant Wright that he was wasting taxpayers' money and that was in the rules and regulations (Boston Police Rules and Regulations).

She addressed his presence as a "police state" standing there watching them eat as a show of force was intimidating because there were five women and a child and it was intimidating. Sergeant Wright was calm and did not state anything to her. She continued berating him and stated "you should go and do your job because this is not part of your job. Mayor Wu has confused you and this is not part of your job. Mayor Wu said the police were not enforcing this." Officer Dowling's video ended and it was 37:00 minutes long.

### **Review of Officer Aragon's Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Aragon's regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officer had responded to a radio call at 1330 Boylston Street for protestors.

Officer Aragon's spoke to the manager (Kenneth Johnson) who stated that they (a group of protestors) won't buy anything and wanted them to leave but they would not leave. Aragon's was joined by his partner Officer Dowling. Sergeant Cottone questioned Aragon's as to what was his purpose and why was he there. Officer Aragon's clarified to her that the pizzeria was a private establishment and that if they (the group) did not show papers (vaccination cards) they would have to leave. Sergeant Cottone stated to Officer Aragon's that they were not showing papers. Officer Aragon's clarified to the group that they could not dine in but could order the food to go and would have to leave.

Sergeant Cottone stated, "listen to me, listen to me, you are walking thin line and police are not supposed to enforce the mandate!" Officer Aragon's stated to Sergeant Cottone "you can leave" and the group stated that they can stay. Officers Aragon's and Dowling stated to Cottone that they were not violating their rights. Officer Dowling advised Officer Aragon's to call for a supervisor to the scene.

Sergeant Cottone was hostile and warned the officers that they were violating their (group) rights and asked for Officer Aragon's name and badge number. Sergeant Cottone stated to Officer Aragon's "why are you enforcing the vaccine "passport" and why are you doing that?" Aragon's advised Sergeant Rodriguez on the phone that they had protestors at Regina Pizzeria who would not show vaccine cards and one of them was an officer.

Officer Aragonés notified Mr. Johnson that a supervisor was responding to the location. Mr. Johnson advised Officer Aragonés that there was a person calling about the group. The group leveled comments at the officers regarding choices, opinions, comparing the officers to Nazi Germany, and segregation. One of the females stated, "Nazi's also said doing my job, rights are being violated and your Mayor is not my Mayor." Sergeant Cottone had stepped away from the table and later walked back to the group and sat down. Cottone stated to the officers that they were on the wrong side of this and if they won't stand by their oath they shouldn't be on the job. The officers stated to her "just working." Sergeant Cottone stated "coping out to violating our rights. You're being naughty boys." "History has shown us that high steppers like you trample on the rights of the innocent. You go down in history as the bad guys." One of the females stated to Aragonés "Martin Luther King said it is our obligation to disobey an unjust law."

Did you buy something here Dowling asked the group? Cottone stated you gonna leave me alone and enjoy my beverage. She continues on about "14 years, 14 years. Dowling asked 14 years what? "You know what! Time to make a choice boys. You don't have to do this Anthony, this is not how it's done." She further stated that a classmate resigned and gave away his gun and badge. Cottone stated, "they took my gun and badge a week and a half ago." "You are corrupted by money. This is wrong." Officer Aragonés stated to the group "you are all being recorded and you are all expressing opinions." Aragonés also advised them that he was not threatened by the group.

Sergeant Wright arrived at the scene Officer Aragonés advised him of the group protesting the vaccine mandate and that one of the protesters was a police officer and they did not order anything except a bottle of water. Sergeant Wright spoke to Mr. Johnson (manager) about the mandate. Sergeant Wright advised Mr. Johnson that if they do not show a vaccination card they cannot be served in the city. Johnson stated that he understood the mandate. Officer Aragonés asked Johnson for his information for the police report.

Wright and Dowling spoke to the group. Cottone was the speaker for the group. Sergeant Wright stated, "we will wait and let her enjoy her water" and asked Johnson what time they closed Johnson stated at 8:30 p.m. Wright advised the officers (Aragonés and Dowling) that they would wait it out.

Mr. Johnson explained the situation regarding the bottle of water to Officer Aragonés. An employee gave Cottone a bottle of water and he assumed that she would pay. She did not pay or put anything in the tip jar. The dispute continued between Johnson and Cottone in front of the officers and the group. Cottone yelled out "he is a liar." Mr. Johnson stated that they (the group) made racial comments and threats toward him. Sergeant Cottone yelled out "don't play these games with me, I tried to pay for the bottle of water and he (the employee) would not take the money. It's like when you get free coffee you put the money in the tip jar."

Sergeant Wright informed her that the officers would take a police report and she yelled back “no you will not take a report. You gonna get the footage, don’t play with me. Don’t play games with me, you gonna look at the footage.” Sergeant Wright requested Cottone’s name for the report and she would not cooperate and kept stating to look at the footage. She stated “You are a corrupt, corrupt man! You are falsely testifying I will sue you. I want the footage.”

Sergeant Wright inquired if Mr. Johnson had access to the video and Mr. Johnson, stated “yes” and the officers walked to the back area of the kitchen. One of the females in the group yelled out “you fucking liar” directed at Mr. Johnson. Another female wanted to know if the police will reprimand the manager for filing a false police report.

Sergeant Wright walked back to speak to the group. Sergeant Wright advised the manager that the police would take a police report of “he said she said.” This angered Sergeant Cottone who stated, “this is not he said she said and you have access to the video.” The group challenged Sergeant Wright regarding the police report. Sergeant Cottone stated to Sergeant Wright “bullshit, you’re bullshit!” Sergeant Wright continued explaining that both sides would be represented in the report. Officer Aragonese requested Sergeant Cottone’s name and she stated “no.” Officer Aragonese was gathering information for the police report and Sergeant Cottone yelled out “you can’t take the report, he is not a credible witness, Sergeant Wright you hear me!” Sergeant Wright replied, “yeah I hear you.”

Sergeant Cottone replied “You are a corrupt cop. It is your opinion, not based on observations and you choose to be a corrupt cop. What is your name and badge name?” Sergeant Wright calmly gave his name and badge number. Sergeant Cottone continued being confrontational towards the supervisor and stated “Shame on you, disgusting, you’re a disgrace. You have the choice to do the right thing but you choose to be part of this corrupt system. Officer Aragonese spoke to the employees regarding the situation and the employee believed that she would pay for the water.

The group stated to the officers “your Mayor does not care about you. We stand on your side for you. You are ashamed you can’t look me in the eye. Mayor Wu said the police would not be involved. You are ashamed and you need to take a stand, not personal guys.” Sergeant Cottone stated “you don’t know me, I am a person. Can’t tell us we can’t eat.” Two boxes of pizzas were dropped off at the group’s table. They were taking photos and videos of themselves eating the pizza and the officers standing nearby. She stated, “I want to give a shout out to Eddy Chrispin to stop violating my rights.” The officers watched the group as they ate their pizzas.

Officer Aragonese inquired from the group if anyone wanted to identify themselves for the police report. Sergeant Cottone stated “they have not done anything to identify themselves.” One of the females stated that her father was a Boston Police Officer and was shot 9 times in the head. She stated “he put his life on the line.” Sergeant Cottone stated to Sergeant Wright “we can’t eat pizza because we’re unclean and unvaccinated people.” Sergeant Wright replied “you are eating

pizza right now.” Sergeant Cottone replied, “you wanted to kick us out remember.” Sergeant Wright stated to the female “I knew your father and he was a good man and tell him I say hello.” She stated “he would be very disappointed with you.

One of the females described Sergeant Cottone as a hero and that this was how she was treated. Sergeant Cottone replied that it takes one person to make a difference. Cottone further stated that she would have a conversation with Regina Pizzeria headquarters and report the manager (Mr. Johnson) and how he falsely testified against customers. She stated “I don’t want to sue Regina Pizzeria; the manager was lying and they know that I paid for the water.” One of the women stated it was on video in real-time that Sergeant Cottone paid for the water. Sergeant Cottone confronted Sergeant Wright and stated that he did not want to do his job and help others or fight crime. She stated that he would rather stay there with them and waste taxpayer dollars. Sergeant Wright replied that he answered a call for service.

Officer Aragon’s video ended and it was 37 minutes long.

#### **Review of Officer Keating Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Keaton responded to 1330 Boylston Street and Sergeant Cottone asked for his name and badge number. He complied and gave his information to her. Officer Antonino was already there with Sergeant Wright. The officers watched the group and did not have contact with the group. Sergeant Cottone can be heard stating that the manager (Mr. Johnson) must have turned off the phone inside the pizzeria and called him “tyrant man.” She ranted about leaders acting as tyrants and people thinking that they can act as tyrants. She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civic lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. Most dysfunctional family I belonged to and I’m not being quiet anymore, going to take my job but I won’t!” As the group started to leave, she states to Sergeant Wright “you will have to tell your kids and grandkids what you did.” “You are corrupt, you are a yes man. I didn’t sign up to do this. I signed up to care for people and protect their rights. Maybe if you would have showed up to my roll call leading up to this, you would understand.” Officer Keaton’s video ended and it was 13 minutes long.

#### **Review of Officer Antonino Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Antonino responded to 1330 Boylston Street to relieve the day shift officers (Aragones and Dowling). Sergeant Cottone stated to Officer Antonino that because Sergeant Wright brought him there, she would need his name and badge number. Officer Antonino gave his name and badge number to Sergeant Cottone. She yelled out to Mr. Johnson, “manager man,



did you turn off the phones because you're being a little tyrant." One of the females in the group was laughing at the statement and stated "manager man did you turn the phone off." She then stated "Tyranny is contagious when they think they can act like their leaders they act like tyrants. Very dangerous, this status quo happens people think that this is normal. This is not normal guys."

Sergeant Cottone stated to customers "guys make sure that you check your receipts cause he (Mr. Johnson) is a liar, he tried to get me in trouble that I didn't pay for my pizza and that he is charging the proper price of the pizza. Officer Keaton arrived on the scene and Sergeant Cottone requested his name and badge number.

Sergeant Cottone stated "this is not normal, three years ago, we would have laughed and said not in our country. This is not our country guys." She then rants on about Mayor Wu and stated "she does not belong in politics, that she is not a leader and shouldn't be in politics." Sergeant Cottone stated to Sergeant Wright, "little tyrant mayor man, we can teach you about people's rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. The most dysfunctional family I belonged to and I'm not being quiet anymore, going to take my job but I won't!" As the group left, Sergeant Cottone stated to Sergeant Wright "you will have to tell your kids and grandkids what you did." "You are corrupt, you are a yes man. I didn't sign up to do this. I signed up to care for people and protect rights. Maybe if you would have showed up to my roll call leading up to this, you would understand." Officer Antonino's video ended and it was 20 minutes long.

### **Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.

- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragonés, Dowling, Keaton, and Antonino.
- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone's residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D'Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not working at that time but that the cameras were now working. No video footage for that date.
- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:

- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of



the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, the 20th of April of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

### **Investigation Summary:**

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph interviewed Officer Jordan Aragon. Sergeant Palomares inquired as to what took place at 1330 Regina Pizzeria on the 15<sup>th</sup> of January of 2022. He stated that his unit the D201D was dispatched to 1330 Boylston street for a protest. He was working with Officer Anthony Dowling in the wagon. The officers walked inside the

establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officers that there was a group inside the pizzeria protesting the city vaccine mandate. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. He advised the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside as well and they did not want to speak outside. Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer and she had been one of his supervisors. Officer Dowling requested a patrol supervisor respond to the scene. Sergeant Cottone had requested the names and badge numbers of the officers and they complied and gave the information. Officer Aragonés also stated they had their faces covered with masks and it was not very easy to recognize them. When the officers gave their names, Sergeant Cottone recognized Officer Dowling and started calling him Anthony and called them naughty boys.

Sergeant John Wright arrived at the scene and spoke to the manager about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of pizzas. The group sat there and ate the pizzas. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved by Officers Keaton and Antonino and they headed back to the station to write the police report.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Officer Anthony Dowling. Officer Dowling stated that he and Officer Aragonés responded to the protest at Regina Pizzeria. Upon entering the pizzeria, he recognized Sergeant Cottone. Sergeant Palomares asked how he knew Sergeant Cottone and he stated she worked at A1 with his father. Sergeant Cottone had asked for the officers' names and badge numbers. When Dowling gave his name, she recognized him and began calling him Anthony. Also stated to him "you don't want to do this, this is not how policing is done."

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Sergeant John Wright. Sergeant Wright stated that the police officers at Regina Pizzeria requested a patrol supervisor to respond to the scene. He responded and spoke to the manager (Mr. Johnson) and the group about the mandate. The group did not want to wear a mask or show proof of vaccination to eat inside of the pizzeria. Sergeant Cottone asked for the supervisor's name and badge. Mr. Johnson stated that Cottone had not paid for the bottle of water. Sergeant Cottone stated that she had attempted to pay the employee but he did not take the money because she was not wearing a mask. She

decided to place the money inside the tip jar and Mr. Johnson was not present for that exchange. Sergeant Cottone also tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated. She was also very confrontational with Sergeant Wright at the scene. Sergeant Palomares inquired how he felt about the situation and he stated he felt disrespected and that Sergeant Cottone made the situation personal. The investigators also asked about the group trespassing at the pizzeria. Sergeant Wright stated that he used prudence to assess the situation because it was the first day of the mandate. He used his discretion and let the group finish eating and let the group leave on their own. He felt that if they had been arrested for trespass it would have turned out worst in the end.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Christopher Keaton. Sergeant Palomares inquired what he recalled of the incident on the 15<sup>th</sup> of January 2022. Officer Keaton stated that he had worked a day tour on overtime at D4 (South End/Back Bay Police Station). The duty supervisor requested that he head over to Regina Pizzeria to relieve the day shift officers (Aragones/Dowling). Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and comments directed at the manager (Mr. Johnson).

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Thomas Antonino. Sergeant Palomares inquired if he had responded to Regina Pizzeria on January 15<sup>th</sup> of 2022. He stated that he had responded to relieve the day units. Sergeant Wright and Officers Aragones and Dowling were on the scene. Officers Aragones and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group consisted of five females who were very rude to the manager (Mr. Johnson). Sergeant Cottone asked Officer Antonino for his name and badge number for the lawsuit. Sergeant Cottone was the speaker of the group and directed derogatory comments toward Mr. Johnson and Sergeant Wright. Once the group was done eating they left the pizzeria.

On Thursday, 10<sup>th</sup> of March 2022 at 10:00 a.m., Sergeant Shana Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone invoked her Carney rights and signed a waiver. She was legally represented by her own personal attorney William Gans along with Attorney Patrick Bryant representing the Boston Police Superior Officers Federation. Sergeant Jeanie Carroll and Lieutenant Timothy Kervin were also present as her union representatives (Boston Superior Officers Federation). On that date, she was not interviewed.

A second interview was requested and scheduled for Wednesday, 20<sup>th</sup> of April 2022 at 11:00 a.m. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Superior Officers Federation along with union representative Sergeant Jeanie Carroll of the Federation. The interview was audio recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo. When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift. Sergeant Cottone did not answer investigatory questions and was on record invoking her Carney privilege to all the questions.

Sergeant Palomares has made attempts to contact Kenneth Johnson for an interview regarding this investigation. At this time, Mr. Johnson has not contacted Sergeant Palomares regarding an interview. A certified contact letter was sent to his residence. Sergeant Palomares received the certified letter marked "unable to forward."

As part of this investigation, the investigator viewed all of the officer's body-worn camera videos. The officers (Aragones and Dowling) had responded to a 911 call that was initiated by Kenneth Johnson, the manager of the pizzeria. The officers spoke to Mr. Johnson and he stated the group was not cooperative regarding the mandate and would not wear masks or leave the premises. The officers explained the mandate to the group. If they did not comply with the mandate they would have to leave. That day was the first day of the vaccination mandate policy initiated by Mayor Wu.

The group was at the pizzeria protesting the mandate. The group was led by Sergeant Cottone who was recognized by Officer Dowling at the scene. She also recognized Officer Dowling after she obtained their names and badge numbers for her lawsuit. In the video, she called him "Anthony." She further stated to Officer Dowling that he was being a naughty boy, don't do this, this is not how policing is done, don't walk away from me." The group was argumentative and disrespectful. Sergeant Cottone never identified herself to the officers or Sergeant Wright. The entire time she was offensive, quarrelsome, and challenged the officer's authority at the pizzeria.

When the dispute over the water was brought to the attention of the officers she demanded that the officers not take a police report. Sergeant Wright tried to explain that a police report would document both sides of the dispute regarding payment of the water. She replied "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view

the camera!” She was belligerent and insolent towards Sergeant Wright and Mr. Johnson. She directed comments to Sergeant Wright repeatedly calling him a corrupt cop.

The matter could have been resolved in a different manner or in a nonconfrontational manner. The officers at the scene had been called Nazis, and Cottone referred to them as “high-steppers” for doing their job and that they didn’t want to do the right thing. She also questioned their oath and duty as police officers because they had to address the group’s behavior at the pizzeria. When she was asked to identify herself for the police report to document the dispute over payment she stated “no.” She demanded that every officer give their name and badge number for her list to sue. She threatened the officers and the manager with lawsuits.

Mr. Johnson stated that he wanted the group to leave, he was just trying to run a business and was following the mandate. He was doing everything that the Mayor of Boston set forth in the mandate. The mandate had gone into effect on the 15<sup>th</sup> of January 2022 and required proof of COVID-19 vaccination for entry into indoor dining, entertainment, recreation, and fitness establishments. Businesses were required to place a sign at the front entrance and check customers’ vaccination proof upon entry. On the date of the incident, Mr. Johnson was abiding by the mandate and was placed in a difficult position by having to call 911 to address the disturbance inside the pizzeria by Sergeant Cottone’s group.

The entire time the group was at the pizzeria Sergeant Cottone fumed about Mayor Wu. She spoke of leaders acting as tyrants and people think that they can act as tyrants. “This is not normal. Three years ago, we would have laughed and said not in our country. This is not our country guys. She does not belong in politics, that she is not a leader and shouldn’t be in politics.” She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing.” The officers at the scene along with Sergeant Wright never discussed politics and were professional. Sergeant Wright never responded to the unprofessional and disrespectful comments directed at him.

Officers have been trained in the police academy on the rules and procedures of the Boston Police Department. “Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department.” Sergeant Cottone’s conduct was inappropriate and unbefitting a Boston Police Superior Officer. Officers have also been trained in the respectful treatment of others. “Employees shall, on all occasions be civil, respectful, courteous, and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public.” Sergeant Cottone did not exhibit any of these qualities on the 15<sup>th</sup> of January. What was exhibited to the police officers and Mr. Johnson was contemptuous and discourteous conduct.

An officer has opinions. The manner in which Sergeant Cottone expressed her opinions was not within the rules and procedures. “Employees shall not publicly criticize or ridicule the Department, its policies, or other employees by speech, writing, or expression in any manner when such speech, writing, or other expression is defamatory, unlawful, interferes with the maintenance of discipline, or is made with reckless disregard of its truth or falsity.

Sergeant Wright utilized his discretion in dealing with the group trespassing at the pizzeria. Mr. Johnson had requested several times that he wanted the group to leave and had stated it to the officers. During Sergeant Wright’s interview, he was asked about the group trespassing. He stated that he used his discretion and was prudent in whether or not to arrest. He believed that it was better to let the group finish eating and they would leave on their own. It was the first day of the mandate and it could have turned out worst to arrest the group for trespassing.

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard

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Legal Advisor

## **Attachments**

- 1. Complaint Submission by Deputy Superintendent Eddy Chrispin.**
- 2. Boston Police Incident Report CC# 222003233.**
- 3. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.**
- 4. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.**
- 5. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.**
- 6. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.**
- 7. Form 26 reports from the officers who responded to the scene.**
- 8. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.**
- 9. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit**
- 10. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.**
- 11. Sergeant Cottone's Signed Carney Waiver**



**From:** Lucia Palomares <lucy.palomares@pd.boston.gov>  
**Sent:** Friday, April 22, 2022 3:38 PM EDT  
**To:** Lucia Palomares <lucy.palomares@pd.boston.gov>  
**Subject:** Reports  
**Attachment(s):** "Sergeant Findings Report-Cottone.docx"

**To:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards

**From:** Sergeant Lucia Palomares  
Internal Investigations Unit  
Bureau of Professional Standards

**Date:** April 21, 2022

**Subject:** IAD Complaint No. 2022-0015

**Employee:** Sergeant Shana Cottone ID# 106714

**Violation:** Rule 102, § 3 Conduct Unbecoming  
Rule 102, § 9 Respectful Treatment  
Rule 102, § 19 Statement of Opinion  
Rule 102, § 35 Conformance to Laws

**Complainant:** Deputy Superintendent Eddy Chrispin  
Assistant Chief, Bureau of Professional Standards  
Internal Investigations Unit  
Boston Police Department  
1 Schroeder Plaza  
Boston, MA 02120-2014

**Sir:**

I, Sergeant Lucia Palomares, respectfully submit the following investigative report regarding IAD Complaint No. IAD2022-0015.

**Summary of Complaint:**

*“The following narrative was taken from Boston Police Report I# 222003233:  
At about 3:20 PM on Saturday 01/15/2022 Officers Aragonés and Dowling in the D201D responded to a radio call for a protest at 1330 Boylston Street (Regina Pizzeria) Boston, Ma. The following is summary of the events that took place not a word for word account:*

*Upon arrival officers met with the store manager (Kenneth Johnson) who stated that a group of females came into the store and sat down and wanted to order food. Mr. Johnson stated he asked*

*the group for proof of their Covid-19 vaccine due to the new city mandate. The group then refused to show Mr. Johnson any proof of vaccination. Mr. Johnson stated he then called the police to remove the group due to them not following the new mandate.*

*Officers then spoke to the group that consisted of Ms. Shana Cottone and 5 unknown females who refused to identify themselves. The group stated that they were not going to show proof of vaccination and that they bought one bottle of water. Officers spoke to Mr. Johnson again who stated that one of the workers handed Ms. Cottone a bottle of water assuming she would go pay for it at the register. He stated that she did not pay for the water at the register and there is no record of her purchase of the water. Officers attempted to obtain video surveillance to which Mr. Johnson stated the cameras were not working. Ms. Cottone stated that she put \$2 in the tip jar for the bottled water. Officers asked the group to leave the restaurant several times and refused. Officers then requested a patrol supervisor to the scene. D909 (Wright) arrived on scene and spoke with the group. The group again refused to leave and officers stated that they were remaining on scene until the group left the premises. An unknown male then dropped two pizzas off to the group at their table and then left the restaurant. Officers Aragonese and Dowling were then relieved at the scene at about 4:10PM by the DT55F (Keaton) and the D499F (Antonino) still accompanied by the D909. The group then finished their pizza and left the restaurant.”*

**Summary of Interview with Officer Jordan Aragonese ID# 153073 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Jordan Aragonese provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonese (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonese was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen’s Association.

Prior to the interview, Officer Aragonese was given the opportunity to read Commissioner’s Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Aragonese relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Aragonese reported that his badge number was 5230, that his department ID number was 153073, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the day shift.

Sergeant Palomares inquired about what took place at 1330 Pizzeria Regina on the 15<sup>th</sup> of January of 2022. Officer Aragonés stated that his unit the D201D was dispatched to 1330 Boylston Street for a protest. Officer Aragonés stepped out of the wagon and did not observe any protesters outside of Regina Pizzeria. The officer walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officer that there was a group inside the pizzeria protesting the city vaccine mandate.

Officer Aragonés notified his partner and informed him (Officer Dowling) that the protest was inside. Officer Aragonés advised the group of the vaccine mandate since it was the first day of the mandate. They could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonés requested to speak to the group outside but the group did not want to speak outside. At this time, Officer Dowling advised Officer Aragonés that one of the females in the group was a police officer. Dowling notified the dispatcher and requested for a patrol supervisor to respond to the call.

Officer Aragonés stated that Sergeant Cottone (female officer) requested the names and badge numbers of the officers. He stated that they complied and gave their names and badge numbers. Officer Aragonés also stated he and Dowling were wearing face masks and were not recognizable. Upon giving the group their names, the female (Sergeant Cottone) started calling Dowling by his first name (Anthony) and calling them naughty boys. Officer Aragonés stated that Sergeant John Wright arrived at the scene and spoke to the manager (Mr. Johnson) about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. Officer Aragonés stated that an unidentified male walked over to the group and dropped off two boxes of Regina pizzas. The group sat there and ate the pizzas.

Officer Aragonés also spoke of the dispute regarding the payment of the water bottle. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. The officer further stated that Sergeant Wright also advised the group that the officers would not leave until the group left. Officers Dowling and Aragonés were relieved and they headed back to the station.

Officer Aragonés stated that Officer Dowling recognized Sergeant Shana Cottone because she had been his supervisor at District E5 (Roslindale/West Roxbury Police Station) when he was assigned to that district. Officer Aragonés stated that she (Sergeant Cottone) was the main speaker of the group. The officers were called “Nazis” and “naughty boys.” He also stated that the group had been asked to leave several times.

This interview concluded at about 10:31 a.m.

**Summary of Interview with Officer Anthony Dowling ID# 153152 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Anthony Dowling provided the following information in narrative form and direct questioning.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Dowling was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Dowling relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Dowling reported that his badge number was 5162, that his department ID number was 153152, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the Day shift.

He was asked if he was working on the 15<sup>th</sup> of January of 2022 at 3:20 p.m. Officer Dowling stated that he was working the day as the D201D with Officer Aragonés and they responded to a protest at 1330 Boylston Street at Regina Pizzeria.

Officer Dowling stated that they responded to the location and did not observe any protestors outside. They went inside and observed a group of women with a child at the table. He observed Sergeant Cottone sitting at a table and knew that she worked at E5 (West Roxbury/Roslindale Police Station). Officer Dowling attempted to limit the interaction with Sergeant Cottone and the group. Officer Dowling stated that they asked the group if they ordered food. There was a dispute over a bottle of water and whether Sergeant Cottone had paid or put the money in the tip jar. He stated that someone ordered two boxes of pizzas and dropped them off at the table and the group started to eat in front of the officers. Officer Dowling stated that Sergeant Wright had advised them of the mandate.

Officer Dowling stated that the interaction with Sergeant Cottone started when he asked the group if they had ordered food. She asked for his name and badge number. He stated that was when Sergeant Cottone recognized him and kept calling him Anthony and that he was being a naughty boy and don't do this. Officer Dowling stated that he had worked at E5 for 6 months in 2019 and Sergeant Cottone was one of his supervisors. Officer Dowling stated that he called for a patrol supervisor to respond to the scene. The investigators asked if there was evidence of Sergeant Cottone putting money in the tip jar? Officer Dowling stated that there was no evidence and the manager had informed the officers of the dispute upon arriving at the scene. Officer Dowling stated they were later relieved by Officers Keaton and Antonino. He further stated that the vaccination mandate (proof of vaccination) policy had gone into effect that day and the group refused to show papers to the manager and it was the manager who initiated the 911 call.

This recorded interview concluded at 10:52 a.m.

**Summary of Interview with Sergeant John Wright ID# 10746 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant John Wright provided the following information in narrative form and direct questioning.

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

Prior to the interview, Sergeant Wright was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Wright relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Wright reported that his badge number was 469, that his department ID number was 10746, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Sergeant Wright was asked if he was working on the date of the incident and he stated that he was working the First Half shift and responded to 1330 Boylston Street. He stated that the rapid (D201D/Aragones-Dowling) at the scene had requested a Patrol Supervisor to respond to the scene. He further stated that the 15<sup>th</sup> of January was the first day of the vaccine mandate

and there was a group refusing to wear a mask and refusing to provide proof of vaccination. Sergeant Wright stated that Officer Aragonese had advised him of the group. He stated that he passed out information on the vaccine mandate to the manager of the pizzeria (Mr. Johnson) and the group. He stated that someone had purchased a pizza for the group. Sergeant Wright stated that the group berated the officers, ate their food, and then left. He was asked if he knew the white female (Sergeant Cottone) in the overalls. He stated that he recognized her from when she worked at District B2 (Roxbury Police Station) and when they were students at Curry College.

At the scene, Sergeant Cottone asked for Sergeant Wright's name badge number and he gave it to her. She was confrontational with him and called him corrupt. Mr. Johnson (manager) had a dispute over the payment of the bottle of water. It was later determined that the money was placed in the tip jar. She stated to him "don't be wrong Wright." Sergeant Wright called the Duty Supervisor at the station and advised the supervisor that the officers would wait out the group and to please send relief. The officers waited till the group left.

Sergeant Palomares inquired how he felt about the situation. He stated that he felt disrespected and that when dealing with the public and other officers it should not be personal. She made it personal when she called the officers corrupt with no proof. Sergeant Wright stated that Sergeant Cottone stated that they (officers) were picking on women and a child. The sergeant believed that she was looking for a situation to incite the officers.

The officers waited till the group finished eating and they left the pizzeria. The incident was documented and his commander was notified of the situation. In the incident regarding the water bottle, she had tried to pay the employee behind the counter. The employee had told her that she was all set and she then placed the money in the tip jar as payment for the water. Sergeant Cottone had attempted to pay the employee but he did not take the money because she was not wearing a mask. Mr. Johnson was not present for that exchange. She taunted the Sergeant and another officer who she recognized. Sergeant Cottone tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated.

Sergeant Wright also spoke of the video dispute at the restaurant. He spoke to Mr. Johnson and requested to view the video but there was no video to view to help clarify the tip jar incident. The manager stated that there was no video because the video system was not working. The group was advised several times of the mandate in regards to eating inside of the establishment. No charges were brought against any of the group members. The sergeant decided it was in the best interest of everyone to wait it out and let the group eat their food. He stated that he used prudence because it was the first day of the mandate and it could have turned out worst if arrests were made.

This recorded interview concluded at 3:25 p.m.

**Summary of Interview with Officer Christopher Keaton ID# 126508 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Christopher Keaton provided the following information in narrative form and direct questioning.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton within the office of the Internal Affairs Division on the third floor of the Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Keaton was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Keaton relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

Sergeant Palomares inquired if Officer Keaton recalled what happened at the location of Regina Pizzeria. Officer Keaton stated that he had worked a day tour on overtime. The duty supervisor requested that he head over to Regina Pizzeria to relieve the officers there. Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and the comments directed at the manager (Mr. Johnson).

Sergeant Palomares inquired how he knew Sergeant Cottone? Officer Keaton stated his father worked at A1 (Downtown/Charlestown Police Station) and when he would visit his father he would see Shana Cottone who was a patrol officer at the time. Officer Keaton was aware of the group that was at the pizzeria. She spoke of suing him but believed that she did not recognize him because he was wearing a mask. The group finished eating and left on their own.

This recorded interview concluded at 4:19 p.m.

**Summary of Interview with Officer Thomas Antonino ID# 8641 (WITNESS):**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Officer Thomas Antonino provided the following information in narrative form and direct questioning.



On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.

Prior to the interview, Officer Antonino was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Officer Antonino relayed that he read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Officer Antonino reported that his badge number was 1092, that his department ID number was 8641, and that he was currently assigned to D4 (South End/Back Bay Police Station) on the First Half shift.

Officer Antonino was asked if he had responded to 1330 Boylston Street on the 15<sup>th</sup> of January of 2022, and he stated that he had responded to relieve the day units. On scene were Sergeant Wright and Officers Aragonés and Dowling. The Officers Aragonés and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group was about five females who were very rude to the manager. Officer Antonino was asked for his name and badge number for the lawsuit. Sergeant Cottone directed comments at Sergeant Wright. Officer Antonino had been advised of Sergeant Cottone before heading to relieve the officers. Sergeant Cottone was the main speaker of the group and directed derogatory comments to the manager (Mr. Johnson) and Sergeant Wright. Officer Antonino stated that once the group finished eating they left. The officers had no interaction with the group and let them eat their pizzas. Sergeant Wright never got into a confrontation with the group or Sergeant Cottone when she was directing statements to Sergeant Wright regarding his family and children.

This recorded interview concluded at 4:33 p.m.

**Summary of Interview with Sergeant Shana Cottone ID# 106714:**

The following paragraphs are synopses and not verbatim accounts of the recorded interview. Sergeant Shana Cottone provided the following information in narrative form and direct questioning.

On Thursday, the 10th of 2022 at 10:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation, Sergeant Jeannie Carroll (President

of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone.

Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and invoked her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

On Wednesday, the 20<sup>th</sup> of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled second interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation). The interview was audio-recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo.

When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift.

Sergeant Cottone did not answer questions and was on record invoking her Carney privilege to all the questions asked by Sergeant Palomares.

The recorded interview concluded at 12:51 p.m.

**Summary of Interview with Kenneth Johnson (manager of Regina Pizzeria/WITNESS):**

Sergeant Lucia Palomares has made attempts to speak to Mr. Johnson regarding the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022. A certified contact letter was also sent and another phone call was made on the 3<sup>rd</sup> of April 2022.

**Review of Officer Dowling Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Dowling and regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officers had responded to a radio call at 1330 Boylston Street for protestors. Officer Aragon was speaking to Sergeant Cottone (white female, wearing a cap, overalls, and sweatshirt) and she stated: "why are you here, what is your purpose?" She further stated that the police were not supposed to enforce the mandate, she would not show papers, and that she purchased a bottle of water. Aragon

requested to see their vaccination papers, but the group refused and stated that they would sit there. Dowling called for a patrol supervisor to the scene, Cottone stated to Officer Aragonés that he was violating their rights. She continued by stating that they were violating their rights by enforcing the vaccine mandate and why were they doing that. She later asked for Aragonés name and badge number. Cottone stepped away from the table and the group continued their confrontation with the officers.

Mr. Johnson (manager, black male, 50-60-yrs-old) explained to the officers that he was trying to get them to leave and that he was trying to run a business. While the manager was speaking to the officers and the group yelled out “Nazis” and a black female protester stated “it was a shame black people discriminate and you turning your back on your people. Segregation was started on this holiday and everyone has an opinion and a choice.” The officers stated in response, “we just working doing our job.” The group stated “so did the Nazis and you have a choice. You are ignoring your oath and acting like Nazis.”

One of the females stated to the officers “your mayor is not my mayor.” Cottone returned to the table and stated to the officers, “if you not going by your oath you shouldn’t be doing this job, you understand. Just working. It’s a cop-out and you on the wrong side copping out to violating our rights.” Cottone repeatedly stated to the officers “you being naughty boys, history has shown how you trample on the rights of people and you guys are the bad guys.” The officers listened and one of the females stated “Martin Luther King said that it is our moral obligation to not obey an unjust law.”

Officer Dowling inquired if they had purchased the water there, as Sergeant Cottone sat at the table drinking her water. She then stated “this is a waste of resources. I am enjoying my product and I am going to sue and I want your name and badge number. I don’t want to do this but you need to be on the right side of this one. 14 years, 14 years!” 14 years of what asked Dowling and she stated “you know that.” Cottone continued speaking and stated, “time to make a choice boys.” “You don’t have to do this Anthony, I know you since you have been on this job, Anthony this is not how policing is done. Don’t walk away from me, you don’t have to do this.” Officer Dowling walked away from Sergeant Cottone to keep his distance.

Mr. Johnson (manager) expressed to the officers that he felt that the group was harassing him. He was trying to run a business and explained to the group that he was following the rules. The group did not order food and a person kept calling and stating that my friends were being harassed by the police. The caller also stated to give them the pizza. Mr. Johnson stated that only a bottle of water had been purchased.

Sergeant Wright arrived at the scene and spoke to Mr. Johnson and explained that a vaccination card has to be shown or they cannot be served. Sergeant Wright also spoke to the group that if they did not show a vaccination card they would have to leave. Cottone replied that she had purchased an item and was enjoying her beverage and he (Sergeant Wright) was going to

leave her alone. Cottone stated that Mayor Wu said that the police would not be involved regarding the mandate and asked Wright what was he doing there. She further stated, “you gonna leave me alone and I am gonna enjoy my beverage!”

Sergeant Wright then asked the employees what time the pizzeria closed and they stated 8:30 p.m., and he and the officers sat down at one of the tables. Mr. Johnson advised Officer Aragonese that Sergeant Cottone had not paid for the bottle of water. Sergeant Cottone heard the conversation and stated, “I put it in the tip jar you little liar! You lying!” Mr. Johnson and Cottone argued over the purchase of the water. Cottone stated that I put it in the tip jar and Johnson stated that she did not put money in the tip jar. Cottone demanded that the officers view the cameras. Sergeant Wright and Officer Dowling walk back out to the group and Sergeant Wright stated to the group that the tip jar was for tips. Cottone confronted Sergeant Wright and stated “do not play these games with me! You go view the cameras right now. Don’t play these games with me. It’s like when they give you free coffee, you put the money in the tip jar. Don’t go down this road. You want to go down this road, don’t play games with me, and go back there and view the camera!” She further stated that she tried to pay but the employee would not take the money.

Sergeant Wright stated to her that they would take a police report and take both statements. She stated “no you will not take a report! Go look at the footage! You are a corrupt cop and you are falsely testifying!” Sergeant Wrights asked her if she was willing to give her name and identification and she stated “no, I am not!” Sergeant Wright asked Mr. Johnson if he has access to the video and he stated yes. At this point, a female yelled out “fucking liar!”

Mr. Johnson spoke to Sergeant Wright in private and stated that there was no video but that he did not want to say that in front of them (group). Wright headed back to the group and Dowling asked Wright “you know who that is right?” and Sergeant Wright stated “yes.” The group stated to the officers that these mandates were not laws. The officers inquired if anyone wanted to identify themselves for the report. Everyone stated no. One of the females stated that her father was a police officer and was shot nine times in the head putting his life on the line and Tommy Gamperts would be disgusted.

The group was left alone and they ate their pizzas. The group kept talking about how Cottone was a hero and how she was being treated. Sergeant Cottone replied that it only takes one person to make difference. She further stated that she would have a discussion with the North End pizzeria regarding the manager (Mr. Johnson) being a little liar and that she would be suing. She stated, “they know that I paid for that water and this is a juvenile matter.” One of the females stated that it’s on live video. Sergeant Cottone stated that they will send it to Sergeant Wright and do his job for him. She continued confronting Sergeant Wright and stated that he did not want to go after criminals, drug-addicted people, or help the homeless, he preferred to be with them (group). She further stated that Sergeant Wright was choosing to be there and could go Charlie Robert (clear from the call) and that there was no crime at that

location. Cottone further stated to Sergeant Wright that he was wasting taxpayers' money and that was in the rules and regulations (Boston Police Rules and Regulations).

She addressed his presence as a "police state" standing there watching them eat as a show of force was intimidating because there were five women and a child and it was intimidating. Sergeant Wright was calm and did not state anything to her. She continued berating him and stated "you should go and do your job because this is not part of your job. Mayor Wu has confused you and this is not part of your job. Mayor Wu said the police were not enforcing this." Officer Dowling's video ended and it was 37:00 minutes long.

### **Review of Officer Aragon's Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Sergeant Palomares viewed the Body-Worn Camera video of Officer Aragon's regarding the incident on the 15<sup>th</sup> of January 2022 at Regina Pizzeria. The officer had responded to a radio call at 1330 Boylston Street for protestors.

Officer Aragon's spoke to the manager (Kenneth Johnson) who stated that they (a group of protestors) won't buy anything and wanted them to leave but they would not leave. Aragon's was joined by his partner Officer Dowling. Sergeant Cottone questioned Aragon's as to what was his purpose and why was he there. Officer Aragon's clarified to her that the pizzeria was a private establishment and that if they (the group) did not show papers (vaccination cards) they would have to leave. Sergeant Cottone stated to Officer Aragon's that they were not showing papers. Officer Aragon's clarified to the group that they could not dine in but could order the food to go and would have to leave.

Sergeant Cottone stated, "listen to me, listen to me, you are walking thin line and police are not supposed to enforce the mandate!" Officer Aragon's stated to Sergeant Cottone "you can leave" and the group stated that they can stay. Officers Aragon's and Dowling stated to Cottone that they were not violating their rights. Officer Dowling advised Officer Aragon's to call for a supervisor to the scene.

Sergeant Cottone was hostile and warned the officers that they were violating their (group) rights and asked for Officer Aragon's's name and badge number. Sergeant Cottone stated to Officer Aragon's "why are you enforcing the vaccine "passport" and why are you doing that?" Aragon's advised Sergeant Rodriguez on the phone that they had protestors at Regina Pizzeria who would not show vaccine cards and one of them was an officer.

Officer Aragon's notified Mr. Johnson that a supervisor was responding to the location. Mr. Johnson advised Officer Aragon's that there was a person calling about the group. The group leveled comments at the officers regarding choices, opinions, comparing the officers to Nazi Germany, and segregation. One of the females stated, "Nazi's also said doing my job,

rights are being violated and your Mayor is not my Mayor.” Sergeant Cottone had stepped away from the table and later walked back to the group and sat down. Cottone stated to the officers that they were on the wrong side of this and if they won’t stand by their oath they shouldn’t be on the job. The officers stated to her “just working.” Sergeant Cottone stated “coping out to violating our rights. You’re being naughty boys.” “History has shown us that high steppers like you trample on the rights of the innocent. You go down in history as the bad guys.” One of the females stated to Aragonos “Martin Luther King said it is our obligation to disobey an unjust law.”

Did you buy something here Dowling asked the group? Cottone stated you gonna leave me alone and enjoy my beverage. She continues on about “14 years, 14 years. Dowling asked 14 years what? “You know what! Time to make a choice boys. You don’t have to do this Anthony, this is not how it’s done.” She further stated that a classmate resigned and gave away his gun and badge. Cottone stated, “they took my gun and badge a week and a half ago.” “You are corrupted by money. This is wrong.” Officer Aragonos stated to the group “you are all being recorded and you are all expressing opinions.” Aragonos also advised them that he was not threatened by the group.

Sergeant Wright arrived at the scene Officer Aragonos advised him of the group protesting the vaccine mandate and that one of the protesters was a police officer and they did not order anything except a bottle of water. Sergeant Wright spoke to Mr. Johnson (manager) about the mandate. Sergeant Wright advised Mr. Johnson that if they do not show a vaccination card they cannot be served in the city. Johnson stated that he understood the mandate. Officer Aragonos asked Johnson for his information for the police report.

Wright and Dowling spoke to the group. Cottone was the speaker for the group. Sergeant Wright stated, “we will wait and let her enjoy her water” and asked Johnson what time they closed Johnson stated at 8:30 p.m. Wright advised the officers (Aragonos and Dowling) that they would wait it out.

Mr. Johnson explained the situation regarding the bottle of water to Officer Aragonos. An employee gave Cottone a bottle of water and he assumed that she would pay. She did not pay or put anything in the tip jar. The dispute continued between Johnson and Cottone in front of the officers and the group. Cottone yelled out “he is a liar.” Mr. Johnson stated that they (the group) made racial comments and threats toward him. Sergeant Cottone yelled out “don’t play these games with me, I tried to pay for the bottle of water and he (the employee) would not take the money. It’s like when you get free coffee you put the money in the tip jar.”

Sergeant Wright informed her that the officers would take a police report and she yelled back “no you will not take a report. You gonna get the footage, don’t play with me. Don’t play games with me, you gonna look at the footage.” Sergeant Wright requested Cottone’s name for the



report and she would not cooperate and kept stating to look at the footage. She stated "You are a corrupt, corrupt man! You are falsely testifying I will sue you. I want the footage."

Sergeant Wright inquired if Mr. Johnson had access to the video and Mr. Johnson, stated "yes" and the officers walked to the back area of the kitchen. One of the females in the group yelled out "you fucking liar" directed at Mr. Johnson. Another female wanted to know if the police will reprimand the manager for filing a false police report.

Sergeant Wright walked back to speak to the group. Sergeant Wright advised the manager that the police would take a police report of "he said she said." This angered Sergeant Cottone who stated, "this is not he said she said and you have access to the video." The group challenged Sergeant Wright regarding the police report. Sergeant Cottone stated to Sergeant Wright "bullshit, you're bullshit!" Sergeant Wright continued explaining that both sides would be represented in the report. Officer Aragonese requested Sergeant Cottone's name and she stated "no." Officer Aragonese was gathering information for the police report and Sergeant Cottone yelled out "you can't take the report, he is not a credible witness, Sergeant Wright you hear me!" Sergeant Wright replied, "yeah I hear you."

Sergeant Cottone replied "You are a corrupt cop. It is your opinion, not based on observations and you choose to be a corrupt cop. What is your name and badge name?" Sergeant Wright calmly gave his name and badge number. Sergeant Cottone continued being confrontational towards the supervisor and stated "Shame on you, disgusting, you're a disgrace. You have the choice to do the right thing but you choose to be part of this corrupt system. Officer Aragonese spoke to the employees regarding the situation and the employee believed that she would pay for the water.

The group stated to the officers "your Mayor does not care about you. We stand on your side for you. You are ashamed you can't look me in the eye. Mayor Wu said the police would not be involved. You are ashamed and you need to take a stand, not personal guys." Sergeant Cottone stated "you don't know me, I am a person. Can't tell us we can't eat." Two boxes of pizzas were dropped off at the group's table. They were taking photos and videos of themselves eating the pizza and the officers standing nearby. She stated, "I want to give a shout out to Eddy Chrispin to stop violating my rights." The officers watched the group as they ate their pizzas.

Officer Aragonese inquired from the group if anyone wanted to identify themselves for the police report. Sergeant Cottone stated "they have not done anything to identify themselves." One of the females stated that her father was a Boston Police Officer and was shot 9 times in the head. She stated "he put his life on the line." Sergeant Cottone stated to Sergeant Wright "we can't eat pizza because we're unclean and unvaccinated people." Sergeant Wright replied "you are eating pizza right now." Sergeant Cottone replied, "you wanted to kick us out remember." Sergeant Wright stated to the female "I knew your father and he was a good man and tell him I say hello." She stated "he would be very disappointed with you.

One of the females described Sergeant Cottone as a hero and that this was how she was treated. Sergeant Cottone replied that it takes one person to make a difference. Cottone further stated that she would have a conversation with Regina Pizzeria headquarters and report the manager (Mr. Johnson) and how he falsely testified against customers. She stated "I don't want to sue Regina Pizzeria; the manager was lying and they know that I paid for the water." One of the women stated it was on video in real-time that Sergeant Cottone paid for the water. Sergeant Cottone confronted Sergeant Wright and stated that he did not want to do his job and help others or fight crime. She stated that he would rather stay there with them and waste taxpayer dollars. Sergeant Wright replied that he answered a call for service.

Officer Aragon's video ended and it was 37 minutes long.

### **Review of Officer Keating Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Keaton responded to 1330 Boylston Street and Sergeant Cottone asked for his name and badge number. He complied and gave his information to her. Officer Antonino was already there with Sergeant Wright. The officers watched the group and did not have contact with the group. Sergeant Cottone can be heard stating that the manager (Mr. Johnson) must have turned off the phone inside the pizzeria and called him "tyrant man." She ranted about leaders acting as tyrants and people thinking that they can act as tyrants. She stated to Sergeant Wright, "little tyrant mayor man, we can teach you about people's rights, give you a civic lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. Most dysfunctional family I belonged to and I'm not being quiet anymore, going to take my job but I won't!" As the group started to leave, she states to Sergeant Wright "you will have to tell your kids and grandkids what you did." "You are corrupt, you are a yes man. I didn't sign up to do this. I signed up to care for people and protect their rights. Maybe if you would have showed up to my roll call leading up to this, you would understand." Officer Keaton's video ended and it was 13 minutes long.

### **Review of Officer Antonino Body-Worn Camera Video**

The following paragraphs are synopses and not verbatim accounts of the video.

Officer Antonino responded to 1330 Boylston Street to relieve the day shift officers (Aragones and Dowling). Sergeant Cottone stated to Officer Antonino that because Sergeant Wright brought him there, she would need his name and badge number. Officer Antonino gave his name and badge number to Sergeant Cottone. She yelled out to Mr. Johnson, "manager man, did you turn off the phones because you're being a little tyrant." One of the females in the group was laughing at the statement and stated "manager man did you turn the phone off." She then stated "Tyranny is contagious when they think they can act like their leaders they act like tyrants."



Very dangerous, this status quo happens people think that this is normal. This is not normal guys.”

Sergeant Cottone stated to customers “guys make sure that you check your receipts cause he (Mr. Johnson) is a liar, he tried to get me in trouble that I didn’t pay for my pizza and that he is charging the proper price of the pizza. Officer Keaton arrived on the scene and Sergeant Cottone requested his name and badge number.

Sergeant Cottone stated “this is not normal, three years ago, we would have laughed and said not in our country. This is not our country guys.” She then rants on about Mayor Wu and stated “she does not belong in politics, that she is not a leader and shouldn’t be in politics.” Sergeant Cottone stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing. The most dysfunctional family I belonged to and I’m not being quiet anymore, going to take my job but I won’t!” As the group left, Sergeant Cottone stated to Sergeant Wright “you will have to tell your kids and grandkids what you did.” “You are corrupt, you are a yes man. I didn’t sign up to do this. I signed up to care for people and protect rights. Maybe if you would have showed up to my roll call leading up to this, you would understand.” Officer Antonino’s video ended and it was 20 minutes long.

### **Investigation:**

The following is a list of steps and actions performed during this investigation:

- A copy of Boston Police Report #222003233 documenting the incident at Regina Pizzeria on the 15<sup>th</sup> of January of 2022.
- Form 26 Reports of the officers who responded to 1330 Boylston Street.
- Downloaded copies of the Body-Worn Camera Videos and viewed the videos of all the officers (Aragones, Dowling, Keaton, Antonino) who responded to the scene at Regina Pizzeria.
- Employee photos and information gathered from PICS and the Detail system regarding all of the officers involved in this matter.
- Administrative Employee Interview Notices sent to Sergeant Wright, Officers Aragones, Dowling, Keaton, and Antonino.

- On the 23<sup>rd</sup> of February 2022, a certified letter was sent to Sergeant Shana Cottone's residence regarding her Administrative Interview Notice. A copy was also sent to the Director of the Occupational Health Unit Chanel Alexander-Bryant.
- On the 25<sup>th</sup> of January 2022, Sergeant Palomares contacted Regina Pizzeria headquarters and spoke to Tom D'Andra regarding video footage of the incident on the 15<sup>th</sup> of January 2022. He stated that the cameras were not working at that time but that the cameras were now working. No video footage for that date.
- On the 3<sup>rd</sup> of April of 2022, a certified contact letter was sent to Kenneth Johnson. Mr. Johnson is the manager of Regina Pizzeria. Several calls were also made requesting to speak to him regarding the incident.

As part of this investigation, the following individuals listed below were audio-recorded during their interviews:

- On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Aragonés (witness), within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Officer Aragonés was also accompanied by his attorney, Bryan Decker representing the Boston Police Patrolmen's Association.
- On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Officer Anthony Dowling (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Dowling was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph, conducted a recorded interview with Sergeant John Wright (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Sergeant Wright was Attorney Patrick Bryant representing the Boston Police Superior

Officers Federation along with Lieutenant Timothy Kervin (Vice President of the Boston Police Superior Officers Federation).

- On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Christopher Keaton (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Keaton was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan, conducted a recorded interview with Officer Thomas Antonino (witness) within the office of the Internal Affairs Division on the third floor of Boston Police Headquarters located at One Schroeder Plaza, Boston. Also, in the room for Officer Antonino was Attorney Bryan Decker representing the Boston Police Patrolmen's Association.
- On Wednesday, the 20th of April of 2022 at 11:00 a.m., Sergeant Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Police Superior Officers Federation and Sergeant Jeannie Carroll (President of the Federation) and Lieutenant Timothy Kervin (Vice President of the Federation), and Attorney William Gans representing Sergeant Cottone. Sergeant Cottone asserted her 5<sup>th</sup> Amendment privilege and initiated her Carney Rights. Sergeant Cottone was requested to sign the Carney waiver and Sergeant Palomares signed and witnessed it. Sergeant Cottone was not interviewed on the 10<sup>th</sup> of March of 2022.

### **Investigation Summary:**

On Monday, February 14, 2022, at about 10:07 a.m., Sergeant Lucia Palomares, with the assistance of Sergeant Detective Paul Joseph interviewed Officer Jordan Aragones. Sergeant Palomares inquired as to what took place at 1330 Regina Pizzeria on the 15<sup>th</sup> of January of 2022. He stated that his unit the D201D was dispatched to 1330 Boylston street for a protest. He was working with Officer Anthony Dowling in the wagon. The officers walked inside the establishment and spoke to the manager Kenneth Johnson. Mr. Johnson stated to the officers that there was a group inside the pizzeria protesting the city vaccine mandate. Officer Aragones advised the group of the vaccine mandate since it was the first day of the mandate. He advised

the group that they could order out if they did not wish to show proof of vaccination but they could not stay and eat without proof of vaccination. Several times the officer requested that the group leave and the group called the officers various names. Officer Aragonese requested to speak to the group outside as well and they did not want to speak outside. Officer Dowling advised Officer Aragonese that one of the females in the group was a police officer and she had been one of his supervisors. Officer Dowling requested a patrol supervisor respond to the scene. Sergeant Cottone had requested the names and badge numbers of the officers and they complied and gave the information. Officer Aragonese also stated they had their faces covered with masks and it was not very easy to recognize them. When the officers gave their names, Sergeant Cottone recognized Officer Dowling and started calling him Anthony and called them naughty boys.

Sergeant John Wright arrived at the scene and spoke to the manager about the mandate. The supervisor also spoke to the group and advised them they would not be able to eat inside without proof of vaccination. An unidentified male walked over to the group and dropped off two boxes of pizzas. The group sat there and ate the pizzas. Mr. Johnson (manager) spoke to Sergeant Wright regarding the payment of the bottle of water. Sergeant Wright advised the group that the officers would not leave until the group left. Officers Dowling and Aragonese were relieved by Officers Keaton and Antonino and they headed back to the station to write the police report.

On Monday, February 14, 2022, at about 10:33 a.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Officer Anthony Dowling. Officer Dowling stated that he and Officer Aragonese responded to the protest at Regina Pizzeria. Upon entering the pizzeria, he recognized Sergeant Cottone. Sergeant Palomares asked how he knew Sergeant Cottone and he stated she worked at A1 with his father. Sergeant Cottone had asked for the officers' names and badge numbers. When Dowling gave his name, she recognized him and began calling him Anthony. Also stated to him "you don't want to do this, this is not how policing is done."

On Wednesday, February 16, 2022, at about 3:05 p.m., Sergeant Lucia Palomares with the assistance of Sergeant Detective Paul Joseph interviewed Sergeant John Wright. Sergeant Wright stated that the police officers at Regina Pizzeria requested a patrol supervisor to respond to the scene. He responded and spoke to the manager (Mr. Johnson) and the group about the mandate. The group did not want to wear a mask or show proof of vaccination to eat inside of the pizzeria. Sergeant Cottone asked for the supervisor's name and badge. Mr. Johnson stated that Cottone had not paid for the bottle of water. Sergeant Cottone stated that she had attempted to pay the employee but he did not take the money because she was not wearing a mask. She decided to place the money inside the tip jar and Mr. Johnson was not present for that exchange. Sergeant Cottone also tried to antagonize the officers at the scene. She was confrontational with the manager (Mr. Johnson) and Sergeant Wright kept them separated. She was also very

confrontational with Sergeant Wright at the scene. Sergeant Palomares inquired how he felt about the situation and he stated he felt disrespected and that Sergeant Cottone made the situation personal. The investigators also asked about the group trespassing at the pizzeria. Sergeant Wright stated that he used prudence to assess the situation because it was the first day of the mandate. He used his discretion and let the group finish eating and let the group leave on their own. He felt that if they had been arrested for trespass it would have turned out worst in the end.

On Thursday, March 3, 2022, at about 4:09 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Christopher Keaton. Sergeant Palomares inquired what he recalled of the incident on the 15<sup>th</sup> of January 2022. Officer Keaton stated that he had worked a day tour on overtime at D4 (South End/Back Bay Police Station). The duty supervisor requested that he head over to Regina Pizzeria to relieve the day shift officers (Aragones/Dowling). Upon responding to the location, he recognized Sergeant Shana Cottone. Sergeant Cottone requested his name and badge number. He also observed that the group was eating a pizza. He stated that he felt very uncomfortable with the comments she was making regarding Sergeant Wright's family and comments directed at the manager (Mr. Johnson).

On Thursday, March 3, 2022, at about 4:21 p.m., Sergeant Lucia Palomares with the assistance of Lieutenant Detective Timothy Gaughan interviewed Officer Thomas Antonino. Sergeant Palomares inquired if he had responded to Regina Pizzeria on January 15<sup>th</sup> of 2022. He stated that he had responded to relieve the day units. Sergeant Wright and Officers Aragones and Dowling were on the scene. Officers Aragones and Dowling left the scene to write the police report and Sergeant Wright stayed at the scene. The group consisted of five females who were very rude to the manager (Mr. Johnson). Sergeant Cottone asked Officer Antonino for his name and badge number for the lawsuit. Sergeant Cottone was the speaker of the group and directed derogatory comments toward Mr. Johnson and Sergeant Wright. Once the group was done eating they left the pizzeria.

On Thursday, 10<sup>th</sup> of March 2022 at 10:00 a.m., Sergeant Shana Cottone had a scheduled interview with Sergeant Lucia Palomares. Sergeant Cottone invoked her Carney rights and signed a waiver. She was legally represented by her own personal attorney William Gans along with Attorney Patrick Bryant representing the Boston Police Superior Officers Federation. Sergeant Jeanie Carroll and Lieutenant Timothy Kervin were also present as her union representatives (Boston Superior Officers Federation). On that date, she was not interviewed.

A second interview was requested and scheduled for Wednesday, 20<sup>th</sup> of April 2022 at 11:00 a.m. Sergeant Cottone was accompanied by Attorney Patrick Bryant representing the Boston Superior Officers Federation along with union representative Sergeant Jeanie Carroll of

the Federation. The interview was audio recorded. Prior to the interview, Sergeant Cottone was given the opportunity to read Commissioner's Memo CM-10-007 dated January 20, 2010, the Disciplinary Policy Statement. Sergeant Cottone relayed that she read the memo, understood the memo and he did not have any questions regarding the memo. When asked, Sergeant Cottone reported that her badge number was 325, that her department ID number was 106714, and that she was currently assigned to E5 (Roslindale/West Roxbury Police Station) on the day shift. Sergeant Cottone did not answer investigatory questions and was on record invoking her Carney privilege to all the questions.

Sergeant Palomares has made attempts to contact Kenneth Johnson for an interview regarding this investigation. At this time, Mr. Johnson has not contacted Sergeant Palomares regarding an interview. A certified contact letter was sent to his residence. Sergeant Palomares received the certified letter marked "unable to forward."

As part of this investigation, the investigator viewed all of the officer's body-worn camera videos. The officers (Aragones and Dowling) had responded to a 911 call that was initiated by Kenneth Johnson, the manager of the pizzeria. The officers spoke to Mr. Johnson and he stated the group was not cooperative regarding the mandate and would not wear masks or leave the premises. The officers explained the mandate to the group. If they did not comply with the mandate they would have to leave. That day was the first day of the vaccination mandate policy initiated by Mayor Wu.

The group was at the pizzeria protesting the mandate. The group was led by Sergeant Cottone who was recognized by Officer Dowling at the scene. She also recognized Officer Dowling after she obtained their names and badge numbers for her lawsuit. In the video, she called him "Anthony." She further stated to Officer Dowling that he was being a naughty boy, don't do this, this is not how policing is done, don't walk away from me." The group was argumentative and disrespectful. Sergeant Cottone never identified herself to the officers or Sergeant Wright. The entire time she was offensive, quarrelsome, and challenged the officer's authority at the pizzeria.

When the dispute over the water was brought to the attention of the officers she demanded that the officers not take a police report. Sergeant Wright tried to explain that a police report would document both sides of the dispute regarding payment of the water. She replied "do not play these games with me! You go view the cameras right now. Don't play these games with me. It's like when they give you free coffee you put the money in the tip jar. Don't go down this road. You want to go down this road, don't play games with me, and go back there and view the camera!" She was belligerent and insolent towards Sergeant Wright and Mr. Johnson. She directed comments to Sergeant Wright repeatedly calling him a corrupt cop.

The matter could have been resolved in a different manner or in a nonconfrontational manner. The officers at the scene had been called Nazis, and Cottone referred to them as “high-steppers” for doing their job and that they didn’t want to do the right thing. She also questioned their oath and duty as police officers because they had to address the group’s behavior at the pizzeria. When she was asked to identify herself for the police report to document the dispute over payment she stated “no.” She demanded that every officer give their name and badge number for her list to sue. She threatened the officers and the manager with lawsuits.

Mr. Johnson stated that he wanted the group to leave, he was just trying to run a business and was following the mandate. He was doing everything that the Mayor of Boston set forth in the mandate. The mandate had gone into effect on the 15<sup>th</sup> of January 2022 and required proof of COVID-19 vaccination for entry into indoor dining, entertainment, recreation, and fitness establishments. Businesses were required to place a sign at the front entrance and check customers’ vaccination proof upon entry. On the date of the incident, Mr. Johnson was abiding by the mandate and was placed in a difficult position by having to call 911 to address the disturbance inside the pizzeria by Sergeant Cottone’s group.

The entire time the group was at the pizzeria Sergeant Cottone fumed about Mayor Wu. She spoke of leaders acting as tyrants and people think that they can act as tyrants. “This is not normal. Three years ago, we would have laughed and said not in our country. This is not our country guys. She does not belong in politics, that she is not a leader and shouldn’t be in politics.” She stated to Sergeant Wright, “little tyrant mayor man, we can teach you about people’s rights, give you a civics lesson. Sorry, Wright, you are wrong. There will be a next time and maybe you will do the right thing.” The officers at the scene along with Sergeant Wright never discussed politics and were professional. Sergeant Wright never responded to the unprofessional and disrespectful comments directed at him.

Officers have been trained in the police academy on the rules and procedures of the Boston Police Department. “Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department.” Sergeant Cottone’s conduct was inappropriate and unbecoming a Boston Police Superior Officer. Officers have also been trained in the respectful treatment of others. “Employees shall, on all occasions be civil, respectful, courteous, and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public.” Sergeant Cottone did not exhibit any of these qualities on the 15<sup>th</sup> of January. What was exhibited to the police officers and Mr. Johnson was contemptuous and discourteous conduct.

An officer has opinions. The manner in which Sergeant Cottone expressed her opinions was not within the rules and procedures. “Employees shall not publicly criticize or ridicule the Department, its policies, or other employees by speech, writing, or expression in any manner



when such speech, writing, or other expression is defamatory, unlawful, interferes with the maintenance of discipline, or is made with reckless disregard of its truth or falsity.

Sergeant Wright utilized his discretion in dealing with the group trespassing at the pizzeria. Mr. Johnson had requested several times that he wanted the group to leave and had stated it to the officers. During Sergeant Wright's interview, he was asked about the group trespassing. He stated that he used his discretion and was prudent in whether or not to arrest. He believed that it was better to let the group finish eating and they would leave on their own. It was the first day of the mandate and it could have turned out worst to arrest the group for trespassing.

Respectfully submitted,

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Sergeant Lucia Palomares  
Internal Investigations Unit, BPS

Approved,

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Lieutenant Detective Thomas Lema  
Internal Investigations Unit, BPS

Contents Noted and Approved,

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Deputy Superintendent Eddy Chrispin  
Bureau of Professional Standards

Concurred,

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Superintendent Sharon Dottin  
Chief, Bureau of Professional Standard



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Legal Advisor

## **Attachments**

- 1. Complaint Submission by Deputy Superintendent Eddy Chrispin.**
- 2. Boston Police Incident Report CC# 222003233.**
- 3. Officer Anthony Dowling's Body Worn Camera was uploaded to IAPro.**
- 4. Officer Jordan Aragon's Body-Worn Camera was uploaded to IAPro.**
- 5. Officer Christopher Keaton Body-Worn Camera was uploaded to IAPro.**
- 6. Officer Thomas Antonino Body-Worn Camera was uploaded to IAPro.**
- 7. Form 26 reports from the officers who responded to the scene.**
- 8. Cottone's certified mail receipt and return receipt of Administrative Interview Notice sent by certified mail to her residence.**
- 9. Sergeant Cottone's Administrative Interview Notice sent to Occupational Health Medical Unit**
- 10. On the 3<sup>rd</sup> of April of 2022, a certified Contact Letter was sent to Kenneth Johnson's residence.**
- 11. Sergeant Cottone's Signed Carney Waiver**

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** lucy.palomares@pd.boston.gov <lucy.palomares@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** ludwig.castillo@pd.boston.gov <ludwig.castillo@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** ludwig.castillo@pd.boston.gov <ludwig.castillo@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** ludwig.castillo@pd.boston.gov <ludwig.castillo@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**To:** ludwik.bartkiewicz@pd.boston.gov <ludwik.bartkiewicz@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Eva Santiago

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Message Sent By: Sonya Bynoe  
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**To:** luke.holbrook@pd.boston.gov <luke.holbrook@pd.boston.gov>  
**Subject:** Protesters

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** myeshia.henderson@pd.boston.gov <myeshia.henderson@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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District E13  
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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220138071  
District A1  
03-31-2022 17:41:00

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Event Description: Protesters....Small group of people protesting Palestine

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** marc.sullivan@pd.boston.gov <marc.sullivan@pd.boston.gov>  
**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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**To:** maria.cheevers@pd.boston.gov <maria.cheevers@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**From:** Evans Smalley <evans.smalley@pd.boston.gov>

**Sent:** Wednesday, April 13, 2022 9:49 AM EDT

**To:** Mark Bachta <mark.bachta@pd.boston.gov>

**Subject:** Re: Tweet threat to LE

on it!

On Wed, Apr 13, 2022 at 9:19 AM Mark Bachta <[mark.bachta@pd.boston.gov](mailto:mark.bachta@pd.boston.gov)> wrote:

Are you already aware of who @RadDadNE is? If not, can you give it 30 min to see if he's easily ID'd. FBI gonna do their thing once I submit to eGuardian anyways, but if he's readily ID'd it'll give it a jump start.

----- Forwarded message -----

From: **Ethan Cole** <[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)>

Date: Wed, Apr 13, 2022 at 6:54 AM

Subject: Re: Tweet threat to LE

To: BRIC Supervisors <[bricsupervisors@pd.boston.gov](mailto:bricsupervisors@pd.boston.gov)>

This in relation to joe cheevers locking up that woman at a wu press conference yesterday

06:50



**Katie Walker - Poet** @KLawsonP... · 11h ...

This is ridiculous. Tells them to go to City Hall but then arrested her. So in other words, we just need to all shut the fuck up and let them do as they want. 🤔



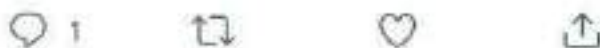
**RadDad** @RadDadNE · 1h ...

What we need to do is start following these cops home. They have addresses and families.



**Katie Walker - Poet** @KLawson... · 36m ...

Yeah not a solution at all. The fact that you have the mindset to mention the families is concerning. Sorry - but some kid doesn't need to be harassed or in fear due to actions beyond them. And having the intent to go to someone's home because they have "families" is fucked.



**RadDad** @RadDadNE ...

Replying to @KLawsonPoet @mjj4114 and 5 others

Wow that was long. I don't really care about your opinion. Cops who trample on people's rights deserve to pay a price

Tweet your reply





06:50

**Michelle Efendi** @EfendiMichelle · 17h

@bostonpolice just unlawfully arrested Catherine Vitale (@WeThePeople\_MA) at Boston City Hall. They didn't say why she was arrested. She was protesting at @MayorWu's presser. Previous to that, Padma Scott witnessed her being assaulted by BPD. #bospoli #NoArroyo #ShameOnWu



3,315 views

**michele** @mjj4114 · 15h

@marcorandazza

**Katie Walker - Poet** @KLawsonP... · 11h

This is ridiculous. Tells them to go to City Hall but then arrested her. So in other words, we just need to all shut the fuck up and let them do as they want. 🤔

**RadDad** @RadDadNE · 1h

Tweet your reply



On Wed, Apr 13, 2022 at 06:47 Ethan Cole <[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)> wrote:  
Mark,

Can we put his in eGuardian.

[https://twitter.com/raddadne/status/1514169001395564544?s=10&t=I\\_B6aCWv0AyrjDtvwWlq0Q](https://twitter.com/raddadne/status/1514169001395564544?s=10&t=I_B6aCWv0AyrjDtvwWlq0Q)

--

Sergeant Detective Ethan Cole  
Boston Police Department/FBI JTTF  
Field Operations Group  
201 Maple Street, Chelsea, MA 02150  
[ethan.cole@pd.boston.gov](mailto:ethan.cole@pd.boston.gov)  
Office 1-(857)-386-2785  
Cell 1-(617)-366-6525

--

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Mark W. Bachta  
Supervisory Homeland Security Intelligence Analyst  
Boston Regional Intelligence Center (BRIC)  
Main: 617-343-4328  
Desk: 617-343-5495  
Mobile: 617-593-6495  
[mark.bachta@pd.boston.gov](mailto:mark.bachta@pd.boston.gov)

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**Evans Smalley**  
**Intelligence Analyst**  
Boston Regional Intelligence Center (BRIC)  
Boston Police Department  
[evans.smalley@pd.boston.gov](mailto:evans.smalley@pd.boston.gov)  
617-343-6061

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** mark.bachta@pd.boston.gov <mark.bachta@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** mark.whalen@pd.boston.gov <mark.whalen@pd.boston.gov>  
**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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District D4  
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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Event Location: 750 Boylston St, BO

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** martin.joseph@pd.boston.gov <martin.joseph@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

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Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** matthew.hogardt@pd.boston.gov <matthew.hogardt@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** matthew.spillane@pd.boston.gov <matthew.spillane@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event Location: Copley Square

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**Subject:** Protesters

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Event P #220140756

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**To:** michael.aziz@pd.boston.gov <michael.aziz@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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District D4  
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Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** michael.golden@pd.boston.gov <michael.golden@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** michael.hanson@pd.boston.gov <michael.hanson@pd.boston.gov>  
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**From:** Joseph Cheevers <joseph.cheevers@pd.boston.gov>  
**Sent:** Wednesday, April 13, 2022 3:58 PM EDT  
**To:** Bruce Kwong <bruce.kwong@pd.boston.gov>; Mike Leary <michael.leary@pd.boston.gov>  
**Subject:** Fwd: SCDAO News Release  
**Attachment(s):** "Vitale, Catherine - arr. (4.13.22).docx"

Sent from my iPhone

Begin forwarded message:

**From:** John Boyle <johnt.boyle@pd.boston.gov>  
**Date:** April 13, 2022 at 3:42:38 PM EDT  
**Subject:** Fwd: SCDAO News Release

FYI

----- Forwarded message -----

**From:** **Algarin, Renee (SUF)** <renee.algarin@state.ma.us>  
**Date:** Wed, Apr 13, 2022 at 3:39 PM  
**Subject:** SCDAO News Release  
**To:**

#### **Protester Arraigned for Assault on Officer**

BOSTON, April 13, 2022— A Dorchester woman was arraigned today for interrupting a Boston City Hall press conference with a megaphone, District Attorney Kevin Hayden said.

CATHERINE VITALE, 31, was arraigned today in the Central Division of Boston Municipal Court on charges of disturbing the police and assault and battery on a police officer. Judge Richard Sinnott released her on personal recognizance.

Vitale and a second individual arrived at Boston City Hall at approximately 12:25 p.m. on April 12 and began shouting into megaphones in an attempt to interrupt a press conference regarding Boston Marathon safety measures. Officers escorted both outside of the building, and they continued to shout through her megaphone at City Hall Plaza.

A crowd gathered around the two, and an employee of an area business approached police about the disruption to employees and customers. The officers instructed both individuals to stop. Vitale instead attempted to force her way back into City Hall by pushing an officer. Officers warned that she would be arrested if she continued, but the defendant continued to push the officer.

"The right to protest and to dissent are central to our democracy and will be protected. Physical assaults, however, are not a valid form of protest," Hayden said.

Vitale returns to court on May 13. She was represented by Steven Topazio for arraignment only.

*All charged individuals are presumed innocent until and unless proven guilty beyond a reasonable doubt.*

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---

**Renee Algarin** (she/her)

**Deputy Director of Communications and Grant Writer**

**Communications Office**

Office of Suffolk County District Attorney Kevin Hayden

One Bulfinch Place | Boston, MA 02114

T: (617) 619-4263 | C: (617) 780-6490

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*



**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE  
DISTRICT ATTORNEY KEVIN R. HAYDEN**

**Press Office**

News Release 22-047

Contact: Jim Borghesani  
Office: (617) 833-9327  
Email: [james.borghesani@mass.gov](mailto:james.borghesani@mass.gov)  
Contact: Renee Nadeau Algarin  
Office: (617) 619-4263  
Email: [renee.algarin@mass.gov](mailto:renee.algarin@mass.gov)

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**Sent:** Wednesday, April 13, 2022 4:49 PM EDT  
**To:** Joseph Cheevers <joseph.cheevers@pd.boston.gov>  
**CC:** Bruce Kwong <bruce.kwong@pd.boston.gov>  
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**Attachment(s):** "Vitale, Catherine - arr. (4.13.22).docx"

We famous 🗣️

Sent from my iPhone

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CATHERINE VITALE, 31, was arraigned today in the Central Division of Boston Municipal Court on charges of disturbing the police and assault and battery on a police officer. Judge Richard Sinnott released her on personal recognizance.

Vitale and a second individual arrived at Boston City Hall at approximately 12:25 p.m. on April 12 and began shouting into megaphones in an attempt to interrupt a press conference regarding Boston Marathon safety measures. Officers escorted both outside of the building, and they continued to shout through her megaphone at City Hall Plaza.

A crowd gathered around the two, and an employee of an area business approached police about the disruption to employees and customers. The officers instructed both individuals to stop. Vitale instead attempted to force her way back into City Hall by pushing an officer. Officers warned that she would be arrested if she continued, but the defendant continued to push the officer.

“The right to protest and to dissent are central to our democracy and will be protected. Physical assaults, however, are not a valid form of protest,” Hayden said.

Vitale returns to court on May 13. She was represented by Steven Topazio for arraignment only.



*All charged individuals are presumed innocent until and unless proven guilty beyond a reasonable doubt.*

Suffolk County District Attorney Kevin Hayden's office serves the communities of Boston, Chelsea, Revere, and Winthrop, Mass. The office handles over 20,000 cases a year. More than 160 attorneys in the office practice in nine district and municipal courts, Suffolk Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Boston Juvenile Courts. The office employs some 300 people and offers a wide range of services and programs to serve anyone who comes in contact with the criminal justice system. This office is committed to educating the public about the services we provide, our commitment to crime prevention, and our dedication to keeping the residents of Suffolk County safe.

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**Renee Algarin** (she/her)

**Deputy Director of Communications and Grant Writer**

**Communications Office**

Office of Suffolk County District Attorney Kevin Hayden

One Bulfinch Place | Boston, MA 02114

T: (617) 619-4263 | C: (617) 780-6490

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*Sergeant Detective John Boyle  
Boston Police Department  
Office of Media Relations  
1 Schroeder Plaza  
Boston, Massachusetts, 02120  
617-343-4520*



**SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE  
DISTRICT ATTORNEY KEVIN R. HAYDEN**

**Press Office**

News Release 22-047

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Email: [james.borghesani@mass.gov](mailto:james.borghesani@mass.gov)  
Contact: Renee Nadeau Algarin  
Office: (617) 619-4263  
Email: [renee.algarin@mass.gov](mailto:renee.algarin@mass.gov)

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** michael.linskey@pd.boston.gov <michael.linskey@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event Location: 445 Arborway, JP

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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** michael.mylett@pd.boston.gov <michael.mylett@pd.boston.gov>  
**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** michael.santry@pd.boston.gov <michael.santry@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** michael.santry@pd.boston.gov <michael.santry@pd.boston.gov>  
**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** mv.butler@pd.boston.gov <mv.butler@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Supervisor: Sgt. Noberini

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District E13  
04-14-2022 07:53:00

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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**To:** natasha.levarity@pd.boston.gov <natasha.levarity@pd.boston.gov>  
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District D4  
04-22-2022 12:14:00

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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**To:** nicholas.dicairano@pd.boston.gov <nicholas.dicairano@pd.boston.gov>  
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District D4  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** nicholas.fisher@pd.boston.gov <nicholas.fisher@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Message Sent By: Eva Santiago

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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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District E13  
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Event Location: Centre Street/South Street, JP

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Message Sent By: Keva Phillips  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** Shawn Williams <shawn.williams@boston.gov>  
**Sent:** Wednesday, April 27, 2022 3:01 PM EDT  
**To:** Omar Bennani <omar.bennani@pd.boston.gov>  
**Subject:** Re: R000277-062520 National Lawyer s Guild  
**Attachment(s):**

"fwdstraightpride1\_1s.zip", "fwdrequestfor1\_1srelatedtothestraightprideparade.zip", "fwdstraightpridearrest1\_1s.zip"

I reached out to Winifred and she forwarded all of the unredacted 1.1s that she thinks that she had. They are attached. As to the emails, Winifred thought that perhaps they were split up amongst the BPD attorneys for review but she didn't recall specifically.

Yours truly,

□	<b>Shawn A. Williams, Esq.</b> <a href="#">Director of Public Records</a> Records Access Officer City of Boston One City Hall Square Boston, MA 02201 <a href="mailto:publicrecords@boston.gov">publicrecords@boston.gov</a>
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On Wed, Apr 27, 2022 at 2:33 PM Omar Bennani <[omar.bennani@pd.boston.gov](mailto:omar.bennani@pd.boston.gov)> wrote:

Hmm... would you mind checking to see if you have a copy saved to your computer? Or looking in your emails to see whether it was you or Winifred that did the redactions? I went through Winifred's folder on our server and I wasn't able to find anything related to an email search for the Straight Pride Parade. If it helps, these are the redacted documents. Let me know if there is a better way to find these.

On Wed, Apr 27, 2022 at 2:16 PM Shawn Williams <[shawn.williams@boston.gov](mailto:shawn.williams@boston.gov)> wrote:

I don't see a Logikcull project for B1110...

Yours truly,

□	<b>Shawn A. Williams, Esq.</b> <a href="#">Director of Public Records</a> Records Access Officer City of Boston One City Hall Square Boston, MA 02201 <a href="mailto:publicrecords@boston.gov">publicrecords@boston.gov</a>
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On Wed, Apr 27, 2022 at 1:53 PM Omar Bennani <[omar.bennani@pd.boston.gov](mailto:omar.bennani@pd.boston.gov)> wrote:

Thanks, that makes sense. My issue is that I can't tell from GovQA who made the redactions - all I can see is that it looks like you uploaded a redacted copy of the emails to GovQA on 10/30/2020 and that Winifred uploaded the redacted incident reports on 10/30/2020. I don't know if a Logikcull project was created or not, but I would assume that it would be labeled B001110-090919, could you please check to see if one was and then add me to it?

On Wed, Apr 27, 2022 at 1:47 PM Shawn Williams <[shawn.williams@boston.gov](mailto:shawn.williams@boston.gov)> wrote:

Omar:

For this one, it depends on who redacted it and how. If it was redacted at BPD and the results were produced from a Logikcull project, then the Logikcull project should still exist and you could get it that way. Or, if it was redacted at BPD it is possible the unredacted copy still exists on your network or on the computer of the person who redacted it.

Does this help at all?

Yours truly,

□	<b>Shawn A. Williams, Esq.</b> <a href="#">Director of Public Records</a> Records Access Officer City of Boston One City Hall Square Boston, MA 02201 <a href="mailto:publicrecords@boston.gov">publicrecords@boston.gov</a>
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On Wed, Apr 27, 2022 at 12:47 PM Omar Bennani <[omar.bennani@pd.boston.gov](mailto:omar.bennani@pd.boston.gov)> wrote:

Hi Shawn,

In reviewing the GovQA history for the NLG request, I found that we had already provided a redacted copy of emails related to the Straight Pride Parade to the ACLU in Request B001110-090919. It looks like you uploaded

it to GovQA on 10/30/2020. Any chance you have a copy of the unredacted pdf? I am working with the NLG to see if we can document reasons for our redactions.

Thanks,  
Omar

On Mon, Apr 25, 2022 at 4:08 PM Shawn Williams <[shawn.williams@boston.gov](mailto:shawn.williams@boston.gov)> wrote:  
Will do.

Yours truly,

<input type="checkbox"/>	<b>Shawn A. Williams, Esq.</b> <a href="#">Director of Public Records</a> Records Access Officer City of Boston One City Hall Square Boston, MA 02201 <a href="mailto:publicrecords@boston.gov">publicrecords@boston.gov</a>
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On Mon, Apr 25, 2022 at 4:01 PM Omar Bennani <[omar.bennani@pd.boston.gov](mailto:omar.bennani@pd.boston.gov)> wrote:  
Yes that would be great, thank you.

On Mon, Apr 25, 2022 at 3:57 PM Shawn Williams <[shawn.williams@boston.gov](mailto:shawn.williams@boston.gov)> wrote:  
Should I "close" it as I have the other requests we've been sued on?

Yours truly,

<input type="checkbox"/>	<b>Shawn A. Williams, Esq.</b> <a href="#">Director of Public Records</a> Records Access Officer City of Boston One City Hall Square Boston, MA 02201 <a href="mailto:publicrecords@boston.gov">publicrecords@boston.gov</a>
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On Mon, Apr 25, 2022 at 3:52 PM Omar Bennani <[omar.bennani@pd.boston.gov](mailto:omar.bennani@pd.boston.gov)> wrote:  
Hi Shawn,

Thanks for checking. This request is still "open" in that we have been sued, and are trying to sort out what remains outstanding. This should hopefully resolved soon. I believe all I have left to provide are emails from the "straight pride" email search you conducted for me about a month ago, but I will let you know if there is anything else we need.

Best,  
Omar

On Mon, Apr 25, 2022 at 2:45 PM Shawn Williams <[shawn.williams@boston.gov](mailto:shawn.williams@boston.gov)> wrote:  
Good Afternoon Omar:

There are three (3) remaining open requests from 2020 and this is one of them. I see from Govqa that you contacted the requester in March in an effort to wrap up the request. Is it still open? If yes, have we been sued? If you recall, BPD asked that I close out all open requests in Govqa if we had been sued.

Please let me know and let me know if it is open and whether there is anything I can do to help close it out.

Thanks.

Yours truly,

<input type="checkbox"/>	<b>Shawn A. Williams, Esq.</b> <a href="#">Director of Public Records</a> Records Access Officer City of Boston One City Hall Square Boston, MA 02201 <a href="mailto:publicrecords@boston.gov">publicrecords@boston.gov</a>
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# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069508

CAD Incident #

P190455510

Report Type

Incident Supplement

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Date / Time Occurred

08/31/2019 16:40 to 08/31/2019 16:50

Date / Time Reported

08/31/2019 16:54

Arrested Suspects 6	Additional Suspects	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						
Incident Details											
Unit Number	Clearance Disposition				Cleared by Exception				Exceptional Clearance Date		
Situation Found On Site						Case Status					
Location Given By Dispatcher											
Incident Address											
Street Address CONGRESS ST & STATE ST											
City BSTN			State MASSACHUSETTS			Zip 02109			District DISTRICT A1		
Administrative Info											
Reporting Officer JACKSON, ISAAC		Employee Number 102666		Approving Supervisor MCCARTHY, SEAN							

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description DISORDERLY CONDUCT		
Offense Code Value 02405	Attempted/Completed Completed	Premise Type Highway/Road/Alley	
Circumstances		Bias	
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3	
Offender Using 1	Offender Using 2	Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069508	CAD Incident # P190455510
Report Type Incident Supplement	Page 2 of 13
Date / Time Occurred 08/31/2019 16:40 to 08/31/2019 16:50	Date / Time Reported 08/31/2019 16:54

Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) ABRAMS, JOSHUA M							
Suffix	Nickname	Race White	Gender Male	SSN 025-70-1257	Date of Birth 10/19/1987	Age 31	Age Range to
Height 5'09"	Weight 220	Driver's License # S15411771	DL State MASSACHUSETTS	Local ID 2006006507	SID 10347022		
FBI # 708308NC0	SBI #	Place of Birth BOSTON MA US	Citizenship US CITIZEN				
Ethnicity Not of Hispanic Origin	Marital Status Separated						
Preferred	Contact #1 781-363-5464	Contact #2	Email Address				
Suspect Home Address							
Street Address 21 VALLEY RD							
City BSTN		State MASSACHUSETTS		Zip 02124			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School		Occupation				
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Brown	Hair Length Short	<input type="checkbox"/> Glasses	Eye Color Brown	Build Medium	Facial Hair Goatee	Facial Hair Color Brown	
Voice	Complexion Light	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility		Resident				
MO Panel							
Entry Type	Entry Area			Entry Method			
Entry Point	Exit Point			Target Area			
Property Target 1	Property Target 2			Property Target 3			
Victim Target	Time of Day			Victim Activity			
Action 1 on Victim	Action 2 on Victim			Action 3 on Victim			
Action 1 to Premises	Action 2 to Premises			Action 3 to Premises			
Other Action 1	Other Action 2			Other Action 3			
Solicited Offered 1	Solicited Offered 2			Solicited Offered 3			
Weapon 1	Weapon 2			Weapon 3			
Weapon 1 Type	Weapon 2 Type			Weapon 3 Type			
Weapon 1 Caliber	Weapon 2 Caliber			Weapon 3 Caliber			



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069508		CAD Incident # P190455510
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Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059788	RICI Booking Num 19-00261-07	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court	Arrest Date/Time 08/31/2019 18:01	Booking District DISTRICT A7	<input checked="" type="checkbox"/> Arrested on Scene
Arrest Address			
Street Address CONGRESS ST & STATE ST			
City BSTN	State MASSACHUSETTS	Zip 02109	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1	Automatic Weapon 1	Weapon 2	
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge Assault - Resisting Arrest	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail

## Statement of Probable Cause

Was part of a mass arrest after refusing to leave the street after being told multiple times to disperse.

SUSPECT	<input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested						
Name (Last, First Middle) TUTTLE, DANIEL							
Suffix	Nickname	Race White	Gender Male	SSN 022-76-3489	Date of Birth 10/02/1992	Age 26	Age Range to
Height 5'07"	Weight 150	Driver's License # S98380385	DL State MASSACHUSETTS	Local ID 2019502076	SID 21173721		
FBI # HNMV6CD5X	SBI #	Place of Birth BOSTON MA US	Citizenship US CITIZEN				



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

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Ethnicity Not of Hispanic Origin	Marital Status Separated		
Preferred	Contact #1	Contact #2	Email Address

Suspect Home Address			
Street Address 52 WILLOW ST			
City BSTN	State MASSACHUSETTS	Zip 02108	

Suspect Employment Information				
<input type="checkbox"/> Student	Employer / School		Occupation	
Street Address				
City	State	Zip	Work Phone	Hours of Employment

Details						
Hair Color Brown	Hair Length Long	<input type="checkbox"/> Glasses	Eye Color Other	Build Thin	Facial Hair Goatee	Facial Hair Color Unknown
Voice	Complexion Light	Hand Preference				

Clothing Description				
Trademarks of Suspect				
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident		

MO Panel	Entry Area	Entry Method
Entry Type	Exit Point	Target Area
Entry Point	Property Target 2	Property Target 3
Property Target 1	Time of Day	Victim Activity
Victim Target	Action 2 on Victim	Action 3 on Victim
Action 1 on Victim	Action 2 to Premises	Action 3 to Premises
Action 1 to Premises	Other Action 2	Other Action 3
Other Action 1	Solicited Offered 2	Solicited Offered 3
Solicited Offered 1	Weapon 2	Weapon 3
Weapon 1	Weapon 2 Type	Weapon 3 Type
Weapon 1 Type	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Caliber	Weapon 2 Color	Weapon 3 Color
Weapon 1 Color	Precipitating Circumstance	Instrument Used
Arson		

Comments
Associated Offenses

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

ARREST			
Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059789	RICI Booking Num 19-00263-07	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court	Arrest Date/Time 08/31/2019 18:59	Booking District DISTRICT A7	<input checked="" type="checkbox"/> Arrested on Scene



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number 1192069508	CAD Incident # P190455510
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Street Address CONGRESS ST & STATE ST			
City BSTN		State MASSACHUSETTS	Zip 02109
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1		Automatic Weapon 1	Weapon 2
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number		Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Associated Charges	
Charge Assault - Resisting Arrest	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail
Statement of Probable Cause	

Was part of a mass arrest after refusing to leave the street after being told multiple times to disperse.

SUSPECT	<input checked="" type="checkbox"/> Known	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Arrested
Name (Last, First Middle) GEORGE, AUSTIN K			
Suffix	Nickname	Race White	Gender Male
Height 6'01"	Weight 170	SSN 2019502075	Date of Birth 08/17/1998
Driver's License # S61440198	DL State MASSACHUSETTS	Age 21	Age Range to
FBI # 6D7AMFPA8	SBI #	Local ID 21173720	SID 21173720
Ethnicity Not of Hispanic Origin	Marital Status Separated	Place of Birth SOUTHBRIDGE MA US	Citizenship US CITIZEN
Preferred	Contact #1 774-578-5834	Contact #2	Email Address
Suspect Home Address			
Street Address 34 RIDGEWOOD RD			
City WORCESTER		State MASSACHUSETTS	Zip 01606
Suspect Employment Information			
<input type="checkbox"/> Student	Employer / School		Occupation
Street Address			
City		State	Zip
Work Phone		Hours of Employment	



# Incident Report

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Case Number

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CAD Incident #

P190455510

Report Type

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Date / Time Occurred

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Date / Time Reported

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## Details

Hair Color Brown	Hair Length Short	<input type="checkbox"/> Glasses	Eye Color Blue	Build Thin	Facial Hair No Facial Hair	Facial Hair Color
Voice	Complexion Medium	Hand Preference				
Clothing Description						
Trademarks of Suspect						
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility		Resident			
MO Panel						
Entry Type	Entry Area			Entry Method		
Entry Point	Exit Point			Target Area		
Property Target 1	Property Target 2			Property Target 3		
Victim Target	Time of Day			Victim Activity		
Action 1 on Victim	Action 2 on Victim			Action 3 on Victim		
Action 1 to Premises	Action 2 to Premises			Action 3 to Premises		
Other Action 1	Other Action 2			Other Action 3		
Solicited Offered 1	Solicited Offered 2			Solicited Offered 3		
Weapon 1	Weapon 2			Weapon 3		
Weapon 1 Type	Weapon 2 Type			Weapon 3 Type		
Weapon 1 Caliber	Weapon 2 Caliber			Weapon 3 Caliber		
Weapon 1 Color	Weapon 2 Color			Weapon 3 Color		
Arson	Precipitating Circumstance			Instrument Used		
Comments						

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059790	RICI Booking Num	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court	Arrest Date/Time	Booking District	<input type="checkbox"/> Arrested on Scene
Arrest Address			
Street Address			
City	State	Zip	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1	Automatic Weapon 1	Weapon 2	
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information





# Incident Report

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Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge Disorderly Conduct - Accosting And Annoying	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail

## Statement of Probable Cause

Was part of a mass arrest after refusing to leave the street after being told multiple times to disperse.

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) MORING, NECHAMA S							
Suffix	Nickname	Race White	Gender Female	SSN 033-70-8008	Date of Birth 01/24/1982	Age 37	Age Range to
Height 5'03"	Weight 160	Driver's License #	DL State MASSACHUSETTS	Local ID 2019502072	SID 21173714		
FBI # 7E7JPM5KA	SBI #	Place of Birth ATLANTIC NJ US	Citizenship US CITIZEN				
Ethnicity Unknown	Marital Status Separated						
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 136 BLACKSTONE ST							
City BSTN	State MASSACHUSETTS	Zip 02109					
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School	Occupation					
Street Address							
City	State	Zip	Work Phone	Hours of Employment			
Details							
Hair Color Black	Hair Length Medium	<input type="checkbox"/> Glasses	Eye Color Brown	Build Heavy	Facial Hair No Facial Hair	Facial Hair Color	
Voice	Complexion Light	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident					
MO Panel Entry Type	Entry Area	Entry Method					
Entry Point	Exit Point	Target Area					
Property Target 1	Property Target 2	Property Target 3					



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

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1192069508

CAD Incident #

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Report Type

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Date / Time Reported

08/31/2019 16:54

Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

## ARREST

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059791	19-00300-06	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
Referred to Criminal or Adult Court	08/31/2019 16:30	DISTRICT C6	
Arrest Address			
Street Address			
CONGRESS ST & STATE ST			
City	State	Zip	
BSTN	MASSACHUSETTS	02109	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
Weapon 1	Automatic Weapon 1	Weapon 2	
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Disorderly Conduct - Accosting And Annoying	
Counts	Bail
1	

## Statement of Probable Cause



# Incident Report

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Was part of a mass arrest after refusing to leave the street after being told multiple times to disperse.

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) SHEA, MARISA ARLINE							
Suffix	Nickname	Race White	Gender Female	SSN 010-68-1130	Date of Birth 03/08/1986	Age 33	Age Range to
Height	Weight	Driver's License # S52416823	DL State MASSACHUSETTS	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Unknown		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 52 WILLOW							
City LOWELL		State MASSACHUSETTS		Zip 01852			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School		Occupation				
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Brown	Hair Length Long	<input checked="" type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion Light	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel		Entry Area			Entry Method		
Entry Type		Exit Point			Target Area		
Entry Point		Property Target 2			Property Target 3		
Property Target 1		Time of Day			Victim Activity		
Victim Target		Action 2 on Victim			Action 3 on Victim		
Action 1 on Victim		Action 2 to Premises			Action 3 to Premises		
Action 1 to Premises		Other Action 2			Other Action 3		
Other Action 1		Solicited Offered 2			Solicited Offered 3		
Solicited Offered 1		Weapon 2			Weapon 3		
Weapon 1		Weapon 2 Type			Weapon 3 Type		
Weapon 1 Type		Weapon 2 Caliber			Weapon 3 Caliber		
Weapon 1 Caliber		Weapon 2 Color			Weapon 3 Color		
Weapon 1 Color		Precipitating Circumstance			Instrument Used		
Arson							



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

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Comments
----------

## Associated Offenses

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

ARREST
--------

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059792	RICI Booking Num 19-00301-06	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court	Arrest Date/Time 08/31/2019 16:30	Booking District DISTRICT C6	<input checked="" type="checkbox"/> Arrested on Scene
Arrest Address			
Street Address CONGRESS ST & STATE ST			
City BSTN	State MASSACHUSETTS	Zip 02109	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1		Automatic Weapon 1	Weapon 2
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge Disorderly Conduct - Accosting And Annoying	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail

## Statement of Probable Cause

Was part of a mass arrest after refusing to leave the street after being told multiple times to disperse.

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) FULFORD, RUBIE ANNABLE							
Suffix	Nickname	Race White	Gender Female	SSN 023-82-8916	Date of Birth 03/15/1999	Age 20	Age Range to
Height 5'10"	Weight 125	Driver's License # S61441207	DL State MASSACHUSETTS	Local ID 2019502071	SID 21173710		
FBI # 8WKRKL9TJ	SBI #	Place of Birth BOSTON MA US	Citizenship US CITIZEN				
Ethnicity Not of Hispanic Origin	Marital Status Separated						
Preferred	Contact #1 617-455-9162	Contact #2	Email Address				



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

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## Suspect Home Address

Street Address 16 PENFIELD ST		
City BSTN	State MASSACHUSETTS	Zip 02131

## Suspect Employment Information

<input type="checkbox"/> Student	Employer / School	Occupation		
Street Address				
City	State	Zip	Work Phone	Hours of Employment

## Details

Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Voice	Complexion	Hand Preference				

## Clothing Description

## Trademarks of Suspect

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
----------	----------	----------	----------	----------

<input type="checkbox"/> Hospitalized	Hospital Facility	Resident
---------------------------------------	-------------------	----------

## MO Panel

Entry Type	Entry Area	Entry Method
Entry Point	Exit Point	Target Area
Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used

## Comments

## Associated Offenses

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059793	RICI Booking Num	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court	Arrest Date/Time 08/31/2019 00:00	Booking District DISTRICT C6	<input checked="" type="checkbox"/> Arrested on Scene

## Arrest Address

Street Address CONGRESS ST & STATE ST		
City BSTN	State MASSACHUSETTS	Zip 02109



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Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
Weapon 1	Automatic Weapon 1		Weapon 2
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Associated Charges	
Charge Disorderly Conduct - Accosting And Annoying Counts 1	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Statement of Probable Cause	

Was part of a mass arrest after refusing to leave the street after being told multiple times to disperse.

VICTIM	Victim Type Society						
Name (Last, First Middle) COMM OF MASS							
Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range to
Infant Type	Height	Weight	Driver's License #	DL State			
Place of Birth	Citizenship						
Ethnicity	Marital Status						
Preferred	Contact #1	Contact #2	Email Address				
Victim Home Address							
Street Address							
City	State	Zip					
Employment Information							
<input type="checkbox"/> Student	Employer / School	Occupation					
College Name	<input type="checkbox"/> On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No						
Street Address							
City	State	Zip	Work Phone	Hours of Employment			
Details							
Hair Color	Eye Color	Build	Resident				
Injury 1	Injury Description						



# Incident Report

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Injury 2	Injury 3	Injury 4
Victim Condition		
Victim-Offender		
<b>A. Assault/Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
A. Assault/Homicide Circumstance 1		
A. Assault/Homicide Circumstance 2		
<b>Justifiable Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
Justifiable Homicide Circumstance		
Hospital Facility <input type="checkbox"/> Victim Hospitalized		
Hospital Description		
Under Influence Alcohol? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
Under Influence Drugs? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
Domestic Disturbance		
Domestic Violence Victim Transported <input type="checkbox"/> Yes <input type="checkbox"/> No		
Violation of Protective Order <input type="checkbox"/> Yes <input type="checkbox"/> No		
Cohabitant <input type="checkbox"/> Yes <input type="checkbox"/> No		
Associated Offenses		
Offense DISORDERLY CONDUCT		
<input checked="" type="checkbox"/> Associated With Victim		

## Public Narrative

Joshua Abrams (D.O.B. 10/19/1987) was told multiple times by officers to move out the road way onto the sidewalk at the intersection of Congress Street and State Street. Mr. Abrams refused to comply with officers orders and instead began yelling at officers causing a crowd to gather around him. Mr. Abrams was actively recording his confrontations with officers as well as pedestrians in an attempt to cause disruption and hostility. Mr. Abrams than began to yell profanities at officers "no justice no peace....fuck the police" exciting the crowd around him. As a result the crowd became very angry with officers and began to become combative. As officers attempted to place Mr. Abrams under arrest he attempted to flee. While officers tried to apply department issued flex cuffs on Mr. Abrams he would not place his hands behind his back after multiple commands to do so. Mr. Abrams was placed under arrest for Disorderly Conduct and Resisting Arrest.

Daniel Tuttle (10/02/1992) refused to move out of the intersection of Congress Street and State Street after multiple commands to do so by Captain Danielecki (YB04) and Lieutenant Murphy (TA03). Mr. Tuttle was with Mr. Abrams yelling at officers along with Austin George (D.O.B. 08/17/1998), Nechama Moring (D.O.B. 01/24/1982), and Marisa Shea (D.O.B. 3/08/1986). As officers attempted to place Mr. Tuttle under arrest he ran, officers on scene gave chase and were able to place Mr. Tuttle under arrest after a brief struggle for Disorderly Conduct and Resisting arrest.

Mr. George was placed under arrest for Disorderly Conduct after refusing to move out of the roadway.

Ms. Moring was placed under arrest for Disorderly Conduct after refusing to move out of the roadway. .

Ms. Shea was placed under arrest for Disorderly Conduct after refusing to move out of the roadway.

Rubie Fulford (D.O.B. 3/15/1999) as officers were in a line formation attempting the get a large crowd in the street to disperse Ms. Fulford began to push officers bikes in an attempt to stop the line for moving forward. Sergeant Messina (T937) told Ms. Fulford several times to exit the street and she refused to do so. Sergeant Messina went to place Ms. Fulford under arrest and she pulled away from him. Sergeant Messina was able to place Ms. Fulford under arrest after a second attempt. Ms. Fulford was placed under arrest for Disorderly Conduct after refusing to move out of the roadway.



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P190455510

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Date / Time Reported

08/31/2019 16:54

Arrested Suspects	Additional Suspects	Unknown Suspects 1	Victims	Other Persons	Vehicles 1	Items 1	Evidence Count	Leoka Count	File #
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault				
<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion				
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed				
<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking				
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse				

## Incident Details

Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found On Site		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address CONGRESS ST & STATE ST			
City BSTN	State MASSACHUSETTS	Zip 02109	District DISTRICT A1

## Administrative Info

Reporting Officer MAHONEY, IAN	Employee Number 010800	Approving Supervisor MAHONEY, IAN
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## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input type="checkbox"/> Primary Offense	Crime Description PROPERTY - ACCIDENTAL DAMAGE		
Offense Code Value 03106	Attempted/Completed	Premise Type	
Circumstances		Bias	
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3	
Offender Using 1	Offender Using 2	Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2	Exit Point 1	
Exit Point 2	Target Area	Property Target 1	
Property Target 2	Property Target 3	Victim Target	
Time of Day	Victim Activity	Action 1 to Premises	
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim	
Action 2 on Victim	Action 3 on Victim	Other Action 1	
Other Action 2	Other Action 3	Solicited Offered 1	
Solicited Offered 2	Solicited Offered 3	Weapon 1	
Weapon 1 Auto	Weapon 2	Weapon 2 Auto	
Weapon 3	Weapon 3 Auto	Arson	





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Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input type="checkbox"/> Known <input checked="" type="checkbox"/> Unknown <input type="checkbox"/> Arrested							
Name (Last, First Middle)							
Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth	Citizenship				
Ethnicity	Marital Status						
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address							
City	State	Zip					
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School	Occupation					
Street Address							
City	State	Zip	Work Phone	Hours of Employment			
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident					
MO Panel	Entry Type	Entry Area	Entry Method				
Entry Point	Exit Point	Target Area					
Property Target 1	Property Target 2	Property Target 3					
Victim Target	Time of Day	Victim Activity					
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim					
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises					
Other Action 1	Other Action 2	Other Action 3					
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3					
Weapon 1	Weapon 2	Weapon 3					
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type					
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber					



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Weapon 1 Color			
Weapon 2 Color			
Weapon 3 Color			
Arson			
Precipitating Circumstance			
Instrument Used			
Comments			
Associated Offenses			
Offense			
PROPERTY - ACCIDENTAL DAMAGE <input type="checkbox"/> Associated With Suspect			
VEHICLE		Vehicle Year 2017	
Make HARLEY DAVIDSON		Model OTHER	
VIN 1HD1FHC12HB632986		<input type="checkbox"/> VIN Validation Off	
Tag Number MP3			
State MASSACHUSETTS		Plate Type Police	
Tag Month May		Exp. Year 2021	
Body Style		Top Color BLUE	
Bottom Color WHITE			
Vehicle Type Motorcycle or Scooter		Status DAMAGED	
Decal #		NIC	
Other Identifiers			
BPD DEPT. # 7412 / MASS. MUNICIPAL POLICE PLATE # 3 / DAMAGE TO FRONT FENDER			
Registered Owner Info			
Registered Owner Name (Last, First, MI) BOSTON POLICE DEPT.		<input checked="" type="checkbox"/> Business	
Gender		Race	
DOB			
Street Address 364 WARREN STREET			
City BOSTON		State MASSACHUSETTS	
Zip 02119			
Insurance Company		Policy Number	
Insurance Expiration		Financed By/Titleholder CITY OF BOSTON	
Vehicle Elements			
<input type="checkbox"/> Stolen <input type="checkbox"/> Recovered			
Keys in Ignition <input type="checkbox"/> Yes <input type="checkbox"/> No		Doors Locked <input type="checkbox"/> Yes <input type="checkbox"/> No	
Windows Closed <input type="checkbox"/> Yes <input type="checkbox"/> No		Ignition Locked <input type="checkbox"/> Yes <input type="checkbox"/> No	
Trunk Locked <input type="checkbox"/> Yes <input type="checkbox"/> No		Radio In Car <input type="checkbox"/> Yes <input type="checkbox"/> No	
Repo. Check <input type="checkbox"/> Yes <input type="checkbox"/> No		Tow List Check <input type="checkbox"/> Yes <input type="checkbox"/> No	
Stolen Value			
How Vehicle Entered		How Vehicle Taken	
Recovered By		Recovery Date	
Recovered Value		Recovery Code	
Recovery Address			
Street Address			
City		State MASSACHUSETTS	
Zip			
<input type="checkbox"/> Impounded <input type="checkbox"/> Towed		Tow Report Number	
Wrecker Service		Date Wrecker Arrived	
Time Wrecker Arrived			
Location Towed From		Location Towed To	
Impounded By		Mileage	
Wrecker Driver Name		Tow Truck Operator Signature	

PROPERTY	Property Tag #	Quantity 1	Category Property	Action Destroyed/Damaged/Vandalized
Property Type Other Motor Vehicles			Owner	Value \$0.00



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Brand HARLEY DAVIDSON		Model MOTORCYCLE		Color BLUE	
SRN/NIC Number		Owner Applied Number		UCR Code	
Secondary Action		Secondary Value		Date Recovered	
Description BOSTON POLICE DEPT. HARLEY DAVIDSON ROAD KING POLICE MOTORCYCLE / MASS. MUNICIPAL POLICE PLATE # 3 / BLUE & WHITE IN COLOR / RECEIVED DAMAGE TO FRONT FENDER					
Associated Offenses					
Offense PROPERTY - ACCIDENTAL DAMAGE					
<input type="checkbox"/> Associated With Property					

## Public Narrative

Please refer to original incident # I192069508.

On Saturday August 31, 2019 the Straight Pride parade & rally took place in the City of Boston. I, Sgt. Ian Mahoney / ID # 10800 / T-903 was assigned to motorcycle squad Mobile Field Force # 1. At 1600 hours the speaking rally concluded. Shortly thereafter Mobile Field Force # 1 was instructed by the U.C.C. to slowly open Congress St. from Sudbury St. towards North St. I along with 8 additional BPD motorcycles then lined up across Congress St. in a line formation. We then began to slowly move forward with our emergency lights and sirens activated. This was done so that any remaining protesters that had been occupying Congress St. would move off of the street so that vehicular traffic could then safely proceed on Congress St. towards North St.

We were able to get to the right corner of the Boston City Hall building (opposite Hanover St.) when protesters then formed a large crowd in front of our motorcycles, preventing us from clearing Congress St. any further towards North St. We then stopped our motorcycles as a group. The BPD Citywide Bicycle Unit was then brought in to move the crowd off of Congress St. using crowd control tactics. As soon as this occurred, the crowd of protesters immediately resisted and began to push the line of bicycle officers back towards our motorcycles. Several altercations then took place which resulted in over a dozen suspects being arrested (please refer to original 1.1 narrative).

When the crowd of protesters originally began to push back, BPD A-1 bicycle officer Stephen Canto (ID # 11890) fell backwards over the front of my assigned BPD motorcycle (2017 Harley Davidson Road King police model / Dept. # 7412 / Mass. municipal police plate # 3). Officer Canto immediately recovered and continued to assist with moving the crowd off of Congress St. Once Congress St. was eventually cleared and open for traffic, Mobile Field Force # 1 staged on Boston City Hall plaza until they were released at approximately 1730 hours. I returned to Special Operations base and left for the day at 1800 hours.

On Sunday morning September 1, 2019 I was contacted by Mobile Operations Sgt. John Conway (ID # 86128 / T-901) who informed me that there was damage to the front fender of my assigned BPD motorcycle. I was on a regularly scheduled day off that day. He forwarded pictures to me via cell phone which are attached to this report. BPD form # 0004 - OPC - 0503 (Report of Damage to Department Vehicle) has also been completed and attached to this report as well. Any further information that may be needed will be provided immediately upon request.



# Incident Report

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Arrested Suspects 1	Additional Suspects	Unknown Suspects	Victims 1	Other Persons 1	Vehicles	Items	Evidence Count	Leoka Count	File #
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault				
<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion				
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed				
<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking				
<input checked="" type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse				

## Incident Details

Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found On Site		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address CONGRESS ST & STATE ST			
City BSTN	State MASSACHUSETTS	Zip 02109	District DISTRICT A1

## Administrative Info

Reporting Officer GALVAO, MARIA	Employee Number 076342	Approving Supervisor O'HARA, MICHAEL
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## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input type="checkbox"/> Primary Offense	Crime Description DISORDERLY CONDUCT		
Offense Code Value 02405	Attempted/Completed Completed	Premise Type Highway/Road/Alley	
Circumstances		Bias None - No Bias	
Criminal Activity 1 No Known Gang Committed Offense	Criminal Activity 2	Criminal Activity 3	
Offender Using 1 Not Applicable	Offender Using 2	Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



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Date / Time Reported

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Precipitating Circumstance

Instrument Used

Unusual Actions and Statements of Suspect

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input type="checkbox"/> Primary Offense	Crime Description		
	ASSAULT - AGGRAVATED - BATTERY		
Offense Code Value	Attempted/Completed	Premise Type	
00413	Completed	Highway/Road/Alley	
Circumstances	Bias		
	None - No Bias		
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3	
No Known Gang Committed Offense			
Offender Using 1	Offender Using 2	Offender Using 3	
Not Applicable			
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel			
Entry Type	Entry Area	Entry Method	
Entry Point 1	Entry Point 2	Exit Point 1	
Exit Point 2	Target Area	Property Target 1	
Property Target 2	Property Target 3	Victim Target	
Time of Day	Victim Activity	Action 1 to Premises	
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim	
Action 2 on Victim	Action 3 on Victim	Other Action 1	
Other Action 2	Other Action 3	Solicited Offered 1	
Solicited Offered 2	Solicited Offered 3	Weapon 1	
Weapon 1 Auto	Weapon 2	Weapon 2 Auto	
Weapon 3	Weapon 3 Auto	Arson	
Precipitating Circumstance	Instrument Used		
Unusual Actions and Statements of Suspect			

SUSPECT ☒ Known ☐ Unknown ☒ Arrested

Name (Last, First Middle)

HALL, LEIGH A

Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range
		White	Female		03/08/1993	26	to
Height	Weight	Driver's License #	DL State	Local ID	SID		
5'03"	140						
FBI #	SBI #	Place of Birth	Citizenship				



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Report Type

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Date / Time Occurred

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08/31/2019 16:54

Ethnicity	Marital Status
Not of Hispanic Origin	
Preferred	Contact #1
Contact #2	Email Address

## Suspect Home Address

Street Address		
60 CUSHING ST		
City	State	Zip
MEDFORD	MASSACHUSETTS	02155

## Suspect Employment Information

<input type="checkbox"/> Student	Employer / School	Occupation
Street Address		
City	State	Zip
Work Phone	Hours of Employment	

## Details

Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Brown			Blue	Stocky		
Voice	Complexion	Hand Preference				

## Clothing Description

PURPLE TANK TOP, BLACK PANTS, YELLOW SHOES

## Trademarks of Suspect

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident		

MO Panel	Entry Area	Entry Method
Entry Type	Exit Point	Target Area
Entry Point	Property Target 1	Property Target 2
Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used

Comments
----------

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	
Offense	<input checked="" type="checkbox"/> Associated With Suspect
ASSAULT - AGGRAVATED - BATTERY	

ARREST



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number 1192069508		CAD Incident # P190455510	
Report Type Incident Supplement		Page 4 of 6	
Date / Time Occurred 08/31/2019 16:40 to 08/31/2019 16:50		Date / Time Reported 08/31/2019 16:54	
Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile			
Arrest Number 100059831		RICI Booking Num 19-00302-06	
Arrest Action Arrested			
Disposition Referred to Criminal or Adult Court		Arrest Date/Time 08/31/2019 16:30	
Booking District DISTRICT C6		<input checked="" type="checkbox"/> Arrested on Scene	
Arrest Address			
Street Address CONGRESS ST & STATE ST			
City BSTN		State MASSACHUSETTS	
Zip 02109			
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1 Hands, Fist, Feet		Automatic Weapon 1 Weapon 2	
Automatic Weapon 2 Multiple Clearance NOT APPLICABLE		Juvenile Disposition Card Number	
Warrant Number		Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest	
DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			
Statement of Probable Cause			

see narrative.

VICTIM	Victim Type Person							
Name (Last, First Middle) DANILECKI, JOHN								
Suffix	Nickname	Race White	Gender Male	SSN	Date of Birth	Age	Age Range to	
Infant Type	Height	Weight	Driver's License #	DL State				
Place of Birth		Citizenship						
Ethnicity		Marital Status						
Preferred	Contact #1 617-343-4633	Contact #2	Email Address					
Victim Home Address								
Street Address 1 SCHROEDER PLAZA								
City BOSTON		State MASSACHUSETTS		Zip 02120				
Employment Information								
<input type="checkbox"/> Student	Employer / School			Occupation CAPTAIN IN BPD				
College Name		<input type="checkbox"/> On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No						
Street Address 1 SCHROEDER PLAZA								
City ROXBURY		State MASSACHUSETTS		Zip 02120		Work Phone Hours of Employment		



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

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Details			
Hair Color	Eye Color	Build	Resident
Injury 1	Injury Description		
Injury 2	Injury 3	Injury 4	Injury 5
Victim Condition Good	Victim-Offender		
<b>A. Assault/Homicide</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A. Assault/Homicide Circumstance 1 Assault on Law Enforcement Officer		A. Assault/Homicide Circumstance 2
<b>Justifiable Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	Justifiable Homicide Circumstance		
<input type="checkbox"/> Victim Hospitalized	Hospital Facility		Hospital Description
Under Influence Alcohol? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Under Influence Drugs? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Domestic Disturbance <input type="checkbox"/> Yes <input type="checkbox"/> No
Violation of Protective Order <input type="checkbox"/> Yes <input type="checkbox"/> No		Cohabitant <input type="checkbox"/> Yes <input type="checkbox"/> No	Domestic Violence Victim Transported <input type="checkbox"/> Yes <input type="checkbox"/> No

Associated Offenses	
Offense DISORDERLY CONDUCT	<input type="checkbox"/> Associated With Victim
Offense ASSAULT - AGGRAVATED - BATTERY	<input checked="" type="checkbox"/> Associated With Victim

<b>OTHER PERSON</b>	Person Type Witness						
Name (Last, First Middle) HASS, JAKE							
Suffix	Nickname	Race	Gender Male	SSN	Date of Birth	Age	Age Range to
Height	Weight	Driver's License #	DL State	FBI #	SBI #		
Place of Birth		Citizenship	Ethnicity	Marital Status			
Preferred	Contact #1	Contact #2	Email Address				

Other Person Home Address		
Street Address		
City BOSTON	State MASSACHUSETTS	Zip

Employment Information			
<input type="checkbox"/> Student	Employer / School	Occupation MASS STATE TROOPER	
Street Address H TROOP			
City BOSTON	State MASSACHUSETTS	Zip	

Details			
Work Phone	Hours of Employment	Hair Color	Hair Length
Eye Color	Build	Facial Hair	Voice
Complexion			<input type="checkbox"/> Glasses
Resident			

## Public Narrative

About 4:30pm on Saturday, August 31, 2019 officers of the Citywide Bicycle Unit (along with officers from various jurisdictions), and the Motorcycle Unit were assigned the "Straight Pride Parade." The officers were instructed to disperse a large group of individuals who linked their arms and resisted clearing the street along Congress Street, Boston.

During the interaction, State Trooper Jake Hass (Badge #4143 of H Troop) observed a female , later identified as Leigh Ann Hall Date of Birth





# Incident Report

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03/08/1993, grab a bicycle and push it into Captain Danilecki. Captain Danilecki grabbed Ms. Hall and handed her to State Trooper Hass, who flexed cuffed her and walked her back to a patrol wagon.

Ms. was charged with Disorderly Conduct and Assault and Battery on a Police Officer.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069508

CAD Incident #

P190455510

Report Type

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Date / Time Occurred

08/31/2019 16:40 to 08/31/2019 16:50

Date / Time Reported

09/11/2019 11:57

Arrested Suspects 1	Additional Suspects	Unknown Suspects	Victims	Other Persons	Vehicles	Items	Evidence Count	Leoka Count 1	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						
Incident Details											
Unit Number	Clearance Disposition ADULT ARREST				Cleared by Exception				Exceptional Clearance Date		
Situation Found On Site						Case Status					
Location Given By Dispatcher											
Incident Address											
Street Address CONGRESS ST & STATE ST											
City BSTN			State MASSACHUSETTS			Zip 02109			District DISTRICT A1		
Administrative Info											
Reporting Officer HOPKINS, THOMAS		Employee Number 009021		Approving Supervisor HOPKINS, THOMAS							

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input type="checkbox"/> Primary Offense	Crime Description ASSAULT SIMPLE - BATTERY		
Offense Code Value 00802	Attempted/Completed		Premise Type
Circumstances		Bias	
Criminal Activity 1	Criminal Activity 2		Criminal Activity 3
Offender Using 1	Offender Using 2		Offender Using 3
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel			
Entry Type	Entry Area	Entry Method	
Entry Point 1	Entry Point 2	Exit Point 1	
Exit Point 2	Target Area	Property Target 1	
Property Target 2	Property Target 3	Victim Target	
Time of Day	Victim Activity	Action 1 to Premises	
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim	
Action 2 on Victim	Action 3 on Victim	Other Action 1	
Other Action 2	Other Action 3	Solicited Offered 1	
Solicited Offered 2	Solicited Offered 3	Weapon 1	
Weapon 1 Auto	Weapon 2	Weapon 2 Auto	
Weapon 3	Weapon 3 Auto	Arson	



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Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) DOUGHTY, MICHAEL J							
Suffix	Nickname	Race White	Gender Male	SSN 021-78-8958	Date of Birth 10/24/1994	Age 24	Age Range to
Height 6'03"	Weight 290	Driver's License # S42419873	DL State MASSACHUSETTS	Local ID 2019502060	SID 21173696		
FBI # 7WJDWPJW1	SBI #	Place of Birth SOUTH WEYMOUTH MA US	Citizenship US CITIZEN				
Ethnicity Not of Hispanic Origin	Marital Status Separated						
Preferred	Contact #1 774-392-3628	Contact #2	Email Address				
Suspect Home Address							
Street Address 50 ELLSWORTH DR							
City FALMOUTH	State MASSACHUSETTS	Zip 02536					
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School UNKNOWN	Occupation UNKNOWN					
Street Address A / N							
City BROCKTON	State MASSACHUSETTS	Zip 00000	Work Phone	Hours of Employment			
Details							
Hair Color Blond or Strawberry	Hair Length Short	<input type="checkbox"/> Glasses	Eye Color Blue	Build Stocky	Facial Hair Beard	Facial Hair Color Blond or Strawberry	
Voice	Complexion Light	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident					
MO Panel	Entry Type	Entry Area	Entry Method				
Entry Point	Exit Point	Target Area					
Property Target 1	Property Target 2	Property Target 3					
Victim Target	Time of Day	Victim Activity					
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim					
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises					
Other Action 1	Other Action 2	Other Action 3					
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3					
Weapon 1	Weapon 2	Weapon 3					
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type					
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber					



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Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		
Associated Offenses		

Offense ASSAULT SIMPLE - BATTERY	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------------	---

ARREST			
Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059722	RICI Booking Num 19-00260-07	Arrest Action Arrested
Disposition	Arrest Date/Time	Booking District DISTRICT A1	<input checked="" type="checkbox"/> Arrested on Scene

Arrest Address			
Street Address CONGRESS ST & STATE ST			
City BSTN	State MASSACHUSETTS	Zip 02109	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
Weapon 1	Automatic Weapon 1	Weapon 2	
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Statement of Probable Cause
-----------------------------

LEOKA	Activity Civil disorder (Riot, Mass Disobedience)	Assignment Det. or Spec. Assignment - Assisted	Assault Time 16:20
Weapon OTHER	Injury Minor Injury	<input type="checkbox"/> Cleared	
Officer HOPKINS, THOMAS B.	ORI		
Associated Offenses			
Offense ASSAULT SIMPLE - BATTERY	<input checked="" type="checkbox"/> Associated With Leoka		

## Public Narrative

About 1620 on August 31, 2019 Lt Detective Hopkins ID # 9021 was trying to remove a several hundred protesters who refused to leave Congress St after numerous verbal commands issued by members of the Boston Police Department. During this time, clashes broke out between



# Incident Report

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the police and protesters.

During the confusion, several individuals were being placed under arrest on Congress St. Lt Detective Hopkins witnessed a large white male in a green tee shirt and blonde hair use both hands to push a officer from behind to the ground. After reviewing video of the incident, Lt Detective Hopkins was able to ascertain the identity of the officer as Detective Brendan Dever assigned to Area E18.

Lt Detective Hopkins ran toward the suspect (later identified as Michael DOUGHTY) who struck Detective Dever to place him under arrest for ABPO. While running towards the suspect, Lt Detective Hopkins suffered an ankle injury that left him incapacitated but was able to summons several other officers including Sgt Messina to place the suspect under arrest. The suspect began failing his arms at the responding officers and Sgt Messina used his Department issued OC to take control of the suspect with other officers.

Lt Detective Hopkins was assisted to the center island on Congress St to await medical attention.

When DOUGHTY was arrested, I192069386 was used to document the arrest. The arrest and Sgt Messina's use of force report was documented with additional detail under I192069508. Due to Lt Detective Hopkins' injuries, the supplementary report to document this incident involving the assault and battery on Detective Dever was written on 09/11/2019 at Area D4.



# Incident Report

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Arrested Suspects 14	Additional Suspects 1	Unknown Suspects	Victims	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP		<input checked="" type="checkbox"/> Juvenile		<input type="checkbox"/> Child Present		<input type="checkbox"/> Elderly		<input type="checkbox"/> Sexual Assault
<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise		<input type="checkbox"/> Disabled		<input type="checkbox"/> Homeland Security		<input type="checkbox"/> Homeland Security - UASI		<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun		<input type="checkbox"/> Gang		<input type="checkbox"/> Shots Fired		<input type="checkbox"/> Victim Shot		<input type="checkbox"/> Victim Stabbed
<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest		<input type="checkbox"/> Search Warrant		<input type="checkbox"/> Licensed Premise Violation		<input type="checkbox"/> LPR		<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School		<input type="checkbox"/> Homeless		<input type="checkbox"/> Sex Offender		<input type="checkbox"/> NIDV		<input type="checkbox"/> Child Abuse

Incident Details			
Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found On Site		Case Status	
Location Given By Dispatcher			

Incident Address			
Street Address STATE ST / CONGRESS ST			
City BSTN	State MASSACHUSETTS	Zip 02109	District

Administrative Info		
Reporting Officer ACEVEDO, RAFAEL	Employee Number 102282	Approving Supervisor CHU, PETER

OFFENSE			
<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description DISORDERLY CONDUCT		
Offense Code Value 02405	Attempted/Completed Completed		Premise Type Other / Unknown
Circumstances		Bias	
Criminal Activity 1 Buying / Receiving		Criminal Activity 2	
Offender Using 1 Not Applicable		Offender Using 2	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel Entry Type	Entry Area		Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



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Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) DOUGHTY, MICHAEL J							
Suffix	Nickname	Race White	Gender Male	SSN 021-78-8958	Date of Birth 10/24/1994	Age 24	Age Range to
Height 6'03"	Weight 290	Driver's License # S42419873	DL State MASSACHUSETTS	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Not of Hispanic Origin		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 50 ELLSWORTH DR							
City FALMOUTH		State MASSACHUSETTS		Zip 02536			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School UNKNOWN			Occupation UNKNOWN			
Street Address N/A							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Blond or Strawberry	Hair Length Short	<input type="checkbox"/> Glasses	Eye Color Blue	Build Stocky	Facial Hair Beard	Facial Hair Color Blond or Strawberry	
Voice	Complexion Light	Hand Preference					
Clothing Description GREEN SHIRT							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel Entry Type	Entry Area			Entry Method			
Entry Point	Exit Point			Target Area			
Property Target 1	Property Target 2			Property Target 3			
Victim Target	Time of Day			Victim Activity			
Action 1 on Victim	Action 2 on Victim			Action 3 on Victim			
Action 1 to Premises	Action 2 to Premises			Action 3 to Premises			
Other Action 1	Other Action 2			Other Action 3			
Solicited Offered 1	Solicited Offered 2			Solicited Offered 3			
Weapon 1	Weapon 2			Weapon 3			
Weapon 1 Type	Weapon 2 Type			Weapon 3 Type			



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Weapon 1 Caliber		Weapon 2 Caliber	
Weapon 1 Color		Weapon 2 Color	
Arson		Instrument Used	
Comments			
Associated Offenses			
Offense DISORDERLY CONDUCT		<input checked="" type="checkbox"/> Associated With Suspect	
ARREST			
Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile		Arrest Number 100059722	
Disposition		Arrest Date/Time 08/31/2019 16:55	
Street Address STATE ST / CONGRESS ST		Booking District DISTRICT A1	
City BSTN		State MASSACHUSETTS	
Zip 02109		Arrest Action Arrested	
Test Given		Test Date/Time	
Test Results		Test Administered By	
Arresting Officer DANILECKI,JOHN H		Transporting Officer DANILECKI,JOHN H	
Weapon 1 None		Automatic Weapon 1 Weapon 2	
Automatic Weapon 2		Multiple Clearance MULTIPLE	
Warrant Number		Warrant Signed By	
DUI/OUI Information		<input type="checkbox"/> OUI Alcohol Arrest	
Public Way		Observed Driving	
Unsteady on Feet		Bloodshot Eyes	
Slurred Speech		Odor	
Other Grounds		Glassy Eyes	
		PBT	
		Crash	
		Offered Test	
Associated Charges			
Charge Assault - Assault & Battery On A Police Officer (injuries)		<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor	
Counts 1		Bail	
Statement of Probable Cause			

SUSPECT		<input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested	
Name (Last, First Middle) GEORGE, AUSTIN K			
Suffix	Nickname	Race White	Gender Male
Height 6'01"	Weight 170	DL State MASSACHUSETTS	SSN Local ID
Driver's License # S61440198	Date of Birth 08/17/1998	Age 21	Age Range to





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CAD Incident #

P190455510

Report Type

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FBI #		SBI #		Place of Birth		Citizenship	
Ethnicity		Marital Status					
Not of Hispanic Origin							
Preferred		Contact #1		Contact #2		Email Address	
Suspect Home Address							
Street Address							
34 RIDGEWOOD RD							
City		State		Zip			
WORCESTER		MASSACHUSETTS		01606			
Suspect Employment Information							
<input type="checkbox"/> Student		Employer / School		Occupation			
				WAITER			
Street Address							
City		State		Zip		Work Phone	
						Hours of Employment	
Details							
Hair Color		Hair Length		<input type="checkbox"/> Glasses		Eye Color	
Brown		Short				Blue	
Voice		Complexion		Hand Preference		Build	
		Medium				Thin	
						Facial Hair	
						No Facial Hair	
						Facial Hair Color	
Clothing Description							
BLACK T-SHIRT, GREY PANTS, BLACK SNEAKERS							
Trademarks of Suspect							
Injury 1		Injury 2		Injury 3		Injury 4	
						Injury 5	
<input type="checkbox"/> Hospitalized		Hospital Facility		Resident			
MO Panel		Entry Type		Entry Area		Entry Method	
Entry Point		Exit Point		Target Area			
Property Target 1		Property Target 2		Property Target 3			
Victim Target		Time of Day		Victim Activity			
Action 1 on Victim		Action 2 on Victim		Action 3 on Victim			
Action 1 to Premises		Action 2 to Premises		Action 3 to Premises			
Other Action 1		Other Action 2		Other Action 3			
Solicited Offered 1		Solicited Offered 2		Solicited Offered 3			
Weapon 1		Weapon 2		Weapon 3			
Weapon 1 Type		Weapon 2 Type		Weapon 3 Type			
Weapon 1 Caliber		Weapon 2 Caliber		Weapon 3 Caliber			
Weapon 1 Color		Weapon 2 Color		Weapon 3 Color			
Arson		Precipitating Circumstance		Instrument Used			
Comments							
Associated Offenses							
Offense							
DISORDERLY CONDUCT							
<input checked="" type="checkbox"/> Associated With Suspect							
ARREST							



# Incident Report

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Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile			
Arrest Number 100059723		RICI Booking Num 19-00262-07	
Disposition		Arrest Action Arrested	
Arrest Date/Time 08/31/2019 16:40		Booking District DISTRICT A1	
<input checked="" type="checkbox"/> Arrested on Scene			
Arrest Address			
Street Address STATE ST / CONGRESS ST			
City BSTN		State MASSACHUSETTS	
Zip 02109			
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer DANILECKI,JOHN H	
Weapon 1 None		Automatic Weapon 1 Weapon 2	
Automatic Weapon 2		Multiple Clearance MULTIPLE	
Juvenile Disposition		Card Number	
Warrant Number		Warrant Signed By	
		<input type="checkbox"/> OUI Alcohol Arrest	
DUI/OUI Information			
Public Way		Observed Driving	Glassy Eyes
Unsteady on Feet		Bloodshot Eyes	PBT
Slurred Speech		Crash	Offered Test
Odor			
Other Grounds			
Associated Charges			
Charge Disorderly Conduct - Person, Disorderly			
Counts 1			
Bail			
<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor			
Statement of Probable Cause			

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) ABRAMS, JOSHUA M							
Suffix	Nickname	Race White	Gender Male	SSN 025-70-1257	Date of Birth 10/19/1987	Age 31	Age Range to
Height 5'09"	Weight 220	Driver's License # S15411771	DL State MASSACHUSETTS	Local ID	SID		
FBI #	SBI #	Place of Birth	Citizenship				
Ethnicity Not of Hispanic Origin		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 21 VALLEY RD							
City STONEHAM		State MASSACHUSETTS		Zip			
Suspect Employment Information							
<input type="checkbox"/> Student		Employer / School		Occupation			



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069508

CAD Incident #

P190455510

Report Type

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Date / Time Occurred

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Date / Time Reported

08/31/2019 16:54

Street Address

City

State

Zip

Work Phone

Hours of Employment

## Details

Hair Color Brown	Hair Length Short	<input type="checkbox"/> Glasses	Eye Color Brown	Build Medium	Facial Hair Goatee	Facial Hair Color Brown
Voice	Complexion Light	Hand Preference				

Clothing Description

WHITE T-SHIRT, BLACK SHORTS, BLACK SNEAKERS

Trademarks of Suspect

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
----------	----------	----------	----------	----------

☐ Hospitalized

Hospital Facility

Resident

MO Panel Entry Type	Entry Area	Entry Method
Entry Point	Exit Point	Target Area
Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used

Comments

## Associated Offenses

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059734	RICI Booking Num 19-00261-07	Arrest Action Arrested
Disposition	Arrest Date/Time 08/31/2019 16:40	Booking District DISTRICT A1	<input checked="" type="checkbox"/> Arrested on Scene

## Arrest Address

Street Address STATE ST / CONGRESS ST		
City BSTN	State MASSACHUSETTS	Zip 02109

Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By

Arresting Officer DANILECKI,JOHN H	Transporting Officer DANILECKI,JOHN H
Weapon 1 Automatic Weapon 1	Weapon 2 Weapon 2



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None

Automatic Weapon 2

Multiple Clearance

Juvenile Disposition

Card Number

MULTIPLE

Warrant Number

Warrant Signed By

☐

OUI Alcohol Arrest

## DUI/OUI Information

Public Way

Observed Driving

Glassy Eyes

PBT

Unsteady on Feet

Bloodshot Eyes

Crash

Offered Test

Slurred Speech

Odor

Other Grounds

## Associated Charges

Charge

Disorderly Conduct - Person, Disorderly

☐

Felony

☒

Misdemeanor

Counts

Bail

1

## Statement of Probable Cause

SUSPECT

☒

Known

☐

Unknown

☒

Arrested

Name (Last, First Middle)

TUTTLE, DANIEL

Suffix

Nickname

Race

White

Gender

Male

SSN

022-76-3489

Date of Birth

10/02/1992

Age

26

Age Range

to

Height

5'07"

Weight

150

Driver's License #

S98380385

DL State

MASSACHUSETTS

Local ID

SID

FBI #

SBI #

Place of Birth

Citizenship

Ethnicity

Marital Status

Not of Hispanic Origin

Preferred

Contact #1

Contact #2

Email Address

## Suspect Home Address

Street Address

52 WILLOW ST.

City

LOWELL

State

MASSACHUSETTS

Zip

01852

## Suspect Employment Information

☐

Student

Employer / School

Occupation

Street Address

City

State

Zip

Work Phone

Hours of Employment

## Details

Hair Color

Brown

Hair Length

Long

☐

Glasses

Eye Color

Other

Build

Thin

Facial Hair

Goatee

Facial Hair Color

Unknown

Voice

Complexion

Light

Hand Preference



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## Clothing Description

BLK SHIRT BLK PANTS BOOTS BANDANA

## Trademarks of Suspect

Injury 1

Injury 2

Injury 3

Injury 4

Injury 5

☐ Hospitalized

Hospital Facility

Resident

## MO Panel

Entry Type

Entry Area

Entry Method

Entry Point

Exit Point

Target Area

Property Target 1

Property Target 2

Property Target 3

Victim Target

Time of Day

Victim Activity

Action 1 on Victim

Action 2 on Victim

Action 3 on Victim

Action 1 to Premises

Action 2 to Premises

Action 3 to Premises

Other Action 1

Other Action 2

Other Action 3

Solicited Offered 1

Solicited Offered 2

Solicited Offered 3

Weapon 1

Weapon 2

Weapon 3

Weapon 1 Type

Weapon 2 Type

Weapon 3 Type

Weapon 1 Caliber

Weapon 2 Caliber

Weapon 3 Caliber

Weapon 1 Color

Weapon 2 Color

Weapon 3 Color

Arson

Precipitating Circumstance

Instrument Used

Comments

## Associated Offenses

### Offense

DISORDERLY CONDUCT

☒ Associated With Suspect

### ARREST

Arrested As

☒ Adult

☐ Juvenile

Arrest Number

100059724

RICI Booking Num

19-00263-07

Arrest Action

Arrested

Disposition

Arrest Date/Time

08/31/2019 16:55

Booking District

DISTRICT A7

☒ Arrested on Scene

## Arrest Address

Street Address

STATE ST / CONGRESS ST

City

BSTN

State

MASSACHUSETTS

Zip

02109

Test Given

Test Date/Time

Test Results

Test Administered By

Test Given

Test Date/Time

Test Results

Test Administered By

Arresting Officer

DANILECKI.JOHN H

Transporting Officer

DANILECKI.JOHN H

Weapon 1

Automatic Weapon 1

Weapon 2

None

Automatic Weapon 2

Multiple Clearance

Juvenile Disposition

Card Number

MULTIPLE

Warrant Number

Warrant Signed By

☐ OUI Alcohol Arrest

## DUI/OUI Information



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Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail

## Statement of Probable Cause

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) FULFORD, RUBBIE A							
Suffix	Nickname	Race White	Gender Female	SSN 023-82-8916	Date of Birth 03/15/1999	Age 20	Age Range to
Height 5'10"	Weight 125	Driver's License # S61441207	DL State MASSACHUSETTS	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Not of Hispanic Origin		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 16 PENFIELD ST.							
City BOSTON		State MASSACHUSETTS		Zip 02131			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School		Occupation				
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel Entry Type	Entry Area			Entry Method			
Entry Point	Exit Point			Target Area			
Property Target 1	Property Target 2			Property Target 3			



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Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		
Associated Offenses		

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

ARREST
--------

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059725	RICI Booking Num 19-01304-10	Arrest Action Arrested
Disposition	Arrest Date/Time 08/31/2019 16:55	Booking District DISTRICT A1	<input checked="" type="checkbox"/> Arrested on Scene

Arrest Address		
Street Address STATE ST / CONGRESS ST		
City BSTN	State MASSACHUSETTS	Zip 02109

Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer DANILECKI,JOHN H	
Weapon 1 None	Automatic Weapon 1	Weapon 2	
Automatic Weapon 2	Multiple Clearance MULTIPLE	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Associated Charges	
Charge Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail
Statement of Probable Cause	



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SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) POTTER, LAURA S							
Suffix	Nickname	Race White	Gender Female	SSN 264-21-9246	Date of Birth 09/22/1955	Age 63	Age Range to
Height 5'07"	Weight 185	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #		Place of Birth			Citizenship	
Ethnicity Not of Hispanic Origin		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address							
City		State MASSACHUSETTS		Zip			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School		Occupation				
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Gray or Partially Gray	Hair Length Shoulder	<input type="checkbox"/> Glasses	Eye Color Blue	Build Medium	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Light							
Clothing Description							
BLACK T SHIRT, BLACK JEANS, BROWN/YELLOW BOOTS							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel		Entry Area			Entry Method		
Entry Type		Exit Point			Target Area		
Entry Point		Property Target 1			Property Target 2		
Property Target 1		Property Target 2			Property Target 3		
Victim Target		Time of Day			Victim Activity		
Action 1 on Victim		Action 2 on Victim			Action 3 on Victim		
Action 1 to Premises		Action 2 to Premises			Action 3 to Premises		
Other Action 1		Other Action 2			Other Action 3		
Solicited Offered 1		Solicited Offered 2			Solicited Offered 3		
Weapon 1		Weapon 2			Weapon 3		
Weapon 1 Type		Weapon 2 Type			Weapon 3 Type		
Weapon 1 Caliber		Weapon 2 Caliber			Weapon 3 Caliber		





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Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense DISORDERLY CONDUCT	<input type="checkbox"/> Associated With Suspect
-------------------------------	--

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059726	RICI Booking Num 19-01305-10	Arrest Action Arrested
Disposition	Arrest Date/Time 08/31/2019 16:55	Booking District DISTRICT A1	<input checked="" type="checkbox"/> Arrested on Scene

## Arrest Address

Street Address STATE ST / CONGRESS ST		
City BSTN	State MASSACHUSETTS	Zip 02109

Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By

Arresting Officer DANILECKI,JOHN H	Transporting Officer DANILECKI,JOHN H
---------------------------------------	--

Weapon 1 None	Automatic Weapon 1	Weapon 2
------------------	--------------------	----------

Automatic Weapon 2	Multiple Clearance MULTIPLE	Juvenile Disposition	Card Number
--------------------	--------------------------------	----------------------	-------------

Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest
----------------	-------------------	---

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		

Other Grounds
---------------

## Associated Charges

Charge Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts 1	Bail

## Statement of Probable Cause

SUSPECT	<input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested
---------	---

Name (Last, First Middle) HARRIS, NICHOLAS STAVOLA							
Suffix	Nickname	Race Unknown	Gender Male	SSN 053-86-3357	Date of Birth	Age 23	Age Range to
Height 5'06"	Weight 135	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth	Citizenship				
Ethnicity	Marital Status						



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Unknown			
Preferred	Contact #1	Contact #2	Email Address

## Suspect Home Address

Street Address		
51 ATKIN AVE		
City	State	Zip
PRINCETON	NEW JERSEY	08540

## Suspect Employment Information

<input type="checkbox"/> Student	Employer / School	Occupation		
		COMPUTER GUY		
Street Address				
City	State	Zip	Work Phone	Hours of Employment

## Details

Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Brown			Brown	Thin	No Facial Hair	
Voice	Complexion	Hand Preference				

## Clothing Description

BLACK SHIRT,BLACK JEANS,BLACK SNEAKERS

## Trademarks of Suspect

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident		

MO Panel	Entry Area	Entry Method
Entry Type	Exit Point	Target Area
Entry Point	Property Target 2	Property Target 3
Property Target 1	Time of Day	Victim Activity
Victim Target	Action 2 on Victim	Action 3 on Victim
Action 1 on Victim	Action 2 to Premises	Action 3 to Premises
Action 1 to Premises	Other Action 2	Other Action 3
Other Action 1	Solicited Offered 2	Solicited Offered 3
Solicited Offered 1	Weapon 2	Weapon 3
Weapon 1	Weapon 2 Type	Weapon 3 Type
Weapon 1 Type	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Caliber	Weapon 2 Color	Weapon 3 Color
Weapon 1 Color	Precipitating Circumstance	Instrument Used
Arson		

Comments
----------

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

ARREST			
Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059727	19-01306-10	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
	08/31/2019 16:57	DISTRICT A1	



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Arrest Address			
Street Address STATE ST / CONGRESS ST			
City BSTN		State MASSACHUSETTS	
Zip 02109			
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1 None		Automatic Weapon 1      Weapon 2	
Automatic Weapon 2		Multiple Clearance MULTIPLE	Juvenile Disposition      Card Number
Warrant Number		Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest	
DUI/OUI Information			
Public Way		Observed Driving	Glassy Eyes      PBT
Unsteady on Feet		Bloodshot Eyes	Crash      Offered Test
Slurred Speech		Odor	
Other Grounds			
Associated Charges			
Charge Disorderly Conduct - Person, Disorderly			
Counts      Bail <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor			
1			
Statement of Probable Cause			

SUSPECT	<input checked="" type="checkbox"/> Known	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Arrested
Name (Last, First Middle) BENNETT, JACKSON THOMAS			
Suffix	Nickname	Race White	Gender Male
SSN	Date of Birth	Age 22	Age Range to
Height 5'09"	Weight 185	Driver's License #	DL State
Local ID	SID	FBI #	SBI #
Place of Birth	Citizenship		
Ethnicity Unknown		Marital Status	
Preferred	Contact #1	Contact #2	Email Address
Suspect Home Address			
Street Address 16 MARCELLA ST			
City CAMBRIDGE		State MASSACHUSETTS	
Zip 02141			
Suspect Employment Information			
<input type="checkbox"/> Student	Employer / School		Occupation RELIEF MANAGER
Street Address			
City		State	Zip
Work Phone	Hours of Employment		



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## Details

Hair Color OTHER	Hair Length Bald	<input type="checkbox"/> Glasses	Eye Color Blue	Build Medium	Facial Hair	Facial Hair Color
Voice	Complexion	Hand Preference				
Clothing Description						
RED SHIRT,BLUE JEANS,BLACK SNEAKERS						
Trademarks of Suspect						
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident		
MO Panel	Entry Area			Entry Method		
Entry Type	Exit Point			Target Area		
Entry Point	Property Target 1			Property Target 2		
Property Target 1	Property Target 2			Property Target 3		
Victim Target	Time of Day			Victim Activity		
Action 1 on Victim	Action 2 on Victim			Action 3 on Victim		
Action 1 to Premises	Action 2 to Premises			Action 3 to Premises		
Other Action 1	Other Action 2			Other Action 3		
Solicited Offered 1	Solicited Offered 2			Solicited Offered 3		
Weapon 1	Weapon 2			Weapon 3		
Weapon 1 Type	Weapon 2 Type			Weapon 3 Type		
Weapon 1 Caliber	Weapon 2 Caliber			Weapon 3 Caliber		
Weapon 1 Color	Weapon 2 Color			Weapon 3 Color		
Arson	Precipitating Circumstance			Instrument Used		
Comments						

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059728	RICI Booking Num 19-01307-10	Arrest Action Arrested
Disposition	Arrest Date/Time 08/31/2019 16:55	Booking District DISTRICT A1	<input checked="" type="checkbox"/> Arrested on Scene
Arrest Address			
Street Address STATE ST / CONGRESS ST			
City BSTN	State MASSACHUSETTS	Zip 02109	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
Weapon 1 None	Automatic Weapon 1	Weapon 2	
Automatic Weapon 2	Multiple Clearance MULTIPLE	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	



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## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge		<input type="checkbox"/> Felony	<input checked="" type="checkbox"/> Misdemeanor
Disorderly Conduct - Person, Disorderly			
Counts	Bail		
1			

## Statement of Probable Cause

SUSPECT	<input checked="" type="checkbox"/> Known	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Arrested
Name (Last, First Middle)			
SEXTON, NICHOLAS VINCEN			
Suffix	Nickname	Race	Gender
		White	Male
SSN	Date of Birth	Age	Age Range
014-86-1287		17	to
Height	Weight	Driver's License #	DL State
5'11"	220		
FBI #	SBI #	Local ID	SID
		Place of Birth	Citizenship
Ethnicity	Marital Status		
Not of Hispanic Origin			
Preferred	Contact #1	Contact #2	Email Address
Suspect Home Address			
Street Address			
196 E MAIN ST			
City	State	Zip	
GEORGETOWN	MASSACHUSETTS	01833	
Suspect Employment Information			
<input type="checkbox"/> Student	Employer / School	Occupation	
	GEORGETOWN HIGH		
Street Address			
City	State	Zip	Work Phone
			Hours of Employment
Details			
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color
Brown	Short		Blue
Build	Facial Hair	Facial Hair Color	
Heavy	No Facial Hair		
Voice	Complexion	Hand Preference	
Clothing Description			
Trademarks of Suspect			
Injury 1	Injury 2	Injury 3	Injury 4
			Injury 5
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident	
MO Panel	Entry Area	Entry Method	
Entry Type			
Entry Point	Exit Point	Target Area	



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Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		
Associated Offenses		

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

## ARREST

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input type="checkbox"/> Adult <input checked="" type="checkbox"/> Juvenile	190002822	19-01303-10	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
	08/31/2019 16:55	DISTRICT A1	

## Arrest Address

Street Address		
STATE ST / CONGRESS ST		
City	State	Zip
BSTN	MASSACHUSETTS	02109

Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
Weapon 1		Automatic Weapon 1      Weapon 2	
None			
Automatic Weapon 2		Multiple Clearance      Juvenile Disposition      Card Number	
		MULTIPLE      Referred to juvenile court or probation	
Warrant Number		Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Disorderly Conduct - Person, Disorderly	
Counts      Bail	



# Incident Report

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## Statement of Probable Cause

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) ADELBERG, WILLIAM ISAAC							
Suffix	Nickname	Race White	Gender Male	SSN 440-13-0475	Date of Birth 09/21/1998	Age 20	Age Range to
Height 5'06"	Weight 165	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #		Place of Birth			Citizenship	
Ethnicity Unknown		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 1 PEARL							
City ENFIELD		State CONNECTICUT		Zip 06082			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Brown	Hair Length Medium	<input type="checkbox"/> Glasses	Eye Color Brown	Build Medium	Facial Hair Mustache w/Goatee	Facial Hair Color Brown	
Voice	Complexion Light	Hand Preference					
Clothing Description							
NAVY BLUE PANTS,BLACK BOOTS							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3		Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel							
Entry Type		Entry Area		Entry Method			
Entry Point		Exit Point		Target Area			
Property Target 1		Property Target 2		Property Target 3			
Victim Target		Time of Day		Victim Activity			
Action 1 on Victim		Action 2 on Victim		Action 3 on Victim			
Action 1 to Premises		Action 2 to Premises		Action 3 to Premises			
Other Action 1		Other Action 2		Other Action 3			
Solicited Offered 1		Solicited Offered 2		Solicited Offered 3			
Weapon 1		Weapon 2		Weapon 3			
Weapon 1 Type		Weapon 2 Type		Weapon 3 Type			
Weapon 1 Caliber		Weapon 2 Caliber		Weapon 3 Caliber			



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Weapon 1 Color			
Weapon 2 Color			
Weapon 3 Color			
Arson			
Precipitating Circumstance			
Instrument Used			
Comments			
Associated Offenses			
Offense DISORDERLY CONDUCT			
<input checked="" type="checkbox"/> Associated With Suspect			
ARREST			
Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile			
Arrest Number 100059729			
RICI Booking Num 19-01302-10			
Arrest Action Arrested			
Disposition			
Arrest Date/Time 08/31/2019 16:57			
Booking District DISTRICT A1			
<input checked="" type="checkbox"/> Arrested on Scene			
Arrest Address			
Street Address STATE ST / CONGRESS ST			
City BSTN			
State MASSACHUSETTS			
Zip 02109			
Test Given			
Test Date/Time			
Test Results			
Test Administered By			
Test Given			
Test Date/Time			
Test Results			
Test Administered By			
Arresting Officer DANILECKI.JOHN H			
Transporting Officer DANILECKI.JOHN H			
Weapon 1			
Automatic Weapon 1			
Weapon 2			
None			
Automatic Weapon 2			
Multiple Clearance MULTIPLE			
Juvenile Disposition			
Card Number			
Warrant Number			
Warrant Signed By			
<input type="checkbox"/> OUI Alcohol Arrest			
DUI/OUI Information			
Public Way			
Observed Driving			
Glassy Eyes			
PBT			
Unsteady on Feet			
Bloodshot Eyes			
Crash			
Offered Test			
Slurred Speech			
Odor			
Other Grounds			
Associated Charges			
Charge Disorderly Conduct - Person, Disorderly			
Counts 1			
Bail			
<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor			
Statement of Probable Cause			

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) MORING, NECHAMA S							
Suffix		Nickname		Race White		Gender Female	
SSN 033-70-8008		Date of Birth 01/24/1982		Age 37		Age Range to	
Height 5'03"		Weight 160		Driver's License #		DL State	
Local ID		SID		Place of Birth		Citizenship	
FBI #		SBI #		Place of Birth		Citizenship	





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Ethnicity	Marital Status
Unknown	
Preferred	Contact #1
Contact #2	Email Address

## Suspect Home Address

Street Address		
136 BLACKSTONE ST		
City	State	Zip
BSTN	MASSACHUSETTS	02109

## Suspect Employment Information

<input type="checkbox"/> Student	Employer / School	Occupation
Street Address		
City	State	Zip
	Work Phone	Hours of Employment

## Details

Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Black	Medium		Brown	Heavy	No Facial Hair	
Voice	Complexion	Hand Preference				
	Light					

Clothing Description
----------------------

BLACK SHIRT, BLACK PANTS, BLACK BOOTS
---------------------------------------

Trademarks of Suspect
-----------------------

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident		

MO Panel	Entry Area	Entry Method
Entry Type		
Entry Point	Exit Point	Target Area
Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used

Comments
----------

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

ARREST
--------



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Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile			
Arrest Number 100059730		RICI Booking Num 19-00300-06	
Disposition		Arrest Action Arrested	
Arrest Date/Time 08/31/2019 16:55		Booking District DISTRICT C6	
<input checked="" type="checkbox"/> Arrested on Scene			
Arrest Address			
Street Address STATE ST / CONGRESS ST			
City BSTN		State MASSACHUSETTS	
Zip 02109			
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer DANILECKI,JOHN H	
Weapon 1 None		Automatic Weapon 1 Weapon 2	
Automatic Weapon 2		Multiple Clearance MULTIPLE	
Juvenile Disposition		Card Number	
Warrant Number		Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest	
DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			
Associated Charges			
Charge Assault - Assault & Battery On A Police Officer (injuries)			
Counts 1			
Bail			
<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor			
Statement of Probable Cause			

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) MONREAL, LILLIAN L							
Suffix	Nickname	Race White	Gender Female	SSN	Date of Birth 01/16/1998	Age 21	Age Range to
Height 5'06"	Weight 117	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Unknown		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 48 BLENDALL							
City BROCKTON		State MASSACHUSETTS		Zip 02302			
Suspect Employment Information							
<input type="checkbox"/> Student		Employer / School			Occupation		



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Street Address

City

State

Zip

Work Phone

Hours of Employment

## Details

Hair Color Brown	Hair Length Long	<input type="checkbox"/> Glasses	Eye Color Brown	Build Thin	Facial Hair No Facial Hair	Facial Hair Color
Voice	Complexion Light	Hand Preference				

Clothing Description

WHITE SHIRT, BLACK PANTS, BLACK SHOES

Trademarks of Suspect

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
----------	----------	----------	----------	----------

☐ Hospitalized

Hospital Facility

Resident

MO Panel	Entry Type	Entry Area	Entry Method
Entry Point	Exit Point	Target Area	
Property Target 1	Property Target 2	Property Target 3	
Victim Target	Time of Day	Victim Activity	
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim	
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises	
Other Action 1	Other Action 2	Other Action 3	
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3	
Weapon 1	Weapon 2	Weapon 3	
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type	
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber	
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color	
Arson	Precipitating Circumstance	Instrument Used	

Comments

## Associated Offenses

Offense DISORDERLY CONDUCT	<input checked="" type="checkbox"/> Associated With Suspect
-------------------------------	---

## ARREST

Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059731	RICI Booking Num 19-00304-06	Arrest Action Arrested
Disposition	Arrest Date/Time 08/31/2019 16:55	Booking District DISTRICT C6	<input checked="" type="checkbox"/> Arrested on Scene

## Arrest Address

Street Address STATE ST / CONGRESS ST	City BSTN	State MASSACHUSETTS	Zip 02109
--	--------------	------------------------	--------------

Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By

Arresting Officer DANILECKI,JOHN H	Transporting Officer DANILECKI,JOHN H
Weapon 1 Automatic Weapon 1	Weapon 2 Weapon 2



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None			
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
MULTIPLE			
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge	Assault - Assault & Battery On A Police Officer (injuries)			<input type="checkbox"/> Felony	<input checked="" type="checkbox"/> Misdemeanor
Counts	Bail				
1					
Statement of Probable Cause					

SUSPECT	<input checked="" type="checkbox"/> Known	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Arrested				
Name (Last, First Middle)							
DEJESUS, JASON V							
Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range
		Asian	Male	036-68-4665	01/03/2001	18	to
Height	Weight	Driver's License #	DL State	Local ID	SID		
5'07"	130						
FBI #	SBI #	Place of Birth	Citizenship				
Ethnicity		Marital Status					
Unknown							
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address							
29 PARK VIEW DR							
City		State		Zip			
PITTSFOLD		NEW YORK		14534			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School		Occupation				
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Brown	Medium		Brown	Medium	No Facial Hair		
Voice	Complexion	Hand Preference					
	Medium						



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Clothing Description

BLACK SHIRT, BLUE SHORTS

Trademarks of Suspect

Injury 1

Injury 2

Injury 3

Injury 4

Injury 5

☐ Hospitalized

Hospital Facility

Resident

MO Panel

Entry Type

Entry Area

Entry Method

Entry Point

Exit Point

Target Area

Property Target 1

Property Target 2

Property Target 3

Victim Target

Time of Day

Victim Activity

Action 1 on Victim

Action 2 on Victim

Action 3 on Victim

Action 1 to Premises

Action 2 to Premises

Action 3 to Premises

Other Action 1

Other Action 2

Other Action 3

Solicited Offered 1

Solicited Offered 2

Solicited Offered 3

Weapon 1

Weapon 2

Weapon 3

Weapon 1 Type

Weapon 2 Type

Weapon 3 Type

Weapon 1 Caliber

Weapon 2 Caliber

Weapon 3 Caliber

Weapon 1 Color

Weapon 2 Color

Weapon 3 Color

Arson

Precipitating Circumstance

Instrument Used

Comments

Associated Offenses

Offense

DISORDERLY CONDUCT



Associated With Suspect

ARREST

Arrested As

☒ Adult

☐ Juvenile

Arrest Number

100059732

RICI Booking Num

19-00303-06

Arrest Action

Arrested

Disposition

Arrest Date/Time

08/31/2019 16:55

Booking District

DISTRICT C6

☐ Arrested on Scene

Arrest Address

Street Address

CONGRESS ST AND NORTH

City

BOSTON

State

MASSACHUSETTS

Zip

Test Given

Test Date/Time

Test Results

Test Administered By

Test Given

Test Date/Time

Test Results

Test Administered By

Arresting Officer

DANILECKI,JOHN H

Transporting Officer

DANILECKI,JOHN H

Weapon 1

Automatic Weapon 1

Weapon 2

None

Automatic Weapon 2

Multiple Clearance

Juvenile Disposition

Card Number

MULTIPLE

Warrant Number

Warrant Signed By

☐ OUI Alcohol Arrest

DUI/OUI Information



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Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge	Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts	1	
Bail		
Statement of Probable Cause		

SUSPECT	<input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested						
Name (Last, First Middle)							
ANTOINETTE, LILLEY L							
Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range
		White	Female		01/16/1990	29	to
Height	Weight	Driver's License #	DL State	Local ID	SID		
5'05"	145						
FBI #	SBI #	Place of Birth	Citizenship				
Ethnicity	Marital Status						
Unknown							
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address							
511 MEDFORD 2							
City	State	Zip					
SOMERVILLE	MASSACHUSETTS	02145					
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School	Occupation					
Street Address							
City	State	Zip	Work Phone	Hours of Employment			
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Brown	Long		Blue	Medium	No Facial Hair		
Voice	Complexion	Hand Preference					
	Light						
Clothing Description							
BLACK TSHIRT, BLUE JEAN SHORTS, WHITE SNEAKERS							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident					
MO Panel	Entry Type	Entry Area	Entry Method				
Entry Point	Exit Point	Target Area					
Property Target 1	Property Target 2	Property Target 3					



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Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

## ARREST

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059733	19-00305-06	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
	08/31/2019 16:55	DISTRICT C6	
Arrest Address			
Street Address			
STATE ST / CONGRESS ST			
City	State	Zip	
BSTN	MASSACHUSETTS	02109	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
DANILECKI,JOHN H		DANILECKI,JOHN H	
Weapon 1	Automatic Weapon 1	Weapon 2	
None			
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
	MULTIPLE		
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Disorderly Conduct - Person, Disorderly	
Counts	Bail
1	



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Statement of Probable Cause

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input type="checkbox"/> Arrested							
Name (Last, First Middle) SHEA, MARISA							
Suffix	Nickname	Race White	Gender Female	SSN 010-68-1130	Date of Birth 03/08/1986	Age 33	Age Range to
Height	Weight	Driver's License # S52416823	DL State	Local ID	SID		
FBI #	SBI #		Place of Birth			Citizenship	
Ethnicity Unknown		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 52 WILLOW							
City LOWELL		State MASSACHUSETTS		Zip 01852			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Brown	Hair Length Long	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion Light	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3		Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel							
Entry Type		Entry Area		Entry Method			
Entry Point		Exit Point		Target Area			
Property Target 1		Property Target 2		Property Target 3			
Victim Target		Time of Day		Victim Activity			
Action 1 on Victim		Action 2 on Victim		Action 3 on Victim			
Action 1 to Premises		Action 2 to Premises		Action 3 to Premises			
Other Action 1		Other Action 2		Other Action 3			
Solicited Offered 1		Solicited Offered 2		Solicited Offered 3			
Weapon 1		Weapon 2		Weapon 3			
Weapon 1 Type		Weapon 2 Type		Weapon 3 Type			
Weapon 1 Caliber		Weapon 2 Caliber		Weapon 3 Caliber			





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Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		
Associated Offenses		
Offense DISORDERLY CONDUCT		<input checked="" type="checkbox"/> Associated With Suspect

## Public Narrative

About 1630 hrs on Saturday 8/31/2019, Officers in the Citywide Bicycle Unit while assigned to the Straight Pride Parade under the direction of Captain Danilecki (YB04) and Lt Murphy (TA03) and per order of made multiple on site arrests in the area of Congress St & Hanover St. Officers observed the Mobile Operations Unit attempt to disperse a large group of protesters from blocking Congress St, at which time multiple parties were observed locking arms while refusing to move. The protesters were given multiple commands to disperse and refused. Officers observed that the protesters refusal to allow the free flow of both m/v traffic and pedestrians created a hazardous condition. Protestors also resisted by pushing and pulling away from officers. Protestors also assaulted officers while attempting dispersal and arrest. Suspect Michael Doughty was observed punching an Officer on the back. Suspect then vigorously resisted arrest. Officers also observed numerous tourists stopped on the street staring as protestors continued to shout obscenities at officers and continued to resist. Officers at this time arrested the following persons for being a disorderly person and resisting arrest.

(1)Isaac William Adelberg (2)Nicholas Stavola Harris (3) Nicholas Vincent Sexton (4) Jackson T Bennett (5) Austin George (6) Roderick Webber (7) Daniel Tuttle (8) Joshua Abrams (9) Laura Stephanie Potter (10)Rubie Fulford. The following suspects were arrested for being a disorderly person (11)Jason Dejesus and (12) Lilley Antoinette. The following suspects were arrested and charged with assault & battery on a police officer (13) Lillian Monreal (14) Nechama Moring and (15) Marisa Shea (REFUSED BOOKING). The following suspect was arrested for assault & battery on a police officer, being a disorderly person and resisting arrest (16) Michael Doughty.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069293

CAD Incident #

P190455014

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Arrested Suspects 3	Additional Suspects	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						
Incident Details											
Unit Number	Clearance Disposition ADULT ARREST				Cleared by Exception				Exceptional Clearance Date		
Situation Found On Site						Case Status					
Location Given By Dispatcher											
Incident Address											
Street Address ARLINGTON ST & BOYLSTON ST											
City BSTN			State MASSACHUSETTS			Zip 02108			District DISTRICT A1		
Administrative Info											
Reporting Officer POWERS, MICHAEL		Employee Number 093858		Approving Supervisor MAZZOLA, ADAM							

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description ASSAULT SIMPLE - BATTERY		
Offense Code Value 00802	Attempted/Completed Completed		Premise Type Park/Playground
Circumstances		Bias None - No Bias	
Criminal Activity 1 No Known Gang Committed Offense	Criminal Activity 2		Criminal Activity 3
Offender Using 1 Not Applicable	Offender Using 2		Offender Using 3
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel			
Entry Type	Entry Area	Entry Method	
Entry Point 1	Entry Point 2	Exit Point 1	
Exit Point 2	Target Area	Property Target 1	
Property Target 2	Property Target 3	Victim Target	
Time of Day	Victim Activity	Action 1 to Premises	
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim	
Action 2 on Victim	Action 3 on Victim	Other Action 1	
Other Action 2	Other Action 3	Solicited Offered 1	
Solicited Offered 2	Solicited Offered 3	Weapon 1 None	
Weapon 1 Auto	Weapon 2	Weapon 2 Auto	
Weapon 3	Weapon 3 Auto	Arson	



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069293

CAD Incident #

P190455014

Report Type

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Date / Time Reported

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Precipitating Circumstance

Instrument Used

Unusual Actions and Statements of Suspect

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input type="checkbox"/> Primary Offense	Crime Description		
DISORDERLY CONDUCT			
Offense Code Value	Attempted/Completed	Premise Type	
02405			
Circumstances	Bias		
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3	
Offender Using 1	Offender Using 2	Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel			
Entry Type	Entry Area	Entry Method	
Entry Point 1	Entry Point 2	Exit Point 1	
Exit Point 2	Target Area	Property Target 1	
Property Target 2	Property Target 3	Victim Target	
Time of Day	Victim Activity	Action 1 to Premises	
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim	
Action 2 on Victim	Action 3 on Victim	Other Action 1	
Other Action 2	Other Action 3	Solicited Offered 1	
Solicited Offered 2	Solicited Offered 3	Weapon 1	
Weapon 1 Auto	Weapon 2	Weapon 2 Auto	
Weapon 3	Weapon 3 Auto	Arson	
Precipitating Circumstance	Instrument Used		
Unusual Actions and Statements of Suspect			

SUSPECT ☒ Known ☐ Unknown ☒ Arrested

Name (Last, First Middle)

KRAFT, KENNETH

Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range
		White	Male	211-74-4911	09/16/1994	24	to
Height	Weight	Driver's License #	DL State	Local ID	SID		
6'04"	200						
FBI #	SBI #	Place of Birth			Citizenship		



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Ethnicity	Marital Status		
Preferred	Contact #1	Contact #2	Email Address

## Suspect Home Address

Street Address		
230 CHESTER RD		
City	State	Zip
BETHLEHEM	PENNSYLVANIA	

## Suspect Employment Information

<input type="checkbox"/> Student	Employer / School	Occupation		
Street Address				
City	State	Zip	Work Phone	Hours of Employment

## Details

Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Brown	Short		Other	Thin	Beard	
Voice	Complexion	Hand Preference				
	Light					

Clothing Description
----------------------

BLACK SHIRT, BLACK PANTS, LIGHT PURPLE SNEAKERS
---

Trademarks of Suspect
-----------------------

Injury 1	Injury 2	Injury 3	Injury 4	Injury 5
<input type="checkbox"/> Hospitalized	Hospital Facility	Resident		

MO Panel	Entry Area	Entry Method	
Entry Type	Exit Point	Target Area	
Entry Point	Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity	
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim	
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises	
Other Action 1	Other Action 2	Other Action 3	
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3	
Weapon 1	Weapon 2	Weapon 3	
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type	
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber	
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color	
Arson	Precipitating Circumstance	Instrument Used	

Comments
----------

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
ASSAULT SIMPLE - BATTERY	
Offense	<input type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

ARREST



# Incident Report

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Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059689	RICI Booking Num 19-00226-18	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court	Arrest Date/Time 08/31/2019 10:30	Booking District DISTRICT A1	<input checked="" type="checkbox"/> Arrested on Scene
Arrest Address			
Street Address ARLINGTON ST & BOYLSTON ST			
City BSTN	State MASSACHUSETTS	Zip 02108	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer DANILECKI,JOHN H		Transporting Officer	
Weapon 1 None		Automatic Weapon 1	Weapon 2
Automatic Weapon 2	Multiple Clearance NOT APPLICABLE	Juvenile Disposition	Card Number
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Associated Charges	
Charge Assault - Assault & Battery	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts Bail	
Statement of Probable Cause	

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) BOYD, BENJAMIN							
Suffix	Nickname	Race White	Gender Male	SSN 039-56-2896	Date of Birth 12/21/1986	Age 32	Age Range to
Height 5'08"	Weight 215	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 213 OHIO AVE							
City PROVIDENCE		State RHODE ISLAND			Zip 02905		
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			



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Street Address

City

State

Zip

Work Phone

Hours of Employment

## Details

Hair Color

Hair Length

☐ Glasses

Eye Color

Build

Facial Hair

Facial Hair Color

Voice

Complexion

Hand Preference

Clothing Description

GRAY SHIRT, GRAY SHORTS, BLACK SNEAKERS

Trademarks of Suspect

Injury 1

Injury 2

Injury 3

Injury 4

Injury 5

☐ Hospitalized

Hospital Facility

Resident

MO Panel

Entry Type

Entry Area

Entry Method

Entry Point

Exit Point

Target Area

Property Target 1

Property Target 2

Property Target 3

Victim Target

Time of Day

Victim Activity

Action 1 on Victim

Action 2 on Victim

Action 3 on Victim

Action 1 to Premises

Action 2 to Premises

Action 3 to Premises

Other Action 1

Other Action 2

Other Action 3

Solicited Offered 1

Solicited Offered 2

Solicited Offered 3

Weapon 1

Weapon 2

Weapon 3

Weapon 1 Type

Weapon 2 Type

Weapon 3 Type

Weapon 1 Caliber

Weapon 2 Caliber

Weapon 3 Caliber

Weapon 1 Color

Weapon 2 Color

Weapon 3 Color

Arson

Precipitating Circumstance

Instrument Used

Comments

## Associated Offenses

Offense

ASSAULT SIMPLE - BATTERY



Associated With Suspect

Offense

DISORDERLY CONDUCT



Associated With Suspect

## ARREST

Arrested As

☒ Adult ☐ Juvenile

Arrest Number

100059688

RICI Booking Num

19-00226-18

Arrest Action

Arrested

Disposition

Referred to Criminal or Adult Court

Arrest Date/Time

08/31/2019 10:30

Booking District

DISTRICT A1



Arrested on Scene

## Arrest Address

Street Address

ARLINGTON ST & BOYLSTON ST

City

BSTN

State

MASSACHUSETTS

Zip

02108

Test Given

Test Date/Time

Test Results

Test Administered By

Test Given

Test Date/Time

Test Results

Test Administered By



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Arresting Officer DANILECKI,JOHN H		Transporting Officer WILLIAMS,DAVID 010744	
Weapon 1 None		Weapon 2 Automatic Weapon 1	
Automatic Weapon 2 Multiple Clearance NOT APPLICABLE		Juvenile Disposition Card Number	
Warrant Number		Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Associated Charges	
Charge Assault - Resisting Arrest	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts Bail 1	
Charge Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts Bail 1	
Charge Assault - Assault & Battery	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts Bail 1	
Statement of Probable Cause	

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) REGO, TIMOTHY							
Suffix	Nickname	Race White	Gender Unknown	SSN	Date of Birth 01/31/2000	Age 19	Age Range to
Height 5'07"	Weight 120	Driver's License #	DL State	Local ID	SID		
FBI #		SBI #		Place of Birth		Citizenship	
Ethnicity		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 79 BRADCLIFFE AVE							
City PROVIDENCE		State RHODE ISLAND		Zip 02908			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	



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## Details

Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Voice	Complexion	Hand Preference				
Clothing Description						
Trademarks of Suspect						
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility		Resident			
MO Panel	Entry Area			Entry Method		
Entry Type	Exit Point			Target Area		
Entry Point	Property Target 1			Property Target 2		
Property Target 1	Property Target 2			Property Target 3		
Victim Target	Time of Day			Victim Activity		
Action 1 on Victim	Action 2 on Victim			Action 3 on Victim		
Action 1 to Premises	Action 2 to Premises			Action 3 to Premises		
Other Action 1	Other Action 2			Other Action 3		
Solicited Offered 1	Solicited Offered 2			Solicited Offered 3		
Weapon 1	Weapon 2			Weapon 3		
Weapon 1 Type	Weapon 2 Type			Weapon 3 Type		
Weapon 1 Caliber	Weapon 2 Caliber			Weapon 3 Caliber		
Weapon 1 Color	Weapon 2 Color			Weapon 3 Color		
Arson	Precipitating Circumstance			Instrument Used		
Comments						

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
ASSAULT SIMPLE - BATTERY	
Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

## ARREST

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059690	19-00225-18	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
Referred to Criminal or Adult Court	08/31/2019 10:30	DISTRICT A1	
Arrest Address			
Street Address			
ARLINGTON ST & BOYLSTON ST			
City	State	Zip	
BSTN	MASSACHUSETTS	02108	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
DANILECKI,JOHN H			
Weapon 1	Automatic Weapon 1	Weapon 2	
None			
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
NOT APPLICABLE			
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	





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## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

<b>Charge</b> Assault - Resisting Arrest	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
<b>Counts</b> <b>Bail</b> 1	
<b>Charge</b> Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
<b>Counts</b> <b>Bail</b> 1	
<b>Charge</b> Assault - Assault & Battery	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
<b>Counts</b> <b>Bail</b> 1	

## Statement of Probable Cause

## VICTIM

Victim Type

Person

Name (Last, First Middle) DANILECKI, JOHN								
Suffix	Nickname	Race White	Gender Male	SSN	Date of Birth	Age	Age Range 1 to 100	
Infant Type	Height	Weight	Driver's License #	DL State				
Place of Birth		Citizenship						
Ethnicity Not of Hispanic Origin		Marital Status						
Preferred	Contact #1	Contact #2	Email Address					

## Victim Home Address

Street Address		
City	State	Zip

## Employment Information

<input type="checkbox"/> Student	Employer / School	Occupation
College Name	<input type="checkbox"/> On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No	
Street Address 1 SCHROEDER PLZ		
City BSTN	State MASSACHUSETTS	Zip 02120
Work Phone	Hours of Employment	

## Details

Hair Color	Eye Color	Build	Resident RESIDENT
Injury 1 None	Injury Description		
Injury 2	Injury 3	Injury 4	Injury 5
Victim Condition	Victim-Offender		



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<b>A. Assault/Homicide</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A. Assault/Homicide Circumstance 1 Other Circumstances	A. Assault/Homicide Circumstance 2
<b>Justifiable Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	Justifiable Homicide Circumstance	
<input type="checkbox"/> Victim Hospitalized	Hospital Facility	Hospital Description
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Associated Offenses		
<b>Offense</b> ASSAULT SIMPLE - BATTERY <input checked="" type="checkbox"/> Associated With Victim		
<b>Offense</b> DISORDERLY CONDUCT <input type="checkbox"/> Associated With Victim		
Victim Suspect Relationships		
<b>Suspect</b>	<b>Relationship</b>	
Suspect:1 KRAFT, KENNETH	Offender	
Suspect:2 BOYD, BENJAMIN	Offender	
Suspect:3 REGO, TIMOTHY	Offender	

## Public Narrative

At about 10:30AM on 8.31.19 Officers assigned to the "Boston Straight Pride Parade" made several on-site arrests at the intersection of Boylston St and Arlington St in Boston.

Captain Danilecki, in charge of several bike squads assigned to the event made note of the presence of counter-protest groups that had gathered both inside of, and on the outskirts of, the Boston Public Garden; namely members of "Antifa" and the "John Brown Gun Club." The Captain began to conduct a threshold inquiry on Suspect #1 (Kenneth Kraft). Operating with the knowledge that these groups advocate violence and armed "militant resistance," the Captain began to conduct a pat frisk of Suspect #1 (Kraft) for officer safety. The Suspect then pushed the Captain's hands away. At this point the Suspect was placed under arrest for violation of MGL c265-13D, Assault and Battery on a Police Officer. As the arrest was being affected, Suspect #2 (Benjamin Boyd) and Suspect #3 (Timothy Rego) attempted to interfere with the arrest by pushing and pulling on officers and on the party being arrested.

Suspect #2 and #3 were placed under arrest for violation of the following

- MGL c268s32B, Resisting Arrest
- MGL c272s53, Disorderly Conduct
- MGL c265s13D, Assault and Battery on a Police Officer

The Suspects were transported to District E-18 by the E-13 Wagon to be booked.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069406

CAD Incident #

P190455400

Report Type

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Date / Time Occurred

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Date / Time Reported

08/31/2019 15:56

Arrested Suspects	Additional Suspects	Unknown Suspects 1	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						

## Incident Details

Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address			
CAMBRIDGE ST & SOMERSET ST			
City	State	Zip	District
BSTN	MASSACHUSETTS	02108	DISTRICT A1

## Administrative Info

Reporting Officer	Employee Number	Approving Supervisor
WOOD, JUSTIN	103551	WOOD, JUSTIN

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description		
	INVESTIGATE PERSON		
Offense Code Value	Attempted/Completed	Premise Type	
03115			
Circumstances		Bias	
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3	
Offender Using 1	Offender Using 2	Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



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Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input type="checkbox"/> Known <input checked="" type="checkbox"/> Unknown <input type="checkbox"/> Arrested							
Name (Last, First Middle)							
Suffix	Nickname	Race White	Gender Male	SSN	Date of Birth	Age 50	Age Range to 60
Height 6'02"	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #		Place of Birth			Citizenship	
Ethnicity		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address							
City		State		Zip			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length Bald	<input type="checkbox"/> Glasses	Eye Color	Build Muscular	Facial Hair No Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Clothing Description							
BOSTON POLICE UNIFORM WITH YELLOW VEST ON							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3		Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel	Entry Area			Entry Method			
Entry Type	Exit Point			Target Area			
Entry Point	Property Target 2			Property Target 3			
Property Target 1	Time of Day			Victim Activity			
Victim Target	Action 2 on Victim			Action 3 on Victim			
Action 1 on Victim	Action 2 to Premises			Action 3 to Premises			
Action 1 to Premises	Other Action 2			Other Action 3			
Other Action 1	Solicited Offered 2			Solicited Offered 3			
Solicited Offered 1	Weapon 2			Weapon 3			
Weapon 1	Weapon 2 Type			Weapon 3 Type			
Weapon 1 Type							



# Incident Report

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Case Number

1192069406

Report Type

Incident Report

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Weapon 1 Caliber

Weapon 2 Caliber

Weapon 3 Caliber

Weapon 1 Color

Weapon 2 Color

Weapon 3 Color

Arson

Precipitating Circumstance

Instrument Used

Comments

## Associated Offenses

Offense

INVESTIGATE PERSON

☒ Associated With Suspect

VICTIM

Victim Type

Person

Name (Last, First Middle)

PELKIE, SANDRA

Suffix

Nickname

Race

White

Gender

Female

SSN

Date of Birth

11/20/1961

Age

57

Age Range

to

Infant Type

Height

Weight

Driver's License #

DL State

Place of Birth

Citizenship

Ethnicity

Marital Status

Unknown

Preferred

Contact #1

Contact #2

Email Address

HOME PHONE

201-873-8180

## Victim Home Address

Street Address

70 PEARL ST 401

City

BROOKLINE

State

MASSACHUSETTS

Zip

02445

## Employment Information

☐ Student

Employer / School

Occupation

College Name

On Campus

☐ Yes

☐ No

Street Address

City

State

Zip

Work Phone

Hours of Employment

## Details

Hair Color

Gray or Partially Gray

Eye Color

Build

Medium

Resident

NON-RESIDENT

Injury 1

Injury Description

Injury 2

Injury 3

Injury 4

Injury 5

Victim Condition

Victim-Offender

A. Assault/Homicide

☐ Yes

☐ No

A. Assault/Homicide Circumstance 1

A. Assault/Homicide Circumstance 2

Justifiable Homicide

☐ Yes

☐ No

Justifiable Homicide Circumstance

☐ Victim Hospitalized

Hospital Facility

Hospital Description

Under Influence Alcohol?

☐ Yes

☐ No

☐ Unknown

Under Influence Drugs?

☐ Yes

☐ No

☐ Unknown

Domestic Disturbance

Domestic Violence Victim Transported

☐ Yes

☐ No

Violation of Protective Order

☐ Yes

☐ No

Cohabitant

☐ Yes

☐ No

## Associated Offenses

Offense

INVESTIGATE PERSON

☒ Associated With Victim

Public Narrative



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069406	CAD Incident # P190455400
Report Type Incident Report	Page 4 of 4
Date / Time Occurred 08/31/2019 13:00 to	Date / Time Reported 08/31/2019 15:56

## Public Narrative

About 4:00 PM on Saturday, 8/31/2019, SGT Wood (B906) along with Officer Hooley (B455F) responded to a call for an assault at the Beth Israel Hospital, Boston.

Upon arrival the officers spoke to the victim/caller (Pelkie, Sandra) who stated that she was at the protest (Straight Pride Parade) when the incident occurred.

She stated that she was walking on Cambridge St with another protester (unknown female) and they were arguing with two "neo-nazis" that were marching in support of the parade. She stated that they were arguing with them, but it was not violent or physical. She stated that the "neo-nazi" female threw a cup of ice on the female whom she was walking with. She stated that the "nazi girl" then strikes the unknown female that the victim was walking with, potentially with an unknown object. She then stated that the male who was with the "nazi girl" then also got involved in the affray.

Ms. Pelkie stated that she grabbed the male (who was wearing a mechanic type shirt) by the hair in an attempt to stop him.

She stated that at that point, several police officers jumped over the metal barriers and told her to let him go, to which she complied. She stated that she was attempting to tell the officers who was the aggressor in the incident when a Boston Police Officer pushed her to the ground and she landed on her left wrist. She stated that she heard and felt it break upon impact with the ground.

She then stated that while she was on the ground, the same officer put his knee on her chest area and hit her in the head several times. She stated that she was wearing a helmet.

After she got up, she went and spoke to an EMT who advised her to go to the hospital. She went to an urgent care in Brookline and then went to Beth Israel to be treated for her injuries.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069422

CAD Incident #

P190455737

Report Type

Incident Report

Page 1 of 3

Date / Time Occurred

08/31/2019 19:23 to

Date / Time Reported

08/31/2019 19:23

Arrested Suspects	Additional Suspects	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						

## Incident Details

Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address			
1 CITY HALL PLZ			
City	State	Zip	District
BSTN	MASSACHUSETTS	02203	DISTRICT A1

## Administrative Info

Reporting Officer	Employee Number	Approving Supervisor
WARREN, TIMOTHY	051826	MORRISON, PATRICK

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description		
	SICK/INJURED/MEDICAL - POLICE		
Offense Code Value	Attempted/Completed	Premise Type	
03018		Highway/Road/Alley	
Circumstances	Bias		
	None - No Bias		
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3	
No Known Gang Committed Offense			
Offender Using 1	Offender Using 2	Offender Using 3	
Not Applicable			
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069422

CAD Incident #

P190455737

Report Type

Incident Report

Page 2 of 3

Date / Time Occurred

08/31/2019 19:23 to

Date / Time Reported

08/31/2019 19:23

Precipitating Circumstance

Instrument Used

Unusual Actions and Statements of Suspect

## VICTIM

Victim Type

Person

Name (Last, First Middle)

WARREN, TIMOTHY

Suffix

Nickname

Race

Gender

SSN

Date of Birth

Age

Age Range

Male

10/22/1978

40

to

Infant Type

Height

Weight

Driver's License #

DL State

MASSACHUSETTS

Place of Birth

Citizenship

Ethnicity

Marital Status

Preferred

Contact #1

Contact #2

Email Address

HOME PHONE

617-343-4300

Victim Home Address

Street Address

City

State

MASSACHUSETTS

Zip

Employment Information

☐ Student

Employer / School

Occupation

College Name

On Campus

☐ Yes

☐ No

Street Address

40 GIBSON ST

City

BSTN

State

MASSACHUSETTS

Zip

02122

Work Phone

Hours of Employment

Details

Hair Color

Eye Color

Build

Medium

Resident

Injury 1

Injury Description

Injury 2

Injury 3

Injury 4

Injury 5

Victim Condition

Victim-Offender

Good

A. Assault/Homicide

☐ Yes

☐ No

A. Assault/Homicide Circumstance 1

A. Assault/Homicide Circumstance 2

Justifiable Homicide

☐ Yes

☐ No

Justifiable Homicide Circumstance

☐ Victim Hospitalized

Hospital Facility

Hospital Description

Under Influence Alcohol?  
☐ Yes ☐ No ☐ Unknown

Under Influence Drugs?  
☐ Yes ☐ No ☐ Unknown

Domestic Disturbance

Domestic Violence Victim Transported  
☐ Yes ☐ No

Violation of Protective Order  
☐ Yes ☐ No

Cohabitant  
☐ Yes ☐ No

Associated Offenses

Offense

SICK/INJURED/MEDICAL - POLICE

☒ Associated With Victim

Public Narrative

About 5:00pm on Saturday, August 31, 2019, Officer Warren while working the straight pride parade was injured during an altercation on Congress Street, Boston.





# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069422	CAD Incident # P190455737
Report Type Incident Report	Page 3 of 3
Date / Time Occurred 08/31/2019 19:23 to	Date / Time Reported 08/31/2019 19:23

Officer Warren was assigned to the bike unit and was moving back protesters on Congress street when the protesters began to resist. When the protesters began to fight back the officers were taking the protesters that were resisting and arresting them behind the line that was created by the bike unit. Warren grabbed two of the protesters and attempted to pull them behind the line. Some of the other protesters grabbed the two protesters Warren was trying to remove from the crowd and there was a struggle. Warren was knocked to the ground while still holding onto the suspects. When Warren got back to his feet, he picked the protester up by her arm and was carrying her behind the line and felt a pull in his right shoulder. Warren continued to move the crowd back to State street but as the issue started to calm down his shoulder was flaring up.

Officer Warren notified the patrol supervisor SGT MacKinnon of his injury.

Officer Warren was transported by Boston EMS to Mass General Hospital. Officer Warren was seen by PA Jason P Sanchez and Jarone Lee MD. Sanchez did a physical exam and gave Warren tylenol and ibuprofen. It was determined by Sanchez and Lee it was likely a strained muscle or ligament but it could also be a rotator cuff injury. Warren was also advised to follow up with my primary care physician for a further evaluation.

Officer Warren's department firearm (VYP813) and radio (5305) were secured by the district supervisor SGT Morrison at 2100 hours. At that time Officer Warren was relieved from duty.

A copy of this report was sent to MIS at 3-4863.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069430	CAD Incident # P190455758
Report Type Incident Report	Page 1 of 4
Date / Time Occurred 08/31/2019 16:30 to 08/31/2019 19:46	Date / Time Reported 08/31/2019 20:25

Arrested Suspects	Additional Suspects 1	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault				
<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion				
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed				
<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking				
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse				

Incident Details			
Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found On Site		Case Status	
Location Given By Dispatcher			

Incident Address			
Street Address CONGRESS ST & HANOVER ST			
City BSTN	State MASSACHUSETTS	Zip 02108	District DISTRICT A1

Administrative Info		
Reporting Officer HASAN, JAHAD	Employee Number 095166	Approving Supervisor FARRELL, BRIAN

OFFENSE		
<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code	
<input checked="" type="checkbox"/> Primary Offense	Crime Description SICK/INJURED/MEDICAL - POLICE	
Offense Code Value 03018	Attempted/Completed	Premise Type
Circumstances		Bias
Criminal Activity 1	Criminal Activity 2	Criminal Activity 3
Offender Using 1	Offender Using 2	Offender Using 3
# Premise Entered	Home Invasion	Domestic Violence
Gang Activity		
Gang Type #1	Gang Name #1	
Gang Type #2	Gang Name #2	
Drug Related	Drug Type	Drug Origin
Drug Precursors		
MO Panel	Entry Area	Entry Method
Entry Type	Entry Point 1	Exit Point 1
Exit Point 2	Target Area	Property Target 1
Property Target 2	Property Target 3	Victim Target
Time of Day	Victim Activity	Action 1 to Premises
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim
Action 2 on Victim	Action 3 on Victim	Other Action 1
Other Action 2	Other Action 3	Solicited Offered 1
Solicited Offered 2	Solicited Offered 3	Weapon 1
Weapon 1 Auto	Weapon 2	Weapon 2 Auto
Weapon 3	Weapon 3 Auto	Arson



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069430	CAD Incident # P190455758
Report Type Incident Report	Page 2 of 4
Date / Time Occurred 08/31/2019 16:30 to 08/31/2019 19:46	Date / Time Reported 08/31/2019 20:25

Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input type="checkbox"/> Arrested							
Name (Last, First Middle) MORING, NECHAMA							
Suffix	Nickname	Race White	Gender Female	SSN	Date of Birth 01/24/1982	Age 37	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #		Place of Birth			Citizenship	
Ethnicity		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 136 BLACKSTONE							
City BOSTON		State MASSACHUSETTS		Zip			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3		Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel		Entry Area			Entry Method		
Entry Type		Exit Point			Target Area		
Entry Point		Property Target 2			Property Target 3		
Property Target 1		Time of Day			Victim Activity		
Victim Target		Action 2 on Victim			Action 3 on Victim		
Action 1 on Victim		Action 2 to Premises			Action 3 to Premises		
Action 1 to Premises		Other Action 2			Other Action 3		
Other Action 1		Solicited Offered 2			Solicited Offered 3		
Solicited Offered 1		Weapon 2			Weapon 3		
Weapon 1		Weapon 2 Type			Weapon 3 Type		
Weapon 1 Type		Weapon 2 Caliber			Weapon 3 Caliber		
Weapon 1 Caliber							



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069430	CAD Incident # P190455758
Report Type Incident Report	Page 3 of 4
Date / Time Occurred 08/31/2019 16:30 to 08/31/2019 19:46	Date / Time Reported 08/31/2019 20:25

Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense SICK/INJURED/MEDICAL - POLICE	<input type="checkbox"/> Associated With Suspect
--	--

<b>VICTIM</b>	Victim Type Person						
Name (Last, First Middle) HASAN, JAHAD							
Suffix	Nickname	Race Black	Gender Male	SSN	Date of Birth	Age 45	Age Range to
Infant Type	Height	Weight	Driver's License #	DL State			
Place of Birth		Citizenship					
Ethnicity		Marital Status					
Preferred HOME PHONE	Contact #1 617-343-4730	Contact #2	Email Address				

## Victim Home Address

Street Address 101 WEST BROADWAY		
City SOUTH BOSTON	State MASSACHUSETTS	Zip

## Employment Information

<input type="checkbox"/> Student	Employer / School CITY OF BOSTON	Occupation POLICE OFFICER		
College Name	<input type="checkbox"/> On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No			
Street Address 1 SCHROEDER PLAZA				
City BOSTON	State MASSACHUSETTS	Zip	Work Phone	Hours of Employment

## Details

Hair Color	Eye Color	Build Muscular	Resident
Injury 1	Injury Description CHIPPED BONE IN LEFT ELBOW		
Injury 2	Injury 3	Injury 4	Injury 5
Victim Condition Good	Victim-Offender		

<b>A. Assault/Homicide</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	A. Assault/Homicide Circumstance 1	A. Assault/Homicide Circumstance 2
<b>Justifiable Homicide</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Justifiable Homicide Circumstance	
<input type="checkbox"/> Victim Hospitalized	Hospital Facility	Hospital Description MASS GEN

Under Influence Alcohol? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Under Influence Drugs? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Domestic Disturbance	Domestic Violence Victim Transported <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Violation of Protective Order <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Cohabitant <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

## Associated Offenses

Offense SICK/INJURED/MEDICAL - POLICE	<input type="checkbox"/> Associated With Victim
--	---

Public Narrative



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069430	CAD Incident # P190455758
Report Type Incident Report	Page 4 of 4
Date / Time Occurred 08/31/2019 16:30 to 08/31/2019 19:46	Date / Time Reported 08/31/2019 20:25

On 08/31/19 officer Hasan assigned to the Straight Pride parade was injured while affecting an arrest of Nechama Moring. Officer Hasan was taken by Boston EMS to Mass General Hospital for treatment. As part of the treatment an X-ray was taken and officer Hasan was diagnosis with a closed displaced fracture of head of left radius. Sgt Tracey took in possession officer Hasan's department weapon and radio. Officer Hasan was released from the hospital.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192071571

CAD Incident #

P190469625

Report Type

Incident Report

Page 1 of 3

Date / Time Occurred

08/31/2019 11:00 to 08/31/2019 18:00

Date / Time Reported

09/07/2019 11:15

Arrested Suspects	Additional Suspects	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						

## Incident Details

Unit Number	Clearance Disposition	Cleared by Exception	Exceptional Clearance Date
Situation Found		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address			
NEW SUDBURY ST / CONGRESS ST			
City	State	Zip	District
BSTN	MASSACHUSETTS	02203	

## Administrative Info

Reporting Officer	Employee Number	Approving Supervisor
IZZARD-STINSON, BERNADETTE	009363	GALLAGHER, WILLIAM

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description		
	SICK/INJURED/MEDICAL - POLICE		
Offense Code Value	Attempted/Completed	Premise Type	
03018			
Circumstances		Bias	
Criminal Activity 1			
Criminal Activity 2		Criminal Activity 3	
Offender Using 1			
Offender Using 2		Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Area		
Entry Type	Entry Method		
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number 1192071571	CAD Incident # P190469625
Report Type Incident Report	Page 2 of 3
Date / Time Occurred 08/31/2019 11:00 to 08/31/2019 18:00	Date / Time Reported 09/07/2019 11:15

Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>VICTIM</b>	Victim Type Person						
Name (Last, First Middle) IZZARD-STINSON, BERNADETTE							
Suffix	Nickname	Race Black	Gender Female	SSN	Date of Birth 01/21/1961	Age 58	Age Range to
Infant Type	Height	Weight	Driver's License #	DL State			
Place of Birth		Citizenship					
Ethnicity		Marital Status					
Preferred HOME PHONE	Contact #1 617-343-4527	Contact #2	Email Address				
Victim Home Address							
Street Address							
City		State		Zip			
Employment Information							
<input type="checkbox"/> Student	Employer / School BOSTON POLICE			Occupation DETECTIVE			
College Name		On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No					
Street Address 1 SCHROEDER PLZ							
City BSTN		State MASSACHUSETTS		Zip 02120	Work Phone 617-343-4527		
Hours of Employment							
Details							
Hair Color		Eye Color		Build		Resident	
Injury 1		Injury Description					
Injury 2		Injury 3		Injury 4		Injury 5	
Victim Condition		Victim-Offender					
<b>A. Assault/Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		A. Assault/Homicide Circumstance 1			A. Assault/Homicide Circumstance 2		
<b>Justifiable Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		Justifiable Homicide Circumstance					
<input type="checkbox"/> Victim Hospitalized		Hospital Facility			Hospital Description		
Under Influence Alcohol? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Under Influence Drugs? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Domestic Disturbance		Domestic Violence Victim Transported <input type="checkbox"/> Yes <input type="checkbox"/> No	
Violation of Protective Order <input type="checkbox"/> Yes <input type="checkbox"/> No		Cohabitant <input type="checkbox"/> Yes <input type="checkbox"/> No					
Associated Offenses							
Offense SICK/INJURED/MEDICAL - POLICE							
<input type="checkbox"/> Associated With Victim							

## Public Narrative

On Saturday, August 31, 2019, while working a tour of duty at the Straight Pride Parade, I (Detective Bernadette Izzard-Stinson Id# 009363) was located at New Sudbury and Congress Streets doing traffic. While at the location I experienced pain in my right foot through out the tour of duty. I informed Detective John Maloof and Detective Veritta Pitts of my pain while at that location. Upon completion of my tour of duty, I went



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192071571	CAD Incident # P190469625
Report Type Incident Report	Page 3 of 3
Date / Time Occurred 08/31/2019 11:00 to 08/31/2019 18:00	Date / Time Reported 09/07/2019 11:15

home and the pain still persisted and my right foot was swollen. On Sunday, September 01, 2019, I went to the Brigham and Women's Hospital Emergency Room. I was excused from work at that point unit Friday, September 6, 2019. On Friday, September 06, 2019 I saw my Primary Care Physician and was cleared to return to work.





# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069300

CAD Incident #

P190455024

Report Type

Incident Report

Page 1 of 8

Date / Time Occurred

08/31/2019 12:02 to

Date / Time Reported

08/31/2019 12:02

Arrested Suspects 2	Additional Suspects	Unknown Suspects	Victims 2	Other Persons	Vehicles	Items	Evidence Count 1	Leoka Count 1	File #
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input checked="" type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault				
<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion				
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed				
<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking				
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse				

## Incident Details

Unit Number	Clearance Disposition ADULT ARREST	Cleared by Exception	Exceptional Clearance Date
Situation Found On Site		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address BOYLSTON ST / TREMONT ST			
City BSTN	State MASSACHUSETTS	Zip 02116	District

## Administrative Info

Reporting Officer BYRON, ERIC	Employee Number 120927	Approving Supervisor MAZZOLA, ADAM
----------------------------------	---------------------------	---------------------------------------

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input type="checkbox"/> Primary Offense	Crime Description ASSAULT - AGGRAVATED - BATTERY		
Offense Code Value 00413	Attempted/Completed Completed	Premise Type Highway/Road/Alley	
Circumstances		Bias None - No Bias	
Criminal Activity 1 No Known Gang Committed Offense	Criminal Activity 2	Criminal Activity 3	
Offender Using 1 Not Applicable	Offender Using 2	Offender Using 3	
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel	Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1 Personal Weapon (hand, foot, etc.)
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069300

CAD Incident #

P190455024

Report Type

Incident Report

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Date / Time Occurred

08/31/2019 12:02 to

Date / Time Reported

08/31/2019 12:02

Precipitating Circumstance

Instrument Used

Unusual Actions and Statements of Suspect

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code
<input checked="" type="checkbox"/> Primary Offense	Crime Description DISORDERLY CONDUCT
Offense Code Value 02405	Attempted/Completed Completed
	Premise Type Highway/Road/Alley
Circumstances	Bias None - No Bias
Criminal Activity 1 No Known Gang Committed Offense	Criminal Activity 2
Offender Using 1 Not Applicable	Offender Using 2
# Premise Entered Home Invasion	Domestic Violence
	Gang Activity
Gang Type #1	Gang Name #1
Gang Type #2	Gang Name #2
Drug Related	Drug Type
	Drug Origin
	Drug Precursors
MO Panel Entry Type	Entry Area
	Entry Method
Entry Point 1	Entry Point 2
	Exit Point 1
Exit Point 2	Target Area
	Property Target 1
Property Target 2	Property Target 3
	Victim Target
Time of Day	Victim Activity
	Action 1 to Premises
Action 2 to Premises	Action 3 to Premises
	Action 1 on Victim
Action 2 on Victim	Action 3 on Victim
	Other Action 1
Other Action 2	Other Action 3
	Solicited Offered 1
Solicited Offered 2	Solicited Offered 3
	Weapon 1
Weapon 1 Auto	Weapon 2
	Weapon 2 Auto
Weapon 3	Weapon 3 Auto
	Arson
Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

SUSPECT ☒ Known ☐ Unknown ☒ Arrested

Name (Last, First Middle)

STEELE, TREVOR WILLIAM

Suffix	Nickname	Race White	Gender Male	SSN 005-98-5330	Date of Birth 05/31/1998	Age 21	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #		Place of Birth		Citizenship		



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069300

CAD Incident #

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Report Type

Incident Report

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Date / Time Occurred

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08/31/2019 12:02

Ethnicity Marital Status

Preferred Contact #1 Contact #2 Email Address

## Suspect Home Address

Street Address

901 MAIN STREET 35

City State Zip

WWESTBROOKE

MINNESOTA

04012

## Suspect Employment Information

☐ Student Employer / School Occupation

Street Address

City State Zip Work Phone Hours of Employment

## Details

Hair Color Hair Length ☐ Glasses Eye Color Build Facial Hair Facial Hair Color

Voice Complexion Hand Preference

Clothing Description

Trademarks of Suspect

Injury 1 Injury 2 Injury 3 Injury 4 Injury 5

☐ Hospitalized Hospital Facility Resident

MO Panel

Entry Type Entry Area Entry Method

Entry Point Exit Point Target Area

Property Target 1 Property Target 2 Property Target 3

Victim Target Time of Day Victim Activity

Action 1 on Victim Action 2 on Victim Action 3 on Victim

Action 1 to Premises Action 2 to Premises Action 3 to Premises

Other Action 1 Other Action 2 Other Action 3

Solicited Offered 1 Solicited Offered 2 Solicited Offered 3

Weapon 1 Weapon 2 Weapon 3

Weapon 1 Type Weapon 2 Type Weapon 3 Type

Weapon 1 Caliber Weapon 2 Caliber Weapon 3 Caliber

Weapon 1 Color Weapon 2 Color Weapon 3 Color

Arson Precipitating Circumstance Instrument Used

Comments

## Associated Offenses

Offense

ASSAULT - AGGRAVATED - BATTERY

☐ Associated With Suspect

Offense

DISORDERLY CONDUCT

☒ Associated With Suspect

ARREST



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number 1192069300		CAD Incident # P190455024	
Report Type Incident Report		Page 4 of 8	
Date / Time Occurred 08/31/2019 12:02 to		Date / Time Reported 08/31/2019 12:02	
Arrested As <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Arrest Number 100059678	RICI Booking Num 19-00288-13	Arrest Action Arrested
Disposition Referred to Criminal or Adult Court		Arrest Date/Time 08/31/2019 12:10	Booking District DISTRICT E13
<input checked="" type="checkbox"/> Arrested on Scene			
Arrest Address			
Street Address BOYLSTON ST / TREMONT ST			
City BSTN		State MASSACHUSETTS	Zip 02116
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
Weapon 1 Personal Weapons (Hands, Feet, Teeth, et		Automatic Weapon 1 Weapon 2	
Automatic Weapon 2 Multiple Clearance COUNT ARRESTEE		Juvenile Disposition Card Number	
Warrant Number		Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest	
DUI/OUI Information			
Public Way		Observed Driving	Glassy Eyes
Unsteady on Feet		Bloodshot Eyes	PBT
Slurred Speech		Crash	Offered Test
Odor			
Other Grounds			
Associated Charges			
Charge Disorderly Conduct - Other			
Counts 1			
Bail			
<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor			
Statement of Probable Cause			

SUSPECT <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) DONSCHIKOSKI, RILEY							
Suffix	Nickname	Race White	Gender Female	SSN	Date of Birth 01/06/2004	Age 15	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #		SBI #		Place of Birth		Citizenship	
Ethnicity		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 28 EVANS ST							
City SOUTH PORT		State MAINE		Zip 04106			
Suspect Employment Information							
<input type="checkbox"/> Student		Employer / School			Occupation		



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069300

CAD Incident #

P190455024

Report Type

Incident Report

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Date / Time Occurred

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Date / Time Reported

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Street Address

City State Zip Work Phone Hours of Employment

## Details

Hair Color Hair Length ☐ Glasses Eye Color Build Facial Hair Facial Hair Color

Voice Complexion Hand Preference

Clothing Description

Trademarks of Suspect

Injury 1 Injury 2 Injury 3 Injury 4 Injury 5

☐ Hospitalized Hospital Facility Resident

MO Panel

Entry Type Entry Area Entry Method

Entry Point Exit Point Target Area

Property Target 1 Property Target 2 Property Target 3

Victim Target Time of Day Victim Activity

Action 1 on Victim Action 2 on Victim Action 3 on Victim

Action 1 to Premises Action 2 to Premises Action 3 to Premises

Other Action 1 Other Action 2 Other Action 3

Solicited Offered 1 Solicited Offered 2 Solicited Offered 3

Weapon 1 Weapon 2 Weapon 3

Weapon 1 Type Weapon 2 Type Weapon 3 Type

Weapon 1 Caliber Weapon 2 Caliber Weapon 3 Caliber

Weapon 1 Color Weapon 2 Color Weapon 3 Color

Arson Precipitating Circumstance Instrument Used

Comments

## Associated Offenses

Offense

ASSAULT - AGGRAVATED - BATTERY

☐ Associated With Suspect

Offense

DISORDERLY CONDUCT

☒ Associated With Suspect

## ARREST

Arrested As Arrest Number RICI Booking Num Arrest Action

☐ Adult ☒ Juvenile 190002821 19-00296-06 Arrested

Disposition Arrest Date/Time Booking District ☒ Arrested on Scene

08/31/2019 12:10

DISTRICT E13

## Arrest Address

Street Address

BOYLSTON ST / TREMONT ST

City State Zip

BSTN MASSACHUSETTS 02116

Test Given Test Date/Time Test Results Test Administered By

Test Given Test Date/Time Test Results Test Administered By

Arresting Officer Transporting Officer

DACEY, BRIAN M

Weapon 1 Automatic Weapon 1 Weapon 2



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069300	CAD Incident # P190455024
Report Type Incident Report	Page 6 of 8
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Personal Weapons (Hands, Feet, Teeth, et			
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
COUNT ARRESTEE		Referred to juvenile court or probation	
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

DUI/OUI Information			
Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

Associated Charges			
Charge Assault - Assault D/W - On Police Officer - Other			<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
Counts	Bail		
1			
Statement of Probable Cause			

VICTIM	Victim Type Society							
Name (Last, First Middle) COMM OF MASS								
Suffix	Nickname	Race	Gender	SSN	Date of Birth	Age	Age Range to	
Infant Type	Height	Weight	Driver's License #	DL State				
Place of Birth		Citizenship						
Ethnicity		Marital Status						
Preferred	Contact #1	Contact #2	Email Address					
Victim Home Address								
Street Address								
City	State		Zip					
Employment Information								
<input type="checkbox"/> Student	Employer / School			Occupation				
College Name			On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No					
Street Address								
City	State		Zip	Work Phone		Hours of Employment		
Details								
Hair Color	Eye Color	Build	Resident					
Injury 1	Injury Description							
Injury 2	Injury 3	Injury 4	Injury 5					
Victim Condition		Victim-Offender						
A. Assault/Homicide <input type="checkbox"/> Yes <input type="checkbox"/> No		A. Assault/Homicide Circumstance 1		A. Assault/Homicide Circumstance 2				



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

1192069300

Report Type

Incident Report

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## Justifiable Homicide

☐ Yes ☐ No

Justifiable Homicide Circumstance

☐ Victim Hospitalized

Hospital Facility

Hospital Description

Under Influence Alcohol?

☐ Yes ☐ No ☐ Unknown

Under Influence Drugs?

☐ Yes ☐ No ☐ Unknown

Domestic Disturbance

Domestic Violence Victim Transported

☐ Yes ☐ No

Violation of Protective Order

☐ Yes ☐ No

Cohabitant

☐ Yes ☐ No

## Associated Offenses

### Offense

ASSAULT - AGGRAVATED - BATTERY

☐ Associated With Victim

### Offense

DISORDERLY CONDUCT

☒ Associated With Victim

## VICTIM

Victim Type

Person

Name (Last, First Middle)

DANILECKI, JOHN

Suffix

Nickname

Race

White

Gender

Male

SSN

Date of Birth

Age

Age Range

50 to 55

Infant Type

Height

Weight

Driver's License #

DL State

Place of Birth

Citizenship

Ethnicity

Marital Status

Not of Hispanic Origin

Preferred

Contact #1

Contact #2

Email Address

## Victim Home Address

Street Address

City

State

Zip

## Employment Information

☐ Student

Employer / School

Occupation

College Name

On Campus

☐ Yes ☐ No

Street Address

1 SCHROEDER PLZ

City

BSTN

State

MASSACHUSETTS

Zip

02120

Work Phone

Hours of Employment

## Details

Hair Color

Eye Color

Build

Resident

UNKNOWN

Injury 1

Injury Description

None

Injury 2

Injury 3

Injury 4

Injury 5

Victim Condition

Victim-Offender

## A. Assault/Homicide

☒ Yes ☐ No

A. Assault/Homicide Circumstance 1

Assault on Law Enforcement Officer

A. Assault/Homicide Circumstance 2

## Justifiable Homicide

☐ Yes ☐ No

Justifiable Homicide Circumstance

☐ Victim Hospitalized

Hospital Facility

Hospital Description

Under Influence Alcohol?

☐ Yes ☐ No ☐ Unknown

Under Influence Drugs?

☐ Yes ☐ No ☐ Unknown

Domestic Disturbance

Domestic Violence Victim Transported

☐ Yes ☐ No

Violation of Protective Order

☐ Yes ☐ No

Cohabitant

☐ Yes ☐ No



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069300		CAD Incident # P190455024	
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Date / Time Occurred 08/31/2019 12:02 to		Date / Time Reported 08/31/2019 12:02	
Associated Offenses			
Offense ASSAULT - AGGRAVATED - BATTERY		<input checked="" type="checkbox"/> Associated With Victim	
Offense DISORDERLY CONDUCT		<input type="checkbox"/> Associated With Victim	
EVIDENCE			
Tag # EVI100166253	Category Physical Evidence	Action SEIZED	Custodial Item
Description TWO (2) HOMEMADE BARREL SHIELDS			
Related Person Suspect: STEELE, TREVOR		Involvement PERSON IN POSSESSION	
Comment			
Recovered From 8/31/2019	Recovered To 8/31/2019	Recovery Site Other	Recovered By
Recovery Location BOYLSTON STREET/TREMONT STREET			
Summary			
LEOKA	Activity Civil disorder (Riot, Mass Disobedience)	Assignment Other Assisted	Assault Time 12:05
Weapon HANDS, FIST, FEET	Injury None	<input type="checkbox"/> Cleared	
Officer DANILECKI, JOHN H		ORI	
Associated Offenses			
Offense ASSAULT - AGGRAVATED - BATTERY		<input checked="" type="checkbox"/> Associated With Leoka	
Offense DISORDERLY CONDUCT		<input type="checkbox"/> Associated With Leoka	

## Public Narrative

About 12:05pm, on Saturday, 08/31/2019, Officer Byron and Officer McGahan while working the Straight Pride Parade observed two males donning homemade barrel shields in the area of Boylston Street and Tremont Street, Boston.

Prior to the event, the officers were advised to monitor the crowd gathered for the event for individuals in possession of makeshift weapons. The officers were informed that individuals in possession of those weapons would have a high likelihood of attempting to engage in disruptive or criminal behavior. It should also be noted, that the Boston Police Department announcement via local news outlets and social media a list of prohibited items that would not be allowed at the event and would be seized if located.

At that time, the officers notified Capt. Danilecki (YB04) of the individuals and he made the decision to approach them and seize the shields. A number of officers entered the crowd to seize the shields. The officers recovered the first shield without incident. The officers approached a male (later identified as Trevor STEELE, suspect) holding the second shield. As the officers approached STEELE and attempted to seize the shield, STEELE pulled away for the officers in an attempt to keep the shield. As STEELE did this, the crowd around him and the officers began closing in and screaming at the officers. The officers forcefully removed the shield from STEELE's possession, STEELE was placed under arrest and handcuffed. Both shield's were seized.

As the officers were handcuffing STEELE, a female (later identified as Riley DONSCHIKOWSKI, suspect) began kicking the officers making a lawful arrest. The officers placed DONSCHIKOWSKI under arrest and she was handcuffed.

STEELE was transported to District E-13 for booking. STEELE was charged with disorderly conduct (c275/s53) and the matter was referred to Boston Municipal Court.

DONSCHIKOWSKI was transported to District C-6 for booking. DONSCHIKOWSKI was charged with assault and battery by means of a dangerous weapon (Shod Foot) (c265/s15B) and the matter was referenced to Boston Juvenile Court.





# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

1192069327

CAD Incident #

P190455033

Report Type

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Date / Time Occurred

08/31/2019 12:07 to

Date / Time Reported

08/31/2019 12:07

Arrested Suspects 4	Additional Suspects	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count 1	Leoka Count	File #
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault				
<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion				
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed				
<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking				
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse				

## Incident Details

Unit Number	Clearance Disposition ADULT ARREST	Cleared by Exception	Exceptional Clearance Date
Situation Found On Site		Case Status	
Location Given By Dispatcher			

## Incident Address

Street Address BOYLSTON ST / TREMONT ST			
City BSTN	State MASSACHUSETTS	Zip 02116	District

## Administrative Info

Reporting Officer LINSKY, BENJAMIN	Employee Number 144460	Approving Supervisor ELWOOD, JAKE
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## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code	
<input type="checkbox"/> Primary Offense	Crime Description DISORDERLY CONDUCT	
Offense Code Value 02405	Attempted/Completed Completed	Premise Type Highway/Road/Alley
Circumstances		Bias
Unknown - Offenders motivation not known		
Criminal Activity 1 Possessing / Concealing	Criminal Activity 2	Criminal Activity 3
Offender Using 1 Not Applicable	Offender Using 2	Offender Using 3
# Premise Entered No	Home Invasion	Domestic Violence
Gang Type #1	Gang Name #1	Gang Activity NO
Gang Type #2	Gang Name #2	
Drug Related No	Drug Type	Drug Origin
MO Panel	Drug Precursors	
Entry Type	Entry Area	Entry Method
Entry Point 1	Entry Point 2	Exit Point 1
Exit Point 2	Target Area	Property Target 1
Property Target 2	Property Target 3	Victim Target
Time of Day	Victim Activity	Action 1 to Premises
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim
Action 2 on Victim	Action 3 on Victim	Other Action 1
Other Action 2	Other Action 3	Solicited Offered 1
Solicited Offered 2	Solicited Offered 3	Weapon 1
Weapon 1 Auto	Weapon 2	Weapon 2 Auto
Weapon 3	Weapon 3 Auto	Arson



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

1192069327

CAD Incident #

P190455033

Report Type

Incident Report

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Date / Time Occurred

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08/31/2019 12:07

Precipitating Circumstance

Instrument Used

Unusual Actions and Statements of Suspect

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code
<input checked="" type="checkbox"/> Primary Offense	Crime Description WEAPON - OTHER - CARRYING / POSSESSING, ETC
Offense Code Value 01503	Attempted/Completed Completed
	Premise Type Highway/Road/Alley
Circumstances	Bias
Unknown - Offenders motivation not known	
Criminal Activity 1 Possessing / Concealing	Criminal Activity 2 Offender Using 1 Not Applicable
Offender Using 1 Not Applicable	Offender Using 2 Offender Using 3
# Premise Entered No	Home Invasion Domestic Violence Gang Activity NO
Gang Type #1	Gang Name #1
Gang Type #2	Gang Name #2
Drug Related No	Drug Type Drug Origin Drug Precursors
MO Panel Entry Type	Entry Area Entry Method
Entry Point 1	Entry Point 2 Exit Point 1
Exit Point 2	Target Area Property Target 1
Property Target 2	Property Target 3 Victim Target
Time of Day	Victim Activity Action 1 to Premises
Action 2 to Premises	Action 3 to Premises Action 1 on Victim
Action 2 on Victim	Action 3 on Victim Other Action 1
Other Action 2	Other Action 3 Solicited Offered 1
Solicited Offered 2	Solicited Offered 3 Weapon 1 Blunt Object
Weapon 1 Auto	Weapon 2 Weapon 2 Auto
Weapon 3	Weapon 3 Auto Arson
Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code
<input type="checkbox"/> Primary Offense	Crime Description PRISONER ATTEMPT TO RESCUE
Offense Code Value 02606	Attempted/Completed Attempted
	Premise Type Highway/Road/Alley
Circumstances	Bias



# Incident Report

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Unknown - Offenders motivation not known			
Criminal Activity 1 Possessing / Concealing	Criminal Activity 2	Criminal Activity 3	
Offender Using 1 Not Applicable	Offender Using 2	Offender Using 3	
# Premise Entered No	Home Invasion	Domestic Violence	Gang Activity NO
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related No	Drug Type	Drug Origin	Drug Precursors
MO Panel Entry Type	Entry Area		Entry Method
Entry Point 1	Entry Point 2	Exit Point 1	
Exit Point 2	Target Area	Property Target 1	
Property Target 2	Property Target 3	Victim Target	
Time of Day	Victim Activity	Action 1 to Premises	
Action 2 to Premises	Action 3 to Premises	Action 1 on Victim	
Action 2 on Victim	Action 3 on Victim	Other Action 1	
Other Action 2	Other Action 3	Solicited Offered 1	
Solicited Offered 2	Solicited Offered 3	Weapon 1	
Weapon 1 Auto	Weapon 2	Weapon 2 Auto	
Weapon 3	Weapon 3 Auto	Arson	
Precipitating Circumstance	Instrument Used		
Unusual Actions and Statements of Suspect			

SUSPECT	<input checked="" type="checkbox"/> Known	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Arrested
Name (Last, First Middle) SABINO, LOUIS			
Suffix	Nickname	Race White	Gender Male
SSN 013-68-6875	Date of Birth 12/04/1982	Age 36	Age Range to
Height	Weight	Driver's License #	DL State
Local ID	SID		
FBI #	SBI #	Place of Birth	Citizenship
Ethnicity Not of Hispanic Origin	Marital Status		
Preferred	Contact #1	Contact #2	Email Address
Suspect Home Address			
Street Address 2 TRAFALGAR DR			
City BEVERLY	State MASSACHUSETTS	Zip	
Suspect Employment Information			
<input type="checkbox"/> Student	Employer / School		Occupation
Street Address			



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number 1192069327	CAD Incident # P190455033
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City	State	Zip	Work Phone	Hours of Employment
------	-------	-----	------------	---------------------

Details						
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color
Voice	Complexion	Hand Preference				

Clothing Description
GREY SHIRT, GREY SHORTS, WHITE SNEAKERS

Trademarks of Suspect				
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5

<input type="checkbox"/> Hospitalized	Hospital Facility	Resident
---------------------------------------	-------------------	----------

MO Panel	Entry Area	Entry Method
Entry Type	Exit Point	Target Area
Entry Point	Property Target 1	Property Target 2
Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

Associated Offenses
---------------------

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	

Offense	<input checked="" type="checkbox"/> Associated With Suspect
WEAPON - OTHER - CARRYING / POSSESSING, ETC	

Offense	<input type="checkbox"/> Associated With Suspect
PRISONER ATTEMPT TO RESCUE	

ARREST
--------

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059683	19-00291-13	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
Referred to Criminal or Adult Court	08/31/2019 12:07	DISTRICT E13	

Arrest Address
----------------

Street Address		
BOYLSTON ST / TREMONT ST		
City	State	Zip
BSTN	MASSACHUSETTS	02116

Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069327

CAD Incident #

P190455033

Report Type

Incident Report

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Date / Time Occurred

08/31/2019 12:07 to

Date / Time Reported

08/31/2019 12:07

Arresting Officer <b>LINSKY,BENJAMIN</b>	Transporting Officer
Weapon 1 <b>Blunt Object (Club, Hammer, etc.)</b>	Automatic Weapon 1 Weapon 2
Automatic Weapon 2 <b>NOT APPLICABLE</b>	Multiple Clearance Juvenile Disposition Card Number
Warrant Number	Warrant Signed By <input type="checkbox"/> OUI Alcohol Arrest

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

<b>Charge</b> Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
<b>Counts</b> 1 <b>Bail</b>	
<b>Charge</b> Weapons Violation - Dangerous Weapon Unlawfully Carried	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
<b>Counts</b> 1 <b>Bail</b>	

## Statement of Probable Cause

<b>SUSPECT</b>	<input checked="" type="checkbox"/> Known	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Arrested				
Name (Last, First Middle) <b>LEON, GREGORIO</b>							
Suffix	Nickname	Race <b>White</b>	Gender <b>Male</b>	SSN	Date of Birth <b>02/01/1998</b>	Age <b>21</b>	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth		Citizenship			
Ethnicity <b>Not of Hispanic Origin</b>	Marital Status						
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address <b>16 HIGH STREET</b>							
City <b>CAMBRIDGE</b>		State <b>MASSACHUSETTS</b>		Zip			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School		Occupation				
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					



# Incident Report

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Date / Time Occurred

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Clothing Description

Trademarks of Suspect

Injury 1

Injury 2

Injury 3

Injury 4

Injury 5

☐ Hospitalized

Hospital Facility

Resident

MO Panel

Entry Type

Entry Area

Entry Method

Entry Point

Exit Point

Target Area

Property Target 1

Property Target 2

Property Target 3

Victim Target

Time of Day

Victim Activity

Action 1 on Victim

Action 2 on Victim

Action 3 on Victim

Action 1 to Premises

Action 2 to Premises

Action 3 to Premises

Other Action 1

Other Action 2

Other Action 3

Solicited Offered 1

Solicited Offered 2

Solicited Offered 3

Weapon 1

Weapon 2

Weapon 3

Weapon 1 Type

Weapon 2 Type

Weapon 3 Type

Weapon 1 Caliber

Weapon 2 Caliber

Weapon 3 Caliber

Weapon 1 Color

Weapon 2 Color

Weapon 3 Color

Arson

Precipitating Circumstance

Instrument Used

Comments

## Associated Offenses

Offense

DISORDERLY CONDUCT

☒ Associated With Suspect

Offense

WEAPON - OTHER - CARRYING / POSSESSING, ETC

☐ Associated With Suspect

Offense

PRISONER ATTEMPT TO RESCUE

☒ Associated With Suspect

## ARREST

Arrested As

☒ Adult ☐ Juvenile

Arrest Number

100059684

RICI Booking Num

19-00290-13

Arrest Action

Arrested

Disposition

Referred to Criminal or Adult Court

Arrest Date/Time

08/31/2019 12:07

Booking District

DISTRICT E13

☒ Arrested on Scene

## Arrest Address

Street Address

BOYLSTON ST / TREMONT ST

City

BSTN

State

MASSACHUSETTS

Zip

02116

Test Given

Test Date/Time

Test Results

Test Administered By

Test Given

Test Date/Time

Test Results

Test Administered By

Arresting Officer

WALKER, WILLIAM Y

Transporting Officer

Weapon 1

Automatic Weapon 1

Weapon 2

Other

Automatic Weapon 2

Multiple Clearance

MULTIPLE

Juvenile Disposition

Card Number

Warrant Number

Warrant Signed By

☐ OUI Alcohol Arrest

DUI/OUI Information



# Incident Report

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Date / Time Occurred

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Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

<b>Charge</b> Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
<b>Counts</b> <b>Bail</b> 1	
<b>Charge</b> Other Offense - Attempt To Rescue A Prisoner	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
<b>Counts</b> <b>Bail</b> 1	

## Statement of Probable Cause

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) MEYER, FREDERICK							
Suffix	Nickname	Race White	Gender Male	SSN 033-80-5895	Date of Birth 11/19/1997	Age 21	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Not of Hispanic Origin		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 44 BIGELOW STREET A							
City CAMBRIDGE		State MASSACHUSETTS		Zip			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel							
Entry Type		Entry Area			Entry Method		



# Incident Report

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CAD Incident #

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Date / Time Occurred

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Date / Time Reported

08/31/2019 12:07

Entry Point	Exit Point	Target Area
Property Target 1	Property Target 2	Property Target 3
Victim Target	Time of Day	Victim Activity
Action 1 on Victim	Action 2 on Victim	Action 3 on Victim
Action 1 to Premises	Action 2 to Premises	Action 3 to Premises
Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	
Offense	<input type="checkbox"/> Associated With Suspect
WEAPON - OTHER - CARRYING / POSSESSING, ETC	
Offense	<input checked="" type="checkbox"/> Associated With Suspect
PRISONER ATTEMPT TO RESCUE	

## ARREST

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059686	19-00292-13	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
Referred to Criminal or Adult Court	08/31/2019 12:07	DISTRICT E13	
Arrest Address			
Street Address			
BOYLSTON ST / TREMONT ST			
City	State	Zip	
BSTN	MASSACHUSETTS	02116	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
MCMENAMY,DAVID P			
Weapon 1	Automatic Weapon 1	Weapon 2	
Blunt Object (Club, Hammer, etc.)			
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
	NOT APPLICABLE		
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			





# Incident Report

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## Associated Charges

Charge Other Offense - Attempt To Rescue A Prisoner	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
Counts Bail 1	
Charge Disorderly Conduct - Person, Disorderly	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Counts Bail 1	

## Statement of Probable Cause

SUSPECT	<input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested						
Name (Last, First Middle) THOMPSON, BENJAMIN							
Suffix	Nickname	Race White	Gender Male	SSN 289-46-1687	Date of Birth 01/23/1990	Age 29	Age Range to
Height	Weight	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Not of Hispanic Origin		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 62 FELIX STREET							
City PROVIDENCE		State RHODE ISLAND		Zip 02908			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color	Hair Length	<input type="checkbox"/> Glasses	Eye Color	Build	Facial Hair	Facial Hair Color	
Voice	Complexion	Hand Preference					
Clothing Description							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3		Injury 4	Injury 5		
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel	Entry Type			Entry Area	Entry Method		
Entry Point		Exit Point		Target Area			
Property Target 1		Property Target 2		Property Target 3			
Victim Target		Time of Day		Victim Activity			
Action 1 on Victim		Action 2 on Victim		Action 3 on Victim			
Action 1 to Premises		Action 2 to Premises		Action 3 to Premises			



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Other Action 1	Other Action 2	Other Action 3
Solicited Offered 1	Solicited Offered 2	Solicited Offered 3
Weapon 1	Weapon 2	Weapon 3
Weapon 1 Type	Weapon 2 Type	Weapon 3 Type
Weapon 1 Caliber	Weapon 2 Caliber	Weapon 3 Caliber
Weapon 1 Color	Weapon 2 Color	Weapon 3 Color
Arson	Precipitating Circumstance	Instrument Used
Comments		

## Associated Offenses

Offense	<input checked="" type="checkbox"/> Associated With Suspect
DISORDERLY CONDUCT	
Offense	<input type="checkbox"/> Associated With Suspect
WEAPON - OTHER - CARRYING / POSSESSING, ETC	
Offense	<input type="checkbox"/> Associated With Suspect
PRISONER ATTEMPT TO RESCUE	

## ARREST

Arrested As	Arrest Number	RICI Booking Num	Arrest Action
<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	100059687	19-00289-13	Arrested
Disposition	Arrest Date/Time	Booking District	<input checked="" type="checkbox"/> Arrested on Scene
Referred to Criminal or Adult Court	08/31/2019 12:07	DISTRICT E13	
Arrest Address			
Street Address			
BOYLSTON ST / TREMONT ST			
City	State	Zip	
BSTN	MASSACHUSETTS	02116	
Test Given	Test Date/Time	Test Results	Test Administered By
Test Given	Test Date/Time	Test Results	Test Administered By
Arresting Officer		Transporting Officer	
DANILECKI,JOHN H			
Weapon 1	Automatic Weapon 1	Weapon 2	
Other			
Automatic Weapon 2	Multiple Clearance	Juvenile Disposition	Card Number
	NOT APPLICABLE		
Warrant Number	Warrant Signed By	<input type="checkbox"/> OUI Alcohol Arrest	

## DUI/OUI Information

Public Way	Observed Driving	Glassy Eyes	PBT
Unsteady on Feet	Bloodshot Eyes	Crash	Offered Test
Slurred Speech	Odor		
Other Grounds			

## Associated Charges

Charge	<input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor
Disorderly Conduct - Person, Disorderly	
Counts	Bail
1	

## Statement of Probable Cause



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## VICTIM

Victim Type

Society

Name (Last, First Middle)

CITY OF BOSTON

Suffix Nickname Race Gender SSN Date of Birth Age Age Range to

Infant Type Height Weight Driver's License # DL State

Place of Birth Citizenship

Ethnicity Marital Status

Preferred Contact #1 Contact #2 Email Address

Victim Home Address

Street Address

City State Zip

Employment Information

☐ Student Employer / School Occupation

College Name On Campus  
☐ Yes ☐ No

Street Address

City State Zip Work Phone Hours of Employment

Details

Hair Color Eye Color Build Resident

Injury 1 Injury Description

Injury 2 Injury 3 Injury 4 Injury 5

Victim Condition Victim-Offender

### A. Assault/Homicide

☐ Yes ☐ No

A. Assault/Homicide Circumstance 1

A. Assault/Homicide Circumstance 2

### Justifiable Homicide

☐ Yes ☐ No

Justifiable Homicide Circumstance

☐ Victim Hospitalized Hospital Facility

Hospital Description

Under Influence Alcohol? Under Influence Drugs? Domestic Disturbance Domestic Violence Victim Transported  
☐ Yes ☐ No ☐ Unknown ☐ Yes ☐ No ☐ Unknown ☐ Yes ☐ No

Violation of Protective Order Cohabitant  
☐ Yes ☐ No ☐ Yes ☐ No

Associated Offenses

Offense  
DISORDERLY CONDUCT ☒ Associated With Victim  
Offense  
WEAPON - OTHER - CARRYING / POSSESSING, ETC ☒ Associated With Victim  
Offense  
PRISONER ATTEMPT TO RESCUE ☒ Associated With Victim

## EVIDENCE

Tag # EVI100166261 Category Weapon - Not Firearm Action SEIZED Custodial Item

Description

BLACK EXTENDABLE

Related Person Involvement



# Incident Report

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Date / Time Occurred 08/31/2019 12:07 to		Date / Time Reported 08/31/2019 12:07
Suspect: SABINO, LOUIS		
Comment PERSON IN POSSESSION		
Recovered From 8/31/2019	Recovered To	Recovery Site Suspect
Recovered By MCMENAMY, DAVID P		
Recovery Location BACK RIGHT POCKET		
Summary		

## Public Narrative

About 12:15 pm on Saturday, August 31st 2019, Officers Linsky/McMenamy/Walker assigned to Mobile Field Force 4 did on site a suspicious person leading to several arrests at Tremont Street and Boylston Street Boston.

While performing basic crowd control duties at the 'Straight Pride Parade' on department issued bicycles, assigned to Mobile Field Force 4 under the immediate supervision of Captain Danelicki YB04, officers observed a suspicious male located within the crowd located at the intersection of Tremont Street and Boylston Street. Officers did observe a middle-aged white male, wearing a gray T Shirt, gray shorts, and white sneakers, who appeared to be attempting to conceal what officers believed to be a possible weapon. Officers observed the male engaging in conversation with several nearby persons, while pulling up his shirt, displaying what officers believed to be a weapon to said persons. Officers then observed the white male perform several 'safety checks' in which the male touched the object repeatedly to ensure it had not moved from its position located underneath the males shirt and on his right hip.

Per the order of Captain Danelicki, officers entered the crowd to perform a threshold inquiry of the individual. While attempting to engage in dialogue with the suspicious person, a line of individuals dressed in pseudo-military garb, with covered faces and tactical gear, attempted to block officers from questioning the suspect. A physical struggle ensued between officers and several protestors, leading to officers placing the suspicious person under arrest after recovering an extendable baton under the suspects t-shirt on his right hip. The suspect was identified as Louis Sabino DOB 12/04/82.

While officers were affecting the arrest of Mr. Sabino, two individuals were observed attempting to aid in the escape of Mr. Sabino by pushing the officers off Mr. Sabino and pulling on Mr. Sabino's arms seemingly in an attempt to remove him from officer's custody. These two individuals were placed under arrest and were identified as Frederick Meyer DOB 11/19/97 and Gregorio Leon DOB 02/01/98.

In addition, during the arrest of the aforementioned suspects, Officer Linsky performed a threshold inquiry on a suspicious white male, wearing several pieces of tactical gear and pseudo-military garb. The male was observed as part of the line of persons impeding the officers ability to access the original suspect carrying the extendable baton. The suspect was identified as Benjamin Thompson DOB 01/23/90. In addition, Officer McMenamy identified Mr. Thompson as one of the person's Mr. Sabino displayed the extendable baton to. It should be noted that officers observed an abundance of peaceful protestors whose peace was disturbed by the ruckus caused by the aforementioned suspects. While effecting the arrest of Mr. Thompson, a can of Saber Red Pepper Spray was recovered and confiscated for safe keeping.

All suspects were transported by the M205 to District E13 for booking.

Mr. Thompson will be charged with Disorderly Conduct.

Mr. Sabino will be charged with Disorderly Conduct and Unlawful Carrying of Dangerous Weapons.

Mr. Meyer and Mr. Leon will be charged with Attempt to Rescue Prisoner and Disorderly Conduct.

Extendable baton was logged into evidence and secured in the E-13 evidence locker.



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number

I192069338

CAD Incident #

P190455009

Report Type

Incident Report

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Date / Time Occurred

08/31/2019 11:30 to 08/31/2019 11:50

Date / Time Reported

08/31/2019 11:55

Arrested Suspects 1	Additional Suspects	Unknown Suspects	Victims 1	Other Persons	Vehicles	Items	Evidence Count	Leoka Count	File #		
<input type="checkbox"/> Drugs	<input type="checkbox"/> DVIP	<input type="checkbox"/> Juvenile	<input type="checkbox"/> Child Present	<input type="checkbox"/> Elderly	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> CRU - Hate/Bias	<input type="checkbox"/> Licensed Premise	<input type="checkbox"/> Disabled	<input type="checkbox"/> Homeland Security	<input type="checkbox"/> Homeland Security - UASI	<input type="checkbox"/> Home Invasion
<input type="checkbox"/> Car Jack	<input type="checkbox"/> Gun	<input type="checkbox"/> Gang	<input type="checkbox"/> Shots Fired	<input type="checkbox"/> Victim Shot	<input type="checkbox"/> Victim Stabbed	<input type="checkbox"/> Other Agency/Unit Notified	<input type="checkbox"/> Warrant Arrest	<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Licensed Premise Violation	<input type="checkbox"/> LPR	<input type="checkbox"/> Human Trafficking
<input type="checkbox"/> Bicycle	<input type="checkbox"/> School	<input type="checkbox"/> Homeless	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> NIDV	<input type="checkbox"/> Child Abuse						
Incident Details											
Unit Number	Clearance Disposition				Cleared by Exception				Exceptional Clearance Date		
Situation Found On Site						Case Status					
Location Given By Dispatcher											
Incident Address											
Street Address BOYLSTON ST / CHARLES ST S											
City BSTN			State MASSACHUSETTS			Zip 02116			District		
Administrative Info											
Reporting Officer TOLLAND, KEITH		Employee Number 012142		Approving Supervisor MAZZOLA, ADAM							

## OFFENSE

<input type="checkbox"/> Upgrade/Downgrade Offense	Upgrade/Downgrade Offense Code		
<input checked="" type="checkbox"/> Primary Offense	Crime Description ASSAULT - AGGRAVATED - BATTERY		
Offense Code Value 00413	Attempted/Completed Completed		Premise Type Highway/Road/Alley
Circumstances		Bias None - No Bias	
Criminal Activity 1 No Known Gang Committed Offense	Criminal Activity 2		Criminal Activity 3
Offender Using 1 Not Applicable	Offender Using 2		Offender Using 3
# Premise Entered	Home Invasion	Domestic Violence	Gang Activity
Gang Type #1	Gang Name #1		
Gang Type #2	Gang Name #2		
Drug Related	Drug Type	Drug Origin	Drug Precursors
MO Panel Entry Type	Entry Area		Entry Method
Entry Point 1	Entry Point 2		Exit Point 1
Exit Point 2	Target Area		Property Target 1
Property Target 2	Property Target 3		Victim Target
Time of Day	Victim Activity		Action 1 to Premises
Action 2 to Premises	Action 3 to Premises		Action 1 on Victim
Action 2 on Victim	Action 3 on Victim		Other Action 1
Other Action 2	Other Action 3		Solicited Offered 1
Solicited Offered 2	Solicited Offered 3		Weapon 1 Personal Weapon (hand, foot, etc.)
Weapon 1 Auto	Weapon 2		Weapon 2 Auto
Weapon 3	Weapon 3 Auto		Arson



# Incident Report

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Precipitating Circumstance	Instrument Used
Unusual Actions and Statements of Suspect	

<b>SUSPECT</b> <input checked="" type="checkbox"/> Known <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> Arrested							
Name (Last, First Middle) WOOD, MICHELLE							
Suffix	Nickname	Race White	Gender Female	SSN 039-56-2479	Date of Birth 10/31/1982	Age 36	Age Range to
Height 5'04"	Weight 150	Driver's License #	DL State	Local ID	SID		
FBI #	SBI #	Place of Birth			Citizenship		
Ethnicity Unknown		Marital Status					
Preferred	Contact #1	Contact #2	Email Address				
Suspect Home Address							
Street Address 58 CARPENTER ST							
City REHOBOTH		State MASSACHUSETTS		Zip 02769			
Suspect Employment Information							
<input type="checkbox"/> Student	Employer / School			Occupation PRODUCT DESIGNS			
Street Address							
City		State		Zip	Work Phone	Hours of Employment	
Details							
Hair Color Brown	Hair Length Long	<input type="checkbox"/> Glasses	Eye Color Other	Build Medium	Facial Hair	Facial Hair Color	
Voice	Complexion Light	Hand Preference					
Clothing Description BLACK SHIRT, BLACK PANTS							
Trademarks of Suspect							
Injury 1	Injury 2	Injury 3	Injury 4	Injury 5			
<input type="checkbox"/> Hospitalized	Hospital Facility			Resident			
MO Panel Entry Type	Entry Area			Entry Method			
Entry Point	Exit Point			Target Area			
Property Target 1	Property Target 2			Property Target 3			
Victim Target	Time of Day			Victim Activity			
Action 1 on Victim	Action 2 on Victim			Action 3 on Victim			
Action 1 to Premises	Action 2 to Premises			Action 3 to Premises			
Other Action 1	Other Action 2			Other Action 3			
Solicited Offered 1	Solicited Offered 2			Solicited Offered 3			
Weapon 1	Weapon 2			Weapon 3			
Weapon 1 Type	Weapon 2 Type			Weapon 3 Type			



# Incident Report

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Case Number

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Weapon 1 Caliber

Weapon 2 Caliber

Weapon 3 Caliber

Weapon 1 Color

Weapon 2 Color

Weapon 3 Color

Arson

Precipitating Circumstance

Instrument Used

Comments

## Associated Offenses

### Offense

ASSAULT - AGGRAVATED - BATTERY



Associated With Suspect

### ARREST

Arrested As



Adult



Juvenile

Arrest Number

100059685

RICI Booking Num

19-00135-05

Arrest Action

Arrested

Disposition

Arrest Date/Time

08/31/2019 11:50

Booking District

DISTRICT E5



Arrested on Scene

## Arrest Address

Street Address

BOYLSTON ST / CHARLES ST S

City

BSTN

State

MASSACHUSETTS

Zip

02116

Test Given

Test Date/Time

Test Results

Test Administered By

Test Given

Test Date/Time

Test Results

Test Administered By

Arresting Officer

MURPHY, DAVID C

Transporting Officer

Weapon 1

Automatic Weapon 1

Weapon 2

Hands, Fist, Feet

Automatic Weapon 2

Multiple Clearance

Juvenile Disposition

Card Number

COUNT ARRESTEE

Warrant Number

Warrant Signed By



OUI Alcohol Arrest

### DUI/OUI Information

Public Way

Observed Driving

Glassy Eyes

PBT

Unsteady on Feet

Bloodshot Eyes

Crash

Offered Test

Slurred Speech

Odor

Other Grounds

## Associated Charges

### Charge

Assault - A&B D/W - On Police Officer - Other



Felony



Misdemeanor

Counts Bail

1

### Charge

Disorderly Conduct - Disturbing The Peace



Felony



Misdemeanor

Counts Bail

1

## Statement of Probable Cause

SUSPECT INTERFERED WITH AN ARREST OF ANOTHER SUSPECT BY KICKING THE TA03

### VICTIM

Victim Type

Person

Name (Last, First Middle)

MURPHY, DAVID



# Incident Report

Obtained via FOIA by Judicial Watch Inc.

Case Number I192069338	CAD Incident # P190455009
Report Type Incident Report	Page 4 of 4
Date / Time Occurred 08/31/2019 11:30 to 08/31/2019 11:50	Date / Time Reported 08/31/2019 11:55

Suffix	Nickname	Race White	Gender Male	SSN	Date of Birth	Age 61	Age Range to
Infant Type	Height	Weight	Driver's License #	DL State			
Place of Birth		Citizenship					
Ethnicity Not of Hispanic Origin Preferred		Marital Status					
Contact #1 617-343-9881	Contact #2	Email Address					

Victim Home Address		
Street Address		
City	State	Zip

Employment Information		
<input type="checkbox"/> Student	Employer / School	Occupation
College Name		On Campus <input type="checkbox"/> Yes <input type="checkbox"/> No
Street Address		
City	State	Zip
Work Phone		Hours of Employment

Details			
Hair Color	Eye Color	Build	Resident RESIDENT
Injury 1 None		Injury Description	
Injury 2	Injury 3	Injury 4	Injury 5
Victim Condition		Victim-Offender	

<b>A. Assault/Homicide</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A. Assault/Homicide Circumstance 1 Assault on Law Enforcement Officer	A. Assault/Homicide Circumstance 2
<b>Justifiable Homicide</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	Justifiable Homicide Circumstance	
<input type="checkbox"/> Victim Hospitalized	Hospital Facility	Hospital Description

Under Influence Alcohol? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Under Influence Drugs? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Domestic Disturbance	Domestic Violence Victim Transported <input type="checkbox"/> Yes <input type="checkbox"/> No
Violation of Protective Order <input type="checkbox"/> Yes <input type="checkbox"/> No	Cohabitant <input type="checkbox"/> Yes <input type="checkbox"/> No		

Associated Offenses	
Offense ASSAULT - AGGRAVATED - BATTERY	<input checked="" type="checkbox"/> Associated With Victim
Victim Suspect Relationships	
Suspect Suspect:1 WOOD, MICHELLE	Relationship Offender

## Public Narrative

ON 08/31/19 THE CITYWIDE BICYCLE UNIT WAS WORKING THE STRAIGHT PRIDE PARADE AND WHILE AT THE CORNER OF BOYLSTON AND CHARLES STREET WE ENCOUNTERED NUMEROUS PROTESTERS. UNDER THE DIRECTION OF THE TA03 LT. MURPHY WE WERE ATTEMPTING TO AFFECT AN ARREST OF SEVERAL PEOPLE WHEN SUSPECT MICHELLE WOOD INTERVENED. SUSPECT WOOD WAS ENTICING THE CROWD AND KICKED THE TA03 LT. MURPHY IN THE KNEE AREA. SUSPECT WOOD KEPT ON RESISTING THE ORDERS OF POLICE WHO WERE PLACING HER UNDER ARREST. SUSPECT WAS PLACED UNDER ARREST FOR ASSAULT AND BATTERY DANGEROUS WEAPON SOD FOOT, DISORDERLY CONDUCT, RESISTING ARREST. SUSPECT WOOD WAS TRANSPORTED TO AREA 5 BY THE MD211D FOR PROPER BOOKING.



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** otis.harewood@pd.boston.gov <otis.harewood@pd.boston.gov>  
**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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Supervisor: Sgt. Swan

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Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** patrick.byrne@pd.boston.gov <patrick.byrne@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Subject:** Protesters

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** patrick.conroy@pd.boston.gov <patrick.conroy@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
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Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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District D4  
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Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** patrick.kane@pd.boston.gov <patrick.kane@pd.boston.gov>  
**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
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District D4

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Event Location: Copley Square

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Message Sent By: Eva Santiago

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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**Subject:** Protesters

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**To:** patrick.kane@pd.boston.gov <patrick.kane@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** patrick.mcgillicuddy@pd.boston.gov <patrick.mcgillicuddy@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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**To:** paul.macisaac@pd.boston.gov <paul.macisaac@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** paul.mclaughlin@pd.boston.gov <paul.mclaughlin@pd.boston.gov>  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Message Sent By: Keva Phillips  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**To:** paul.zelvis@pd.boston.gov <paul.zelvis@pd.boston.gov>  
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Event P220138071  
District A1  
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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** peter.messina@pd.boston.gov <peter.messina@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**To:** philip.bissonnette@pd.boston.gov <philip.bissonnette@pd.boston.gov>  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

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District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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04-22-2022 16:54:00

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: Centre Street/South Street, JP

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Message Sent By: Keva Phillips  
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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** rami.awad@pd.boston.gov <rami.awad@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** regina.harris@pd.boston.gov <regina.harris@pd.boston.gov>  
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Message Sent By: Eva Santiago

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** renisha.silva@pd.boston.gov <renisha.silva@pd.boston.gov>  
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Event P220154101  
District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Message Sent By: Keva Phillips  
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Event Location: Copley Square

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** richard.medina@pd.boston.gov <richard.medina@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** richard.moriarty@pd.boston.gov <richard.moriarty@pd.boston.gov>  
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Event Location: Copley Square

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Message Sent By: Eva Santiago

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event Description: Protesters....Small group of people protesting Palestine

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**To:** robert.cordasco@pd.boston.gov <robert.cordasco@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220176905  
District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**To:** roberto.lacolla@pd.boston.gov <roberto.lacolla@pd.boston.gov>  
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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Eva Santiago

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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Message Sent By: Eva Santiago

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** ronald.pirrello@pd.boston.gov <ronald.pirrello@pd.boston.gov>  
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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** rosangela.pina-tavares@pd.boston.gov <rosangela.pina-tavares@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Supervisor: Sgt. McGillicuddy

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District A1  
03-31-2022 17:41:00

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**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 12:58 PM EDT  
**To:** Ryan Walsh <ryan.walsh@pd.boston.gov>; David Carabin <david.carabin@pd.boston.gov>  
**Subject:** Fwd: Requests for Information Working Session Docket #0312

Dave and Ryan,  
Good afternoon. Supt. Bailey suggested that you could pull arrests for disturbing the peace from booking data for January 2021 to present. Can you help me?  
Jen

----- Forwarded message -----

From: **Jennifer Maconochie** <jennifer.maconochie@pd.boston.gov>  
Date: Fri, Apr 1, 2022 at 8:38 AM  
Subject: Fwd: Requests for Information Working Session Docket #0312  
To: Gerard Bailey <gerard.bailey@pd.boston.gov>, James Tarantino <james.tarantino@pd.boston.gov>

Supt. Bailey and Deputy Tarantino,  
Good morning. Does BFS track these citations from the districts?

Supt. Colon,  
Does the Licensing Unit track citations that they give out?

Thank you.  
Jen

----- Forwarded message -----

From: **Neil Doherty** <neil.doherty@boston.gov>  
Date: Thu, Mar 31, 2022 at 2:38 PM  
Subject: Fwd: Requests for Information Working Session Docket #0312  
To: Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

----- Forwarded message -----

From: **Christine O'Donnell** <christine.odonnell@boston.gov>  
Date: Thu, Mar 31, 2022 at 2:36 PM  
Subject: Requests for Information Working Session Docket #0312  
To: Neil Doherty <neil.doherty@boston.gov>, Pilar Ortiz <pilar.ortiz@boston.gov>  
Cc: Yasmine Raddassi <yasmine.raddassi@boston.gov>, Michelle Laibson Goldberg <michelle.a.goldberg@boston.gov>

Good Afternoon,

On behalf of the Chair, below are the information requests from the working session on Docket #0312:

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;
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Please send the information so that we have it for the hearing file,

Thank you,  
Christine

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Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall


Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

--

	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
--	---

--

Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** ryan.walsh@pd.boston.gov <ryan.walsh@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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**From:** Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>  
**Sent:** Monday, April 04, 2022 3:02 PM EDT  
**To:** Ryan Walsh <ryan.walsh@pd.boston.gov>  
**CC:** David Carabin <david.carabin@pd.boston.gov>  
**Subject:** Re: Requests for Information Working Session Docket #0312

This is perfect! Thank you.

On Mon, Apr 4, 2022 at 3:01 PM Ryan Walsh <[ryan.walsh@pd.boston.gov](mailto:ryan.walsh@pd.boston.gov)> wrote:

Hi Jen,

Looks like 91 individuals arrested in 94 arrests across 86 incidents (3 ppl were arrested twice) since the start of 2021 where one of the charges was "Disturbing the Peace". Do you need the detailed records for each arrest?

Thanks,  
Ryan

Ryan Walsh  
Deputy Director  
Boston Regional Intelligence Center  
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617-343-5497 or 617-343-4328  
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Dave and Ryan,  
Good afternoon. Supt. Bailey suggested that you could pull arrests for disturbing the peace from booking data for January 2021 to present. Can you help me?  
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**From:** Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>  
**Date:** Fri, Apr 1, 2022 at 8:38 AM  
**Subject:** Fwd: Requests for Information Working Session Docket #0312  
**To:** Gerard Bailey <[gerard.bailey@pd.boston.gov](mailto:gerard.bailey@pd.boston.gov)>, James Tarantino <[james.tarantino@pd.boston.gov](mailto:james.tarantino@pd.boston.gov)>

Supt. Bailey and Deputy Tarantino,  
Good morning. Does BFS track these citations from the districts?

Supt. Colon,  
Does the Licensing Unit track citations that they give out?

Thank you.  
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**From:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 2:38 PM  
**Subject:** Fwd: Requests for Information Working Session Docket #0312  
**To:** Jennifer Maconochie <[jennifer.maconochie@pd.boston.gov](mailto:jennifer.maconochie@pd.boston.gov)>

Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session.  
Thanks!

----- Forwarded message -----

**From:** Christine O'Donnell <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>  
**Date:** Thu, Mar 31, 2022 at 2:36 PM  
**Subject:** Requests for Information Working Session Docket #0312  
**To:** Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz <[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>  
**Cc:** Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

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- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
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	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
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**Subject:** Protesters

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** santino.daddieco@pd.boston.gov <santino.daddieco@pd.boston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220176905  
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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**From:** Scott MacCallum <scott.maccallum@pd.boston.gov>  
**Sent:** Thursday, April 14, 2022 10:57 AM EDT  
**To:** Wolfe, Hailey (BS) (FBI) <hwolfe@fbi.gov>  
**Subject:** Winston Long  
**Attachment(s):** "winston long.pdf"

--

Detective Scott MacCallum  
Boston Police Department  
Boston Regional Intelligence Center  
1 Schroeder Plaza  
Boston, Ma 02120  
Phone # (617) 343-5425, Fax# (617) 343-5222



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** scott.maccallum@pd.boston.gov <scott.maccallum@pd.boston.gov>  
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Event Location: 100 Huntington Ave, BO

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** sean.doherty@pd.boston.gov <sean.doherty@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event Location: 5 Newbury St, BO

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Message Sent By: Sonya Bynoe  
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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** sharon.dottin@pd.boston.gov <sharon.dottin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
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Event Description: Protesters...80 people protesting for healthy climate

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District D4  
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Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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District A1  
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Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** shawn.romanowski@pd.boston.gov <shawn.romanowski@pd.boston.gov>  
**Subject:** Protesters

□

Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220160492  
District E13  
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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**To:** shea.kelly@pd.boston.gov <shea.kelly@pd.boston.gov>  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Sonya Bynoe  
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District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173448  
District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Sunday, April 24, 2022 5:17 PM EDT  
**To:** stephanie.curtis@pd.boston.gov <stephanie.curtis@pd.boston.gov>  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** stephanie.curtis@pd.boston.gov <stephanie.curtis@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Message Sent By: Eva Santiago

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
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District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** steven.collette@pd.boston.gov <steven.collette@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Subject:** Protesters

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** steven.mclaughlin@pd.boston.gov <steven.mclaughlin@pd.boston.gov>  
**Subject:** Protesters

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**To:** steven.mclaughlin@pd.boston.gov <steven.mclaughlin@pd.boston.gov>  
**Subject:** Protesters

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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Message Sent By: Sonya Bynoe  
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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Thursday, April 14, 2022 9:18 AM EDT  
**To:** terence.long@pd.boston.gov <terence.long@pd.boston.gov>  
**Subject:** Protesters

□

Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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District D4  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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District D4  
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Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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District D4  
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District E13  
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Event Location: 445 Arborway, JP

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Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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Event P #220140756

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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District D4  
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**Sent:** Sunday, April 10, 2022 1:49 PM EDT  
**To:** griffint.bpd@cityofboston.gov <griffint.bpd@cityofboston.gov>  
**Subject:** Protesters

□

Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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**To:** griffint.bpd@cityofboston.gov <griffint.bpd@cityofboston.gov>  
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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220176905  
District E13  
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Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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Event P #220140756

District D4

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** thomas.pratt@pd.boston.gov <thomas.pratt@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

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04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220176905  
District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Sonya Bynoe  
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District D4  
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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** Gary Eblan <gary.eblan@pd.boston.gov>  
**Sent:** Friday, April 01, 2022 12:08 PM EDT  
**To:** Michael Pavone <michael.pavone@boston.gov>  
**CC:** Timothy Connolly <timothy.connolly@pd.boston.gov>  
**Subject:** Re: Boston Fire Dept Protester teams

Mike,  
I'll get you a date and we can give about an hour presentation.  
G

Sent from my iPhone

> On Apr 1, 2022, at 11:19 AM, Michael Pavone <michael.pavone@boston.gov> wrote:  
>  
>  
> Lt Eblan,  
>  
> Great talking with you today, if you could meet with our SOC team before the Marathon that would be great. Some dates you asked for April 4,7,  
12,13,14,15 that would be great for your team to come down to Moon Island and talk about the legal protection protestors have and our role with BPD.  
>  
>  
> --  
> Michael Pavone  
> Special Operations Command  
> Moon Island  
> Boston Fire Dept  
> 617.343.2551 (office)  
> 617.839.8919 (cell)

**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** timothy.denio@pd.boston.gov <timothy.denio@pd.boston.gov>  
**Subject:** Protesters

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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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District D4  
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Event Description: Protesters...80 people protesting for healthy climate

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Event P220160492  
District E13  
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Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: Copley Square

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

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**To:** timothy.kervin@pd.boston.gov <timothy.kervin@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

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Message Sent By: Dawn Morse  
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Event Location: Copley Square

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Boston Police Department - Operations Division

Message Sent By: Eva Santiago

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Event Location: Centre Street/South Street, JP

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District D4  
04-22-2022 16:54:00

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Event Description: Protesters...80 people protesting for healthy climate

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Message Sent By: Eva Santiago

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District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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Message Sent By: Dawn Morse  
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District D4  
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Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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Message Sent By: Sonya Bynoe  
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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** vernelle.smalls-cardona@pd.boston.gov <vernelle.smalls-cardona@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

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Message Sent By: Eva Santiago

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04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

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Message Sent By: Keva Phillips  
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District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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District E13  
04-24-2022 16:37:14

Event Location: Centre Street/South Street, JP

Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

If you received this notification in error, Please contact the Operations Divisions Supervisor at (617) 343-4680 or [BPDOPS@pd.boston.gov](mailto:BPDOPS@pd.boston.gov)



**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** wayne.lanchester@pd.boston.gov <wayne.lanchester@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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**Sent:** Friday, April 22, 2022 5:02 PM EDT  
**To:** wayne.lanchester@pd.boston.gov <wayne.lanchester@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220160492  
District E13  
04-14-2022 07:53:00

Event Location: 445 Arborway, JP

Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Message Sent By: Dawn Morse  
Supervisor: Sgt. Noberini

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**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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**From:** noreply@everbridge.net <noreply@everbridge.net>  
**Sent:** Thursday, March 31, 2022 5:51 PM EDT  
**To:** wayne.lanchester@pd.boston.gov <wayne.lanchester@pd.boston.gov>  
**Subject:** Protesters

□

Event P220138071  
District A1  
03-31-2022 17:41:00

Event Location: Tremont St/Park St, BO

Event Description: Protesters....Small group of people protesting Palestine

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Zelvis

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. Swan

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**Sent:** Friday, April 01, 2022 11:37 AM EDT  
**To:** Gerard Bailey <gerard.bailey@pd.boston.gov>  
**Subject:** Re: Requests for Information Working Session Docket #0312

Sure we can pull tonight , off the top of my head we have el diamanté A7 seaport Lolita c6, in last 6 months . Lic board heard both , no violation at Lolita and la hacienda sent warning

Sent from my iPhone

On Apr 1, 2022, at 11:31 AM, Gerard Bailey <gerard.bailey@pd.boston.gov> wrote:

Hi

We just want the ones for noise violations and noise alone

Sent from my iPhone

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Noise violations at some different venues

Thank you,  
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Good morning. Does BFS track these citations from the districts?

Supt. Colon,  
Does the Licensing Unit track citations that they give out?

Thank you.  
Jen

----- Forwarded message -----

From: **Neil Doherty** <neil.doherty@boston.gov>  
Date: Thu, Mar 31, 2022 at 2:38 PM  
Subject: Fwd: Requests for Information Working Session Docket #0312  
To: Jennifer Maconochie <jennifer.maconochie@pd.boston.gov>

Hey Jen,

Here is the formal request for the citations BPD has given out following the protesting ordinance working session. Thanks!

----- Forwarded message -----

From: **Christine O'Donnell** <[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)>

Date: Thu, Mar 31, 2022 at 2:36 PM

Subject: Requests for Information Working Session Docket #0312

To: Neil Doherty <[neil.doherty@boston.gov](mailto:neil.doherty@boston.gov)>, Pilar Ortiz

<[pilar.ortiz@boston.gov](mailto:pilar.ortiz@boston.gov)>

Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson  
Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

Good Afternoon,

On behalf of the Chair, below are the information requests from the working session on Docket #0312:

- How many citations has the Boston Police Department issued since January 2022 and in 2021 for violating the following municipal ordinances:
  - The City of Boston municipal laws concerning excessive noise;
  - The City of Boston municipal laws concerning disturbing the peace;
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Please send the information so that we have it for the hearing file,

Thank you,  
Christine

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Christine O'Donnell, Esq.

Compliance Director & Staff Counsel

Boston City Council

**Notice:** This email is subject to the [MGL: Chpt.66, Sec.10 Public Records Law](#).

Boston City Hall


Boston City Council, 5<sup>th</sup> Floor

Tel: 617-635-1185

Fax: 617-635-4203

[christine.odonnell@boston.gov](mailto:christine.odonnell@boston.gov)

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	<b>Neil Doherty</b> Chief of Staff Mayor's Office of Intergovernmental Relations <a href="tel:617.635.4196">617.635.4196</a> (w)
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Jennifer Maconochie  
Director, Strategic Initiatives & Policies  
Office of the Police Commissioner  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
[Jennifer.Maconochie@pd.boston.gov](mailto:Jennifer.Maconochie@pd.boston.gov)

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Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg

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Tel: 617-635-1185

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Jennifer Maconochie  
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Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120  
Ph: 617-343-4904  
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Cc: Yasmine Raddassi <[yasmine.raddassi@boston.gov](mailto:yasmine.raddassi@boston.gov)>, Michelle Laibson Goldberg <[michelle.a.goldberg@boston.gov](mailto:michelle.a.goldberg@boston.gov)>

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**Sent:** Saturday, April 02, 2022 1:30 PM EDT  
**To:** william.meade@pd.boston.gov <william.meade@pd.boston.gov>  
**Subject:** Protesters

□

Event P #220140756

District D4

04-02-2022 12:23:30

Event Location: Copley Square

Event Description: Group of 150 to 200 people protesting "Genocide in Ethiopia". The group is now at Hereford/Newbury Streets. Patrol supervise monitoring.

Boston Police Department - Operations Division

Message Sent By: Eva Santiago

Supervisor: Sgt. Noberini

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04-14-2022 07:53:00

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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

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04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

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Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

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**To:** william.moccia@pd.boston.gov <william.moccia@pd.boston.gov>  
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Event Description: A group of 50 to 100 protesters. Group is protesting about worker's rights.

Boston Police Department - Operations Division  
Message Sent By: Keva Phillips  
Supervisor: Sgt. Minichello

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**Sent:** Friday, April 22, 2022 12:40 PM EDT  
**To:** william.toner@pd.boston.gov <william.toner@pd.boston.gov>  
**Subject:** Protesters

□

Event P220173448  
District D4  
04-22-2022 12:14:00

Event Location: 5 Newbury St, BO

Event Description: 5- 8 males protesting with blow horns for Fair Trade.

Boston Police Department - Operations Division  
Message Sent By: Sonya Bynoe  
Supervisor: Sgt. McGillicuddy

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Event P220173880  
District D4  
04-22-2022 16:54:00

Event Location: 750 Boylston St, BO

Event Description: Protesters...80 people protesting for healthy climate

Boston Police Department - Operations Division  
Message Sent By: Dawn Morse  
Supervisor: Sgt. McGillicuddy

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Event P220154101  
District D4  
04-10-2022 13:41:00

Event Location: 100 Huntington Ave, BO

Event Description: Protesters...6-10 people protesting at Copley Square businesses...

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Event Location: Copley Square

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Event P220138071  
District A1  
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Event Description: Protesters....Small group of people protesting Palestine

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District E13  
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Event Description: Protesters...6-10 people protesting vaccine mandates...J916 on scene...

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Event Description: Protesters...80 people protesting for healthy climate

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