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Investigative Report
Case # 2021-001

Introduction

On November 30, 2021, I, Steven P. Fennessy, a private investigator duly licensed by the Commonwealth of Massachusetts and operating under Colando Investigative Services, LLC, which is a limited liability company registered with the Massachusetts Secretary of State, learned of a case involving certain members of the Dalton Police Department located in Dalton, Massachusetts, which is part of Berkshire County. I learned of this matter via a virtual meeting with Attorney Timothy Zessin of KP Law PC, 101 Arch Street, Boston, MA. KP Law is the retained general counsel law firm for the Town of Dalton, Massachusetts.

During that virtual meeting with Attorney Zessin, I learned, in part, the following. A criminal prosecution involving a sexual assault was recently and abruptly ended by the Berkshire County District Attorney's Office due to a revelation learned by the DA's Office that exculpatory evidence was destroyed and/or omitted from a police report. This was allegedly done on orders of the former Dalton Police chief, Jeffrey Coe. District Attorney Andrea Harrington requested that the current Dalton Police chief, Deanna Strout, conduct an investigation into this matter and to determine if there were similar incidents involving evidence and reporting that have occurred prior or are continuing within the Dalton Police Department. KP Law and the Dalton town manager decided to hire an outside investigator. I also learned of a newspaper article published by The Berkshire Eagle regarding the matter.

On December 7, 2021, the Town of Dalton and Colando Investigative Services, LLC entered into an investigative services agreement regarding this matter. The purpose of the investigation was to determine whether any Massachusetts criminal laws, department rules, regulations, policies, or procedures have been violated by current or former members of the Dalton Police Department in the matter of handling of evidence and report writing concerning a particular sexual assault investigation in 2018. Also, to ascertain, to the extent possible, if the alleged conduct was an ongoing and prolific practice within the Dalton Police Department. The scope of the investigation was to (a) review documents that were provided, including, but not limited to, reports, email,

policies, procedures, and rules and regulations; (b) conduct interviews and (c) make use of additional investigative means deemed necessary to determine if any act by former Chief Coe or any other member of the Dalton Police Department, regarding this specific matter, violated any Massachusetts criminal laws, department rules, regulations, policies, or procedures.

Investigative methods utilized

The following is a summary of the main investigative steps taken during the course of my investigation and does not include every event during the course of my investigation.

On December 7, 2021, at approximately 1:15 PM, I had a telephone conversation with Chief Deanna Strout of the Dalton Police Department. Chief Strout gave a brief background of the situation and agreed to meet in person at the Dalton Police Department on December 9, 2021 for a more comprehensive conversation and to turn over reports that she had previously ordered certain police officers to submit regarding the matter. In addition, Chief Strout stated that she had copies of email correspondences that are relevant to this matter. I also asked Chief Strout to make available any other documents that she deemed relevant to the matter as well as a copy of the department's rules and regulations and policies and procedures.

On December 9, 2021, at approximately 11:30 AM, I met Chief Strout in her office at the Dalton Police Station, 462 Main Street, Dalton, MA. While there, Chief Strout produced for me reports that she had previously requested from certain officers to submit regarding their involvement with, their recollection of, and any associated documents regarding this matter. Chief Strout produced reports from Sergeant Christopher Furlong (second-in-command of the Dalton Police), Sergeant Geoffery Powell (former union president), Sergeant Bustin Buzzella, and Officer Dorothy "Dotty" DiMouro-Litz. It should be noted that at the time of the matter in question in 2018, Sergeant Powell, Sergeant Buzzella, and Chief Strout all held the rank of Officer and may be referred to as such within this report. Chief Strout also produced full copies of the Dalton Police Policies and Procedures and Rules and Regulations as well as an investigative report dated April 12, 2020 submitted by Special Investigator Alfred Donovan of ADP Management. This investigative report by Investigator Donovan is entitled "In the Matter of: Complaints Against Police Chief Jeffrey Coe."

The following is a summary of my conversations with Chief Strout while in her office and is not intended to be verbatim. Chief Strout stated that she has been with the Dalton Police Department for approximately twenty three (23) years. She stated that she was promoted to the rank of corporal in February 2019, promoted to the rank of sergeant in 2020, and then promoted to Chief in February 2021. She stated that she had conducted sexual assault investigations for the Dalton Police Department for nineteen (19) years. By way of full disclosure, Chief Strout stated that she is married to a Pittsfield police officer and that her husband also sits on the Dalton Select Board. Chief Strout stated that the Dalton Police Department is a relatively small department

consisting of a total of fourteen (14) officers. Chief Strout described her opinion of the recent history and culture of former Chief Coe and other supervisors and officers favoring some officers while disliking others. She stated that Chief Coe became a Dalton Police officer in 1997, was promoted to the rank of sergeant in 2012, and then promoted to chief in 2013 and remained chief until his departure at the end of 2020. She stated that she was able to get along with Chief Coe while she was an officer and a sexual assault investigator, but his style of management sometimes would slow the progression of her investigations as an officer because, for example, she would have to go through Chief Coe and ask permission to seek assistance from outside law enforcement agencies with specialized expertise that may be helpful to an investigation. When asked if he was a micromanager, Chief Strout stated that she believed Chief Coe was a micromanager to people he did not like. Chief Strout stated that she believed that Chief Coe fostered an atmosphere of fear of reprisal and a feeling that there was no place to turn, including the union, if one had a complaint.

Chief Strout spoke of an incident involving former Dalton Police Officer John Marley who was disciplined and terminated for failing to respond to a dispatched call in which a woman was determined to have committed suicide. She stated that the Dalton Police Department is being sued because of that matter. Chief Strout stated that Chief Coe supported Officer Marley in that matter, but that Marley was ultimately terminated after an investigation. She stated that Sergeant Furlong also defended Officer Marley and that he also defended Chief Coe's support of Officer Marley after this particular incident (failing to respond). She stated that Chief Coe and Officer Marley grew up together and were close friends and she believed that it was due to that relationship that Chief Coe defended Officer Marley while others may not enjoy such support from Chief Coe.

Chief Strout stated that Officer DiMouro-Litz was one of those officers she believed did not enjoy Chief Coe's favor. She stated that Officer DiMouro-Litz had filed a harassment complaint against Chief Coe in early 2020 claiming disparate treatment. She stated that it was this allegation that Alfred Donovan investigated and filed the above mentioned report. She stated that there was an administrative hearing regarding the allegations and culminated with Chief Coe's separation of service with the Dalton Police Department. Chief Strout stated that Officer DiMouro-Litz left the Dalton Police Department for a position with the Massachusetts State Police, but then returned to Dalton Police before graduating from the State Police Academy. She stated that Officer DiMouro-Litz left the Dalton Police for a time, apart from her departure for the State Police, but has since returned to active duty with the Dalton Police Department.

Chief Strout stated that the 2018 investigation in question involved an alleged sexual assault of a thirteen (13) year-old girl by an older step-brother. Chief Strout stated that, as an officer, she handled sexual assault cases such as this, however, she was out on injured leave at the time. She stated that Officer DiMouro-Litz, who was Officer DiMouro at the time (and will sometimes be referred to as Officer DiMouro) was assigned the case by Sergeant Furlong. Chief Strout described Officer DiMouro-Litz' as a competent officer. She stated that, at the time of the investigation in 2018, Officer DiMouro was trained as a sexual assault investigator, however did not have much experienced with such investigations.

Chief Strout stated that Sergeant Buzzella, who was then Officer Buzzella (and will sometimes be referred to as Officer Buzzella), handled cell phone extractions for evidentiary purposes for the Dalton Police Department. She stated that Officer Buzzella has since been promoted to the rank of sergeant and has retained his special assignment as the officer who handles cell phone extractions for the department. She stated that she believes that Chief Coe, at the time, had ordered Officer Buzzella not to assist Officer DiMouro with the analysis of the data from the cell phones that had been extracted in this sexual assault investigation and cited two emails from Chief Coe to Officer Buzzella, which were both sent on September 6, 2018 and which I scanned over at the time. She stated that there were two cell phones that were extracted by Officer Buzzella during the course of this investigation and that the data from both phones were extracted and then the cell phones were returned to their respective owners. Chief Strout stated that this is common practice, in situations such as this investigation, to extract the data of cell phones and then return the phones to their owners.

On December 10, 2021, I began my review of the reports and material that Chief Strout provided me. In fact, throughout the course of this investigation, I have reviewed and referred back to these reports and other material provided to me many times. In particular, Sergeant Buzzella's report consists of his statement, Dalton Police logs, inventory tracking printouts of the two cell phones in question, copies of text messages from the cell phones in question generated by the Secure View extraction software, copies of email, copies of screenshots of text messages from Sergeant Buzzella's cell phone, and ten (10) pages of printed photographs of what appears to be of a Galaxy S8 cell phone and specific excerpts of the cell phone's web browsing history, i.e. specific excerpts of the history stored on the cell phone of websites that the user of the cell phone visited including the dates the websites were visited. See the attached photographs of the web browsing history of this cell phone. (TAB 1)

Investigator's Note: The mere existence of these photographs is crucial. My investigation has revealed, as is discussed later in this report, that Sergeant Buzzella,

who was then Officer Buzzella, had taken these digital images (photographs) in August of 2018 and had stored them on the Dalton Police shared drive at the time. However, it may have been a lapse in Sergeant Buzzella's memory of those facts during a telephone call between Sergeant Buzzella, Officer DiMouro-Litz, and Assistant District Attorney Megan Tesoniero of the Berkshire County District Attorney's Office in the days leading up to the start of the trial scheduled for November 15, 2021 which apparently caused false information to have been verbally transmitted to ADA Tesoniero and was the source of misinformation.

On December 14, 2021, at approximately 1:15PM, I had a telephone conversation with Chief Strout regarding scheduling of interviews. I requested that Chief Strout call in Officer DiMouro-Litz and Sergeant Furlong for Tuesday, December 21, 2021 at 11:00 AM and 1:30 PM respectively. Thereafter, I received copies of emails from Chief Strout to these respective officers regarding my request. In the coming days, I learned that many of the members of the Dalton Police Department became ill and/or tested positive for the COVID-19 virus and it was agreed that the interviews would be postponed and rescheduled until after the beginning of the new year, 2022.

On January 4, 2022, I traveled to Dalton, MA and, at approximately 11:00 AM, met Officer Dorothy DiMouro-Litz for her previously scheduled interview. The interview was conducted on the second floor of the Dalton Fire Station. Officer DiMouro-Litz was accompanied by her attorney, Mark T. Brennan, with his law office located at 54 North Street, Pittsfield, MA. The interview was digitally voice-recorded. See the attached transcript of Officer Dimouro-Litz' interview. (TAB 2)

On January 4, 2022, at approximately 3:30 PM, I conducted a previously scheduled interview of Sergeant Bustin Buzzella. The interview was conducted on the second floor of the Dalton Fire Station. The interview was digitally voice-recorded. See the attached transcript of Sergeant Buzzella's interview. (TAB 3)

On January 6, 2022, I traveled to Dalton, MA and, at approximately 12:00 PM, met with Chief Strout in her office. At my previous request, Chief Strout provided me with a compact disk (CD) containing the recording of a telephone conversation between Sergeant Buzzella, Officer DiMouro-Litz, and Assistant District Attorney (ADA) Megan Tesoniero of the Berkshire District Attorney's Office. Due to all telephone lines being recorded and retained for a one year period in the normal course of business by the Dalton Police Department, this telephone call was recorded and was able to be retrieved. This particular telephone call was placed by Sergeant Buzzella and Officer DiMouro-Litz on a Dalton Police station landline to ADA Tesoniero on November 13, 2021 at approximately 12:04 PM.

On January 6, 2022, at approximately 12:30 PM, I conducted a previously scheduled interview of Sergeant Geoffrey Powell. The interview was conducted on the second floor of the Dalton Fire Station. The interview was digitally voice-recorded. See the attached transcript of Sergeant Powell's interview. (TAB 4)

On January 6, 2022, at approximately 3:00 PM, I met with Chief Strout in her office at the Dalton Police Station. While there, at my request, Chief Strout gave me a photocopy of the contents of the case folder regarding the alleged sexual assault case in question #18-108-OF. The original case folder, like all sexual assault investigation case folders kept by the Dalton Police Department, was secured in a locked file cabinet within the Dalton Police Department. I also received previously requested copies of examples of Officer Buzzella's reports that he had written in the past regarding cell phone extractions and analysis that were requested of Sergeant Buzzella during his interview with me.

On January 7, 2022, I listened to the recording of the telephone call between Sergeant Buzzella, Officer DiMouro-Litz, and ADA Tesoniero which was recorded on November 13, 2021 at approximately 12:04 PM. See the attached transcript of this telephone call. (TAB 5)

On January 7, 2022, at approximately 12:20 PM, I spoke with Chief Strout over the telephone. She informed me that, earlier on this date, Sergeant Christopher Furlong handed in his resignation as a Dalton police officer effective immediately. I also asked Chief Strout to check if there were any other phone calls that were retained by the Dalton Police that were recorded on November 13, 2021 between any of the Dalton police officers and any member of the Berkshire County District Attorney's Office.

On January 11, 2022, at approximately 10:30 AM, I left a voicemail message for Attorney Michael Akerson at his law firm, Reardon, Joyce, and Akerson, 4 Lancaster Terrace, Worcester, MA. Attorney Akerson represented Chief Coe during his past administrative hearing with the Town of Dalton. I asked Attorney Akerson to call me to ascertain whether Chief Coe would like an opportunity to speak with me about the investigation in order to get his side of the story.

On January 11, 2022, at approximately 3:15 PM, I spoke with former Sergeant Christopher Furlong, who returned my call from earlier this date. Mr. Furlong stated that he was aware of me and my investigation. I offered Mr. Furlong the opportunity to speak with me regarding the investigation, which he respectfully declined.

On January 13, 2022, I requested and received from Chief Strout the annual Performance Evaluations for both Sergeant Buzzella and Officer DiMouro-Litz for the years 2017, 2018, and 2019. According to Chief Strout, Officer DiMouro-Litz did not have one for 2019 as she had left Dalton PD at that time.

On January 24, 2022, I received and listened to an additional telephone call that was recorded by the Dalton Police Department during the normal course of business. The copy of this call was sent to me by Chief Strout via the U.S. Mail. This call was recorded on the Dalton Police recorded line on November 13, 2021 at 10:32 AM. This telephone call was a conversation between Sergeant Buzzella and ADA Tesoniero concerning, among other things, the upcoming trial and the use, or lack thereof, of the cell phone extractions during trial. See the attached transcript of this telephone call. (TAB 6)

On February 3, 2022, after prior discussions with Attorney Akerson on various dates, Chief Coe provided me, through Attorney Akerson, a written statement regarding this matter. Through his attorney, Chief Coe did not agree to a formal interview with me because of the nature of the allegations, i.e. criminal allegations. See the attached written statement from Chief Coe. (TAB 7)

Facts of the matter

Based upon information and belief including, but not limited to, my review of the material provided to me, the written statements and associated documents submitted with those written statements, the interviews that were conducted by me, the review of the copy of the case folder, specific evidence that was obtained during the course of the alleged sexual assault investigation, the recorded telephone call between Sergeant Buzzella, Officer DiMouro-Litz, and ADA Teseneiro, and the recorded telephone call between Sergeant Buzzella and ADA Tesoniero (both recorded on November 13, 2021), and the written statement of Chief Coe, I have come to learn the following, which is a summary of the events and the investigation into the alleged sexual assaults and not all-encompassing.

On August 15, 2018, at approximately 10:00 PM, a 13 year-old-girl and her mother came into the Dalton Police Station to make a complaint of alleged prior sexual assaults on the 13 year-old-girl (sometimes referred to as the alleged victim). The alleged suspect in the case was identified by the alleged victim as her step-brother. Sergeant Christopher Furlong was on duty at this time and briefly spoke to the girl and her mother. After that brief interview, Sergeant Furlong called Officer Dorothy DiMouro, who was not on duty. Sergeant Furlong asked Officer DiMouro to respond to the police station as she was trained in conducting sexual assault investigations. Officer DiMouro, although trained as a sexual assault investigator by the Municipal Police Training Committee in early 2017, did not have much experience conducting such investigations at that time. At that time, then Officer Deanna Strout (who is now Chief of Dalton Police) was a trained sexual assault investigator with many years of experience in sexual assault investigations, however, was out on injured leave from the department. Officer DiMouro responded to the Dalton Police station that night, spoke with Sergeant Furlong, and then interviewed the 13 year-old-girl and the girl's mother together. This interview was audio/video recorded and summarized within the narrative section of Officer DiMouro's police report. Officer DiMouro learned from the girl that, among other information, she may have made a declaration of one of the sexual assaults to a male friend who was also a minor. Officer DiMouro learned from the 13 year-old-girl that this was communicated through a cell phone application known as SnapChat. The focus on this communication comes under a legal doctrine known as "first complaint," in which the law allows testimony of a person whom the complainant first told of the alleged assault. Officer DiMouro, among other aspects of the investigation, focused on obtaining evidence of this SnapChat communication and elicited the help of then Officer Bustin Buzzella, who is trained in the extraction and analysis of data from cell phones using a software package that was obtained by the Dalton Police Department known as Secure View.

According to Officer DiMouro, on that same evening or into the early morning hours of the next day, Officer Buzzella responded to the station and spoke to the alleged victim and her mother about the alleged victim's cell phone, although Sergeant Buzzella does not have a specific memory of this conversation with either the alleged victim or her mother. The cell phone in question was not in the alleged victim's or her mother's possession at the time and needed to be retrieved and brought back to the station. Officer DiMouro left the station for the night and planned to return the next morning to continue the investigation.

In the early morning hours, on August 16, 2018, at approximately 2:40 AM, according to Dalton Police logs and Sergeant Buzzella, the alleged victim's phone was dropped off at the Dalton Police station by, presumably, both the mother and the alleged victim. (The Dalton Police log states "Parties came in to drop off a cell phone for RMB." These are the user initials for Buzzella). According to Sergeant Buzzella, at approximately 3:37 AM on the same date, August 16, 2018, he began an extraction process of the alleged victim's cell phone using the Secure View software. This process was completed at 6:43 AM, on the same date, August 16, 2018. Officer Buzzella then ended his shift at 7:00 AM. When asked for a copy of the consent form, which was presumably signed by the mother on this date or the night before, neither Officer DiMouro-Litz or Sergeant Buzzella could produce it nor could they tell me where it is located during their individual interviews with me. There was no copy of a consent form that was signed on August 15 or 16, 2018 found in the photocopied case folder provided to me by Chief Strout. (This is pointed out as an inconsistency, not as malfeasance.)

On August 16, 2018, at approximately 7:00 AM, Officer DiMouro began her day shift and continued her investigation. At some point during this date, according to Officer DiMouro-Litz, she had the first of many conversations with Assistant District Attorney Megan Tesoniero regarding the investigation. Officer DiMouro-Litz writes in her statement, "I spoke to ADA Tesoniero many more times over the course of this investigation choosing to work closely with her to assure that (the victim) had the best access to justice for her case as I could provide for her." (Note: This practice of working closely with a prosecutor on an investigation is common among even the most experienced of police officers.)

On August 16, 2018, at approximately 11:38 AM, according to police logs, the alleged victim and her mother came to the Dalton Police station to drop off a copy of a 209A order against the alleged suspect and to retrieve the cell phone that had previously been extracted by Officer Buzzella. Officer DiMouro returned the cell phone to the alleged victim on this date during this visit to the police station.

On August 16, 2018, sometime in the afternoon, Officer DiMouro, Sergeant Furlong, and Officer Perry went to the home that was believed to be the location of one of the alleged sexual assaults. The homeowners, relatives of the alleged victim, were present and Officer DiMouro obtained their consent to search the home with the assistance of personnel from the Massachusetts State Police Crime Lab. The owner signed a written consent form to search the home, a copy of which was found in the case folder. Also while there, Officer DiMouro obtained a statement from the occupants of the home which was summarized and documented within the narrative section of the police report.

On August 20, 2018, at 8:46 AM, Sergeant Furlong sent an email to Assistant District Attorney Megan Tesoniero of the Berkshire County District Attorney's Office. The body of the email indicated that Sergeant Furlong sent a report of this case to ADA Tesoniero on the request of Officer DiMouro because Officer DiMouro was out sick that date.

On August 22, 2018 at 7:07 PM, ADA Tesoniero responded to Sergeant Furlong's prior email and thanked him for sending the report. ADA Tesoniero asked Sergeant Furlong if he or Officer DiMouro could get her a copy of the alleged victim's audio/video recorded statement as soon as possible. ADA Tesoniero further stated, in part, "We would like to review that as soon as possible so that we can make determinations on how to best proceed with the case from here. I will be in the office all day tomorrow, so please have Officer DiMouro call me if she has any questions." Sergeant Furlong then forwarded this email to Officer DiMouro on August 22, 2018 at 10:40 PM

At some point, according to Sergeant Buzzella's written statement, he began his analysis of the alleged victim's phone, and became concerned that the victim "may have been searching the internet for step-sibling pornography," among other concerns. In his interview, Sergeant Buzzella stated that his concerns originated from text messages between the victim and the "first complaint" witness in which pornography was discussed, specifically, pornography involving step-siblings and, further, that nude photographs were exchanged. Sergeant Buzzella stated that he told Officer DiMouro about his concerns more than once. He stated that he was frustrated because he thought that Officer DiMouro did not share the same concerns and that he was not articulating his concerns clearly enough so she would understand.

According to Sergeant Buzzella's written statement and his interview, the Secure View software that the Dalton Police Department was using back in August of 2018

could not capture the internet web browsing history (also referred to as web browsing history throughout this report) of a cellular phone. Instead, this would have to be manually viewed and photographed in order to preserve this particular data. It could also be manually viewed on the cell phone and documented using the screenshot function of the cell phone. (Investigator's Note: The drawback to these methods is that when one views the internet browsing history of a cellular phone in this way, there may be limited information of the particular web page visited; for example, a file name may be truncated such as only the beginning of a title of a video file.)

On August 22, 2018, at 9:41 AM, according to the police logs, Officer Buzzella attempted to contact the mother of the alleged victim via telephone, but the number had been disconnected according to those logs. At the same proximity in time, Officer Buzzella called the local police department and requested that the police make a house call to the mother where she resided. Apparently, the police visited the home, however, the mother was not home at that time and the occupants of the home passed on the message to have the mother call Officer Buzzella.

On August 22, 2018, at 10:43 AM, Officer Buzzella made contact with the victim's mother over the Dalton Police station telephone. (Dalton Police only retain recorded telephone calls for one (1) year). The purpose of this telephone call, according to the police logs, was to have the alleged victim's cell phone returned to the station "so that (Buzzella) could photograph some things on it." According to Buzzella's written statement, the alleged victim's mother came to the station on the same date, August 22, 2018, at 1:23 PM. Officer Buzzella obtained written consent from the mother to search the cell phone. This consent form was found in the case folder. This consent form was apparently signed by the mother, signed by Officer Buzzella, and signed by Officer DiMouro as witness #2. According to Sergeant Buzzella's written statement and his interview, Buzzella took digital photographs of this cell phone's web browsing history using a digital camera of the Dalton Police Department and, at some point, stored these digital images, numbering ten (10) digital images (photographs), on the Dalton Police shared drive. He further stated that these digital images would be accessible for viewing by the entire Dalton Police Department. According to Sergeant Buzzella's written statement and his interview, and my review of these same photographs that Sergeant Buzzella submitted with his written statement, some of the titles included in the web browsing history contained on the alleged victim's cell phone suggested pornographic websites, images, or videos. I also observed one suggestive title that included the term "step sister." Copies of these photographs with nudity and personal identifiable information redacted are attached to this report. (TAB 1) A copy of the consent form referenced above with personal identifiable information redacted is also attached to this report. (TAB 8)

On the same date, August 22, 2018, after taking the photographs of the web browsing history and finding evidence that the alleged victim's cell phone was used to visit pornographic websites, Officer Buzzella entered Chief Jeffrey Coe's office in order to share his ongoing concerns with Chief Coe about what he discovered on the extraction of the alleged victim's phone and the web browsing history just photographed. Buzzella stated in his interview that he believes no one else was present in the Chief Coe's office at the time except for Buzzella and Chief Coe. He stated that he went to speak with Chief Coe because he (Buzzella) was not getting through to Officer DiMouro with his concerns, those being, that the first complaint witness identified by the alleged victim may not be actually the "first" complaint witness, that the alleged victim may have been sending nude photographs of herself to the person she identified as the first complaint witness, and the internet web browsing history found on the alleged victim's phone suggested to him that the phone was used to visit pornographic websites, including a webpage that suggested a title that involved "step-sibling pornography." According to Buzzella's written statement, Chief Coe instructed Buzzella, among other things, "to stand down because this was not your (Buzzella's) investigation," and Chief Coe told Buzzella "that the information was irrelevant" and to "stay in my (Buzzella's) lane." Furthermore, according to Sergeant Buzzella, Chief Coe told him to give the extracted data of the phone to Officer DiMouro for her to analyze the data.

According to Sergeant Buzzella's written statement and his interview, he continued to assist Officer DiMouro after Chief Coe's instructions. Sergeant Buzzella writes in his statement, "Officer DiMouro was previously provided with the entire cellular phone extraction as Chief Coe ordered me to do, but I also continued to provide her with targeted selections to help her locate the data hidden within thousands of printed pages via yellow highlighter and sticky notes."

On August 22, 2018, at approximately 3:30 PM, Officer DiMouro interviewed the alleged suspect in this case at the Dalton Police Department. The interview was audio/video recorded and summarized in Officer DiMouro's narrative report. According to Officer DiMouro's statement, Chief Coe offered guidance to Officer DiMouro with this interview because it was one of her first big interviews of a suspect that she had conducted.

On August 23, 2018, Officer DiMouro brought Officer Buzzella's "concerns" to the attention of ADA Tesoniero. Sometime after that conversation, Officer DiMouro wrote an email to Officer Buzzella, at 2:14 PM, outlining her prior conversation with ADA Tesoniero. The email indicates that Officer DiMouro spoke with ADA Megan Tesoniero

about the investigation on the same date as the email, August 23, 2018. Officer DiMouro writes in the email to Officer Buzzella in part, "I spoke with the ADA (ADA Tesoniero) for the 18-108-OF case today. She does not feel that the pornographic material found on the victims (sic) cell phone is applicable at this time unless there is evidence that the defendant looked up the information or was showing or disseminating the material to her. My understanding is that the victim may be interviewed again and in the interview a pointed question regarding the viewing of web material may be asked. So the answer is ... lets (sic) wait and see what the D.A. wants to do." DiMouro continues in the email requesting Buzzella continue to analyze the cell phone for "first complainant evidence," "Statements or communications between the victim and the defendant," and "keystrokes that may have been typed into the search bar." These requests were bold faced within the body of the email. See the attached copy of this email. (TAB 9)

According to Officer DiMouro's interview, she had a conversation with Chief Coe sometime after this email was sent to Buzzella on August 23, 2018. According to the transcript of Officer DiMouro's interview, her memory of the conversation, in part, is as follows:

Fennessy:

So, on page six, we're going to get into the conversation you had with Chief Coe. You write, "When I approached Chief Coe to voice my support of Officer Buzzella's concerns, and while meeting in his office, Chief Coe changed the subject and told me the following about his opinion of my past work performance."

Fennessy:

Now, I understand the history of it. I'm not going to... That's not my purpose. This meeting happened in the chief's office?

DiMouro-Litz:

Yes.

Fennessy:

Did the chief call you in? Do you have to make an appointment with the chief? How's it work that, or do you just walk into the chief's office, open door policy. "Hey chief, can I run something by you?"

DiMouro-Litz:

So, it was a little bit of two things. There was the open door policy. I was working very close to the chief and the sergeant on this particular case. I was told, "If you have questions, concerns,

bring them to me. I will address them." In addition to that, without getting into too many details, I had been pulled off my overnight shift, which I had previously worked with Buzzella, put on the day shift. And was being very closely monitored by the chief.

DiMouro-Litz:

And because of that, it was... I felt that I was to go to the chief with any questions or concerns in addition to this case. And then, in addition to that, because I was being monitored, there were also instances where I was officially brought in. At times with the union rep, at times not with the union rep, where it was a little bit more formal. So, there were both of those two instances where there would be conversations with the chief.

Fennessy:

Sure. But, okay. And I appreciate it. But when you approached the chief regarding these concerns. Take me there. Put me there. Did you walk in with these concerns open door policy? "I have concerns," and you walked in?

DiMouro-Litz:

Yes. It was more of a open door, casual. "Hey, I've got a question. Buzzella found this, he told me about it. What are your thoughts on this?"

Fennessy:

Sure.

DiMouro-Litz:

What should I be doing with this?

Fennessy:

Right. And who was there? Was there anybody else in there-

DiMouro-Litz:

In the chief's office?

Fennessy:

In the chief's office?

DiMouro-Litz:

Not that I recall.

Fennessy:

So, nobody else had privy to this conversation that you speak of?

DiMouro-Litz:

Not that I recall.

Fennessy:

Okay. And this is how one, you don't recall the date of that, in relationship to August 22nd, August 23rd? Okay.

DiMouro-Litz:

I don't know. I don't recall the exact date, no.

Fennessy:

And you say in your report, that regarding this conversation, when you approached him. You went in there and say, "Hey, Buzzella has concerns. These are his concerns. What's your thoughts on that?" Does he give you his thoughts on it or does he immediately go to these bullet points of your past performance? What was his thoughts?

DiMouro-Litz:

The conversation was him being Coe, when I say him being frustrated about what he felt was Buzzella inserting himself into the case. That he was asked to do a cell phone dump, looking for the text message evidence of the first complaint witness for this case. And that he needed to focus in on that.

DiMouro-Litz:

And so he didn't understand why Buzzella was now bringing up web searches, search histories, and that why was I in turn, going to Coe, the chief, with Buzzella's concerns and that I needed to be an independent officer, think for myself, stop going to Buzzella for guidance, which I had not gone to Buzzella for guidance. Buzzella came to me with a concern. So, it kind of got twisted.

DiMouro-Litz:

So, that was... basically that conversation that I recall was, "Yeah. Okay, I hear you. But you, are once again, doing all the things I told you not to do previously, which is why you're on the day shift."

On August 24, 2018, copies of the audio/video recording of the alleged victim's statement, the audio/video recording of the alleged defendant's statement, and crime scene photographs were transferred to the Berkshire County District Attorney's Office to the attention of ADA Tesoniero. According to Officer DiMouro-Litz' interview, transfer forms are filled out and filed in the case folder when evidence, copies of statements, or

other such material are given over to the District Attorney's Office. This type of form is used to document what is being handed over. Transmittal forms were found in the case folder and some, but not all, were also submitted with Officer DiMouro-Litz' written statement.

On August 29, 2018, the person who the alleged victim identified as the first complaint witness came to the Dalton Police station with his father to speak with Officer DiMouro in the furtherance of her investigation. This person was interviewed by Officer DiMouro with the permission of his father. The interview was audio/video recorded and was summarized by Officer DiMouro in her report narrative. At this proximity in time, permission was asked and granted to take a forensic extraction of the first complaint witness' cell phone. A consent form was signed by the father and Officer DiMouro on that date. A copy of this consent form was found within the case folder. According to Sergeant Buzzella's written statement, he used the Secure View software to successfully extract the data from the phone on September 1, 2018, and the phone was sometime later returned to the owner. (Note: Of the two physical cell phones involved in this investigation, this was the second physical cell phone.)

On September 4, 2018, copies of the audio/video recorded statement of the person who the alleged victim identified as the first complaint witness, mentioned in the above paragraph, were transferred to the Berkshire County District Attorney's Office. A transfer form was filled out and was found in the case folder.

On September 6, 2018, Officer Buzzella provided to Officer DiMouro printed copies of text messages and communications from the alleged victim's cell phone and the first complaint witness' cell phone. Buzzella provided these with highlighted excerpts of text messages and yellow post-it notes with information on the post-it notes such as from which phone he had found the messages and the dates of the messages. Some of these messages were, among others, between the alleged victim and the previously identified first complaint witness. Some of the highlighted portions were those texts that were sexual in nature and messages about the alleged rape. *(It is important to note, however, the printed information from these cell phones that Buzzella hands to DiMouro at this time does not include copies of the photographs that Buzzella took of the web browsing history found on the alleged victim's cell phone back on August 22, 2018.)* While speaking with DiMouro at the time, Buzzella again expressed his "concerns" regarding this investigation because of what he had observed on the cell phones. Officer DiMouro writes in her statement, "Because Officer Buzzella had highlighted and sticky-noted specific references I became instantly frightened that both Officer Buzzella and I would be disciplined by Chief Coe for helping one another and that I would be further disciplined by Chief Coe if I did not report that Officer Buzzella was helping me. I

wanted to make it clear that I was not asking Officer Buzzella for help but that the information he provided was important to the case and that he was the only person that had access to it." At the time, according to Officer DiMouro, she felt that she was under great scrutiny by Chief Coe. Officer DiMouro subsequently went to see Chief Coe to inform him of Buzzella's help.

On September 6, 2018 at 2:03 PM, which is sometime after Officer DiMouro speaks to Chief Coe referenced in the above paragraph, Chief Coe sends an email to Officer Buzzella and Officer DiMouro, cc-ing Sergeant Furlong and Officer Geoffrey Powell (union president) with a subject line, "Sexual Assault Case." In summary, this email outlines what Officer Buzzella is to accomplish on his next shift in regards to the extraction of the data of the two cell phones and his report. The email orders Buzzella to submit both extraction reports from the two cell phones associate with the case and then complete, during his next shift, one supplemental report with two paragraphs (one for each phone) detailing:

- a. The date and time of the extraction,
- b. (A)ny pertinent information that is industry standard for a brief explanations (sic) of what software or process you used to extract that information
- c. How many pages of information were the result of the extraction for each cell phone
- d. The date and time that you turned all of the above over to the lead investigator, Officer DiMouro, for further review.

After doing the above, Buzzella was further ordered in the email to remove himself from all parts of the investigation. See the full copy of this email attached. (TAB 10)

On the same date, September 6, 2018, at 2:09 PM (six minutes after the previous email) Chief Coe sends a relatively lengthy email to Officer Buzzella, also cc'ing Sergeant Furlong and Officer Powell with a subject line that reads, "Remediation." By way of summary, Chief Coe writes in this email further detail regarding his previous email. Chief Coe alludes to a previous face-to-face conversation with Buzzella (presumably on August 22, 2018) in which he instructed Buzzella, among other things, that he was not the lead officer on this investigation. Chief Coe writes, in part, "I told you that is not your job to analyze the extracted information in this case(,) that it is the lead sexual assault investigator's job. You were only being asked to extract it." Chief Coe also wrote, "You then asked what to put in your report and I told you what is in #2 in my email and if asked on the stand why you didn't analyze the information to stated (sic) that it was not your responsibility and were only asked to extract it as the only officer in the department certified and experienced to do so." It was this line that caused Buzzella to believe that he was being ordered by Chief Coe to perjure himself (lie) on the stand

should he be called for trial in this case on a future date because he actually did find information on the cell phone. See full copy of this email attached. (TAB 11)

On September 6, 2018, at 2:31 PM, Chief Coe sent an email to Officer DiMouro and cc'd Sergeant Furlong and Officer Powell with the subject line of "follow up." Within this email, Chief Coe described, in part, his "frustration is due to having one officer who is involving themselves too much when told by me to do otherwise (Buzzella) and another who is taking direction from too many people rather than leading (you)." Chief Coe continued in this email, in part, " This was the second conversation of the same nature regarding this case of Buzzella needing to back off and you being the responsible officer." See full copy of this email attached. (TAB 12)

On September 6, 2018, at approximately 10:45 PM, according to Buzzella's statement, he read the email messages from Chief Coe for the first time. He then spoke with his union president, who was then Officer Geoffrey Powell, over the telephone because, according to Buzzella, he was being ordered to lie on the stand and that the email seemed to him to be disciplinary in nature.

Soon after that telephone call with Officer Powell, on September 7, 2018 at 12:58 AM, Officer Buzzella began to write his supplemental report as Chief Coe had ordered. Within the report, Buzzella describes, in part, that he extracted two cell phones for this case and that an extraction report for both phones were created in a merged PDF format and that each report was placed on a separate USB flash drive, one for each phone that was extracted. Buzzella adds a third and final paragraph stating that, "Both USB flash drives were turned over to case officer Dorothy Dimouro on Friday, September 7, 2018 at approximately 7:00A.M." This supplemental report of Buzzella was last modified, according to the time stamp on the top of the report, on September 7, 2018 at 6:54 AM by Buzzella. Sergeant Buzzella indicated in his interview with me that no other report had been started or finished prior to this report. (It should be noted that Officer Buzzella does not write in this report about his observations of the web browsing history or the photographs that he took of the web browsing history found on the alleged victim's phone on August 22, 2018, during the second consent search of the alleged victim's phone). See the attached copy of the Supplemental Narrative of Patrol Officer Bustin Buzzella. (TAB 13)

Minutes after this supplemental report is completed by Officer Buzzella, on September 7, 2018 at 7:08 AM, Officer Buzzella replies to Chief Coe's original email that had the subject line "Sexual Assault Case." Officer Buzzella apparently did a "reply all" to all parties on the original email. Officer Buzzella writes, "Chief Coe, The narrative

was completed. The data was passed off to Officer Dimouro and I removed my access to the case file. Respectfully, Officer Bustin Buzzella #4, Dalton Police Department.”

Since that time, it appears that Officer Buzzella had no further involvement in the case until November 2021. Nothing in the material, reports, or interviews appears to indicate that he continued to work on the investigation with Officer DiMouro after September 7, 2018.

Officer DiMouro, however, did continue her work on the investigation. On September 18, 2018, Officer DiMouro interviewed the alleged victim a second time and also interviewed the alleged victim’s sister on that date. These interviews were audio/video recorded. These interviews of the alleged victim and the alleged victim’s sister were summarized in the narrative section of Officer DiMouro’s police report. These interview summaries were the last entries made to the narrative section of Officer DiMouro’s report. There is no mention throughout the narrative section of Officer DiMouro’s report of the web browsing history found on the alleged victim’s phone that was observed by Officer Buzzella or that photographs were taken of that information.

On September 25, 2018, some evidence was transferred to the Berkshire County District Attorney’s Office regarding this investigation. Transmittal forms were found in the case folder and also submitted with Officer DiMouro’s statement. Those forms indicate that on this date, September 25, 2018, “Witness and Victim statements x2” and “USB Drive - Cell Phone Data” were handed over to the District Attorney’s Office.

At some point, according to Officer DiMouro-Litz, she scanned and emailed copies of printed text messages and a printed Instagram message thread to ADA Megan Tesoniero that were extracted from the two cell phones in this case. These were the hard copies provided to Officer DiMouro by Officer Buzzella previously. These printed copies were found in the case folder. Some copies had yellow highlighted sections and yellow post-it notes attached, both apparently utilized by Officer Buzzella to draw attention to certain text messages and to indicate from what cell phone the selected messages were from and between which parties the messages were between. Some copies also had ink notations on them. According to Officer Dimouro-Litz, she had made those ink marks as she reviewed the text messages herself. The Instagram message thread is between what her investigation revealed to be the alleged victim and the person who was identified by the alleged victim as the “first complaint witness.” (Note: This Instagram message was found within the photograph application of the alleged victim’s cell phone, which indicates that the user of the phone took a screenshot of the message. There appears to have been no messages printed out from SnapChat as originally focused on by Officer DiMouro.)

A review of the text message threads that Officer DiMouro said that she scanned and emailed to ADA Tesoniero and those found within the case folder consisted of the following:

- a. Text messages between the alleged victim and another person related to her in which the alleged victim declares she was raped by the alleged suspect. These text messages were found on the alleged victim's cell phone. This particular thread may have been the source of some of Officer Buzzella's concerns that the identified "first complaint witness" may NOT be the first person to whom the alleged victim declared the rape because these text messages occurred prior to the Instagram message described above.
- b. Text messages between the alleged victim and the alleged suspect. These text messages were found on the alleged victim's cell phone.
- c. Text messages between the alleged victim and the person who was identified by the alleged victim as the "first complaint witness." These text messages numbered only seven (7) message entries. According to a post-it note attached, which was presumably authored by Officer Buzzella, it appears that the vast majority of the text messages, apparently 354, were deleted from the alleged victim's cell phone. (Note, these messages were presumably deleted by the user of the phone prior to the extraction performed by Officer Buzzella).
- d. Text messages between the alleged victim and the alleged victim's mother. These text messages were found on the alleged victim's cell phone.
- e. Text messages between the alleged victim and the alleged victim's sister. These text messages were found on the alleged victim's cell phone.
- f. Text messages between the alleged victim and the person who was identified by the alleged victim as the "first complaint witness." These text messages were found on the cell phone of the person who was identified by the alleged victim as the "first complaint witness." (i.e. the second cell phone involved in this investigation.)

On December 17, 2018, Officer DiMouro received via fax a summons from the Berkshire County District Attorney's Office to appear before the Grand Jury on this matter scheduled for December 19, 2018. The only two witnesses named to appear before the Grand Jury for this particular case were Officer DiMouro and the alleged victim. Officer Buzzella was not called to testify before the Grand Jury in this matter. According to Officer DiMouro, she testified before the Grand Jury on December 19, 2018 as scheduled. She stated that her testimony did not include any evidence found on either of the two cell phones extracted during the course of this investigation, i.e. text message threads or Instagram messages. (Note, the use or non-use of the cell phone evidence during Officer DiMouro's Grand Jury testimony is mentioned for factual

purposes only.) It is presumed that the Grand Jury returned an indictment of the alleged suspect in this investigation and he was subsequently arraigned at a later date.

After her appearance before the Grand Jury on December 19, 2018, Officer DiMouro received occasional correspondence through the years (2019, 2020, 2021) from ADA Tesoniero. Due to COVID-19, the trial dates were apparently further pushed back. Officer DiMouro stated in her interview that she recalls meeting ADA Tesoniero in Tesoniero's office, but could not recall exactly when that meeting occurred. Furthermore, she could not tell me during her interview what was exactly discussed.

On April 26, 2021 some evidence was transferred to the Berkshire County District Attorney's Office for a "Discovery Request" regarding this investigation. A transmittal form was found in the case folder and also submitted with Officer DiMouro's written statement. That form indicates that "Additional Reports" and "Phone Extractions (1 USB)" were handed over to the District Attorney's Office on this date.

The trial was then scheduled for the week of November 8, 2021. That date was further pushed back and rescheduled to begin on Monday, November 15, 2021 with jury empanelment. According to Officer DiMouro, she had conversation and exchanged text messages with ADA Tesoniero regarding the upcoming trial on November 3, 2021 (telephone conversation), November 4, 2021 (text), November 5, 2021 (text), November 8, 2021, (telephone conversation and text), November 9, 2021 (text), November 10, 2021 (telephone conversation and text), November 11, 2021 (text), November 12, 2021 (text) and November 13, 2021 (telephone conversation and text). According to Officer DiMouro-Litz and a check of the recorded lines of the Dalton Police, the telephone calls between Officer DiMouro-Litz and ADA Tesoniero were presumably through the use of Officer DiMouro-Litz' personal cell phone.

On November 12, 2021, at 2:52 PM, Sergeant Buzzella received a text message on his personal cell phone from ADA Tesoniero wanting to confirm his cell phone number. Sergeant Buzzella was off duty at this time. Sergeant Buzzella replied back that, indeed, ADA Tesoniero had his correct cell phone number. On the same date, November 12, 2021, at 3:20 PM, ADA Melisa Brooks, also from the Berkshire County District Attorney's Office, sent a text message to Sergeant Buzzella asking if he was available to speak over the telephone. Soon after, ADA Brooks and Sergeant Buzzella spoke via their cell phones on November 12, 2021 at 3:21 PM for approximately eleven (11) minutes. According to Sergeant Buzzella's written statement, in summary, he and ADA Brooks spoke about the cell phone extractions. ADA Brooks explained that she was second seat on this trial and was asked by ADA Tesoniero to review the cell phone data in preparation for trial. Sergeant Buzzella explained to ADA Brooks that his police

report would not be very beneficial and that he had concerns testifying at this trial. They discussed, if the Dalton Police still had the actual cell phones in evidence, could the cell phones be handed over to the Massachusetts State Police to extract the data again and to have the State Police review that data. At that time, Sergeant Buzzella was not aware whether or not the cell phones were still in Dalton Police custody. Sergeant Buzzella subsequently checked with the evidence officer, Sergeant Powell, to see if the cell phones remained in Dalton Police custody. Sergeant Buzzella did this by sending an email to Sergeant Powell, who was also off duty at this time.

The next day, on the morning of November 13, 2021, during shift change at approximately 7:00 AM, Sergeant Buzzella spoke with Sergeant Powell and learned that both phones had been returned to their respective owners soon after Buzzella performed the extractions. Sergeant Buzzella then notified ADA Brooks via text message on November 13, 2021 at 7:45 AM that both phones had been returned to their owners.

On the same date, on November 13, 2021 at 10:15 AM, ADA Tesoniero sent a text message to Sergeant Buzzella. In summary, ADA Tesoniero asked Sergeant Buzzella to confirm whether the cell phones belonging to the alleged victim and the first complaint witness were returned to the respective owners after the cell phone extractions were completed. Sergeant Buzzella replied via text message that Dalton Police records indicated that the cell phones were returned after the extractions were completed. ADA Tesoniero then asked if Sergeant Buzzella would be available later on in the afternoon to speak over the telephone to discuss what she was thinking with respect to the cell phone evidence and its use at trial. Sergeant Buzzella replied that he was at the station now, at that time, and if she wanted to speak at that time, to call the station telephone number, 413-684-0300.

Minutes later, on November 13, 2021 at approximately 10:32 AM, ADA Tesoniero placed a call to the Dalton Police station, which is a recorded line, and asked the dispatcher for Sergeant Buzzella. Sergeant Buzzella subsequently came to the phone and he and ADA Tesoniero had a conversation about the cell phone evidence. See the attached transcript of this call titled, "Transcript Telephone Call November 13, 2021 10:32:59 AM." (TAB 6)

At some point after this telephone call, on the same date, on November 13, 2021, according to Officer DiMouro-Litz' written statement, she received a call on her cell phone from ADA Tesoniero. ADA Tesoniero told Officer DiMouro-Litz about the telephone conversation she had just had with Sergeant Buzzella. Officer DiMouro-Litz

told ADA Tesoniero that she was physically with Sergeant Buzzella at this time at the station and she was aware that Sergeant Buzzella was upset.

On the same date, November 13, 2021 at approximately 12:04 PM, a telephone call was made through the Dalton Police recorded line by Sergeant Buzzella to ADA Tesoniero. This call was placed on speaker phone within the Sergeants' office of the Dalton Police Department in order for Officer DiMouro-Litz to listen and participate in the call. Again, the cell phone evidence in this case was discussed by all three participants. See the attached transcript of this call titled, "Transcript of Telephone call between Sergeant Buzzella, Officer DiMouro-Litz, and ADA Tesoniero Recorded on November 13, 2018, at approximately 12:04 PM, Dalton Police Station recorded line." (TAB 5)

On the same date, November 13, 2021, at 4:39 PM, Chief Deanna Strout received an email from ADA Megan Tesoniero with an attached draft copy of a Nolle Prosequi requesting from the court that all charges in this case be dismissed. The nolle pros prosequi stated, "Now comes the Commonwealth and hereby enters a Nolle Prosequi in the above captioned matter. As reason therefore, the Commonwealth asserts that during trial preparation with officers involved in the case, Assistant District Attorney Megan Tesoniero was made aware of exculpatory information previously withheld by the Dalton Police Department at the direction of the prior Dalton Police Department administration."

On November 15, 2021, Chief Deanna Strout received the following email from a reporter with The Berkshire Eagle, which reads in part:

"From: Lawrence Parnass <lparnass@berkshireeagle.com>
Sent: Monday, November 15, 2021 1:27:04 PM
To: Chief Deanna Strout <dstrout@dalton-ma.gov>
Subject: The rape case development

Chief,

We learned today in court that the DA's office is dropping prosecution in a Dalton rape case.

DA Harrington has told me that she will be issuing a statement to us today.

I understand that the issue that led to the nolle prosequi is a possible directive, by a former chief, to keep information on a piece of evidence (a particular finding related to the victim's web search history) out of a police report.

Can I call you on this?

Larry

Larry Parnass

INVESTIGATIONS EDITOR
75 South Church Street
Pittsfield, MA 01201"

On November 15, 2021, a newspaper report by reporter Larry Parness of The Berkshire Eagle was published about the charges against the alleged suspect being dropped. See the attached copy of the article from The Berkshire Eagle. (TAB 14)

Discussion

Sergeant Buzzella, who was then Officer Buzzella, extracted the data from the alleged victim's cell phone using the Secure View software of the Dalton Police Department on August 16, 2018. According to Buzzella, the Secure View software at the time did not capture the web browsing history of the cell phone. Officer Buzzella, did not take photographs of the web browsing history on August 16, 2018. Nor did Officer Buzzella take screenshots of the web browsing history on that date using the cell phone's screenshot feature as he would later explain was his usual course of action during the recorded telephone call with ADA Tesoniero on November 13, 2021.

Soon after the August 16, 2018 extraction, for reasons not entirely clear, Officer Buzzella became "concerned" about the investigation. He attributed his concern then, as he did during his interview with me, with what he had read in the text messages found on the alleged victim's phone. He points to text messages between the alleged victim and the first complaint witness, however, those messages had been DELETED on the alleged victim's phone. It was not until after he extracted the data from the first complaint witness' cell phone that text messages were able to be viewed between the alleged victim and the first complaint witness, and yes, some of these text messages may have caused Buzzella concern. However, that particular cell phone (the first complaint witness' cell phone) had not been successfully extracted until September 1, 2018 after one failed attempt by Buzzella on August 30, 2018. In other words, those text messages that involve alleged nude photographs being exchanged and alleged messages of pornography that Buzzella cites as his concern at the beginning of the investigation were not known to Buzzella because he had yet to extract the first complaint witness' cell phone. Sergeant Buzzella states in his written statement, "My concerns expressed were always in regards to the victim being blindsided by the defense at trial because the information I found was not discussed with the victim ahead of time during a controlled interview."

Notwithstanding the above, Officer Buzzella, on his own volition, contacted the mother of the alleged victim on August 22, 2018 and requested that she bring her daughter's cell phone back to the station in order to look at the cell phone again and to take digital photographs of the web browsing history of the phone. Upon the mother's arrival at the station in the afternoon of August 22, 2018, Officer Buzzella requested of the mother that she sign a consent form, which the mother did. Officer Buzzella signed the consent form as well. Officer DiMouro apparently also signed the consent form as a witness. Officer Buzzella took digital photographs of the web browsing history of the alleged victim's cell phone using the digital camera that was kept in the booking room of

the Dalton Police station. He subsequently stored these images on the Dalton Police shared drive, separate from the Secure View extraction. Although a copy of the consent form found in the case folder shows that Officer DiMouro actually signed the same consent form as a witness to the consent, she did not attribute what Buzzella was doing as having anything to do with web browsing history. According to Officer DiMouro-Litz' interview, she attributed Officer Buzzella's action to documenting a totally separate piece of evidence, that being the Instagram message between the alleged victim and the first complaint witness in which an alleged sexual assault is declared by the alleged victim. The following is an excerpt from Officer DiMouro-Litz interview:

Fennessy:

And I will draw your attention. Sorry I put you on the spot, but I must. On page three. In the middle of the page, at 10:43, call taker is, the call is 18-13027. Do you see that?

DiMouro-Litz:

Yes.

Fennessy:

So in the narrative, it says 8/22/2018 at 10:45. Bustin Buzzella. The narrative says, "Spoke with victim's mom regarding her daughter's cell phone, regarding 18-108-OF. She will bring it by around noon time so I can take a few photos of some information on the phone." Did you ever see that before?

DiMouro-Litz:

I believe that I have seen that before. I think at the time when I saw this, I thought it was the Instagram photos that were included in here. That's what I thought he was taking pictures of.

Fennessy:

Okay. And then subsequently, and we're in agreement that this is days later, right? 8/22?

DiMouro-Litz:

Yeah.

Fennessy:

It's days later than the initial thing, so he brings it back?

DiMouro-Litz:

Yes. Yes.

Fennessy:

Okay. And it's fair enough, but just to reiterate, you think it's the Instagram?

DiMouro-Litz:

That's what I thought at the time. Yes.

Fennessy:

Okay. Now-

DiMouro-Litz:

I thought it was this piece right here, so. (pointing at the Instagram message thread)

Fennessy:

Right.

DiMouro-Litz:

The, because these, I thought it was this. (Showing Instagram chat)

Fennessy:

You thought it was that?

DiMouro-Litz:

That's what I thought it was. Yes.

Fennessy:

Okay. But again, I'll bring you, try to bring you back. Is there discussions regarding even, so even if you think it's the Instagram, is there discussions with him about bringing the victim's phone back, that you recall?

DiMouro-Litz:

Again, that 8/22 lines up with that conversation that Buzzella and I had in the hallway. He may have said he had her bring the phone back in, but I don't have that, the specifics. I just don't.

Furthermore, Officer Buzzella did not print these digital photographs for Officer DiMouro or print them for placement in the case folder. Nor did Officer Buzzella place these digital images (photographs) on a disc or thumb drive to be placed within the case folder. These digital images (photographs), while placed on the shared drive, apparently went unnoticed by Officer DiMouro and apparently forgotten by Sergeant Buzzella at

least three years later, according to the recorded conversations with ADA Tesoniero on November 13, 2021. Sergeant Buzzella stated the following in his interview with me:

Fennessy:

Of her phone. But you also continue, excuse me, again. "You also continue to provide her with targeted selections to help her locate the data hidden within thousands of printed pages via yellow highlighter and sticky notes."

Buzzella:

Yes.

Fennessy:

That's against the chief's .. what you perceive as the chief's order.

Buzzella:

Yes. And because she literally asked me for, for, she asked me for stuff and said, thank you for your help with her email. So, I mean, she's asking me for help is the way I see it. She, she's saying she still needs this stuff. And I'm like, well, it's in the extraction. She can't find it. So I highlight it and I throw sticky notes on it and I scan it and then I give her those targeted selections, even though I was told to stand down. Yes.

Fennessy:

And in your mind, the, the photos that you put on the shared drive...

Buzzella:

Are where they're supposed to be.

Fennessy:

Are where they're supposed to be. And...

Buzzella:

And she said she spoke to the ADA and the ADA wasn't concerned with it. So I...

Fennessy:

But she didn't, she didn't, you, you don't know that she..

Buzzella:

I don't know that she saw them, she didn't ask me for them. And like, you know, I, based on her email, I thought she brought them up with the ADA.

Fennessy:

Okay.

Buzzella:

My concerns at the very least.

Fennessy:

Right.

Buzzella:

And the email says she wasn't concerned with them. So I, I didn't bring up the photos again. I just continued with the highlighted stuff that she asked.

Fennessy:

There's communication, but there's a lot of lack of communication. Is, that fair?

Buzzella:

I, I, I felt like we were... it... at the time. I was extremely confused. Yes. We were talking about the case, but I didn't feel like we were understanding one another about the case. And at the time I had no idea why.

Sergeant Buzzella cites in his written statement that Chief Coe told him that the information that he was bringing to Chief Coe's attention, which included the web browsing history, was "irrelevant." Relevant or not to the case, this evidence was collected at the time, in an official capacity, and steps were not taken to document them in such a way to be noticed and sent over to the District Attorney's Office with other evidence collected and placed in the case folder during the course of this investigation.

It should be noted that both Sergeant Buzzella and Officer DiMouro state in their interviews that Chief Coe did not appear to know that Buzzella called the mother to have her return the phone or that photographs were taken of this web browsing history. According to Sergeant Buzzella's interview:

Buzzella:

No, I don't believe so, sir. I believe I was bringing up so that we could get the phone back in and we could answer those questions.

Fennessy:

So tell me about that. Who makes the decision to bring the phone back in?

Buzzella:

Well, in this case it would have, it would be Officer DiMouro. You know. She's the investigating officer, I'm the assisting officer.

Fennessy:

Okay. Do you have a specific memory of that?

Buzzella:

No. I don't have a specific memory and I believe in this case, I'd have to go back, but I'm pretty sure I'm.. I reached out to have the phone brought back in.

Fennessy:

You did.

Buzzella:

But that's something that I would expect the investigating officer to do. If I said, "Hey, there's something in this extraction that just doesn't make much sense to me." Either there's something missing or I'm not sure we got it all, you know, I'm not going to tell somebody else what to do, unless it's a constitutional type thing. I'm like, "Hey, we might want to see if we can get the phone back and go over a second time." And that's what I was trying to do.

Fennessy:

Did Coe make the decision to bring the phone back?

Buzzella:

I don't believe so. I do recall feeling like Officer DiMouro and I just weren't communicating very well in this case. And at some point I went to the chief with my concerns because, you know, I have to eventually testify to stuff.

Fennessy:

Yeah. And we'll get there. I don't want to cut you off. We'll get there, but I want to know how's the phone, comes back? That's what I want to know... I know you call, we got in the logs, you call mom, you say, I'd like the phone to come back. Is this your own doing? Is it the chief? Is it Furlong? Who makes that decision?

Buzzella:

I believe in this instance, I felt that onus was going to be on me if I didn't have all the facts, because I'm the guy who's certified. I'm the guy who's got to say, I'm the subject matter expert in this case. I'm not going to testify without being certain. And I didn't feel confident that Officer DiMouro was hearing that I felt that this was a problem. So I believe I reached out to mom just out of gut saying, "Hey, can I get the phone back so I can go over it one more time? I think we missed something."

Fennessy:

Yep. And that's fair. Chief Coe was not involved?

Buzzella:

No. I don't..

Fennessy:

He didn't tell you?

Buzzella:

No, I have nothing indicating memory wise or...

Fennessy:

And if you did go to him and say, "Hey, I want to get mom to bring back the phone." If he said, "Don't do that." The phone wouldn't be brought back.

Buzzella:

No. If he had told me not to, I wouldn't have, because I would've been violating an order.

Fennessy:

Sure. So Coe had nothing to do with the fact that the phone comes back and you take pictures?

Buzzella:

To my recollection, three years... No.

Fennessy:

Was Furlong involved ... in that decision?

Buzzella:

I don't believe I spoke to Sergeant Furlong about this case.

Fennessy:

Was the DA's office to your knowledge involved in that decision to bring back the phone?

Buzzella:

I hadn't spoken to them either. I know Officer DiMouro said that she had run some stuff by them, but I.. But I...nobody..

Fennessy:

But DiMouro didn't come back to you... I'm just asking....

Buzzella:

To my recollection, no one from the DA or my department said, "Hey, bring the phone back in."

Fennessy:

Right. Including DiMouro?

Buzzella:

Correct.

Fennessy:

Okay. It was Officer Buzzella's?

Buzzella:

Right, right. Yes.

During other lines of dialogue during Sergeant Buzzella's interview, it appears that Chief Coe was not made aware of the photographs:

Fennessy:

But you have no indication that the chief knew about these photos that you took.

Buzzella:

I'm pretty sure I would've told him that, you know, I found evidence to support my, my beliefs. You know, I wouldn't go into see the chief on a hunch because he, you know, open door policy, but he wanted people to come in with solutions. That was his thing. Don't be a problem, be a solution. So I believe that's why I waited to go to him. Because now I had the, the photos to say, Hey, this is a legitimate concern, but I don't, no I don't print them out. So I don't believe I walked in there with photos and showed the chief. No.

According to Officer DiMouro's interview, she did not cite anything that indicated that Chief Coe was aware of Officer's Buzzella's actions or photographs:

Fennessy:

... So when does it happen that you come to know that Buzzella asked for the phone back, and then not only that, takes pictures of the web history that he's so concerned about?

DiMouro-Litz:

I don't recall knowing at the time I was investigating the case. It had to have been at some point in reviewing it for trial, or I don't recall specifically knowing that at the time. I don't recall knowing that between August 22nd, August 23rd, if that gives you reference point. I don't recall knowing that information at that time. I don't recall knowing that information at the time that I spoke to Megan Tesoniero about Buzzella's concerns. I don't recall knowing that information. I recall knowing that information at some point after that fact, but I don't recall it being something that was alarming to me. So I think that's why I don't recall it.

Fennessy:

How about this, do you recall any conversation with Chief Coe regarding this search, strike that, web history and pictures being taken? Do you re... do you recall Chief Coe telling you this?

DiMouro-Litz:

Not specific to web searches. I had brought Buzzella's concerns to Coe.

Fennessy:

We're going to get to that, but while we're here, did Chief Coe ever say, "We're going to get rid of this evidence?"

DiMouro-Litz:

No.

Fennessy:

"We're going to suppress this evidence."

DiMouro-Litz:

No.

Fennessy:

"Don't give this evidence over to the district attorney."

DiMouro-Litz:

No, that was never said to me, that was never communicated to me by anybody.

Fennessy:

That is fair. And I might be beating a dead horse. If I ask you... Let's take what I say as a fact, I think you, you would agree with me now that it is a fact that that phone was brought back to this police department after August 16th. The initial look, it was brought back and Officer Buzzella requested it back. To your knowledge, who made that decision to call the mother to have the phone brought back?

DiMouro-Litz:

I honestly have no idea. It wasn't me.

Fennessy:

Good enough. And you don't know who?

DiMouro-Litz:

No. No, I don't.... The more I sit here and think about it, the more I don't recall... I recall the initial phone dump. That's what I recall from that night. What I recall is that she didn't have a phone on her at the time she went home, she got the phone, she brought it back. I had gone home after the statement was made, because I wasn't working the overnight shift. So I had left. So Officer Buzzella was conducting the phone situation with them directly without me being involved. So it coming back and forth, I did not know that information.

On November 13, 2021, at 10:32 AM, in preparation for trial, ADA Megan Tesoniero spoke over the telephone with Sergeant Buzzella to discuss the cell phone extractions. This telephone call was recorded by the Dalton Police Department in the normal course of business. ADA Tesoniero explained to Sergeant Buzzella during this call that she did not plan to use Sergeant Buzzella as a witness during trial and that she did not intend to submit into evidence any of the cell phone extracted evidence, including text messages, during the trial, except for the possibility of rebuttal. Sergeant Buzzella told ADA Tesoniero what was concerning him about the cell phone evidence was "regarding things that the defense would want to use," and "It was more about her web browsing history."

During this telephone call between Sergeant Buzzella and ADA Tesoniero, it is quite possible that the following dialogues may have contributed to ADA Tesoniero falsely believing that an original police report was changed or even deleted and a new one created in its place on orders of Chief Coe. The following are multiple excerpts from the recorded phone call:

Sergeant Buzzella (03:58):

So I... This is kind of a... This case was happening during some bad internal politics here in our department. And if you look at my narrative that I submitted, **that wasn't my original**

narrative. That was what I was ordered to submit by our chief at the time. I don't remember the exact, but I know that there was web browsing regarding step sibling pornography. And that was my concern was that the defense was going to see that stuff and like, "All right, well, this wasn't a forced thing. This was something that she was actually looking into and, you know, it's statutory, yes. But it wasn't a forced situation.

(Emphasis added)

ADA Megan Tesoniero (04:57):

Okay. Right, right. There's a ton of data. Ya, I didn't see any of the step sibling stuff, but that web browsing, were you able to see if it was from... You couldn't see dates with that?

Sergeant Buzzella (05:10):

I'm sure there were dates listed. Like I said, **that original report that I submitted on the phone, is no longer part of the case. My chief had me remove that report and strictly document, like I did this phone at this date and time.** This is the data that was on the phone. I did this phone at this date and time. This is the data that was on the phone.

ADA Megan Tesoniero (05:32):

Okay. And that prior report that you would have done, is there any way for you to still access that or not, it's gone?

Sergeant Buzzella (05:41):

To recover it? I don't know. That would be an IMC, that'd be a CAD question that I can ask on Monday of our assistant. **I can ask her to reach out and see if that, there's a way to recover it. I don't know. I honestly don't know. I don't believe there's a paper copy of it.** We are on a recorded line, but in the event, if I got put up on the stand and somebody asked me why my report reads the way it was, I would have to testify, and it would go into a bunch of internal police department conflict.

(Emphasis added)

Sergeant Buzzella (06:22):

In this instance, I feel Officer Litz was set up to fail on this case. There are decisions made at a point when people were targeting her. And, um... **So that's why there's a change in the reports and it's unfortunate,** but I don't believe that anything lost would've been beneficial for the prosecution anyways.

ADA Megan Tesoniero (06:49):

No, but my concern is that it's exculpatory, and I would need to turn that over.

(Emphasis added)

During the following dialogue from this telephone call with ADA Tesoniero, Sergeant Buzzella apparently forgot that he took photographs of the web browsing history on the alleged victim's phone. He mistakenly believed that he performed what is known as "screenshots" of the web history. The following is a excerpt from the recorded telephone call:

Sergeant Buzzella (06:53):

So, the extraction data, I still have the extraction data.

ADA Megan Tesoniero (06:57):

Okay. And all of that is part of the data.

Sergeant Buzzella (07:00):

Yes. So everything I gave you guys that you passed on the defense that should include any of the web browsing history that was reviewed, because if it doesn't get pulled by the software, **it's usually something I take screenshots of.** So let me go through and... Let me go through my system and have a look at that, and I'll get back to you. I agree with you.. I certainly don't want to find us in a situation where we're being hammered for like a Brady violation either.

ADA Megan Tesoniero (07:33):

Exactly, exactly. Yes. That would be helpful. And I'm going to call the first assistant and just see how she wants me to handle this. I know that the evidence itself was obviously disclosed, but **I just have concerns with there having been a report, not knowing about the report, and then you were made to change your report.** I'll just see how she wants me to handle that.

(Emphasis added)

By way of explanation, the "screenshot" method that Sergeant Buzzella ostensibly believed he used can be described as the following: the web browsing history on the cell phone is viewed on the screen of the cell phone itself and scrolled through and then screenshots are taken of what is displayed on the cell phone's screen, thus taking pictures of the web browsing history and having it stored on the cell phone camera roll. After doing this, Buzzella would have used the Secure View software to extract the data from the cell phone, including the screenshots of the web browsing history, and thus, document the web browsing history. However, Buzzella did not perform the screenshot method of documenting the web browsing history.

Both Sergeant Buzzella and ADA Tesoniero end this particular phone call by agreeing that Sergeant Buzzella will look at the extracted data of the alleged victim's cell phone to determine if he documented the web browsing history by taking "screenshots" and reconnect with her after that review. Also, it appears from the dialogue above that ADA Tesoniero believed that Buzzella was ordered to "change" his report.

On the same date, November 13, 2021 at approximately 12:04 PM, approximately one and a half hours after the initial telephone call between Sergeant Buzzella and ADA Tesoniero, what appears to be a follow-up telephone call was placed from the Dalton Police station (on a recorded line) to ADA Tesoniero. This call was recorded while Sergeant Buzzella and Officer DiMouro were on speaker phone in the Dalton Police station and ADA Tesoniero was on her cell phone. During this call, due to what appears to be a lapse in memory, Sergeant Buzzella does not recall again that he had taken photographs of the web browsing history and stored them on the shared drive of the Dalton Police Department back in August 2018. And further, obviously, he now realized that he did not use the screenshot method either to document the web browsing history, thus falsely asserting that the evidence was never documented. The following is an excerpt of the recorded telephone call:

Buzzella:

Can you hear us?

ADA Tesoniero:

Yes.

Buzzella:

So we just went through {alleged victim's} phone.

ADA Tesoniero:

Okay. Records.

Buzzella:

The phone records that we have. So our software doesn't pull internet history. It's something that at the time we had to manually document with screenshots. And that would happen after the first dump.

ADA Tesoniero:

Okay.

Buzzella:

And I have no records of those screenshots being created. And going back and looking at the emails, it looks like I didn't get around to creating those screenshots because I was ordered not to by the chief. I definitely brought up those concerns with the chief and to Dotty because the chief documented them in a reprimand email he sent me.

(Emphasis added)

However, in his written statement, Sergeant Buzzella compares the use of photography versus taking screenshots. Sergeant Buzzella writes in his statement, "I obtained a written signed consent form from (alleged victim's mother) prior to taking photographs of her daughter's cell phone. Photographs were better than taking screenshots because you can prove which phone was being shown in a photograph verse (sic) a screenshot. These photographs would have been placed on the Dalton Police shared drive, accessible to the entire department."

Moreover, this particular cell phone was not kept in evidence by Buzzella on August 22, 2018 in order for him to perform screenshots even at a later time. The Dalton Police logs indicate that on August 22, 2018 at 1:38 PM, the alleged victim's mother came to the station to speak with Officer Buzzella. On the same date at 2:06 PM, Officer Buzzella wrote in the log that the alleged victim's mother "came to the station to have her daughter's phone looked at, 18-207-PR. I (Buzzella) took the phone with {mother's} written consent and photographed some information on it for 18-108-OF. The phone was returned to {mother} before she left." The log further indicates that Officer Buzzella started ("arrived") at 13:25:12 (1:25 PM) and cleared the call at 13:53:00 (1:53 PM) which indicates that the mother and the cell phone were only at the station for approximately twenty-eight (28) minutes.

In another dialogue exchange during this particular telephone call, Sergeant Buzzella reiterates the screenshot method of documenting the web browsing history. The following is another except from the recorded telephone call:

ADA Tesoniero:

Okay. So without... so on the phone extraction that we have, we wouldn't even have documentation of this?

Dimouro-Litz:

No

Buzzella:

No. Ma'am, no.

ADA Tesoniero:

Okay.

Buzzella:

Right. So the software we had at the time did, did not pull internet history. So it was common when we found stuff that we would take screenshots and then add it to the report. **But that wasn't done at this point because I was ordered not to involve myself, in a very lengthy email.**

Dimouro-Litz:

Which furthermore, in addition to that, there is another email that I have read myself that **specifically tells Buzzella not only to change his report, but what to write.**

(Emphasis added)

The above excerpt indicates the lack of memory of what actually occurred. The excerpt also appears to propagate the idea again, in this instance by Officer DiMouro, that Officer Buzzella was ordered "to change his report." However, during her interview with me, Officer DiMouro stated that she later questioned whether Chief Coe ordered a "change" to Buzzella's report. The following is an excerpt from Officer DiMouro-Litz' interview:

DiMouro-Litz:

Initially what he said to Megan was, "I wrote a report, Coe made me change it."

Fennessy:

That's what he said to the one that you weren't privy to, that he just tells you...

DiMouro-Litz:

Yes

Fennessy:

"This is what I said..."

DiMouro-Litz:

So Megan then calls me and says, "Did you know about this?" And I'm like, "What do you mean? What part are you talking about?" And she said, "where Coe made him change the

report." And I said, "I have no knowledge of changing a report. That is, this is all news to me. That I didn't know."

Fennessy:

Okay.

DiMouro-Litz:

So when I hung up with Megan, went back and had a conversation with Buzzella again.. it was, "Okay. Slow down. Did you write a report and change it or did you not write anything but Coe just told you what to say?" He's like, "I don't know. I got to go look." So he starts looking through emails. He starts looking at his part of the case, looking at things. And then it jogs his memory of, "No, he just told me exactly what to include in my report."

Fennessy:

But the cat was out of the bag.

DiMouro-Litz:

But the... Right. So he had already said to her, "I changed my report." And I'm like, there's a difference there. There's a big difference between I wrote a report and I changed it. And well, I had intended to write a report this way and things influenced that. And now I wrote it this way, which I understand the concern, but those are two different things in my mind. They're not the same.

Sergeant Buzzella explained during his interview with me that a misunderstanding occurred as a result of the telephone call with ADA Tesoniero and that misunderstanding may have been caused by his choice of words when describing exactly what had occurred back in 2018. The following is an excerpt from Sergeant Buzzella's interview:

Fennessy:

And when you say, "Stuff wouldn't be lost," that would be email communications. The evidence was never lost.

Buzzella:

No, sir. No. The evidence was never lost. And based on the Berkshire Eagle article, I think the DA's Office understood it as being lost, or deleted, but it wasn't. I just, sitting there on... I believe it was a weekend... On the phone with them when my Chief and my administrative assistant weren't in the office. I couldn't access this stuff. As soon as they came in, the following day, we found this stuff.

Fennessy:

Right, because it had been-

Buzzella:

Archived.

Fennessy:

... It'd been archived. Well, so that's true, but, what made them think... is there anything that you can think of, What made them think that the evidence was lost?

Buzzella:

Off the top of my head, we talked about.. they asked me questions I told them I couldn't answer right now, because I don't have all the information in front of me. You know, I told them that there were.. that I took photos. They said they didn't have the photos. You know, I told them that Chief Coe ordered me to, you know, I think I said, "Change my narrative," and when I use the word "change," I don't mean "alter" cuz I hadn't... cuz I mean changed my process of what I would write in a narrative.

Buzzella:

So, I think... I think there is some miscommunication between me and Officer DiMouro on our end, on the speaker phone with the ADAs, who were the two ADAs on the phone. I think there was a huge miscommunication on a weekend when they were going to trial the next morning. And it was just bad timing with that, because had they waited 12 to 14 hours, the information that I couldn't access could have been sent to them, and they could have asked for a continuance so that the defense attorney had a chance to review the data, but, you know, it's unfortunate, for whatever reasons, nobody reached out to me from the DA's Office to prep me at all, or asked me questions or shared concerns with the narrative. I had been locked out of the case because I was ordered to remove myself from it. So, I was clueless as to what went out, to who, to when, and the first moment, I was like, "Hey, I have serious concerns with this case." And I laid them all out.

It should be noted that, unless there is another conversation that I am not aware, Sergeant Buzzella does not indicate during those recorded conversations with ADA Tesoniero that he had taken "photos" as he stated above. It can be argued that had Sergeant Buzzella remembered the photographs and told ADA Tesoniero of their existence, he may have been able to find them on the archived drives and retrieve them prior to the filing of the nolle prosequi.

At the time of these recorded telephone calls, the web browsing history evidence was in fact stored on the archived drives of the Dalton Police Department. According to

Sergeant Buzzella, these photographs (digital images), hard copies of which he submitted with his written statement to Chief Strout, were subsequently found by the administrative assistant of the Dalton Police Department a couple of days later on the archived drives.

Sergeant Buzzella stated in his interview with me that he stored the digital photographs on the shared drive. During his interview, Sergeant Buzzella described the file structure of where he placed the digital photographs of the web browsing history:

Fennessy:

And I think we went through this. So, then you store these photos.

Buzzella:

Yes.

Fennessy:

And how do you do that?

Buzzella:

So, this particular camera has a SD card. So I would've taken out, stuck it in the laptop, then copied them from the laptop to a folder called "shared." Inside of the shared drive, there's dozens of other folders, but it would've went into "shared photos" and then the photos are broken down by year. So it would've went into "2018." And depending on who the officer is putting it in, it might just be dumped into a folder under 2018 with a case number. And then some of the officers use the month breakdown as well. And I would've put it in whatever month this case started with. So August, let's say, I think it's August. So it'd be 2018, then it'll be August. And then it would be the case number that it's 180-OF.

During his interview with me, Sergeant Buzzella described why he did not print out the photographs for Officer DiMouro or for them to be placed in the case folder:

Buzzella:

They were located on the backup drive in the folder structure that I described, which would've been the original structure on the shared drive.

Fennessy:

And you didn't print them out?

Buzzella:

No.

Fennessy:

Is there a reason why you didn't print them out?

Buzzella:

I, I mean I usually don't print pornographic material. I try to avoid printing pornographic material. I put it usually on a disc or a thumb drives so that we can control who it goes back and forth to.

Fennessy:

Okay. That's .. that's pornographic. I, I couldn't really see that, but that's what you consider pornographic, that last page of the... Pictures.

Buzzella:

Okay. Yeah. And these, these pictures that you have were printed as part of this investigation.

Fennessy:

So they weren't printed at the time?

Buzzella:

No, they were stuck on the share drive.

It should be noted that Buzzella did not place these digital images (photographs) on a disc or thumb drive to be placed within the case folder as he suggested to be his usual practice in the above cited dialogue.

During his interview, Sergeant Buzzella explained that it was Officer DiMouro's responsibility to find these photographs on the shared drive, under the file structure that he described above. The following is an excerpt from Sergeant Buzzella's interview:

Fennessy:

Okay. Did he (Chief Coe) tell you not to share these pictures that you have taken with Officer DiMouro?

Buzzella:

Verbatim? No. I don't think he ever said don't share these pictures with Officer DiMouro. I was told to stand down. It wasn't my case. You know, he, I was told, you know, you dumped the phone, you're done.

Fennessy:

But you also had mom come back in, and executed a consent search.

Buzzella:

Well. I think I had mom come in before I spoke to the chief.

Fennessy:

That's correct.

Buzzella:

Yeah.

Fennessy:

That's according to what you said.

Buzzella:

Yes.

Fennessy:

So it's already done.

Buzzella:

Yeah.

Fennessy:

And so I'm trying to get at, is there a reason why you don't take these pictures and give them to Officer DiMouro ?

Buzzella:

Well, I was, I was told it wasn't my case. I was told to stand down.

Fennessy:

Well, you, you, you, you continue to help her.

Buzzella:

Yeah. I, I, I did, because I, I was like this, I saw this case going to trial and I saw bad stuff happening. You know, 2018, like Brady list started to be the like hush word, I don't know if I use that correctly. But like the, the thing being said and I, I'm not going to lose my job because of any reason, like, that's not. So, you know, and Officer DiMouro, I felt was like, I... we went to the academy together, worked years together on the same shift, you know? So yeah, I was told to stand down and I kind of tried to stand down and make sure she wasn't failing herself years later. You know what I mean? So, you know, I gave her the stuff that the chief wanted me to give her. And I tried to highlight stuff that I raised concerns with.

Fennessy:

And you, you, ... based on your conversation, even though he didn't speak of the pictures, you considered the pictures, something totally different.

Buzzella:

Well, I don't understand what you mean by totally different. **Cause I put them, I put, I put the pictures where I put all my, all case pictures.**

Fennessy:

Sure. I, I understand. **But you know, they weren't given to DiMouro.**

Buzzella:

They were.

Fennessy:

How?

Buzzella:

She's the case Officer. It's her responsibility to go through before she sends a case to court and ensure all the photographs are there. **So I gave them to her without handing them to her.**

Fennessy:

Okay. So, so my understanding is that it, since it's on the shared drive it's her responsibility to go to the shared drive?

Buzzella:

As the lead Officer, yes.

Fennessy:

As lead officer...

Buzzella:

There's a checklist in our arrest reports that Chief Coe generated years ago, and you're supposed to initial, and one of those things in there would be to attach all relevant case photos. **So I put those photos there, expecting her to find them, attach them to the case, and they'd go off to the DA's office.**

(Emphasis added)

I submit that it is difficult to credit Sergeant Buzzella with his multiple assertions at the same time, which taken separately, appear to suggest personal exemption from any responsibility. First, during the telephone call with ADA Tesoniero on November 13, 2021, Sergeant Buzzella claimed an order from Chief Coe prevented him from documenting the web browsing history in the first place. Second, his claim that Chief Coe's order "to stand down" and that he was told by Chief Coe that it wasn't his case prevented him from sharing the photographs with Officer DiMouro, as he claimed in the above interview excerpt. And third, to also claim, as he did in the interview excerpt cited above, that he indeed documented the web browsing history, "gave them (the photographs) to her (Officer DiMouro) without handing them to her," and that he "put those photos there (on the shared drive), expecting her to find them, attach them to the case, and they'd go off to the DA's Office."

I also suggest that Officer DiMouro-Litz is not beyond reproach in this matter. Officer DiMouro-Litz stated that she never saw the digital photographs of the web browsing history before I showed them to her during her interview with me on January 4, 2022. Officer DiMouro-Litz claimed during her interview that she misunderstood or was unsure of what Buzzella was doing as to why the mother was returning the cell phone on August 22, 2018. However, when the mother of the alleged victim returned the cell phone to the police station for a second time on August 22, 2018, the mother signed a consent form, Officer Buzzella signed the consent form as the officer seeking consent to search, and Officer DiMouro signed the consent form as a witness, presumably while the mother was still present. These actions, along with photographing the web browsing history, were official acts of two Dalton Police officers at the police station in order to seize and/or otherwise document evidence in this case. Both officers admit in their interviews that there was no indication that Chief Coe had prior knowledge of these actions of the officers and there was no information discovered that he had knowledge of these actions prior to them occurring. Further, Officer DiMouro made certain assertions to ADA Tesoniero during the following excerpt of the recorded telephone call:

ADA Tesoniero:

And here's my concern is with you being directed to stop doing anything on this, Buzzella, now that extraction report that I provided doesn't include any of the web browsing which is definitely going to be considered exculpatory information by defense counsel.

Buzzella:

Correct because...

ADA Tesoniero:

You know?

Buzzella:

Right, at that time, the only way to include that or like social media stuff is I had to manually take screenshots because the software we had didn't grab that information.

Dimouro-Litz:

So basically, Buzzella would've had to have continued further in his own investigation. Now, the thing that makes it difficult is I'm the trained sexual assault investigator, but Buzzella is the trained cell phone forensic investigator. So by telling us to leave each other out of it, is not beneficial to the victim. Does that make sense to the case?

ADA Tesoniero:

Yes.

Dimouro-Litz:

We have to work together as a team in order to do this case. Period. There's no other way to do it because I don't have the knowledge and the information that Buzzella has, and he doesn't have the knowledge or information that I have. We have two separate specialties coming from two different directions. So while what Buzzella is saying is absolutely a factor, it also has to be considered in the guise of a sexual assault and all the training that goes into that. So when you've got a chief pitting one officer against the other, which is what happened, this is what you have. So that's what has occurred here. And it's very clear. We have.. I'm.. I'm over the moon that Buzzella kept this emails because this is a two page single space. There are three different emails that I have in front of me, but this email is single space, 1, 2, 3, 4 paragraphs telling Buzzella how he needs to stand down and back off and let me fall on my face.

In light of the preceding, I submit that Officer DiMouro need not be trained in cell phone forensics in order to be the least bit curious about, and document within her narrative report, the observations of Officer Buzzella or document that which he photographed that day under the authority of a signed consent form, particularly in light of Buzzella's repeated expressions of concern. Furthermore, it appears that Officer DiMouro did not, at the very least, make certain that Officer Buzzella documented in his report the results of the consent search, nor does it appear from her interview with me that she even asked him about what he had found specifically, only that it remained as

"Buzzella's concerns." While it may be convenient to cite Chief Coe's directives, none of which were expressed at the time the mother brought the cell phone back to the station, this failure of communication between Buzzella and DiMouro may go precisely to Chief Coe's argument and his direction to Officer DiMouro that she take the lead in this investigation.

Conclusion

It has been over three years that has passed since this case began with a young girl and her mother walking into the Dalton Police Department on August 15, 2018 and the scheduled trial date of the alleged suspect on November 15, 2021. One reason to note is the unfortunate emergence of COVID-19 which caused much disruption to court schedules throughout the Commonwealth. Memories appear to have faded since the infancy of this investigation and miscommunication at the time between Chief Coe, Officer Buzzella, and Officer DiMouro appear to have taken place.

During the telephone conversations on November 13, 2021 between Sergeant Buzzella, Officer DiMouro-Litz, and ADA Tesoniero, catastrophic misinformation was communicated to ADA Tesoniero of the Berkshire County District Attorney's Office.

During the course of my investigation into this matter, and in light of the report from The Berkshire Eagle, fundamental allegations/questions came to my mind and were my main focus:

1. Was evidence in this sexual assault investigation intentionally suppressed, deleted, or otherwise withheld from the Berkshire County District Attorney's Office on orders of Chief Coe either verbally or through his email messages that were cited by Sergeant Buzzella ?
2. Were original police reports deleted or modified by any officer during the course of the sexual assault investigation on the orders of Chief Coe ?
3. Did the conversations between Chief Coe and Officer Buzzella and/or the subsequent email from Chief Coe to Officer Buzzella regarding Buzzella's cell phone extraction/analysis work on the case constitute an order to commit perjury (suborn perjury) ?
4. Has any of the above occurred during a previous investigation by the Dalton Police Department under the administration of Chief Coe ?
5. Have department rules, regulations, policies, or procedures been violated by current or former members of the Dalton Police Department in the matter of handling of evidence and report writing concerning this particular sexual assault investigation in 2018 ?

As to Allegation/Question #1, evidence consisting of web browsing history of the alleged victim's cell phone was the main topic of discussion during the recorded telephone conversation between Sergeant Buzzella, Officer DiMouro-Litz, and ADA Tesoniero which occurred on November 13, 2021 at 12:04 PM. During that conversation, a purported claim was put forth to ADA Tesoniero that this exculpatory evidence was not documented and the reason that this evidence was not documented

was on specific orders of Chief Coe. In reality, this exculpatory evidence was indeed documented and it was documented apparently without the knowledge of Chief Coe. While it is true that the photographs of the web browsing history of the alleged victim's phone were not made available to the Berkshire County District Attorney's Office in preparation for trial, I respectfully submit that this evidence was not intentionally withheld from the District Attorney's Office or the defense attorney. The failure to produce this web browsing history evidence is best described as unforced errors on the part of Sergeant Buzzella and, to a lesser extent, Officer DiMouro-Litz. The purported order of Chief Coe to withhold, delete, suppress, and/or to not document the evidence in this case simply did not occur.

Furthermore, it is possible and most likely so that Sergeant Buzzella subsequently remembered his prior actions from 2018 while reviewing the police logs during the preparation of his written statement that he had submitted to Chief Strout. Those logs clearly suggest that on August 22, 2018, he photographed this evidence in question.

If it is to be presumed and argued, however, as Sergeant Buzzella does, that he did not document and bring forth these photographs because he was following the orders of Chief Coe, I suggest he was regrettably mistaken to omit his actions and findings in his supplemental report. I submit that Chief Coe's directives, either verbal or through email, should not have been interpreted by Officer Buzzella as an order to disregard this photographic evidence. Chief Coe writes in his email to Officer Buzzella on September 6, 2018 to include, "any pertinent information that is industry standard for a brief explanations (sic) of what software or process you used to extract that information." (underline emphasis added). I submit that taking photographs of a cell phone's web browsing history, while limited, is a process by which the web browsing history is "extracted" from the cell phone, albeit not by way of forensic software. In this case, photographing the web browsing history of the cell phone was an official act of Officer Buzzella under the authorization of a signed consent form. Moreover, taking photographs of the data on a cell phone, while limited, is an industry standard process of documenting such data, and the action and findings should have been documented in some type of official report, if not within the body of Officer Buzzella's supplemental report. In addition, it would be reasonable and prudent for Officer Buzzella to complete a report documenting his photography forthwith and to take affirmative actions to make the report and the photographs available to the lead investigating officer and the prosecution.

According to an article entitled, "The mobile forensics process: steps and types," this type of extraction using photography is described as "manual extraction." The article reads, in part:

- **Manual extraction** The forensic examiner merely browses through the data using the mobile device's touchscreen or keypad. Information of interest discovered on the phone is photographically documented. This process of manual extraction is simple and applicable to almost every phone. While there are some tools designed to make this process easier, it is not possible, however, to restore deleted data this way.
<https://resources.infosecinstitute.com/topic/mobile-forensics-process-steps-types/>

To buttress this argument further, I submit the following excerpt from Sergeant Buzzella's own interview:

Fennessy:

Okay. So the... have you taken photos like this for any other case?

Buzzella:

You mean photos of the phones?

Fennessy:

Yes.

Buzzella:

Yes. Yeah. Differ... For burner phones, for example, the real cheap phones, the software will rarely communicate with the phone. So a lot of times we have to sit there and hold the phone and photograph as we swipe through the data.

Fennessy:

That's documented?

Buzzella:

Yes. It's not the preferred method because you don't have that, you know, cookie trail, but it's better than nothing.

Fennessy:

Is that taught?

Buzzella:

Yes. Yeah it's a...

Fennessy:

It's an industry standard, wouldn't you say?

Buzzella:

It is, yes. That was the first industry standard before the software came along. That's all we had. So yes, it is a taught method.

Fennessy:

Are the photos part of the extraction?

Buzzella:

No.

Fennessy:

Why is that?

Buzzella:

So the photos were taken with a camera and they were put on the shared drive. The SecureView cabinet is completely separated from the shared drive to limit access and risk of digital evidence being deleted. The only stuff on the extraction report are things that the software pulls.

Fennessy:

So in your mind, you distinguish that's the extraction, and I took photos of the...

Buzzella:

Of the phone afterwards, yes.

Fennessy:

... of the phone... So the phone, when you took pictures, that wasn't.. you know, there was no report to that. There was no supplemental to that or anything like that, right?

Buzzella:

At that time, no, it was just the call log.

Fennessy:

Okay. Is the.... We've agreed that the taking photos of phone is an industry standard.

Buzzella:

Yes.

Fennessy:

Is it a process?

Buzzella:

What do you mean by process?

Fennessy:

Well, is it a process? It's one way of getting data.

Buzzella:

Yes. It is one way of getting data. Yes. You know, it's worth mentioning because you asked if it's something that's taught, we recently upgraded from SecureView to DATAPILOT. And in part of my certification, they retaught that method using the new hardware where it merges that into the extraction report so it's one fluent thing. So yes, they still teach photographing of a phone.

Fennessy:

Very good. And it would reside all with that extraction?

Buzzella:

Right. And if this case happened today and I had to bring a phone back and photograph it, it would all be in one report. Yes.

Furthermore, it would have been reasonable and prudent to store these photographs, not only on the shared drive as Officer Buzzella did at the time, but also in other ways such as on the USB Drive he prepared for Officer DiMouro that contained the other data that was extracted from this particular cell phone by the Secure View software. It would also be reasonable for these photographs to have been made available to Officer DiMouro in printed form as Officer Buzzella did with the printed text messages and Instagram message, or to burn them to a CD, DVD, or thumb drive and to place that media in the case folder. Or, at the very least, it would have been reasonable and prudent to have simply told Officer DiMouro of their location on the shared drive so she could retrieve and examine them herself. I suggest that none of the aforementioned would have violated any order or directive of Chief Coe.

Chief Coe's directive, in his email to Officer Buzzella, referencing their prior conversation about the matter, does not appear to preclude Officer Buzzella from sharing information with the lead investigator as Sergeant Buzzella suggests in his written statement. Chief Coe writes in the email to Buzzella, "During the conversation you then asked me what happened if while extracting the info you found evidence of another first complainant or crime. I again told you it was not your job to analyze the extraction and only the lead officer's job because they had the most knowledge of the case and you had very little but if you saw something that you felt you should let the lead investigator know then to do so and complete the following tasks above."

(Underline emphasis added).

As to Allegation/Question #2, the word "change" when referring to Buzzella's police report was bantered about by Sergeant Buzzella and Officer DiMouro during their conversations with ADA Tesoniero. Other dialogue such as, "(M)y narrative that I submitted, that wasn't my original narrative. That was what I was ordered to submit by our chief at the time," and "(T)here is another email that I have read myself that specifically tells Buzzella not only to change his report, but what to write," and "Like I said, that original report that I submitted on the phone, is no longer part of the case. My chief had me remove that report and strictly document, like I did this phone at this date and time," may have caused ADA Tesoniero to believe that an original report was deleted or otherwise modified. However, both Sergeant Buzzella and Officer DiMouro seem to dial down those assertions during the course of their interviews with me which was cited previously in this report.

Chief Coe writes in his written statement: "At no time did I order, request nor imply that Officer Buzzella should lie, change nor delete an existing report on this matter or any other investigations. I simply asked that he get a report done."

During the course of my investigation, there was no credible information offered or that I discovered that indicated Chief Coe ordered any member of the Dalton Police Department to delete, change, remove, or otherwise modify an original police report during the course of this sexual assault investigation. As stated prior in this report, Officer Buzzella's supplemental narrative report that he submitted was started on September 7, 2018 at 12:58 AM and last modified on September 7, 2018 at 6:54 AM. No other report was created before or after this approximate six hour time frame by Officer Buzzella regarding this investigation.

As to Question 3, Sergeant Buzzella stated during his interview that he believed at the time and believes now that Chief Coe ordered him to lie or lie through omission if he should ever testify about his extraction and analysis of the cell phones. It appears that Sergeant Buzzella's personal notion that Chief Coe was ordering him to lie or perjure himself while on the stand is based on specific lines in Chief Coe's September 6, 2018 email which reads, "You then asked what to put in your report and I told you what is in #2 in my email and if asked on the stand why you did not analyze the information to stated (sic) that it was not your responsibility and were only asked to extract it as the only officer in the department certified and experienced to do so. My conversation was very detailed and clear. I took the time during that discussion as a 'learning moment' expecting you to do what I said at that time and for future cases that you were not the lead investigator on."

Chief Coe, in his written statement, recalled the conversation as such: "During this face-to-face conversation, Buzzella asked me what he should do if he was questioned on the witness stand about why he did not do the analysis and a full report. I told him that (he) could simply explain that he was asked by DiMouro, the case officer, to image the phone with the department's software, provided her with the disc and any relevant information and left the final analysis of evidence for DiMouro. What I told Buzzella is consistent with my training and experience with investigations. One overall report is prepared by the lead investigator who will presumably spend the most time on the witness stand and won't want to be blindsided about details another officer knew of but didn't inform the case officer about."

Chief Coe's explanation is reasonable. It appears what Chief Coe was telling Buzzella about his testimony was in response to Buzzella's counter argument to Chief Coe that Buzzella is the only officer in the unique position, due to his training, that can "analyze" the data extracted from the cell phone which apparently includes reading and highlighting certain selections of the data. It appears that Chief Coe disagreed with this argument and suggested that Officer DiMouro could "analyze" the data herself in printed form and may be in a better position to do so. Furthermore, it may be dubious to believe that this "remediation" email by Chief Coe would be the genesis which forces a police officer with Sergeant Buzzella's training, knowledge, and experience to perjure him/her self about his/her actions or inactions during the course of the sexual assault investigation.

As to Question 4, Sergeant Buzzella stated in his written statement that what transpired during the sexual assault investigation as to his analysis of cell phone evidence has not happened in the past or since. During his interview, Sergeant Buzzella cited another investigation in which Chief Coe purportedly ordered Buzzella to stop an ongoing investigation into a harassment case. However, this investigation, according to Sergeant Buzzella, has since continued under Chief Strout. According to Sergeant Buzzella, there is an abundance of evidence that was obtained during the course of this particular investigation and charges are pending and an assistant district attorney is assigned to the case. According to Sergeant Powell, this large amount of evidence was obtained during Chief Coe's administration. Sergeant Powell stated during his interview:

Powell:

He (Buzzella) had another investigation that I know he's brought up that he was pulled off the case for. The case was done. The case was a milk crate full of documents, a literal milk crate because I had to store it all the time. Charges had been filed. This girl had been sent away. She'd been sent to Bridgewater to a mental institution for a while in this case. His problem was ... is Buzzella wouldn't let it go. And every time something new came up that these people came in, he's writing new search warrants, he's taking himself out to the DA's office during the day. And

chief was saying, "You can't create your own overtime. You didn't get approval to go do that. Ask the day shift to go out for you." And he kept doing it and doing and doing it. Finally the chief said, "You're done. You're off the case. The case is over. Anything else comes in, it goes to Sergeant Furlong. I'm done with it."

Chief Coe describes his actions regarding this particular investigation cited above in his written statement. Chief Coe wrote, in part: "There was one case in 2019 where I ordered Buzzella to not do another search warrant for information pertaining to a misdemeanor criminal harassment case. This case was extensively investigated with several search warrants obtained and served on vendors attempting to tie the suspect to numerous victims. The best chance at connecting the suspect to the crime was with a search warrant of the email address for subscriber information which in fact identified and connected the suspect. The DA's office was consulted with, charges were filed in court and the case was successfully prosecuted in January 2022. The reason I told Buzzella not to do another search warrant affidavit was because there was already sufficient evidence for a successful prosecution and because I did not think getting another search warrant would be fruitful."

I find Chief Coe's answer to be reasonable, especially in light of the statements of both Sergeant Buzzella and Sergeant Powell during their interviews and I found that there has been no other occurrence as that which was purported to have taken place.

As to Question 5, the following is for discussion purposes only and to fulfill the agreement between Colando Investigative Services, LLC and the Town of Dalton to advise of any policy violations of any member of the Dalton Police Department discovered during the course of this investigation. The following is in no way a recommendation to bring administrative charges or discipline, particularly, for two reasons:

1. There was no warning given to those interviewed at the beginning of the interviews about the scope of the investigation which included the investigation into possible policy violations;
2. Sergeant Buzzella, who held the rank of officer in 2018, did not have union representation present during his recorded interview.

The Dalton Police Department does not have a specific policy/procedure as to "digital evidence" or a specific policy as to the extraction, preservation, or the reporting of cell phone data. The policy that dictates the handling of evidence in general is Standard Operating Procedure 601 entitled "Collection and Preservation of Evidence." This policy states, in part, "It is the policy of this department to: Properly collect, record,

and preserve items recovered of potential evidentiary value.” (SOP 601, Section II, C, page 1 of 8).

In addition, this particular policy, under “Reports,” further dictates, in part, “The officer responsible for processing the crime/incident scene shall submit a detailed report of the investigation to his/her supervisor as soon as possible. The report shall include: The actions taken at the scene, including photographs, measurements, and a listing and disposition of physical evidence recovered.” (SOP 601, Report, page 7 of 8).

Although this policy’s main focus is on the collection and recording of “physical” evidence, this policy is reasonably cited to address any evidence seized during the course of an investigation, including digital evidence (data), in the absence of a specific policy addressing such digital evidence, such as that from a cell phone.

Although Officer Buzzella documented the evidence of the web browsing history of the cell phone by photographs, it can be argued that he failed to provide a report of this official action for the case folder, only documenting his actions within the Dalton Police log. As explained above, notwithstanding Buzzella’s apparent misunderstanding of Chief Coe’s directives, whether verbal or through email, it should not have prevented an officer of Officer Buzzella’s training and experience from documenting these official actions in an official police report forthwith.

Findings

1. As to the allegation that evidence in this sexual assault investigation was intentionally suppressed, deleted, or otherwise withheld from the Berkshire County District Attorney's Office on orders of Chief Coe either verbally or through his email messages that were cited by Sergeant Buzzella ?

Exonerated

2. As to the allegation that original police reports were deleted or modified by any officer during the course of the sexual assault investigation on the orders of Chief Coe or anyone from his administration ?

Exonerated

3. As to the question, did the conversations between Chief Coe and Officer Buzzella and/or the subsequent emails from Chief Coe to Officer Buzzella regarding Buzzella's extraction/analysis work on the case constitute an order to commit perjury (suborn perjury) ?

Not Sustained

4. As to the question, has any of the above occurred during previous investigations by the Dalton Police Department under the administration of Chief Coe ?

Not Sustained

5. As to the question, have department rules, regulations, policies, or procedures been violated by current or former members of the Dalton Police Department in the matter of handling of evidence and report writing concerning this particular sexual assault investigation in 2018 ?

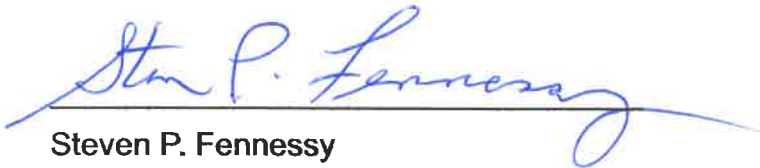
As to Officer Buzzella at the time in August 2018, Sustained

SOP 601 Collection and Preservation of Evidence

Recommendation

I respectfully recommend that Chief Strout explore drafting and then promulgating a policy specific to cell phone evidence, including but not limited to, the acquisition or extraction of such cell phone data, the various methods used to collect the data, retention of digital evidence, analysis of the data, and reporting. May I further suggest this policy be reviewed by personnel from any one of the law enforcement agency digital forensic laboratories located within the Commonwealth of Massachusetts before publication.

Respectfully submitted,



Steven P. Fennessy

Colando Investigative Services, LLC

Date: 2-18-2022