

Internal Investigation (Informal Inquiry): Sgt. B, Officers U, V, X, Y, Z and AA

A review of the case files shows Captain Wagner being assigned to conduct an informal inquiry into the conduct of the above listed officers relative to an occurrence at an ice rink on December 2, 2017. This task was assigned by Deputy Chief Morin after receiving a complaint from the Attorney General's Office as to the conduct of said officers. Some of the content provided appears to have been unable to be reviewed due to technological issues. Rather than finding technology that would allow for the agency to view this video content, a document stating that the Apple videos were not compatible with the program available was offered. (After the incident was highlighted in local media, the third video was accessed.) A memorandum summarizing a partial review of the information from the Attorney General's Office stated that the Salem PD had not received a formal complaint. No attempt was made to contact any of the parties involved in the incident. It is Kroll's opinion that this is an incomplete investigative effort and should not have been handled as an informal inquiry when it clearly meets the criteria for a formal complaint and a subsequent investigation. While the allegation is not the most serious in nature we have seen, the pattern of handling complaints from the public informally, incompletely and without regard to the definitions established in the Salem PD's General Orders are consistent across all levels of severity of allegation.

On December 2, 2017, four Salem PD officers arrested a youth hockey coach, after tazing him and wrestling him to the ground. Spectators claimed that he had done nothing wrong, and one officer was seen attempting to distract people from videotaping the incident by flashing his flashlight at the crowd.

The suspect's lawyer filed a complaint with the Attorney General's Office, including with his complaint 15 affidavits of witness statements supporting the defense's allegations and three cell phone videos. The Attorney General's Office concluded that there was no criminality in the officers' actions and referred the matter to the Salem PD for administrative review. In the letter sent to Anderson's attorney by the Attorney General, there was no direction to contact Salem PD to submit a formal complaint, and even though the attorney submitted a formal written complaint to the Attorney General's Office alleging improper arrest, excessive force, unprofessional behavior and intimidation of witnesses, the Salem PD still has yet to initiate a formal IA investigation. It is the department's belief that until the arrestee appears at the Salem PD and submits a formal written complaint, there is no need by the department to conduct a formal review. Note, again, the department's policy that formal investigations be issued in writing or must allege "criminal misconduct or similar serious offense:"

FORMAL COMPLAINT – A complaint received under the above guidelines that is submitted in writing, where the complainant is available for follow-up investigation, interview, and/or the complaint alleges criminal misconduct or similar serious offense.

INFORMAL COMPLAINT - A complaint, as defined above, that is received anonymously, or by an identifiable subject not seeking action but supplying the information as advisory, to be used as see fit. Informal complaint, during the course of review, may become Formal Complaints if a complainant steps forward and files a more in-depth report, or if circumstances or information dictate an a more in-depth investigation is appropriate.

INTERNAL COMPLAINT INVESTIGATION (ICI) – The action taken on a complaint. This in-depth, thorough investigation requires an ICI number assigned, full documentation of all action taken, with all factual information gathered forwarded to the Chief of Police for review and discipline, if deemed necessary.

*Salem PD General Order 85-7

While a formal IA investigation was not initiated, Deputy Chief Morin does assign Captain Wagner to conduct an informal inquiry. The captain reviewed the complaint with the Attorney General's investigator, reviewed the 15 witness affidavits and reviewed two of the three videos, as he was unable to access the third. (After he wrote his report unfounding the complaint, he was able to open the third video.) He also reviewed the reports previously filed by the officers and drafted a report closing out the informal investigation less than 24 hours after being tasked with the review. His report is dated March 13, 2018. Kroll notes that the department never issued notices to the officers informing them that a complaint was filed against them and that an investigation was being conducted, which violates the CBA. (This appears to occur almost every time there is an informal inquiry.) There were no interviews of independent witnesses, no canvassing of the surroundings where the incident occurred for video footage and no interviews of hockey rink staff who may have provided an independent version of events. The captain did not reach out to the complainant's attorney or any of the individuals who signed affidavits, including one who is a Massachusetts State Trooper and who allegedly helped calm tensions and physically assisted the Salem PD in keeping people back during the arrest. In his report, the captain noted that the affidavits all contained similar statements, appeared to be rehearsed and some appeared to be "cut and pasted," indicating to him an air of bias, and effectively closed out the informal inquiry.

Relative to the amount of time spent by Captain Wagner on the informal inquiry, Deputy Chief Morin states:

MR. LINSKEY: And then, you know, so the inquiry comes into you, you give it to Wagner, this is basically the -- the informal inquiry and he got it on -- you got it on March 12th and he's completed it on March 13th.

DEPUTY CHIEF MORIN: I got it on March 9th.

MR. LINSKEY: March 9th?

DEPUTY CHIEF MORIN: Yeah, I think that's when.

MR. LINSKEY: He got it on March 12th?

DEPUTY CHIEF MORIN: Yeah, because I talked to Lisa Wolford¹³ before.

MR. LINSKEY: Yup.

DEPUTY CHIEF MORIN: Where's her original letter, is it March 9th?

MR. LINSKEY: Yeah.

DEPUTY CHIEF MORIN: March 9th is her original letter?

MR. LINSKEY: Drafted a cover letter.

DEPUTY CHIEF MORIN: Yup.

MR. LINSKEY: But the -- the -- the Captain got a request on March 12th --

DEPUTY CHIEF MORIN: Yup.

MR. LINSKEY: -- and was finished with it by March 13th. Is that a short period of time for that? I mean, that's one of the bigger kind of complaints you guys have around here; right?

DEPUTY CHIEF MORIN: Yeah, but it -- it -- he reviewed everything, he made the contacts with the officers that he needed to, he read the reports; okay? So, we're efficient, I don't know -- and again, we've yet to hear from Dabella¹⁴ and instead what we get is we get a 91A¹⁵ request from WBZ; okay?

Kroll then asks Deputy Chief Morin if it would be a more thorough and fair investigation if they interviewed those that signed affidavits. His response is as follows:

MR. LINSKEY: Did -- any thought of speaking to the Massachusetts State Trooper who was there?

DEPUTY CHIEF MORIN: No.

MR. LINSKEY: Why not?

DEPUTY CHIEF MORIN: Why?

¹³ Senior Assistant Attorney General Lisa Wolford

¹⁴ Attorney Christopher DiBella

¹⁵ The Right to Know Law RSA 91-A:4 grants all citizens the right to access public records.

MR. LINSKEY: Because he's a law enforcement official who would be expected and required to give an independent review as to what he saw.

DEPUTY CHIEF MORIN: And if you read his statement it's pretty clear that it's more of a character reference. We saw his actions in there, he wasn't condemning the actions of the police department.

MR. LINSKEY: You would say he was -- he was assisting you guys.

DEPUTY CHIEF MORIN: He was assisting us. When he realized that it was his buddy -- his statement was a character reference, that this -- this has to be a misunderstanding and it probably -- I don't disagree that the coach probably was trying to, but what I do disagree with is that when the officers told him to step off, put your hands down, relax, he did not do that, and when he was -- when they grabbed hold of him, he didn't say okay guys, this is just a big misunderstanding and put his hands behind his back, he continued to, whether he thought he was justified in doing it or not, that's not the case; okay? So, the -- I read the, I think he's a detective --

MR. LINSKEY: Yup.

DEPUTY CHIEF MORIN: -- in Mass State Police, again, it was a character reference. He didn't say the officers did X, Y, and Z wrong or anything like that. In fact, in the video he's assisting, he's saying let them do their job, let -- let them -- stand back, let them do their job.

MR. LINSKEY: So probably a fair ended minded --

DEPUTY CHIEF MORIN: Yeah.

MR. LINSKEY: So, if you're looking for a fair -- look at the, --

DEPUTY CHIEF MORIN: Yeah.

MR. LINSKEY: -- you know, somebody from the other side who says, look, this is what I saw --

DEPUTY CHIEF MORIN: If --

MR. LINSKEY: -- and there's no thought of reaching out to him to get his version of events?

DEPUTY CHIEF MORIN: There is no complaint. There is no -- when they come in and file a complaint, which they will not do, --

MR. LINSKEY: So if they came in tomorrow and filed a complaint, --

DEPUTY CHIEF MORIN: Absolutely.

MR. LINSKEY: -- you would interview all of those people?

DEPUTY CHIEF MORIN: Absolutely.

MR. LINSKEY: What if it's within the six months' time period?

DEPUTY CHIEF MORIN: Six months?

MR. LINSKEY: Yeah.

DEPUTY CHIEF MORIN: It has to be within six months, it can't be after six months, but yeah.

MR. LINSKEY: So if they file -- just -- and this just goes to your CBA, if they filed six months and one day and they come up with a video that shows six ways to Sunday guys were swearing and throwing rocks and bottles and you guys under your CBA could not take action for discipline, you could investigate it, but you couldn't take discipline?

DEPUTY CHIEF MORIN: If we had a situation in which -- let's go back to Officer I.

MR. LINSKEY: Yup.

DEPUTY CHIEF MORIN: Six months and a day it came back that he split the guy over the head with a flashlight and we didn't know that, I don't care about the CBA, I'm going to fire his ass.

MR. LINSKEY: Okay. And then it would just work out in the grievance process, he could fight it.

DEPUTY CHIEF MORIN: Whatever.

Kroll further notes that relative to the ice rink investigation, the informal inquiry was conducted in less than 24 hours without any actions other than reading the documents and examining two of the three videos. Captain Wagner did not interview any of the witnesses, as their statements were considered to have an air of bias and favoritism towards the complainant. However, with that logic, then the involved officers' statements should also be disregarded, as they are all acquaintances and co-workers, and their reports could also be considered biased toward the Salem PD. Further, one of the witnesses is a sworn law enforcement officer who, according to several law enforcement and civilian statements, assisted the Salem PD. Despite his actions that night at the ice center, he agreed to complete and sign an affidavit against fellow sworn law enforcement officers to support the complainant, and even his statement was disregarded.

Kroll also interviewed Captain Wagner, who as noted above, has never received any formal training in conducting IA investigations. Captain Wagner stated the following as to the thoroughness of his informal inquiry into the occurrence at the ice rink:

CAPTAIN WAGNER: However, to give you a -- and you have it, so you -- so you know that I've done it, we received a -- the Ice Center, --

MR. LINSKEY: Yup.

CAPTAIN WAGNER: -- we never received a complaint for that, still haven't to this day, no phone calls, Attorney Dabella was asked to contact me, my name directly.

MR. LINSKEY: Who asked?

CAPTAIN WAGNER: The AG's office.

MR. LINSKEY: Did anyone confirm with the AG's office that they asked the attorney to do that?

CAPTAIN WAGNER: Nope -- nope, but --

MR. LINSKEY: Would that be -- would that be something that would be helpful if somebody is saying, look, you guys never even reached out to the attorney --

CAPTAIN WAGNER: With all due respect, Dan, I'm not chasing down complainants, if they want to file a complaint and they've been given direction to contact me, and I -- I welcome them to call me, it -- it's out there but they -- but they chose to do other things --

MR. LINSKEY: Roger that.

CAPTAIN WAGNER: -- like contact media, contact, you know, newspapers and set up this whole charade to make their client the victim, I'm not chasing them down for their complaint. I'm here, I'm willing to take it, I'm willing to sit down and speak with them, all -- although at -- at this point I think that there's issue with that because of -- of the -- the witnesses and -- and I can't really speak to the defendant right now because he's represent --

MR. LINSKEY: Why not?

CAPTAIN WAGNER: Because he's represented by -- by his attorney. If I'm going to be questioning him about --

MR. LINSKEY: Well you can't speak to him about his criminal case, you can speak to him about his complaint.

CAPTAIN WAGNER: But that's the criminal case, that's part of the criminal case, I mean, evidence of what occurred during that, that's going to be part of it, so probably not the best time to be speaking to him. Secondly, I did take what the AG sent me, you have the CD, I did review every statement on there, I reviewed all the officer's reports, I did do an informal inquiry and looked into it even though I didn't receive a formal complaint.

MR. LINSKEY: Okay. So an informal inquiry was initiated because the email from -- because of the letter from the AG

CAPTAIN WAGNER: Yes.

MR. LINSKEY: -- and you did that -- were going to do that, you evaluated all the written documents from the people who put it in, --

CAPTAIN WAGNER: Yeah.

MR. LINSKEY: -- you read all the written reports from the officers, and you reviewed the videotapes. Were you able to get the third video to open?

CAPTAIN WAGNER: I was.

MR. LINSKEY: Okay.

MR. LINSKEY: Three years from now if this were in Court and you're on the stand defending your response, would it be better for the Town of Salem and the officers who were being possibly sued if your response was, well, I shouldn't have to chase people down, but I reached out, here's an email I sent to the attorney saying that I've become aware of a complaint from the Attorney General's Office, please call me at this number, if you have any issues or concerns I'd like to go over these complaints and see what you have to say. There's a process we have in place, I'd be willing to put it forward, let me know what your client would like to do; would it be better for you and Salem PD to have that document on file saying that, look, we -- we think this is all a bunch of bull, we don't -- we don't -- we think this is an attorney who's trying to use the media for his side, we've got this report from the AG, the AG's declined criminal, and what's -- the -

--
all the AG can do is say criminal; right? So, it's criminality, civil rights violations; right? If it's rules and regulation, F bombs, excessive kicks, telling people, you know, if you're

--
CAPTAIN WAGNER: I'll stop you right there because the only thing that -- that is missing from this is me calling or -- or reaching out to -- to the attorney. I -- I felt it was sufficient that the authority that he decided to complain to, which was a tactical move on his part I feel, he complained to the AG's office, the highest law enforcement authority in the state, --

MR. LINSKEY: Yup.

CAPTAIN WAGNER: -- and then it was -- the complaint, it wasn't rejected but it was unfounded, so there was -- there was no criminal wrong doing, no civil rights violations

--
MR. LINSKEY: Right.

CAPTAIN WAGNER: -- in -- in their opinion, and it was returned to him with instruction to contact Captain Wagner, I have the letter from the AG, so what -- what they sent to him,

MR. LINSKEY: And did --

CAPTAIN WAGNER: -- and --

MR. LINSKEY: So, you have the letter the AG sent to him?

CAPTAIN WAGNER: Yeah.

MR. LINSKEY: And it says contact Captain Wagner?

CAPTAIN WAGNER: I believe so, yeah.

MR. LINSKEY: Okay. We don't have that.

CAPTAIN WAGNER: Okay.

MR. LINSKEY: All we have is the -- your report that says the AG said that she was going to have him reach out to me, that's --

CAPTAIN WAGNER: I'll try -- when we take a break or whatever, I'll -- I'll --

MR. LINSKEY: But that's exactly what I'm look -- is there a documentation that says, look, --

CAPTAIN WAGNER: Let me see, I'll pull it out and see if it -- it might have been one that came in after the fact --

MR. LINSKEY: Okay.

CAPTAIN WAGNER: -- so maybe you didn't get it in that original -- when we sent out those -- the reproductions of all the -- the informals and the IAs that you guys got, --

MR. LINSKEY: Yup.

CAPTAIN WAGNER: -- it very well may have been not here yet, --

MR. LINSKEY: Okay.

CAPTAIN WAGNER: -- so, I'll look and see if that's in the -- I have -- I have the file.

MR. LINSKEY: Then we would both be in agreement that that's a better position for Salem PD to defend, to say --

CAPTAIN WAGNER: Yeah, I -- I suppose it would be a -- a better but in the same token there's also -- I don't feel there's anything wrong with -- with the way it was done. This guy is an attorney, he defends people for a living, --

MR. LINSKEY: Yup.

CAPTAIN WAGNER: -- he knows what to do, he knows where we are. If he so chose to make a complaint, he would do it with us if he wanted to, he knows it -- he -- it can be done and how to do it, it wouldn't be his first go around.

MR. LINSKEY: Sure.

CAPTAIN WAGNER: He certainly figured out where to find the AGs and he certainly figured out where to find Cheryl Fiandaca and -- and every other person involved in this debacle that's out on the media, one sided debacle, he totally figured that out on*

his own, so do I need to leave him a trail of breadcrumbs to come in here and – and fill out a complaint or did – did he have no intention of ever doing that? That's my position on that.

MR. LINSKEY: *Okay.*

*Kroll notes that a controversy arose regarding information that was reported by WBZ TV regarding this incident. WBZ TV reporter Cheryl Fiandaca ran an on-air story with several individuals critical of the arrest of the hockey coach at the ice rink. The reporter was the former public information officer for the Boston Police Department and worked for Former Chief Linskey in that capacity. Kroll had been provided the IA file concerning the ice rink prior to the story airing; however, the reports were in a file box in Kroll's office space, which was not accessed until Chief Linskey returned from international travel. Reports are also believed to have been provided to the attorney and defendant. Since leaving BPD, Chief Linskey has not had contact with Cheryl Fiandaca except by direct Twitter messages on three occasions – the last being on December 6, 2016 before she sent a link to the story she was airing over Twitter on April 26, 2018 saying she heard he may be involved in a review of the Salem PD. Linskey responded that he was on vacation. Linskey returned on May 1, 2018. On May 2, he went to the Kroll office and brought the case files concerning Salem out of their box for review while traveling domestically on another client matter. It was then that he reviewed the ice center report for the first time. Chief Donovan wrote a letter to the town manager stating that he was concerned that the Kroll team provided the documents to the news. Kroll has addressed this issue with the chief and several others. Kroll takes the integrity of their cases extremely seriously and did not share any documents with anyone other than the Kroll team.

Kroll has included hereto the letter sent by the Attorney General's Office to the complainant, the letter sent to the Salem PD and the letter sent to the plaintiff's attorney, Christopher Dibella, which states, "As mentioned when we spoke, I have referred your complaint and materials to the Salem Police Department for administrative review."



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March 23, 2018

Christopher DiBella, Esq.
DiBella Law Offices, P.C.
45 Osgood Street
Methuen, MA 01844

By mail, and email to: Christopher.Dibella@dlaw-office.com

Dear Attorney DiBella,

As I said I would, I have reviewed the witness statements and video clips you provided to this office in conjunction with your complaint about Salem Police Department officers who responded to the Salem Icecenter on December 2, 2017. I also reviewed the police reports about the incident.

The witness statements you provided suggest that parents attending an ice hockey game that night became angry at one or more hockey officials. The game became "contentious," emotions "escalated," and parents engaged in "verbal abuse." After the game ended, several parents from both teams continued to have "heated" discussions.

John Griffin was one of the parents who was still "heated" after the game. He argued with a man and his wife. Bob Andersen stepped in between Mr. Griffin and the others and raised his arms. One witness said that it appeared that Griffin and Andersen were "having a serious discussion." According to several of the witness statements, a tattooed officer (Sergeant Bagley) rushed up to Mr. Andersen, pushed and/or grabbed him, and throw him down or into a wall. Other officers got on top of Mr. Andersen, and according to some, assaulted and tased him. The videos show three to four officers on top of Mr. Andersen, who is on the ground. One of the officers appears to get flipped over by Mr. Andersen.

One of the witness statements reported that Sgt. Bagley ran over to Mr. Andersen and told him to put his hands behind his back; when Mr. Andersen took a step back and asked why, the officer grabbed him. Another statement reported that the officer told Mr. Andersen he was under arrest and then grabbed him. At least two of the witnesses recalled that in response to Sgt. Bagley telling Mr. Andersen's wife to shut up, Mr. Andersen said to the officer, "Don't tell her to shut up."

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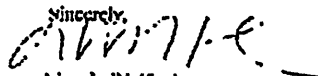
The police reports suggest that police had been called to a fight at the center. One of the officers reported that upon arrival, he was told that there was a fight in the lower rink involving parents. He saw a crowd of people yelling, and noted that Sgt. Bagley, who was surrounded by people, pushed a man while ordering him to get back. The officer saw Mr. Andersen yell something at Bagley and take a step toward him with raised hands. The officer believed that Mr. Andersen was going to assault Sgt. Bagley. The officer ran up, grabbed Mr. Andersen, and began to pull him away from the crowd. Mr. Andersen began to "violently thrash around." Other officers arrived and assisted. Because Mr. Andersen continued to struggle and thrash, one of the officers used his Taser.

In his report, Sgt. Bagley indicates that when he entered the lower level of the rink, he walked into a crowd of 40-50 people. He saw two men, who he later determined were Mr. Griffin and Mr. Andersen, standing face to face. Mr. Andersen had both arms raised above his head. Sergeant Bagley believed that there was "animosity" between the two. He told Mr. Andersen to back off, but Mr. Andersen did not move. Bagley walked between the two and told Mr. Andersen to "back off" while pushing him. According to Sgt. Bagley, Mr. Andersen appeared angry and walked toward Bagley in an aggressive manner. At this point, a second officer grabbed onto Mr. Andersen and physically removed him from the area. Mr. Andersen was "twisting" and tried to pull away. He was ultimately tased. According to the reports, two of the officers were injured by Mr. Andersen during the struggle, one sustaining a cut in his mouth.

The Criminal Justice Bureau investigates allegations of criminal misconduct against State, and in some circumstances, local public officials. We will conduct an investigation when there is reason to suspect that a crime has occurred. Given the evidence summarized above, I cannot conclude that there is such reason here. Even if, as your witness statements suggest, Sgt. Bagley was mistaken about the nature of Mr. Andersen and Mr. Griffin's interaction, there is insufficient evidence to indicate that Sgt. Bagley's belief was unreasonable. See RSA 627:5.

Attorney DiBella, if you have any questions, please don't hesitate to call. As I mentioned when we spoke, I have referred your complaint and materials to the Salem Police Department for administrative review.

Sincerely,



Lisa L. Wolford
Senior Assistant Attorney General
Chief, Criminal Justice Bureau

Cc: Gordon J. MacDonald, Attorney General
Jane E. Young, Associate Attorney General
Patricia Conway, Rockingham County Attorney
Paul T. Donovan, Chief, Salem Police Department

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March 9, 2018

Chief Paul T. Donovan
Salem Police Department
9 Veterans Memorial Parkway
Salem, NH 03079

Dear Chief Donovan,

On February 27, 2018, we received a complaint from Attorney Chris Dibella concerning an incident involving Salem officers, which occurred at the Salem New Hampshire Ice Center on December 2, 2017. Attorney Dibella's client, Robert Andersen, was charged in connection with the incident. Dibella alleged, amongst other things, that a Salem officer shoved Andersen and told Andersen's wife to "shut the f*** up."

I am referring this matter to you for what action you deem appropriate. Enclosed on disc are the documents and video provided by to this office Attorney Dibella, and the report generated by the New Hampshire Department of Justice investigator who took Attorney Dibella's call.

If I can be of additional assistance, please let me know.

Sincerely,

Lisa L. Wolford
Senior Assistant Attorney General
Chief, Criminal Justice Bureau
(603) 271-3671

LLW/mmp
Enclosure
1964918

There is, in fact, no direction to contact Captain Wagner, in contrast with comments provided to Kroll. Captain Wagner completed his Informal Inquiry, wrote his report and closed the matter in less than 24 hours. In direct contrast with the department's policy, Captain Wagner did not attempt to call the complainant, claiming that he was not "chasing down complainants" and that such contact was precluded by the complainant's being represented by counsel.

It is Kroll's opinion that making good faith efforts to speak to a complainant is certainly not chasing them down and would represent standard practice in IA investigations or even informal inquiries. It is also Kroll's opinion that this Informal Inquiry was not conducted fairly or thoroughly and certainly not in accordance with law enforcement best practices. It also was not conducted in accordance with the Salem PD Policy GO 65-7, which states:

II. POLICY: All complaints will be accepted and documented. Any investigation based on a complaint will be conducted in an open and fair manner, with the truth as the primary objective. The Salem Police Department shall accept all complaints against their employees and will fully investigate all such complaints.

All violations of Department Rules and Regulations, Code of Conduct, Policies and Procedures, and all other directives which occur shall be dealt with in a fair and impartial manner, and in accordance with the Collective Bargaining Agreements in place with the Town of Salem. In all cases where disciplinary action is taken, the employee shall receive a copy of the documented discipline issued. (26.1.4)

Kroll further notes that in stark contrast with this department's policy was the fact that at some point after closing the Informal Inquiry, the Salem PD sought criminal complaints against two other individuals identified in video footage of the ice center incident. The evidence supporting those arrests allegedly came from the WBZ news footage. However, Deputy Chief Morin and Captain Wagner also told Kroll that they had received complaints from several witnesses from the other side of the disturbance who had come forward to dispute the complainant's version of events. The department accepted these witness statements and conducted interviews of them without attempting to corroborate the accounts by speaking to the complainant or any of the witnesses who signed affidavits in support of the complainant's allegations. If witnesses came forward to provide information to the Salem PD, the department should have made every effort to gather and evaluate that information. The officers' actions show an acceptance of information that supports their officers and also shows a complete disregard for any information to the contrary.

While Kroll does not claim to know what occurred at the ice rink and was not tasked with conducting an independent investigation of the events, it is our opinion that the Salem PD cannot conduct a fair or comprehensive IA review without speaking to witnesses from both sides. Furthermore, an IA

investigation is an administrative review and must be conducted in parallel with a criminal investigation. This is certainly not the first time the Salem PD has conducted a criminal investigation while at the same time conducting an administrative investigation. Several of the IA instances noted above confirm this statement. However, it is imperative that these investigations remain separate to avoid any indication of potential retaliatory charges.

Captain Wagner noted the following in his interview:

MR. LINSKEY: But you can look at the video and if -- if all of a sudden the guy is handcuffed and people kicked him five times in the head --

CAPTAIN WAGNER: A hundred percent.

MR. LINSKEY: But we don't have that, that's not --

CAPTAIN WAGNER: We -- we don't have it and I'm a hundred percent agreeing with you, handcuffs go on, it's over.

MR. LINSKEY: Okay.

CAPTAIN WAGNER: But it -- it didn't occur. So, in -- in speaking to her about that, she -- we got into talking about the -- about the -- the fact that we arrested two additional people from it and, you know, her

MR. LINSKEY: Two additional people?

CAPTAIN WAGNER: Yeah, yup. Her initial response to that was, well that looks retaliatory, I'm like, well, it may look that way but without getting into it, additional evidence was uncovered and the -- we had proof of it, as a result of you airing that video. I didn't have that video, it was actually discovered when I -- I got the CD.

MR. LINSKEY: The third one?

CAPTAIN WAGNER: Yeah. When -- when I was reviewing it for the internal review I came across some of this stuff and showed it to the -- the guys involved and they're like, oh shit, yeah, there it is, and then they found out some additional video of the guy on the ice or whatever, so that's what it is, it's the guy that went out on the ice and -- did you say the -- the -- the guy that slapped the officer?

MR. LINSKEY: I heard there was one other and that -- so I received a call from her again saying, did you know they're bringing complaint against the guy who slapped the officer's hand? I said, nope. She said, yup, they're going to get a warrant for him, they told him you're going to turn himself in. I said oh, okay, thanks, Cheryl. And I also spoke to Cheryl and the attorney and said, because the attorney called me, look, we are not doing a review of the internal affairs cases, just so we're clear, I'm not --

CAPTAIN WAGNER: You said this?

MR. LINSKEY: Yeah.

CAPTAIN WAGNER: To who?

MR. LINSKEY: Cheryl Fiandaca and Dabella.

CAPTAIN WAGNER: But you are.

MR. LINSKEY: No, we're not. I'm doing a review of the process. Who -- I'm not going to interview people about --

CAPTAIN WAGNER: Well, okay --

MR. LINSKEY: I'm not going to interview the people about, you know, is -- is -- is, you know, what did you say, did -- what did you see, --

CAPTAIN WAGNER: No, --

MR. LINSKEY: -- I'm not pulling my own video, I'm not doing my own independent review of what happened at the skating rink or any of these events.

CAPTAIN WAGNER: No -- no -- no, you're not doing your own investigation but you're -- you're questioning the -- the steps and tactics and -- and -- and verbiage and phrases and things that we said and the way we did things in the -- in the individual investigations.

This investigation *was not* compliant with the Salem PD policy. This investigation *did not meet* acceptable best practices for internal reviews. Not only did this investigation not meet acceptable best practices, but these actions undermine the integrity of the Salem PD. Further, it is Kroll's opinion that there was a significant failure by the department's leadership in their accepting this investigation as a complete effort.

Internal Investigation (formal) IA #18-01: Officer BB

A review of this formal investigation from January 2018 shows that Captain Dolan investigated a failure of Officer BB to keep a current certification for his K-9, as well as payroll inconsistencies related to training dates. The findings of failure to maintain narcotics certification was sustained, as well as a finding of failure to keep required department records. The allegations of collecting pay for training days without being in attendance were unfounded. Despite the sustained findings of two policy violations, it is unknown what discipline, if any, was recommended or issued to Officer BB, as there is no documentation of such with this packet.

This investigation *was* compliant with the Salem PD policy. This investigation *did not meet* acceptable best practices for internal reviews, as it lacked documentation.