



DELAWARE STATE UNIVERSITY
Office of the President

May 18, 2022

The Honorable Kristen Clarke
Assistant Attorney General for Civil Rights
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

**Re: Request for an Investigation into Title VI and Civil Rights Violations
Committed by the Liberty County, Georgia Sheriff's Office**

Dear AAG Clarke:

Founded in 1891, Delaware State University ("DSU" or "the University") is proud to call itself a member of this country's elite Historically Black College and Universities ("HBCU"). Offering 46 bachelor's degrees, 21 master's degrees, and six doctoral degrees, DSU has worked hard to provide its nearly 6,000 students with an environment that is conducive to their academic enrichment, social growth, and emotional well-being. Sadly, on April 20, 2022, that security was shattered when Liberty County, Georgia Sheriff's Deputies illegally pulled over the charter bus in which our female lacrosse team members and their coaches were riding to conduct an improper search of their personal belongings without consent, without probable cause, and without even articulable suspicion. Like Delaware Attorney General Kathleen Jennings, who submitted a written complaint to your attention on or about May 11, 2022, we are deeply disturbed by the manner in which our students, staff, and bus driver were treated by law enforcement, and we request a full, fair, and unbiased investigation into the Title VI and Civil Rights violations that were clearly committed and which have been clearly documented by those officers' body-worn cameras.¹

On April 20, 2020, 25 students with the University's Women's Lacrosse Team, along with two coaches and one athletic trainer, were traveling by charter bus back to Delaware from a tournament in Florida. The majority of those passengers were Black as was the bus driver who has been driving buses for 21 years. The passengers' windows were tinted; however, the driver's window was not.

¹ The Sheriff's Office publicly released body camera footage from only one of the responding officers. DSU submitted a FOIA request seeking the footage from the other responding officers, and the Sheriff's Office released four videos, one that was a duplicate of the initial video and a second as short as four seconds long. Ominously, in the log accompanying the videos, the nature of the incident is described as a "Charter Bus Traffic Stop," but at least one of the entries labels the "encounter" as "drug related." It most certainly was not.

As they drove along I-95 in Liberty County, Georgia, a deputy in a marked cruiser pulled the bus over and asked the driver to step out. He then informed the driver that he had stopped the bus for improperly traveling in the left-hand lane. When the veteran bus driver questioned why his charter bus was not able to travel in a lane that is off-limits only to trucks (as he noted that the signage clearly indicated), the deputy informed him that, under the law, the six-tire charter bus constituted a truck, and, therefore, could not travel in the left-hand lane. The deputy's statement was, in fact, false and contrary to Georgia law. We now know that buses are exempt from GA Code § 40-6-52 (2020); thus, the officer, despite his protestations, had *no legitimate basis* upon which to stop the charter bus in the first place. On its website, the Liberty County Sheriff's Office, putting forth its own narrative for the traffic stop, tries to hide this fact by quoting a version of the Code that is more than a decade old.² Sheriff Bowman repeated those misstatements in his public statements. The first sentence of the current law clearly states, "[a]s used in this Code section, the term 'truck' means any vehicle equipped with more than six wheels, except buses and motor coaches."

The illegitimacy of the stop notwithstanding, that officer directed the bus driver to exit the bus and walk back to the officer's squad car; he then asked the bus driver for his license, and other members of law enforcement began to arrive. All told, six white officers and one narcotics dog descended upon the scene. Early on, via the body camera footage, the initial officer who stopped the bus can be heard proclaiming, "Bunch of dang school girls on the bus... probably some weed." It was with that presumptive mindset that officers then set out to search for that which they had already predetermined would be found. The driver complied with the officers' request that he open the charter's cargo hold; the officers had told him that it was "their job" to conduct a search of his vehicle. Those officers then directed their narcotics dog towards some of the bags in the front of the compartment.³ The dog sniffed, wagged its tail, and seemed to react playfully. The body camera footage obtained by DSU⁴ does not show a canine that was particularly agitated or

² <https://www.libertyso.org/official-statement/>

³ Importantly, this was the very first time that the dog had sniffed on the scene. It is not the case that the dog sniffed around the vehicle and alerted his handler to an odor that led to the opening of the individual bags. Instead, absent any initial indication of a "hit" outside the vehicle and without any probable cause to search inside the vehicle, the officers directed the dog to sniff inside the cargo hold and then to sniff individual bags removed therefrom.

⁴ [2022_0420_103904LCSO031_LL0031-001_20220422084341.MP4](#) (password ENHMu0DT); [2022_0420_103038LCSO009_LL0009-001_20220420110511.MP4](#) (password 5n1ZVKpe); [2022_0420_105217LCSO062_LL0062-001_20220420094510.MP4](#) (password Mq3GpUi1); [2022_0420_103237LCSO025_LL0025-001_20220421061427.MP4](#) (password WZkIJAOk); and <https://www.delawareonline.com/story/news/2022/05/11/body-camera-footage-contradicts-sheriffs-account-georgia-bus-stop/9729651002/?fbclid=IwAR2eqJ8VLOLpJATnqH-GSEXIZXc7DhA3BcmceHAVXL1LagQztOyfW4hvLv4>

attentive; and officers do not look as if they had been alerted to anything significant. Nothing in any of their reactions indicates that the dog had “hit” on anything at all. Further evidence of this lack of probable cause can be gleaned from the officers’ own conduct on the charter bus that day. At least two entered the bus on two separate occasions to address our students and make such ominous statements as:

“We’re gonna check y’all’s luggage. If there is anything in y’all’s luggage, we’re probably going to find it. Okay? I’m not looking for a little bit of marijuana, but I’m pretty sure y’all’s chaperones are gonna be disappointed in you if we find any... so, if there is something in there that is questionable, please tell me now. Because, if we find it, guess what? We’re not gonna be able to help you.”

Notable here: not only did the officer inform our students that he is going to search their luggage, he then went on to make every attempt to elicit incriminating statements from them. The passengers remained silent.

Instead, despite having obtained no admissions from our students and having apparently received no indication of contraband from the narcotics dog, officers began to take the students’ personal belongings out of the luggage compartment (including individuals’ toiletry and cosmetics bags), and, after presenting them to the disinterested dog, opened them, physically manipulating the luggage as they rummaged through their contents. To be clear, nothing illegal—no drugs or contraband of any sort—was ever found. In fact, after opening multiple bags in that cargo hold, the officers decided to stop and let the driver go. It was at that time—30 to 45 minutes after the initial traffic stop—that officers returned the bus driver’s license to him. Officers did not issue the driver either a written warning or citation.

The case law in Georgia is clear. An officer needs “articulable suspicion” of illegal activity *other than the traffic stop* in order to prolong a traffic stop. In other words, the traffic stop may not last any longer than *necessary* to process the traffic violation *unless* there is articulable suspicion of other illegal activity. If a traffic stop ends, but the officer continues to hold the driver and seeks consent to search the vehicle *without* reasonable suspicion of criminal activity, then any consent to search is the product of an illegal detention and is invalid and illegal in and of itself.⁵ Those are exactly the facts that we have here: a traffic stop for which there was no legitimate basis; the prolonging of that stop by retaining the driver’s license and far exceeding the scope of a permissible investigation of the initial traffic stop in order to seek consent to search without any reasonable suspicion of a crime whatsoever; and a search that yields absolutely no contraband.

⁵ Even further, case law makes it clear that each bus passenger has a privacy interest in his/her own luggage. Even when a bus driver gives “consent” for a search, a government agent’s “physical manipulation” and “feel[ing] the [passenger’s] bag in an exploratory manner,” by opening and sorting through the passenger’s luggage, violates this privacy interest. See Bond v. United States, 529 U.S. 334, 338-39 (2000) (holding that law enforcement officer’s physical manipulation of passenger’s luggage violated the Fourth Amendment). As such, a driver cannot give consent to a search of his passengers’ personal belongings.

When one of our students bravely questioned how traveling in the left lane could have turned into a search for narcotics, an officer responded, “While [the officer who stopped the bus is] conducting his business, I can bring my dog out for a ‘free air sniff’. That’s what I’ve done.” Furthermore, the Liberty County Sheriff’s Office’s website boasts the following proclamation:

“The probable cause [for the search] was the open-air alert. The K9 was already on the scene and only used because of the type of detail being conducted that day. When there was an alert, there was probable cause to search.”⁶

Unfortunately for the Liberty County Sheriff’s Office, the body-worn camera footage obtained by DSU clearly shows that no such “free air sniff” or “open-air alert” took place. But, even assuming, *arguendo*, that one had occurred, Bodiford v. State, 761 S.E.2d 818, 822 (Ga. App. 2014) is particularly instructive. In Bodiford, “[T]he free air sniff occurred as a result of [the officer’s] decision to expand the traffic stop beyond its original purpose and it therefore cannot serve as a basis for Bodiford’s continued detention. Moreover, [the officer] testified that if Bodiford’s license check showed no problems with the license and no outstanding warrants for Bodiford, the traffic stop would be concluded and Bodiford would be free to go.” Again, the facts of that case are eerily similar to those of this incident.

During the course of this illegal search and seizure, the deputies told our students:

“This is our job. This is what we do. Every day we get out here. We stop commercial vehicles . . . trafficking anything up and down these interstates, that’s what we look for . . . this is how we start an investigation. Most of the time, most of the time, it turns out to be nothing.”

And therein lies the entire problem.

Surely the DSU Women’s Lacrosse Team is not the first or only group of people—more particularly, people of color—to have been subjected to this type of illegal behavior. But for their bravery, composure, and presence of mind to record portions of this illegal stop, we might never have known its full extent.

After listening to Sheriff Bowman’s statements and watching the conflicting body-worn camera footage, we have little faith that any internal investigation by the Sheriff’s Office will be conducted in the comprehensive and unbiased manner that this situation deserves. In fact, Sheriff Bowman, during conversations with University officials and the press, has adamantly expressed his confidence that there was no wrongdoing by his officers and that the charter bus driver, by traveling in the left-hand lane, had clearly violated Georgia law. Our students and staff deserve to know that this brazen, illegal, and discriminatory conduct will not go unchecked. Title VI of the

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Civil Rights Act of 1964 bars discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. The illegal behavior exhibited by these officers, the repeated misstatements by the Sheriff (both about the law and the facts), the attempt to obscure the facts, the failure to turn over immediately all of the videos from the encounter, and the racial disparity evident to anyone who views the videos make it clear that neither the Sheriff's Office nor local officials can be trusted to investigate this incident completely and impartially.

We file this Civil Rights and Title VI Discrimination Complaint with the U. S. Department of Justice, asking it as an objective, external authority to initiate a formal Title VI investigation into these officers' conduct and into the Sheriff Department's practices and procedures that encouraged, supported, or permitted these discriminatory acts to occur.



Tony Allen, Ph.D.
President



LaKresha Moultrie, J.D.
VP/General Counsel &
Chief Enterprise Risk Officer

cc: David Estes, Acting United States Attorney, Southern District of Georgia