



Security, Training, Investigation, and Risk Mitigation & Management

27 March 2023

## **FINAL REPORT**

# **METHUEN POLICE DEPARTMENT INTERNAL INVESTIGATION**

### **A Two-Part Investigation:**

- ◆ Investigation into the Authenticity of a Training Document Belonging to Former Police Officer Sean Fountain.
- ◆ If Shown Fraudulent, Identify the Source.

CLIENT: City of Methuen, City Solicitor Kenneth Rossetti, Esq.

## **PRIVILEGED & CONFIDENTIAL**

**Lawrence P. SMITH CAMS, CFE, CPP**

President / Founder

STIRM Group Inc.

Email: [contact@stirmgroup.com](mailto:contact@stirmgroup.com)



## **Final Investigative Report**

### **Sean Fountain's NERPI Training Certificate: A Proven Forgery**

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## INVOLVED INDIVIDUALS

### Investigators

**Lawrence P. Smith CAMS, CFE, CPP ("Investigator")**

STIRM Group, President

SMITH is a retired Massachusetts State Police sergeant with over 30 years of law enforcement, military, and investigative experience. He is a certified Equal Employment Opportunity Commission ("EEOC") investigator, and he has completed the Massachusetts Commission Against Discrimination ("MCAD") investigators course. He has a Master's Degree in Criminal Justice from Western New England University, and he is a Certified Anti-Money-Laundering Specialist, a Certified Fraud Examiner, and an Internationally Board-Certified Protection Professional

The investigator spent several years as a Task Force Officer with Homeland Security Investigations (HSI) in the Document Benefit Fraud Task Force (DBFTF), which focused on dismantling organized crime rings that created forged identification documents, that also trafficked in legitimate government identification documents.

Those documents consisted of state licenses, social security cards, passports, and visas. He was then assigned to the Drug Enforcement Administration, Boston-Group 1. Smith took an anonymous tip that consisted of two names, and a town. Using that information, he proceeded to dismantle a national drug trafficking organization that was

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supplied by the Sinaloa Cartel. The Drug Trafficking Organization (DTO) distributed an average of ten pounds of nearly pure crystal methamphetamine.

The investigator has testified in criminal trials and grand juries at both the state and federal levels. He has authored numerous arrest reports, affidavits, search warrants, and multiple Title III affidavits in support of live interception of wire, oral, and electronic communications.

#### **Eric Ferreira ("Capt. FERREIRA")**

Methuen Police Department, Commander of the Special Services Bureau

Capt. FERREIRA is responsible for Professional Standards, Accreditation, Criminal Investigations, Support Services, Legal Services, and Special Projects. He has worked for the Methuen Police Department since July 2012, attending and graduating from the 20th Recruit Officer's Course (ROC) at the Boylston Police Academy. As a member of the 20<sup>th</sup> ROC, he was selected for the ROC Leadership award and earned the Academic and Physical Fitness awards. He is a certified internal affairs investigator, firearms instructor, and academy physical fitness instructor.

Prior to working for Methuen, he served as a police officer for the Town of Hudson, New Hampshire. He attended and graduated from the 144th session of the New Hampshire Police Academy in 2007, receiving the Arthur Kehas Award for being the most outstanding overall recruit. Previously he had been employed by the National Security Agency as a police officer, attending and graduating from the Federal Law Enforcement Center's Mixed Basic Police Training Course in 2005.

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Capt. FERREIRA has conducted over one thousand investigations during his career while enacting hundreds of arrests. He has applied for and executed several search warrants.

Capt. FERREIRA was awarded a Sandra Day O'Connor Scholarship and is currently a New England Law 2L student in Boston. He has a Master's in Criminal Justice from the University of Massachusetts in Lowell and a Bachelor's degree in History and Political Science from the University of Massachusetts.

Additionally, he served over twenty-one (21) years in the United States Marine Corps Reserve, attaining the rank of Sergeant Major.

### Key Players

#### **Neil PERRY ("Mayor PERRY")**

Currently Mayor of the City of Methuen

Mayor PERRY has fully supported the investigation and is committed to finding the underlying cause of these issues. Mayor PERRY has been briefed throughout the investigation. Mayor PERRY's office has fully supported Chief MCNAMARA and the investigator's efforts in determining exactly how an uncredentialed police officer (FOUNTAIN) was allowed to work as a police officer.

The investigators understand that Mayor PERRY is aware of the challenges this investigation may cause. He remains fully committed to restoring the citizens of Methuen's faith in their political leaders while restoring the reputation of a police department that suffered under the leadership of former Chief Joe SOLOMON.



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Mayor PERRY, City Solicitor ROSSETTI, and Chief MCNAMARA are all aware of the potential complications this investigation may cause and are fully prepared to deal with those issues as they are discovered. They had no choice, as each inherited this situation from their predecessors.

#### **Scott McNamara (“Chief MCNAMARA”)**

Currently Police Chief of the Methuen Police Department

Chief MCNAMARA is the individual to whom the investigators answer. Chief MCNAMARA is the City of Methuen's new Chief of Police and only assumed command after the fraud had been perpetrated. This investigation has been a top priority for Chief MCNAMARA, who has supported the investigation while allowing the investigators the autonomy to accomplish their investigation. When certain organizations have been less than helpful, Chief MCNAMARA has stepped in and helped the investigators acquire what they needed.

#### **Thomas McEnaney (“Chief MCENANEY”)**

Former Interim Police Chief of Methuen Police Department

Chief MCENANEY was the Interim Police Chief that brought the FOUNTAIN matter to the attention of the Attorney General's Offices Public Integrity Unit, supervised by AAG O'BRIEN, currently the Chief of Staff and General Counsel for the MPTC. Chief MCENANEY notified AAG O'BRIEN about the suspected forgery no later than June 2021. O'BRIEN elected not to investigate the matter, as he told the investigator the case lacked evidence.

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#### **Sean Fountain ("FOUNTAIN")**

Former Firefighter, City Council President, and Police Officer (**Impersonating**)

Sean FOUNTAIN was a Methuen, Massachusetts, City Councilor who became the City Council President for his last term, which concluded on 31 December 2017.

On 1 July 2016, FOUNTAIN was appointed an Intermittent Police Officer by the City of Methuen's Police Chief Joseph Solomon. FOUNTAIN was the beneficiary of a level of preferential treatment that was so blatant that it was criminal. He was treated differently from the four intermittent officers hired when he was.

FOUNTAIN did create a forged training certificate that indicated that he had attended and graduated from the 13 May 1995 NERPI police academy. The document will be shown to be a forgery which was created using a copy of retired METHUEN POLICE DEPARTMENT Lt. Steve SMITH's training certificate.

The forged certificate was used to help FOUNTAIN maintain his job as a full-time police officer/detective without ever having graduated from a police academy. The document also allowed him to continue to defraud the City of Methuen out of over \$400,000 in salary that he would not have been eligible to earn otherwise. In doing so, he and his co-conspirators left the City in a precarious position.

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#### Joseph Solomon ("Former Chief SOLOMON") Co-Conspirator

Former Police Chief of the Methuen Police Department

SOLOMON was the long-tenured former police Chief. The evidence suggests that SOLOMON is one of three co-conspirators involved in this investigation; all are former METHUEN POLICE DEPARTMENT employees. Without SOLOMON's involvement, the crimes outlined in this report could not have occurred.

SOLOMON's leadership has been questioned by many over the years; one Mayor even terminated SOLOMON, only to be overturned by the Civil Service Commission on appeal. SOLOMON's leadership has been openly criticized in an operational audit that an outside firm performed. The Office of the Inspector General titled their report ***"Leadership Failures in the Methuen Police Contracts."*** The Civil Service Commission released its investigative finding ***"Prior use of non-civil service intermittent police officers in the Methuen Police Department."***

In that report under the ***"Commission Orders and Recommendations,"*** the fourth item is titled ***"The Commission recommends that the City continue to explore legal action against Joseph SOLOMON, as well as Sean FOUNTAIN, notwithstanding Chief SOLOMON's retirement and Sean FOUNTAIN's resignation."***

The current investigation does not paint SOLOMON in a positive light. His leadership style is that of a ***"Don"*** of an organized crime family that leads through humiliation, fear, intimidation, and retaliation.

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#### **Greg Gallant ("Capt. GALLANT") Co-Conspirator**

Former Methuen Police Department Captain

GALLANT was the Special Services Bureau Commander, one of a select few individuals with access to the personnel record that was used to create a forged training certificate. The certificate that GALLANT allegedly provided to FOUNTAIN has since been proven to be the source document used to create both variants of the forged FOUNTAIN training certificate. To include the copy that the Massachusetts Police Training Committee (MPTC) has selectively distributed.

When GALLANT was interviewed regarding his role in the forged training record, he opted to exercise his constitutional rights against self-incrimination over 100 times.

#### **Robert Ferullo ("Director FERULLO")**

Executive Director of the Municipal Police Training Committee (MPTC)

*The MPTC motto is "**Compliance goes without saying**"*

FERULLO is the former Chief of Police for the City of Woburn. Who became the Executive Director of the MPTC in August 2019. The MPTC has distributed a forged training record that indicated that FOUNTAIN completed a part-time police academy, which FOUNTAIN used to illegally profit from.

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#### **James O'Brien ("O'BRIEN")**

Chief of Staff & General Council of Massachusetts Police Training Committee

*Former Head of the Attorney General's Public Integrity Unit*

*Former AGO Representative assigned to the MPTC Training Committee*

O'BRIEN was the head of the Attorney General's Public Integrity Unit until December 2021. While employed by the AGO, O'BRIEN was the AGO's representative to the MPTC Committee.

O'BRIEN elected not to investigate the FOUNTAIN case in June 2021 and left to take a position with the MPTC less than six months later.

#### **District Attorney Paul F. Tucker & Senior Staff ("ECDA")**

District Attorney of Essex County, Massachusetts – January 2023 through Present

With the recent release of the Civil Service Investigative Report, Chief MCNAMARA requested and was immediately granted an in-person meeting with the newly elected District Attorney Paul F. TUCKER and his senior staff. On Tuesday, January 31st, 2023, Chief MCNAMARA met with DA TUCKER to discuss the evidence previously provided to the ECDA Office and the additional evidence that has since been discovered.

Chief MCNAMARA characterized his meeting with DA TUCKER as a productive one. Chief MCNAMARA is optimistic that the new DA, having now been fully apprised of all the relevant evidence, will choose to prosecute those responsible for their crimes.

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#### **Former District Attorney Jonathan Blodgett & Senior Staff ("ECDA")**

District Attorney of Essex County, Massachusetts - January 2003 to January 2023

Former District Attorney BLODGETT and his office were notified of this investigation as early as Jan/Feb 2022. The ECDA has had several opportunities to investigate this matter and remained on the sidelines for the remainder of DA BLODGETT's term. The investigator finds that odd, considering he was informed that the former police Chief had allowed an unqualified and untrained individual to masquerade as a legitimate police officer for years.

ECDA has been notified at least twice, once in writing, by Chief MCNAMARA in a letter dated 28 June 2022. The gist of the letter was to formally notify the ECDA that the investigation had brought to light information that ECDA would need to evaluate. The information provided could have an adverse effect on all the cases in which FOUNTAIN was involved. To include the cases, FOUNTAIN authored search warrants.

The discovery of exculpatory evidence has been a concern of both the investigator and the Methuen Police Department from the beginning of the investigation. The ECDA, under DA BLODGETT's tenure, advised the Methuen Police Department that all appropriate notifications had been made.

#### **Former Attorney General's Office & Senior Staff ("AGO")**

(Massachusetts Attorney General's Office)

Interim Police Chief Thomas MCENANEY forwarded records on 10 June 2021 that Attorney Jim O'BRIEN had requested from an earlier discussion that pertained to this investigation. AAG O'BRIEN, as the supervisor of the Public Integrity Unit, chose

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not to investigate the matter. O'BRIEN later told the investigator on 30 March 2022 that he did not feel there was enough evidence to proceed. The Chief and the investigator made several additional attempts to get the AGO to accept the case.

A second meeting was had that Chief MCNAMARA was able to get scheduled after the Essex County District Attorney referred the investigation to the AGO. At that meeting, AAG Jen COTTER, the Deputy Assistant of the Criminal Bureau, informed the Chief that the AGO would not prosecute the case. For transparency, the investigator felt it necessary to point out that AAG COTTER was O'BRIEN's supervisor before his departure and his replacement as the AGO representative on the MPTC Board.

The investigator emailed AAG Jen COTTER on 21 September 2022, asking to speak to her regarding Methuen Police Department and FOUNTAIN. AAG Michelle GRANADA, the current unit supervisor for the Public Integrity Unit, contacted the investigator at AAG COTTER's request. GRANADA was ill-prepared to have a meaningful dialogue, as she told the investigator she had not read the report outlining the facts of the FOUNTAIN investigation. GRANADA advised the investigator that the AGO was not inclined nor in the habit of changing course once a decision had been made.

Chief MCNAMARA had a 3rd meeting by Microsoft teams on 22 November 2022 between Mayor PERRY, Chief MCNAMARA, and the AGO's Chief of Policy and Government Division, Alicia REBELLO-PRADAS. The investigator was informed that the meeting was largely unproductive.

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The AGO knew that FOUNTAIN was seeking an opportunity to broker an immunity deal that would show him leniency in exchange for his complete and truthful testimony against his co-conspirators. Even with that knowledge, the AGO opted to remain on the sidelines.

#### **Essex County Sheriff's Department (ECSD)**

(FOUNTAIN worked for the ECSD on three separate occasions)

The investigators believe the ECSD may possess documents, such as payroll records, employment applications, background checks, etc., that would be helpful to our investigation. However, attorneys representing the organization have thus far refused to produce them, citing a personnel records exemption to the public records law.

The Methuen Police Department has since subpoenaed those records in connection with the defense of a lawsuit brought by FOUNTAIN. At the time of this report, attorneys representing FOUNTAIN are actively attempting to quash that subpoena. This begs the question, what is FOUNTAIN trying to keep hidden?

The investigator convinced the ECSD to release at least part of FOUNTAIN'S internal affairs file when the Peace Officers Standards and Training (POST) rules were brought to their attention regarding internal affairs records.

FOUNTAIN has worked for the ECSD on two separate occasions under former Sheriff Frank COUSINS. While employed, FOUNTAIN was investigated concerning his failure to report a use of force incident. That event resulted in FOUNTAIN being disciplined for failing to report another officer's use of force.



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#### **Shelia Gallagher ("GALLAGHER")**

(Former Chief Operating Officer for the Massachusetts Police Training Committee)

GALLAGHER recently parted ways with the MPTC. GALLAGHER was one of the three people on the 30 March 2022 call that informed the investigator that the FOUNTAIN yellow card had been found. Records from public records request responses show that GALLAGHER was aware of and had a copy of the FOUNTAIN yellow card as early as 24 November 2021.

#### **Mary K. DeFrancesco ("DEFRANCESCO")**

Record Access Officer at the Massachusetts Police Training Committee

DEFRANCESCO has been the primary point of contact as the Records Access Officer when requesting MPTC records. DEFRANCESCO is shown to have scanned FOUNTAIN's yellow card into a PDF document using a Xerox Altalink C8055 scanner, on 24 November 2022, at 11:29 a.m.

FOUNTAIN's yellow card was then attached to an email sent by DEFRANCESCO to GALLAGHER. The investigators received this information as part of a public record request response seeking MPTC emails. The MPTC finally responded in June 2022 when the MPTC provided backlogged PRR data on two thumb drives.

That is the reason why the investigators selected DEFRANCESCO as the employee we wanted to interview at her residence. DEFRANCESCO opted to inform her employer that we attempted to speak with her rather than hear what we had to say.

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#### **Lawrence (Larry) Norman ("NORMAN")**

Coordinator, Veteran Officer, and Specialized Programs  
(Former coordinator for the NERPI Academy in Tewksbury and Reading, MA)

Larry NORMAN is a well-known member of the Criminal Justice Training Council, which was renamed the Municipal Police Training Committee (MPTC).

NORMAN was one of the original Northeast Regional Police Institute (NERPI) staff members and remained there for over 30 years. His institutional knowledge of NERPI and its inner workings and requirements is second to none. NORMAN was interviewed for this investigation.

#### **Steve Smith ("SMITH")**

(Retired Methuen Police Department Lieutenant)

A retired Methuen Police Department officer. SMITH was interviewed as part of this investigation as it was his legitimately earned training certificate, which was on file at Methuen Police Department and used to create the FOUNTAIN forgeries.

SMITH was found to be helpful and forthcoming and made himself available for an interview on short notice. SMITH brought both of his original certificates to the interview, which included one that he earned at the part-time NERPI Police Academy in 1995 and another that he earned at the full-time Lowell Police Academy in 1996.

There are no indications or reasons to believe that SMITH had anything to do with providing the source document to anyone other than Methuen Police Department staff shortly after he earned the certificate in 1995.

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#### **Richard Stanley ("STANLEY")**

(Retired North Andover Police Chief)

Former Police Chief of the North Andover Police Department (NAPD). Chief STANLEY is relevant to this investigation as a second forged document was identified. The document in question is referred to as Exhibit 8, a sponsorship letter showing that NAPD sponsored six people to attend the 1995 NERPI police academy. The letter was addressed to Larry NORMAN from Chief of the Department Richard STANLEY. This letter proved to be a faked/forged document whose sole purpose was to backstop the forged training certificate if its integrity was challenged. There is a whole section in the report concerning this document. SMITH spoke to former Chief Richard STANLEY of the North Andover Police Department on 28 Mar 2022 at approximately 1718 hrs. The call lasted 28 minutes, and the conversation focused on Ex-8. SMITH and Chief STANLEY exchanged text messages on 29 Mar 2021. A copy of the letter was sent to Chief STANLEY; he confirmed again that the document did not originate from him.

#### **Thomas (TJ) Abernathy ("ABERNATHY")**

(Retired Senior Special Agent, U.S. Marshall Service)

The MPTC provided five yellow cards in response to a STIRM public records request. The five names were five of the six on the forged sponsorship letter. One of the five cards stood out, as it was the only one with a handwritten date and belonged to TJ ABERNATHY. The card indicates that ABERNATHY failed to pass the 1995 NERPI police academy class that graduated on 13 May 1995.

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ABERNATHY and Chief MCNAMARA socialize in the same circles and happened to meet at a social event. They spoke briefly at the event; the Chief informed ABERNATHY that MPTC records indicate ABERNATHY had not graduated from the academy class. The Chief stated that ABERNATHY's initial shock at being told he did not graduate appeared genuine. ABERNATHY offered to provide copies of his training records showing that he did, in fact, graduate.

ABERNATHY was interviewed, and his interview was recorded by the court reporter that swore ABERNATHY in before the interview started. The court reporter produced a certified transcript of the interview.

During the interview, ABERNATHY presented a legitimate copy of his 1995 NERPI police academy training certificate showing he graduated on 13 May 1995; this contradicts MPTC training records. The interview aimed to learn more about what he knew about FOUNTAIN allegedly graduating from the 1995 NERPI academy class. ABERNATHY and FOUNTAIN were and are still friends.

#### **Chief Thomas Shamshack ("SHAMSHACK")** (Former NERPI instructor for the MPTC)

SHAMSHACK is retired and was one of three instructors for the 13 May 1995 NERPI graduating class. SHAMSHACK provided background information and could give the names of other instructors but had no specific knowledge as it pertains to this investigation.

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#### **Retired Off. Lee Scalzilli ("SCALZILLI")**

(Former NERPI instructor for the MPTC)

SCALZILLI was also an instructor for the 13 May 1995 NERPI graduating class. SCALZILLI had no recollection of the 13 May 1995 NERPI class and stated that he no longer retains any training records. He also provided the identity and whereabouts of the third instructor. The third instructor passed away several years ago.

#### **Retired Lt. James GRAHAM Bedford PD ("GRAHAM")**

(Last Director of the NERPI Academy)

Replaced Larry NORMAN at NERPI. Contact was made through social media, and he responded with, "We have to submit the records to the MPTC, we do not keep records of students."

#### **Methuen City Councilor Mike Simard ("SIMARD")**

(Currently employed as a Sergeant with Lawrence Police Department)

Counselor SIMARD was elected to the Methuen City Council in January 2020 and was soon selected by his peers to chair the Public Safety Committee. As the Public Safety Chair, Counselor SIMARD had heard rumors that Officer FOUNTAIN had never completed a police academy. Being the Chair of the Public Safety Committee, SIMARD sought documented proof that FOUNTAIN had completed a police academy. Counselor SIMARD's efforts led to the discovery of the forged training certificate. Counselor SIMARD's efforts towards acquiring documented proof that FOUNTAIN had graduated

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from a qualifying police academy resulted in the discovery of a 1995 NERPI police academy graduation certificate in FOUNTAIN's name. The same document that STIRM would deem a forgery during their initial assessment was later confirmed by the Department of Homeland Security's forensic laboratory.

## INTERVIEWS

**STIRM interviewed the following individuals during this investigation.**

○ Capt. Gregory GALLANT	Methuen Police Department
○ Capt. Randy HAGGAR	Methuen Police Department
○ Lt. Christian MAX (x2)	Methuen Police Department
○ Lt. Steve SMITH	Methuen Police Department
○ Lt. James GUNTER	Methuen Police Department
○ Sgt Daniel O'CONNELL (x2)	Methuen Police Department
○ Officer TERRY FOUNTAIN (x2)	Methuen Police Department
○ Officer Derek LICATA	Methuen Police Department
○ Officer David SOUTHER	Methuen Police Department
○ Mr. Lawrence (Larry) NORMAN	Municipal Police Training Comm.
○ Chief Richard STANLEY (retired)	North Andover Police Department
○ Timothy J.(TJ) ABERNATHY (retired)	United States Marshall Service

## PUBLIC RECORDS REQUEST

The following agencies received at least one Public Record Request (PRR) / Freedom of Information Act (FOIA) Request seeking information in this investigation.

- ◆ Municipal Police Training Committee
- ◆ Essex County Sheriff's Department
- ◆ North Andover Fire Department
- ◆ North Andover Police Department
- ◆ Massachusetts Civil Service Commission

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## RELEVANT LAWS AND REGULATIONS

### Administrative Laws

◆ Definition of public records	<a href="#"><u>MGL c.4, § 7 cl. 26</u></a>
◆ Public records	<a href="#"><u>MGL c. 66</u></a>
◆ Fair information practices act	<a href="#"><u>MGL c. 66A</u></a>
◆ Fair information practices act	<a href="#"><u>940 CMR 11</u></a>
◆ Public records access regulations	<a href="#"><u>950 CMR 32</u></a>
◆ Information practices regulations	<a href="#"><u>950 CMR 33</u></a>
◆ Freedom of Information Act	<a href="#"><u>5 USC § 552</u></a>

### Criminal Laws

◆ Perjury	MGL c. 268 § 1
◆ Conspiracy	MGL c. 274 § 1-8
◆ Larceny by false pretense	MGL c. 266, § 30
◆ Money laundering	MGL. c.267A § 2
◆ Forgery	MGL c. 267 § 1
◆ Uttering	MGL c. 267 § 5
◆ Impersonating a police officer	MGL c. 268 § 33
◆ False arrest	MGL c. 231 § 94B
◆ Kidnapping	MGL c. 265 § 26

## ACADEMY CLARIFICATION

There are multiple police training academies across Massachusetts. To prevent confusion among the readers unfamiliar with the Massachusetts police training idiosyncrasies, the investigators felt it necessary to simplify the terminology. During the period FOUNTAIN was hired, the Commonwealth had two types of police academies: part-time reserve/intermittent academies and full-time academies.

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For the sake of clarity, the following facts are beyond dispute:

- **FOUNTAIN never attended or graduated from a full-time police academy.**  
*and*
- **FOUNTAIN's part-time police academy graduation certificate is a confirmed forgery.<sup>1</sup>**

For this report and other public reporting, the reader should understand that different terminology is often used to describe the part-time police academy which is the focus of this report. The following words and phrases often have the same meaning:

- ◆ Reserve
- ◆ Intermittent
- ◆ Reserve/Intermittent
- ◆ NERPI
- ◆ 1995 Tewksbury Police Academy
- ◆ Part-time Academy

FOUNTAIN alleges he attended and graduated from the now-shuttered Northeast Regional Police Institute (NERPI) Academy on 13 May 1995, that claim is a major focus of this investigation.

Individuals who graduate from part-time academies are only eligible to become full-time police officers if they are also granted a Temporary 270-Day Waiver from the MPTC.

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<sup>1</sup> **Proven Forged 13 May 1995 NERPI Certificate:** In Sean FOUNTAIN's name, recovered from the FOUNTAIN residence



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On 27 July 2017, Governor Charlie BAKER signed “***An Act Authorizing the Appointment of Sean FOUNTAIN to the Position of Permanent Intermittent Police Officer of the Police Department of the City Known as the Town of Methuen.***”<sup>2</sup> The special legislation signed by Governor Baker did nothing to enlarge or diminish the foundational training requirements for FOUNTAIN or anyone else in the Commonwealth, it simply authorized FOUNTAIN to work as both a police officer and a Methuen City Councilor for the remainder of his term in office.

Under Massachusetts Law, all full-time police officers must first graduate from a full-time police academy before executing police powers, with one exception. Under certain conditions, appointing authorities may petition the MPTC to grant a Temporary 270-Day Waiver. The purpose of the waiver is to allow part-time police officers who have satisfied those conditions to temporarily work as full-time police officers, but only during periods of emergencies. While there are many conditions that must be satisfied to qualify for the waiver, one stands out as most significant; candidates for the 270-day waiver must prove that they have attended and graduated from a part-time academy. If the waiver is granted and the candidate wants to continue to serve as a full-time police officer, they must enroll in a full-time police academy within those 270-days.

1. Sean FOUNTAIN had worked as a full-time police officer in the City of Methuen for nearly three (3) years, before ever applying for a waiver that was needed before he would have been authorized to work his first shift as a full-time officer.

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<sup>2</sup> **27 August 2017:** Special Legislation that appointed FOUNTAIN as a Permanent Intermittent Police Officer

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2. Sean FOUNTAIN never presented evidence of having graduated from a part-time police academy when he was first hired to work full-time in August of 2017.
3. Former Chief Joe SOLOMON did not apply for a Temporary 270-day Waiver for FOUNTAIN until 22 April 2020, and when he did, he indicated FOUNTAIN had "misplaced" his training certificate.
4. On 1 May 2022, MPTC Director Robert FERULLO said in an email to SOLOMON ***"I am on a call until about 11:30. I am concerned about FOUNTAIN ... we can talk. I will call"***. Methuen Police Department phone records show the two did talk for approximately 11 minutes.
5. The MPTC has indicated the FOUNTAIN Temporary 270-Day Waiver application was withdrawn, but they also indicated they have no record of who requested its withdrawal.
6. On 5 May 2020, SOLOMON emailed a copy of a forged FOUNTAIN 1995 NERPI Academy Graduation Certificate to HR Director Lisa CROWLEY, who thereafter emailed the same certificate to Mayor PERRY and Counselor SIMARD.

## INTRODUCTION

Interim Chief Randy HAGGAR retained the STIRM Group to investigate this matter before the new Chief was sworn in. HAGGAR related that upon discussion with the City Attorney and Mayor, the sensitivity and nature of the investigation warranted seeking an unbiased outside investigator. Once Chief MCNAMARA was sworn in, Captain HAGGAR resumed his Special Service Bureau Commander (SSB) position.

HAGGAR became a witness when a subordinate employee disclosed information to him that, if proven to be true, would implicate a high-ranking commissioned officer and

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FOUNTAIN in a criminal conspiracy<sup>3</sup>. Due to the sensitive nature of the allegation, Captain HAGGAR conducted a cursory review of the allegation to either substantiate or invalidate the employee's claim, which resulted in the discovery of evidence substantiating the allegation.

With the existing facts and circumstances, best practices and standards would call for an unbiased outside investigator to be brought in to conduct the investigation. As it was strongly suspected from the start of the investigation that high-ranking METHUEN POLICE DEPARTMENT official/s would be implicated since the only employees with access to the personnel records are senior members of METHUEN POLICE DEPARTMENT who have been put in place by a police Chief who will be shown to have been complicit, if not criminally responsible.

The additional benefit of retaining an outside investigator was that the Methuen Police Department's highest-rated candidate for the next available captain's position was Lieutenant Eric FERREIRA, the current Internal Affairs investigator. The City wanted to ensure that everything related to this investigation was above board and transparent upon completion of the investigation. They wanted to protect the integrity of the promotional process. Regardless of the integrity of the investigators or the quality of the investigation, it would not stop someone from making false allegations of favoritism or quid pro quo had Capt. Ferreira been the lead investigator. That was subsequently promoted due to a current captain position becoming available due in part to this

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<sup>3</sup> **March 2021** - Photos by Deputy HAGGAR of the forged training records recovered by Officer Terry FOUNTAIN.

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investigation. Capt. FERREIRA was promoted on 19 December 2022, over fourteen months after the investigation began.

Capt. GALLANT was on administrative leave with pay and has since been terminated for cause. Capt. HAGGAR became a witness when he was notified of the potential forgeries. Capt. MCCARTHY was the SSB Commander when the training certificate became an issue. Due to the individual circumstances previously listed about each of the captains, best practice dictates hiring an outside investigator.

In October 2021, the City of Methuen retained the STIRM Group ("STIRM") to conduct an independent investigation into FOUNTAIN's supposed fraudulent training certificate.<sup>4</sup> STIRM Group was charged with two specific tasks. First was investigating the authenticity of a suspected forged training certificate that indicates that FOUNTAIN graduated as a member of the 13 May 1995 Northeast Regional Police Institute (NERPI) part-time academy class.

If proven to be a forged training certificate, identify the source. The document has been proven to be a forgery; the forgery was created using the legitimately earned training certificate issued to retired Methuen Police Department Lt. Steve SMITH. SMITH provided a copy of the certificate to Methuen Police Department in 1995 when he completed the class. The identity of the person who created the document is known with relative certainty, as are the identities of his co-conspirators.

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<sup>4</sup> See Cite 1

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Since the MPTC distributed the forged training certificate and credited FOUNTAIN with providing the document, the investigation focused on the MPTC.

The intent was to discover how the forged training certificate came to be in their possession, hoping the answer to that question would lead the investigator to who created it.

The investigator had no reason to think the MPTC was involved. Unfortunately, this investigation will show that the senior staff at the MPTC, including the Director himself, intentionally stalled, hindered, and impeded this investigation. The efforts to do so continued until just recently when Secretary Galvin's Office compelled the MPTC to produce records the investigator had requested nearly a year ago. On 8 March 2023, O'BRIEN finally provided a written response to a PPR that asked for documents related to who was responsible for withdrawing FOUNTAIN's Temporary 270-Day Waiver application.

*"Larry: Good afternoon. With respect to your February 7, 2023, public records request asking for "... a copy of the document that shows that Sean FOUNTAIN or Mayor PERRY's office requested the [Temporary 270-day waiver] application be withdrawn...", the MPTC states as follows:*

*To date, no such document has been found. If such a document is found, it will be produced.*

*Sincerely,  
Jim O'Brien  
James H. O'Brien  
Chief-of-Staff and General Counsel  
Municipal Police Training Committee  
Phone: 781-437-0311 | Cell: 617-590-7413  
Email: [@mass.gov](mailto:@mass.gov)  
Web: [www.mass.gov/mptc](http://www.mass.gov/mptc)"*

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The investigator wanted the MPTC to answer that specific question because the investigator had reason to believe the MPTC could not produce a responsive document to support their previous assertion that the FOUNTAIN's Temporary 270-Day Waiver Application had been withdrawn.

The MPTC's response confirms that no such records exist that support their assertion that FOUNTAIN's waiver application was formally withdrawn. This strengthens the investigator's theory; if the MPTC does not have a record of an event that took place just three years ago, they likely never had one. The investigator does not believe the MPTC ever received a written request to withdraw the FOUNTAIN waiver application from consideration. The question of who withdrew the FOUNTAIN Temporary 270-Day Waiver application was avoided for obvious reasons.

The investigator does not believe the MPTC's explanation that FOUNTAIN's request was formally withdrawn. The investigator believes the decision to withdraw FOUNTAIN's Temporary 270-Day Waiver application resulted from the 11-minute phone call between former Chief SOLOMON and Director FERULLO on 1 May 2020. This is the same phone call that FERULLO failed to disclose verbally to the investigator, Chief MCNAMARA, and others. It is also the call referenced in a 1 May 2020 email that was similarly hidden from STIRM and the Methuen Police Department by manipulating a PPR before it was forwarded to EOTSS.

The investigator will show that the MPTC told reporter Tim WOOD and FOUNTAIN they had no records to support his attendance at the 1995 NERPI Police Academy in March 2019.

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If FERULLO could not show that FOUNTAIN had attended and graduated from a part time academy, FOUNTAIN would be ineligible to receive a Temporary 270-Day Waiver.

Former Chief SOLOMON could not confirm it either, as he represented in an email to FERULLO that the Methuen Police Department did not possess it and FOUNTAIN had since lost or misplaced his certificate.

**\*Investigator Theory:**

*The external pressure on former Chief SOLOMON was immense. The investigator believes the first FOUNTAIN forgery was created as a result of that pressure.*

The lack of a response is precisely what the investigator expected to receive from the MPTC. The investigator believes FERULLO and GALLAGHER know exactly why FOUNTAIN's Temporary 270-Day Waiver request was withdrawn; their non- answers and incredulous representations that they cannot remember do not ring true.

FERULLO, O'BRIEN, and GALLAGHER are on record saying the Temporary 270-Day Waiver request was withdrawn. So, who withdrew it?

On 5 April 2022, Chief MCNAMARA received an email from Director FERULLO advising him that all contact between the MPTC and the Methuen Police Department must go through General Counsel O'BRIEN. Why would the MPTC feel the need to engage their general counsel as their point of contact for all things related to the Methuen Police Department if they had nothing to hide? This type of maneuver is rare in law enforcement circles. Generally, law enforcement agencies fully cooperate with the efforts of other law enforcement agencies without limitation.

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The MPTC is responsible for the development, delivery, and **enforcement** of training standards for all municipal police officers performing police duties and functions in the Commonwealth. Given the MPTC's stated mission, the investigator thought they would have been more concerned with discovering how an unqualified and fraudulently credentialed civilian was allowed to masquerade as a police officer for almost four years.

When the investigation began, the investigator had no reason to believe the relationship with the MPTC would become adversarial. It was the MPTC that chose that course.

The credibility of the MPTC is in question. This investigation will show the MPTC's actions have hindered a legitimate law enforcement investigation. The question that remains is whether that hindrance was a result of extreme incompetence or a willful effort to obstruct this investigation.

## CIVIL SERVICE INVESTIGATIVE REPORT

Information gleaned from this investigation was provided to the Civil Service Commission, which was already conducting their own investigation. Their investigation concluded on 26 January 2023 with the release of the “***Civil Service Commission Investigative Report: Use of Intermittent Police Officers on Methuen Police Department.***”<sup>5</sup> The fourth recommendation in the Civil Service Investigative Report is quoted below. The Commission forwarded a copy of their report to the ECDA and the Office of the AG.



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#### Civil Service Commission 4th Recommendation

***“The Commission recommends that the City continue to explore legal action against Joseph SOLOMON, as well as Sean FOUNTAIN, notwithstanding Chief SOLOMON's retirement and Sean FOUNTAIN's resignation. Although Chief Solomon has been approved for retirement, this report, along with the findings of the Inspector General, provided detailed examples of his serious misconduct during his tenure as the City's Police Chief. It is inconceivable that a public employee could completely evade accountability for such misconduct by simply filing for retirement benefits. Nor should Sean Fountain be permitted to avoid accountability for his misconduct. We recommend that the City continue to explore all avenues of recourse to ensure accountability regarding the misconduct identified in this report. To that end, the Commission, on its own initiative, is providing a copy of this report to the following agencies for review and appropriate action, as warranted: the Office of the Attorney General; the Office of the Inspector General; the State Ethics Commission; the Essex County District Attorney's Office; the Public Employee Retirement Administration Commission (PERAC); the Methuen Retirement Board and the Essex County Retirement Board.”***

### CIVIL SERVICE REQUIREMENTS

The investigator requested the Civil Service Commission to provide the certified police eligibility lists that covered the period that FOUNTAIN was employed as a police officer in the City of Methuen (1 July 2016 through 31 July 2020). See the results below.

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<sup>5</sup> **Civil Service Commission Investigative Report:** Use of Intermittent Police Officers on Methuen Police Department.

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**Massachusetts Civil Service Commission** – Records request sent 10 Mar 2022, Civil Service eligibility list for 2016 through 2018 for the City of Methuen.<sup>6</sup>

- ◆ 10 Mar 2022, Acknowledged receipt.
- ◆ 16 Mar 2022, Civil Service Commission responded with two attachments that covered the time frame requested. The documents were copies of the certified eligibility list that would have been used to hire full-time police officers in the City of Methuen. FOUNTAIN's name is noticeably absent on each list.

FOUNTAIN was 43 when he received the intermittent police officer position on 1 July 2016. Massachusetts General Law (MGL) Chapter 31, Sec 58 explicitly addresses the age a candidate needs to be eligible for the civil service police exam. FOUNTAIN was well over the age of 32, therefore making him ineligible to sit for the civil service examination. On average, exams are given every two or three years. FOUNTAIN was not eligible for the police officer civil service exam due to his age.

**\*Investigator Note:**

*Any police Chief in a town or City that adheres to civil service regulations is well versed in the hiring procedures they must adhere to when hiring new personnel. Former Chief SOLOMON has shown that he is well-versed with the Civil Service Commission, as he was a long-tenured police Chief that was involved in the hiring of scores of civil service police officers during his two tenures. Former Chief SOLOMON was terminated for cause in 2006, appealed that termination to Civil Service, and won his position back. It is the investigator's professional opinion that former Chief SOLOMON knew exactly what he was doing when he hired FOUNTAIN.*

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<sup>6</sup> **Civil Service Commission PRR Response** - Civil service eligibility list during FOUNTAIN's tenure as an MPD Officer. FOUNTAIN's name is noticeably absent from both lists.

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### Massachusetts General Law Chapter 31 Section 58, 61A, & 61B

The City of Methuen is a municipality that adheres to the Civil Service Commission's guidelines and regulations regarding hiring and promoting police officers. MGL Chapter 31 Sec 58 specifically addresses the hiring of police officers. It establishes an age limitation on applicants, as they cannot reach 32 years of age on or before the final date for the filing of applications.

#### Excerpt from MGL 31 Section 1

General Law Part I, Title IV, Chapter 31, Section 1

***“Eligible list” is “a list established by the administrator, pursuant to the civil service law and rules, of persons who have passed an examination; or a re-employment list established pursuant to section forty; or a list of intermittent or reserve fire or police officers as authorized under the provisions of section sixty; or any other list established pursuant to the civil service rules from which certifications are made to appointing authorities to fill positions in the official service.”***

#### Excerpt from MGL 31 Sec 58

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIV/Chapter31/Section58>

***“No person shall be certified for original appointment to the position of firefighter or police officer in a City or town which has not accepted sections 61A and 61B if that person has reached 32 years of age on or before the final date for***

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*the filing of applications, as stated in the examination notice, for the examination used to establish the eligible list from which the certification is to be made.”*

#### Excerpt from MGL 31 Sec 61A

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIV/Chapter31/Section61A>

*“The administrator, with the secretary of public safety and the commissioner of public health, shall establish initial health and physical fitness standards which shall be applicable to all police officers and firefighters when they are appointed to permanent, temporary, intermittent, or reserve positions in cities and towns or other governmental units. Such standards shall be established by regulations promulgated by the administrator after consultation with representatives of police and firefighter unions and the Massachusetts Municipal Association.”*

#### Excerpt from MGL 31 Sec 61B

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIV/Chapter31/Section61A>

*Section 61B. “Any City, town, district or other governmental unit which accepts the provisions of this section shall establish a wellness program for police officers and firefighters, if any, employed in such city, town, district or other governmental unit. Such a wellness program shall be in accordance with the minimum requirements established by the department of public health pursuant to section two hundred and three of chapter one hundred and eleven.*

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*The commonwealth and any agencies or authorities thereof shall establish such programs for any police officers or firefighters employed by said commonwealth, agencies or authorities and shall be deemed to have accepted this section for the purposes of section sixty-one A. Any city, town, district, or other governmental unit, but not including the commonwealth, its agencies, or authorities, which accepts the provisions of this section and provides wellness programs pursuant thereto shall be reimbursed for the lesser of (i) one-half the costs thereof or (ii) an amount equal to one hundred dollars per employee, by the commonwealth, upon certification by the secretary of public safety. Said secretary shall certify the amount of such reimbursement to be paid to such city, town, district, or other governmental unit from information filed on or before September first of each year with said secretary by the appointing authority."*

## MASSACHUSETTS MUNICIPAL POLICE OFFICER REQUIREMENTS

(Prior to 1 July 2021)

This research was compiled by the STIRM Group members that have worked in police training for decades. This document was created before the interview of the former Director of NERPI, Larry NORMAN.

The most common process of becoming a police officer in Massachusetts begins with the applicant completing the Civil Service Police Officer Entry Level Exam. After passing the exam, the applicant's name is placed on an eligibility list for

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hiring consideration. When a police department is ready to hire, they request the eligible list, and the Civil Service Unit sends a list of names to the requesting department. The hiring process may begin if an applicant's name is on the list.

The hiring process usually involves the applicant completing an employment application with the hiring department. From there, the hiring agency will conduct an extensive background investigation on the applicant. If the applicant passes the background investigation, interviews, etc., the next step is to take the medical exam and the initial-hire Physical Ability Test (PAT). Some departments may also need a psychological exam. If these steps are satisfactorily completed, the applicant will be given a conditional offer of employment; the condition being the successful completion of a Massachusetts municipal police officer training academy. Successful completion of the recruit officer course (ROC) curriculum is required under [M.G.L. Chapter 41 §96B](#) to be a sworn municipal, University of Massachusetts, or environmental police officer in the Commonwealth.

The Municipal Police Training Committee (MPTC) runs five recruit officer training programs across the Commonwealth: Boylston, Reading, Plymouth, Randolph, and Western MA. Several more academies are authorized to deliver the MPTC-approved Recruit Officer Course curriculum: Boston PD, Cambridge PD, Cape Cod Municipal Police Academy, Fitchburg State University, Lowell PD, Merrimack College, New England Community College, Quinsigamond Community College, State Police Municipal Academy, Springfield PD, Transit PD, and Worcester PD.

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Each applicant for a police recruit training program run by the Municipal Police Training Committee (MPTC) must submit a registration application through the MPTC Acadis Training Portal. The hiring Department's responsibility is to ensure all prerequisite exams have been completed within the identified time frames. Applicants wishing to attend one of the authorized academies must enroll directly in the academy of choice.

The MPTC has oversight of the authorized academies but does not get involved with the application process. Academy Directors will complete and send to MPTC Headquarters a starting roster (**Form TC-1**) at least 30 days before the start of the training program. Once a Recruit Officer Course begins, several other paper trails are created. For example, daily attendance logs are required. Specific courses require certification and thus require names to be sent to State or Federal agencies for certification records. Examples include First Responder, CPR, Firearms, Defensive Tactics, Speed Measurement, and Standardized Field Sobriety Testing. Academy Directors must also submit an After-Action Report to the MPTC Director of Training within ten days after graduation. The After-Action report must include a narrative explanation of the Academy's events occurring over the time of the course delivery, paying particular attention to any unique challenges, considerations, or training exemptions; a final schedule of the Recruit Officers Course as delivered; a fully completed Curriculum Certification Form; and a fitness assessment results form. Academy Directors keep all Recruit Officer Course records using the Massachusetts

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Record Retention Schedule and supply the White Cards (Recruit Training Records) after graduation.

#### Massachusetts Statewide Records Retention Schedule; July 2021

Below are the relevant sections that apply to this investigation.

- ◆ J11-08: Basic Recruit White Card / Yellow Reserve Card
  - *Retain Permanently*
- ◆ J11-27: Certification Report - Overall fitness evaluation
  - *Retain 75 years*
- ◆ J11-28: Class Rankings and GPAs
  - *Retain 75 years*
- ◆ J11-29: Class Schedule
  - a. *Retain 75 years*
- ◆ J11-17: Waivers
  - *Retain 25 years*
- ◆ J11-01: Recruit Officer Course Training Application
  - *Retain 50 years*
- ◆ J11-02: MPTC Waiver, Release, and Indemnification Agreement
  - *Retain 50 years*
- ◆ J11-09: Letter of Authorization
  - *Retain 50 years*
- ◆ J11-10: Roster Form TC-1
  - *Retain 50 years*



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Upon completing an MPTC Recruit Officer Course, candidates may be sworn in as full-time police officers and begin working within their respective communities. Before 2021, and the implementation of the Police Reform Act and the creation of the Police Officer Standards and Training Commission (POST), The MPTC also sponsored Reserve/Intermittent Police Officer Training Programs. Reserve/Intermittent training program graduates were allowed to work as part time police officers. A part time officer must request a Temporary 270-Day Waiver if they wish to work as a full-time police officer, but only during times of documented public safety emergencies. During the Temporary 270-Day Waiver period, the officer must enroll in and start a qualifying full-time police academy.

This petition for a Temporary 270-Day Waiver must be filed by the appointing authority of the employing agency and it must include the following documentation:

- ◆ Current certification in CPR and First Aid.
- ◆ Current qualification in the use of firearms by an MPTC-certified instructor.
- ◆ Successful completion of the training requirement for persons appointed as a reserve or intermittent police officer.
- ◆ Documentation, the officer obtained at least one year of law enforcement experience since graduating from the reserve or intermittent training program.
- ◆ Reason (*cite nature of public safety emergency or other exigent circumstance*)
- ◆ Current resume

The Municipal Police Training Committee (MPTC) is responsible for storing and preserving the records necessary to meet the Massachusetts Record Retention

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requirements.

Massachusetts Police Recruit Training Requirements are governed by Massachusetts regulation 550 CMR 3.00.

Massachusetts Reserve/Intermittent Police Officer Training Programs required the part time officers to complete yearly in-service training. If they did not complete the annual in-service training requirements for three years, they are no longer considered qualified to be a reserve/intermittent police officer, and thus not qualified to apply for a Temporary 270-Waiver to become a full-time police officer. It is not possible for reserve/intermittent police officers to restore their status if they fail to complete their required annual in-service training. The only way to regain that status would be to complete another reserve/intermittent police academy.

Prior to 24 November 2021, there were no legitimate records found that suggest FOUNTAIN ever attended or graduated from a part-time (reserve/intermittent) police academy.

## FOUNTAIN & METHUEN POLICE DEPARTMENT's COMPLICATED PAST

### Pre-Methuen Police Department

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FOUNTAIN became a full-time North Andover Firefighter in 1999 and remained employed there until his resignation in 2017. His departure aligns with the date he was appointed as a permanent intermittent police officer in Methuen.

While a firefighter, FOUNTAIN also worked for the Essex County Sheriff's Department. ECSD has no training records that indicate FOUNTAIN completed the 13 May 1995 NERPI police academy. *Refer to History of FOUNTAIN Untruthfulness for further specifics.*

FOUNTAIN became a resident of the City of Methuen and remained a resident until his term as a City Councilor was completed at the end of 2017.

FOUNTAIN was a City Councilor for the City of Methuen for six years and served as the Chairman of the City Council on two separate occasions from January 2013 to January 2014 and again from January 2016 to January 2017. On 18 September 2017, during FOUNTAIN's term as the City Council President, the City Council passed three police labor contracts. Those three agreements are arguably the most controversial labor contracts in law enforcement history. FOUNTAIN abstained from two of the three votes; while all three labor contracts passed. With the passage of the three contracts, former Chief SOLOMON became one of the highest-paid Police Chiefs in the United States.

Before completing his term in office, FOUNTAIN was hired by METHUEN POLICE DEPARTMENT to be a part time police officer in July 2016. While several glaring issues existed with that arrangement, it was outside the scope of services that STIRM was retained to investigate.

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FOUNTAIN did not participate in annual in-service training prior to 2019. Still, he knowingly misrepresented that fact during an Essex County Sheriff's Department IA investigation that found him responsible for failing to report a use of force. This is relevant because it demonstrates that FOUNTAIN was aware of the annual in-service requirement before he joined the Methuen Police Department. Had FOUNTAIN legitimately not been aware of the annual in-service training requirement, he might have been able to place the responsibility for his failed compliance on the City.

FOUNTAIN continues to claim he attended and graduated from the 1995 NERPI Police Academy despite having no records to support his claim. Even if FOUNTAIN had attended and graduated from the 1995 NERPI Police Academy, he failed to maintain the annual in-service requirements necessary to keep his reserve/intermittent police officer credentials.

## History

The following is relevant to FOUNTAIN's employment with Methuen Police Department. On 20 March 2013, Dan ZIVKOVICH, the former Director of the Municipal Police Training Committee ("MPTC"), sent out a memorandum to all appointing authorities and police department administrators reminding them of their duty to comply with M.G.L. 41 § 96B and 550 CMR 3.00 regarding foundational training.<sup>7</sup> ZIVKOVICH would explain that before anyone could exercise police power as a full-time police officer,

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3. 20 March 2013 Dir. Zivkovich email addressing M.G.L. 41 § 96B and 550 CMR 3.00 regarding foundational training

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they must complete a full-time recruit academy or receive a waiver or exemption. The sole authority to grant any waiver or exemption lies with the MPTC. Former Chief SOLOMON was the Chief of the Methuen Police Department when the update from ZIVKOVICH was sent to all Massachusetts Police Chiefs.

The Mayor at the time FOUNTAIN was hired was Mayor Stephen ZANNI. Like in most cities, the Mayor is the appointing authority, responsible for hiring and firing employees when appropriate. Former Police Chief SOLOMON was not the appointing authority, but he most certainly had a significant advisory role to ZANNI. Mayor ZANNI, like most city Mayors, was not a subject matter expert on public safety training requirements related to the hiring of new police officers. ZANNI depended on his long tenured police Chief to make good faith recommendations he could rely on.

On 1 July 2016, former Mayor ZANNI appointed FOUNTAIN a part time police officer based largely on former Chief SOLOMON's recommendation. FOUNTAIN was treated differently than the other four intermittent officers with whom he was hired.

No records indicate that FOUNTAIN completed the comprehensive pre-employment screening the other four candidates were mandated to complete when they were all hired simultaneously. There are no financial records showing the City paid for any of the following tests for FOUNTAIN: a drug test, a psychological examination, a physical agility test, or a physical. The City of Methuen's financial records indicate that the other four candidates completed those tests.

No records indicate that FOUNTAIN was subjected to a pre-employment background investigation. Had a background investigation been performed, the

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investigator is certain FOUNTAIN would not have passed it. A competent background investigator would not have missed FOUNTAIN's 1999 domestic violence arrest and a related temporary restraining order that he failed to report in his 2013 Firearms Renewal Application and his original 2016 METHUEN POLICE DEPARTMENT employment application.

Neither the MPTC nor the Methuen Police Department has records indicating that FOUNTAIN completed the annual in-service training requirements before joining the department. The only in-service training program FOUNTAIN can be shown to have completed began in 2019, more than 24 years after he allegedly graduated from the 1995 NERPI Police Academy. Where are the other 23 years of in-service training records?

### Preferential Treatment

All records indicating FOUNTAIN completed the 13 May 1995 NERPI Police Academy are proven to be forgeries created from Steve SMITH's training certificate. The forged documents were tested independently at the U.S. Department of Homeland Security Forensic Laboratory. Laboratory Report HIS-FL 23-00258 has since confirmed the investigator's initial conclusion that the FOUNTAIN documents are forgeries and all the FOUNTAIN 13 May NERPI certificates are descendants of the SMITH certificate. S/A Dale C. Crispin of the HSI Forensic Laboratory completed the exam and report on 6 January 2023.

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FOUNTAIN will be shown to have created a forged training certificate. The certificate was created to allow FOUNTAIN to maintain his job as a full-time police officer without ever graduating from a police academy.

The investigator will show that FOUNTAIN was the beneficiary of a level of favoritism so outrageous that it was criminal. SOLOMON'S efforts to hire FOUNTAIN as a full-time police officer might have been characterized as grossly negligent were it not known that his efforts were also purposeful. There is no innocent explanation for what occurred here. Pure and simple, this is a textbook case of public corruption.

Below are examples of the preferential treatment that FOUNTAIN was the beneficiary of:

- ◆ FOUNTAIN was a City Counselor in 2016 and assumed the City Counsel Chairperson position in January 2017.
- ◆ FOUNTAIN was not required to provide documented proof that he was qualified to be a police officer before being hired for that position by the City of Methuen.
- ◆ **1 July 2016** FOUNTAIN signed a Methuen Police Department recruit application indicating he went to NERPI in Tewksbury *in 1996*, with no representation that he completed the course.
- ◆ **1 July 2016** FOUNTAIN was appointed an Intermittent Police Officer.
  - Upon becoming a part time police officer, FOUNTAIN was authorized to complete a one-of-a-kind Field Training Officer (**FTO**) program the likes of which no one has ever seen. He was allowed to come in and go on patrol with a senior officer, with no routine or regular schedule. The other trainees had a specific format that was far more regimented than FOUNTAIN's

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preferential treatment.

- ◆ FOUNTAIN is on record on at least two occasions during which he states he graduated from NERPI **in 1996**; yet, when he was under pressure to produce a certificate, he produced a 1995 NERPI academy certificate.
- ◆ For individuals that complete a police academy, that is considered a memorable day. It comes with all the pomp and circumstance that para-military organizations are known for when celebrating momentous occasions. The graduates wear their dress uniforms; family members attend to watch them take their oath of office and enjoy the graduation ceremony. The media covers the event; politicians make speeches; it is a memorable day.
- ◆ **11 Aug 2016** Methuen Police Department Training Order (TO) #16-36 assigned FOUNTAIN to a professional development program in lieu of a traditional Field Training Officer program.
  - FOUNTAIN is the only trainee given the opportunity to participate in this one-of-a-kind FTO program.
  - The training coordinator never released or signed off on FOUNTAIN as having completed the training program.
- ◆ **5 Jan 2017** Methuen Police Department Personnel Order (PO) # PO17-02 states that "Intermittent Officer Sean FOUNTAIN has completed the Field Training Officers Program and is now eligible to work on patrol."

#### **\*Investigator Note:**

*Lt. Christian MAX was the Methuen Police Departments Director of Training when FOUNTAIN was being "trained". Lt. MAX is on record stating that he never signed off on FOUNTAIN completing the FTO program since he failed to produce the necessary documentation to show he had completed it. The investigators professional assessment*



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*is that this was just another example of former Chief SOLOMON doing whatever he wants. This was not ignorance, he intentionally disregarded the concern that Lt. MAX brought forward concerning FOUNTAIN's training.*

- ♦ **23 Feb 2017** at 10:28 am, Email under the heading **Lateral Transfer** from former Tewksbury Police Chief Alfred DONOVAN to Brianna WARD from HRD Test Development. ***"Brianna, A quick question. Can a Civil Service Fireman get a lateral transfer to a Civil Service Police Department"?***
- ♦ **23 Feb 2017** at 11:44 am, WARD answers DONOVAN ***"Hi Mr. Donovan, The transfer, for Civil Service, needs to be to and from the same exact title. Therefore, a Police Officer could transfer to the role of a Police Officer in another town."***
- ♦ **23 Feb 2017** at 11:48:50 am, Donovan forwards WARDS's response to SOLOMON.
- ♦ **23 Feb 2017** at 11:55 am, SOLOMON forwards the WARD response to FOUNTAIN. FOUNTAIN replies ***"Thanks."***

**\*Investigator Note:**

*That one word response from FOUNTAIN is telling, it shows that he was aware that this inquiry was being made. From the time that Donovan received the response to when FOUNTAIN received his response from former Chief SOLOMON was 9 minutes. Nothing other than "Thanks," shows that FOUNTAIN was aware that these efforts were being made on his behalf.*

- ♦ **27 Jul 2017** The Massachusetts Senate and House of Representatives pass special legislation titled ***"An Act Authorizing the Appointment of Sean FOUNTAIN to the Position of Permanent Intermittent Police Officer of the Police Department of the City Known as the Town of Methuen."*** Governor Baker signed the legislation on 1 August 2017. Former Chief Solomon used this

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opportunity to change FOUNTAIN's pay rate from intermittent rate to Master Patrolman Pay with the issuance of Methuen Police Department PO #17-41.

**\*Investigator Note:**

*This order was an intentional and gross violation of the Collective Bargaining Agreement<sup>8</sup> in place when the order was issued. The Methuen Police Department Patrol Officers Union filed a grievance on behalf of several officers directly affected by the intentional contract violation. All affected officers had successfully completed a full-time academy and a legitimate Field Training Officer (FTO) training program, all of whom were regular full-time patrol officers. The only element the real police officers were missing to qualify for Master Patrolman Pay was contractual time on the job, all of whom had more time than FOUNTAIN. FOUNTAIN jumped ahead of all of them because former Chief SOLOMON allowed it.*

*After former Chief SOLOMON denied the grievance, it was appealed to Mayor ZANNI, who also denied it. This is another example of how former Chief SOLOMON intentionally ignored the rules and regulations and contracts that were in place at the time to the detriment of the City. The Chief has no plausible excuse to justify these actions as he was responsible for approving the department's policies and procedures, rules and regulations, and he had a role in the approval of the collective bargaining agreement he just knowingly and willingly violated.*

*As for former Mayor ZANNI denying the patrol officers' appeal when the violation was as blatant as it was, is simply shameful. The contractual time in the Methuen Police Department contract is black and white. The investigator doubts the former Mayor even took the opportunity to read the labor agreement. Had he, he would have had no other choice than to overturn former Chief SOLOMON's denial. As a result of this order and the grievance that was filed, the investigator learned that the Patrol Officers Association President ended up receiving a 270-day suspension for an infraction that would not normally merit a suspension. If a suspension was justified, it certainly didn't justify 270 days. The reason this is brought up is to support the allegations that former Chief SOLOMON used fear, intimidation, and retaliation for any perceived slight. The suspension came a short time after the Patrol Officers Association had filed their Master Patrolman pay disparity grievance. Everyone that the investigator spoke to about the*

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<sup>8</sup> **MPD Patrol Officers Contract**

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*Patrol Officers President being suspended agreed that the punishment was unjust when compared to the infraction, that the President was suspended for.*

- ◆ **9 Aug 2017** Methuen Police Department PO #PO17-41 changes Officer FOUNTAIN's official designation from "Part time Intermittent Officer to Full-time Intermittent Officer, assigned to Field Operations Bureau."
- ◆ **18 Sep 2017** The City Council voted and passed three labor contracts that pertained to the Methuen Police Department. These contracts drew national attention; had they been enforced; former Chief SOLOMON would have become the highest-paid police Chief in the country.

**\*Investigator Note:**

*Former Chief SOLOMON was the Police Chief of a department with less than 100 sworn members. In comparison, the Colonel of the Massachusetts State Police is responsible for roughly 2,000 sworn members and another 1,500 civilians. The Colonel's compensation is roughly \$250,000 compared to the \$360,000 former Chief SOLOMON was scheduled to make with the passage of the three Methuen Police Department labor contracts. Refer to the article by Andre ESTES regarding the political favors former Chief SOLOMON granted before and after the contract was approved. "Methuen police Chief doled out favors to Councilors after they made him one of the nation's highest-paid law enforcement officers - An outside auditor is looking at hiring and other police practices" - By Andrea ESTES Globe Staff, Updated November 30, 2020, 4:06 p.m. The ESTES article will be referenced later, as FERULLO is believed to have used it in a false flag campaign to draw attention away from the real reason people were requesting Methuen Police Department and FOUNTAIN records.*

- ◆ **20 Sep 2017** Methuen Police Department PO #PO17-51 Sean FOUNTAIN changed from Full-time Intermittent Officer to Permanent Full-time Intermittent Officer. This order also changed FOUNTAIN's badge number from I29 to P162.
  - FOUNTAIN was the City Council President when these votes were taken, less than 48 hours after the City Council approved the most controversial

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collective bargaining agreement in the City of Methuen's history; FOUNTAIN's designation is changed twice in nine days.

- ◆ **26 Nov 2017** Methuen Police Department PO #PO17-69 transfers Off. FOUNTAIN from Field Operations Bureau to Criminal Investigation Bureau.
  - This was FOUNTAIN's third designation change in 109 days.
  - Detectives receive on-call pay.
- ◆ **7 Jan 2018** "Methuen Police Department PO #PO17-75 transfers Off. FOUNTAIN from the Criminal Investigation Unit (CIU) Administrative Schedule to CIU weekend schedule. Saturday and Sunday from 0830hrs. to 0030hrs. and Monday from 0830hrs. to 1630hrs.
  - This schedule is unique; no one at Methuen Police Department nor the investigator has ever seen a work schedule that allows an a police officer to work their 40 hours in a mere 64 hours. No one before or after FOUNTAIN has been authorized to work such a schedule.

**\*Investigator Recommendation:**

*The investigator suggests that FOUNTAIN's payroll records be cross-referenced with the daily administrative journals for the dates that FOUNTAIN was authorized to work 40 hours in less than three days. The investigator strongly suspects that the audit will indicate that FOUNTAIN didn't work all the hours that he was paid for.*

- ◆ **4 Mar 2018** Methuen Police Department PO #PO18-14 transfers Officer FOUNTAIN from the weekend schedule to the administrative schedule Monday through Friday Group A.

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- ♦ **2 September 2018** Officer SOUTHER transferred out of detectives. It appears that SOUTHER may have been targeted, as he was vocal about FOUNTAIN's transfer to detectives and remained vocal about it until he was transferred out of detectives, while FOUNTAIN was allowed to stay. This is another case of former Chief SOLOMON providing FOUNTAIN preferential treatment while retaliating against SOUTHER for making it known that FOUNTAIN was not qualified to be a police officer, let alone a detective.
- ♦ **26 February 2019** Ann RANDAZZO forwards former Chief SOLOMON an email from local reporter Tim WOOD. WOOD is inquiring about FOUNTAIN's training record. In that email, WOOD discloses that he made a similar inquiry to the MPTC, and they responded that they have no records responsive to his request.
- ♦ **28 February 2019** FOUNTAIN requests his training records from the MPTC.
  - This is the first identified attempt by FOUNTAIN to acquire his training certificate from the MPTC, nearly three years after he originally applied to the Methuen Police Department.
- ♦ **1 March 2019** FOUNTAIN received a response from the MPTC that indicated they had no responsive records showing FOUNTAIN attended or graduated from the 1995 NERPI academy class.
- ♦ **1 March 2019** Email from FOUNTAIN to the former Director of NERPI, Larry NORMAN; NORMAN advised FOUNTAIN that he too has no records. NORMAN explains that he turned over all NERPI records to Lt. James GRAHAM when he retired.

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- ♦ **1 Mar 2019** Email from FOUNTAIN to Lt. James GRAHAM, who was the last Director of NERPI. The email asked for training records, GRAHAM responded three days later and said, "*Sorry, absolutely no student information in the files.*"

If any questions are left about whether FOUNTAIN was the recipient of favoritism, the data below should remove any doubt. This comparison is intended to show just how much favoritism FOUNTAIN was afforded while becoming a Methuen Police Officer. FOUNTAIN received a conditional offer of employment with two conditions he would need to fulfill before becoming a Methuen Police Department Intermittent Officer. FOUNTAIN acknowledged, signed, and accepted those conditions on 30 June 2016.

John TOTO graduated from a full-time Criminal Justice Training Council-approved police academy on 2 December 1994 before becoming a full-time Methuen police officer. TOTO then completed the Massachusetts State Police Academy on 1 November 1996. TOTO is now an honorably retired State Trooper who returned to Methuen and became a Special Police Officer. TOTO's conditional offer of employment has six conditions that needed to be met. TOTO acknowledged, signed, and accepted those conditions on 5 November 2018.

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## CONDITIONAL OFFER OF EMPLOYMENT

### CONDITION COMPARISON

<b>John TOTO, former Marine, two full-time academies, and honorably retired trooper</b>	<b>Sean Fountain, former Firefighter, no military, who did not complete any LE academy</b>
Passing a medical exam	N/A
Passing a psychological evaluation	N/A
Pass a state physical abilities test	N/A
Annual passing of METHUEN POLICE DEPARTMENT Physical fitness test.	N/A
Comply with rules & regulations, policy & procedure	Comply with rules & regulations, policy & procedure
All conditions as determined by the Chief of Police	All conditions as determined by the Chief of Police

What other explanation could there be other than favoritism? When former Chief SOLOMON only required FOUNTAIN, who he knew was unqualified, to meet just two generic conditions that every employee must meet regardless of their role in the department. Those two conditions are best characterized as listen to the boss and follow the rules. In contrast, a former Marine and honorably retired Massachusetts Police State Trooper who had already graduated from two full-time academies was required to meet six conditions. The disparity is even more problematic when you realize FOUNTAIN was exempt from the most critical conditions.

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The investigator has reviewed eighteen conditional offers of employment, each including an "Attachment A" that lists the additional conditions that need to be met. FOUNTAIN was required to complete two; everyone else had to complete at least six and up to nine additional conditions.

Former Chief SOLOMON's failure to follow Methuen Police Department policy & procedures, civil service regulations, and Commonwealth laws is troubling. When FOUNTAIN's attorney met with the investigator and Lt. FERREIRA, he told us that FOUNTAIN was prepared to implicate former Chief SOLOMON if a deal was to be made for his client.

The investigator wants anyone reading this report to keep one thing in mind when reading this report. Former Chief SOLOMON was a long-tenured and well-versed Chief who had hired dozens of law enforcement professionals throughout his career. With his proven history, experience, and education, the events that have occurred are by no means accidental. This was an intentional and deliberate act intended to make FOUNTAIN a police officer. This investigator does not believe that former Chief SOLOMON was incompetent or grossly negligent; his efforts were a deliberate attempt to circumvent the system. When the time comes, former Chief SOLOMON wants the jury to believe he was incompetent and grossly negligent. Otherwise, the jurors will have little choice other than to find him to be the criminal that he is.



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FOUNTAIN was subjected to an unexplainable level of preferential treatment unlike any ever seen in law enforcement. The actions and inactions taken on behalf of FOUNTAIN are so grossly negligent that it shocks the conscience. Former Chief SOLOMON's actions were intentional, reckless, careless, and incredibly dangerous; no one in their right mind would ever put an untrained, unqualified individual (FOUNTAIN) on the streets as a police officer without that individual being properly trained. In doing so, former Chief SOLOMON abdicated his professional responsibilities as the Police Chief when he intentionally failed to act in the City's best interest. Despite being criminal in nature, it is simply unimaginable to think that something like this happens today.

The investigator wants to point out an email exchange<sup>9</sup> between Al DONOVAN, President of APD Management, former Chief SOLOMON, and FOUNTAIN. The exchange took place on 23 February 2017, between 10:28 am and 11:55 am. For this interaction, DONOVAN was acting as former Chief SOLOMON's surrogate. The email chain started with Al DONOVAN inquiring if a Civil Service firefighter can laterally transfer to a Civil Service police department. DONOVAN was told no. It was explained that Civil Service requires lateral transfers to be of the same title, for example, a police officer for a police officer. The email made it clear to anyone reading it that it was impossible and would not be approved if someone attempted to laterally transfer a firefighter into a police officer's position.

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<sup>9</sup> **23 February 2017 Email Chain** – Al DONOVAN, Joe SOLOMON, and FOUNTAIN, denial of lateral transfer

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**\*Investigator Note:**

*DONOVAN has a professional relationship with former Chief SOLOMON. He has hired DONOVAN for Methuen Police Department projects in the past. The investigator is not alleging that DONOVAN had anything to do with the FOUNTAIN matter. It could be as simple as former Chief SOLOMON asking a law enforcement consultant to get him an answer. Which is what appears to happen here.*

*Former Chief SOLOMON accomplished two things by having DONOVAN ask the question. It would get him an answer that he should have already known the answer to. It also prevents a direct connection to former Chief SOLOMON, unless you can recover old Methuen Police Department emails from their server.*

DONOVAN forwarded the answer to former Chief SOLOMON who then forwarded the email to FOUNTAIN, all in less than two hours. These emails show that former Chief SOLOMON and FOUNTAIN knew they could never laterally transfer FOUNTAIN to Methuen Police Department as a police officer.

This email exchange goes to the heart of the conspiracy between former Chief SOLOMON and FOUNTAIN. They knew they could not do it, yet they knowingly and intentionally found a way to make it happen, albeit illegally.

Only one person was able to make the FOUNTAIN hiring a reality: former Chief SOLOMON. The fact that former Chief SOLOMON failed to meet the basic tenets of his job as the City's Police Chief allowed FOUNTAIN to defraud the City of over \$400,000 in salary that he was never qualified or entitled to earn. The fact that other hires were

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required to adhere to City requirements, that FOUNTAIN was not, demonstrates that SOLOMON intentionally violated civil service regulations and state laws, amounting to a conspiracy to defraud the City.

#### Meeting with Attorney Neil Caffrey on 3 December 2021

On Friday, December 3, 2021, this investigator met with Attorney CAFFREY ("CAFFREY") of Caffrey & Obied, P.C. and Lt. Eric FERREIRA ("FERREIRA") of the Methuen Police Departments Office of Professional Standards and Accreditation. The meeting began at 1100 hrs. at the STIRM offices at 112 Parker Street in Newburyport, Massachusetts.

The purpose of the meeting was to discuss the ongoing investigation into the forged training certificate that FOUNTAIN submitted, showing he completed the 1995 NERPI reserve-intermittent police academy on 13 May 1995.

We agreed to meet again after conferring with the appropriate prosecutorial authorities regarding possible legal protection in exchange for FOUNTAIN's cooperation. We did not make any promise of protection. We ensured CAFFREY understood this point by requiring him to sign an acknowledgment form that stated in part, "We have no authority to authorize any type of deal, negotiate any type of plea agreement<sup>10</sup>."

CAFFREY stated that if his client were to provide information in exchange for

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<sup>10</sup> Disclosure letter confirming the investigators had no authority to offer or negotiate a deal.

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consideration, he would be willing to provide information on his co-conspirators regarding the manufacturing of the forged training certificate that FOUNTAIN had submitted.

CAFFREY then, speaking in hypothetical terms, related that his client “hypothetically” would be willing to say that Greg GALLANT ('GALLANT') provided him with a copy of the authentic Steve SMITH document that GALLANT had recovered from SMITH's Methuen Police Department personnel file or training folder (source document,)<sup>11</sup> and that he (FOUNTAIN) “hypothetically” used it to create the fraudulent training certificate. This is a critical point because while CAFFREY spoke in hypothetical terms, his statement is consistent with and tends to corroborate Officer TERRY FOUNTAIN's testimony. Officer TERRY FOUNTAIN was interviewed twice regarding this investigation; both interviews were recorded. Officer TERRY FOUNTAIN said she confronted FOUNTAIN after finding iterations of the forgery under their baby's dresser. The iterations of the forgery found by Officer TERRY FOUNTAIN did not include a reference to Steve SMITH. According to Officer TERRY FOUNTAIN, FOUNTAIN told her that Greg GALLANT gave him a copy of the authentic 1995 Steve SMITH document (source document).

The iterations of the forgery that Officer TERRY FOUNTAIN found inside her home were turned over to the Methuen Police Department and later compared to a copy of the authentic Steve SMITH certificate inside his personnel folder. The documents

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<sup>11</sup> Copy of Steve SMITH 13 May 1995 NERPI certification, verified as the source document.

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were subjected to a forensic examination. It has since been determined that the copy of the genuine SMITH certificate was the source document from which the forged Fountain certificates were created.

CAFFREY attempted to get the conversation to move in another direction; however, the investigator brought him back on topic by asking if there were other co-conspirators. When CAFFREY answered, his outward appearance was one of reluctance; he affirmatively shook his head. The investigator advised CAFFREY that he would need the name of the additional co-conspirator; CAFFREY identified former Chief SOLOMON. The investigator asked how former Chief SOLOMON was involved. CAFFREY stated that FOUNTAIN returned the copy of Lt. SMITH's 1995 academy certificate (source document) to former Chief SOLOMON. This was the same source document that GALLANT had provided FOUNTAIN with that he later used to create the forged certificate (parent document).

The investigator began to press a line of inquiry concerning FOUNTAIN's alleged attendance at the 1995 NERPI Reserve/Intermittent Academy class.

This was a line of questioning that CAFFREY hoped his client (FOUNTAIN) could avoid. CAFFREY would imply that it was not in the City 's (City of Methuen) best interest for FOUNTAIN to answer questions regarding his attendance at the 1995 reserve/intermittent academy class.

The investigator made it clear; the City 's Mayor and Police Chief were fully aware and prepared to accept the potential consequences if FOUNTAIN finally acknowledged

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that he never graduated from the 1995 reserve/intermittent academy class.

When STIRM was first interviewed and later retained, the involved parties discussed and clearly understood the consequences if the STIRM investigation went on to prove that FOUNTAIN:

1. Never attended the 1995 NERPI Academy.
2. Attended for a time but did not graduate from the 1995 NERPI academy.
3. Attended and graduated from the 1995 NERPI Academy but did not complete the required annual in-service training that would have allowed him to retain reserve/intermittent police officer credentials.

The investigator and FERREIRA discussed CAFFREY's point post-meeting. CAFFREY's insinuation may very well be the case; it requires all the people involved to adopt a philosophy known as "Willful Blindness," also known as "Plausible Deniability," "Intentional Ignorance," or "Conscious Avoidance." All four philosophies pertain to the deliberate failure to make a reasonable inquiry into a situation where someone can be accused of wrongdoing. It involves the conscious avoidance of the truth and gives rise to an inference of knowledge of the crime in question. It is a bad faith decision to avoid becoming informed about something and avoid making undesirable decisions that such information might prompt.

***U.S v. Jewell, 532 F.2d 697 (9<sup>th</sup> Cir. 1976) the court held that proof of willful ignorance satisfied the requirement of knowledge, in a criminal case. The court instructed the jury that the "government can complete their burden of proof by proving ... if the defendant was solely and entirely a result of his having made a***

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***conscious purpose to disregard. Knowledge was defined by the court as "knowledge is established if a person is aware of a high probability of it".***

<https://law.justia.com/cases/federal/appellate-courts/F2/532/697/99156/>

<https://case-law.vlex.com/vid/532-f-2d-697-596188334>

**\*Side Note to Jewel:**

*Jewel was a criminal case, requiring "Beyond a Reasonable Doubt" burden of proof, the potential complexities of hiring an unqualified police officer would only require "Preponderance of the Evidence." Preponderance of the Evidence is the lowest burden of proof used in our judicial system. If proof of "Willful Blindness" can meet the criminal burden, it can most certainly meet the lesser standards required in civil litigation.*

CAFFREY stated that another attorney would take over for him as his schedule was too full to adequately represent FOUNTAIN. Once that was known, the investigator advised CAFFREY that those with the authority to negotiate a deal would want the attorney of record to sign off. CAFFREY assured us that the attorney that would replace him was already on board. The investigator asked if that had been confirmed; CAFFREY stated, "***No, but Sean does not really have any other way out.***"

CAFFREY was advised that the investigator would relay the information he provided and re-affirmed that FOUNTAIN was willing to testify truthfully against his co-conspirators. CAFFREY stated that his client intended to do whatever was necessary to regain his life, and if that meant testifying against GALLANT and former Chief SOLOMON, FOUNTAIN would do so.

As expected, FOUNTAIN changed attorneys. The new Attorney of the record is

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Neil F. FAIGEL. In December 2022, the investigator spoke to FAIGEL. He did not seem interested in allowing his client to follow through on what Attorney CAFFREY had promised. No additional efforts were made to follow up with Attorney FAIGEL, and he has not contacted the investigator to follow up.

It is the investigator's opinion, based on years of experience, that FAIGEL has advised his client not to cooperate unless or until he is charged. Suppose prosecutors are to make a future deal with FOUNTAIN. In that case, it is advisable that it be predicated on both his complete and truthful testimony against his co-conspirators **and** his truthful testimony regarding his alleged attendance and graduation from the 1995 NERPI Police Academy.

Most of the information learned from CAFFREY has since been independently corroborated, with former Chief SOLOMON's involvement in accepting the source document back from FOUNTAIN as the sole exception.

### Chief McNamara Chance Meeting with a Mutual Acquaintance

On or about 16 June 2022, Chief MCNAMARA was approached by a common acquaintance he shared with FOUNTAIN.

The common acquaintance explained that FOUNTAIN had come to him, desperate for him to set up a meeting with FOUNTAIN and the Chief. As FOUNTAIN conveyed, he was now willing to cooperate fully with the investigation and was ready to tell the whole truth.



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The Chief asked their common acquaintance why FOUNTAIN had suddenly reconsidered. The Chief was told that FOUNTAIN had somehow formed an opinion that his arrest was near imminent, and he feared it would be choreographed to coincide with his son's 24 June 2022 graduation from the MPTC/NECC Police Academy.

The following day, Chief MCNAMARA contacted FOUNTAIN by phone and confirmed that he (FOUNTAIN) did make such a representation to their common acquaintance. The Chief explained to FOUNTAIN that if he were interested in cooperating with the investigation, he (the Chief) would be interested in hearing what he had to say. The Chief explained that he urged FOUNTAIN to consider the consequences of how he might answer some of the questions that may be posed to him because if FOUNTAIN were to answer some questions truthfully and others untruthfully, he would be of little use to the investigation.

The Chief went on to explain to FOUNTAIN that he was most interested in hearing him truthfully answer one specific question. The Chief told FOUNTAIN that if he was not prepared to answer the question truthfully, then they did not need to continue the conversation.

The Chief told FOUNTAIN he should prepare himself to answer the following question:

***"Sean Fountain, did you or did you not GRADUATE (emphasis added) from the Reserve/Intermittent Police Academy held in Tewksbury Massachusetts in 1995?"***

The Chief explained that he emphasized the word "graduate" as he was aware of knew how FOUNTAIN had avoided answering the same question in a prior legal

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proceeding while under oath. During that legal proceeding, FOUNTAIN carefully answered only that he "went" to the academy and other words to that effect.

According to the Chief, before FOUNTAIN answered that question, he stated words to the effect of "Do you think I need a lawyer before I answer that?" The Chief then told FOUNTAIN what he already knew and was free to decide that for himself. The two men then ended their phone conversation on a cordial note, with FOUNTAIN indicating his intent to consult with his attorney.

The following day, Chief MCNAMARA was contacted by Attorney FAIGEL, who questioned why he had contacted his client. The Chief explained that he enlightened Attorney FAIGEL about the origin of the contact and the content of their discussion.

According to Chief MCNAMARA, he and Attorney FAIGEL engaged in a brief follow-up phone conversation the following day that the Chief characterized as cordial but largely unproductive.

**\*Investigator Note:**

*On 24 June 2022, Cameron FOUNTAIN graduated from the MPTC/NECC Academy; he is now serving as a full-time Methuen Police Officer in good standing.*

## FOUNTAIN HISTORY OF UNTRUTHFULNESS

FOUNTAIN can be proven to have been untruthful on:

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- ◆ A 2013 License to Carry (LTC) firearms renewal application<sup>12</sup>
- ◆ On a 2015 Essex County Sheriff Departments' internal affairs investigation regarding his failure to report a use of force.<sup>13</sup>
- ◆ On his 2016 Methuen Police Department Recruit Application Package.<sup>14</sup>

**\*Investigator Note:**

FOUNTAIN was truthful on his 2019 License to Carry (LTC) firearms renewal application, with explanation and relevancy to follow.

### 2013 Firearms License to Carry (LTC) Renewal; untruthful answers

FOUNTAIN was untruthful on his 2013 Firearms renewal application on questions number 10 and number 12.

- 10.) ***“Have you ever appeared in any court as a defendant for any criminal offense (excluding non-criminal traffic offenses)?***
- ◆ FOUNTAIN indicated, ***“No.”***
- 12.) ***“Are you now or have you ever been the subject of an M.G.L. C 209A restraining order or involved in a domestic violence charge?***
- ◆ FOUNTAIN indicated, ***“No.”***

FOUNTAIN's Massachusetts Board of Probation (BOP) record will show that FOUNTAIN was deceitful, as he has been a defendant and he has been the subject of a Massachusetts restraining order. FOUNTAIN was issued a Temporary Protective Order on 19 Mar 1999, which remained in effect until 26 Mar 1999.

### 2015 Fountain was Untruthful in an ECSD – IA UOF Investigation

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<sup>12</sup> FOUNTAIN's 2013 FID Renewal Application

<sup>13</sup> 2015 ECSD IA Report

<sup>14</sup> FOUNTAIN's 2016 MPD Recruit Application

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On 27 September 2015, Essex County Sheriff's Department completed an internal affairs investigation into a failure to report a use of force that occurred on 12 September 2015 in the vicinity of the Rio Bar & Grill at 9 Appleton Street in Lawrence, MA. FOUNTAIN was one of the detail officers assigned to a bar detail as a member of the ECSD. The report is relevant because it details statements made by FOUNTAIN during his interview with an ECSD IA Investigator. Director David T. TOBIN of the Internal Affairs Division authored the report. TOBIN references FOUNTAIN's testimony at the bottom of page 3 and continues for  $\frac{3}{4}$  of page 4. Paragraph 2 TOBIN writes, "***FOUNTAIN stated that he was an ECSD Correctional Officer from 1993 to 1999. FOUNTAIN stated that he completed the Northeast Regional Police Institute training course and that he maintains his in-service training with the Methuen Police Department.***"

This is relevant because TOBIN credits FOUNTAIN with stating that he had completed the Northeast Regional Police Institute training course and that he maintained his in-service training with the Methuen Police Department. That statement shows that FOUNTAIN was aware of the annual in-service training requirements that must be met for an individual to maintain reserve/intermittent police officer status. This removes his ability to feign ignorance and blame the City of Methuen for hiring him as an unqualified police officer. FOUNTAIN's acknowledgment in the IA report proves his knowledge of the training requirements needed to maintain reserve/intermittent police officer status.

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This investigator could not locate any police-related training records before FOUNTAIN became an intermittent officer at the Methuen Police Department in July 2016. Methuen Police Department is on record stating that FOUNTAIN had never completed an in-service training program with them prior to joining the department. It is with near certainty that FOUNTAIN never completed a law enforcement in-service training program before joining the Methuen Police Department, let alone every year that passed since he allegedly graduated from the 1995 NERPI police academy.

TOBIN states in the next paragraph that FOUNTAIN told him he rejoined the ECSD Civil Process Office in October 2014. This is relevant because FOUNTAIN was rumored to have been disallowed from performing future detail work. The investigator initially attributed FOUNTAIN's potential removal from detail work eligibility to the same IA investigation, but we later learned there could have been another reason.

Chief MCNAMARA and former Essex County Sheriff Frank COUSINS had a chance encounter when the two of them met at a Methuen community event. Chief MCNAMARA asked the former Sheriff if he had any recollection of FOUNTAIN and the circumstances surrounding his past employment with ECSD. Sheriff COUSINS recalled FOUNTAIN and said that he was almost certain that he had de-commissioned him, for cause, before completing his final term in office. To the best of the former Sheriff's recollection, FOUNTAIN was de-commissioned in connection with an IA investigation that found him responsible for improper civil process service. The former Sheriff had a general recollection of receiving several calls from prominent figures connected with the City of Methuen who advocated on behalf of FOUNTAIN. Still, he could not recall

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specifically who those people were. Capt. FERREIRA contacted the ECSD IA Division and asked if they possessed records related to such an investigation and Capt.

FERREIRA was told no such records exist.

The ECSD has reported that they do not possess a record of FOUNTAIN's alleged 1995 NERPI police academy certificate. It is the policy of the ECSD that Deputy Sheriffs must attend and graduate from a part time or full-time police academy before they are authorized to perform detail work. FOUNTAIN did perform detail work while employed at the ECSD.

This investigator, Chief MCNAMARA and Captain FERREIRA have tried to obtain various records related to FOUNTAIN's ECSD employment, including payroll records, time sheets, applications, resumes, discipline files, and IA files. The ECSD legal section thus far has been steadfast in its refusal to provide most of those records, citing exemptions to the public records law. Attorneys representing the City of Methuen have since subpoenaed those records in connection with the defense of an employment-related lawsuit brought forth by Fountain. Attorneys representing Fountain in that lawsuit are actively attempting to quash that subpoena.

### **2016 Fountain's Methuen Police Department Recruit Application; untruthful answers**

#### **Questions from page 16 of FOUNTAIN's METHUEN POLICE DEPARTMENT Application Package**

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Page 16 has a list of bullet point questions that require a yes or no answer. One of the bullet points asks:

***“Have you ever been questioned/interviewed/interrogated by your department's internal affairs unit?”*** FOUNTAIN answered, ***“Yes.”***

At the bottom of the page, there is a dedicated space to provide further details about any question to which the applicant answered yes. FOUNTAIN stated, ***“IAD investigation for actions by an officer working a night club detail in Lawrence, where I was also assigned. No disciplinary action against me. The report stated I followed policy and was truthful and cooperative.”***

Fountain's supervisor Director Harrison Whitney of the Civil Process Unit, authored a letter on 6 October 2015 titled ***“Agreed Upon Discipline in Lieu of Written Disciplinary Decision.”*** The letter was addressed to Fountain and signed by both parties. Whitney wrote in the letter, ***“As such, and in lieu of me issuing a written disciplinary decision, the parties hereby agree to fully and finally resolve this matter upon the following terms.”***

Start of the third paragraph, Whitney continues, ***“The allegations of misconduct against you were with respect to your conduct in the aftermath of an incident in which you were working a detail at the Rio Bar & Grill in Lawrence, MA on or about September 11-12, 2015. At that time, a department employee with whom you were working improperly discharged his OC on the crowd at the scene of the incident, of which you observed. After that, it is alleged that you violated Department policy and procedure, specifically 103 ECSD 924.00, the Department***

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***Use of Force policy, by failing to initially and timely report the discharging of the OC, use of force, which you observed to the appropriate supervisor."***

What Director Whitney wrote conflicts with what FOUNTAIN stated in the METHUEN POLICE DEPARTMENT application: ***"I followed policy and was truthful and cooperative."***

#### **Questions from page 17 of FOUNTAIN's METHUEN POLICE DEPARTMENT Application Package**

35.) ***"Have you ever been summonsed into court for any criminal offense?"***

- FOUNTAIN indicated ***"No."***

36.) ***"Have you ever been arrested for a violation of a criminal offense?"***

- FOUNTAIN indicated ***"No."***

37.) ***"Have you ever been arrested but have never been tried for a criminal offense?"***

- FOUNTAIN indicated ***"No."***

38.) ***"Have you ever been tried for a criminal offense but were not convicted?"***

- FOUNTAIN indicated ***"No."***

FOUNTAIN answered ***"No"*** to all four questions. Until the specifics of the 19 March 1999 domestic assault and battery charge are determined, the investigator cannot determine which of the above-listed question/s FOUNTAIN was deceitful. The Massachusetts Criminal Justice Information System Board of Probation (BOP) check confirms that FOUNTAIN was charged with Domestic Assault & Battery on 19 March



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1999. The only question left to answer would be whether he was arrested or summonsed into court to face the domestic assault & battery charge. The incident occurred in the City of Methuen, involving the mother of one of FOUNTAIN's children, who has since passed away. The record also indicates that he had an abuse prevention order issued on 19 March 1999, which remained in place until 26 March 1999. The BOP record proves FOUNTAIN was deceitful on two of the above-listed questions.

#### Questions from page 20 of FOUNTAIN's METHUEN POLICE DEPARTMENT Application Package

59.) *"Have you ever had a temporary or permanent Protective Order issued against you under the provisions of the following statutes?"*

- ♦ ***"M.G.L. c208, §18, 34B, 34C (Divorce)"***
  - FOUNTAIN indicated, **"No."**
- ♦ ***"M.G.L. c209, §32 (Abandonment in marriage)"***
  - FOUNTAIN indicated, **"No."**
- ♦ ***"M.G.L. c209, §3, 4, 5 (Abuse Prevention)"***
  - FOUNTAIN indicated, **"No."**

FOUNTAIN answered all three questions with a **"No,"** indicating that he never had a temporary restraining order issued against him, which is incorrect.

FOUNTAIN's Massachusetts B.O.P. will show that he was deceitful in answering the M.G.L. c209, §3, 4, 5 (Abuse Prevention) question. FOUNTAIN was issued a

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Temporary Protective Order restraining order on 19 Mar 1999, which remained in effect until 26 Mar 1999.

#### 2019 Firearms License to Carry (LTC) Renewal; truthful answers

Fountain was truthful on his firearms renewal application at the Methuen P.D. Below are the questions on page two of the firearms renewal application.

- 4.) ***"Have you ever been arrested or appeared in any court as a defendant for any criminal offense?"***
- ◆ FOUNTAIN indicated, **"Yes."**
- 10.) ***"Are you now, or have you ever been, the subject of a restraining order issued pursuant to M.G.L. c 209A, or a similar order issued by another jurisdiction?"***
- ◆ FOUNTAIN answered, **"Yes."**

Proper protocol for a firearms renewal application is designed with redundancies to ensure the applications were correctly filled out and verified by two agencies. The local licensing officer is typically a police officer from the City /town police department, and the outside agency is the Firearms Record Bureau (FRB).

The local licensing officer must run a Criminal Justice Information Services Board of Probation (B.O.P.) check. A BOP is a historical record that covers an individual's criminal history. The office checks if the applicant is still qualified to be licensed in Massachusetts. The local office checks to ensure the applicant has not been charged with a disqualifying offense, such as an open protection order filed against the applicant.

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They are looking for violent crimes or a history of drug and alcohol abuse, which may make the person unqualified.

Once the local official is satisfied that an applicant met the local qualifications for renewal, the application is sent to the Firearms Record Bureau (FRB). They reverify the information already checked at the local level. The FRB will run a BOP to verify the information on the applicant. If an applicant for renewal were untruthful on the application sent by the local licensing official to the FRB, the FRB would deny it.

The investigator's theory is that FOUNTAIN was deliberately deceitful on the recruit application package in 2016, as he knew he was protected. FOUNTAIN was truthful on the firearms renewal in 2019 because he had no choice; if he were found to have lied on the firearms renewal application, the state would deny his license. Had the license been denied, the Methuen Police Department would have been required to take action to address the issue, and they would have likely discovered that FOUNTAIN lied on his previous firearms application and employment application. The denial of an active police officer's firearms license would result in difficult questions that would have required answers that the former administration would have wanted to avoid. Industry best practices would have dictated an investigation, and FOUNTAIN avoided that analysis by telling the truth on his 2019 firearms renewal.

There is no reason for the local licensing officer to believe that FOUNTAIN had lied on his initial employment application. Comparing a police officer's job application to the firearms renewal application is not a typical function of a local licensing officer. Nor would it be the licensing officer's purview to question a fellow officer's renewal application

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based on a past arrest or restraining order. The licensing officer would see the dismissed domestic assault and battery charge and temporary restraining order pre-dated the period in which FOUNTAIN was first hired. The local licensing officer would recognize that both were immediate disqualifiers and would make the reasonable assumption that both events were previously disclosed on prior applications.

FOUNTAIN's License to Carry (LTC) was scheduled to expire on 5 Jun 2019. It is standard practice to renew a firearms license once the licensee is within a year of expiration. The earliest a renewal could be submitted to the local official was 6 June 2018, when FOUNTAIN was already a detective for Methuen.

#### Intermittent Police Officer Job Description

(Copied from the City of Methuen Job Description Manual)

The following excerpt was taken directly from the Methuen Police Department Job Description Manual. To qualify for this part time position FOUNTAIN would have had to show that he completed a reserve/intermittent academy (such as NERPI) and fulfilled his annual in-service training requirements. The conditions he failed to meet are underlined below.

#### SUMMARY

*"An Intermittent Police Officer is a non-civil service as needed appointee who shall enjoy police powers only when activated by the Department. The Intermittent Police Officer shall work under the direct supervision of the Support Services Bureau Commander. He/she will adhere to all rules and regulations, policies, and procedures of the Methuen Police Department."*

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#### GENERAL DUTIES AND RESPONSIBILITIES

IT IS THE DUTY AND RESPONSIBILITY OF THE INTERMITTENT POLICE OFFICER TO:

1. Maintain a current driver's license and a Massachusetts firearms license.
2. Successfully complete a Massachusetts Criminal Justice Training Council Approved Reserve/Intermittent Officer academy.
3. Attend yearly in-service training as required.
4. Adhere to all rules and regulations, as well as policies and procedures of the Methuen Police Department
5. Intermittent Officers shall be dressed neatly and in conformance with all departmental standards when reporting for duty.
6. When on duty, Intermittent Officers may only have departmentally issued equipment on his/her person.
7. When called to duty, Intermittent Officers shall be allowed to use a Department issue firearm. He or She will be required to sign the firearm in and out of the Department's gun vault with the Commanding Officer on duty.
8. Maintain current certification in CPR, firearms, and first responder training, including use of Automatic External Defibrillators. Intermittent Officers must also retain current certification in the use of the expandable baton and pepper spray, as well as other training required by the Department.
9. An Intermittent Officer may perform any and all duties associated with a permanent Police Officer as required
10. On a voluntary basis, and upon the approval of the Field Operations Bureau Commander, Intermittent Officers may ride along with permanent Police Officers.

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#### SPECIAL REQUIREMENTS

*"Intermittent Police Officers are selected following an extensive background check, which examines academic, credit, criminal, and work histories as well as interviews with persons who have knowledge of the candidate's character and aptitude for the position. Applicants must be and remain Methuen residents who are between twenty-one and thirty-five at the time of appointment. Successful applicants will be recommended by the Chief to the Mayor for an appointment."*

**\*Investigator Note:**

*Fountain was not subject to an extensive background check and his age when hired exceeded the threshold.*

#### Domestic Violence / No Background Screening

During this investigation, both Capt. FERREIRA and this investigator searched for FOUNTAIN's background investigation package. It appears that Methuen Police Department has a file folder for every recruit who has been through the Methuen Police Department hiring process, including those not hired for a cause; the lone exception appears to be FOUNTAIN.

According to his two ex-wives, FOUNTAIN has a history of domestic violence. As the investigator, I interviewed each of the women. Ex-wife #1 is an honorably retired Massachusetts State Police trooper, and Ex-wife #2 is a local police officer in good standing. They were both found to be credible witnesses. The people involved and the locations may have been different, but their description of what FOUNTAIN did to each of them is eerily similar.

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The relevancy of these victims' statements further proves that FOUNTAIN never completed a proper pre-employment background screening before becoming an Methuen Police Department officer.

The disclosure of the 1999 Domestic Assault & Battery charge would have been a red flag for any legitimate background investigator. Such an investigator would have looked deeper into FOUNTAIN's current and past relationships and discovered his history of domestic violence.

The first ex-wife was so traumatized by her experiences with FOUNTAIN that she moved as far away as possible while maintaining her employment. The other opted to be covert about her relocation as she secretly packed, moved non-essential items out, purchased a new home, and moved out while FOUNTAIN was at work.

The investigator's professional experience and knowledge lead us to believe no background screening was performed on FOUNTAIN. If one had been completed, the investigator can say, with near certainty, that FOUNTAIN would never have been allowed to become a Methuen Police Officer.

The investigator's theory is that FOUNTAIN was intentionally untruthful when answering the Methuen Police Department Recruit Application questions, by design.

FOUNTAIN's relationships with senior staff (Former Chief SOLOMON and Capt. GALLANT) would have allowed him to prevent the deception from being discovered as long as the matter stayed within Methuen.

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## INVESTIGATIVE FINDINGS

### The Forgery

The parent document and the direct descendant forgery were discovered after FOUNTAIN had told Officer TERRY FOUNTAIN that “*they*” had found his training certificate crumpled up in a corner. Officer TERRY FOUNTAIN discovered the forgeries when she was continuing to pack in preparation for leaving her now estranged husband, FOUNTAIN. Officer TERRY FOUNTAIN found the forgeries under a bedside dresser in the baby's bedroom. Those documents were reviewed and photocopied in November of 2021, and she was allowed to keep the originals. The originals were turned over to Methuen Police Department Lt. FERREIRA on 4 May 2022 when Officer TERRY FOUNTAIN was being re-interviewed. Lt. FERREIRA provided her with a receipt for the documents and secured the forged documents as evidence.

Officer TERRY FOUNTAIN was questioned about the discovery of the documents, and she referenced how one document was in better condition than the other. She also thought it was unusual that one of the documents appeared to have been intentionally crumpled up to make the document look aged and more authentic since it was supposed to be old. She mentioned that she thought it was odd that she found a crumpled-up copy a brief time after FOUNTAIN told her they found his document crumpled up in the corner.

None of the copies found in the Methuen files appear to have ever been crumpled up, as they are photocopies of the documents that Officer TERRY FOUNTAIN found



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under a piece of her baby's furniture. Officer TERRY FOUNTAIN said that FOUNTAIN used the baby's room to talk on the phone. She also mentioned that she did not give much thought as to how FOUNTAIN's document had been located until she found a crumpled-up copy under her baby's furniture. She suspected something was wrong, and her knowledge led her to believe his academy certificate was fake.

The investigator can show that the two documents Officer TERRY FOUNTAIN found in her home included the parent document that was created using Lt. SMITH's certificate, known as the source document. The parent document was then used to create all the direct descendant documents that have since been located. The parent document to create the forgeries found in METHUEN POLICE DEPARTMENT and MPTC records.

The documents that Officer TERRY FOUNTAIN surrendered to Capt. Eric FERREIRA included the parent document which was found to have a physical tear on the right-hand border. All the 1995 NERPI academy certificates found with FOUNTAIN's name on them are direct descendant documents (DDD) that were created using the parent document. Each of them has a line break on the right-side border consistent with the physical tear found on the parent document.

The investigator is sure that Steve SMITH's 13 May 1995 NERPI training certificate was the source document used to create the forged FOUNTAIN documents.

## **Interview of Methuen Police Department Sgt. Derek Licata 15 Nov 2021**

Off. Derek LICATA was a Methuen Patrolman recently promoted to Sergeant. Sgt. LICATA completed the NERPI academy in 1991, then the full-time MPTC- sponsored academy in Salem, Massachusetts, in 1994, and has been a full-time police officer at Methuen Police Department since. LICATA has been a Field Training Officer for a dozen Methuen Police Department officers before assuming the Training Coordinator position in November 2014.

### **Excerpts from Licata's Interview** **When Questioned about Fountain's Missing Training Certificate**

*Q. Okay. Did you come across or discover at some point in time that Sean FOUNTAIN's training certificate from his part time intermittent academy was not present in his training -- in his folder*

*A. Well, yeah. Yeah, it wasn't for a while.*

*Q. Okay. Were you the one that found it?*

*A. No.*

*Q. Okay. Who found that?*

*A. It was given to me by Captain GALLANT.*

*Q. I'm sorry, what?*

*A. Captain GALLANT.*

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**Q.** *Gave you the file folder and said it was missing?*

**A.** *No, his academy certificate.*

**Q.** *So Cap -- okay. So, I'm sorry, I was still trying to get to the point -- you skipped ahead a little bit on me. So, when you found out -- who found out that the document was missing; do we know, or do you know?*

**A.** *I don't think it was ever missing. I don't think we ever got a copy of it. At least I never got a copy of it to put in his training file.*

**Q.** *Okay. Do we know who found that during the review to make sure that it got found?*

*Basically, what I'm asking is -- you just jumped ahead to the -- one of my answers. Captain GALLANT gave you the document?*

**A.** *Yeah.*

### Continuation of Questions about Fountain's Missing Training Certificate

**Q.** *Who found out that Sean was missing or did not submit that document that it became -- that somebody was made aware so that Sean would produce that document?*

**A.** *I never received it. When he came in, we asked for it. He tried to produce it, or he said he was going to produce it. I was tasked to actually -- I contacted the MPTC to try and get it and they told me that he had to get it himself."*

**Q.** *He told you -- you're the training person for Methuen requesting training records about a specific officer, and the MPTC would not release those training records to his employer?*

**A.** *Correct.*

**Q.** *But yet he cannot be a police officer without those training records.*

**A.** *Yeah. She had told me that he had to request it, that we couldn't.*

**Q.** *Who was that?*

**A.** *I think it was a girl named Melixa (phonetic).*

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**Q.** *Melixa?*

**A.** *Mm-mm.*

**Q.** *And where was she located when you called, because I mean the MPTC's got places all over the state now?*

**A.** *Headquarters. I don't --*

**Q.** *Okay. Okay, so --*

**A.** *She was kind of the contact we had.*

**Q.** *Was she assigned to training or like records or --*

**A.** *I don't know what she -- I'm not sure what she did.*

**Q.** *Did you ever have occasion to tell somebody that Sean Fountain did not have a training record in his file folder?*

**A.** *Yeah. My supervisors were always kept in the loop.*

**Q.** *Okay. How did you contact them?*

**A.** *I told them.*

**Q.** *Told them personally, face-to-face?*

**A.** *Mm-mm, face-to-face.*

**Q.** *Did you ever send emails?*

**A.** *I think I sent emails about the -- I think I sent emails about the reply from Melixa. I don't know if I ever emailed them updates. I would see Lieutenant MAX, or back then it was Sergeant MAX, all the time and say, yeah, no, haven't gotten this, yeah, he came in for this, he came in for this."*

### Excerpt from Licata's Interview on 15 Nov 2021 Preferential Treatment

**Q.** *Okay. Was there anything unusual about Sean FOUNTAIN's time or training or anything else you can think of that you'd like to talk to me about?*

**A.** *Well, I mean, obviously, the way he did his FTO was certainly different. You know --*

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**Q.** *Has anybody else been able to replicate that training program?*

**A.** *No. I've never seen anybody do FTO like that."*

**\*Investigator Note:**

*The policies in place at the MPTC at the time of these requests required the host department to have the prospective hire supply a copy of their training certificate to the hiring department. Methuen Police Department training personnel were told that the MPTC could not provide FOUNTAIN's training certificate as FOUNTAIN would have to request it himself.*

This entire situation might have been avoided had the MPTC simply provided the Methuen Police Department with a response to their initial records request as the Methuen Police Department would have learned one of three things.

- ◆ The MPTC had no records related to the 1995 NERPI academy.
- ◆ The MPTC has records showing he attended but failed to graduate from the 1995 NERPI academy.
- ◆ The MPTC had records showing he neither attended nor graduated from the 1995 NERPI academy.

This investigator is unable to understand how a person who cannot prove he completed a police academy could have been allowed to become a full-time police officer.

The investigator became a Massachusetts State Trooper in 1996, and dozens of rules, regulations, and laws have changed since FOUNTAIN's alleged academy completion. In this investigator's professional opinion, there is no way a person can become a police officer 21 years after completing a 120-hour academy designed to provide rudimentary training intended to introduce people to the law enforcement field.

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If intermittent academies were designed to allow a person to begin working as a law enforcement official, it would have provided a firearms certification course, CPR and first responder training, emergency vehicle operations, standardized field sobriety training (SFST) and other key components, necessary to be a fulltime police officer. It was never meant to replace a full-time academy. Certified police officers are required to complete yearly in-service training, which covers firearms re-certification, CPR renewals, and legal updates, at a minimum. No records indicate that FOUNTAIN attended a yearly in-service program before being hired by The Methuen Police Department. FOUNTAIN showed that he knew there was a yearly training requirement because he lied about completing those requirements in the ECSD internal affairs investigation. The same IA investigation resulted in his being disciplined by his former Director, Harrison Whitney, which he later lied about on his 2016 METHUEN POLICE DEPARTMENT Recruit Application.

The following table lists each training topic covered; the numbers indicate the hours the subject was taught for, totaling 120 hours. This was the curriculum taught at the NERPI Academy that graduated on 13 May 1995.

Applied Patrol/Practical Review	3	Community Policing	3
Constitutional Law	21	Courtroom Testimony	3
Criminal Justice System	3	Criminal Law	18
Defensive Tactics	9	Domestic Violence	7
Drugs	6	Elder Abuse & Sex Crimes	2
Final Exam	2	Stress Management	3
Ethics and Professionalism	3	Interview and Interrogation	3
Juvenile Issues	3	Motor Vehicle Law	6

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Patrol Procedures / Motor Vehicle Stops	9	Report Writing	6
Suicide Prevention	3	Traffic Control / Accident Investigation	3
Use of Force	3	Total	120 Hours

Below are some of the substantial changes that have occurred since 1996, when the investigator became a trooper. Ask yourself this, how could you be a police officer without the training listed below?

- ◆ Today's full-time academies require 52 hours for handguns and 46 hrs. for rifles; of those 98 hours, 80 hours are spent on the range firing. The NERPI academy offered firearms training as an add-on. The main curriculum did not have nor require an academy firearms certification.
- ◆ Recruits from Intermittent Reserve Academies are not certified in Standardized Field Sobriety Testing from the National Highway Traffic Safety Administration.
- ◆ Blood alcohol concentration for the presumption of intoxication was .10 and was lowered to .08 BAC.
- ◆ GPS installation on a suspect's vehicle did not require court approval; now, it requires a search warrant.
- ◆ Melanie's Law fundamentally changed how Operating Under the Influence of Alcohol is charged and processed.
- ◆ There were no data collection requirements from M/V stops in 1995.
- ◆ Drug trafficking laws before the Casino Bill were strictly related to Heroin,

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Cocaine, and Marijuana. The Casino bill created state money laundering regulations and added synthetic drugs to the 94C trafficking laws.

- ◆ Domestic Violence laws have been fundamentally changed since 1995.
- ◆ NHTSA Standardized Field Sobriety Test has been updated.
- ◆ Pursuit policies have undergone significant updates.
- ◆ Amber & Silver Alerts did not exist in 1995.
- ◆ Tasers and less than lethal were in their infancy and not deployed in Massachusetts.
- ◆ Body cameras were not mandated.

Questions still need to be answered by the MPTC as to why the credentialing agency would refuse to supply training records about an individual to the hiring agency. The hiring agency had FOUNTAIN's signed and notarized release that remains in effect today.

Why did former Chief SOLOMON allow FOUNTAIN to work without proof that he completed the 1995 NERPI Academy? When private companies require new hires to provide transcripts, they do not accept the records from the applicant; they require the applicant to request them from the college. The college then sends a certified copy of the transcripts to whomever the student authorizes the college to send them to. Why would any agency accept an individual's word that they graduated from a police academy without verification?



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Why was FOUNTAIN ever allowed to start without verifying his training certificate? Why was FOUNTAIN allowed to continue to work when former Chief SOLOMON knew FOUNTAIN did not have a copy of his training certificate? It can be shown that former Chief SOLOMON knew FOUNTAIN was missing his records as early as 2016, when FOUNTAIN was first hired as a special police officer. The investigator learned from interviews with former Methuen Police Department training staff that those members raised concerns that FOUNTAIN failed to supply his training certificate. They were told by Capt. GALLANT that former Chief SOLOMON was aware of the issue and would address it.

Sgt O'CONNELL alluded to the fact that former Chief SOLOMON made a subtle threat to O'CONNELL when the FOUNTAIN record search initially became an issue shortly after he had been hired. Sgt O'CONNELL referenced a conversation with SOLOMON. Sgt O'CONNELL stated that SOLOMON made small talk that focused on Sgt O'CONNELL's role as the Academy Director. Sgt O'CONNELL said that former Chief SOLOMON mentioned that it would be a shame if something were to occur that might require Sgt O'CONNELL to leave the academy. There is no reason to question Sgt O'CONNELL's recollection or nor his candor. The investigator has learned that former Chief SOLOMON was not above retaliating against all those that stood in the way of his agenda. SOLOMON expected undying loyalty, nothing short of that was not tolerated.

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#### Interview with Officer Terry Fountain

**\*Investigator Note:**

*A critical point learned during the interviews of Terry Fountain was that she specifically recalled that FOUNTAIN told her the certificate GALLANT provided him with was a copy of Steve SMITH's 1995 NERPI academy certificate. Terry Fountain could not have known that Steve Smith's certificate was used unless FOUNTAIN told her. Her recollection of that conversation was corroborated when the certificates were subjected to a forensic document analysis. The forgeries that she turned over were, in fact, made using the Steve SMITH training certificate. The knowledge that TERRY FOUNTAIN shared with investigators is further corroborated by what CAFFREY told investigators on 3 December 2021.*

Officer TERRY FOUNTAIN is an academy-trained Methuen Police Officer in good standing and is the estranged wife of FOUNTAIN. Officer TERRY FOUNTAIN has been interviewed twice in conjunction with investigating the authenticity of FOUNTAIN's training certificate. The first interview was on 15 December 2021, and the second was completed on 4 May 2022. Both interviews were similar, and the information is believed to be credible, as her answers and explanations have remained unchanged.

Officer TERRY FOUNTAIN stated that FOUNTAIN made statements to her that implicated former Methuen Police Department Capt. GALLANT. FOUNTAIN told her that Capt. GALLANT stopped by the house she and FOUNTAIN shared. Officer TERRY FOUNTAIN stated that FOUNTAIN told her Capt. GALLANT gave him a copy of Steve SMITH's certificate and told him to do what he needed to complete his training record.

The fact that Officer TERRY FOUNTAIN knew the name of the person (SMITH) whose NERPI training certificate is the source document used to create all of FOUNTAIN's forged training documents is telling. There are only two ways Officer

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TERRY FOUNTAIN could know the name of the person whose certificate was used to make FOUNTAIN'S forgery. She was either involved in the conspiracy to create the forgery, or FOUNTAIN told her the name, which she stated during her interviews. There are no indications that Officer TERRY FOUNTAIN had any role in creating the forgery.

Officer TERRY FOUNTAIN also stated that she learned that ***“they”*** had found FOUNTAIN'S missing training certificate a short time after he had told her about GALLANT's visit. Officer TERRY FOUNTAIN said FOUNTAIN told her about the alleged discovery when he came home from work. The investigator tried to get additional information regarding how ***“they”*** found FOUNTAIN'S missing records. Officer TERRY FOUNTAIN stated something to the effect that she did not care enough to ask any follow-up questions as she was preparing to leave FOUNTAIN.

**\*Investigator Note:**

*Whom FOUNTAIN was referring to as the “they” remains unknown.*

The ***“they”*** were never identified because the document was never found crumpled up in a corner, as FOUNTAIN has told everyone. The story of ***“they”*** finding the document crumpled up in a corner is a fictitious event designed to cover how it ended up in FOUNTAIN'S personnel and training files. The interviewed Methuen Police Department staff stated that FOUNTAIN never submitted a training certificate, so how could it be found crumpled up in the corner?

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Another question that needs to be answered would be how they could find a record crumpled up in a corner when FOUNTAIN did not have a copy of the document to submit. No records indicate that the MPTC ever sent FOUNTAIN a copy of his certificate, as they sent him a response to his record request indicating they had no training records on file. FOUNTAIN was still engaging in feigned efforts to acquire his supposedly "misplaced" certificate in March of 2019.

As far as the investigator could determine, the MPTC never issued him a replacement document. This is a fact that was confirmed in the 19 April 2020 letter authored by former Chief SOLOMON that was emailed directly to Director FERULLO on 22 April 2020. In the letter, former Chief SOLOMON references that FOUNTAIN attended and completed the NERPI academy that graduated on 13 May 1995, that he had since misplaced his training certificate, and that he had requested a replacement certificate that had yet to arrive. Former Chief SOLOMON failed to mention that the request was made 420 days late.

The forged copy in the MPTC's possession is a photocopy of a crumpled-up document, which came into their possession on 10 May 2021 by way of an unsecured web portal that remains open and unsecured to this day.

**\*Investigator Note:**

*The forged FOUNTAIN certificate was sent through the portal on 10 May 2021. The MPTC records access officer Mary DEFRANCESCO somehow knew there was a problem with the FOUNTAIN certificate. Because of that, she chose not to upload it into the electronic Acadis training file and left it out of a PPR response to Boston Globe reporter Andrea ESTES. We only know this because we discovered an email that*

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*shows she knew based on previous conversations she had with others in the office concerning FOUNTAIN. Conveniently, DEFRANCESCO now claims to have no recollection of having sent that email or a recollection of the concerns that were shared with her.*

## CULPABILITY OF CHIEF JOE SOLOMON

The Mayor is the CEO of the City , the Police Chief is the police department's administrator, and the City Councilors are the de facto board of directors. In the City of Methuen, the Police Chief is the final recommender for anything law enforcement related. The Police Chief does not have the authority to hire an intermittent officer without the Mayor's approval.

The investigator will show that former Chief SOLOMON knowingly allowed an unqualified and uncredentialed civilian to become a full-time police officer in the City of Methuen. SOLOMON had multiple opportunities to end the charade but chose not to. SOLOMON knew FOUNTAIN did not produce an academy graduation certificate when he was initially hired to work part time in 2016. SOLOMON knew that FOUNTAIN still had not produced an academy graduation certificate when he was first hired to work full-time in 2017. SOLOMON knew FOUNTAIN still had not produced an academy graduation certificate when he was confronted by reporter Tim WOOD in 2019. SOLOMON knew FOUNTAIN had still not produced an academy graduation certificate when he emailed Director FERULLO in 2020. SOLOMON knew all along, but he did nothing. Instead, SOLOMON continued to allow FOUNTAIN to work as a full-time police

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officer despite knowing he was unqualified. During this four-year period, FOUNTAIN stopped cars, applied for search warrants, made arrests, and conducted investigations.

Former Chief SOLOMON failed to adhere to the basic tenets and responsibilities required from a Chief of Police as outlined in state law and the City 's job description. This case is based on physical evidence, an overwhelming amount of circumstantial evidence, and multiple failures in police leadership. The investigator has found no plausible explanation that would lead any reasonable person to conclude that FOUNTAIN was even remotely qualified to become a police officer. Former Chief SOLOMON was either actively involved in the conspiracy to create the forged 1995 NERPI Police Academy certificate or completely derelict in the performance of his duties.

The following section includes a partial list of those transgressions. When viewed using a totality of the circumstance mindset, a reasonable person would have to conclude that former Chief SOLOMON was either directly involved or completely ignorant of what is required of a Massachusetts Police Chief.

From all accounts, former Chief SOLOMON was an intelligent man who fully understood his role.

- ◆ As the Chief of Police, former Chief SOLOMON was ***not*** the appointing authority. Former Chief SOLOMON violated [M.G.L. Chapter 41 §96B](#) when he allowed FOUNTAIN to be a police officer without verifying that FOUNTAIN had fulfilled all the requirements to be a qualified police officer. Once former Chief SOLOMON was notified or learned that FOUNTAIN could not produce a copy of an authentic

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training certificate, he should have removed FOUNTAIN from his position as a police officer, which he failed to do. Former Chief SOLOMON was derelict in his duty. He continued to allow FOUNTAIN to work as an uncredentialed and unqualified police officer with a documented history of domestic abuse.

- [M.G.L. Chapter 41 §96B](#)

- *“Failure of an appointed person to comply with the provisions of this section prior to his exercising police powers **shall** result in the appointed person's removal by the appointing authority, provided said person has not been exempted therefrom by said committee as herein provided. Failure of an appointed person to satisfactorily complete the prescribed course of study may result in his removal by the appointing authority.”*

- ◆ FOUNTAIN had not completed or taken the police civil service exam, nor did he appear on either of the two certified lists of eligible candidates that were valid during the four-year window that Methuen employed him. The Methuen Police Department is a Civil Service department.
- ◆ There is no viable explanation as to why FOUNTAIN was selected to become an intermittent police officer.
- ◆ There is no viable explanation as to why FOUNTAIN would be taken at his word.
- ◆ Former Chief SOLOMON never required proof of past annual in-service training from FOUNTAIN.
- ◆ FOUNTAIN was forty-four years of age at the time of initial hire, which exceeds Civil Service age restrictions.

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- ◆ Former Chief SOLOMON advised the Methuen Human Resource director that there was no need to schedule the candidates to complete a job-specific physical agility test. Proven through an email exchange.
- ◆ When FOUNTAIN was hired, four other candidates were going through the hiring process, all four were subjected to a psychological evaluation, see warrant #52, dated 26 June 2016. Sean FOUNTAIN was the lone exclusion.
- ◆ FOUNTAIN was not subject to a background investigation which violated the Methuen Police Department policy for intermittent police officers. Despite background checks being a well-known industry requirement and best practice.
- ◆ The Massachusetts Senate and House of Representatives in General Court appointed FOUNTAIN as a Permanent Intermittent Police Officer. This is a red herring intended to confuse the average reader as the legislation does not exempt FOUNTAIN from any required training or certifications needed to become a police officer. The legislation allowed FOUNTAIN to collect a paycheck from the Methuen Police Department while he remained a Councilor and eliminated the one-year cooling-off period before he could accept a municipal job from the City.
- ◆ Promoted FOUNTAIN to a full-time patrol officer without FOUNTAIN completing a full-time academy on 27 Jul 2017.
- ◆ FOUNTAIN's salary was raised from the intermittent rate he received to the Master Patrolman's pay on 27 Jul 2017. In violation of the collective bargaining agreement at the time of the order.
- ◆ The Methuen Police Department Patrolman's Union filed a grievance since full-time police officers, fully qualified academy graduates, all of whom had more seniority than FOUNTAIN, were denied their opportunity for pay parity.



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Former Chief SOLOMON's decision was appealed and denied a second time by Mayor ZANNI's office.

- ◆ 9 Aug 2017 Methuen Police Department PO #PO17-41 changed Officer FOUNTAIN's official designation from "Part time Intermittent Officer to Full-time Intermittent Officer, assigned to Field Operations Bureau.
- ◆ 18 Sep 2017 The City Council voted and passed three labor contracts that pertained to the Methuen Police Department. These three contracts have drawn the attention of the Massachusetts Attorney General's Office.
- ◆ 20 Sep 2017 Methuen Police Department PO #PO17-51 A designation change to FOUNTAIN's status. FOUNTAIN's status changed from Full-time Intermittent Officer to Permanent Full-time Intermittent Officer. This order also changed FOUNTAIN's badge number from I29 P162.
- ◆ 26 Nov 2017 Methuen Police Department PO #PO17-69 transfers "Off. FOUNTAIN from Field Operations Bureau to Criminal Investigation Bureau."

## PROSECUTOR'S OFFICES

In the Commonwealth of Massachusetts, there are two state prosecutors' offices that can prosecute criminal cases that take place in the City of Methuen. The Essex County District Attorney's Office (ECDA) is the county's top law enforcement officer and has prosecutorial authority for crimes in the county. In contrast, the Attorney General's Office (AGO) can prosecute state crimes across the Commonwealth.

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The Essex County District Attorney Jonathan BLODGETT's office and the Massachusetts Attorney General's Office Public Integrity Unit were repeatedly made aware of the overwhelming evidence that exists to charge FOUNTAIN with multiple crimes. Both were advised of FOUNTAIN's stated intention (through his attorney) to cooperate fully in return for a favorable plea deal. Until just recently, both offices had failed to adopt this investigation. Without the assistance of prosecutorial authority, there is no means available to local law enforcement to negotiate a plea deal in exchange for FOUNTAIN's truthful testimony against his co-conspirators. Time is quite literally running out on the statute of limitations on some of these crimes. If the relevant prosecutorial authorities do not act soon, a rogue police Chief, a complicit police captain, and a civilian who masqueraded as a police officer in the City of Methuen for more than four years will all escape justice.

A connection between the Attorney General's Public Integrity Unit and the MPTC is being brought forward for transparency. No accusations of malfeasance are being alleged; however, the facts are the facts. If the information were not brought forward, I would be remiss in my responsibilities as an investigator.

Attorney James O'BRIEN has professional ties to both the AGO and the MPTC. O'BRIEN was the unit supervisor for the Public Integrity Unit when the FOUNTAIN matter was first reported to the AGO by interim Methuen Police Department Police Chief Thomas MCENANEY on 10 June 2021. O'BRIEN elected not to investigate the matter, per a statement made to the investigator during a phone call that he initiated on 30 March 2022.

During the call, O'BRIEN mentioned that he was very familiar with MPTC operations

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because of his long-standing assignment as the AGO representative to the MPTC. As the AGO representative, he attended the monthly MPTC meeting, where policy development and legal updates were discussed. During these monthly meetings, the MPTC board members vote up or down on Temporary 270-Day Waiver requests filed by police departments seeking to get their part-time police officers a Temporary 270-Day Waiver so they may work full-time for a period (270 days) before they enroll in the full-time academy. These Temporary 270-Day Waiver applications must first be signed and approved by the relevant appointing authority. O'BRIEN made the first motion to approve the Temporary 270-Day Waiver request for Brady ABRAHAM (Methuen Police Department) and six other applicants, which Chief Thomas O'Donnell seconded on 20 May 2020. (Chief O'Donnell is not involved in any aspect of this investigation, nor is he suspected of any wrongdoing.) The relevancy of the ABRAHAM waiver request is explained later.

During the call on 30 March, O'BRIEN informed the investigator that he had elected not to investigate the FOUNTAIN matter for lack of evidence. O'BRIEN left the AGO office no later than December 2021 as he introduced his AGO supervisor AAG Jen COTTER as his replacement to the MPTC Board. COTTER was still assigned to the board as of 26 October 2022.

The AGO has been briefed multiple times regarding this case as the Methuen Police Department has made several attempts to have the AGO prosecute this case as the City of Methuen and STIRM had already completed the vast majority of this

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investigation. One of the most recent rejections came from the AGO Criminal Bureau Deputy Chief, AAG Jen COTTER.

The investigator received a call from the Public Integrity Unit supervisor Michelle GRANADA due to an email sent by the investigator to AAG COTTER. The investigator and GRANADA spoke two days later; the investigator hoped to be able to talk the AGO representative into accepting the case. The investigator quickly learned that the AGO's original decision remained unchanged, as they remained unwilling to prosecute and failed to provide a legitimate answer as to why. What was telling is that GRANADA admitted that she had not read the most recent status report that had been provided to her (status report #3), which was the reason for our conversation. The investigator ended the call after learning the AGO representative was ill-prepared to discuss the matter.

The investigator is troubled by the close association between the two agencies because the AGO representatives on the MPTC advisory board are also the same people electing not to investigate the FOUNTAIN matter. No accusations are being leveled; the investigator is simply pointing out that certain AGO representatives might have a conflict of interest related to the FOUNTAIN matter due to their close professional associations. This case has been presented to each office on at least three separate occasions. Each time they have declined to prosecute or assist in the investigation despite having Massachusetts State Police Investigators assigned to their respective offices.

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Both prosecutorial authorities have investigative implements at their disposal that an independent outside investigator does not. Those investigative tools include issuing subpoenas, applying for search warrants, and impaneling a grand jury.

All those involved in this investigation have found it increasingly difficult to understand why a public corruption case of this magnitude has not garnered more attention. A primary target of the investigation has offered to truthfully testify against his co-conspirators in return for a favorable plea deal. As strong as this case is, it becomes even stronger when a co-conspirator confirms everything we believe to be true. Plea deals are negotiated daily in every prosecutor's office nationwide. Why not in this case?

Where does one go for justice when the only prosecutorial authorities with the ability to prosecute decline to do so?

Chief MCNAMARA contacted the ECDA in January or February of 2022 and advised them of the existence of this investigation and his concerns with the legitimacy of the FOUNTAIN training certificate and his alleged attendance at the 1995 NERPI academy. On 28 June 2022, Chief MCNAMARA sent District Attorney BLODGETT a formal letter outlining the STIRM Group's most recent investigative conclusions and noting that he concurred with those findings.

For reasons only the former ECDA can explain, they declined to prosecute this case, instead referring it to the AG's Office. The AG's Office also repeatedly declined to accept the case based on an incomprehensible representation that it did not rise to the significance level that would justify the dedication of their limited resources.

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In the intervening months, there have been several notable events weighing heavily on the investigation's status.

1. First, despite a series of declinations and assorted letdowns from the only two prosecutorial authorities in the State of Massachusetts with the jurisdiction to prosecute these criminal conspirators the METHUEN POLICE DEPARTMENT and STIRM continued their investigation and, in doing so, uncovered significant additional evidence in support of probable cause.
2. With the recent release of the Civil Service Report coupled with the previously released IG Report there are now two state agencies signaling to the relevant prosecutorial authorities that these criminal conspirators should not be allowed to escape justice. From page 41 of Civil Service Commissioner Bowman's report:
  - a. ***“Although Chief Solomon has been approved for retirement, this report, along with the findings of the Inspector General, provide detailed examples of his serious misconduct during his tenure as the City 's Police Chief. It is inconceivable that a public employee could completely evade accountability for such misconduct by simply filing for retirement benefits. Nor should Sean Fountain be permitted to avoid accountability for his misconduct.”***
3. Normally, if either the ECDA or the AG's Office initiated a similar investigation, they would be required to dedicate significant resources to the investigation itself. In this case, The METHUEN POLICE DEPARTMENT and STIRM have already conducted a thorough investigation and produced a 50-plus page affidavit in support of probable cause to charge FOUNTAIN with assorted felony crimes.
4. A new Essex County District Attorney was recently elected. Essex County District Attorney Paul TUCKER has already met personally with Chief MCNAMARA to discuss the affidavit and the host of evidence that supports it.

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While the Methuen Police Department and STIRM believe the requisite evidence required to prosecute this case already existed as far back as June 2022, the current District Attorney's approach makes us optimistic. DA TUCKER brings a fresh new perspective to this case as he is committed to evaluating every piece of evidence, both old and new. According to Chief MCNAMARA, DA TUCKER has said he will follow the evidence wherever it may lead. District Attorney TUCKER may be the Citizens of Methuen's last best hope to receive any measure of justice.

#### **\*Investigator Note:**

*There has been much speculation about the existence of a [entity redacted] investigation and the investigator cannot confirm or deny the presence of a [entity redacted] investigation. One thing is clear, the criminal conduct outlined in this report involves state crimes to which only state authorities have jurisdiction. Any effort by state prosecutors to either pass, delay, or equivocate on moving forward with this case over alleged concerns with interfering with the outcome of a [entity redacted] investigation should be viewed for what it would represent. A complete abdication of legitimate prosecutorial authority.*

### **The Attorney General's Office & The Familial Like Connection with The MPTC**

The Attorney General's Office assigns an Assistant Attorney General (AAG) to the MPTC Advisory Board. Attorney James O'BRIEN was the AAG representative to the MPTC board when the City of Methuen initially sought to have the FOUNTAIN matter investigated. O'BRIEN elected not to investigate the issue based on his opinion that there was a lack of evidence. That decision was made in June 2021, when O'BRIEN was still the AGO's Public Integrity Units supervisor.

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Less than six months later, O'BRIEN left the AGO's office to take a new position as the Chief of Staff & General Counsel for the MPTC. In doing so, O'BRIEN received a more prestigious title and a \$33,000 pay raise.

The City of Methuen made at least two additional attempts to have the case investigated or adopted by the AGO. On one of those occasions, the decision not to adopt or investigate the case was delivered by COTTER. There was a third attempt by Chief MCNAMARA to get the AGO involved, which was met with the same results.

The investigator made a fourth attempt when he spoke to the supervisor of the Public Integrity Unit, Michelle GRANADA. The investigator ended the call once GRANADA mentioned that she had not read the investigative report outlining the case details, as she was ill-prepared for a meaningful discussion.

The stalls and delays caused by the prosecutor's offices have potentially allowed electronic evidence, which may have been helpful to the investigation, to expire. The only three ways for law enforcement to obtain this type of evidence are through consent, a subpoena, or a search warrant based on probable cause.

The AGO has two former employees currently employed by the MPTC as senior members, Chief of Staff & General Counsel O'BRIEN and Director of Training Andrea NARDONE. They also have a longstanding relationship in which the AGO assigns an AAG to be the AGO representative to the MPTC Board. O'BRIEN held that position until he left for the MPTC full-time. Before leaving, he introduced AAG Jen COTTER as his replacement to the MPTC Board.



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Both AAG O'BRIEN and COTTER have been AGO's representatives to the board, and each has declined to investigate or prosecute the FOUNTAIN case while assigned to the MPTC board. Two former AGO Public Integrity Unit supervisors (O'BRIEN and GRANADA) have refused to investigate or prosecute this case.

O'BRIEN has undermined the legitimate efforts of the investigator on at least two occasions, both of which will be addressed in a separate forum. One such occasion involved O'BRIEN questioning the methods and tactics employed by the investigator who had attempted to interview a current MPTC employee at her private residence.

Rather than addressing his concern directly with the investigator, O'BRIEN escalated his complaint to the Police Chief and City Attorney. Similarly, O'BRIEN successfully forestalled the investigators' efforts to obtain a broad range of phone records involving Director FERULLO. The investigator stands by the methods and tactics employed and continues to recommend to the Methuen Police Department that they should pursue all legal avenues to obtain those records. The question that should be asked is, if FERULLO did nothing wrong and had nothing to hide, why did the MPTC not produce the phone records?

To avoid even the mere appearance of a conflict of interest, the investigator recommends that certain members of AG's Office should consider recusing themselves from participating in this investigation. The investigator is hopeful the Essex County District Attorney's Office will choose to take the lead in this investigation.

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#### Investigators Opinion of Chief of Staff & General Counsel James O'Brien

Attorney James O'BRIEN is the former Assistant Attorney General who was the Public Integrity Unit (PIU) supervisor. While he was the PIU supervisor, O'BRIEN had an ancillary duty as the AGO's representative on the MPTC board. The investigator feels there is a conflict of interest and O'BRIEN should have recused himself from the investigation now that he is the MPTC's Chief of Staff and General Counsel.

As part of O'BRIEN's position on the MPTC Board, he actively participated in the monthly meetings that discussed legal updates, curriculum development, and POST implementation; he would also vote to approve or deny the two types of waivers the MPTC grants to part time officers and out of state officers looking to work in Massachusetts. The waiver, in this case, is the Temporary 270-Day Waiver that allows full-time employment for officers that only have a certification as a part time officer.

O'BRIEN was present and the first motion to approve the Temporary 270-Day Waiver request concerning Methuen Police Department part time officer Brady ABRAHAM when his Temporary 270-Day Waiver was heard on 20 May 2020. FOUNTAIN and ABRAHAM's Temporary 270-Day Waiver request had been submitted together.

O'BRIEN voted to approve ABRAHAM's but never had the opportunity to vote on FOUNTAIN's as it was not presented for approval.

The investigator has requested the records that show someone requested FOUNTAIN's Temporary 270-Day Waiver be withdrawn from consideration. The standard answer is some version of "that is a great question", "we need to look into that",

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or some reasonable facsimile of that answer. These are the excuses that the MPTC has repeatedly used when confronted with the question as to why FOUNTAIN's Temporary 270-Day Waiver was not heard. It took nearly a year and an order from Secretary Galvin's Office before the MPTC would comply with the PRR filed by STIRM.

All but one request had been submitted directly to O'BRIEN as the MPTC's assigned point of contact. The investigator had sought these records at least three times in writing and two additional times when O'BRIEN was on the phone.

The MPTC's response was exactly what the investigator knew it would be. They have no record to substantiate their claim that FOUNTAIN's Temporary 270-Day Waiver application had been formally withdrawn. For clarity, we are not talking about the 28-year-old record. The record we sought would have been received by the MPTC after 22 April 2020 and before 20 May 2020.

The Interim Methuen Police Chief MCENANEY briefed O'BRIEN about Methuen Police Department's concern that FOUNTAIN's training certificate was forged. Without this certificate, FOUNTAIN would not have been allowed to be a police officer. Being an attorney specializing in public corruption, O'BRIEN would have understood the ramifications and potential liabilities of allowing an untrained civilian to masquerade as a police officer.

Yet less than six months before he departed from the AGO, O'BRIEN elected not to investigate the suspected forged MPTC training certificate that FOUNTAIN created in the spring of 2020. FOUNTAIN had already been a full-time police officer for nearly three years when he created the forgery.

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O'BRIEN's close association, access, and known contacts at the MPTC made him the most qualified individual identified in this report to investigate the concerns that interim Chief MCENANEY brought forward. He could have made cursory inquiries from the MPTC to see if any facts would support those allegations. Did the records exist, then? Do the records exist now? Why don't they exist? With a simple phone call, he could have had FERULLO or GALLAGHER on the phone and requested a complete copy of FOUNTAIN's training folder. That doesn't appear to have happened. O'BRIEN had access to the same records the investigator had from Methuen Police Department. Why is it that two professional investigators can look at the same evidence and come away with two diametrically opposed opinions.

He could have performed a comparison of the suspected forgery and the SMITH certificate, which was later determined to be the actual source document for the FOUNTAIN forgeries. It does not appear that he did that.

The state of the FOUNTAIN forgery is such that anyone with any investigative experience would be forced to question the authenticity of the FOUNTAIN training certificate by looking at it. So, what was O'BRIEN's declination based on?

## MPTC INVOLVEMENT, KNOWLEDGE & INVESTIGATIVE FINDINGS

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#### Sean Fountain's NERPI Certificate is a Forgery

The investigator is a Certified Fraud Examiner that spent three years assigned to Homeland Security Investigations (HSI) as a Task Force Agent in the Document Benefit Fraud Task Force (DBFTF). The investigator is not a certified document examiner but has years of experience investigating fraudulent licenses, social security cards, driver's licenses, passports, visas, identification cards, and organized document manufacturing organizations. He currently teaches courses on how to identify fraudulent identification documents.

The investigator conducted a side-by-side comparison of the two FOUNTAIN documents and Steve SMITH's photocopied document. The investigator highlighted each of the three documents' shared imperfections. The Homeland Security Investigations (HSI) Forensic Laboratory has since confirmed the investigator's statement that the FOUNTAIN training certificate dated 13 May 1995, with the name of FOUNTAIN, is a forged training record that originated from the SMITH training certificate that was on file at METHUEN POLICE DEPARTMENT.

This investigation could have been completed in less time with fewer unanswered questions had the MPTC been a willing partner. Unfortunately, that was not the case, as the MPTC was slow to respond, if they responded at all. The information provided by the MPTC has been unreliable as they have contradicted themselves on several occasions. They told investigators two stories explaining how they found the FOUNTAIN yellow card. On 30 March 2022, they told this investigator

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they found the card as they searched for the records the investigator had recently requested through the PRR process. On 22 December 2022, they told Chief MCNAMARA and Capt. FERREIRA that they had found the FOUNTAIN yellow card back in November 2021. (Refer to the section "Yellow Card Data" for more information about the FOUNTAIN yellow card discovery.)

The MPTC has failed to answer all the PRRs STIRM filed with the Record Access Officer (RAO). STIRM recently filed an appeal with the Secretary of the Commonwealth to compel the MPTC to comply with a PRR requested multiple times over the last eleven months. The appealed PRR asked for a copy of the letter showing the FOUNTAIN Temporary 270-Day Waiver request had been formally withdrawn.

Investigators were nearly certain the MPTC would not have a document to support their public acknowledgment that FOUNTAIN's Temporary 270-Day Waiver was withdrawn. Several other requests remain unacknowledged, and several remain unfilled. One of the unfilled PRRs consists of a request for a record that a state agency's RAO is legislatively required to create under MGL c. 66, a master document of every PRR a state agency receives. STIRM asked for a complete record of PRR that sought FOUNTAIN's records or referenced the Methuen Police Department. We had hoped to identify the first time that FOUNTAIN requested his training record, and we cannot do that if they continue to ignore the lawful request they have received. The investigators are still waiting for those records nearly a year later.

The MPTC only recently disclosed the existence of a historical Criminal Justice Training Council (CJTC) database. The MPTC was created when the CJTC was

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rebranded and became the MPTC. When that occurred, the CJTC records were electronically backed up, as they were not being imported into the new MPTC database. The original record request sent by STIRM asked for all of FOUNTAIN's training records; logically, those records would have included the CJTC records, as the MPTC was not a state agency in 1995. The MPTC responded and told the investigator they had exhausted all efforts, as there were no additional responsive records outside the ones the MPTC provided in their first PPR response. When the historical database was checked, no other records indicated FOUNTAIN completed an academy in the CJTC records.

Suppose the CJTC records were not imported into the new MPTC database, and a request was received that sought CJTC era records. Why weren't the historical records checked before notifying the requestor that all efforts had been exhausted? The fact is that were being requested were from an era when the MPTC was still the CJTC. MPTC policies regarding the processes to fulfill a PRR are lacking if the dedicated Record Access Officers are unaware of that historical database. The other issue is that the RAO does not have access to historical records, according to DEFRANCESCO's interview.

MPTC senior staff consisting of FERULLO, O'BRIEN, GALLAGHER, and DEFRANCESCO have memories of how things are done. Yet, they fail to remember critical details about the actions they took as it relates to the FOUNTAIN matter. A few examples will follow:

We know and can prove the MPTC knew there were issues and concerns with

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the FOUNTAIN training certificate when they received it on 10 May 2021 from their unsecure portal. DEFRANCESCO authored and sent an email to senior members of the MPTC informing them that she intentionally withheld the FOUNTAIN training certificate that Boston Globe Columnist Andrea ESTES had requested.

Below is an email that shows the MPTC's involvement. The first email from DEFRANCESCO to senior-level MPTC staff, including Director FERULLO, is dated 5 November 2021. The two highlighted paragraphs clearly show that DEFRANCESCO informed senior-level staff about her intention not to forward FOUNTAIN's academy information

**From:** MPTC RAO (CJT) <[mptc.rao@mass.gov](mailto:mptc.rao@mass.gov)>  
**Sent:** Friday, November 5, 2021 9:41 AM  
**To:** Ferullo, Robert (CJT) <[Robert.Ferullo@mass.gov](mailto:Robert.Ferullo@mass.gov)>; Hamwey, Nicole M. (CJT) <[Nicole.M.Hamwey@mass.gov](mailto:Nicole.M.Hamwey@mass.gov)>; Gallagher, Sheila (CJT) <[sheila.gallagher@mass.gov](mailto:sheila.gallagher@mass.gov)>; Nardone, Andrea W. (CJT) <[Andrea.W.Nardone@mass.gov](mailto:Andrea.W.Nardone@mass.gov)>  
**Subject:** RE: FOI / Public Record training record request

Hi,

I have attached everything I have on Sean Fountain.

In response to the Globe request, we sent the attached letter and Acadis transcript. I looked in the records room and the basement and did not find anything on this academy.



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When going through the formstack recently I did find he submitted the attached certificate. I didn't upload it because I remembered there was something off with his academy information after the conversations we had several months ago over the first request.

Thanks,

Mary

**Mary DeFrancesco**

Records Analyst

[Municipal Police Training Committee](#)

[MPTC Acadis Portal](#)

42 Thomas Drive, Randolph, MA 02368

**\*Investigator Note 1:**

*The date of the email is relevant. The investigator spoke to Dir. FERULLO on 4 November 2021, the day before this email is generated. The email appears to be in response to DEFRANCESCO being told to look for everything they have on FOUNTAIN. When the investigator and Dir. FERULLO spoke 19 days later, on the 23<sup>rd</sup> of November, he failed to disclose this email to the investigator. This email proves that Dir. FERULLO knew there were issues with the FOUNTAIN document months earlier as they had conversations (plural) about those issues. That is materially relevant information that the investigator should have been made aware of. Especially when Dir. FERULLO had spoken to the investigator less than 18 hours earlier about FOUNTAIN.*

**\*Investigator Note 2:**

*In the email, DEFRANCESCO states, "...he submitted the attached certificate," meaning FOUNTAIN submitted the forged 1995 NERPI Academy certificate through the Formstack portal. This is relevant because, in the MPTC's first PPR response letter to STIRM, DEFRANCESCO again stated, "he submitted the attached certificate". The phrasing of the response caught the investigator's attention. The investigator wanted to know how DEFRANCESCO knew FOUNTAIN submitted the certificate. The investigators attempted to determine why DEFRANCESCO phrased her response in such a way, but once again, we were met with conflicting stories. According to DEFRANCESCO, she phrased her response that way because Sheila Gallagher specifically told her to phrase it that way. GALLAGHER could not recall having that conversation with DEFRANCESCO and could not explain why the response was phrased that way. If FOUNTAIN also submitted the forged 1995 NERPI Academy*

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*Certificate to the MPTC, the MPTC has not provided us with evidence of that.*

DEFRANCESCO was interviewed about the FOUNTAIN matter on 22 December 2022; she was specifically asked about the issues with the document she failed to send and had no recollection of the issues. Yet the investigator is expected to believe that DEFRANCESCO could remember the issues well enough that she intentionally withheld the document and knowingly violated multiple state Public Record Laws MGL c. 66.

DEFRANCESCO's job title is Record Access Officer, and her job is to collect and send PRR. The Public Records Laws MGL c. 66 are lengthy, but as the RAO, would it not be a requirement of the position to be familiar with the legislative requirements concerning her role? DEFRANCESCO would like the investigators to believe she cannot remember the issues that prevented her from providing a lawfully requested document. Investigators do not believe her; as the RAO, she fielded dozens of PRRs pertaining to FOUNTAIN over the last 18 months as MPTC's Record Access Officer (RAO). <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleX/Chapter66>.

**\*Investigator Note:**

*The METHUEN POLICE DEPARTMENT investigation had not yet been initiated when ESTES requested the FOUNTAIN training certificate; therefore, the investigative exemption would not apply. Also of note, the MPTC claimed no exemption; they unilaterally decided not to provide the record.*

The issues DEFRANCESCO referenced in the email remain unknown to the investigators. However, we strongly suspect we know what those issues were, as that

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document in question has since been proven to be a forgery. The investigator had conducted a comprehensive examination of the document in question and determined it was a forgery. The records in question have since been verified to be forgeries by the Homeland Security Investigations Forensic Laboratory in January 2023.

### The MPTC Never Possessed a Valid NERPI Certification for Fountain

The MPTC responded to FOUNTAIN and Tim WOOD, a local news reporter, stating they had no responsive records for FOUNTAIN when each requested them. WOODs submitted a PRR at the beginning of 2019. We know this because he emailed the MPTC's response to Ann RANDAZZO, who then forwarded it to former Chief SOLOMON.

FOUNTAIN submitted his first request for his own records on 28 February 2019, just two days after former Chief SOLOMON learned of the MPTC response to WOOD.

On 22 April 2020, former Chief SOLOMON submitted a Temporary 270-Day Waiver packet for FOUNTAIN and ABRAHAM as two PDF attachments. City cellphone records indicate former Chief SOLOMON called Director FERULLO twice on April 30, 2020, each call lasting approximately two (2) minutes. On 1 May 2020, Director FERULLO emailed former Chief SOLOMON saying there was a concern with FOUNTAIN. Later that day, both spoke for 11 minutes at 11:48 am, according to Methuen Police Department phone records. FOUNTAIN's Temporary 270-Day Waiver request was never heard, and ABRAHAM's was heard and granted. The investigator

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has never received a satisfactory answer from the MPTC concerning the waiver application and why FOUNTAIN's request was not heard.

### MPTC Intentional Deception

The investigator can prove that members of the MPTC have not been forthright with the investigator since it can be shown that the MPTC had concerns with FOUNTAIN as far back as 22 April 2020 and again on or around 10 May 2021, when the MPTC received the FOUNTAIN forgery through the Formstack portal.

On 5 November 2021, the Records Access Officer emailed several senior members of the MPTC. One part of the email addressed how they had not provided a FOUNTAIN document in response to a PRR request filed by the Boston Globe's investigative journalist Andrea ESTES. The following quote was copied from an email DEFRANCESCO sent to senior staff:

***“In response to the Globe request, we sent the attached letter and Acadis transcript. I looked in the records room and the basement and did not find anything on this academy. When going through the formstack recently I did find he submitted the attached certificate. I didn't upload because I remembered there was something off with his academy information after the conversations, (plural) we had several months ago over the first request.”***

That information was never shared with the investigator; it was only discovered due to a PRR response.

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The emails between FERULLO and SOLOMON, coupled with the DEFRANCESCO email above, show that the MPTC's senior staff had knowledge and were concerned about FOUNTAIN. If there were concerns about the FOUNTAIN certificate that arrived in May 2021, what was done to address their concerns? The investigator suspects nothing was done to address their concerns because several months had passed since they came to possess the forgery. They were still withholding it from a reporter and failing to disclose it to the Methuen Police Department and STIRM.

The MPTC cannot adequately answer the investigator's questions without showing they knew FOUNTAIN was unqualified to be a police officer but took no action to prevent him from continuing to work as one.

The investigator will show that the MPTC did know that FOUNTAIN was unqualified to be a police officer. Their failure to act allowed SOLOMON to avoid public scrutiny while simultaneously allowing FOUNTAIN to continue perpetuating his fraud against the City.

Given the MPTC's stated concerns with FOUNTAIN, one would think they might have launched their own investigation into the origins of the forged training certificate. The fact that no such investigation was initiated places the credibility of the MPTC in question.

There is only one plausible reason why the MPTC did not initiate their own investigation concerning FOUNTAIN's 1995 NERPI certificate and, more specifically, how FOUNTAIN was allowed to continue to work as a police officer without ever

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having shown proof of graduation from a police academy. All roads lead back to the SOLOMON to FERULLO 1 May 2020 email and 11-minute phone call. The one person capable of authorizing that investigation already knew why FOUNTAIN was allowed to continue to work as a police officer because he was the one who allowed it.

## SIGNIFICANT PHONE CONTACTS

### Calls between the Investigator and Director Ferullo

On 4 October 2021, the investigator called Director FERULLO as a courtesy to inform him that STIRM had been retained to investigate a forged training record. He was fully briefed on the target of the investigation and what department was involved. There was no reason to suspect the MPTC had any involvement in the forged record. His response was not what the investigator expected when he learned there was a strong possibility that someone that had been a police officer for four years had forged his police academy certificate. Please recall the information pertaining to a 5 October 2021 internal email concerning the Fountain training certificate. ***See page 112 Investigator Note 1.***

The investigator is curious why the Executive Director failed to notify him about what he knew regarding the FOUNTAIN matter when the investigator first briefed him on the METHUEN POLICE DEPARTMENT/STIRM investigation. The investigator does not find it credible that the Executive Director of the MPTC failed to recall his concerns about FOUNTAIN.

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At no time did Director FERULLO mention to the investigator that he had spoken to former Chief SOLOMON about FOUNTAIN. He never mentioned his concern with FOUNTAIN on 1 May 2020, and he never mentioned that former Chief SOLOMON had submitted a Temporary 270-Day Waiver for FOUNTAIN through back channels. At no time did Director FERULLO mention that FOUNTAIN's Temporary 270-Day Waiver was withdrawn. These are all the things the investigator was surprised to learn, as Director FERULLO knew because he was personally involved.

#### 23 November 2021

Director FERULLO called the investigator; it is speculative that the call resulted from the email the investigator sent the day before to the Records Access Officer.<sup>15</sup> The call started normally enough as information was exchanged back and forth.

Director FERULLO came across as if he were trying to justify why the state of kept training records was lacking on their behalf. He even referenced that the MPTC did not exist in the late 1990s.

The investigator would argue that the Criminal Justice Training Council (CJTC) is the Municipal Police Training Committee (MPTC); the responsibilities remained the same;

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<sup>15</sup> **22 Nov 2021 PRR** – Seeking additional documents, the investigator reminded the MPTC-RAO of their responsibility to adhere to state record retention laws.

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the only thing that changed was the organization's name and possibly some consolidation. The Commonwealth has a history of consolidation and rebranding agencies; look to the 1992 merger of the Massachusetts State Police.

Director FERULLO lost his composure, which resulted in his letting the investigator know that he had found two of the yellow cards that had been requested but never said which two. He also said that the only intermittent academy that sent records was the NERPI academy, which matches former NERPI Director Larry NORMAN's statements.

Director FERULLO threatened to go downstairs to the legal section and have them type up a letter saying they do not have any records that pertain to the investigator's request. The investigator reminded him that it would not be in anyone's best interest since he had just mentioned that he had found two of the requested yellow cards. During the call, the investigator offered to come down with an intern and help them search for the records that the investigator needed for the investigation. Director FERULLO denied the request instantly and with an excessive level of aggression.

Before the call ended, FERULLO regained his composure and asked what the investigator needed. When the call ended, the investigator understood that Director FERULLO would look for the records and get back to him with the results. A couple of days later, the investigator missed a call from a number known to be associated with Director FERULLO; no message was left. The call was returned the next day, and a message was left requesting a callback. That call was never returned.



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This call was memorialized by the investigator, as the responses received from Director FERULLO were so over the top and aggressive that they led the investigator to call Chief MCNAMARA immediately after the call and inform him that there may be an issue with the MPTC, specifically Director FERULLO. The investigator came away from that call with the feeling that Dir. FERULLO knew more than he cared to share, he also came across as being overly protective. The investigator told Chief MCNAMARA that he felt there was a possibility that Director FERULLO might be complicit in the FOUNTAIN matter. Neither of us really thought it was possible, after all Dir. FERULLO was a well-respected law enforcement official, in charge and responsible for all municipal police training in the Commonwealth of Massachusetts.

Unfortunately, the investigator's initial assessment of Dir. FERULLO was accurate, he did in fact know more, and he can be shown to be complicit if not worse. Director FERULLO knew FOUNTAIN was working as a full-time police officer and did nothing about it. He knew FOUNTAIN was still actively working as a full-time police officer and failed to notify the appointing authority that the City had an uncredentialed police officer working for them.

Director FERULLO became aware of FOUNTAIN's ongoing full-time employment on 22 April 2020 when former Chief SOLOMON emailed him two Temporary 270-Day Waivers. In the temporary waiver packet was FOUNTAIN's resume. He stated he had been a police officer at METHUEN POLICE DEPARTMENT since 2016 and mentioned

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that he investigated serious crimes and authored search warrants. Without any additional information, that admission should have raised a grave concern with the Director. By virtue of his years of experience and current position, Director FERULLO would have known FOUNTAIN needed a waiver to work as a full-time officer. The temporary waiver that former Chief SOLOMON sought for FOUNTAIN should have been granted before FOUNTAIN worked a single shift as a full-time police officer.

Director FERULLO was once again made fully aware of FOUNTAIN's ongoing full-time employment when Mary BRAGG, a former MPTC records clerk, emailed him on 6 May 2020 and stated in the body of her email, "I apologize, I know you're in the car. But I wanted you to see this correspondence. I will call you in a moment as well". BRAGG would be authored by Lisa KASHINSKY. The title of the article was "Councilor gets police post not held by anyone in years." The article would go on to explain the very unique circumstances of FOUNTAIN's full-time employment and began with "An at-large-City Councilor has become a full-time, 'intermittent' police officer eligible to receive City pay".

Director FERULLO has been questioned by both the Civil Service Commission and the METHUEN POLICE DEPARTMENT regarding the concern he expressed regarding FOUNTAIN during the 1 May 2020 email to former Chief SOLOMON. Director FERULLO conveniently claims that he can no longer recall what those concerns may have been.

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#### **\*Investigator Theory:**

A call was received from FERULLO on 23 November 2021. During the call, FERULLO briefly lost his composure and said he had two yellow cards in his hand. He never told the investigator to whom the two yellow cards belonged. We know now, it was just the following day (24 November 2021) when MPTC RAO DEFRANCESCO scanned the FOUNTAIN yellow card in order to create a digital copy. The investigators would not learn of the existence of the FOUNTAIN yellow card for another 238 days until the 30 March 2022 phone call from O'BRIEN during which he revealed the FOUNTAIN yellow card had been "found."

The investigator does not believe in coincidence; a plausible explanation is that FERULLO was using the call to feel the investigator out; when he did not get what he was looking for, he tried to intimidate the investigator in an effort to get the investigator to back down. The investigator's theory is that FERULLO had the alleged FOUNTAIN yellow card all along but he was reluctant to provide it for reasons he should be made to explain. The investigator is near certain the FOUNTAIN yellow card is yet another forgery, likely created with the use of the other yellow card FERULLO mentioned having in his hand (possibly the ABERNATHY card). The investigator is comfortable positing that FERULLO already had the FOUNTAIN yellow card in his possession on 23 November 2021 because it was just the prior day when RAO DEFRANCESCO informed the investigator that they had no further records related to FOUNTAIN.

The 22 November 2021 response was the second time that month the MPTC informed the investigator they had provided all the FOUNTAIN records. Neither response had the Temporary 270-Day Waiver request specifically sought or the FOUNTAIN yellow card. The Yellow Cards have a lifetime retention requirement under the Massachusetts Public Record laws. Both responses from the MPTC state that academies were not required to forward their records back then. That may have been the case, but that does not appear to be what happened, the MPTC has thousands of yellow cards stored at its headquarters.

So, the investigator was notified on the 22<sup>nd</sup> of November 2021 that the MPTC has provided all records regarding FOUNTAIN. Director FERULLO called the investigator on the 23<sup>rd</sup> of November, stating that he had found two yellow cards that STIRM had requested, yet never told the investigator to whom those cards belonged. The director lost his composure, but eventually calmed down and asked the investigator what he needed. The director was informed that STIRM needed someone to look for FOUNTAIN's yellow card. He tells the investigator the same thing that he would later tell Chief MCNAMARA: **"I will go look for the card myself."**

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*Remember the investigator was notified in writing on 22 November 2022 that the MPTC had supplied all of FOUNTAIN's records. The investigator finds it too coincidental that less than two days after that notification; the FOUNTAIN yellow card is "found". Why would DEFRANCESCO bother to search the same records room for a third time, two days after she informed the investigator, they had no such records? There can be only one reason, she was told to; and when she did, she discovered a drawer placed on top of a cabinet that she had not noticed previously. Low and behold, she opened the drawer and "found" dozens of yellow cards from the 1995 NERPI Academy class including one for Sean FOUNTAIN.*

*DEFRANCESCO would later prepare a draft letter notifying STIRM that the FOUNTAIN yellow card had been "found" during a "deeper dive" search for records. This draft letter, dated December 9, 2021, was never mailed to STIRM. Instead, the draft letter was found included within two thumb drives the MPTC provided to STIRM on 22 June 2022 in connection with later public record requests. The metadata found on this draft letter show it was created on 2 December 2021 and the corresponding FOUNTAIN yellow card metadata shows it was created (meaning scanned) on 24 November 2021.*

*Now consider again, the 30 MARCH 2022 phone call from O'BRIEN to STIRM during which O'BRIEN will finally disclose that the FOUNTAIN yellow card had been "found". Both GALLAGHER and DEFRANCESCO were in the room as they could be heard answering O'BRIEN's questions in the background. The investigator was led to believe that the FOUNTAIN yellow card was recently "found". It's clear now that both GALLAGHER and DEFRANCESCO knew full well when it was found, but they said nothing. The investigator never believed their implausible story that the FOUNTAIN yellow card was "found" in early March of 2022 anyway. The discovery of FOUNTAIN yellow card was of extreme significance to FERULLO. At least two, but as many as four law enforcement agencies and the civil service commission have asked about it. Several media entities including the Boston Globe have asked for it. FERULLO claimed twice that he himself would go look for it. FERULLO singled out the FOUNTAIN matter for special attention in his 10 October 2021, inter-office email.*

***"Any requests for Methuen records should be carefully complied with in accordance with public records laws. Sheila should be kept informed of any such requests."***

*FERULLO knew about his behind the scenes dealing with SOLOMON which allowed FOUNTAIN to continue to work full-time police officer without ever having produced evidence of having graduated from a police academy. Given all that, the MPTC*

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would have us believe the FOUNTAIN yellow card was found in early March 2022 but no one told Director FERULLO? Remember FERULLO would later represent to Chief MCNAMARA on the 28<sup>th</sup> and 29<sup>th</sup> of MARCH 2022 that the FOUNTAIN yellow card had not yet been found. This explanation was never believable but the alternative explanation that followed was even worse!

*The MPTC now wants the investigator to believe that DEFRANCESCO "found" the FOUNTAIN yellow card sometime between the 23 November 2021 phone call with Dir. FERULLO and 24 November 2021. DEFRANCESCO had no reason to be looking for the yellow card yet again unless she was told to look by someone. She "finds" the FOUNTAIN yellow card in the drawer she had never noticed previously. She clearly recognizes the significance of her find as evidenced by her 5 November 2021 email to FERULLO and senior MPTC staff.*

**"I have attached everything I have on Sean Fountain.**

**In response to the Globe request, we sent the attached letter and Acadis transcript. I looked in the records room and the basement and did not find anything on this academy.**

**When going through the formstack recently I did find he submitted the attached certificate. I didn't upload it because I remembered there was something off with his academy information after the conversations we had several months ago over the first request".**

*The investigator finds it almost impossible to believe that given the significance of what was "found" neither DEFRANCESCO nor GALLAGHER told Director FERULLO as he would continue to claim ignorance of its discovery until 30 March 2022.*

*Director FERULLO feigned ignorance over his personal concern with records in general but more specifically the FOUNTAIN yellow card. FERULLO was interviewed by Capt. FERREIRA. See excerpt from Capt. FERREIRA's affidavit below:*

**"FERULLO advised he was unaware of when FOUNTAIN's yellow card was discovered. FERULLO explained as the director, his job is to deal with the political aspects of the agency, not any of the day-to-day matters. He advised yellow cards are not something with which he would concern himself. FERULLO advised GALLAGHER would approve any release of information regarding public records requests; he took no part in anything that was provided."**

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*If dealing with yellow cards was beneath Director FERULLO, why did he call the investigator to discuss the first two yellow cards he claimed to have found in the first place?*

#### **\*Investigator Note:**

*Director NORMAN said during his interview that he shipped the training records down as required after each class. Director NORMAN was an original NERPI hire; he started as the training coordinator and later became the director when the organization moved from Tewksbury to Camp Curtis Guild. Former Director NORMAN is well known and respected in the police training world in Massachusetts and has a reputation for being a meticulous record keeper. He was an integral part of every NERPI academy from inception until retirement. He participated in over 35 academies as the Training Coordinator or Director of NERPI.*

### **Calls between Chief McNamara and Director Ferullo**

See the memorialization of Chief MCNAMARA's phone conversation with Director FERULLO on the 28 & 29<sup>th</sup> of March 2022. During the Chief's first phone call with Director FERULLO, he asked him three specific questions.

- ◆ Do you have a yellow card for FOUNTAIN?
  - The Director said he did not, but indicated he would look for it himself. He most certainly did not say he was aware of it being found earlier that same month or on November 24<sup>th</sup> of the previous year (2021).
- ◆ Do you have the entry and or exit rosters for the 1995 NERPI Academy Class?
  - This question was never directly answered. Although, through an interview with DEFRANCESCO, the METHUEN POLICE DEPARTMENT would learn of the existence of a previously undisclosed CJTC legacy database. Exporting data from ACADIS, DEFRANCESCO created an excel roster of the 1995 NERPI Class.



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FOUNTAIN's name was not included on the spreadsheet. When she was asked why she hadn't included FOUNTAIN's name on the spreadsheet she buoyantly answered that she was only transcribing information related to officers that were still active in Acadis, an explanation that was immediately seconded by O'BRIEN. Capt. FERREIRA then correctly pointed out that FOUNTAIN was still active in Acadis at the time the spreadsheet was made. Neither DEFRANCESCO nor O'BRIEN could explain that discrepancy.

- ◆ Please explain what RAO DEFRANCESCO was relying upon when she answered a STIRM PPR request with this statement:

***“In response to your request for Officer Sean FOUNTAIN, please see the training record attached and the certificate provided by Fountain.”***

- ◆ FERULLO would never fully answer the question, but he did call Chief MCNAMARA back the following day. FERULLO would explain how the MPTC received a 1995 NERPI academy certificate for FOUNTAIN through the Formstack portal on 10 May 2021. METHUEN POLICE DEPARTMENT training staff would later confirm they unknowingly uploaded the FOUNTAIN forgery through the portal as part of a batch of documents sent to MPTC in response to a statewide (MPTC) request for missing training documents. Nothing has since been found in the batch upload that suggests FOUNTAIN supplied the certificate. The question remains unanswered. Why was DEFRANCESCO instructed to craft her response in that way?

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## FERULLO & O'BRIEN

Director FERULLO emailed<sup>16</sup> Chief MCNAMARA on 5 April 2022, informing the Chief that all communication must go through his Chief of Staff and General Counsel James O'BRIEN due to the ongoing issues between the MPTC and Methuen Police Department. There were no ongoing issues; the investigator was simply trying to complete an investigation by requesting what should be publicly available information.

O'BRIEN and FERULLO, on multiple occasions, have complained about the tactics and methods used by the investigator. Their complaints are baseless; designed to discredit the investigator and thus the investigation. Trial lawyers often deploy a similar strategy. When the evidence against their client is weak, they attack the evidence. When the evidence against their client is strong, they attack the investigator. In this case, their strategy is clear.

One specific complaint was related to two STIRM investigators visiting an employee's residence to speak with her. Training and experience have taught both investigators that when interviewing an employee about work-related matters, it is best not to interview the employee at their place of work.

The investigators arrived at 6:00 p.m. It was a nice day; the sun was still out. A decision to bring two investigators of the opposite sex was due to the lead investigator and DEFRANCESCO being members of the opposite sex. Both were professionally dressed, retired state police sergeants; the female investigator is an attorney. DEFRANCESCO was not home, and a business card was left with the family member

<sup>16</sup> **5 April 2022 Email:** From Dir. Ferullo appointing O'Brien as the MPTC POC for MPD issues



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that answered the door.

The family member that answered the door was appreciative that there were two of us, as she looked right at this investigator and said something to the effect of “Good, “good thing she knocked on the door; I would not have opened the door if you were the one that knocked”. I asked why that was, and she said I looked “intimidating” because of my size. I said it was a good thing I had the forethought to bring the other investigator.

The investigators were nothing but professional, and the complaints from Director FERULLO and O'BRIEN are baseless.

## YELLOW CARDS

### Background & Historical Information on Yellow Cards

#### **\*Investigator Note:**

*This section of the report addresses the conflicting stories that the investigators have been told regarding the discovery of the FOUNTAIN yellow card. This section also addresses conflicts concerning the ABERNATHY yellow cards'<sup>17</sup> inaccuracy. Despite having, from all appearances, a legitimate 13 May 1995 NERPI training<sup>18</sup> certificate showing, he graduated, his yellow card unmistakably indicates that he failed.*

During the interview with Larry NORMAN, he said he sent the yellow cards for every completed NERPI academy class to the CJTC and the MPTC. NORMAN was an original staff member for the NERPI academy, became the director around 1997, and

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<sup>17</sup> Abernathy Yellow Card

<sup>18</sup> Copy of Abernathy 13 May 1995 NERPI certification (copy of original made from original by the investigator)

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was involved in over 40 NERPI academy classes.

A yellow card is a document that individual police trainees fill out on day one of their part-time academies. The Massachusetts State Record Retention laws require yellow cards to be retained forever. (**Basic Recruit White Card / Yellow Reserve Card - Retain Permanently**) The information on those cards consists of the trainee's name, address, DOB, and social security number, and each trainee signs their card.

- The lower half of the card has dedicated lines of pass \_\_\_\_\_, fail \_\_\_\_\_, and score \_\_\_\_\_; it also has a place for the academy director to sign and date the card. The lower portion of the card is administrative and reserved for academy staff.

## THE METADATA

Metadata has a significant role in the discoveries the investigators have made. Metadata provides information about other data but not the content of the data, such as the text in a message or the image itself. There are many different types of metadata, including:

1. Descriptive metadata – the descriptive information about a resource. It is used for discovery and identification, and includes elements such as title, abstract, author, and keywords.
2. Administrative metadata – the information to help manage a resource, like a resource type, versions, relationships, and other characteristics of digital materials.
3. Legal metadata provides information about the creator, copyright holder, and public licensing.

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Investigators were able to ascertain information from the metadata of MPTC-provided records in response to the multiple PRR that STIRM requested. The data includes the date and times certain documents were created—unfortunately, the dates and times conflict with the statements previously provided by the MPTC. Investigators will also reference a document that appears to have had its metadata stripped away. Stripping metadata from a PDF document is a thirteen-step process, according to the manufacturer of the software program—*Adobe*. Removing metadata is viewed as an intentional act. It is a conscious and labor-intensive process to remove the actual data, which occurred with the yellow card the investigator initially received on 30 March 2022.

Why would anyone at the MPTC intentionally strip metadata from a document, such as the FOUNTAIN yellow card? The only logical reason the investigator can think of is that MPTC did not want the investigator to discover when the Yellow Card was created. If you had no reason to conceal the metadata, why would you bother going through the lengthy process to remove it?

## YELLOW CARD SUSPICIONS

FOUNTAIN's Yellow Card has been requested multiple times over the last several years and has never been found. We were finally informed that it had been “miraculously” found after the investigator informed the MPTC that they had distributed a forged training certificate. The method of notification was the Public Records Request submitted by the investigator on 25 March 2022. The PRR was designed to

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entice the MPTC to re-engage in conversation with the investigator and Chief MCNAMARA, as calls from both were going unreturned. Once the MPTC revealed they had "found" FOUNTAIN's yellow card, the investigator asked O'BRIEN to turn over the original so that it may be forensically examined. O'Brien initially balked at the request and expressed concerns with potentially interfering with [entity redacted] investigation.

The MPTC has no legitimate reason to refuse the request. What if the [entity redacted] never requested them? The forensic testing of the yellow cards could further this investigation and bring it to closure. The City of Methuen requires the results of those tests not just in furtherance of this investigation but also in support of their defense in a civil lawsuit brought forth by FOUNTAIN. The MPTC could benefit by being transparent, open, and helpful. If the FOUNTAIN yellow card is determined to be a forgery, the MPTC would have good reason to start their own inquiry. Two records indicating that FOUNTAIN either attended or completed the 13 May 1995 NERPI academy before becoming a Methuen Police Officer are proven forgeries.

The FOUNTAIN yellow card is the lone record that could prove FOUNTAIN completed the NERPI academy, and that document needs to be examined. For clarity, the importance of the events that occurred at the end of November 2021 were not fully understood at the time. The investigator only learned of the relevance of those events as additional information was developed. The investigator offers below an abbreviated timeline to show the sequence of events that must be understood to understand the investigator's theory. The investigator initially believed the MPTC was sanitizing emails that

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were provided in response to public record requests. O'BRIEN vigorously denied the accusation. While O'BRIEN may have been right, this investigation has revealed that the MPTC engaged in its functional equivalent. Instead of sanitizing responses they manipulated the search parameters of public records requests to ensure specific documents would not be discovered. This is a violation of MGL Chapter 66.

**\*Investigator Note:**

*The author added all highlighted information in this section to point out dates, times, individuals involved, or who were named in the email thread. The investigator highlighted pertinent information in an email that addressed multiple points, which are cut and pasted from the source records.*

**19 October 2020**

**From:** Estes, Andrea <[andrea.estes@globe.com](mailto:andrea.estes@globe.com)>  
**Sent:** Monday, October 19, 2020 3:07 PM  
**To:** Wark, Jake (EPS) <[Jake.Wark@mass.gov](mailto:Jake.Wark@mass.gov)>  
**Subject:** Re: do you have anything to do with the

yes!! i want to know whether a police officer is required to complete a full-time police academy before he can be sworn in as a full-time police officer in any Mass. City or town.

also, whether someone can obtain a waiver to be allowed to work full-time

without having graduated from a full-time academy

and if it's possible to work with a waiver, whether either Sean Fountain or Matthew Despina ever received such a waiver to work full-time for the Methuen Police Department.

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i emailed the head of the MPTC but haven't heard back. i figured asking you would be so much more efficient!

Thanks.

#### 25 October 2020

The email below, when factored with other emails the investigator collected, shows that Director FERULLO would like the recipient to think he was unaware of what happened to the Temporary 270-Day Waivers for FOUNTAIN and DESPIN, which Boston Globe Reporter Andrea ESTES was pressuring the MPTC for an answer. FOUNTAIN's name does not appear in the email; however, the Boston Globe emails clearly reference DESPIN and FOUNTAIN.

**From:** Ferullo, Robert (CJT) <[Robert.Ferullo@mass.gov](mailto:Robert.Ferullo@mass.gov)>  
**Sent:** Sunday, October 25, 2020, 9:55 AM  
**To:** Gallagher, Sheila (CJT) <[sheila.gallagher@mass.gov](mailto:sheila.gallagher@mass.gov)>  
**Subject:** FW: Fountain and Abraham Waiver Requests

In regards to FOIA from Globe. I do not know what ultimately happened to these.

I am in Monday after 11.

RF

Chief Robert J. Ferullo, Jr. (ret.)  
Interim Executive Director  
Executive Office of Public Safety & Security Municipal Police Training  
Committee

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**16 August 2021**

See the email that immediately follows; it shows that Director FERULLO was still actively engaged in dealing with Andrea ESTES of the Boston Globe nearly a year later than when ESTES started her investigation. It was also 49 days before the investigator contacted Director FERULLO to inform him of the METHUEN POLICE DEPARTMENT investigation into the FOUNTAIN forged training record. This is another example showing that Director FERULLO was not forthright and honest about his knowledge of FOUNTAIN when he spoke with the investigator 49 days after this email exchange.

**From:** Ferullo, Robert (CJT) <Robert.Ferullo@mass.gov>  
**Sent:** Monday, August 16, 2021 2:39:27 PM  
**To:** Estes, Andrea <andrea.estes@globe.com>  
**Subject:** Re: question

I'm on a call until 11:15. I will call you after.

Bob

**From:** Estes, Andrea <andrea.estes@globe.com>  
**Sent:** Monday, August 16, 2021 10:36:17 AM  
**To:** Ferullo, Robert (CJT) <Robert.Ferullo@mass.gov>  
**Subject:** Re: FW: question

yes. i filed a public request for this information with you but you said you don't keep this information.

thanks for your help.

andrea

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#### 4 October 2021

The Investigator contacted Director FERULLO to extend the courtesy that STIRM was investigating a forged training record. The investigator finds Director FERULLO is disingenuous in his recollection of FOUNTAIN. The investigator is nearly certain that Director FERULLO intentionally withheld information from the investigator, therefore lying to the investigator by way of omission. The only plausible explanation that Director FERULLO could use is that he forgot. There are multiple incidents and events that Director FERULLO either knew of or participated in; for him to have forgotten all of them, the investigator finds that to be virtually impossible. It will be shown that he knew about FOUNTAIN years before the investigator was retained to investigate this matter. The investigator finds Director FERULLO to be untrustworthy as it pertains to the FOUNTAIN matter. Director FERULLO is not believed to have been forthright or honest in disclosing what he knew about FOUNTAIN when informed/questioned by the investigator.

#### 10 October 2021

Director FERULLO is attempting to distract attention from the real reason that there is an influx of public record requests related to Methuen Police Department. Director FERULLO distributes a news article by Andrea ESTES about the favors former Chief SOLOMON provided City Councilors just before and after they passed the three labor contracts for the police department. In passing the contracts, former Chief SOLOMON instantly became one, if not the highest-paid, police Chief in the



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country with an estimated salary of \$360,000. The article is believed to be a false flag campaign to cover the real reason that there had been and would continue to be an increase in the number of PRRs the MPTC saw because of the FOUNTAIN investigation. Why else would FERULLO send out the nearly year-old article informing everyone that this is the cause of the PRR increases?

**From:** Ferullo, Robert (CJT) <Robert.Ferullo@mass.gov>  
**Sent on:** Sunday, October 10, 2021 11:25:57 PM  
**To:** Gallagher, Sheila (CJT) <sheila.gallagher@mass.gov>; Hamwey, Nicole M. (CJT) <Nicole.M.Hamwey@mass.gov>  
**CC:** Nardone, Andrea W. (CJT) <Andrea.W.Nardone@mass.gov>  
**Subject:** FW: Audit of Chief Solomon

All –

This article may give you some background on the recent public records request.

Any requests for Methuen records should be carefully complied with in accordance with public records laws. Sheila should be kept informed of any such requests.

RF

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Chief Robert J. Ferullo, Jr. (ret.)  
Executive Office of Public Safety & Security  
Executive Director  
Municipal Police Training Committee  
42 Thomas Patten Drive  
Randolph, MA 02368

#### 5 November 2021 MPTC emails

The two emails below show that Director FERULLO and GALLAGHER were aware of the FOUNTAIN concerns in 2021. The investigator will also show they knew even earlier than that, going back as far as 22 April 2020. The first email references FOUNTAIN's Temporary 270-Day Waiver, which had been withdrawn, yet they failed to disclose that record. First, by refusing to produce the records, and secondly, by refusing to disclose who withdrew the FOUNTAIN application. STIRM had repeatedly asked for those records and only learned they existed on 30 March 2022 (220 days later). This email shows they knew they had the records the investigator sought and refused to provide them. They continued to refuse to give an adequate answer as to who withdrew the waiver request. There is no plausible explanation as to why they would not provide those records, as they discussed them just three days before the STIRM PRR for all of FOUNTAIN's training records. This email was dated 5 November 2021; they provided the first response to STIRM on 8 November 2021, another example of the MPTC selectively omitting public records.

**From:** Gallagher, Sheila (CJT) <[sheila.gallagher@mass.gov](mailto:sheila.gallagher@mass.gov)>  
**Sent:** Friday, November 5, 2021 9:58 AM  
**To:** MPTC RAO (CJT) <[mptc.rao@mass.gov](mailto:mptc.rao@mass.gov)>; Ferullo, Robert (CJT)

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<[Robert.Ferullo@mass.gov](mailto:Robert.Ferullo@mass.gov)>; Hamwey, Nicole M. (CJT)  
<[Nicole.M.Hamwey@mass.gov](mailto:Nicole.M.Hamwey@mass.gov)>; Nardone, Andrea W. (CJT)  
<[Andrea.W.Nardone@mass.gov](mailto:Andrea.W.Nardone@mass.gov)>  
**Subject:** RE: FOI / Public Record training record request

Hi Mary,

We may want to clarify in the letter that the MPTC did not collect Reserve Academy Information in the past. Right

The only records we have had in our possession are the following:

- Training History Print out from Acadis
  - **Waiver Request that was submitted but withdrawn and never heard before the Committee**
  - NERPI Graduation Certificate submitted by Sean Fountain
- Is there anything else?

Thanks,  
Sheila

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This email shows that the MPTC knew there was an issue with the FOUNTAIN training record that had arrived at the MPTC on 10 May 2021 through the unsecure Formstack portal. Not only did they have a problem with it, according to the email sent from DEFRANCESCO to Director FERULLO, HAMWEY, GALLAGHER, and NARDONE, they had several discussions (plural) about those concerns yet did nothing to address them.

The other issue is that the Record Access Officer in charge of fulfilling public record requests was selectively omitting certain public records. Even more troubling is that there does not seem to be a reaction from the Director or the Chief Operating Officer about the RAO disclosure that she had not forwarded the record.

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**From:** MPTC RAO (CJT) <[mptc.rao@mass.gov](mailto:mptc.rao@mass.gov)>  
**Sent:** Friday, November 5, 2021 9:41 AM  
**To:** Ferullo, Robert (CJT) <[Robert.Ferullo@mass.gov](mailto:Robert.Ferullo@mass.gov)>; Hamwey, Nicole M. (CJT) <[Nicole.M.Hamwey@mass.gov](mailto:Nicole.M.Hamwey@mass.gov)>; Gallagher, Sheila (CJT) <[sheila.gallagher@mass.gov](mailto:sheila.gallagher@mass.gov)>; Nardone, Andrea W. (CJT) <[Andrea.W.Nardone@mass.gov](mailto:Andrea.W.Nardone@mass.gov)>  
**Subject:** RE: FOI / Public Record training record request

Hi,

I have attached everything I have on Sean Fountain.

In response to the Globe request, we sent the attached letter and  
[OBJ] anything on this academy.

When going through the formstack recently I did find he submitted the attached certificate. **I didn't upload it because I remembered there was something off with his academy information after the conversations we had several months ago over the first request.**

Thanks,  
Mary  
**Mary DeFrancesco**  
Records Analyst  
[Municipal Police Training Committee](#)  
[MPTC Acadis Portal](#)  
o Thomas Drive, Randolph, MA 02368

#### 8 November 2021

FOUNTAIN's Acadis record, the forged training certificate, and a fulfillment letter indicating they complied with the record request. In their response, the MPTC indicated the certificate was provided by FOUNTAIN, which was a revelation to investigators. Investigators expected the MPTC would simply provide FOUNTAIN's Acadis record *not* an academy certificate.

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So why did GALLAGHER instruct DEFRANCESCO to craft her response in such a way?

***“In response to your request for Officer Sean Fountain, please see the training record attached and certificate provided by Sean Fountain.”***

The statement would appear to suggest the MPTC somehow received it directly from FOUNTAIN.

**\*Investigator Theory:**

*The way MPTC crafted their response suggests they knew more about the origins of the FOUNTAIN forgery than they were prepared to disclose. The investigators have never received a satisfactory answer as to why the response was crafted in such a way. DEFRANCESCO's email informing senior staff that she deliberately withheld the FOUNTAIN document from ESTES a month or two earlier violates public records law. When you combine the two incidents, you can see why the investigator feels the MPTC knew more about FOUNTAIN than they were prepared to disclose.*

#### **15 November 2021**

The investigator sent a second request to the MPTC seeking additional records. This email is relevant because it shows they are discussing not having a class roster or a card. There are thousands of yellow cards in the MPTC's possession. How can they say that they did not have a card, yet, nine days later, the FOUNTAIN yellow card is scanned into the MPTC database. If they did not have the card, where did it come from? It certainly was not located in the manner in which was explained to the investigator on 30 March 2022.

Their response is not consistent with public records law. They may not be

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required to create records in response to a PRR, but they are required to retrieve electronically stored records, such as emails, training records, and other records that are stored in such a manner.

**From:** Gallagher, Sheila (CJT) <sheila.gallagher@mass.gov>  
**Sent:** Monday, November 15, 2021 2:16:56 AM  
**To:** DeFrancesco, Mary K. (CJT) <Mary.K.DeFrancesco@mass.gov>  
**Subject:** FOIA Requests

Hi Mary

Getting back to you on the FOIA requests,

- Larry Smith asking about Sean Fountain.. we have provided all responsive documents. We do not have a roster and we do not have a card which we do not have to communicate to him.
- Cape Cod times: remind me you need all waivers and exemptions granted for the year. All the letters should be stored in the shared drive along with the minutes. I am not sure we need to give the training records we received as requests because those were not our documents. The minutes and the letters were generated by us.

Let me know if you cannot find.

#### 22 November 2021

The investigator spoke to FOUNTAIN at METHUEN POLICE DEPARTMENT when he resigned. FOUNTAIN did not want to speak with the investigator. I advised him that I would do all the talking. I laid out what we had and informed FOUNTAIN it would be in his best interest to retain legal counsel. FOUNTAIN was visibly shaken; he was sweating, and his palms were moist when the investigator shook his hand. FOUNTAIN looked as if he were about to be physically ill. He became ashen gray, was visibly sweating in a room that was approximately 70 degrees, and FOUNTAIN

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had not been exerting himself prior to our meeting.

#### **22 November 2021**

The investigator sent the third PRR to the MPTC seeking all six of the individuals named in Ex-8. It was acknowledged and never fulfilled.

#### **22 November 2021**

The investigator emailed DEFRANCESCO seeking a telephone call to discuss the public record requirements.

*"Ms. DeFrancesco,*

*I was hoping that we could speak, as I am trying to understand a couple of issues. You have stated "Reserve academies were not required to report their training to MPTC during that time period." I understand that they aren't required to submit training records, what about the yellow cards, and the TC-1 rosters, that have a lifetime and 50-year record retention requirement. Who would have those if you don't, because it was my understanding that the yellow cards were forwarded to the MPTC after the reserve / intermittent training class completed training. If that is not the case, can you please provide the proper agency that would be responsible for securing those records.*

#### **22 November 2021**

The investigator received the second PRR response from the MPTC. It succinctly stated that we have already provided all of FOUNTAIN'S records. That is the second time they have provided an answer related to FOUNTAIN. DEFRANCESCO had just searched for the FOUNTAIN records, and according to their response, they had provided all the records. Why would DEFRANCESCO search for the FOUNTAIN records for a third time within 48 hours of telling STIRM they had no additional records?

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They “found” the FOUNTAIN yellow card two days later but they wouldn’t disclose it until 30 March 2022 and when they did finally disclose it, they tried to lead the investigator to believe it was “found” in the early part of March 2022.

#### **23 November 2021**

The investigator received a call from Director FERULLO at 1345 that lasted eight minutes. This call was memorialized by the investigator, as the responses received from Director FERULLO were exaggerated and aggressive. The investigator immediately called Chief MCNAMARA to inform him that there may be an issue with the MPTC, specifically with Director FERULLO. The investigator told Chief MCNAMARA that the investigator felt there was a possibility that Director FERULLO might be involved in some way given his reaction. Both of us hoped that would not prove to be the case.

#### **24 November 2021**

This is the first time the MPTC can be shown to possess the FOUNTAIN yellow card. This is more relevant to the second explanation as to how the MPTC claims to have “found” the FOUNTAIN yellow card. In response to multiple PRR, the MPTC finally provided (22 June 2022) the investigator with two thumb drives of assorted data. In reviewing the two drives, a previously undisclosed letter was found.

The investigator believes the letter was accidentally included within the response.



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The letter is dated 9 December 2021, but the related metadata shows DEFRANCESCO created it on 24 November 2021. In that letter, DEFRANCESCO indicates a “deeper dive” resulted in the FOUNTAIN yellow card being found.

DEFRANCESCO attached a digital copy of the FOUNTAIN card but unlike the copy provided by O'BRIEN on 30 MAY 2022 this one included the metadata. The meta data showed the FOUNTAIN card was also created on 24 November 2021.

During her interview, DEFRANCESCO would indicate that she prepared the letter and sent it to GALLAGHER, as she had been instructed to do, before going on an extended bereavement leave.

When GALLAGHER was asked why the letter had not been sent, she laid the blame for such at the feet of DEFRANCESCO, claiming she was inexperienced and overwhelmed in her new role.

#### 9 December 2021

A copy of this letter was found within the thumb drives provided on 22 June 2022. A review of incoming emails shows the MPTC never sent this email to STIRM. It was forwarded to GALLAGHER, but it was never forwarded to STIRM.

December 9, 2021

VIA EMAIL ONLY:

Larry Smith

[larry@stirmgroup.com](mailto:larry@stirmgroup.com)

RE: Public Records Request Sean Fountain

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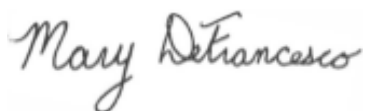
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To Whom it May Concern,

This letter is in response to your recent public records request related to Sean Fountain. We did a deeper dive and were able to find this attached yellow card. We have been unable to locate an after-action report or a roster for this class, but we have attached an electronic roster that was imported into Acadis.

Please contact me with further questions.

Respectfully,



Mary DeFrancesco  
Records Analyst  
Municipal Police Training Committee

#### **3 March 2022**

The investigator sent a PRR for the training records related to five of the six names listed on the forged NAPD NERPI sponsorship letter, purportedly from 1995. The one name left off the request was FOUNTAIN, which was purposeful since the MPTC had already indicated that they had released all records related to FOUNTAIN.

#### **7 March 2022**

The MPTC acknowledges receipt of the 3 March PRR sent by STIRM.

#### **17 March 2022**

The MPTC responds to the 3 March PRR. The response included the five yellow cards for everyone listed on the request. This was the first time the investigator

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confirmed that the MPTC had any yellow cards for the 1995 NERPI class. The investigator was told the part-time academies did not and were not required to forward those records. Not having to forward the records may be correct, but state record retention laws require the records in question to be preserved for a minimum of 50 years.

#### 21 March 2022

DEFRANCESCO sends an email to GALLAGHER. See the contents below. The investigator only learned of this email due to a PRR filed by STIRM. The email has several attachments including the five yellow cards that the investigator received on 17 March 2022 as part of the 3 March 2022 PRR.

***"Hi Sheila,***

***Just wanted to let you know he came back asking for more information. We have previously sent everything we have but I will send 7 separate emails and letters answering these requests.***

***Just a recap of the situation: We initially did not have any record of Sean Fountain's training. Then he came back with more names from that academy which is when Fountain's yellow card was found along with the other names he asked for. We then provided the yellow cards, and roster from Acadis."***

#### 23 March 2022

The following is a copy of the MPTC response dated 23 March 2022. It shows that the MPTC was still representing that the reserve/intermittent academies were not required to report their training to MPTC during that time; this is not factually

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accurate. How else can they explain the presence of over a thousand yellow cards in the MPTC record storage area? This could be potential play-on-words, as the MPTC did not exist in 1995; its predecessor was the Criminal Justice Training Council (CJTC). Technically they were not required to forward the cards to the MPTC because the MPTC was the CJTC when the records were created. This letter was included in the 22 June 2022 thumb drives provided by the MPTC.

March 23, 2022

VIA EMAIL ONLY:

Larry Smith

[larry@stirmgroup.com](mailto:larry@stirmgroup.com)

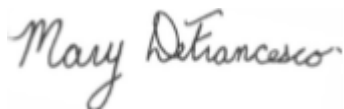
RE: Public Records Request of the Photographs Taken During the NERPI May 13, 1995 class

To Whom it May Concern,

This letter is in response to your recent public records request related to the photographs taken for NERPI graduating class of May 13, 1995. The Municipal Police Training Committee (MPTC) has no responsive records for this request. Academies were not required to report their training to MPTC during that time.

Please contact me with further questions.

Respectfully,



Mary DeFrancesco  
Records Analyst  
Municipal Police Training Committee

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#### 25 March 2022

At this point the MPTC had stopped taking or returning phone calls. In an effort to get the MPTC to re-engage, the investigator crafted a controversial PRR. The controversial aspect of the PRR related to the investigator's assertion that the MPTC had distributed a forged training certificate in response to the original STIRM PPR. The assertion was related to the fact that the certificate was distributed to STIRM without explanation as to whether or not it was valid.

#### 28 March 2022

Chief MCNAMARA called Director FERULLO, and they spoke. Please see Chief MCNAMARA's memorialization of his call with Director FERULLO. One thing that Chief MCNAMARA was led to believe was that Director FERULLO had not been made aware that FOUNTAIN's yellow card had been "found" months earlier. Director FERULLO even offered to go look for the card himself.

When Director FERULLO and the investigator spoke months earlier (23 November 2022) he made the same offer. Coincidentally, we now know the FOUNTAIN yellow card was "found" on 24 NOVEMBER 2022. The Chief asked the investigator to send an additional PRR to the MPTC. The email related to Chief MCNAMARA's directive is listed below:

**From:** Larry Smith [Larry@stirmgroup.com](mailto:Larry@stirmgroup.com)  
**Sent:** Monday, March 28, 2022 11:07 AM  
**To:** MPTC RAO (CJT) [mptc.rao@mass.gov](mailto:mptc.rao@mass.gov)  
**Cc:** McNamara, Scott [smcnamara@ci.Methuen.ma.us](mailto:smcnamara@ci.Methuen.ma.us)  
**Subject:** Re: Public Records Request

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Mary,

Thank you for acknowledging the request. Can you please add one email to the request that you just acknowledged receiving, it is an email address that I just became aware of? The address is [jesolomon@eagleinvestigations.com](mailto:jesolomon@eagleinvestigations.com) or any email that was received or sent to any email with an extension of eagleinvestigations.com

Please provide any and all records that pertain to Joseph Solomon, Joseph E. Solomon, J. Solomon, J.E. Solomon, JE Solomon, Joe Solomon, Joe E Solomon.

Thank you for the assistance.

Best Regards,  
Larry Smith  
CEO & Founder  
The STIRM Group

#### 29 March 2022

Director FERULLO and Chief MCNAMARA spoke again. Director FERULLO provided Chief MCNAMARA with information that showed, at least one way, how the FOUNTAIN forged training record came to be in the MPTC's possession. The records were forwarded to the MPTC from METHUEN POLICE DEPARTMENT through an unsecure portal the MPTC maintains that allows for police officer training records to be submitted. The portal still appears to be operational and unsecure. The portal seems to lack an audit feature, meaning the MPTC cannot ascertain who is sending them records which is all the more reason to question why they previously represented that the forged FOUNTAIN certificate was provided by FOUNTAIN.

#### 30 March 2022

This was the first time the MPTC acknowledged that they possessed a

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FOUNTAIN yellow card. The investigator was led to believe that the card had been “found” by DEFRANCESCO while she recently searched for other records. The yellow card the MPTC provided to STIRM and the METHUEN POLICE DEPARTMENT had the metadata stripped from the document history. That is a 13- step process according to Adobe instructions. The fact that it is a 13-step process would indicate that the data removal was intentional, but why?

#### **\*Investigator Note:**

*The investigator would have thought that the 30th phone call would have taken a different path if O'BRIEN had found the record as part of a deeper dive. The investigator would have expected a phone call from O'BRIEN offering the MPTC's apologies as he explained how the card had slipped through the cracks, as it was found in a draft box of an email and was supposed to have been sent to STIRM back in November. That is not the tact they chose. Why go to all that extra effort of having multiple people on an unscheduled call if it were a simple mistake? Let's not forget, of the four people that were on that call, the only one that didn't know the card had been found back in November, was the investigator. Yet none of the MPTC staff thought to mention that the card had been located at least four months earlier. In the investigators mind, recent, and recently, don't equate to four plus months.*

*Why has the metadata been removed from the record that indicates when the card was created? Why did he have to ask how the card was found if he were the one that found the record during a deep dive? The investigator would have thought that O'BRIEN would have been better prepared for the call he initiated. How did he not know the answer as to how the record was found? O'BRIEN had to know the first question the investigator asked him would be, how was the document found? He should have*

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*anticipated a series of follow-up questions about who, what, when, and where; why was he not prepared for it?*

*The investigator recommends obtaining a hard copy of the MPTC computer servers as it might be the only method available to discover which version of their stories is the correct one, if either. This investigator does not believe either version of how they located a record that they had not been able to find despite multiple requests. Then, after being notified that they had a forged record in their files, they miraculously located the one document that could potentially show that FOUNTAIN completed the 13 May NERPI class, as he alleges. Below is an excerpt from an MPTC draft email discovered in the 22 June data dump.*

#### **22 June 2022**

The investigator received two thumb drives full of data from a long overdue PRR. This is how it was discovered that the MPTC had FOUNTAIN'S yellow card and scanned it into their system on 24 November 2021, as the yellow card we received still had all the attached metadata showing when it was scanned in and when it was modified. From that point, the card was attached to an email by DEFRANCESCO and forwarded to GALLAGHER. The email was never sent to the investigator.

When DEFRANCESCO was interviewed by Chief MCNAMARA and Capt. FERREIRA, DEFRANCESCO specifically stated that she was instructed to clear all PRRs that were not routine through GALLAGHER. There is an email from Director FERULLO directing all Methuen Police Department emails to go through GALLAGHER. She stated she sent an email to GALLAGHER (later learned to be on



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6 December 2021) that she had thought GALLAGHER had sent the records, as DEFRANCESCO had left on bereavement leave after she had sent the email to GALLAGHER.

GALLAGHER initially stated that DEFRANCESCO was young and overconfident at times, insinuating that DEFRANCESCO must have forgotten to send the information to the investigator. When informed of the conflict between her story and DEFRANCESCO, GALLAGHER recalled that DEFRANCESCO had gone on bereavement leave and did not know why the email was not sent. GALLAGHER ultimately did not offer any explanation as to why FOUNTAIN's yellow card was not sent. In any case, the investigator can prove the MPTC knew of the yellow card's existence and failed to provide the investigator with a copy of FOUNTAIN's and several other yellow cards.

#### **\*Investigator Theory:**

*First, the investigator received an unscheduled call from O'BRIEN, GALLAGHER, and DEFRANCESCO. The investigator has no recollection of having ever spoken to either of the three before this call. The conversation started cordially, saying they wanted to discuss the investigator's recent public records request. Five days earlier, the MPTC received the PRR that was intentionally designed to be controversial, as it was designed to be a warning shot across the MPTC's proverbial bow. The hope was that it would encourage the MPTC to re-engage, as they had stopped answering phone calls or returning messages. The PRR did what it was intended to do; the MPTC re-engaged, and Director FERULLO took Chief MCNAMARA's phone call. The investigator was notified on the 30 March call that FOUNTAIN's yellow card had been located. While on the 30 March 2022 call, the MPTC emailed the investigator a FOUNTAIN yellow card with the metadata stripped from the record.*

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*The investigator came away believing that they had found the yellow card recently because of how the information was relayed to the investigator.*

*O'BRIEN informed the investigator that they had found the FOUNTAIN yellow card. The investigator had momentarily lost his composure; the exact wording is not remembered; it was something along the lines of "Are you &^&%\$ kidding me, a document you haven't been able to find for years, and now five days after you are informed that you have a forged training record in your files, that you have distributed, you miraculously locate a record that your agency has repeatedly told people they do not have because academies of that era were not required to provide those records to the MPTC. You expect me to believe that B^&\*\$." The investigator found O'BRIEN's explanation disingenuous, and the timing was too convenient to support their discovery story.*

*The investigator started asking and re-asking specific questions to clarify exactly how the MPTC came to find the missing record. The how, who, what, when, and where are the series of questions O'BRIEN was asked regarding how the record had been located. When asked how the record was located, O'BRIEN paused as he either turned away from the microphone or lowered the phone to ask DEFRANCESCO or GALLAGHER how the record was found. Both DEFRANCESCO and GALLAGHER are females. The investigator heard a female voice respond to the question of how the card was located. The investigator paraphrases what was said, "when I was recently looking for the additional names, he requested records for, I found it stuck to the back of one of the cards I was looking for". O'BRIEN then returned to the line and relayed the information the investigator had heard. What the investigator found concerning that statement is that FOUNTAIN did not share a first or last initial with either of the five individuals listed in the request, either in November or March. Five of the names were the same in each request; the only variation was the November 2021 request included FOUNTAIN, whereas in the March request, FOUNTAIN's name was excluded only because the MPTC had already told the investigator twice that they had no records for him.*

#### **\*Investigator Clarification:**

*The investigator sent a PRR on 3 March seeking the training records for five of the six names listed on the forged NAPD sponsorship letter. (AKA Ex-8) FOUNTAIN's name was excluded as the MPTC had already told the investigator they had provided everything concerning FOUNTAIN twice. The investigator had sent a PRR back on 22 November 2022 that had requested all six names from the forged NAPD sponsorship letter. The MPTC RAO acknowledged the receipt of the request, but the MPTC never completed the record request .*

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*The investigator is certain the word “recently” was used in the response. The word recently led the investigator to believe the records DEFRANCESCO was referring to when looking for the missing record was the 3 March 2022 request for five names, not the 22 November 2021 request for six names. The 22 November 2021 request was never mentioned, and the investigator had forgotten he had sent that specific request, as the investigation has required multiple record requests from multiple agencies.*

*There was no mention by O'BRIEN, GALLAGHER, or DEFRANCESCO about the yellow card being located back in November 2021. Remember, the metadata from the Adobe PDF formatted yellow card forwarded to the investigator during the 30 March call has no metadata that would have normally indicated when the record was originally created. It appears that the metadata was intentionally stripped from the record before being forwarded to the investigator. What other reason is there to remove the data than to mask the date the document was created? If that is, in fact, the case, it was an intentional act; remember, it is a 13-step process to remove metadata, according to Adobe.*

*An email chain was discovered due to the PRR response STIRM received on 22 June 2022. In the series of emails that were received, there was an email from DEFRANCESCO to GALLAGHER; enclosed in the email were multiple attachments one of the attachments were six names that had been requested on 22 November 2021. The email seems to indicate that DEFRANCESCO was looking for GALLAGHER's approval prior to emailing the response to STIRM. As taken from Capt. FERREIRA's **“Affidavit in Support of SF Arrest.”***

***“I also observed a file labeled “S. Fountain Card,” and I observed the date modified field was November 24, 2021. Upon opening the file, I observed the Fountain yellow card the MPTC had claimed they found in March 2022. I inspected the properties of the file and observed it was created on November 24, 2021, and appeared to have been modified the same day. This modification could be as simple as renaming the file.***

***I then found an email dated December 6, 2021, whereby DeFrancesco emailed several attachments to Sheila Gallagher, also of the MPTC. Included in these attachments is a draft letter to Investigator Smith indicating that they had found Fountain's yellow card along with several others. Also attached was a copy of the alleged Fountain yellow card.<sup>19</sup> The properties of these copies indicate the file was created on December 2, 2021 by DeFrancesco. Neither this email nor attachments were sent to Investigator Smith until the public records request in April 2022.”***

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<sup>19</sup> FW: Sean Fountain. With attachments. December 6, 2021.

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T.J. ABERNATHY is a retired U.S. Marshall that graduated from the 13 May 1995 NERPI academy. Shortly after completing the academy class, ABERNATHY left local law enforcement to become a U.S. Marshall. The investigator received a copy of ABERNATHY's yellow card in response to a PRR sent on 3 March 2022 requesting ABERNATHY's training record along with four other individuals. The ABERNATHY yellow card received back indicates he had failed to graduate from the 1994 NERPI Academy class.

As a result of a random meeting between Chief MCNAMARA and ABERNATHY at a social event hosted by a mutual acquaintance, they ended up speaking about ABERNATHY's recollection of his time at the 1995 NERPI Academy. Chief MCNAMARA told ABERNATHY the MPTC produced a yellow card for him showing he failed to graduate from the academy. Chief MCNAMARA stated that ABERNATHY appeared to be genuinely shocked by that revelation.

ABERNATHY was interviewed by the investigator and Capt. FERREIRA. ABERNATHY was adamant that he graduated and brought with him a legitimate 13 May 1995 NERPI Academy graduation certificate which shows he did. This contradicts the MPTC-supplied yellow card.

ABERNATHY's recollection of events from more than 25 years ago is hazy but he did recall FOUNTAIN being present at the 1995 NERPI Police Academy. Interestingly, while ABERNATHY recalled FOUNTAIN being present, he also recalled to a near certainty that FOUNTAIN did not graduate from the 1995 NERPI Academy.

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ABERNATHY was unable to recall why FOUNTAIN did not graduate.

ABERNATHY disclosed that he and FOUNTAIN were boyhood friends that remain friendly to this day. For ABERNATHY to say, with near certainty, that FOUNTAIN did not graduate is telling.

## TEMPORARY 270-DAY WAIVER APPLICATION

The City of Methuen retained the STIRM Group to conduct an independent internal investigation into the facts and circumstances that led the Methuen Police Department to possess a suspected forged academy certificate. The certificate in question has since been proven to be a forgery. On 6 January 2023, the Homeland Security Investigations (HSI) Forensic Laboratory<sup>20</sup> confirmed the investigator's initial assessment. FOUNTAIN's 13 May 1995 NERPI Academy graduation certificate is a forgery that was created by using former Methuen Police Department Lt. Steve SMITH's 13 May 1995 NERPI graduation certificate.

The relevancy of this section relates to the conflicting stories that senior staff of the Municipal Police Training Committee (MPTC) provided when answering questions related to how, where, and when documents were found.

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## METHUEN POLICE DEPARTMENT RELEVANT ACTIONS

- ◆ Methuen Police Department Training Order (TO) #16-36 assigned FOUNTAIN to a professional development program in lieu of a traditional Field Training Officer program. From all accounts of senior department members, the FTO program that FOUNTAIN is alleged to have completed had never been heard of, seen, or allowed before or since FOUNTAIN. The FTO training coordinator, Lt. MAX, refused to release FOUNTAIN from the FTO program because he failed to provide the necessary proof of completion.
- ◆ Methuen Police Department Personnel Order (PO) # PO17-02 states "Intermittent Officer Sean FOUNTAIN has completed the Field Training Officers Program and is now eligible to work by himself on patrol." Despite never being approved by the Training Coordinator and Field Training Officer (FTO) program coordinator Lt. MAX. Lt. MAX confirmed in his interviews that he never signed off or approved FOUNTAIN to be released from the sham professional development course used to replace the FTO training requirement.
- ◆ FOUNTAIN should never have been allowed to work full-time without obtaining a Temporary 270-Day Waiver from the MPTC.
- ◆ FOUNTAIN attempted to acquire training records that did not exist in February 2019. He contacted the MPTC, Larry NORMAN, the course coordinator for the 13 May 1995 NERPI academy, and Lt. James GRAHAM, who replaced NORMAN as the Academy Director when he retired from the NERPI program. All three stated they did not have any records.

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<sup>20</sup> 6 January 2023 HSI Confirmation – That Fountain's 13 May 1995 NERPI certificate is a forged record.

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- ◆ **28 Feb 2019** – FOUNTAIN submitted an MPTC transcript request for his training records.
- ◆ **1 Mar 2019** – Email from FOUNTAIN to the former Director of NERPI, Larry NORMAN. NORMAN said he had no records and turned all records over to Lt. James GRAHAM when he retired. FOUNTAIN referenced his attempt to acquire the records from the MPTC in the email.
- ◆ **1 Mar 2019** – Email from Fountain to Lt. James GRAHAM, who was the last Director of NERPI. The email asked for training records; GRAHAM responded three days later, saying, ***“Sorry, absolutely no student information in the files.”***
- ◆ **16 April 2020** – Email from City Councilor Mike SIMARD to Joe SOLOMON requesting, amongst other things, “the dates they attended the full-time or part-time academy and the locations and agencies where they attended the full or part-time academy”.
- ◆ **19 Apr 2020** – Former Chief SOLOMON authored and signed a memo to Director FERULLO of the MPTC, requesting a Temporary 270-Day Waiver. In the letter, former Chief SOLOMON states that ***“Sean FOUNTAIN attended and graduated from the Reserve/Intermittent Academy on May 13<sup>th</sup>, 1995, and has misplaced his graduation certificate.” “He has requested a copy of the certificate but has not received it as of this time.”*** It did not arrive because it did not exist. The request former Chief SOLOMON referred to was submitted over fourteen months earlier.
- ◆ **22 Apr 2020** – Lt. James GUNTER emailed former Chief SOLOMON; attached were two (2) 270-day MPTC training waiver packets, one for Brady ABRAHAM and the other for FOUNTAIN. That email was forwarded by former Chief SOLOMON to Director FERULLO at the MPTC on the same date. This document was intended to



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allow FOUNTAIN to continue working as a full-time police officer. The MPTC informed the investigator that the FOUNTAIN Temporary 270-Day Waiver application had been withdrawn. The MPTC recently confirmed they have no record of who requested that it be withdrawn.

### Fountain's Temporary 270-Day Waiver

A temporary waiver application requires applicants to provide the following:

- ◆ A completed application
- ◆ Current certification in First Aid and CPR
- ◆ Current qualifications in the Use of Firearms by an MPTC Certified Instructor
- ◆ Successful completion of the training requirement for persons appointed part-time police officers.
- ◆ Reason (Cite the nature of public safety emergency or other exigent circumstance.)
- ◆ Resume
- ◆

ABRAHAM's waiver application package was complete and included a copy of his Reserve/Intermittent Police Academy Certificate.

FOUNTAIN's waiver application package was incomplete. SOLOMON instead authored a memo to FERULLO explaining that FOUNATAIN had “***misplaced it.***”

- ◆ A completed application
- ◆ Current certification in First Aid and CPR. (**Missing**)
- ◆ Current qualifications in the Use of Firearms by an MPTC Certified Instructor
- ◆ Successful completion of the training requirement for persons appointed part-time police officers. (**Missing**)



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- ◆ Reason (Cite the nature of public safety emergency or other exigent circumstance.)
- ◆ Resume
  - FOUNTAIN's resume clearly stated he was the ***“Lead investigator for major cases including but not limited homicide, armed robbery, commercial breaks, missing persons. I have testified in District, Superior, and Federal Courts. Organized and worked on multi-agency cases and investigations.”***

The application states, *“Petition and supporting documentation should be sent to: Director of Training and Delivery, MPTC H.Q. 6 Adams Street, Randolph, MA 02368 or by fax (781) 963-0235.”*

- ◆ The MPTC has a sub-committee that reviews and pre-approves waiver applications. If the applicant passes the initial screening, the waiver application is presented at the next committee meeting. The committee reviews each individual application and either votes to approve, deny, or table the waiver application.
- ◆ The MPTC claims to have no record of FOUNTAIN's waiver application being withdrawn and any reference to the subcommittee meeting minutes that proceeded the full committee meeting in question (20 May 2020) is conspicuously absent from the publicly available information posted on the MPTC website.
- ◆ The MPTC committee met on 20 May 2020. There is no record of the Fountain waiver application being presented for consideration.

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- ◆ Former Chief SOLOMON knew he was not the Appointing Authority, as he signed both FOUNTAIN's and ABRAHAM's Temporary 270-Day Waiver applications on the signature line titled, "***Signature of Chief if not Approving Authority.***" The Appointing Authority line was left blank. Former Chief SOLOMON's signature was the only signature on the application. Both documents were dated 22 April 2020.
  - ◆ The Temporary 270-Day Waiver application requires a recommendation from the local police Chief but authorization to apply comes directly from the appointing authority (Mayor). The appointing authority then submits the City's request for an applicant to be considered for a Temporary 270-Day Waiver. The request should be submitted directly to the Director of Training per the instructions on the waiver application.
  - ◆ The application does not direct the recommending Police Chief to circumvent the appointing authority and go straight to the Executive Director of the MPTC but that is what occurred here. A reasonable person might believe this behind the scenes dealing could innocently be explained as one Chief reaching out to another in the interest of expediency, but the evidence shows it was far more nefarious than that.
  - ◆ This behind-the-scenes dealing between SOLOMON and FERULLO deprived Mayor PERRY of the opportunity to review and approve the application. Had Mayor PERRY been afforded that opportunity to review the application he most certainly would have recognized that FOUNTAIN had already been working full-time, for nearly three years, without ever having produced an academy graduation certificate or a temporary waiver when he would have needed both before working his first day of full-time employment.

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- ◆ The investigator will show former Chief SOLOMON's engaged in this behind the scenes dealing by design with the express purpose of circumventing Mayor PERRY.
- ◆ Worse yet, this sleight of hand also prevented Mayor PERRY from hearing the MPTC's response.
- ◆ In response to SOLOMON'S initial request, FERULLO most certainly did his due diligence and searched the records that were available to him to either validate or invalidate FOUNTAIN's claim. That effort led FERULLO to have "concerns" about FOUNTAIN.
- ◆ Irrespective of what FERULLO's concerns may have been, two things are clear:
  1. FERULLO told SOLOMON what they were.
  2. FERULLO did not tell Mayor PERRY what they were.
- ◆ As a result of the intentional behind the scenes dealing orchestrated by SOLOMON and the corresponding non-action by Executive Director of the Municipal Training Committee FOUNTAIN was allowed to continue to work as a full-time police officer in the City of Methuen.
- ◆ Five days later, SOLOMON would email the forged FOUNTAIN 1995 NERPI Police Academy Graduation certificate to HR Director Crowley who thereafter emailed it to Mayor PERRY and Councilor SIMARD.

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#### February 2019 Flashback

When this investigation first began the investigator was troubled by one question: How does one explain how FOUNTAIN was comfortable enough to submit an official request for a 1995 NERPI Academy Graduation Certificate when he knew he did not graduate from that academy?

After all, the MPTC could have answered that they did have records, and those records might have shown that he either never attended or never completed the 1995 NERPI Police Academy. Even more troubling was the fact that when FOUNTAIN finally got around to submitting his request in 2019 FERULLO was not the Executive Director, Dan ZIVKOVICH was.

On its face, this would appear to be a perilous proposition for FOUNTAIN as he had already been working full-time for two years and as such had conducted investigations, made arrests, swore out search warrants, and testified at court.

The question lingered until the discovery of the Tim WOOD emails. Tim WOOD was a local reporter from "The Loop Weekly". In February of 2019, WOOD was conducting research for a story he intended to write about the unique circumstances surrounding FOUNTAIN's employment with the Methuen Police Department. WOOD was specifically focused on learning what academy FOUNTAIN had graduated from and he was looking for the physical evidence to support it.

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- ◆ 26 February 2019 Ann Randazzo forwards former Chief SOLOMON an email from local reporter Tim WOOD. WOOD is inquiring about FOUNTAIN's training record. In that email, WOOD discloses that he made a similar inquiry to the MPTC, and they responded that they have no records responsive to his request.
- ◆ 28 February 2019 FOUNTAIN requests his training records from the MPTC.
  - This is the first identified attempt by FOUNTAIN to acquire his training certificate from the MPTC, nearly three years after he originally applied to the Methuen Police Department.

FOUNTAIN is presumed to have been told by former Chief SOLOMON that the MPTC did not have any record of his training records. Former Chief SOLOMON learned that the MPTC did not have any of FOUNTAIN's records when Tim WOOD, a local reporter, sent a PRR seeking FOUNTAIN's training records. WOOD had inadvertently told former Chief SOLOMON that the MPTC had no records on FOUNTAIN when he sent a 26 February 2019 PRR to Methuen Police Department for FOUNTAIN's training records. Once former Chief SOLOMON shared that information with FOUNTAIN, he knew what he would receive if he requested his records because he knew the answer to the test before the test was even given. Knowing that there was a strong possibility that he would receive the same answer that WOOD received, FOUNTAIN made his request just two days later, on 28 February 2019. On 1 March 2019, the MPTC responded to FOUNTAIN's record request, informing him they had no responsive records to his request.

Captain FERREIRA spoke with Tim WOOD on 28 November 2022. He advised Captain FERREIRA that he never received any documentation from the City

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showing FOUNTAIN's completion of an academy. WOOD advised that the City 's answer indicated they had no records responsive to his request. WOOD further advised that former Chief SOLOMON and GALLANT made veiled threats advising him to drop the matter in a separate conversation.

Before WOOD notified Methuen Police Department of the MPTC's response to the FOUNTAIN record request, no documented evidence exists showing that FOUNTAIN attempted to acquire his training records. Despite being asked and told by Methuen Police Department training staff to provide proof of his academy graduation, the investigators have been unable to locate any records indicating FOUNTAIN attempted to acquire or did provide the records as ordered.

What possible reason is FOUNTAIN not to request his records when initially hired? Sgt. O'CONNELL completed an MPTC record request for FOUNTAIN; and told him he needed to sign it and return it to him, and he would handle the rest of the process. FOUNTAIN never returned the record request. Sgt. O'CONNELL even referenced his subtle attempt to get FOUNTAIN to attend the academy in Haverhill, where he was the director. When asked why he would suggest such a thing, O'CONNELL stated there were rumors that FOUNTAIN hadn't gone to an academy. The only legitimate reason that FOUNTAIN would not have requested his records earlier is that he was afraid of the response. What other logical explanation exists for FOUNTAIN to wait nearly three years before making his first documented record request for his training records from the MPTC?

Why is TJ ABERNATHY, a retired U.S. Marshall and boyhood friend of FOUNTAIN,

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unwilling to go on record stating FOUNTAIN graduated if they were in the class together as FOUNTAIN alleges? ABERNATHY was interviewed by both investigators, and he is on record stating with virtual certainty that FOUNTAIN did not graduate. ABERNATHY is the only person found that says that FOUNTAIN attended the academy.

The theory is during that 11-minute phone call between Director FERULLO and former Chief SOLOMON that took place on 1 May 2020, which Director FERULLO has now conveniently forgotten, he conveyed to former Chief SOLOMON certain facts concerning FOUNTAIN's alleged attendance at the part-time 1995 academy.

It would stand to reason that Director FERULLO would have checked whatever evidence that may have been available to him to either prove or disprove FOUNTAIN's claim. The potential evidence that may have been available to Director FERULLO included the physical yellow cards and rosters from the 1995 class and the electronic evidence contained within the recently disclosed Criminal Justice Training Council Legacy database.

There are only two logical conclusions concerning what Director FERULLO found.

- Director FERULLO found no evidence of FOUNTAIN's attendance, which is what he would continue to represent through 30 March 2022, or
- Director FERULLO found something far worse! Namely, actual evidence that shows FOUNTAIN either did not attend at all or attended but failed to complete the part-time 1995 NERPI academy class.

One thing is clear, they spoke of something concerning FOUNTAIN for 11 minutes.

For a moment, let's focus on the far less nefarious conclusion of the two and assume

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that FERULLO found no evidence of FOUNTAIN's attendance at the part-time Academy class.

In this scenario, it would stand to reason that FERULLO would have informed former Chief SOLOMON that the MPTC Committee would not vote in favor of the Temporary 270-Day Waiver without evidence of his attendance and graduation from the 1995 part-time academy class.

Furthermore, moving forward with the waiver request and letting it be heard at the MPTC Committee's next scheduled meeting on 20 May 2020 would only invite public scrutiny.

Let's imagine what that public criticism may have looked like. In late April 2020, former Chief SOLOMON was under massive pressure to produce evidence of FOUNTAIN's attendance and graduation from the 1995 NERPI academy class. Former Chief SOLOMON had no such evidence, so instead, he hoped to obtain a Temporary 270-Day Waiver to lend some level of legitimacy to FOUNTAIN's continued employment. Assume that the waiver request was heard on 20 May 2020. The committee most certainly would have voted NO. And, more likely than not, they would have questioned how FOUNTAIN was allowed to have worked for nearly three (3) years without a part-time academy certificate or a 270-Day Temporary Waiver, both of which he would have needed before working his first day of full-time employment. They may have also pointed out that even if a waiver had been granted before his first day of



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full-time employment, the waiver would only have been valid for his first 270 days. They might have questioned where exactly FOUNTAIN performed his annual in-service training between 1995 and 2019. Finally, I suspect they would have done the honorable thing and notified the appointing authority of this atrocity so that it did not continue for another day.

The theory is that former Chief SOLOMON and Director FERULLO realized that FOUNTAIN's waiver request would generate a level of scrutiny neither of them was prepared to accept. So, a mutual decision was made to remove FOUNTAIN's waiver application from consideration.

So, in the end, the MPTC Committee did not hear the waiver, and no such public scrutiny ever occurred. FOUNTAIN's previous three years of fraudulent employment were not publicly revealed; and worse yet, his fraudulent employment was allowed to continue.

When former Chief SOLOMON learned the prospect of obtaining a 270-Day Temporary Waiver had now been foreclosed to him, he was forced to take another course. On 5 May 2020, former Chief SOLOMON emailed the forged FOUNTAIN 1995 NERPI academy certificate to HR Director Lisa Crowley, who thereafter emailed the certificate to Mayor PERRY and Counselor SIMARD, hoping the production of the certificate would likely end the local inquiry. Which it did, at least for a while.

The theory concludes with this. Former Chief SOLOMON knew the certificate was fake because he played a central role in its creation. He knew he could not circle back to Director FERULLO because Director FERULLO knew that FOUNTAIN did not graduate from that academy.

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The investigator believes former Chief SOLOMON will attempt to defend his actions by claiming that he was duped by FOUNTAIN. The investigator wishes to highlight the following point. Suppose former Chief SOLOMON was duped by FOUNTAIN, meaning former Chief SOLOMON believed he had come to possess an authentic representation of a 1995 NERPI certificate found by FOUNTAIN. Would it not stand to reason that former Chief SOLOMON would have immediately circled back to FERULLO and pressed forward with the waiver he still needed? After all, SOLOMON was still pursuing a waiver on behalf of Brady ABRAHAM that would be heard during the next meeting of the MPTC Committee on 20 May 2020, and he still needed one for FOUNTAIN.

Mayor PERRY was unaware of the additional MPTC temporary waiver requirement or former Chief SOLOMON's backdoor efforts to obtain one for FOUNTAIN because he was intentionally cut out of the application process. Even worse, no one from the MPTC advised Mayor PERRY as to why the FOUNTAIN waiver application was not considered during their 20 May 2020 Committee Meeting and as of this date, we still don't know. By holding the position of Executive Director of the MPTC, FERULLO had an obligation to "**enforce**" training standards; would it not have been his responsibility to let both former Chief SOLOMON **and** Mayor PERRY know that FOUNTAIN was unqualified even if his training records simply could not be found?

## **EXECUTIVE OFFICE OF TECHNOLOGY, SERVICES, AND SECURITY (EOTSS)**

Created in 2017, EOTSS is the state's lead for information technology services. Their mission includes providing “responsive digital and security services.” They also oversee and manage “the enterprise technology and digital infrastructure and services for over 125 state agencies and over 43,000 state employees.” As explained to Chief MCNAMARA and Capt. FERREIRA, EOTSS does many things, including retrieving publicly requested emails for other state agencies. It works like this; STIRM makes a written request for publicly available emails through the MPTC. The MPTC forwards the request from STIRM to EOTSS, which compiles the data and returns it to the MPTC so that they can forward the records to STIRM. In doing so, they have fulfilled their legal responsibility.

Despite O'BRIEN's vigorous denial, the investigator has reason to believe that the MPTC has manipulated the PRR responses regarding MPTC-related emails.<sup>2122</sup> They have no explanation as to why an incriminating email sent from Director FERULLO to former Chief SOLOMON was not included in the MPTC response to a previous PRR requesting all email contacts between former Chief SOLOMON and Director FERULLO. The email<sup>23</sup> the investigator is referring to is the email Director FERULLO sent to former Chief SOLOMON on 1 May 2020, in which Director FERULLO tells former Chief SOLOMON he has a concern with FOUNTAIN.

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That email was recovered from Methuen Police Department servers. When Director FERULLO was questioned about the email he wrote, he could not remember writing the email or what the concern was.

Perhaps, O'BRIEN is unfamiliar with DEFRANCESCO's email informing senior staff that she intentionally withheld a PRR that the Boston Globe submitted, seeking FOUNTAIN's training records<sup>24</sup>. DEFRANCESCO self-stated that she elected not to forward the record in question because she remembered there were discussions concerning issues they had with the document after it arrived at the MPTC on 10 May 2021. The MPTC RAO did not cite an exemption to the public records law, but she intentionally withheld the record, violating state record laws under MGL c66. The question that must be asked is, if there were issues with the FOUNTAIN NERPI certificate, how did the MPTC address those issues? It was apparent from DEFRANCESCO's email that several months had passed without the concerns being addressed; otherwise, the document would have been provided to the Boston Globe Reporter.

#### **\*Investigator Note:**

*The record in question is believed to be the FOUNTAIN forged training record that was received at the MPTC because of the Methuen Police Department complying with*

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<sup>21</sup> PRR requesting SOLOMON and FERULLO emails

<sup>22</sup> GALLAGHER crafted a PRR fulfillment request sent to EOTSS that appears to intentionally leave out the request for all emails between FERULLO and SOLOMON, despite being clearly stated.

<sup>23</sup> Ferullo to Solomon 1 May 2020 email

<sup>24</sup> MPTC internal email discussing reason info was withheld

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*the MPTC request to provide missing training records. Methuen Police Department provided the document on 10 May 2021 through the MPTC-sponsored portal, which appears to be unsecure.*

The investigators have an email from Lt. James GUNTER Methuen Police Department, who sent an email to former Chief SOLOMON; SOLOMON then sent the record through back channels (email) to Director FERULLO. Director FERULLO received the email on 22 April. That email had two PDF attachments, a Temporary 270- Day Waiver application for FOUNTAIN and another for ABRAHAM. On 19 May, Director FERULLO forwarded the email to Shelia GALLAGHER, the Chief Operating Officer of the MPTC. The body of the email provides no instructions as to what GALLAGHER is to do with the two waiver application packages. Yet somehow, GALLAGHER knew it was ok to move forward with ABRAHAM's waiver application but not FOUNTAIN's. Someone had to notify GALLAGHER that FOUNTAIN's packet was not to be put forward for consideration.

If the application was withdrawn, there should be written documentation showing the application was withdrawn. After all, the applicant must complete a rather lengthy application process just to be considered. The investigator expects whoever requested the FOUNTAIN application to be withdrawn was required to do so in writing.

That record has been asked for several times verbally and through the PRR submission process. It has been nearly a year since the record was initially requested. An appeal was filed with the Secretary of the Commonwealth, and the MPTC has since informed STIRM that no such record exists.

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Once the role of EOTSS was learned, the Methuen Police Department requested a copy of the original PPR fulfillment that EOTSS provided to the MPTC, which was subsequently provided to the investigator. The reason for the request was that the investigator believed the response was manipulated to avoid having to provide FERULLO's 1 May 2020 email.

The investigator received a copy of the Methuen Police Department's PPR request and the original EOTSS fulfillment on 3 March 2023. The emails in the EOTSS fulfillment match the emails the MPTC provided the investigator with in June 2022. However, GALLAGHER did not ask EOTSS to search for everything the investigator requested. The investigator had requested *"all emails that were received from or addressed to the following email addresses. Please include all attachments that were attached to any of the emails in question."* The list included jsolomon@ci.Methuen.ma.us, as well as various other employees of Methuen Police Department. In her submission to EOTSS, GALLAGHER failed to include this instruction. Instead, she modified the instruction by only asking for emails to or from this list in relation to herself and DEFRANCESCO. When it came to FERULLO, GALLAGHER modified the requested search parameters by asking only for emails between FERULLO and "Sean FOUNTAIN". The 1 May 2020 email did not contain the words "Sean FOUNTAIN", as FERULLO referred to him only as "FOUNTAIN". By modifying the original PPR request and crafting the search parameters as she did, GALLAGHER ensured the 1 May 2020 email would not be returned.

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#### \* **Investigator Theory:**

*One might ask why GALLAGHER and FERULLO would go to such lengths to avoid providing the 1 May 2020 email from Director FERULLO to former Chief Joe SOLOMON:*

**Joe-**

-

***I am on a call until about 11:30. I am concerned about FOUNTAIN ... we can talk. I will call.***

**RF"**

An 11-minute phone call followed this exchange. FERULLO does not recall sending the email and claims to have no recollection of his concerns. But his concerns are obvious, as we believe FERULLO did his due diligence and searched the records available to him and discovered that FOUNTAIN either never attended the 1995 NERPI Police Academy or he attended for a time but failed to graduate from the 1995 NERPI Police Academy. FERULLO conveyed this knowledge to SOLOMON, and a decision was made between the two to withdraw the waiver from consideration. On 19 May 2020, FERULLO forwarded the original 22 April 2020 SOLOMON email to GALLAGHER during which SOLOMON requested a waiver for both FOUNTAIN **and** ABRAHAM. The email contained no specific directions for GALLAGHER, but she somehow knew to press forward with the ABRAHAM waiver but not the FOUNTAIN waiver. Both FERULLO and GALLAGHER now claim to have no recollections as to why the FOUNTAIN waiver request was pulled from consideration, but one thing is clear. The appointing authority was never notified, and Sean FOUNTAIN was allowed to continue with his charade.

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Now, that is reason enough for FERULLO and GALLAGHER to go to such lengths to avoid disclosing the 1 May 2020 email between FERULLO and SOLOMON, but there may be another reason.

The investigator has learned that, on or about March of 2021, representatives from [entity redacted] interviewed current Andover Police Lt. Edward GUY and former Federal Marshall TJ ABERNATHY as both are known to have graduated from the 1995 NERPI Academy Class.

Both GUY and ABERNATHY were also interviewed in connection with this investigation. Guy has no memory of matters concerning FOUNTAIN as the two were not acquainted at that time. ABERNATHY, who was then and remains friendly with FOUNTAIN was near certain that he (FOUNTAIN) did not graduate.

It stands to reason those representatives from [entity redacted] would have attempted to acquire FOUNTAIN's training records from the MPTC in the same manner we would later. It also stands to reason that they were told no such records exist, as the MPTC continued to represent that no such records had been found until March of 2022 or November of 2021, depending on which story you believe.

One would have to wonder just how forthcoming the MPTC was with the [entity redacted].



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1. Was the 1 MAY 2020 email between FERULLO and SOLOMON disclosed?
  2. Was the 11-minute phone call between the two that followed disclosed?
  3. Was Chief Solomon's behind the scenes efforts to obtain a Temporary 270-Day waiver for FOUNTAIN disclosed?

One thing is certain, had the above information been disclosed, the [entity redacted] most certainly would have inquired as to what "concerns" FERULLO and SOLOMON were talking about for 11 minutes?

## CONCLUSIONS

This conclusion is based on information available to the investigator when the report was authored. This report summarizes the information collected; please remember that it was not intended to be a factual representation of every piece of information identified or all-inclusive of every facet of the investigation.

During the administrative investigation, the investigators identified several criminal violations that three former members of the Methuen Police Department committed. While STIRM was retained to investigate an administrative matter; that led to the discovery of a criminal conspiracy involving two senior members of the police department and Fountain.

STIRM Group has exhausted all investigative efforts available to a civilian investigator. The scope of work for this investigation was to identify if the training record was fake. The original record that was in question was deemed to be a forgery when the investigator examined the documents. The investigator's opinion of the document being

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a forgery was subsequently backed up when forensic examiners from Homeland Security Investigations confirmed the investigator's professional opinion that the document was a forgery.

As for the second task that STIRM was given, the investigator is certain that FOUNTAIN created the forgery and nearly certain former Chief Joe SOLOMON and Capt. Greg GALLANT were active participants in the conspiracy to create the forgery. Former Chief SOLOMON and Capt. GALLANT can be shown to have helped FOUNTAIN get the forged training record into his training records and personnel folder.

We recommend closing the administrative investigation and adopting the administrative findings as part of the ongoing criminal investigation that the Methuen Police Department has initiated.

### The Forgeries & Suspected Forgeries

The investigator has determined that the FOUNTAIN 1995 NERPI training certificate with a graduation date of 13 May 1995 is forged. A second forged record was recovered from the Methuen Police Department personnel file of FOUNTAIN. The document is referred to as Exhibit 8 (Ex 8). Ex 8 was a poor attempt to creating a sponsorship letter that attempted to show FOUNTAIN had been sponsored to go to the 1995 NERPI Police Academy by former North Andover Police Chief Richard STANLEY. The forged sponsorship letter identified FOUNTAIN and five other individuals that Chief STANLEY allegedly sponsored (six in total) to attend the 1995 NERPI Police Academy. The letter was addressed to L. NORMAN and was supposedly authored by former Chief

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STANLEY. During NORMAN's interview, he stated he would not have accepted a sponsorship letter made out in such a way for multiple reasons.

Chief STANLEY stated he never authored the letter in question, and pointed out several items of concern found in the document that he would not have done. He went on to state that if it did not have his initials on it in ink, he did not write it. He also confirmed that he never signed any document titled Chief of the Department. Chief of Department has been verified to be a common term used in firefighter's vernacular to identify the actual Chief of the Department from the Deputy Chiefs, Battalion Chiefs, and District Chief's designations that are prevalent in the firefighter's realm. FOUNTAIN is the only person involved in this investigation with firefighter experience, as he was a firefighter for 18 years before he became an untrained and uncredentialed police officer.

It is strongly suspected that the FOUNTAIN yellow card that recruits fill out on the first day of an academy is a forgery. The [entity redacted] was made aware of the existence of the FOUNTAIN yellow card, and other yellow cards from the 1995 NERPI Academy, and they have since taken possession of them.

Chief MCNAMARA has reason to believe the yellow cards are currently being forensically examined and the tests are near complete. The Chief is hopeful the results of those tests will be shared with him but in the absence of that he has asked for the cards to be turned over to him so that he may arrange for his own testing.

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#### Fountain's Untruthful Statements

Fountain has an integrity issue, as the investigator can show he has lied multiple times on his Methuen Police Department Recruit Application package and his firearms identification applications. He not only can be proven to have lied during an internal affairs investigation, but he also lied about the outcome of the investigation on his Methuen Police Department Recruit Application.

During the ECSD IA interview into the unreported use of force investigation, FOUNTAIN told the investigator that he had graduated from the part-time police academy and was completing his yearly in-service training through the Methuen Police Department. Records have yet to be located that would indicate that FOUNTAIN was telling the truth about graduating or completing the annual in-service training requirement.

There is no other plausible explanation other than FOUNTAIN lied during his Essex County Sheriff Department Internal Affairs investigation that involved his failure to report a use of force by another officer during a bar detail in Lawrence, MA. He subsequently lied on the Methuen Police Department Recruit Application by stating that he had not been disciplined due to his failure to report a use of force incident when he had been disciplined.

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FOUNTAIN intentionally lied on his 2013 firearms license application about his domestic violence charge and the temporary restraining order in 1999. We know this was by design because FOUNTAIN then told the truth on the 2019 firearms license renewal application, which proves that he knowingly lied on the 2013 application.

The firearms license verification process has two-factor authentication, meaning the local licensing authority and the Firearms Record Bureau (FRB) each conduct their own independent due diligence on each firearm license application. The dual authentication process allows for mistakes to be identified, and each agency is responsible for performing its due diligence before issuing or renewing a firearms license. It is done this way to prevent mistakes and identify corruption at both levels of the authentication process.

In 2019 FOUNTAIN was a full-time police officer at the Methuen Police Department. Had FOUNTAIN lied on the 2019 FID renewal form, would the FRB have detected the issue when they performed their independent review? If the discrepancy had been detected, the FRB would have denied his application. Denying an active police officer's firearms renewal application is problematic for the officer and the agency. Had Fountain's FID renewal been denied, it would have caused a level of scrutiny; that no one involved would want to subject themselves.

The firearms license is just one of the multiple examples where the involved parties intentionally withheld information and only released it when it was necessary.

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#### The Role of the MPTC

The facts presented in this report clearly show the MPTC intentionally hindered this investigation. The MPTC selectively omitted public records, manipulated the search parameters of another request, withheld information, and “forgot” more relevant information than seemed reasonable.

Here is a short list of those transgressions.

#### FERULLO

- Never disclosed his 1 May 2020, email to SOLOMON.
- Never disclosed SOLOMON's efforts to obtain a waiver for FOUNTAIN.
- When asked about his 1 May 2020, email, he can't remember sending it.
- When asked what his “concerns” were regarding FOUNTAIN, he can't remember.
- When asked what happened to the FOUNTAIN waiver application, he doesn't know, as GALLAGHER handles all that.
- Claims to have no knowledge of the discovery of the FOUNTAIN yellow card until 30 March 2022.
- Told Chief MCNAMARA that he would go look for the yellow card himself in late March of 2022 when the card had been “found” in November of 2021.
- Never disclosed the existence of the CJTC legacy database.

#### GALLAGHER

- Can't remember what happened with the FOUNTAIN waiver despite acting on an email she received with no specific instructions.
- Manipulated a STIRM PRR before sending it to EOTTS to ensure the MAY 1, 2020, email was not returned.

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- Did not send the December of 2021 "FOUNTAIN yellow card was found during a deeper dive" letter to STIRM that DEFRANCESCO had sent to her for her approval. Worse yet, GALLAGHER blamed DEFRANCESCO for this failure.
- GALLAGHER was informed of the November 2021 discovery of the FOUNTAIN yellow card but wants us to believe she never told FERULLO despite FERULLO singling out the FOUNTAIN matter for special attention in a contemporaneous inter-office email.
- Never disclosed the existence of the CJTC legacy database.
- GALLAGHER was on the 30 MAY 2022, phone call with STIRM but never mentioned the November 2021 discovery of the FOUNTAIN yellow card.

#### DEFRANCESCO

- Withheld any knowledge of CJTC legacy database but later reluctantly revealed it's existence.
- Unilaterally made the decision to exclude the FOUNTAIN forgery from a PRR fulfillment provided to the Boston Globe and cited no exemption to the public records law in her return.
- Reported in an email, her unilateral decision was based on something being off with his certificate when she and other members of the senior staff had conversations about FOUNTAIN months earlier.
- When asked if she ever had conversations around the office concerning FOUNTAIN, she answered NO.
- When confronted with her email she could not remember why she sent it.
- Had no reason to be looking for the FOUNTAIN yellow card on November 23rd or 24<sup>th</sup> of 2021 but claims she looked anyway. She knew the significance of her "find" but she claims not to have alerted FERULLO.
- DEFRANCESCO was on the 30 May 2022, phone call with STIRM but never mentioned the November 2021 discovery of the FOUNTAIN yellow card.

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The obvious question is why would members of the Municipal Police Training Committee go to such lengths to hinder a legitimate law enforcement investigation? The answer is just as obvious.

Everything centered around the events of May 1, 2020. Director FERULLO and those around him, including Sheila GALLAGHER and Mary DEFRANCESCO conspired to prevent the discovery of Director FERULLO to SOLOMON email regarding "concerns" Director FERULLO had over FOUNTAIN. The discovery of that email and the corresponding 11-minute phone call between the two would lead investigators to ask questions; questions Director FERULLO could not answer without acknowledging his own failures.

In the opinion of many, Director FERULLO is a good person. The former Woburn Police Chief and current Executive Director of the Massachusetts Municipal Police Committee has led a distinguished career in law enforcement. In fact, many would say, Director FERULLO has done a lot to advance Massachusetts Municipal Law Enforcement training.

But sometimes even good people make mistakes.

In many ways Director FERULLO was a victim of circumstance. When his old friend (*FERULLO would disagree with this characterization*) and longtime colleague reached out asking for help on 22 April 2020, Director FERULLO tried to help, and why wouldn't he?



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However, it wasn't long before things began to take a turn for the worse. Methuen Police Department phone records show 2 two-minute phone calls between the two of them on 30 April 2020. The following day (1 May 2020), Director FERULLO sent an email to former Chief SOLOMON that lies at the center of this investigation.

**Joe-**

***I am on a call until about 11:30. I am concerned about FOUNTAIN ... we can talk. I will call.***

**RF"**

Later that same day, it appears that Director FERULLO and former Chief SOLOMON spoke on the phone for 11-minutes.

Though he would later deny it, the evidence suggests Director FERULLO uncovered certain information that rendered FOUNTAIN ineligible to receive a Temporary 270-Day Waiver. Worse yet, if FOUNTAIN was ineligible to receive a waiver, he was most certainly ineligible to have worked as a full-time police officer for the previous three years.

Whatever Director FERULLO may have learned, he seems to have shared that information with former Chief SOLOMON, and a decision was made (whether that decision was mutual or not is irrelevant to this discussion) not to pursue the waiver. This is supported by the fact that the MPTC acknowledges that it does not have any documentation indicating that the FOUNTAIN Temporary 270-Day Waiver was officially withdrawn.

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Herein lies the problem for Director FERULLO, it would appear that he was at a crossroads, and he had a decision to make:

1. He could give his longtime colleague an opportunity to deal with it himself. Perhaps, believing that former Chief SOLOMON had no other choice but to do the right thing and disclose it to the relevant stakeholders, including state and local authorities.

**or**

2. FERULLO could have followed the edict of the state agency he leads and taken it upon himself to inform the relevant stakeholders. After all, as the Director of the MPTC, FERULLO was charged with, among other things, *"the **enforcement** of training standards for all municipal police officers."*

Clearly, Director FERULLO chose the former, but in fairness to him he could not have known that just five days later former Chief SOLOMON would email a forged 1995 NERPI Academy Graduation Certificate for FOUNTAIN to Methuen HR Director Lisa CROWLEY who thereafter would email the same to Methuen City Councilor Mike SIMARD and Methuen Mayor Neil PERRY. The fact that former Chief SOLOMON never circled back to Director FERULLO after somehow coming to possess the FOUNTAIN forgery is evidence that Director FERULLO likely did not have knowledge of the forgery's existence, at least at that time.

A May 6, 2020, email from MPTC Records Access Officer BRAGG to Director FERULLO, suggests he was already beginning to regret his decision.

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#### **\*Investigative Theory:**

*Ironically, On 12 May 2020, both former Chief SOLOMON and Director FERULLO received some additional news; Mayor PERRY announced that FOUNTAIN would be removed from his full-time position within 90-days for, of all things, failing to complete a full-time police academy. FOUNTAIN's position in the department was ultimately eliminated on 1 July 2020.*

*If Director FERULLO had not breathed a sigh of relief in July of 2020, one would suspect, he most certainly did when SOLOMON announced his retirement in January of 2021. FERULLO probably thought he could put the unfortunate events of May of 2020 behind him, but he would have no such luck.*

#### **\*Investigative Note:**

*The forged FOUNTAIN 1995 NERPI Certificate is from part-time police academy*

In March of 2021, a Methuen Police Officer was alerted to the existence of the then-presumed forged FOUNTAIN Academy Graduation Certificate. The same Methuen Police Officer contacted the [entity redacted].

On or about that same time, [redacted] from the [entity redacted] somehow made their way to current Andover Police Lt. Edward GUY's door. The [redacted] had somehow learned that Lt. GUY was a graduate of the 1995 NERPI Academy. Lt. GUY would later explain that he had no recollection of FOUNTAIN as the two were not acquainted at that time.

Fast forward to 4 October 2021, and the arrival of both Chief MCNAMARA and STIRM. The STIRM investigation started off slowly due to the MPTC failure to provide accurate records, as they relate to this investigation. The investigator initiated his investigation with a courtesy call to Director FERULLO. Director FERULLO found himself back at a crossroads, but by now he was committed. He couldn't possibly disclose the events of 1 May 2020, as he

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knew doing so would result in exposing his own failures, but he may have had another concern all together.

We now know [redacted] from the [entity redacted] spoke with at least two graduates from the 1995 NERPI Academy class, Lt. GUY and TJ ABERNATHY. Would it not stand to reason that the same [redacted] from the same [entity redacted] would also attempt to speak to the MPTC or Director FERULLO himself? If that were the case, Director FERULLO would have to be consistent with his answers.

But the fact remains, he did not disclose the events surrounding 1 May 2020, to STIRM's investigator.

Instead, the tug of war between the MPTC and STIRM began, with the MPTC doing what it could to avoid exposing the events of 1 May 2020. The investigation was paused while Chief MCNAMARA briefed different prosecutors' offices to find a prosecutorial agency willing to assist in the investigation.

Chief MCNAMARA had accepted Lt. Edward GUY's gracious offer to assist the Methuen Police Department in their agency wide efforts to achieve accreditation. Lt. GUY was visiting the Methuen Police Department, when the two found themselves involved in a casual conversation. The conversation touched on matters of public record that may overlap with this investigation. Something was said that triggered a memory for Lt. GUY as he would say to Chief MCNAMARA something along the lines of "Well, that explains why two [redacted]



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knocked on my door to ask me questions about the 1995 NERPI Academy.” Chief

MCNAMARA was perplexed by this revelation and inquired as to why they would be asking an Andover Police Lieutenant about events that concerned the Methuen Police Department. Lt. GUY answered, “Because, I went to the 1995 NERPI Police Academy”. This came as a surprise to Chief MCNAMARA as the MPTC was still reporting they had **no records** related to the 1995 NERPI Academy class, which begs the question, how did the [entity redacted] identify Lt. Guy as a graduate? According to Lt. GUY, after his conversation with [entity redacted] he was curious about what training records the MPTC had, concerning him, so he elected to request a copy of his own records from the MPTC.

A few days later Lt. GUY received a response from the MPTC. The MPTC sent a record from what we now know is a CJTC legacy database that shows he passed the 1995 NERPI Academy class.

The knowledge gained from Lt. GUY's admission resulted in STIRM filing multiple PRRs that resulted in their piercing the MPTC's veil of secrecy. They could no longer claim they had no records for the 1995 class, so they started to release select documents piecemeal, being ever so careful not to disclose the existence of the “found” FOUNTAIN yellow card.

Chief MCNAMARA and Director FERULLO would have two conversations that spanned two days covering March 28<sup>th</sup> and March 29<sup>th</sup> of 2022. Director FERULLO never mentioned being made aware that FOUNTAIN's yellow card had been “found”. In fact, Director FERULLO offered to go look for it himself.



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Chief MCNAMARA recalled his conversation with Director FERULLO. Chief

MCNAMARA already had the knowledge that the 1 May 2020 email between Director Ferullo and former Chief Solomon existed, as it had been recovered during a search of the Cities computer servers. Chief MCNAMARA also knew that Director FERULLO had not disclosed the 1 May 2020 email. Chief MCNAMARA hoped it was not too late for FERULLO to change course and come clean.

Chief MCNAMARA asked Director FERULLO to help find the FOUNTAIN yellow card, the 1995 NERPI rosters, or anything else that could help prove or disprove FOUNTAIN's claim. Before ending the call, Chief MCNAMARA made one final appeal to FERULLO's moral compass. Chief MCNAMARA explained, he understood that both he and FERULLO would have to answer for the collective failures of their respective agencies, however he believed the prevailing story would become how the two organizations worked in partnership to expose the conspiracy, and bring those who were responsible for it to justice.

But it may have already been too late for FERULLO. The next day the MPTC would announce, at long last, the FOUNTAIN yellow card had been "found" while trying to lead the investigator to believe the "find" was recent. Conveniently, the "found" yellow card indicated FOUNTAIN had passed.

It was nearly three months later when STIRM learned the truth. The FOUNTAIN yellow card was not "found" in March of 2022, it was "found" no earlier than 22 November 2021, and no later than 24 November 2021 as the metadata on the card indicates an electronic version of it was scanned on 24 November 2021.

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For all the reasons previously stated, it is now clear that members of the MPTC knowingly hindered a legitimate law enforcement investigation. The reasoning behind their hindrance is now fully understood.

What remains for investigators that may follow STIRM is the forensic testing of the FOUNTAIN yellow card as the outcome of those tests may have widespread implications.

The legitimacy of one of the premier law enforcement agencies in the Commonwealth lies in the balance.

One final note concerns the yellow cards, and more specifically the ABERNATHY and FOUNTAIN cards.

- ◆ Both are unsigned as it would be perilous for a forger to attempt to duplicate the former Academy Director's signature.
- ◆ Both do not include an exam score as a forger in 2021 might not have access to the exam scores and FOUNTAIN is thought not to have one anyway.
- ◆ In the place of the exam scores, someone wrote an F for Fail on the ABERNATHY yellow card and a P for Pass on the FOUNTAIN yellow card. We now know ABERNATHY passed the 1995 NERPI Academy and we strongly suspect FOUNTAIN failed the 1995 NERPI Academy or never attended at all.
- ◆ Finally, whoever is writing P's and F's on those two yellow cards is doing so with an uncanny resemblance to the manner in which one of the primary targets of this investigation is known to write P's and F's.

## ADMINISTRATIVE RECOMMENDATIONS

1. The Director of Human Resources shall answer directly to the Mayor's Office. All City wide and agency/department Human Resource officers shall answer to the Director of Human Resources. Any new agency/department specific policies need to be approved by the Director of Human Resources prior to implementation.

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2. Create and implement new policies and procedures relating to the access, care, custody, and control of personnel & training records. Access should be limited to the individuals responsible for intaking, scanning, copying, filing, and maintaining the paper and electronic records.
3. Implement an electronic record-keeping system that limits individual access to the records necessary to complete their job. The access should be limited to City owned and maintained computers. The system should create an un-editable historical record that documents the date, time, reason for access, and by whom the record was accessed. Access to the records management system should require two-factor authentication, and access should be limited to individuals responsible for the administration, collection, and distribution of the records.
4. The Human Resources Director should maintain all original documents. All original documents should be scanned into an electronic format and stored in a secure cloud based system, that is compartmentalized to limit access to agency/department specific needs. Meaning the police department does not have a need for access to fire department personnel records.
5. Establish a two-factor authorization process for all Human Resource (HR) needs. The City's Director of Human Resources should be responsible for distributing all initial documentation for any applicants and new hires. In doing so, the HR director will have a record of every applicant and new hire. All original records should be maintained with the Director's office. The HR designee/s at the agency/department level should only have access to electronic copies of original documents.
6. Install 4K High-Definition video cameras in all sensitive areas, to include training and personnel record storage. The cameras should have a minimum frame rate of 30 frames per second. A year's worth of video should be preserved; often, the video that could have been of assistance to an investigation is no longer available, as it has been





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overwritten due to storage limitations. The cameras can be equipped with motion detection technology to minimize video storage costs.

7. Implement a policy requiring all City documents to have page numbers and dates; require all employees to sign and date official records. If the document is a hard copy, require a wet ink signature and date. If the signature is required electronically, ensure the process has two-factor authentication.
8. Implement a policy requiring all employees that review legally binding document to initial each page of that document, which indicates they have read and understood the document.
9. Currently, training records are kept at the local agency/department level. Consolidate those records into a centralized location that falls under the purview of the Director of Human Resources.
10. Train all appropriate personnel on the new policies, processes, and procedures.
11. Implement a proper hiring process with two-factor verification that ensures all new City employees have been adequately vetted; that includes verification of education, certifications, and/or credentials that are required to perform the position they are hired to fill before an individual is ever allowed to work.
12. Outsource the department's pre-employment screenings to an independent contractor specializing in pre-employment screenings. Pre-employment screenings are often the subject of civil litigation. Contracting the responsibility to an outside vendor transfers the liability to an agency that is a subject matter expert. It will accomplish multiple objectives that do not seem to have been met in this case.
  - a. It will save the City financially and limit its exposure to civil litigation by pushing the burden onto the contractor.

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- b. The discovery of adverse data will be identified, and the client will be notified sooner than if they were to perform the screening themselves.
- c. In the law enforcement environment, especially on a local level, the candidate is often known to multiple members of the hiring agency through familial, personnel, and prior professional relationships. A third-party screener is not influenced by outside connections.
- d. Cost-effective, pre-employment screening companies handle thousands of screenings annually, from tenant to national security clearance screenings. They are far more efficient and thorough than an officer assigned the task as an ancillary duty.
- e. Outside contractors provide a more cost-effective solution, freeing up the assigned officers' time and allowing them to focus on their main responsibilities.
- f. Provides the Mayor's office the ability to receive independent confirmation that the screening was completed. In this case, the Mayor's Office had to rely on the questionable word of the former police Chief, whose integrity is in question as a result of this investigation.
- g. The department can conduct its own due diligence during the oral interview process.
- h. With the implementation of the new processes and procedures, the City should incorporate the appropriate language to ensure the responsible supervisors have the authority to compel compliance.

## CRIMINAL INVESTIGATION RECOMMENDATIONS

While this report outlines several additional criminal charges for which probable cause may already exist for FOUNTAIN, SOLOMON, and GALLANT the M.P.D. has already prepared a 50-plus page affidavit in support of the arrest of Sean FOUNTAIN. The affidavit is based largely on S.T.I.R.M.'s previous reporting but also new information that was uncovered,

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unrelated to the scope of this investigation. The affidavit is scheduled to be released synonymous with the release of this report.

The M.P.D.'s "AFFIDAVIT IN SUPPORT OF AN ARREST WARRANT FOR SEAN FOUNTAIN" lays out probable cause for:

***Violations of M.G.L. Ch. 267 § 1: Forgery, Uttering and Conspiracy to Commit the Same.***

*and*

***Violations of M.G.L. Ch. 268A § 20 and 23, Conduct of Public Official and Employees and Conspiracy to Commit the Same.***

While FOUNTAIN's cooperation may still be needed to establish the probable cause necessary to charge both SOLOMON and GALLANT with ***Violations of M.G.L. Ch. 267 § 1: Forgery, M.G.L. Ch. 267 § 5 Uttering and Conspiracy to Commit the Same*** it is important to note that the ***Violations of M.G.L. Ch. 268A § 20 and 23, Conduct of Public Official and Employees and Conspiracy to Commit the Same*** established against FOUNTAIN, already apply equally to SOLOMON.

It stands to reason that the prosecution of these co-conspirators should begin with FOUNTAIN, before moving on to SOLOMON and GALLANT, with close consideration given towards the relevant statutes of limitations.

1. Work with a prosecutor's office to further the criminal investigation. If the Essex County District Attorney chooses not to prosecute SOLOMON, GALLANT, and FOUNTAIN, I recommend asking the ECDA's Office to recuse itself so justice may be pursued in another venue. The previous District Attorney elected not to investigate or prosecute the criminal cases that originated from the internal administrative investigation completed by STIRM.

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2. Any deal struck with FOUNTAIN should necessitate his full confession including his honest answer to the following question. Sean FOUNTAIN, did you successfully graduate from the 13 May 1995 NERPI police academy class as your forged training record indicates? Mr. FOUNTAIN, there are only two acceptable answers: "yes, I did", which indicates you graduated, or "no", which indicates you did not. Ensure that he understands that if he is deceptive in any way when answering, any deal he may have negotiated will be withdrawn.
3. Ensure that FOUNTAIN understands that any deal his attorney negotiates is based on FOUNTAIN's complete and honest testimony. Advise FOUNTAIN that failing to disclose any information that may be pertinent to the investigation is a deceptive act and will result in his deal being withdrawn. The investigator also recommends that FOUNTAIN be required to fulfill his end of the bargain before ever receiving any portion of his pre-negotiated deal.
4. Interview each of the names on the 1995 yellow cards and ask each individual what status they obtained from attending the NERPI academy. This means, did they not finish, did they fail or graduate? There is already one yellow card that was graded incorrectly, and another that is strongly suspected of being the third forgery in this case. One can be a mistake; however, multiple incorrect grades would be indicative of a more significant concern that would merit its own independent investigation.
5. Fingerprints have been recovered from papers that are older than 25 years old. I suggest every training certificate over 20 years old be examined for fingerprints, including Steve SMITH's training certificate. The investigator has no reason to believe that former Chief SOLOMON or former Capt. GALLANT would have their fingerprints on 20-year-old records. If either of their fingerprints are recovered from former Lt. Steve SMITH's training certificate and none of the other 20-plus-year-old training records in Methuen Police Department's possession, it would create additional probable cause linking them to the criminal conspiracy. If fingerprints are found on the document and match FOUNTAIN, SOLOMON, and/or GALLANT, that would be compelling evidence.

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Fountain has no reason to have his fingerprints on the SMITH document, as for former Chief SOLOMON and former Capt. GALLANT, it is implausible that either of them, given their rank and positions, that they would have the necessity to be in direct contact with SMITH's training record, let alone handle the document to the degree necessary to transfer enough oils to recover a usable fingerprint.

6. The investigators believe the ECSD may possess documents, such as payroll records, employment applications, background checks, etc., that would be helpful to the investigation. However, attorneys representing the organization have thus far refused to produce them, citing a personnel records exemption to the public records law. The investigator strongly suggests obtaining those records through the appropriate process available to the City.
7. The investigator strongly believes that the MPTC computer servers have electronic records that would assist in the furtherance of this investigation. A historical mirror image of the server should be created after hours instead of a live backup that only captures the current information. The historical backup process is lengthy and needs to be completed after hours, most likely over the course of a weekend, as the volume of information is expected to be voluminous. The data on the MPTC server would benefit the criminal investigation's furtherance. For integrity purposes, I would suggest that the records be acquired directly from the MPTC database.
8. The investigator believes the following records will be of assistance in furthering the criminal investigation. We recommend generating subpoenas or search warrants for the following records. All information should be requested and acquired directly from the source provider, specifically the keeper of the source provider's records. Remember that the investigators had probable cause to acquire all the identified records at one point or another. The records are still relevant; however, some of the probable causes may have become stale and need to be refreshed, if electing to move forward with search warrants.
  - ◆ SOLOMON's personal cell phone/s and home phone/s.

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- ◆ SOLOMON's personal email records.
- ◆ Eagle Investigations company phone records.
- ◆ SOLOMON's personal vehicle toll transponder.
- ◆ Identify the messaging apps on SOLOMON's electronic devices and request electronic records from each company. If the subpoena is fought and probable cause exists, proceed with a search warrant.
- ◆ Probable cause must be developed to justify any attempt to acquire private records. The necessity of obtaining the home records is due to Covid, as many of the named individuals worked from home a majority of the time during the pandemic. This was a critical time in this investigation, as most of the MPTC issues occurred from 2020 through 2022.
  - Director Robert FERULLO
  - General Counsel James O'BRIEN
  - COO Shelia GALLAGHER
  - RAO Mary DEFRANCESCO
    - Personal cell phone/s, home phone/s record/s.
    - Personal email records as they are used to circumvent public record requirements.
    - Professional calendar, cell phone, office phone, and email records from the MPTC from the time he was appointed the Director of the MPTC through the date of this report.
    - Their professional calendar, cell phone, office phone, and email records from the MPTC.



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- O'BRIEN's professional calendar, cell phone, office phone, and email

records from the AGO from the time he was appointed the supervisor of the Public Integrity Unit that reference anything related to the MPTC.

9. Conduct a criminal investigation into the allegations involving former Chief SOLOMON and Capt. GALLANT, as both are alleged to have threatened a local reporter named Tim WOOD to keep him from writing an article on FOUNTAIN.
10. Issue preservation letters and subpoenas as needed to all the source providers with electronic records relevant to the investigation. Phone records, email records, text message data, and messages, if available, before any additional stored information is overwritten, or deleted.
11. Once the [entity redacted] returns the yellow cards from 1995, those records should be cross-referenced with other vetted training records to ensure the data entered onto the yellow cards from the 1995 NERPI academy are factually accurate. To date, the FOUNTAIN yellow card indicates he passed, and the ABERNATHY card indicates that he failed. ABERNATHY has supporting documentation that is believed to be a valid 13 May 1995 NERPI training certificate showing that he graduated, despite the contradictory information on the yellow card.
12. Acquire the original response data sent to the MPTC from the Executive Office of Technology Services and Security (EOTS) regarding the multiple electronic records that they collected on behalf of the MPTC in response to various PRRs sent by the investigator.
13. Once the [entity redacted] returns the yellow cards from 1995, those records should be cross-referenced with other vetted training records to ensure the data entered onto the yellow cards from the 1995 NERPI academy are factually accurate. To date, the FOUNTAIN yellow card indicates he passed, and the ABERNATHY card indicates that he failed. ABERNATHY has supporting documentation that is believed to be a valid 13

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May 1995 NERPI training certificate showing that he graduated, despite the contradictory information on the yellow card.

14. A Grand Jury should be empaneled, and the following individuals should be questioned under oath about their roles and recollections of the event that led to this report being authored. For clarity, because a name appears on the following list, it does not indicate the individual was complicit or actively involved in helping the suspects perpetrate the crimes that have occurred. The vast majority are witnesses to events, some provide historical perspective, and others are considered subject matter experts. All are believed to have knowledge that can help advance a criminal investigation.

#### **Methuen Police Department Personnel**

Sean FOUNTAIN  
Joseph SOLOMON  
Gregory GALLANT  
Scott MCNAMARA  
Randy HAGGAR  
Kristopher MCCARTHY  
Eric FERREIRA  
Cristian MAX  
Dan O'CONNELL  
Derek LICATA  
David SOUTHER  
James GUNTER

#### **MPTC Personnel**

Robert FERULLO  
James O'BRIEN  
Shelia GALLAGHER  
Mary DEFRANCESCO  
Andrea NARDONE  
Mary BRAGG  
Nicole HAMWEY

#### **Civilians**

Thomas J. ABERNETHY  
Larry NORMAN  
Richard STANLEY





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Scott LEVER

Timothy WOOD

Arthur HARDY

Andrea ESTES

Terry FOUNTAIN

Alfred DONOVAN

James GRAHAM

#### **Outside Agency Personnel**

Current Mayor Neil PERRY

Current Methuen HR Director Lisa CROWLEY

Former Methuen HR Director Anne RANDAZZO

Former Methuen Mayor Stephen ZANNI

Former Methuen City Solicitor Richard D'Agostino

Andover Police Department Lt. Edward Guy

Submitted by:



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