



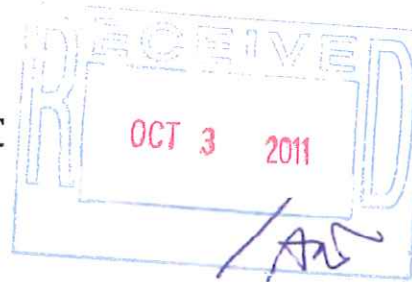
KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

September 29, 2011

Brian M. Maser
bmaser@k-plaw.com

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL



CONFIDENTIAL

Chief Daniel Hanavan
Tisbury Police Department
P.O. Box 426
32 Water Street
Vineyard Haven, MA 02568

Re: Internal Investigation Report
Sergeant Robert Fiske
Incident at MV Times Redaction Street on July 23, 2011, and July 24, 2011

Dear Mr. Hanavan:

On July 29, 2011, you, together with Town Administrator John Bugbee, contacted our office regarding a call for service that involved members of the Tisbury Police Department ("Department") which occurred at MV Times Redaction Street in the late evening hours of July 23, 2011, and carried over into the early morning hours of July 24, 2011. Subsequently, pursuant to your request, we commenced an administrative investigation of the incident and the response to the incident by the members of the Department who were on duty during the relevant period. During the course of our investigation we reviewed various incident reports; we conducted several in person and telephone interviews of percipient witnesses to the incident, all of which were either tape recorded or recorded by stenographic means; we reviewed the 911 traffic between the Communications Center and the officers at the scene during the relevant period; and we consulted with an authority in the law enforcement field regarding the actions and/or inactions of the officers at the scene during the event. Please accept this letter as our investigation report regarding the incident that occurred at MV Times Redaction Street and the conduct of the officers who responded to that scene.

I. The Involved Officers and Department Policies and Procedures

On July 23, 2011, Sergeant Robert Fiske ("Sergeant Fiske"), Officer Scott J. Ogden ("Officer Ogden") and Officer Michael P. Gately ("Officer Gately") were working the 4 PM to 12 AM shift. Sergeant Fiske commenced employment with the Department twenty-three (23) years ago and was appointed sergeant in 2001. Sergeant Fiske was certified to conduct rape investigations in 1997 and he has taught domestic violence training to teenagers. Since he was certified to conduct rape investigations he has assisted in the conducting of Department rape investigations. Sergeant Fiske was the Officer-in-Charge ("OIC") of the 4-12 shift on July 23, 2011. As the OIC, Sergeant Fiske is responsible for the assignment of officers during the shift, makes command decisions at incidents, orders subordinate officers to perform tasks, and generally controls the operation of the shift.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 2

Officer Gately has worked for the Town since 1987, almost all as a full-time permanent patrol officer. For a brief period of time at the commencement of his service to the Town, Officer Gately worked as a 'special' police officer. Officer Gately is the most-senior patrol officer and has served as OIC in the past. Officer Ogden commenced employment with the Town as a 'special' police officer in 2001 and was appointed full-time in December 2002. Officer Ogden is the third-most senior patrol officer for the Town. He, like Officer Gately, has served as OIC in the past. Sergeant Fiske and Officers Gately and Ogden are certified Emergency Medical Technicians ("EMT").

Department operations are governed by promulgated Policies and Procedures and a Department Manual. Within the last year, Sergeant Fiske was tasked with the job of reviewing policies and procedures from the Massachusetts Police Institute and editing them so that they would fit within the needs of the Department. Sergeant Fiske, Officer Gately, and Officer Ogden are all aware of the Department's Policies and Procedures. The Policies and Procedures that applied to this incident are as follows:

1. Policy & Procedure No. 3.01 – Domestic Violence;
2. Policy & Procedure No. 3.02 – Sexual Assault Investigations.¹

1. POLICY & PROCEDURE NO. 3.01 – DOMESTIC VIOLENCE

This policy defines "abuse" as "the occurrence of one or more of the following acts between family or household members...(3) causing another to engage involuntarily in sexual relations by force, threat of force or duress." The policy defines "family or household members" as persons who "are or were residing together in the same household." The policy provides in relevant part as follows:

¹ Discussion of these two specific policies and procedures is not meant to suggest that the conduct discussed in this report did not also violate other rules and regulations or policies and procedures; however, the two cited above directly address what Sergeant Fiske's responses should have been, as addressed in more detail below.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 3

IV. PROCEDURE

A. Domestic Violence: Duties of Police Officers

1. GENERALLY

- b. Whenever any law officer has reason to believe that a family member or household member has been abused or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. The officer shall take, but not be limited to, the following actions;

1) **REMAIN ON SCENE:** Remain on the scene where the abuse occurred or was (or is) in danger of occurring as long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of a law officer. This shall include but not be limited to remaining in the dwelling for a reasonable period of time.

2) **MEDICAL TREATMENT:** Assist the abused person in obtaining medical treatment necessitated by an assault, which may include driving the victim to the emergency room of the nearest hospital, or arranging for appropriate transportation to a health care facility, notwithstanding any law to the contrary.

3) **GETTING TO A PLACE OF SAFETY:** Assist the abused person in locating and getting to a safe place, including but not limited to a designated meeting place for (sic) a shelter or a family member's or friend's residence (or a similar place of safety). The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances.

4) **NOTICE OF RIGHTS:** Give abuse victims immediate and adequate notice of their rights by handing them and reading a form detailing their rights (see Attachment A); where said person's native language is not English, the statement shall then be provided in said person's native language whenever possible; this form shall be left with such person.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 4

G. Children

1. WELFARE OF CHILDREN

- a. Where children are present at a domestic dispute, their welfare and safety must be a major consideration.
- b. Any evidence of neglect or emotional, physical or sexual abuse of children under eighteen shall be carefully noted.

2. ABUSE OF A CHILD

- a. A police officer must take action when, in his/her professional capacity, [s]he has reasonable cause to believe that a child under eighteen is in any of the following situations:
 - 1) Is suffering serious physical or emotional injury resulting from abuse, including sexual abuse.

L. Supervisor's Role

1. ASSURANCES OF PRACTICES

- a. Supervisors will ensure that the provisions of G.L. c. 209A and the following guidelines are met.

2. POLICY & PROCEDURE NO. 3.02 – SEXUAL ASSAULT INVESTIGATIONS

This policy defines "rape" as "sexual intercourse or unnatural sexual intercourse by force or threat of force against the will of the victim." "Sexual intercourse" is defined as "penetration of the victim, regardless of degree." The policy defines "unnatural sexual intercourse" as "oral or anal intercourse." Finally, the policy defines "statutory rape" as "sexual intercourse or unnatural sexual intercourse with a person under the age of sixteen. No person under the age of sixteen is capable of consenting to sexual intercourse." The policy provides in relevant part as follows:

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 5

IV. PROCEDURE

A. Preliminary Investigation

1. INTRODUCTION

- b. A sexual assault victim is often in a state of shock or severe emotional distress requiring sympathetic attention.

3. INTERVIEW VICTIM

- a. One officer should conduct the initial interview.
- b. Obtain immediate, preliminary information as to:
 - 1) where the crime occurred;
 - 2) how it occurred;
 - 3) a description of the assailant and any information that could lead to his/her apprehension;
 - 4) who the victim has told of the sexual assault, particularly who the victim told first.

4. MEDICAL EXAMINATION OF THE VICTIM

- a. The victim should be encouraged to submit to a forensic examination.

6. CRIME SCENE

- a. Officers should secure the crime scene.

II. The Police Response to MV Times Redaction Street

At approximately 10:43 PM on July 23, 2011, a dispatcher at the Communications Center ("Center") received a call on the emergency line in which the caller hung up. When the dispatcher returned the call, an unidentified fifteen (15) year old female answered the telephone. MV Times Redaction

MV Times Redaction

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan

September 29, 2011

Page 6

MV Times Redaction

At the same time the dispatcher was speaking to the female, the Center contemporaneously requested that a Tisbury unit respond to MV Times Redaction Street "for some type of disturbance there." Officer Gately was the first unit to respond to the Center's request. Officer Gately arrived at MV Times Redaction Street at approximately 10:46 PM and advised the Center that all Tisbury units were "10-3."

MV Times Redaction Street sits on the corner of MV Times Redaction Street and MV Times Redaction Lane. The property can be accessed from both a driveway on MV Times Redaction Street and a driveway on MV Times Redaction Lane. The property contains two (2) residential structures. When facing the property from MV Times Redaction Street, a small residence is located on the left hand side of the property. This small house sits at or near the centerline of the property. A larger single-family ranch-style house is located at the rear of the property. Behind the house is a backyard that contains a children's swing set. The property is bordered by thick shrubs and bushes on the left and a narrow wood in the rear. Beyond the shrubs and bushes on the left are a dirt road and a clearing for power lines. Behind the wood line at the rear of the property is a residential dwelling that sits on MV Times Redaction Lane.

When Officer Gately and Officer Ogden arrived at MV Times Redaction Street, Officer Gately parked his cruiser in the driveway of the property and Officer Ogden positioned his motorcycle at the driveway entrance on MV Times Redaction Lane. Sergeant Fiske parked his cruiser on MV Times Redaction Street just beyond the driveway entrance on MV Times Redaction Street. According to Sergeant Fiske, he arrived at the same time as Officer Gately and Officer Ogden. As Officer Gately entered the driveway from MV Times Redaction Street, he observed a human figure running from his left to his right. Officer Ogden also reported seeing a shirtless man running from the property toward the house behind MV Times Redaction Street on MV Times Redaction Lane.

Officer Gately and Officer Ogden contemporaneously approached the front door of MV Times Redaction Street and Officer Gately knocked on the door. No one from inside the residence answered the door and Officer Gately knocked again. After no one answered after his second knock at the door, Officer Gately called the Communications Center and requested that the dispatcher call the residence to advise that the police were at the door.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 7

At this time, Officer Ogden proceeded to walk around the right side of the house and commenced a search of the backyard and abutting wooded area in an attempt to locate the man he observed fleeing from the scene. While Sergeant Fiske did not see the man fleeing from the residence, Officer Ogden advised him of his observation.² Sergeant Fiske began a canvass of the backyard on the left side of the residence in the area of the bushes and shrubs that run parallel to the power lines. Sergeant Fiske searched in this general area for a minute or two but returned to the front door of the residence as Officer Gately remained waiting at the front door for the people inside the house to come to the front door. After waiting for approximately one (1) additional minute, a female occupant of the residence, later identified as [REDACTED], opened the door and Officer Gately entered the house.³ Neither Sergeant Fiske nor Officer Ogden entered with Officer Gately.

Sergeant Fiske and Officer Ogden continued to search the rear of the property for a period of twenty (20) to twenty-five (25) minutes after Officer Gately entered the house. During this period of time, in addition to searching the area on foot with a handheld flashlight, Sergeant Fiske searched the area in his cruiser with aid of a multi-directional spotlight mounted on the a-pillar of the driver's side door. After searching in his cruiser, Sergeant Fiske returned his cruiser to its parked location on [REDACTED] Street and met up with Officer Ogden where they continued to search on foot for approximately an additional minute. The Department had recently obtained night vision goggles that could have aided in the search for the man seen fleeing the residence but it did not occur to Sergeant Fiske to use the night vision equipment.

While Sergeant Fiske and Officer Ogden were searching the property and the adjacent areas for the man who fled the residence, Officer Gately was inside the residence speaking to [REDACTED]. After Officer Gately entered the house, three (3) children appeared from a back bedroom and began jumping on a sofa bed located in the area where Officer Gately was standing. Officer Gately also

² Sergeant Fiske's written report indicates that he understood the man to be without shoes, as well.

³ In April 2011, [REDACTED] moved to Martha's Vineyard from the state of [REDACTED] with her husband, Mr. David Thrift ("Mr. Thrift"), and their three (3) daughters, ages 8, 3, and 2. July 23, 2011, was not the first time the Department responded to the [REDACTED] residence. On July 4, 2011, Mr. Thrift was arrested for assault and battery upon his wife and a restraining order subsequently was issued prohibiting Mr. Thrift from contacting his wife. The order was either lifted or amended prior to July 23. The Department also learned at this time that the July 4, incident was, moreover, not the first time Mr. Thrift assaulted [REDACTED]. When the family lived in [REDACTED] Mr. Thrift was arrested for assaulting his wife in February 2011 during which incident Mr. Thrift [REDACTED] Ms. [REDACTED]. The Department also learned during the July 4 incident that Mr. Thrift had a warrant outstanding in [REDACTED] for his arrest for "failure to obey court order – domestic battery."

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan

September 29, 2011

Page 8

observed an adolescent female standing in the doorway from which the children had appeared. Officer Gately reported that this adolescent female was, or had been, crying. The three (3) children were [REDACTED] daughters and the adolescent female was later identified as [REDACTED] cousin.

According to Officer Gately, [REDACTED] reported that her husband, Mr. David Thrift ("David" or "Mr. Thrift") grabbed [REDACTED] MV Times Redaction [REDACTED] MV Times Redaction [REDACTED] MV Times Redaction [REDACTED] MV Times Redaction during the assault and ran out the front door of the house when he learned that the police had been called and were coming to the home.

Officer Gately also learned during his discussion with [REDACTED] of the events that precipitated the assault. According to Officer Gately, [REDACTED] her after [REDACTED] MV Times Redaction [REDACTED] entered [REDACTED] MV Times Redaction room after she had been awoken by her oldest daughter, [REDACTED], who told her to check on [REDACTED] as it sounded like she was sick or crying, and [REDACTED] had seen her father enter the room prior thereto. When [REDACTED] entered [REDACTED] MV Times Redaction [REDACTED] When [REDACTED] MV Times Redaction

After speaking to [REDACTED], Officer Gately exited the residence through the front door and met Sergeant Fiske outside. Sergeant Fiske had just concluded his search of the property for Mr. Thift. Officer Gately reported to Sergeant Fiske that [REDACTED] performing [REDACTED]. Sergeant Fiske acknowledged what Officer Gately reported to him by stating "OK" and did not ask any follow up questions of Officer Gately at that time. In and around this same time, at approximately 10:55 PM, Sergeant Fiske spoke

⁴ Officer Gately included the word "thought" in his written report of the incident. When she was interviewed for this investigation, [REDACTED] performing [REDACTED].

⁵ When she was interviewed, [REDACTED] reported that, from her vantage point, it appeared that [REDACTED]

According to Officer Ogden's written report of the incident, as well as Sergeant Fiske's supplemental report to Chief Hanavan, [REDACTED] [REDACTED]

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan

September 29, 2011

Page 9

with the Communications Center regarding a telephone call the Center had received from the State Police in Middleborough, MA. During this telephone conversation, the dispatcher at the Center reported to Sergeant Fiske that the State Police in Middleborough recorded a call where a female caller in that area reported that [REDACTED] MV Times Redaction Sergeant Fiske relayed to the Center that the calls were related and Mr. Thrift had been arrested in the past for a domestic and “was drunk and at it again.”

Thereafter, at 11:02 PM, Sergeant Fiske contacted the Center and requested that the Center dispatch an ambulance to his location for a “domestic and possible sexual.” At 11:03 PM, Jason Hallett and Matthew Montanile of the Tisbury Ambulance Service responded to Sergeant Fiske’s request for an ambulance and proceeded to [REDACTED] MV Times Redaction Street.

Prior to [REDACTED] transport to the hospital, Sergeant Fiske had a conversation with [REDACTED]. Sergeant Fiske reported that [REDACTED] was initially reluctant to provide information. Sergeant Fiske proceeded to report that [REDACTED] told either him or Officer Ogden, in Sergeant Fiske’s presence, [REDACTED]

Officer Ogden stated during his interview that he had no conversation with [REDACTED] during his initial response to the residence and he was not aware that there was an allegation of sexual assault upon [REDACTED]. Officer Gately also attempted to speak to [REDACTED] at that time. He reported that she was not responsive to his questions to her and retreated to her bedroom with the Thrift’s children rather than answer his questions. Based upon [REDACTED] reluctance to provide information to any of the officers, Sergeant Fiske advised her that he would be in contact with the Department’s Detective and that individual would contact her regarding the alleged sexual assault.

At or about that time, the Tisbury Ambulance Service arrived at the residence. When the ambulance arrived, Officer Gately and Sergeant Fiske were outside the residence with [REDACTED]. As the EMTs tended to [REDACTED] Sergeant Fiske traveled between the house and the location of the ambulance. While Mr. Hallett is uncertain as to the specifics of the exchange between [REDACTED] and Officer Gately and Sergeant Fiske, he recalls the officers reassuring her at that time that the

⁶ Sergeant Fiske’s supplemental report submitted to Chief Hanavan on August 2, 2011, asserts that [REDACTED] reported to Sergeant Fiske that she awoke to find David “hovering” over her while she lay on her bed. The report does not mention that Ms. Thrift may have used the word “hovering.”

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan

September 29, 2011

Page 10

officers would be at the house with the children. According to Mr. Hallett, [REDACTED] did not protest getting into the ambulance after his arrival. Mr. Montanile recalls [REDACTED] expressing concern about leaving her children at the house prior to entering the ambulance and generally being upset and not wanting to leave her children. Mr. Montanile reported that Officer Gately told [REDACTED] not to be concerned and that the children would be OK. During her interview for this investigation [REDACTED] represented that she told the officers at the residence that the only way she would go to the hospital would be if an officer stayed with the kids. She recalls being asked if it was acceptable to leave the children with [REDACTED] to which she replied "no." She further recalls saying "over and over" that she would only go the hospital if an officer stayed behind. While [REDACTED] cannot recall with specificity who said it to her, she recalls an officer saying that they would arrange to have an officer remain at the residence.

[REDACTED] recollection of events at this time vary greatly from what is set forth in Sergeant Fiske's incident report, what he reported to Chief Hanavan subsequent to the incident, and what he reported to this investigator during his interview on Friday, August 5, 2011. According to Sergeant Fiske's incident report, "[REDACTED] stated she was comfortable to stay with [REDACTED] three children while [she] was treated at the hospital. [REDACTED] agreed to have [REDACTED] watch the children." Sergeant Fiske's supplemental report to Chief Hanavan additionally asserted that he "deferred to [REDACTED] judgment as the children's parent and that [REDACTED] was both willing and capable of caring for the children." During his interview, Sergeant Fiske stated that the decision was made to have [REDACTED] remain and watch the children unattended after a discussion with [REDACTED] and [REDACTED] where they jointly determined that Mr. Thrift would only harm his wife.

At 11:39 PM, the ambulance transported [REDACTED] to the hospital. Officer Gately left the residence in and around the same time and returned to the police station to prepare paperwork relative to the incident and contacted the Center to request that the Center issue a General Broadcast ("GBC") for Mr. Thrift. Sergeant Fiske remained at the residence and continued to speak to [REDACTED] in the home. According to Sergeant Fiske, he provided [REDACTED] with the Department's non-emergency number of the Center. Sergeant Fiske also advised [REDACTED] that the officers would remain in the area for a period of time and make it appear as if they dispersed. Prior to leaving, Officer Ogden checked that the rear door of the residence was secure. From there, Sergeant Fiske and Officer Ogden returned to the rear of the property to continue searching for Mr. Thrift. After about twenty-five (25) additional minutes, Sergeant Fiske and Officer Ogden ceased their search, returned to their vehicles, and left the residence.⁷ Sergeant Fiske cleared the scene at 12:28 AM.

⁷ Officer Ogden stated during his interview that he recalled advising Sergeant Fiske that "I'm getting eaten alive out here."

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 11

At the time Sergeant Fiske cleared the scene, the 12 AM - 8 AM officers, Officer Joseph Ballotte and Officer Jason Marathas, were on duty and had, prior to the start of their shift, responded to a call regarding an erratic driver on State Road. No attempt was made by Sergeant Fiske to contact either officer prior to clearing the scene at [MV Times Redaction] at 12:28 AM. Officer Marathas stated during his interview that neither Officer Ogden nor Sergeant Fiske spoke to him regarding the incident at [MV Times Redaction] Street or that Mr. Thrift was still unaccounted for. Officer Ballotte recalled Sergeant Fiske advising both he and Officer Marathas of the incident on [MV Times Redaction] [Redaction] Sergeant Fiske and Officer Ogden were only at the station approximately three (3) minutes before the Center, at 12:43 AM, contacted the officers and advised that Mr. Thrift had returned to the residence. According to Officer Marathas, Sergeant Fiske said something like "oh, shit" when he heard the Center advise that Mr. Thrift had returned to the residence.

Sergeant Fiske, Officer Ogden, Officer Ballotte, and Officer Marathas proceeded to [MV Times Redaction] [Redaction] after the call from the Center. Officer Ogden was the first officer at the scene. Sergeant Fiske arrived second. When he arrived, Officer Ogden entered the home and did not observe anyone in the main space of the house. Officer Ogden subsequently came upon Mr. Thrift in a back bedroom. [Redaction] and the Thrift's three children were also in the room. [Redaction] was on the floor and the Thrift children were on the bed. Sergeant Fiske entered the residence behind Officer Ogden and Officer Ballotte maintained a presence outside in the event Mr. Thrift attempted to escape through a window. Officer Ballotte heard and saw [Redaction] in the back bedroom screaming "get him the f [Redaction] out of here, get him the f [Redaction] out of here." Mr. Thrift was placed under arrest and removed from the residence in handcuffs by Officer Ogden. Officer Gately arrived at West Spring Street in and around this time. When Mr. Thrift was brought outside, he began to resist the arrest and Officer Ogden took Mr. Thrift to the ground. Mr. Thrift was placed in Officer Marathas' cruiser and subsequently transported to the Dukes County Jail where he was booked and processed on multiple felonies.

After placing Mr. Thrift in Officer Marathas' cruiser, Officer Ogden returned to the house and spoke with [Redaction] in the living room. [Redaction] reported to Officer Ogden that Mr. Thrift raped her when he returned to the house. Officer Ogden advised Sergeant Fiske of [Redaction] report and Sergeant Fiske contacted the Center to have the Tisbury Ambulance Service dispatched back to [MV Times Redaction] Street. [Redaction] reported to Officer Ogden that after Sergeant Fiske and Officer Ogden left the residence at the conclusion of their initial response, she armed herself with a knife as she was in fear of her life if David returned. [Redaction] reported she was on the phone with her mother when David burst through the back door of the house. [MV Times Redaction]

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 12

her. When he [MV Times Redaction] she was able to escape and run to the bedroom where the Thrift children were. David forced his way into the room and began to yell at [redacted] at which time the police arrived and arrested David. Sergeant Fiske secured as evidence [redacted]'s denim shorts, underwear, and a large kitchen knife.

[redacted] was thereafter transported to the hospital for treatment. Officer Ogden and Sergeant Fiske remained at [MV Times Redaction] until [redacted] returned from the hospital with Officer Gately. According to [redacted], she asked why the police left her children alone at the house. After speaking to [redacted], Sergeant Fiske traveled to the hospital to meet with [redacted]. Sergeant Fiske arrived at the hospital at approximately 1:46 AM. Officer Ogden arrived at the hospital at 2:18 AM. At the hospital Sergeant Fiske and Officer Ogden interviewed [redacted]. Sergeant Fiske and Officer Ogden cleared from the hospital at 3:41 AM.

III. Investigation Findings

It is standard police procedure that when responding to a call for service that involves a domestic assault or sexual assault, responding officers must quell the disturbance, render medical aide if necessary, and secure the area to protect the victim(s) and the responding officers. In situations where the offender flees, responding units should remain at the scene, for a reasonable time, to protect the victim, and/or remove the victim to a safe location, such as a hospital or shelter. These procedures are basic and are taught to officers at the police academy and are part of the in-service training curriculum. What is a reasonable period time to remain at the scene is determined by the specific facts of each call for service and the circumstances surrounding the incident. A police officer with Sergeant Fiske's years of service and experience should know these fundamental protocols. The Department's own sexual assault and domestic violence policies, which Sergeant Fiske reviewed for the Department, and which he has knowledge of, require officers to follow these rather simple protective steps. Specifically, the Department's domestic violence policy requires officers to prevent further abuse by remaining at the scene, providing medical treatment, and getting the victim to a place of safety.⁸

No circumstances exist that justify Sergeant Fiske's decision to leave [redacted] in the home and return to the station. Sergeant Fiske should have never left [redacted] alone with the Thrift children at [MV Times Redaction] Street after his initial response to that location, regardless of any

⁸ The domestic violence policy applies to this matter as the policy provides that a member of a household may engage in domestic violence upon another member of the household by causing the member to engage involuntarily in sexual relations by force, threat of force or duress.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 13

discussions he may have had with [REDACTED] prior to [REDACTED] transport to the hospital. This investigator, for that matter, doubts that any such conversation(s) ever occurred between Sergeant Fiske, [REDACTED] and [REDACTED].⁹ Regardless, [REDACTED] a minor female who had just been allegedly sexually assaulted, was in no position to make a determination relative to her ability to stay behind and watch the Thrift children. [REDACTED], likewise, given her injuries and the trauma of the assault, was in no position to make a determination as to who was capable of staying behind [REDACTED]

MV Times Redaction

MV Times Redaction

pain. It was inappropriate for Sergeant Fiske to rely on her reasoning and judgment at that point in time.

At the time he left, Sergeant Fiske left [REDACTED] in the residence, unattended and untreated, in spite of the fact that allegations existed that she was the victim of a sexual assault, and in spite of the fact that Sergeant Fiske, according to him during his interview, believed the alleged sexual assault to be valid and a claim that should be pursued. Given the report from [REDACTED] that she [REDACTED] coupled with the call between Sergeant Fiske and the Center about a rape occurring at the residence, Sergeant Fiske should have, at a minimum, had [REDACTED] transported to the hospital for treatment and to collect evidence of the alleged sexual assault.¹⁰ [REDACTED]

MV Times Redaction

MV Times Redaction

[REDACTED] such a belief should not have led him to decide that [REDACTED] did not require transport and treatment. Indeed, a major felony had still been committed in spite of Ms. [REDACTED] claims. Mr. Thrift could have been charged with statutory rape as [REDACTED] had not reached the age of consent. Statutory rape is a felony that carries a maximum sentence of life in prison if convicted.¹¹ Sergeant Fiske's poor decision making in this regard and his complete lack of compliance with the Department's policies and procedures may jeopardize the effective prosecution of the Commonwealth's case against Mr. Thrift.

Sergeant Fiske exhibited poor supervisory skills and showed a lack of attention to his duties when he meagerly attempted to corroborate [REDACTED] report to Officer Gately that her husband

⁹ Neither Officer Ogden nor Officer Gately overheard any discussions between Sergeant Fiske, [REDACTED] and [REDACTED] regarding this subject matter. [REDACTED] categorically denies that any such conversations ever occurred and Mr. Hallett and Mr. Montanile, too, did not hear any such discussions, and did not observe Sergeant Fiske ever converse with [REDACTED] upon their arrival at [REDACTED] Street.

MV Times Redaction

¹⁰ As a certified EMT, Sergeant Fiske had a duty to treat [REDACTED] and have her transported to the hospital when he learned that she may have been sexually assaulted.

¹¹ G.L. c. 265, Sec. 23.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 14

performed [MV Times Redaction] on [redacted]. It should not have been surprising to Sergeant Fiske that when he initially inquired of [redacted] what occurred, [redacted] would be unwilling to talk about the incident. In fact, such behavior is to be expected. Sexual assault victims are generally not forthcoming with details given the trauma of the event they just went through. Sergeant Fiske is certainly aware of this, or should be, given his role as a certified rape investigator and he admitted to such during his interview. The Department's Sexual Assault Investigations Policy and Procedure references this at the start of the Policy. A potential victim being non-responsive to questions should not result in the cessation of questions. Sergeant Fiske's actions of telling [redacted] that the Detective would be in touch with her regarding the sexual assault against her does not comply with either Department or police protocol. The Sexual Assault Investigations Policy required that Sergeant Fiske interview [redacted] and obtain information regarding the assault. Sergeant Fiske should not have left the scene without more of an effort to obtain information from [redacted].

Cases of sexual assault, rape, and statutory rape obviously rely heavily on the appropriate and timely collection of physical evidence. If time passes between the alleged event and the collection of evidence, evidence could be compromised, contaminated, degrade, or lost all together. Sergeant Fiske should have secured the area, and [MV Times Redaction] to preserve physical evidence at the scene, and should have collected evidence at the scene, such as [MV Times Redaction] clothing. His failure to do so violates standard police protocol and Department policies and procedures.

As Officer Gately stated during his interview, Mr. Thrift was a "violent" "arch criminal that needed to be stopped." Officer Gately further offered that Mr. Thrift remained a threat until he was apprehended. Sergeant Fiske's decision to leave the house unsecured with [redacted] and the children inside is at utter odds with Officer Gately's characterization of Mr. Thrift. Sergeant Fiske should not have left [redacted] in the house unprotected, with the perpetrator of the sexual assault still unaccounted for and at large. Multiple options existed for Sergeant Fiske rather than simply leaving and exposing [redacted] to being re-victimized. As the Sergeant and officer in charge of the 4-12 shift, he could have contacted the Chief to request that he be authorized to order in additional staff to watch the residence. Sergeant Fiske could have ordered Officer Ballotte or Officer Marathas to post up at the house and oversee [redacted] and the children.¹² Sergeant Fiske made no effort to

¹² The fact that Sergeant Fiske waited until he returned to the police station to advise Officer Ballotte of what occurred at [MV Times Redaction] Street is astonishing, especially due to Mr. Thrift's whereabouts being unknown. By the time Sergeant Fiske returned to the station, the 12-8 shift officers were on duty and available. Sergeant Fiske could have simply established contact with either officer via the two-way radio system and additional units would have been at the house in a matter of minutes. There is no excuse for Sergeant Fiske waiting until he was face-to-face with the officers to advise

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 15

determine whether the State Police were available to assist, and he inquired of no surrounding departments to determine their availability. Sergeant Fiske could have ordered Officer Ogden or Officer Gately to remain at the residence but this was not done. He, too, could have stayed.¹³ The fact that Sergeant Fiske did not inquire of these options demonstrates that he did not take this incident seriously and his laissez faire attitude resulted in a minor female allegedly being raped.

During the search of the area surrounding the residence, Sergeant Fiske could have used Department night vision equipment to aid in the search for Mr. Thrift. The equipment was stored in a file cabinet that Sergeant Fiske had access to. It never occurred to Sergeant Fiske to return to the station and use this equipment in an attempt to find Mr. Thrift. Given the time in which Mr. Thrift reentered the home and allegedly raped [REDACTED] he was likely in the vicinity of the residence and observed the police response after he fled. He most likely saw Sergeant Fiske and Officer Ogden leave the premises. Given his likely proximity to the residence, the night vision equipment may have spotted him in the shrubs and brush that surrounded the home. The use of the goggles may have very well prevented the alleged rape.

When he left, Sergeant Fiske left [REDACTED] unsecured, unprotected, and in a place of extreme danger. She was alone, and on her own, and in an unfamiliar place that she had just moved to from a great distance. No one from the Department was there to protect her in spite of the Department policy to prevent further abuse to victims and the expressed provisions of Department policy that provide that the "welfare and safety of children" should be a "major consideration" for officers responding to incidents of domestic violence and sexual assaults.

[REDACTED] was so afraid she grabbed a knife for protection. [REDACTED] was afraid for good reason – she had just witnessed David savagely attacked and beat his wife, he allegedly sexually assaulted her immediately before, and David had been violent toward his wife only a few weeks prior to the incident. Sergeant Fiske knew all of this, as well, at this time and, in spite of all of this information, then, and at his interview, Sergeant Fiske did not consider David to be threat to anyone but his wife. It appears that Sergeant Fiske does not understand his own wrongdoing here and that lack of understanding and appreciation is, in this investigator's opinion, shocking.

them of the incident and situation at [REDACTED] Street, i.e. [REDACTED], a minor female, potential sexual assault victim, is by herself at the house and the perpetrator is unaccounted for.

¹³ Really, though, none of these options were the appropriate option as Sergeant Fiske, per policy and procedure, should have had [REDACTED] transported to the hospital for treatment when he learned of the alleged sexual assault.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan

September 29, 2011

Page 16

At the time he left the residence, Sergeant Fiske had no idea where David had ran to, if he had any place to go, or if he was still in the vicinity. Given this uncertainty, and it being a possibility that David was watching the police response from a secluded area near the residence, Sergeant Fiske should have never left the residence. Mr. Thrift ran off into the woods with no shirt and no shoes. With these facts as a backdrop, Sergeant Fiske should have reasoned that Mr. Thrift may return to the residence. It was not reasonable for Sergeant Fiske to leave the residence given these circumstances. The fact that Sergeant Fiske left in spite of this potential exhibits either extreme carelessness towards [REDACTED] on his part or a lack of appropriate decision-making on the part of a supervisor and senior member of the Department. [REDACTED] was allegedly subsequently raped as a result of Sergeant Fiske's improper actions. The alleged rape should have never occurred and would not have occurred had Sergeant Fiske performed his job faithfully and as he should have on July 23, 2011.¹⁴

The Department and the Town should expect and demand more of a sergeant of the Department and an officer with Sergeant Fiske's years of service. A sergeant, as a supervisor and shift commander, should be held to a higher standard than other police officers. Sergeant Fiske engaged in extreme malfeasance when he acted as he did during the call for service at [REDACTED] Street. He made no effort to treat [REDACTED] after he learned of the potential sexual assault, [REDACTED] he made no effort to secure the scene after he learned of the potential sexual assault, it is apparent that he did not appreciate or care about the potential sexual assault given his lack of effort in attempting to acquire information from [REDACTED] at the scene, he did not use other resources available to him to protect [REDACTED] from further harm, he did not treat [REDACTED] as a victim, and his actions in leaving the residence and exposing [REDACTED] to potential further harm are inexcusable.¹⁵

¹⁴ Whether or not it is established that Mr. Thrift raped [REDACTED] does not change my findings that Sergeant Fiske engaged in extreme wrongdoing in leaving the residence on July 23, 2011.

¹⁵ It troubled this investigator to hear Officer Gately, an officer with twenty-four (24) years of service to the Town, state that he did not know whether he would have left the residence under the same set of circumstances. His answer in this regard brings into serious doubt his ability to effectively serve as the Officer-in-Charge on a going-forward basis. Officer Gately and Sergeant Fiske's decision-making in this area were exhibited to be unsound given the straightforward responses by Officer Ballotte and Officer Marathas, officers with much less experience, to the question of how they would have handled the matter. Officer Ballotte, four (4) years experience for the Department, asserted that he would have taken everyone in the house to the hospital with [REDACTED] while Officer Marathas, also with four (4) years experience, stated he would have never left [REDACTED] alone.

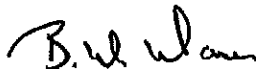
KOPELMAN AND PAIGE, P.C.

CONFIDENTIAL – NOT A PUBLIC DOCUMENT
EXECUTIVE SESSION MATERIAL

Chief Daniel Hanavan
September 29, 2011
Page 17

None of the domestic violence policies and procedures were adhered to by Sergeant Fiske despite the policy requiring that Sergeant Fiske, as the shift supervisor, adhere to the provisions of the domestic violence policy. Sergeant Fiske's inactions in this regard violate the Department's Domestic Violence Policy and Procedure No. 3.01 and the Department's Sexual Assault Investigations Policy and Procedure No. 3.02. His actions in this regard exhibit serious neglect of duty in violation of the Department Manual, Section 4.7, and bring disrepute upon the Tisbury Police Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. M. Maser".

Brian M. Maser

BMM/lem

cc: Board of Selectmen
Town Administrator

434097/TISB/0069

