

INVESTIGATIVE REPORT REGARDING  
A 2017 SEXUAL ASSAULT ALLEGATION  
AND ITS HANDLING BY THE SUSSEX  
COUNTY PROSECUTOR'S OFFICE AND  
THE NEW JERSEY STATE POLICE

*Prepared at the Request of*  
New Jersey Attorney General's Office

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## **I. EXECUTIVE SUMMARY**

On January 31, 2017, Laura Gallagher<sup>1</sup> walked into the New Jersey State Police (“NJSP”) Sussex Station located in Augusta, New Jersey to report that, nine days earlier, during the early morning hours of January 22, 2017, she had been sexually assaulted outside of a local bar. Ms. Gallagher, a 33-year-old resident of Sussex County, met with a detective and provided both a written and recorded statement. In those statements, Ms. Gallagher described how she had been at the bar for almost five hours with Ian Schweizer, an acquaintance she knew from high school, and that when the two of them left the bar together shortly after 2:00 a.m., Mr. Schweizer sexually assaulted her by pushing her up against her car and putting his hands down her pants without her consent. The detective who took that statement found Ms. Gallagher’s claims to be both credible and corroborated by text messages sent by Mr. Schweizer shortly after the alleged sexual assault had occurred.

One week later, after having conducted further investigation, the detective requested that Mr. Schweizer appear for an interview. During that interview, Mr. Schweizer acknowledged being at the bar with Ms. Gallagher, however, he told a much different story of what had happened outside in the parking lot. Mr. Schweizer graphically described how he and Ms. Gallagher engaged in consensual kissing and touching. He acknowledged, however, that Ms. Gallagher may have thought he had gone too far. The detective, as well as others who listened to the interview in real-time, came away believing that Mr. Schweizer had sufficiently confessed to a sexual assault. He was immediately placed under arrest. The lead detective then contacted the Sussex County Prosecutor’s Office (“SCPO”) to notify it of the arrest and to move forward with the prosecution.

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<sup>1</sup> While we recognize that publicizing the name and identity of a reported victim of sexual assault can have the effect of exacerbating the social and psychological damage experienced by that individual, we identify Ms. Gallagher by name in this report because she has publicly spoken about the circumstances described herein.

However, the assistant prosecutor, who had heard the detective's recounting of the facts and who had reviewed the charging documents that the detective had submitted, did not share in his view of the sufficiency of the evidence. She conferred with more senior members of the SCPO, including Prosecutor Francis Koch, and a determination was made that the evidence, as presented, was insufficient to establish probable cause for Mr. Schweizer's arrest.

When the SCPO communicated its decision to the lead detective, he circumvented that decision, and disregarded newly enacted bail reform rules, by presenting the charges directly to a municipal court judge who ultimately approved them. What happened next was an immediate and clear breakdown of the relationship between the two law enforcement entities. Typical investigative protocols were not followed and serious accusations of bad faith and wrongdoing were made by both sides. In short order, both internal affairs and corruption investigations were initiated, personnel actions against a number of the detectives were taken, various arbitrations and litigations were filed, numerous press articles about the situation were published, and, perhaps, most importantly, a woman who claimed to be the victim of a sexual assault came away with the belief that the criminal justice system – a system that is supposed to protect victims of crime – had failed her.

In June 2020, after another round of news articles were published that included serious questions about whether certain alleged political connections of Mr. Schweizer's father may have improperly influenced the actions taken by the SCPO and/or senior NJSP officials involved in the aftermath of the investigation, the New Jersey Attorney General's Office hired the undersigned and my firm, Chiesa Shahinian & Giantomasi PC ("CSG"), to conduct an independent and unbiased review of the matter. Our direction was to review the lengthy and substantial record relating to the underlying criminal investigation and its aftermath, conduct our own independent

investigation, and to report back as to the true state of affairs regarding the matter, and importantly, whether any of the actions taken by any of the relevant parties were a result of any improper or corrupt influence. Pursuant to that mandate, we endeavored to answer the following questions:

1. Did the SCPO refuse to approve and ultimately dismiss the sexual assault charges against Ian Schweizer because of any improper or corrupt influence, including influence directed by Mr. Schweizer's father, Glenn, who was then the Executive Director of the Morris County Municipal Utilities Authority, or did the SCPO act based on a good faith belief that there was insufficient evidence to move forward with those charges?

2. Did Lieutenant Colonel Patrick Callahan ("LTC Callahan") or any other senior NJSP officials who were involved in (a) initiating an Office of Professional Standards ("OPS") internal affairs investigation into the conduct of the detectives responsible for the Schweizer investigation; (b) discontinuing a newly opened NJSP Official Corruption Unit ("OCU") investigation into whether the SCPO's actions were potentially improperly influenced by Ian Schweizer's father; and (c) reassigning many of the detectives involved with the Schweizer investigation, act based on any improper or corrupt influence or did they act based on a good faith belief that their actions were appropriate based on the facts before them?

3. Was a March 2017 breakfast meeting that took place between LTC Callahan and Major Glen Szenzenstein from the NJSP and Prosecutor Francis Koch and Chief of Detectives Thomas McCormick from the SCPO, during which they discussed the Schweizer investigation and its aftermath, including the fact that one of the detectives involved in the investigation had lodged a corruption complaint against the SCPO with the OCU, at all improper or held to obstruct any investigation?

4. Did the NJSP detectives involved in the underlying Schweizer sexual assault investigation arrest Mr. Schweizer and continue to pursue charges against him because they held a good faith belief that he had sexually assaulted Ms. Gallagher or did they act for some other reason?

5. After dismissing the charges against Mr. Schweizer without prejudice, did the SCPO do any further investigation of Ms. Gallagher's claim that Mr. Schweizer had sexually assaulted her such that it was able to determine whether charges should have been refiled?

6. Did an assistant prosecutor and investigator from the SCPO act improperly when they met with Ms. Gallagher on February 8, 2017 to inform her that the SCPO would be dismissing the charges that the NJSP had filed against Mr. Schweizer, as Ms. Gallagher has publicly alleged?

CSG commenced its investigation in early July 2020. While the COVID-19 pandemic slowed our work, we received laudable cooperation from those we contacted in connection with our investigation. Notably, the NJSP, the SCPO and the Attorney General's Office all cooperated fully with our investigation and provided complete and timely responses to all requests we made for documents and for interviews of current or former employees. During our investigation, we reviewed thousands of pages of documents which included police reports, internal affairs files, press reports, interview and arbitration transcripts, and substantial arbitration and litigation filings. We also reviewed the recorded statements of Ms. Gallagher, Mr. Schweizer, and the more than twenty-five individuals who were interviewed pursuant to the related internal affairs investigation, and conducted our own interviews of more than twenty individuals, including current and former employees of the NJSP, the SCPO, the Attorney General's Office, Mr. Schweizer's father and Ms. Gallagher. Based on our review of these voluminous materials, and our numerous interviews, we are prepared to answer the questions identified above.

In summary, our investigation has determined that – with respect to the Schweizer criminal investigation – both the SCPO and the NJSP detectives responsible for that investigation genuinely believed that their actions were consistent with their respective professional obligations. Our investigation has also concluded that there is no evidence of any improper or corrupt influence that impacted the decisions made by either the SCPO or senior NJSP officials. Instead, what the evidence makes clear is that natural tensions that exist between investigators and prosecutors regarding the sufficiency of evidence were exacerbated by newly enacted bail reform laws. In some ways, the new bail reform laws altered the balance of power in the decision-making process to arrest and charge suspects, and this played a primary role in the breakdown between the SCPO and the NJSP detectives in this matter. Once the conflict between the two law enforcement entities arose as a result of their differing views of the sufficiency of the evidence against Mr. Schweizer, instead of taking a breath, slowing things down and trying to work through a problem, both sides dug in on their respective positions and assumed the worst from the other side, which quickly led to a breakdown in process and communication.

More specifically, we find as follows:

1. The SCPO's decision to dismiss the sexual assault charges against Ian Schweizer without prejudice was done in good faith and based on its determination that, under newly enacted bail reform laws, the NJSP detectives did not have the authority to file the type of charges that they lodged against Mr. Schweizer without first obtaining SCPO approval. The SCPO was not willing to approve charges at that time based on its genuine belief that there was insufficient evidence to prove either probable cause for Mr. Schweizer's arrest or Mr. Schweizer's guilt beyond a reasonable doubt at trial. Our investigation uncovered no evidence to support any inference that



the SCPO's decision in this regard was based on any improper or corrupt influence, whether that was Mr. Schweizer's father's alleged political connections or otherwise.

2. Senior officials at the NJSP, including LTC Callahan, acted in good faith with respect to their actions in this matter and there is no evidence to support that those actions were the result of any corrupt or improper influence. Our review of the contemporaneous evidence and our interviews with various individuals involved in the matter demonstrate that LTC Callahan, and other senior NJSP officials who played a role in the aftermath of the Schweizer investigation, acted upon the facts as presented to them including, importantly, Mr. Schweizer's recorded statement, which they did not believe constituted a confession and which they believed the NJSP detectives had been wrong to rely upon. Their subsequent actions of initiating an internal affairs investigation, discontinuing a nascent NJSP corruption investigation, and reassigning certain NJSP detectives and troopers, were based on their good faith belief that those actions were necessary and appropriate based on the facts and a need to maintain a productive working relationship between the SCPO and the NJSP in Sussex County.

3. The March 2017 breakfast meeting was not nefarious or improper, but instead, was held in a good faith effort by the NJSP Command with direct oversight of the detectives involved to make sure that an important law enforcement relationship between the NJSP and the SCPO was not compromised due to this incident. By the time the breakfast meeting took place, LTC Callahan and Major Szenzenstein had already watched the video of Mr. Schweizer's recorded statement and, in their professional judgement, had reasonably determined that it did not constitute a confession. They also believed that the detectives involved had acted inappropriately by disregarding both the SCPO's express instructions and the new bail reform guidelines. While LTC Callahan did disclose to Prosecutor Koch and Chief McCormick that one of the detectives involved

in the Schweizer investigation had lodged a complaint with the NJSP's OCU, the intent of that disclosure was not to "tip off" the subject of that investigation or compromise any investigation. Rather, LTC Callahan raised the issue as part of his regret for the breakdown between the two offices and as part of his effort to help repair the wounds that had developed.

4. The NJSP detectives responsible for the underlying Schweizer investigation acted pursuant to a legitimately held and good faith belief that Laura Gallagher was the victim of a sexual assault and that Ian Schweizer was the perpetrator. While the detectives' decision to file criminal charges against Mr. Schweizer over the SCPO's objection did not comport with the newly enacted bail reform laws and caused significant tension between the two law enforcement entities, it is clear the detectives acted as they did – and aggressively defended those actions – because of a legitimately held belief that they were protecting and supporting a victim of a serious crime. That said, it is clear that much of the disconnect between the NJSP detectives and others involved in this matter stems from the detectives' genuine belief that Mr. Schweizer's interview constituted clear evidence of a confession to a sexual assault, while many others involved in this matter, including at least six experienced prosecutors and detectives from the SCPO, senior NJSP officials, and experienced and senior prosecutors in the Attorney General's Office Division of Criminal Justice, see it otherwise. It is clear that the NJSP detectives who maintain this position question the motive and intent of the actions taken by those who do not share their view.

5. The SCPO took additional investigative steps and considered whether it would be appropriate to refile charges against Mr. Schweizer after dismissing them without prejudice on February 8, 2017. However, a number of factors influenced its decision to ultimately not move forward with criminal charges against Mr. Schweizer. Those factors included, among other things: the inherent difficulty in prosecuting "he said/she said" sexual assault cases that are reported after

the fact, with no physical injuries, and with no contemporaneous video of the alleged sexual assault; their belief that Mr. Schweizer had not clearly confessed in his recorded interview and, instead, had described consensual sexual contact; that Mr. Schweizer's lawyer was not going to permit him to be re-interviewed; their discovery of text messages between Ms. Gallagher and Mr. Schweizer's ex-girlfriend which the SCPO believed could be viewed by a fact finder as providing an ulterior motive for Ms. Gallagher's reporting of the alleged sexual assault; and the SCPO's opportunity to interview and evaluate the credibility of Ms. Gallagher during their meeting on February 8, 2017. While we find that the SCPO's stated reasons for not refiling charges against Mr. Schweizer were reasonable, we believe that the SCPO could have better communicated and explained its decision to Ms. Gallagher.

6. While Assistant Prosecutor Seana Pappas ("AP Pappas") and Lieutenant Jennifer Williams ("Lt. Williams") of the SCPO believe they acted appropriately during their meeting with Ms. Gallagher on February 8, 2017, it is clear that Ms. Gallagher interpreted the meeting much differently. Ms. Gallagher came away from that meeting believing she had been "completely blindsided" and that AP Pappas and Lt. Williams had tried to "coerce" her into dropping the charges against Mr. Schweizer. While it is impossible to know exactly what was said during this meeting, it is entirely understandable that Ms. Gallagher would feel "blindsided" considering she had just been told by the detectives handling her case that her alleged attacker had confessed. And, after being told that the SCPO was dismissing the charges, it is understandable that Ms. Gallagher, who was unfamiliar with the criminal justice system, would come away bothered by the things that happened during the meeting, including the SCPO re-interviewing her in great detail about the alleged sexual assault and asking permission to download the contents of her cellphone. That said, we believe it is unlikely that these two experienced individuals, who had been responsible for

investigating and prosecuting sex crimes for many years and who were described by many of the people we interviewed as “fiercely victim-focused”, would try to aggressively coerce Ms. Gallagher into dropping the charges against Mr. Schweizer considering that the SCPO did not need her permission to do so. It is important to note that, while we were unable to corroborate Ms. Gallagher’s complaint of mistreatment by the SCPO, that does not mean that we believe the SCPO could not have handled its interactions with Ms. Gallagher better. At a minimum, once the SCPO’s prosecutors concluded that they were not going to move forward with the refiling of charges against Mr. Schweizer, they could have requested to meet with Ms. Gallagher again to fully explain their decision. If they had done so, it is possible that Ms. Gallagher would have been spared the pain and confusion that have resulted from her years of uncertainty regarding the case.

## **II. INVESTIGATIVE SCOPE**

While all of the essential events that are the subject of this investigation took place in early 2017, years of acrimony, arbitration and litigation have followed. In June 2020, two substantial news articles were published, one by *Newsweek*<sup>2</sup> and one by *The Star-Ledger*,<sup>3</sup> that addressed this matter. Among other things, those articles pointed out that, despite years of legal action, there remain questions as to whether the SCPO or senior officials at the NJSP had acted for corrupt reasons in connection with the Schweizer investigation and its aftermath. This firm was engaged by the New Jersey Attorney General’s Office to independently investigate and determine whether those corruption allegations had any merit and, more generally, to address the questions identified above.

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<sup>2</sup> Naveed Jamali & Tom O’Connor, *Exclusive: Top New Jersey State Police Officials Stalled Corruption Probe, Documents Show*, NEWSWEEK (June 16, 2020, 2:51 PM), <https://www.newsweek.com/new-jersey-state-police-callahan-corruption-complaint-1511211>.

<sup>3</sup> Tom Moran, *A rape complaint is dismissed amid political infighting. Again.*, STAR-LEDGER (June 22, 2020), <https://www.nj.com/opinion/2020/06/a-rape-complaint-is-dismissed-amid-political-infighting-again-moran.html>.

CSG's retention was formalized on June 22, 2020. From the outset, the Attorney General's Office made clear that CSG was to conduct an independent and thorough investigation of the specified matters and anything else we deemed necessary that arose during our investigation without interference from anyone in the Attorney General's Office, the SCPO, the NJSP or anyone else. While we were provided assistance by individuals within the Attorney General's Office in obtaining documents and connecting with potential witnesses, at no time did anyone from the Attorney General's Office, or anyone else for that matter, try to influence the method, scope or findings of our investigation. CSG was given the authority to follow any relevant lead and examine any matter for the purpose of determining the facts free from interference and with complete independence.

It is important to note that the scope of our review was not without limits. While during the course of our investigation we uncovered historical issues that contributed to the strained relationship between the SCPO and certain NJSP detectives at Sussex Station, as well as certain events that took place after the Schweizer matter that further exacerbated this strained relationship, we did not deem it necessary to fully investigate each one of those instances as it would unnecessarily expand the scope of our investigation and likely not provide any value in answering the questions we were tasked with answering.

During our investigation, CSG developed and implemented an investigative plan to identify the individuals associated with the SCPO, the NJSP, the Attorney General's Office, and private individuals with relevant knowledge regarding the matters to be investigated. CSG attempted to interview all identified individuals and received almost universal cooperation from

everyone from whom we requested an interview. The following State employees, current or former, were interviewed during the course of our investigation<sup>4</sup>:

**New Jersey State Police**

- Lieutenant Colonel Patrick J. Callahan, Deputy Superintendent of Operations;
- Detective Darran Crane, Criminal Investigations Office, Sussex Station;
- Detective Sergeant Thomas Donnelly, Official Corruption North Unit, Official Corruption Bureau;
- Detective Sergeant Shane Krisanda, Criminal Investigations Office, Sussex Station;
- Senior Detective Sergeant Gregory Lewis, Criminal Investigations Office, Sussex Station;
- Captain Matthew Lubertazzi, Bureau Chief, Official Corruption Bureau;
- Major Glen Szenzenstein, Deputy Branch Commander, Field Operations; and
- Staff Sergeant Brian Weis, Squad Leader, Sussex Station.

**Sussex County Prosecutor's Office**

- Prosecutor Francis A. Koch;
- Chief of Detectives Thomas McCormick;
- First Assistant Prosecutor Gregory Mueller;
- Assistant Prosecutor Laura Nazzaro, Chief, Sex Crimes Unit;
- Assistant Prosecutor Seana Pappas, Chief, Major Crimes Unit; and
- Lieutenant Jennifer Williams, Detectives' Unit.

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<sup>4</sup> The ranks, titles and positions listed are those that were held by each respective interviewee at the time of the Gallagher/Schweizer incident, namely January 2017 through March 2017. Since that time, the ranks, titles, and positions of certain of these individuals have changed as a result of subsequent promotions, reassignments, or retirements. For the sake of consistency, and to avoid confusion, we refer to these individuals throughout this report by the ranks, titles, and positions they held in early 2017.

**Office of the Attorney General, Department of Law & Public Safety, Division of Criminal Justice**

- Assistant Attorney General Philp S. Aronow, Bureau Chief, Prosecutors Supervision and Training Bureau;
- Assistant Attorney General Christine A. Hoffman, Deputy Director;
- Assistant Attorney General Anthony A. Picione, Bureau Chief, Corruption and Government Fraud Bureau; and
- Assistant Attorney General Michael J. Williams, Counsel to the Director.

The only government employee from whom we requested an interview that was declined was Detective Justin DeLorenzo who was the lead detective responsible for the Schweizer investigation. Detective DeLorenzo is currently involved in active litigation relating to this matter and his counsel indicated that he was not willing to permit Detective DeLorenzo to speak with us due to that outstanding litigation. We do not believe our inability to interview Detective DeLorenzo in any way impacts the findings herein because, among other things, we were able to review all of Detective DeLorenzo's contemporaneous reports, we obtained copies of prior statements he has given about the Schweizer investigation, and we interviewed a number of other detectives who worked with Detective DeLorenzo on this matter who were able to provide substantial perspective on Detective DeLorenzo's conduct and impressions. While we, of course, would have liked to have interviewed Detective DeLorenzo, as he was one of the key participants in this matter, in no way did we hold his refusal to speak with us against him or anyone else.

In addition to the above-mentioned State employees, we requested and obtained interviews of the following individuals.

- Laura Gallagher;
- Richard Pompelio; and
- Glenn Schweizer.

The cooperation we received from the witnesses identified above was exemplary and our interviews with these witnesses were fundamentally important to our ability to draw the conclusions that we do in this report.

In addition to interviews, CSG obtained extensive documentary evidence to assist us in our investigation. That evidence consisted of reports relating to the Schweizer investigation from the SCPO, NJSP, and the Attorney General's Office. We were also provided with all records from two extremely lengthy and thorough internal affairs investigations conducted by the OPS that were either directed at the facts of this investigation or touched upon them. Included in the materials from those OPS investigations were recordings of interviews (and related interview summaries) with many of the parties involved in the Schweizer investigation, including many of the same parties whom we interviewed during the course of our investigation. In addition to the voluminous OPS files, we were also provided access to documents filed in various arbitrations and litigations that have resulted between some of the parties to this matter. Importantly, we were also provided with and reviewed all of the recorded statements obtained by the NJSP during their investigation, including those of Ms. Gallagher and Mr. Schweizer.

Prior to submitting this report to the Attorney General's Office, this report was not shared with anyone at the Attorney General's Office, the SCPO, the NJSP or anyone else. The findings contained herein are ours alone and are the result of our independent investigation.



### III. FACTUAL BACKGROUND

#### A. Laura Gallagher Reports a Sexual Assault to the New Jersey State Police

On January 31, 2017, Laura Gallagher called and then walked into the NJSP Troop “B”<sup>5</sup> Sussex Station located in Augusta, New Jersey (“Sussex Station” or “Sussex Barracks”) to report that, nine days earlier, during the early morning hours of January 22, 2017, she had been the victim of a sexual assault occurring in the parking lot of Boomer’s Place, a bar located in Stillwater Township, New Jersey. Upon entering the lobby, Ms. Gallagher was greeted by Trooper Kristofer Buonomo. Shortly thereafter, pursuant to directions received from Staff Sergeant Brian Weis (“SSgt. Weis”)<sup>6</sup>, Ms. Gallagher was escorted inside to complete a written statement and meet with a detective to discuss her complaint. Detective Justin DeLorenzo, a Sussex Station CIO detective who was on-duty at that time, discussed the preliminary facts with Trooper Buonomo, reviewed Ms. Gallagher’s written statement, and initiated a criminal investigation. After informing his supervising officer, Senior Detective Sergeant (“DSG”) Gregory Lewis (“DSG Lewis”)<sup>7</sup>, that

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<sup>5</sup> Troop “B”, with its headquarters in Totowa, serves the northern geographical portion of New Jersey, covering 2,807 square miles and a population of approximately five million people. It consists of nine stations (including Sussex Station), a Criminal Investigations Office (“CIO”) comprised of detectives of various ranks, and four Tactical Patrol Units. Notably, because thirteen municipalities within Sussex County do not have their own municipal police force, those municipalities rely on the NJSP, including the troopers at Sussex Station, to fulfill the traditional law enforcement functions of a local police department. As such, Sussex Station is universally recognized as one of the most active stations within the NJSP.

<sup>6</sup> Weis has served with the NJSP since his graduation from the NJSP Academy in 1998. During this time, he has spent approximately seventeen years working in various capacities at Sussex Station. In January 2017, he held the rank of Staff Sergeant and, as Squad Leader of Sussex Station, was responsible for the supervision of numerous troopers within his squad, including Trooper Buonomo. He currently holds the rank of Detective Sergeant First Class (“DSFC”) and serves as Lieutenant Commander of Troop “B” Hope Station. In our interview, DSFC Weis described how the Squad and the CIO are separate entities within Sussex Station, but that the two entities work together on certain criminal investigations.

<sup>7</sup> Lewis has served with the NJSP since his graduation from the NJSP Academy in May 2001. In January 2017, he held the rank of Senior DSG at Sussex Station. In that role, he was responsible for supervising the detectives within the Sussex Station CIO and overseeing all investigations conducted by those detectives. He currently holds the rank of DSFC and serves as CIO Zone Supervisor. In our interview, DSFC Lewis emphasized his extensive experience with the investigation of sexual assault cases and his expertise with the interrogation of suspects, which he stated has resulted in a number of confessions during his time with the NJSP.

investigative assistance had been requested, Detective DeLorenzo escorted Ms. Gallagher to an interview room and proceeded to obtain her statement.

During the recorded interview, Ms. Gallagher described how she had “bumped into” Ian Schweizer at Boomer’s Place one or two days before the sexual assault had occurred. She indicated that she was familiar with Mr. Schweizer because they had both attended Kittatinny Regional High School but that she had not “seen him in years.” According to Ms. Gallagher’s statement, over the course of the next several days, she and Mr. Schweizer exchanged text messages and ultimately arranged to meet at Boomer’s on the night of January 21, 2017. Ms. Gallagher stated that she met Mr. Schweizer around 9:00 p.m. that evening and that the two of them remained at the bar until close. She stated that Mr. Schweizer was “buying shots and drinks” and that she and Mr. Schweizer engaged in “good conversation.” She further stated that the bartender, whom she identified as her “friend” Tara Norman, was part of that conversation. She explained that, despite being at the bar for almost five hours, she did not “drink much at all” that evening. She then described the details of the alleged sexual assault.

According to Ms. Gallagher, shortly after 2:00 a.m., after waiting for her friend to close down the register, she and Mr. Schweizer left Boomer’s together and walked out to their cars. She stated that, “there was nobody in the parking lot but me and him” and that “there was nobody around.” According to Ms. Gallagher, while she and Mr. Schweizer were standing between their cars, Mr. Schweizer kissed her. She explained how she backed away and told Mr. Schweizer, who is approximately 6 feet 7 inches tall, that she was “not interested in dating at all right now.” At that point, she said Mr. Schweizer “came on stronger”, “pulled [her] towards him” and was “trying to rub [her] up and down on him.” Ms. Gallagher attempted to push Mr. Schweizer away, told him to stop and repeatedly shouted “no”. Mr. Schweizer then “twisted [her] around so that [her]

stomach was up against [her] car.” According to Ms. Gallagher, Mr. Schweizer then “took both his hands and shoved them down inside of [her] – inside [her] pants.” When asked by Detective DeLorenzo to clarify this statement, Ms. Gallagher explained that Mr. Schweizer had digitally penetrated her – that he “went inside of [her], like down [her] underwear, up into [her] vagina – like full hands/finger.” Ms. Gallagher then screamed, turned around, kned Mr. Schweizer “as hard as [she] could” in the groin area, got into her vehicle and drove to her parents’ house a short distance away. She remained in the driveway of her parents’ house for a period of time to make sure that Mr. Schweizer had not followed her. She explained to Detective DeLorenzo that, shortly thereafter, she received a text message from Mr. Schweizer in which he expressed his apologies for having gotten “carried away.” She further stated that she called Ms. Norman from her parents’ driveway and told her what had happened. She estimated that she left her parents’ driveway at around 3:00 a.m.<sup>8</sup> Upon completing her statement, Ms. Gallagher left Sussex Station.

**B. Detective DeLorenzo’s Investigation of Ms. Gallagher’s Complaint and Mr. Schweizer’s Arrest**

Having completed his initial investigative interview, Detective DeLorenzo spoke with his supervisors about Ms. Gallagher’s complaint. He expressed to DSG Lewis and Detective Sergeant First Class (“DSFC”) Matthew McCurry (“DSFC McCurry”), the CIO Zone 3 Supervisor, his belief that Ms. Gallagher’s report was credible and began to outline his next investigative steps. Later that day, Detective DeLorenzo obtained screenshots of the text message conversations that

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<sup>8</sup> Ms. Gallagher’s oral statement to Detective DeLorenzo was consistent with the description of the sexual assault provided in her written statement. In the latter, she wrote: “At approximately 2:00 a.m . . . Ian and myself walked out to the parking lot. Standing in between both my vehicle and his[,] Ian proceeded to kiss me. I backed away and told him I was recently divorced and not looking for a relationship or to date. He proceeded to wrap his arms around my waist and rub himself on me. As I tried to push him away and continued to tell him to stop[,] he aggressively grabbed me and pressed me up against my vehicle so my back was faced to him and he put both his hands down my pants and began to insert them into my vaginal area. I started to scream and was able to maneuver to turn and knee him in his private area causing him to step back. I jumped in my car and drove off.”

Ms. Gallagher had referenced during her interview. Those conversations included the following text message exchange:

Mr. Schweizer (2:47 A.M.): Sorry if I got carried away[.]

Ms. Gallagher (2:56 A.M.): I just met you yesterday. Was way to[o] much. If you[’re] looking for an easy fuck. It’s not me. I’m a mother. You scared me[.]

Mr. Schweizer (2:58 A.M.): I’m sorry[.] I’m really turned on by you. And I took it too far.

Mr. Schweizer (2:59 A.M.): I really like you.

Mr. Schweizer (2:59 A.M.): A breath of fresh air.

On February 3, 2017, Detective DeLorenzo moved forward with his investigation by obtaining a recorded statement from the bartender. Ms. Norman confirmed that Ms. Gallagher and Mr. Schweizer had been the last customers to leave Boomer’s on the night in question and that they left the bar together. She stated that Ms. Gallagher and Mr. Schweizer appeared to be engaged in “normal conversation” during the course of the night. According to Ms. Norman, at about 2:30 a.m. that morning, while driving home from Boomer’s, she received a call from Ms. Gallagher who told her that Mr. Schweizer had “pinned her up against the car” and “took his hand and shoved it down her pants.” Ms. Norman further relayed Ms. Gallagher’s description of how she had kned Mr. Schweizer in the groin and jumped in her car to escape the scene. She further confirmed to Detective DeLorenzo that Boomer’s has no surveillance camera that would have captured the events in the parking lot.

On February 7, 2017, Detective DeLorenzo continued his investigation by requesting that Mr. Schweizer come to Sussex Station for questioning. Mr. Schweizer agreed and appeared at

Sussex Station that morning. His interview commenced at approximately 9:25 a.m.<sup>9</sup> and the recording of the interview reflects that he appeared to not understand his reason for being there.

After almost a half hour of conversation that touched upon matters including [REDACTED]

[REDACTED] Mr. Schweizer was finally read his *Miranda* rights.<sup>10</sup> The interview then turned to the substance of Ms. Gallagher's complaint.

When asked by Detective DeLorenzo to describe what had occurred in the parking lot, Mr. Schweizer stated that "I know we took it a little bit too far" and that it was "definitely hot and heavy." He further stated that he and Ms. Gallagher "were making out for a while" (he estimated approximately fifteen to twenty minutes) and that the physical interaction was "mutual . . . [u]p until . . . it got a little carried away." Mr. Schweizer described how Ms. Gallagher "had her hand on [his] cock" and explained that "she was like tongue down my throat, like all over me more or less pushing me into her car, [and that he] was reciprocating." He further stated: "[S]he was a little bit more aggressive . . . like we were kissing and then . . . she turned and . . . pushed me up against the car and then came in for a kiss and then like grabb[ed] my shit and stuff." He surmised that "[t]here was maybe a line [that was] crossed" and that "maybe [it went] a step too far" but that he "thought it was mutual[] [and] that [they] took it a little too far too soon." It does not appear that Detective DeLorenzo ever explicitly asked or that Mr. Schweizer ever explicitly answered the question as to whether Mr. Schweizer had digitally penetrated Ms. Gallagher's vagina. Rather, Mr.

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<sup>9</sup> While Detective DeLorenzo was the only member of the Sussex Station CIO physically present in the room during the interview of Mr. Schweizer, several additional members have stated that they were able to view and/or listen to the interview in real-time via a monitor in an adjacent area. Those additional members included DSFC McCurry, DSG Shane Krisanda, and Detective Darran Crane.

<sup>10</sup> Based upon our review of Mr. Schweizer's recorded interview, it does not appear that he was ever asked to sign a written waiver of his *Miranda* rights. Moreover, the *Miranda* Warning Card from which Detective DeLorenzo read Mr. Schweizer his rights is not signed. Rather, it appears that Detective DeLorenzo printed Mr. Schweizer's name on the "Accused or Suspect" line where Mr. Schweizer's signature would be expected to be.

Schweizer stated that “[his] hand was down her pants touching stuff” and that he “didn’t know what the hell [he] was touching.” While Mr. Schweizer acknowledged that he texted Ms. Gallagher that night to apologize, he stated that his apology was for having “his hand down her pants[,]” and he did not explicitly admit to digital penetration. Mr. Schweizer’s interview concluded at approximately 10:47 a.m.

After completing the interview, Detective DeLorenzo exited the room to confer with the other CIO members who had been listening in to Mr. Schweizer’s account. At that time, there was a universal belief amongst those present that probable cause existed for Mr. Schweizer’s arrest. Accordingly, at approximately 11:30 a.m., Detective DeLorenzo and Detective Darran Crane<sup>11</sup> proceeded back into the interview room, placed Mr. Schweizer under arrest, and secured him in a holding cell. Detective DeLorenzo later called Ms. Gallagher to inform her of Mr. Schweizer’s arrest.

Detective DeLorenzo then began the procedures for processing Mr. Schweizer’s arrest and applying for the issuance of a complaint-warrant. To that end, Detective DeLorenzo generated a “To Be Determined” complaint-warrant in the New Jersey Judiciary’s Electronic Court Disposition Reporting (“eCDR”) system.<sup>12</sup> The Complaint-Warrant listed two charges against Mr.

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<sup>11</sup> Detective Crane has served with the NJSP since his graduation from the NJSP Academy in June 2003. Prior to being promoted to Detective in May 2014, he spent eleven years as a Road Trooper with the NJSP. He explained that, while he received the rank of Detective in 2014, he has always conducted detective-type work.

<sup>12</sup> The eCDR system is a web-based application used by law enforcement agencies statewide to generate criminal complaints electronically, memorialize determinations as to probable cause, and transmit information to the Judiciary’s case management system. Once the preliminary documentation is prepared in the eCDR system, it can be made available to an assistant prosecutor or supervisory police officer for screening and charging approval review. SCPO Assistant Prosecutor Laura Nazzaro explained that NJSP troopers normally submit complaints and supporting documents via the eCDR system. At the time of submission, troopers do not select whether a particular complaint requires a summons or a warrant. Instead, the assistant prosecutor accesses the eCDR system and makes a determination as to whether a summons or complaint is appropriate. The assistant prosecutor also checks a box within the eCDR system indicating his/her approval of the submitted complaint and Affidavit of Probable Cause.

Schweizer: (1) Sexual Assault in the Second Degree under N.J.S.A. 2C:14-2(c)(1)<sup>13</sup> and (2) Criminal Sexual Contact in the Fourth Degree under N.J.S.A. 2C:14-3(b).<sup>14</sup> In support of those charges, Detective DeLorenzo generated an Affidavit of Probable Cause and a Preliminary Law Enforcement Incident Report (“PLEIR”). In the Affidavit of Probable Cause, Detective DeLorenzo indicated, in relevant part, that Mr. Schweizer “pushed [Ms. Gallagher] against the exterior of her vehicle and forced his hands down her pants at which time he digitally penetrated her vagina against her will.” He further indicated that Mr. Schweizer had provided a statement during which he “advised [that] he and the victim mutually kissed and said the victim touched his genitals.” The Affidavit further stated that Mr. Schweizer “further admitted to putting his hands down the victim’s pants and touching the area of her vagina.” The Affidavit indicated that Ms. Gallagher had reported no injuries resulting from the sexual assault. In the PLEIR, which is a significantly less detailed document, Detective DeLorenzo wrote that “[t]he defendant made statements/admissions. It was recorded using (Stationhouse interview room camera).”

### **C. Implementation of Bail Reform and the Issuance of Related Directives**

Before detailing and evaluating the subsequent actions and decisions made by the law enforcement agencies involved in this matter, it is first necessary to identify and discuss the sea-change in New Jersey criminal procedure law that immediately preceded, and clearly impacted, those actions and decisions. By way of background, on January 1, 2017, just three weeks prior to the facts giving rise to Ms. Gallagher’s complaint, substantial changes to the State’s bail laws were

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<sup>13</sup> Pursuant to N.J.S.A. 2C:14-2(c)(1), “[a]n actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: (1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury[.]”

<sup>14</sup> Pursuant to N.J.S.A. 2C:14-3(b), “[a]n actor is guilty of criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in section 2C:14-2c. (1) through (4).”

implemented via the enactment of the Criminal Justice Reform Act, N.J.S.A. 2A:162-15 to -26.<sup>15</sup> While four years later, the changes brought on by the Act have been ingrained in the consciousness of New Jersey's law enforcement officers, judges, and practitioners alike, it is relevant that, at the time of its implementation, the Criminal Justice Reform Act was a source of great anxiety and confusion for many.

In order to provide appropriate guidance on the forthcoming changes to the bail laws, on October 11, 2016, the New Jersey Attorney General issued Attorney General Law Enforcement Directive No. 2016-6 (the "AG Directive"). The AG Directive was disseminated to all law enforcement agencies in the State, including the Superintendent of the NJSP and the Prosecutors of each of New Jersey's twenty-one counties. The AG Directive required, in relevant part, the establishment of a system of on-call assistant prosecutors to provide legal advice, case screening, and charging approval twenty-four hours a day, seven days a week in matters involving indictable crimes. *See* AG Directive § 3.1. The AG Directive further established that, in cases involving indictable crimes, no complaint-summons was to be issued and no application for a complaint-warrant was to be made without prior review and approval from an assistant prosecutor.<sup>16</sup> *See id.* at § 3.2.

Recognizing that factors such as personnel limitations and extensive caseloads could impact a Prosecutor's Office's ability to implement an on-call assistant prosecutor system of

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<sup>15</sup> Most generally, the new law virtually eliminated cash bail and replaced New Jersey's resource-based system with a risk-based system, requiring courts to assess such factors as a defendant's risk of flight and danger to the community in determining whether a defendant should remain detained post-arrest.

<sup>16</sup> Section 3.2 of the Directive states: "Except as otherwise provided pursuant to Section 3.3, when a law enforcement officer operating under the laws of the State of New Jersey makes an arrest for any indictable crime, . . . the officer shall contact the appropriate County Prosecutor's Office . . . as soon as it is safe and feasible to do so. . . . Except as may otherwise be authorized pursuant to Section 3.3, no complaint-summons for any indictable crime . . . shall be issued, and no application for a complaint-warrant for any such crime or offense shall be submitted to a judicial officer authorized to approve a complaint-warrant, without the express approval of an assistant prosecutor[.]" AG Directive § 3.2.



screening, the AG Directive permitted an alternative. Specifically, a County Prosecutor was permitted to issue a detailed directive which authorized supervisory police officers to screen charges and make decisions as to whether those charges would be pursued by way of complaint-summons or complaint-warrant. *See id.* at § 3.3.1.<sup>17</sup> The Directive specifically permitted a Prosecutor to impose limits or conditions on the delegation of this screening function. *See id.*

On October 31, 2016, pursuant to Section 3.3 of the AG Directive, the SCPO issued Sussex County Prosecutor's Office Directive 2016-01 (the "SCPO Directive"). The SCPO Directive was sent to all law enforcement agencies within Sussex County, including the Station Commander of Sussex Station.<sup>18</sup> The SCPO Directive specifically adopted the guidelines set forth in the AG Directive, including Section 3.2's provision that all complaint-warrants be reviewed and approved by an assistant prosecutor prior to being submitted to a judge. It stated, in relevant part, that "[a]ll Complaint Warrants [CDR-2] sought in Sussex County as of January 1, 2017, *shall only* be sought

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<sup>17</sup> Section 3.3.1 of the Directive states: "[A] County Prosecutor may issue a directive that authorizes any or all police agencies operating within the Prosecutor's jurisdiction to issue a complaint-summons without first contacting an assistant prosecutor . . . provided that issuance of a complaint-summons has been approved by a supervisory officer designated pursuant to subsection 3.3.2. Any such directive also may authorize any or all police agencies operating within the Prosecutor's jurisdiction to apply for a complaint-warrant without first contacting an assistant prosecutor . . . provided that application for a complaint-warrant has been approved by a supervisory officer designed pursuant to subsection 3.3.2"

<sup>18</sup> While it is clear that the SCPO Directive was e-mailed to Sussex Station Commander Lieutenant John Widovic ("Lt. Widovic") on October 31, 2016, it remains unclear as to whether the SCPO Directive was subsequently disseminated to the troopers and detectives within Sussex Station. Each of the Sussex Station troopers and CIO detectives with whom we spoke denied ever having received the SCPO Directive and, as such, denied contemporaneous knowledge or understanding of the procedural changes it required. For example, DSG Lewis emphatically stated that "no one knew" about the SCPO Directive and that, from the CIO detectives' perspective, "we didn't have a lot of the answers." SSgt. Weis represented that "we didn't get anything from the County" and that Lt. Widovic "never mentioned bail reform trainings." Detective Crane stated that the first time he ever saw the SCPO Directive was when he was interviewed pursuant to a much later NJSP Internal Affairs Investigation Bureau ("IAIB") investigation arising out of this matter. DSG Krisanda explained that it was the Sussex Station CIO detectives' understanding that bail reform required the SCPO to make a determination as to whether charges would be pursued by way of complaint-summons or complaint-warrant, but that the detectives retained their ability to make probable cause determinations on their own and to present applications for complaint-warrants directly to a judge. In a July 18, 2017 interview with DSFC Michael Tutko ("DSFC Tutko") of the NJSP IAIB, Lt. Widovic explained that it was his general practice at the time to forward anything he received from the SCPO directly to the CIO, the Detective Sergeants First Class, and Staff Sergeants within Sussex Station. He could not specifically recall, however, as to whether he had done so in this instance.

after they are reviewed and approved by an Assistant Prosecutor as provided herein.” (emphasis added). The SCPO Directive further mandated that all law enforcement officers complete a list of requirements prior to contacting an assistant prosecutor. Those requirements included: (1) the fingerprinting of a defendant on LiveScan and the obtaining of a Public Safety Assessment score; (2) the preparation of a list of proposed charges; (3) the determination (based upon a chart attached to the SCPO Directive) as to whether an offense was “mandatory warrant”, “presumed summons”, or a “presumed warrant”; (4) the completion of a draft Affidavit of Probable Cause and PLEIR; and (5) review of the above-listed information with a designated supervising officer. The SCPO Directive provided that “[o]nce the Assistant Prosecutor ha[d] been provided with the above information, he/she w[ould] confer with the officer and then make a decision on the final charges to be sought, determine if the complaint w[ould] go on a Warrant or Summons, review, revise and approve the proposed Affidavit of Probable Cause and PLEIR, and . . . make a determination if the Assistant Prosecutor must be a party to the application for a Warrant or if the officer can do same without the Assistant Prosecutor.” The SCPO Directive further required that all law enforcement officers within Sussex County undergo training with respect to the new guidelines and procedures.<sup>19</sup>

The changes implemented by the above-described Directives represented a major shift in long-standing police procedures and practices whereby complaint-warrant/complaint-summons determinations were often made by arresting officers without prosecutorial screening and where

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<sup>19</sup> On November 1, 2016, the SCPO sent an e-mail to the heads of all law enforcement agencies within Sussex County, including Sussex Station Commander Lt. Widovic, informing them that the SCPO had scheduled mandatory bail reform trainings at the Public Safety Training Academy in Newton, New Jersey for the week of November 28, 2016 through December 2, 2016. The SCPO requested that each department head respond with the date on which each department planned to have its members attend. Despite e-mail reminders sent on November 8, 2016, November, 10, 2016, and November 15, 2016, neither Lt. Widovic nor any other representative from Sussex Station ever responded to the SCPO’s request. As such, we were informed that none of the troopers or detectives at Sussex Station ever participated in the SCPO’s mandatory bail reform trainings.

applications for complaint-warrants were brought directly to a judge without prior prosecutorial approval. In this way, and more fundamentally, the newly-implemented reforms represented a transfer of decision-making authority from police office to prosecutor. In essence, law enforcement officers, who were intimately familiar with the facts of their cases, and who had long-enjoyed the ability to exercise their discretion in charging decisions, were no longer able to freely exercise that authority without the express approval of an assistant prosecutor. It is clear that this transfer of decision-making authority, when coupled with the lack of knowledge and confusion regarding the actual requirements imposed by bail reform, contributed to an atmosphere of tension between the NJSP and the SCPO. It was within this context that the charges against Mr. Schweizer were first presented to the SCPO for approval.

**D. Detective DeLorenzo Contacts the SCPO and Speaks with AP Nazzaro**

Upon submitting the Complaint-Warrant and other supporting documents into the eCDR system, Detective DeLorenzo placed a call to the SCPO to speak with the on-duty assistant prosecutor. Ultimately, after several attempts, he got in contact with Assistant Prosecutor Laura Nazzaro (“AP Nazzaro”)<sup>20</sup>, who at the time, was Chief of the SCPO’s Sex Crimes Unit. To her knowledge, this was the first notification that the SCPO had received regarding the investigation of Mr. Schweizer.<sup>21</sup> According to AP Nazzaro, Detective DeLorenzo described the case as a sexual

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<sup>20</sup> AP Nazzaro joined the SCPO as an assistant prosecutor in 2009. From 2010 until 2016, she was assigned primarily to the prosecution of domestic-violence related cases, including those arising under Megan’s Law. In 2016, AP Nazzaro served within the SCPO’s Sex Crimes Unit, during which time she trained under then-Chief of the Sex Crimes Unit Assistant Prosecutor Seana Pappas (“AP Pappas”). In late 2016/2017, shortly before the implementation of bail reform, AP Nazzaro assumed the role of Chief of the SCPO’s Sex Crimes Unit. She was serving in that capacity at the time of the Gallagher/Schweizer incident and remained in that role until approximately mid-2019.

<sup>21</sup> AP Nazzaro indicated that, under a 2014 SCPO Directive, Detective DeLorenzo and the NJSP were obligated to inform the SCPO of their investigation into Mr. Schweizer because it was an alleged sexual assault. She further indicated that, at the very least, a notification to the SCPO’s Detectives’ Unit would have been required. Several of the CIO detectives with whom we spoke, including DSG Lewis, DSG Krisanda, and Detective Crane, indicated that Detective Blaire Wanamaker, an investigator within the SCPO’s Detectives’ Unit, was present at Sussex Station on January 31, 2017 when Ms. Gallagher first reported the sexual assault. According to those detectives, Detective DeLorenzo discussed his nascent investigation with Detective Wanamaker at that time. In our interviews, the Sussex Station CIO detectives expressed their belief that this apparent discussion constituted a sufficient notification within

assault between two adults and stated that the suspect had “confessed.” He further indicated that he had completed his investigation of the matter and that he had arrested the suspect. From AP Nazzaro’s perspective, it was clear that Detective DeLorenzo was looking for her to rubber stamp the charges. AP Nazzaro believed, based on the “bare bones” information communicated to her by Detective DeLorenzo at that time, that there did not appear to be a domestic relationship between the victim and the suspect and, therefore, it was appropriate to “slow down and review everything.” She further believed, based on the limited information provided to her, that there was insufficient probable cause for Mr. Schweizer’s arrest. While AP Nazzaro characterized her initial conversation with Detective DeLorenzo as “normal”, she indicated that the tone of the conversation changed once she expressed her views to Detective DeLorenzo. In describing her initial thoughts on the case, AP Nazzaro stated that “something was not sitting right with me.” As such, she informed Detective DeLorenzo that she would review the submitted documents and call him back. AP Nazzaro’s review of those documents confirmed her initial thoughts on probable cause.

#### **E. The SCPO’s Initial Evaluation of the Complaint**

Following her initial discussion with Detective DeLorenzo, AP Nazzaro conferred with her supervisor, former Chief of the SCPO’s Sex Crimes Unit and then-Chief of the SCPO’s Major Crimes Unit AP Seana Pappas.<sup>22</sup> It is noteworthy that AP Pappas had prior experiences with

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the meaning of the SCPO’s 2014 Directive. The CIO detectives also explained that the SCPO notification requirement was, in their view, more of a formality and that, in practice, the SCPO detectives would frequently decline to involve themselves in sexual assault investigations involving only adults. According to Chief McCormick, Detective Wanamaker informed him that Detective DeLorenzo indicated only that he was unavailable to “go out” on another investigation on January 31, 2017 because he was “working on a sex assault case.” He stated that Detective DeLorenzo did not provide any further details of the “sex assault case” upon which he was working.

<sup>22</sup> AP Pappas joined the SCPO as an assistant prosecutor in February 2010. From 1990 until 1992, she served as an assistant prosecutor with the Burlington County Prosecutor’s Office. From 1992 until 2007, she served as an assistant prosecutor with the Middlesex County Prosecutor’s Office (“MCPO”). During that time, AP Pappas held several titles including Chief of the MCPO’s Domestic Violence Unit from 1998 to 2000. In November 2007, AP Pappas was hired as Supervisor of the Major Crimes Unit and Narcotics Task Force for the Hunterdon County Prosecutor’s Office.

Detective DeLorenzo, including cases in which she stated that Detective DeLorenzo “did the bare minimum” and that she was not pleased with his performance. AP Pappas confirmed that AP Nazzaro had approached her regarding an issue with a complaint-warrant being sought by Detective DeLorenzo and that they discussed the case together. According to AP Pappas, AP Nazzaro was experiencing “pushback” from Detective DeLorenzo. She and AP Nazzaro discussed their shared belief that Detective DeLorenzo was not being forthcoming with additional information and the fact that Detective DeLorenzo had repeatedly described Mr. Schweizer’s statement as a “confession.” AP Pappas indicated that, based upon the information available to her at that time, she agreed with AP Nazzaro’s assessment that the charges contained in the Complaint-Warrant were lacking in probable cause. AP Nazzaro and AP Pappas discussed the situation with SCPO Chief of Detectives Thomas McCormick<sup>23</sup> (“Chief McCormick”) who recommended that they bring the Complaint to the attention of Prosecutor Francis Koch<sup>24</sup> (“Prosecutor Koch”) and First Assistant Prosecutor (“FAP”) Gregory Mueller<sup>25</sup> (“FAP Mueller”). Pursuant to the

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Upon her arrival at the SCPO in 2010, she served within the SCPO’s Major Crimes Unit. She was subsequently promoted to Chief of the SCPO’s combined Major Crimes and Sex Crimes Units. At the time of Gallagher/Schweizer incident, AP Pappas was Chief of that combined Unit. She retired from the SCPO on October 31, 2017.

<sup>23</sup>Chief McCormick graduated from the New Jersey State Police Academy in February 1979. From June 1979 until May 1985, he served as a Road Trooper at various stations, including Hainesville, Somerville, and Netcong. From May 1985 until his retirement from the NJSP in August 2004, Chief McCormick served as a Detective (and later as a Lieutenant) at the headquarters of the NJSP’s Crime Scene Unit. In 2005, he was hired by the SCPO. On June 30, 2014, following the retirement of his predecessor, Chief McCormick was sworn in to his current position as Chief of Detectives. In that role, he is responsible for supervising all detectives/investigators within the SCPO’s Detectives’ Unit.

<sup>24</sup> Prosecutor Koch has served as Sussex County Prosecutor since his confirmation by the New Jersey Senate on June 23, 2014. He was first hired as an assistant prosecutor with the SCPO in January 1998. In April 2001, Prosecutor Koch was promoted to Chief of the SCPO’s Sex Crimes Unit where he worked primarily on sex-based crimes, including child abuse, child pornography, and sexual assaults/date rape cases. He served as Chief of the SCPO’s Sex Crimes Unit from 2001 through 2012. In 2012, he became Chief of the Grand Jury Unit where he was responsible for the investigation and prosecution of crimes involving aggravated assaults, burglary, theft, car theft, identity theft, forgery and fraudulent practices. In November 2013, he was assigned to the Sussex County Gangs, Guns & Narcotics Task Force where he was responsible for investigating and prosecuting crimes involving controlled dangerous substances and abused drugs.

<sup>25</sup> FAP Mueller was hired as an assistant prosecutor with the SCPO in October 2005. From 1996 until 1999, FAP Mueller served as an assistant prosecutor with the Morris County Prosecutor’s Office, where he worked in the Trial, Appellate and Major Crime Units. Between 1999 and 2005, he was a partner in the Morristown-based law firm of

recommendation, Chief McCormick, AP Pappas and AP Nazzaro walked over to the Prosecutor's office.<sup>26</sup>

Prosecutor Koch, FAP Mueller, Chief McCormick, AP Pappas and AP Nazzaro then met together to discuss the circumstances surrounding the case. After reviewing the documents Detective DeLorenzo had submitted, they were all in agreement that sufficient probable cause did not exist at that time and that additional investigation needed to be conducted. During our interview, Prosecutor Koch noted that, in his eleven years as Chief of the SCPO's Sex Crimes Unit, he had never seen a case in which an alleged perpetrator of a sexual assault had "contemporaneously asked his alleged victim for another date," as he interpreted the text messages from Mr. Schweizer as suggesting. He further stated that Mr. Schweizer's description of the events, as contained in the Affidavit of Probable Cause, described more of a "consensual encounter" and that "it didn't seem like there was enough" to charge Mr. Schweizer at that time. According to AP Pappas, Prosecutor Koch's and FAP Mueller's assessment "was that there needs to be further investigation" conducted. According to FAP Mueller, they did not consider Mr. Schweizer's described statement as a "confession", but rather, "almost a denial." As such, the decision was made to deny approval of the Complaint-Warrant. Prosecutor Koch instructed AP Pappas and AP Nazzaro to contact Detective DeLorenzo and inform him that the SCPO would not be approving the charges against Mr. Schweizer at that time.

Each of the parties to this conversation credibly informed us that there was no discussion regarding Mr. Schweizer's father at this or *any* subsequent meeting relating to the

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Mueller, Russo & Warmington, P.C., a firm specializing in criminal defense and civil rights representation. He has served as FAP of the SCPO since September 1, 2012.

<sup>26</sup> According to AP Pappas, Detective DeLorenzo's submission of the Complaint was the first time since the implementation of bail reform that an officer/detective had arrested a suspect and registered a complaint in the eCDR system without having first received authorization from an SCPO assistant prosecutor. AP Pappas stated that, given the "uniqueness" of the situation, she and AP Nazzaro felt that it was appropriate to bring the situation to the attention of Prosecutor Koch and FAP Mueller to receive their guidance on how best to proceed with the Complaint.

Gallagher/Schweizer incident. Each of the parties similarly maintain that they had no prior knowledge of and no relationship to Ms. Gallagher, Mr. Schweizer, or Glenn Schweizer at the time the charges were initially presented to the SCPO.<sup>27</sup>

**F. AP Pappas and AP Nazzaro Inform Detective DeLorenzo of the SCPO's Decision**

AP Pappas and AP Nazzaro then called Detective DeLorenzo to inform him of the SCPO's decision. Chief McCormick was present at the time. While there is no recording of the call, and both sides have different recollections as to what exactly was said, the participants' descriptions of what occurred, in their interviews, prior statements and reports, are informative.

In a NJSP Supplemental Investigation Report authored by Detective DeLorenzo dated March 8, 2017, Detective DeLorenzo indicated that AP Pappas advised him that she had reviewed the submitted Complaint and Affidavit of Probable Cause and was "refusing" to approve the charges. According to Detective DeLorenzo's report, AP Pappas offered no further investigative guidance. When he expressed his belief that probable cause existed for Mr. Schweizer's arrest, AP Pappas allegedly threatened to "start a war". In a November 1, 2017 interview with DSFC Tutko of the NJSP IAIB, which was conducted pursuant to the subsequent OPS internal affairs investigation involving this matter, Detective DeLorenzo repeated that the SCPO did not advise him that it wanted additional investigation, and that he would have conducted such an investigation

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<sup>27</sup> It is important to note that, in our interview with Ms. Gallagher, she informed us that she had, at some point, been previously engaged to the "best friend" of Sergeant Nicholas Elmo of the SCPO's Detectives' Unit, and that she had subsequently called off that engagement. She further indicated that, at the time of the incident, both she and Detective Wanamaker shared a mutual acquaintance with a woman whom Ms. Gallagher described as Detective Wanamaker's former "friend." Ms. Gallagher and several of the Sussex CIO detectives with whom we spoke seemed to suggest that these apparent relationships may have improperly influenced the SCPO's decision-making with respect to the case. While our investigation indicated that Sergeant Elmo fielded the initial call from Detective DeLorenzo on February 7, 2017 and sat in on that call with AP Nazzaro, it appears that Sergeant Elmo's subsequent participation in the investigation, if any, was minimal. Based upon our interviews with the SCPO, it does not appear that Sergeant Elmo's or Detective Wanamaker's apparent connection to or knowledge of Ms. Gallagher had any impact on the manner in which the SCPO handled the case. In fact, FAP Mueller indicated to us that he and the other members of the SCPO were not even aware of these apparent relationships until well after the decision to dismiss the Complaint without prejudice had been reached.

if the request was reasonable. He further stated that he informed the SCPO that he was going to present the charges to a judge regardless of the SCPO's decision.

In her interview, AP Pappas presented a much different version of events. AP Pappas stated she informed Detective DeLorenzo that "you don't have enough" for probable cause and that the SCPO would be dismissing the Complaint. She further indicated that she instructed Detective DeLorenzo to conduct a further investigation of the case, including getting surveillance video from Boomer's, identifying and interviewing additional potential witnesses, and obtaining Ms. Gallagher's and Mr. Schweizer's cellphone records. According to AP Pappas, Detective DeLorenzo responded that additional investigation was not required, that Mr. Schweizer had "confessed" to the alleged sexual assault, and that Detective DeLorenzo had "judged the credibility" of both Ms. Gallagher and Mr. Schweizer and "believed her over him." AP Pappas described Detective DeLorenzo's demeanor on the call as "professionally rude" and acknowledged that she was "probably professionally rude to him" as well. She further described Detective DeLorenzo's response as follows: "I'm doing it anyway and I don't need you." AP Pappas stated that after Detective DeLorenzo indicated that he would present the charges directly to a judge, she instructed Detective DeLorenzo to include a notation in the supporting Affidavit of Probable Cause that the SCPO had reviewed the Complaint-Warrant and found it lacking in probable cause. She further stated that she advised Detective DeLorenzo as follows: "Justin. I know what you're doing. This is not the case. Trust me. I've been doing this a lot longer than you." AP Pappas vehemently denied ever having described Detective DeLorenzo's proposed course of action as a "declaration of war." She further stated that she explained to Detective DeLorenzo that the SCPO was not approving charges "at that time" and that the SCPO's instant decision did not foreclose the



possibility of bringing charges in the future if they were determined to be warranted after further investigation was conducted.

Chief McCormick professed a similar recollection of the call. He stated that AP Pappas informed Detective DeLorenzo that the SCPO found the Complaint-Warrant lacking in probable cause and that additional investigation would be required. He described AP Pappas' statement to Detective DeLorenzo as follows: "We're not saying that we're never going to agree with you. There just needs to be more that's done on this case." According to Chief McCormick, AP Pappas further stated, in sum and substance: "This case is old. There is more to the story. We need to get their phones. We are declining probable cause at this time." Chief McCormick stated that Detective DeLorenzo disagreed with AP Pappas' assessment of the case. According to Chief McCormick, Detective DeLorenzo stated that he had assessed the credibility of Ms. Gallagher, that Mr. Schweizer had "confessed", and that further investigation was not required. As such, Detective DeLorenzo stated that he would present the Complaint and Affidavit of Probable Cause directly to a judge. Chief McCormick specifically recalled that AP Pappas instructed Detective DeLorenzo to include the requested notation in the Affidavit of Probable Cause. He further recalled that AP Pappas suggested to Detective DeLorenzo that he explore additional investigative avenues, including the search of Ms. Gallagher's and Mr. Schweizer's cellphones. Chief McCormick stated that he came away from the call with the impression that Detective DeLorenzo was "very unhappy" with the decision and that he would not be able to move forward with the Complaint at that time.

AP Nazzaro described the telephone conversation between AP Pappas, Detective DeLorenzo and herself as "more hostile" than her initial telephone call with Detective DeLorenzo. She indicated that both she and AP Pappas recommended to Detective DeLorenzo that he conduct a further investigation of Ms. Gallagher's cellphone records. She described the recommendation

as follows: “Let’s get the phones and see what’s on the phones.” AP Nazzaro further indicated that AP Pappas demanded that Detective DeLorenzo, if he was to go directly to a judge as suggested, include a notation in the Affidavit of Probable Cause that the SCPO had reviewed the charges and found them unsupported by probable cause.

While the accounts of the call may differ, and the parties disagree as to whether additional avenues of investigation were recommended, all parties agree that they understood from the call that Detective DeLorenzo was going to disregard the explicit instructions of the SCPO by presenting the charges directly to a judge.

**G. Detective DeLorenzo Presents the Charges to Judge Glenn Gavan Who Issues the Complaint-Warrant**

Following the phone call with AP Pappas and AP Nazzaro, Detective DeLorenzo conferred with other members of the Sussex Station CIO, including DSFC McCurry, DSG Krisanda,<sup>28</sup> and DSG Lewis, to discuss what to do next. It is clear from our interviews with DSG Lewis, DSG Krisanda, and Detective Crane that the Sussex Station CIO was collectively upset that the SCPO would disregard a detective’s decision on probable cause when that detective believed he had obtained a confession. Ultimately, DSG Lewis advised Detective DeLorenzo to present the charges directly to Judge Glenn T. Gavan of the Wantage/Sussex/Stillwater/Branchville Municipal Court. Pursuant to this direction, Detective DeLorenzo left a message for Judge Gavan who called back a short time later.

In a March 8, 2017 interview with DSFC Tutko, Judge Gavan described his discussion with Detective DeLorenzo and his decision to grant Detective DeLorenzo’s application for a

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<sup>28</sup> DSG Krisanda has served with the NJSP since his graduation from the NJSP Academy in 2003. Upon his enlistment, he served as a Road Trooper at various stations, including Perryville, Totowa, and Sussex, for eight years. At the time of the Gallagher/Schweizer incident, he held the rank of DSG and had been back working at Sussex Station for one to two months.

complaint-warrant. According to Judge Gavan, Detective DeLorenzo advised him that he had interviewed both the victim and the suspect and that he had obtained inculpatory text messages sent by the suspect. Judge Gavan indicated that Detective DeLorenzo expressed his belief that Mr. Schweizer had admitted to everything in the Affidavit of Probable Cause. While Judge Gavan stated that Detective DeLorenzo had advised him that the SCPO had denied approval of the charges, he clarified that he was never informed that the SCPO did so based upon a determination that the charges lacked probable cause. Rather, according to Judge Gavan, Detective DeLorenzo represented that the SCPO did not want to proceed with the case because it was not “strong enough.” Based on these initial representations, Judge Gavan told Detective DeLorenzo that he would review the application.

Due to the fact that the initial Complaint submitted by Detective DeLorenzo had since been deleted,<sup>29</sup> Detective DeLorenzo submitted a second identical Complaint (2017 000030 1924) with supporting documentation into the eCDR system. Judge Gavan noted that, while Detective DeLorenzo had orally advised him of the SCPO’s decision, the accompanying Affidavit of Probable Cause did not contain a notation indicating that the SCPO had found the Complaint to be lacking in probable cause. Based upon his review of the application materials and the representations made by Detective DeLorenzo, Judge Gavan determined there was probable cause and electronically signed the Complaint-Warrant within the eCDR system. In his interview with DSFC Tutko, Judge Gavan stated that it was his impression and understanding, based on his review of the Affidavit and Detective DeLorenzo’s statements, that Mr. Schweizer had made a full

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<sup>29</sup> At the direction of Prosecutor Koch, AP Nazzaro contacted the Municipal Court Administrator via e-mail and requested that Complaint 2017 000029 1924 (i.e., the initial Complaint submitted by Detective DeLorenzo) be deleted from the eCDR system.

confession to the crime. He could not say, however, whether Detective DeLorenzo definitively told him that the suspect had admitted or confessed to the alleged sexual assault.

After receiving the signed Complaint-Warrant and attached jail commitment card, Detective DeLorenzo began the procedures to lodge Mr. Schweizer in the Sussex County Jail.

#### **H. The SCPO's Response to the Issuance of the Complaint-Warrant**

The SCPO subsequently received an e-mail notification indicating that Detective DeLorenzo had submitted a separate Complaint/Affidavit of Probable Cause into the eCDR system and that the Complaint/Affidavit of Probable Cause had been approved by Judge Gavan. After receiving this notification, Prosecutor Koch, FAP Mueller, AP Pappas and Chief McCormick immediately convened in the Prosecutor's office to discuss how best to handle the situation. According to FAP Mueller, this was the first instance, post-bail reform, in which the SCPO had to deal with the situation in which a Complaint had been submitted to and approved within the eCDR system without prior prosecutorial approval. He stated that there was a "genuine concern" on the part of the SCPO which was "borne out of the fact that this was all new." According to FAP Mueller, Detective DeLorenzo's submission of the Complaint posed a "bit of an ethical predicament." Both he and Prosecutor Koch felt that they should not proceed with the prosecution unless they would be able to prove the case beyond a reasonable doubt. They also viewed Mr. Schweizer's arrest as "improper" because it had not been approved by the SCPO and because it violated the AG Directive. FAP Mueller explained that, at the time, the SCPO considered the Complaint-Warrant with a "heightened standard of review" due to the fact that, post bail reform, Mr. Schweizer could potentially have been detained without any possibility of making bail. As such, the SCPO was "thinking beyond probable cause" to whether they "might ultimately be able to prove the case beyond a reasonable doubt."

## **1. The SCPO Contemplates Immediate Dismissal of the Complaint**

Initially, the SCPO reached, what FAP Mueller later called, an “impulsive decision” to dismiss the Complaint immediately. Prosecutor Koch and FAP Mueller described that, under the New Jersey Constitution, a victim has a right to be informed with respect to any material event occurring in their case. As such, it was the SCPO’s opinion that it had a legal obligation to advise Ms. Gallagher regarding the contemplated dismissal. To that end, Prosecutor Koch called Sussex Station and spoke with DSG Lewis. Prosecutor Koch advised DSG Lewis that the SCPO would be dismissing the Complaint without prejudice and requested that DSG Lewis provide him with Ms. Gallagher’s contact information.<sup>30</sup> Fifteen to twenty minutes elapsed and DSG Lewis had still not provided the requested information.<sup>31</sup> FAP Mueller then called Sussex Station and spoke to DSG Lewis. FAP Mueller asked him to immediately provide the requested information. FAP Mueller indicated that DSG Lewis said he was in the “middle of doing paperwork” and would provide the contact information shortly. At that point, according to FAP Mueller, he got more aggressive with his tone as he felt DSG Lewis’ lack of response was further evidence of disrespect to Prosecutor Koch. FAP Mueller stated that he told DSG Lewis that Prosecutor Koch is the top law enforcement authority in the County and that DSG Lewis should have responded immediately with the requested information. FAP Mueller acknowledged that his use of an aggressive tone was “not [his] finest hour.” He further indicated that he determined at the end of the call to record the conversation, which the SCPO’s digital phone system permitted, “just to document it” in case

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<sup>30</sup>After speaking with Prosecutor Koch, DSG Lewis updated DSFC McCurry and DSG Krisanda regarding the situation. He further advised Detective DeLorenzo to contact Ms. Gallagher to inform her of the SCPO’s intention to dismiss the Complaint. It is unclear as to whether Detective DeLorenzo actually contacted Ms. Gallagher on February 7, 2017 to advise her regarding the dismissal.

<sup>31</sup> In his interview, Chief McCormick speculated that the Sussex Station CIO detectives intentionally “slow-played” their response to Prosecutor Koch’s request due to their disagreement with the SCPO’s decision to dismiss the charges. DSG Lewis explained, in contrast, that the delay was occasioned by the fact that he did not have the case folder containing the Victim Notification Form listing Ms. Gallagher’s telephone number.

questions were ever raised about his conduct. Eventually, after a second telephone call from Prosecutor Koch, DSG Lewis e-mailed Ms. Gallagher's contact information to Prosecutor Koch.

The SCPO then made efforts to contact Ms. Gallagher. In her interview, AP Pappas stated that Prosecutor Koch instructed her to contact Ms. Gallagher to request that she appear at the SCPO so that they could explain to her what was happening with the case. Pursuant to Prosecutor Koch's instruction, AP Pappas attempted to call Ms. Gallagher, however, she was unable to reach her that night. AP Pappas then contacted Lieutenant Jennifer Williams ("Lt. Williams"),<sup>32</sup> of the SCPO's Detectives' Unit, to inform her of the situation and request that she reach out to Ms. Gallagher the next day.

## **2. Prosecutor Koch and FAP Mueller Contact Judge Gavan**

Around that time, Prosecutor Koch and FAP Mueller contacted Judge Gavan. In our interview, Prosecutor Koch stated that Judge Gavan informed him that he had approved the charges against Mr. Schweizer based on Detective DeLorenzo's representation that Mr. Schweizer had "confessed" to the alleged sexual assault. According to Prosecutor Koch, Judge Gavan indicated that he believed that sufficient probable cause existed for the arrest and that, in his role as Judge, he was legally obligated to approve the Complaint-Warrant upon such a finding. Prosecutor Koch indicated that Judge Gavan appeared to not fully understand the new requirements imposed by bail

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<sup>32</sup> Williams was initially hired by the SCPO as a detective in February 2000. From 2000 until 2005, then-Detective Williams worked predominantly in the investigation of white-collar crimes and narcotics-related offenses. From 2005 until 2009, she served as the lead sex crimes detective for the SCPO's Detectives' Unit. In 2009, she was promoted to Sergeant, where she was responsible for the supervisions of all sex crimes investigations conducted by the Detectives' Unit. She was subsequently promoted to Lieutenant, where she oversaw all criminal investigations handled by the SCPO. She explained that she has worked a majority of her career in the investigation of sex crimes and that, at the time of the incident, she was the most experienced sex crimes investigator within the Detectives' Unit. She had since been promoted to Captain of that Unit. In her interview, Lt. Williams explained that she was off-duty on February 7, 2017 and, as such, was not familiar with the investigation or the circumstances that had unfolded earlier that day.

reform. Prosecutor Koch further stated that he informed Judge Gavan that, in light of bail reform, Judge Gavan was not legally permitted to authorize a complaint-warrant if it had not been previously approved by an SCPO assistant prosecutor.

FAP Mueller also described the call with Judge Gavan. He stated that he and Prosecutor Koch placed the call to “try to figure out what happened.” According to FAP Mueller, he and Prosecutor Koch wanted to determine whether Detective DeLorenzo had informed Judge Gavan (as AP Pappas had instructed him to do) that the SCPO had reviewed the Complaint-Warrant and found it lacking in probable cause. FAP Mueller indicated that Judge Gavan stated that the information was not included within the supporting Affidavit of Probable Cause, but that Detective DeLorenzo did in fact inform him of the SCPO’s position.

### **3. The SCPO Reconsiders the Immediate Dismissal of the Complaint and Contacts the Attorney General’s Office**

Numerous SCPO witnesses made clear that the SCPO was “angry and frustrated” by the situation. According to FAP Mueller, Prosecutor Koch was frustrated and “felt disrespected.” FAP Mueller stated that there was a “certain degree of anger” and that the “hottest heads” were those belonging to him and Chief McCormick. According to Prosecutor Koch, after receiving Ms. Gallagher’s contact information, he, FAP Mueller and Chief McCormick reconsidered the initial decision to dismiss the Complaint against Mr. Schweizer that night. According to Prosecutor Koch, the group decided that they should watch the recorded statements and speak with Ms. Gallagher before taking any immediate action with respect to the Complaint.

At that point, Prosecutor Koch and FAP Mueller made the decision to call Assistant Attorney General Philip Aronow (“AAG Aronow”), who, at the time, was serving as Bureau Chief

of the Prosecutors Supervision and Training Bureau<sup>33</sup> within the New Jersey Division of Criminal Justice (“DCJ”).<sup>34</sup> Prosecutor Koch explained to AAG Aronow the situation regarding Detective DeLorenzo. According to Prosecutor Koch, AAG Aronow asked whether he wanted him to contact Director Elie Honig to bring the situation to his attention. At that time, Chief McCormick recommended to Prosecutor Koch and FAP Mueller that he be permitted to attempt to resolve the situation “in-house” via his contacts within the NJSP instead of elevating the situation to the highest levels of the DCJ.<sup>35</sup> Prosecutor Koch agreed with Chief McCormick’s recommended course of action because he viewed the situation as “a problem with the State Police.” He, therefore, responded to AAG Aronow that the situation “did not need to be raised to the level of the Director” at that time and informed AAG Aronow that he would attempt to “rectify” the situation through direct contact with the NJSP. Prosecutor Koch stated that AAG Aronow responded, in sum and substance: “I’ll completely leave it to your discretion. Let me know if you need anything. I’m available any time.”

AAG Aronow recalls discussing the matter with Prosecutor Koch and FAP Mueller. According to AAG Aronow, Prosecutor Koch and FAP Mueller “were expressing their frustration with the trooper” and were “asking for options” on how best to proceed. He believed their goal was “not to create a major issue at the time, but to assess the situation and weigh their options.”

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<sup>33</sup> In his role as Chief of the Prosecutors Supervision and Training Bureau at the DCJ, AAG Aronow had primary responsibility for the supervision, coordination, and training of the twenty-one County Prosecutor’s Offices and law enforcement agencies throughout the State. In May 2017, he was sworn in as First Assistant Prosecutor for the Burlington County Prosecutor’s Office. He currently holds that position.

<sup>34</sup> In his interview, FAP Mueller stated that he had attended a conference/meeting for FAPs around the time that bail reform was being implemented. According to FAP Mueller, at that conference/meeting, Elie Honig, then-Director of the DCJ, advised the FAPs to contact the DCJ in the event of any issues arising as a result of bail reform. The decision to contact AAG Aronow was based, in part, on this recommendation.

<sup>35</sup> Chief McCormick recalled having previously heard from FAP Mueller that “anyone who disregards bail reform is going to get fired.” Chief McCormick stated that “the last thing I would want would be for a trooper to get in trouble.” That being so, Chief McCormick recommended (via a hand gesture) that Prosecutor Koch terminate the telephone call with AAG Aronow before the situation was raised up the DCJ’s chain of command to Director Honig.



He stated that Prosecutor Koch expressed his intention to address the situation directly with the NJSP. AAG Aronow indicated that such a course of action would have been appropriate because the situation “involved a trooper and [the NJSP] needed to be aware of it.” In our interview, AAG Aronow expressed his belief that this “wasn’t an issue over bail reform.” Rather, in his view, it was a situation involving a trooper who had directly disregarded the express instructions of a Prosecutor’s Office.

#### **4. Chief McCormick Contacts LTC Callahan**

The decision to attempt to handle the situation “in-house” having been made, Chief McCormick contacted LTC Callahan,<sup>36</sup> who was then serving as Deputy Superintendent of Operations for the NJSP.<sup>37</sup> Chief McCormick texted LTC Callahan who called him shortly thereafter.<sup>38</sup> Chief McCormick described the incident with Detective DeLorenzo to LTC Callahan who, in turn, indicated that he “would look into it.” Chief McCormick further requested assistance in obtaining the NJSP’s investigative file for the matter. According to Prosecutor Koch, Chief McCormick “reached out in regard to what had occurred with Detective DeLorenzo and the fact that they went over our head.” Prosecutor Koch explained that Chief McCormick informed LTC

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<sup>36</sup> Callahan is currently the Colonel and Acting Superintendent of the NJSP. He has served as Colonel since October 31, 2017 and first enlisted in the NJSP in April 1995. Prior to his current position, Callahan served as the NJSP’s Deputy Superintendent of Operations. In that role, he was responsible for supervising and directing the operational activities of the 1,800 enlisted troopers assigned to the Field Operations Section as well as the operational duties and responsibilities of the Traffic and Public Safety Office, Victims Services Unit, Fatal Accident Investigation Unit, Highway Traffic Safety Unit, and the CIOs within the Field Operations Section.

<sup>37</sup> According to Prosecutor Koch, Chief McCormick contacted LTC Callahan because “this was an operations issue.” Prosecutor Koch further explained that Chief McCormick’s purpose was to attempt to “resolve the issue within the local Station.”

<sup>38</sup> In our interview, and in prior testimony related to this matter, LTC Callahan stated his belief that Chief McCormick had initially called Troop “B” Commander Major Michael Devlin (“Major Devlin”) prior to contacting him on the evening of February 7, 2017. Based upon our investigation, it appears that Chief McCormick’s initial contact was to LTC Callahan. It was only after that call that Chief McCormick, at the recommendation of LTC Callahan, reached out to Major Devlin regarding the matter. Major Devlin similarly recalled, in his arbitration testimony, that he first heard of the disagreement between the SCPO and Detective DeLorenzo from LTC Callahan, not Chief McCormick. Regardless of the sequence in which these conversations occurred, what is relevant is that all parties were aware of the situation between the SCPO and Detective DeLorenzo as of the evening of February 7, 2017.

Callahan that the SCPO needed copies of the Sussex Station CIO's investigative file, including the recorded statements, because "[the SCPO was] going to supersede the investigation."

LTC Callahan recalls discussing the matter with Chief McCormick. While he does not have a distinct recollection of the specific details of this call, he recalls that he first heard of the situation from Chief McCormick; that Chief McCormick informed him that the Sussex Station CIO detectives believed they had obtained a confession from a sexual assault suspect; that the SCPO had denied its approval of a complaint-warrant for that suspect based on a lack of probable cause; and that a Sussex Station CIO detective had disregarded the direction of the SCPO by presenting that Complaint-Warrant directly to a judge who approved it. According to LTC Callahan, Chief McCormick "laid out the groundwork" of what had occurred between the SCPO and Detective DeLorenzo.

Additional details of the call can be gleaned from LTC Callahan's testimony in a subsequent arbitration proceeding involving this matter. There, LTC Callahan described the February 7, 2017 telephone call he received from Chief McCormick as follows: "[Chief McCormick] said he was concerned that a Detective at Sussex station called his office, spoke to an [a]ssistant [p]rosecutor requesting sexual assault charges. They were denied at the time under the belief that an [a]ssistant [p]rosecutor did not think there was enough probable cause, and that the [t]rooper subsequently called the municipal judge and had the charges approved." According to LTC Callahan, Chief McCormick's "primary concern was that a [d]etective got a denial of a charge and then went to a municipal court judge to get it approved[.]" He further stated: "I think the [d]etective was frustrated and bothered that he did not get approval on the charge, and, subsequently, went to a municipal court judge . . . . All I know is that Chief McCormick had called me over the concerns over that protocol being disregarded." In his testimony, LTC Callahan

indicated that Chief McCormick did not request that he take any particular action with respect to Detective DeLorenzo or the Sussex CIO detectives. Rather, according to LTC Callahan, Chief McCormick “just wanted me to be aware of it.” LTC Callahan indicated that “we’d look into it.” He further requested that Chief McCormick reach out to Major Devlin to discuss the matter.<sup>39</sup>

#### **5. LTC Callahan Speaks with Troop “B” Command**

Shortly after his call with Chief McCormick, LTC Callahan called Major Devlin to inquire as to whether Troop “B” Command was “aware [of] what was going on with the [SCPO].” According to LTC Callahan, CIO Supervisor DSFC Eric Muller was also on the call. As LTC Callahan described in his arbitration testimony, the purpose of the call was to ascertain Major Devlin’s “level of awareness of the fact that a [t]rooper . . . having not been approved charges then went a different route in order to get them.” Major Devlin, in his arbitration testimony, recalled having received a call from LTC Callahan on the evening of February 7, 2017. According to Major Devlin, LTC Callahan informed him “that Detective DeLorenzo, after being told he didn’t have enough probable cause to make an arrest from the [SCPO], basically disregarded what they said and he called a judge himself for that probable cause.” Major Devlin stated that LTC Callahan called “just to advise [him] of . . . what information [] he had gotten on it.” He further described the call as follows: “[I]t was an advisement of what transpired, and really in my conversation with him, I believe we had spoken that I would ensure that our [t]roopers and our [d]etectives would be professional moving forward with the [SCPO] and that they would give them what they asked for as far as any future documents or anything of that nature. But again, just to really ensure that there’s professionalism, that we had to be able to work together.” Major Devlin made clear that LTC Callahan did not order him to take any particular action with respect to the Sussex Station

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<sup>39</sup> Chief McCormick subsequently contacted Major Devlin and they arranged to meet at Troop “B” Headquarters in Totowa on February 16, 2017.

CIO detectives, but rather, “just to be cooperative with the Prosecutor’s Office” and make sure to provide it with any reports or documents it needed.

Following his call with LTC Callahan, Major Devlin spoke with Troop “B” CIO Officer Lieutenant Christopher Ghilon (“Lt. Ghilon”). According to Major Devlin, he provided Lt. Ghilon with a “summary” of his conversation with LTC Callahan and ordered him to make sure that the CIO detectives were cooperative and responsive to any requests for documents that the SCPO may have. According to Major Devlin, “[m]y direction to [Lt. Ghilon] was to ensure that his [d]etectives were acting appropriately with the Prosecutor’s Office . . . [and] acting professional and cooperative with them.”

In a July 12, 2017 interview with DSFC Tutko, Lt. Ghilon acknowledged having received a phone call from Major Devlin at approximately 6:30 p.m. on February 7, 2017. Lt. Ghilon subsequently contacted DSG Lewis to advise him that an SCPO detective would be coming to Sussex Station the next morning to pick up materials from the Schweizer investigation. In a NJSP Supplemental Investigation Report authored by DSG Lewis dated March 8, 2017, DSG Lewis noted that he was instructed by Lt. Ghilon to “‘treat them with open arms’ and to provide them with any information that they request.” According to DSG Lewis’ report, Lt. Ghilon further advised that “there were possible repercussions being mentioned for [Detective] DeLorenzo’s actions, but . . . that he wanted to hear the version of events from [him].”<sup>40</sup> DSG Lewis briefed Lt. Ghilon on the entirety of the investigation and updated DSFC McCurry, DSFC Muller, Lt. Widovic, and Detective DeLorenzo throughout the course of the next several hours. Meanwhile, Mr. Schweizer was lodged in Sussex County Jail where he would spend the night.

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<sup>40</sup> In our interview, DSG Lewis summarized his discussion with Lt. Ghilon as follows: “This is really bad. DeLorenzo could be looking at suspensions or possibly be fired over this. They’re coming for a meeting tomorrow. You treat them with carte blanche.”

**I. The SCPO Reviews Mr. Schweizer's Recorded Statement and Decides to Dismiss the Complaint Without Prejudice**

On the morning of February 8, 2017, a detective from the SCPO's Detective's Unit traveled to Sussex Station and retrieved a copy of the Schweizer investigative file, including the video recorded statements. Prosecutor Koch, FAP Mueller, Chief McCormick, Lt. Williams, and AP Pappas then reviewed the statements together in the conference room of the SCPO's Major Crimes Unit. Prosecutor Koch described the purpose of reviewing the recorded statements as follows: "If I'm going to take this step of dismissing the Complaint, I'm not doing it without reviewing everything."

According to FAP Mueller, the group watched Mr. Schweizer's recorded interview "several times", although not everyone was in the room the entire time. In describing the group's reaction to Mr. Schweizer's recorded statement, FAP Mueller stated: "We felt it was a denial in essence" and that the situation as described by Mr. Schweizer sounded like a "mutual hookup." FAP Mueller stated that he had questions regarding the way in which Ms. Gallagher described the encounter. He further stated that, in visualizing the event, there were "certain aspects that didn't make complete sense." FAP Mueller stated: "I do think that Laura Gallagher thought that Ian Schweizer had overstepped to a degree and that she was creeped out by the guy." He explained, however, that he was unsure as to whether the incident, as described by Ms. Gallagher, rose to the level of a sexual assault. Notably, FAP Mueller stated "everyone was aligned" with the belief that Mr. Schweizer's statement to Detective DeLorenzo did not constitute a "confession."

Prosecutor Koch stated that Detective DeLorenzo could have had a "good faith disagreement" over the issue of whether there was sufficient probable cause for Mr. Schweizer's arrest and whether Mr. Schweizer's statement constituted a "confession." In his personal opinion, however, Prosecutor Koch did not think that Mr. Schweizer's statement constituted a "confession."

He stated that certain “red flags” were raised by Ms. Gallagher’s statement. According to Prosecutor Koch, Ms. Gallagher’s description of “what she did to get away from” Mr. Schweizer (i.e., kneeling him in the groin) “just didn’t make sense” due to Mr. Schweizer’s size and the position in which Ms. Gallagher claimed he had her. While he clarified this statement by saying “I’m not saying it didn’t happen,” he further stated that her description of the alleged assault “gave me things to think about.” In addition, Prosecutor Koch stated that Detective DeLorenzo’s interviews lacked “follow-up on a certain number of questions” (particularly with respect to whether actual digital penetration had occurred) and that “a lot more was needed.” Prosecutor Koch pointed out that it appeared that Mr. Schweizer “had no idea as to why he was there” and that *Miranda* warnings were not issued until thirty to forty minutes into the interview.<sup>41</sup> Prosecutor Koch stated that Mr. Schweizer’s statement demonstrated “spontaneity” and that his statement of the events “came out as a credible declaration” of what had occurred. He further stated that Detective DeLorenzo’s interview technique “could have been better” and that the “*Miranda* part was very bad.”

Chief McCormick similarly indicated that there was “no debate” amongst the group as to whether Mr. Schweizer’s statement constituted a “confession.” To the contrary, Chief McCormick described Mr. Schweizer’s statement as a “flat out denial” and pointed out that the “*Miranda* was terrible.” Chief McCormick stated that “nobody disagreed” with this assessment.

After further discussing the strengths and weaknesses of the case, Prosecutor Koch, in consultation with the group, made the decision to dismiss the charges against Mr. Schweizer. FAP Mueller stated that he and Prosecutor Koch made the decision that the dismissal should be without

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<sup>41</sup> With respect to the issue of whether Mr. Schweizer was properly advised of his *Miranda* rights, Prosecutor Koch stated his opinion that, at the time of the interview, Mr. Schweizer was a “suspect in police custody” and, therefore, needed to be Mirandized before being questioned.

prejudice because “they had not made a final decision with respect to the case and wanted to reserve that determination for a later date” pending further investigation. Prosecutor Koch directed Lt. Williams to reach out to Ms. Gallagher to have her come to the office so that the SCPO’s decision could be explained to her in person.

At approximately 12:00 p.m., Lt. Williams placed a telephone call to Ms. Gallagher and left her a voicemail asking her to contact the SCPO. Shortly thereafter, Lt. Williams drove to Ms. Gallagher’s residence in an unsuccessful attempt to locate her. At about 1:30 p.m., Lt. Williams sent a text message to Ms. Gallagher explaining that the SCPO needed to speak with her in reference to her case. Ms. Gallagher immediately replied to Lt. Williams’ text message indicating that she was currently at work and would call back within the hour. Lt. Williams then asked Ms. Gallagher whether she would be able to come to the SCPO for a meeting regarding the case. Ms. Gallagher agreed to do so and arrived at the SCPO shortly after 2:00 p.m.

**J. AP Pappas and Lt. Williams Meet with Ms. Gallagher at the SCPO**

Before attempting to describe the meeting that occurred between AP Pappas, Lt. Williams, and Ms. Gallagher, the recollections of which are widely divergent, it is important to note the context in which this meeting took place. From the SCPO’s perspective, the main purpose of the meeting was to inform Ms. Gallagher that the SCPO was going to be dismissing the case against Mr. Schweizer without prejudice. Knowing that they still had further investigation to conduct, the meeting was an opportunity to learn more about the potential case and to see and hear from the victim herself. From Ms. Gallagher’s perspective, who was someone with no prior experience with the technicalities of the criminal justice system and who had just been told one day earlier by Detective DeLorenzo that her assailant had confessed and been arrested on that basis, the meeting was an opportunity to hear how the case against Mr. Schweizer was going to move forward. Not

surprisingly, based on these two fundamentally different mindsets, AP Pappas and Lt. Williams, on one hand, and Ms. Gallagher, on the other, have very different views of what occurred and what was discussed during this meeting.

According to Lt. Williams,<sup>42</sup> Ms. Gallagher arrived at the SCPO at approximately 2:15 p.m. and met with her and AP Pappas in the conference room in the SCPO Major Crimes Building. After introducing herself, Lt. Williams inquired as to whether Ms. Gallagher wanted the assistance of a sexual assault advocate. Ms. Gallagher declined the offer. According to Lt. Williams, she and AP Pappas explained to Ms. Gallagher why the SCPO had decided to drop the charges against Mr. Schweizer and that the SCPO would be superseding the investigation. They also asked her specific questions about the alleged sexual assault. According to Lt. Williams, Ms. Gallagher seemed offended by some of the questions being asked and was “upset” when AP Pappas informed her that the charges were being dismissed. She stated that both she and AP Pappas treated Ms. Gallagher respectfully. According to Lt. Williams, she and AP Pappas asked Ms. Gallagher whether she would consent to a search of her cellphone. Ms. Gallagher stated that she would and then signed a consent to search form. While Lt. Williams, AP Pappas, and Ms. Gallagher were waiting for the cellphone “dump” to be completed, they moved their meeting into AP Pappas’ office. According to Lt. Williams, Ms. Gallagher asked several questions about the investigation and the dismissal of the Complaint. Lt. Williams stated, in sum and substance, “I remember thinking that I didn’t 100 percent believe what she was saying” and that Ms. Gallagher did not “appreciate that.” While Ms. Gallagher again appeared “upset” about the dismissal of the charges,

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<sup>42</sup> In our interview, Lt. Williams stated that she has met with “hundreds” of victims during her time with the SCPO. In describing her general dealings with victims, Lt. Williams stated that she “always sees everybody as a victim” and treats them accordingly. According to Lt. Williams, “If [AP Pappas] was going to attack [Ms. Gallagher (in the manner she later described)], I would have asked her to leave the room.” Many of the witnesses with whom we spoke, including several of the Sussex Station CIO detectives, indicated that Ms. Gallagher’s description of Lt. Williams’ behavior during this meeting did not comport with their personal observations of Lt. Williams’ typical demeanor.



she did not appear to Lt. Williams to be “upset” regarding the manner in which she was being treated.<sup>43</sup>

AP Pappas stated that Ms. Gallagher seemed “cooperative” and “nice” throughout the course of the meeting and that she did not appear “particularly upset.” AP Pappas stated that she and Lt. Williams explained to Ms. Gallagher that the detectives “had jumped the gun and that we were taking over the investigation.” She further explained that they informed Ms. Gallagher that further investigation was required and requested that she consent to a search of her cellphone for that purpose. AP Pappas stated that Ms. Gallagher consented to the search and signed a consent form after asking whether the search would be able to uncover deleted messages from her phone.

In her interview, AP Pappas stated directly that she “did not believe [Ms. Gallagher].” According to AP Pappas, “she [i.e., Ms. Gallagher] was not telling the truth and she was very good at not telling the truth.” AP Pappas further explained that certain portions of Ms. Gallagher’s statement contradicted “what we had been told had happened.” AP Pappas opined that this alleged discrepancy may have resulted from Ms. Gallagher being “afraid or from some other motive.” According to AP Pappas, she did not, as Ms. Gallagher later alleged, attempt to dissuade Ms. Gallagher from seeking a restraining order against Mr. Schweizer and that she “was not doing an analysis of the facts of the alleged sexual assault out loud.” She further stated that she had no sense that Ms. Gallagher was uncomfortable during the meeting and that Ms. Gallagher never expressed any “concern or confusion.”

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<sup>43</sup> In an SCPO Supplemental Investigation Report authored by Lt. Williams dated March 15, 2017, Lt. Williams further described the February 8, 2017 meeting with Ms. Gallagher. She wrote, in part: “We explained to Laura about the dismissal of the charges and that our office would be superseding the investigation at this point[.] . . . Laura was asked a few questions about Ian and their relationship for clarification as well as if she was familiar with any of the law enforcement members that were involved with the investigation. . . . Laura said many times while she was with AP Pappas and I that she did not consider meeting up with Ian as being on a date. . . . At no time did Laura appear upset by anything that was being said to her by us. Laura asked many questions about the investigation and about the dismissal of the complaint of Ian. She stated she didn’t feel that Ian should spend the rest of his life in jail, but she felt he needed to be accountable for his actions of that night. She also stated she wanted Ian to apologize for his actions.”

To say the least, Ms. Gallagher, in her subsequent statement to the Sussex Station CIO, in her interview with us, and in additional statements and complaints regarding this matter, presents a much different version of what occurred during this meeting. To maintain the chronological timeline of events from February 8, 2017, however, we discuss Ms. Gallagher's description of the meeting later in this report.

**K. Prosecutor Koch Appears in Court to Dismiss the Complaint Against Mr. Schweizer**

Despite having determined to dismiss the Complaint against Mr. Schweizer earlier in the day, the SCPO felt that it was unable to do so until Ms. Gallagher had been informed of the decision. Accordingly, Prosecutor Koch spoke with the assigned Deputy Public Defender, informed her of the SCPO's intention to dismiss the Complaint without prejudice, and advised her that the SCPO would appear in court once Ms. Gallagher had received that notification in person. After Ms. Gallagher arrived at the SCPO, and apparently around the time that she was speaking with AP Pappas and Lt. Williams, Prosecutor Koch personally appeared before Judge William J. McGovern, J.S.C. of the Sussex County Superior Court, and moved to dismiss the Complaint without prejudice. Prosecutor Koch described his decision to personally appear in court to dismiss the charges as "part of leadership." He indicated that he "could not leave it on anybody else's hands" because he was the individual responsible for the final decision. According to FAP Mueller, Prosecutor Koch made the decision to dismiss the Complaint in person because he "felt it important that people knew it was his decision."

The Court then granted the dismissal on the record and Mr. Schweizer was released from Sussex County Jail shortly thereafter. Following the in-court dismissal, Prosecutor Koch and FAP Mueller returned to the office whereupon AP Pappas and Lt. Williams briefed them on their

meeting with Ms. Gallagher. Judge McGovern's Order of Dismissal was subsequently filed on February 10, 2017.

While the Complaint was dismissed without prejudice so that the SCPO could conceivably conduct further investigation of the matter, it appears that the SCPO determined fairly quickly that it would not be feasible to move forward with the prosecution of Mr. Schweizer. According to Prosecutor Koch, "it was going to be virtually impossible, absent a confession, to fill in the holes in the case." He explained that he did not think the SCPO would be able to conduct a further interview of Mr. Schweizer because, at that time, he was represented by counsel who would have almost certainly denied the request. He further indicated that any discussions that Ms. Gallagher may have had with other individuals regarding the alleged sexual assault would have likely been inadmissible at trial.

Most notably, Prosecutor Koch, and the other members of the SCPO with whom we spoke, expressed concerns regarding certain text message conversations found on Ms. Gallagher's cellphone and the impact those conversations may have had on the case.<sup>44</sup> Specifically, Prosecutor Koch, FAP Mueller, Chief McCormick and AP Pappas all pointed to text messages in which Ms. Gallagher appeared to mention that she had spoken to Mr. Schweizer's ex-girlfriend following the alleged sexual assault and had reported the assault to possibly assist Mr. Schweizer's ex-girlfriend in a custody dispute with Mr. Schweizer.<sup>45</sup> According to Chief McCormick, those text messages

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<sup>44</sup> Prosecutor Koch stated that, after a review of the results of the cellphone extraction, he did not think that the case was "going anywhere." According to FAP Mueller, the text messages from Ms. Gallagher's cellphone made the case against Mr. Schweizer much "weaker."

<sup>45</sup> The specific text messages referenced included: (1) a January 31, 2017 text message from Ms. Gallagher in which she wrote: "Just got off the phone with the police. That guy that sexually assaulted me supposedly has been going to boomers looking for me and waiting on the parking lot. . . .He just got arrested for stalking his ex and violated the restraining order. So I connected with his ex and am gonna help her. Sent her the texts he sent to me and am gonna put a report in so hopefully he never gets custody of that little girl[]"; (2) a February 1, 2017 text message from Ms. Gallagher in which she wrote: "He sexually assaulted me in the parking lot with no one around. I got away after he almost raped me. . . . So I obviously didn't say anything but then his ex heard from someone at the bar what happened and we talked. Apparently he had assaulted her as well and was just in jail for violating his restraining order. He beat

“kind of killed the case.” He explained that the text messages showed a “possible ulterior motive” for reporting the alleged assault. He further stated: “We wouldn’t even have probable cause at that stage, let alone reasonable doubt.” In our interview, AP Pappas was more blunt in her assessment. She made clear that, after speaking with Ms. Gallagher, watching the recorded statements, and reviewing the contents of Ms. Gallagher’s cellphone, she came to the conclusion that “something consensual happened.” She also indicated that the text messages on Ms. Gallagher’s cellphone provided a basis to believe “that her reason for pursuing the sexual assault allegations was to benefit [Mr. Schweizer’s ex-girlfriend] and [to] make her look a little better.” AP Pappas stated that she “came to the conclusion that this was not a prosecutable case pretty early on.”

**L. Ms. Gallagher Contacts the Sussex Station CIO Detectives to Report Alleged Mistreatment by the SCPO**

Shortly after leaving the SCPO, at around 5:00 p.m., Ms. Gallagher called Sussex Station and requested to speak with Detective DeLorenzo. SSgt. Weis fielded the call, advised Ms. Gallagher that Detective DeLorenzo was not working that day, and handed the phone to Detective Crane.<sup>46</sup> Detective Crane advised Ms. Gallagher to come to Sussex Station. He then contacted

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her with a hose . . . . So his ex begged me to report the assault to help her case of custody over there 2 year old. So now I have a detective. Lol. And I have texts sent from him after the assault proving the assault[]”; and (3) a deleted February 7, 2017 text message from Ms. Gallagher in which she wrote: “I told him I heard he was causing more trouble at boomers and got in touch with his ex through the bartender there and we talked. That’s all I said. The detective and judge are completely on our side so I just have to make sure to stand my ground. I don’t know what he meant by them bullying me. But Ian confessed so how is that enough!!!”

<sup>46</sup> In a NJSP Supplemental Investigation Report authored by Detective Crane dated March 10, 2017, Detective Crane wrote that Ms. Gallagher “called with an overwhelming concern of how two women from the [SCPO] attempted to ‘coerce’ her into dropping the charges against the accused and how she was ‘assaulted again’ by the two women.” In his October 27, 2017 interview with DSFC Tutko, Detective Crane indicated that, during this call, Ms. Gallagher said: “I don’t know what just happened, but I feel like I’m being re-victimized.” In a NJSP Supplemental Investigation Report authored by DSG Lewis dated March 8, 2017, DSG Lewis indicated that Detective Crane had advised him of Ms. Gallagher’s call and that she “was confused about the case[]” and “wanted to discuss her options for a restraining order.”

Sussex County Domestic Abuse & Sexual Assault Intervention Services (“DASI”) to request that a Confidential Sexual Violence Advocate respond to the Station.<sup>47</sup>

Upon her arrival at Sussex Station, Ms. Gallagher met with Detective Crane. In our interview, Detective Crane stated that he spoke with Ms. Gallagher in the lobby of Sussex Station and she gave him the “full story” of what had just occurred during her meeting with AP Pappas and Lt. Williams. In a NJSP Supplemental Investigation Report authored by Detective Crane dated March 10, 2017, Detective Crane described his conversation with Ms. Gallagher as follows: “I spoke to her briefly about her concerns with her case. According to Ms. [Gallagher,] she was not only concerned with being ‘re-victimized by the Prosecutor’s Office’, she was also concerned why the accused was being released from the Sussex County Jail and why ‘the Prosecutor’s Office was bending over backwards to get him released.’ Ms. [Gallagher] stated that she was concerned that the accused was ‘hooked up’ due to his father being an attorney or having some type of political ties, thus ‘getting away with all of the crimes he has committed.’”<sup>48</sup> In our interview, Detective Crane explained that he discussed with Ms. Gallagher her belief that Mr. Schweizer’s father “was an attorney or had some type of political connections.” According to Detective Crane, Ms. Gallagher “was under the pretenses that someone must be pulling strings for this guy.” Detective Crane further indicated that Ms. Gallagher stated that she had been told that Mr. Schweizer’s father

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<sup>47</sup> According to the Sussex Station CIO detectives with whom we spoke, Ms. Gallagher, during her initial call to the Station, had also expressed her interest in seeking a restraining order against Mr. Schweizer given his recent release from Sussex County Jail.

<sup>48</sup> In our interview with Glenn Schweizer, he informed us that he has never been an attorney and that, at the time of the alleged incident, he was serving as Executive Director of the Morris County Municipal Utilities Authority (“MCMUA”). He described how he served as a Morris County employee “essentially [his] whole life.” Mr. Schweizer stated that he did not know and never communicated with Prosecutor Koch or anyone at the SCPO at the time and “certainly not in regard to [his] son or the situation he was in.” In fact, Mr. Schweizer stated that there was not “anything tying him in any way” to the SCPO and that there were “absolutely no communications to [the SCPO] to impact their decisions” that were made by him or anyone else acting on his behalf. He described the whole situation as a “very confusing time” and further noted that, in his view at the time, there appeared to be some sort of “peculiar” or “unnatural” relationship between Ms. Gallagher and “the mother of his granddaughter.”

“is some hot shot attorney.” Detective Crane subsequently shared this information with other members of the Sussex Station CIO.

In our interview with Ms. Gallagher, she stated that Mr. Schweizer’s ex-girlfriend had, at some point, mentioned to her that Mr. Schweizer’s father “had connections.” She recalled that she shared that information with the Sussex Station CIO detectives, most likely during her conversation with Detective Crane on February 8, 2017. She further stated that when she mentioned Mr. Schweizer’s father’s “connections” to the detectives, they “didn’t even really respond to it.” According to Ms. Gallagher, “I don’t remember there being a reaction to it” and “it was just kind of in the conversation.”

In her March 29, 2017 interview with DSFC Tutko, less than two months after her February 8, 2017 statement to the Sussex Station CIO detectives, Ms. Gallagher recalled having mentioned to Detective Crane that Mr. Schweizer’s “dad is high up and he gets away with everything.” She described it as “basically one of those hearsay things.” While she could not recall what exactly she had told Detective Crane at the time, she remembered mentioning that Mr. Schweizer “must have, maybe like, a rich daddy that can kind of get him out of all his trouble.” She did not recall having mentioned that Mr. Schweizer’s father was “politically connected,” however, she did recall that he was some sort of “executive” and that she expressed this to Detective Crane. She further acknowledged that Mr. Schweizer’s ex-girlfriend had told her that “his dad is high up there and gets him out of trouble.” She described the allegations regarding Mr. Schweizer’s father “as kind of more – in her head – a conspiracy theory” and that she “never knew for sure.”

Following her initial discussion with Detective Crane, Ms. Gallagher met with the Sexual Violence Advocate from DASI for several hours. In the meantime, the Sussex Station CIO detectives were engaged in discussions regarding how to address, what they considered to be at

the time, a “complaint” by Ms. Gallagher regarding her alleged mistreatment by the SCPO.<sup>49</sup> Ultimately, the decision was made to run the situation up the chain-of-command to seek guidance on how best to proceed with both the apparent “complaint” against the SCPO and Ms. Gallagher’s expressed interest in a restraining order. SSgt. Weis placed a call to Station Commander Lt. Widovic and DSG Lewis contacted CIO Supervisor DSFC Muller.<sup>50</sup>

In a NJSP Supplemental Investigation Report authored by DSG Lewis dated March 8, 2017, DSG Lewis stated that he advised DSFC Muller that “Sussex Station was going to have to address the restraining order with the victim, but [he] did not believe members of Sussex [CIO] should be involved in speaking to [Ms. Gallagher].” According to DSG Lewis, DSFC Muller indicated that he would discuss the matter with Lt. Ghilon. A short time later, DSG Lewis spoke to Lt. Ghilon and “asked him whether someone with no ties to Sussex Station could respond to interview and assist the victim.” In addition, DSG Lewis asked Lt. Ghilon whether he should contact OCU for possible guidance.<sup>51</sup> Lt. Ghilon advised DSG Lewis that he would call back with further direction. Shortly thereafter, Lt. Ghilon called DSG Lewis and advised him that he had spoken to Troop “B” Captain Manuel Blasco and that it was “agreed that Sussex [CIO] should

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<sup>49</sup> In our interview, SSgt. Weis described how he, DSG Lewis, DSG Krisanda and Detective Crane “were trying to make heads or tails of what was going on.” He explained that the situation was “way out of our league,” and that, given the recent friction between the SCPO and the Sussex Station CIO, “there was going to be an appearance of a conflict right from jump street.” According to SSgt. Weis, he and the CIO detectives contemplated whether the issue should be brought to the attention of the DCJ or the NJSP Official Corruption Unit (“OCU”) to handle.

<sup>50</sup> In our interview with Detective Crane, he described how DSG Lewis was on the phone for “hours” trying to figure out “how [they] were going to wash [their] hands of this.” In his October 27, 2017 interview with DSFC Tutko, Detective Crane made clear that, at the time, the Sussex Station CIO detectives “wanted another agency to take this.” In our interview with DSG Lewis, he explained how he “spent hours trying to avoid the situation” of the Sussex Station CIO detectives having to field Ms. Gallagher’s “complaint.” According to DSG Lewis, “[Ms. Gallagher] made a complaint about her treatment. If this was us, it would be a big deal.” He further stated that, given the appearance of a potential conflict, none of the Sussex Station CIO detectives “wanted to hear what her complaints [were].”

<sup>51</sup> In our interview with DSG Lewis, he described his reasoning for wanting to contact OCU. He stated: “I wanted someone to come in to talk to her. I knew we [i.e., Sussex Station CIO] shouldn’t be taking the complaint.” He reasoned that “maybe they [i.e., OCU] would have been the unit to listen.” He further stated: “I was not alleging that there was corruption . . . It wasn’t to report corruption. It was to have someone from the outside come speak to her.” DSG Lewis further explained that his suggestion to contact OCU was based on a prior experience, when he worked at Perryville Station, in which an allegation had apparently been lodged against the Hunterdon County Prosecutor’s Office. There, DSG Lewis was able to determine the appropriate person at the DCJ to handle the matter by first contacting OCU.

handle the restraining order ‘normally’ and not to notify the [OCU] or any other personnel outside of the Station.” When DSG Lewis advised Lt. Ghilon that the victim would be seeking a Sexual Assault Restraining Order (“SARO”), and that a SARO had never before been offered through the Station level, Lt. Ghilon advised DSG Lewis “to handle the situation as normally as possible.”

A short time later, DSG Lewis spoke with Lt. Widovic. According to DSG Lewis, Lt. Widovic advised him that he had been notified of the situation and stated that the OCU should not be contacted at that time.<sup>52</sup> He subsequently advised DSG Lewis that the restraining order request should be handled at the Station level. DSG Lewis then spoke with DSFC Muller who confirmed the decision not to notify OCU nor any other outside unit.<sup>53</sup> DSFC Muller further instructed that DSG Krisanda conduct the statement of Ms. Gallagher due to him having the most minimal involvement in the underlying case.<sup>54</sup> According to DSG Lewis, DSFC Muller “further advised . . . that if the victim had complaints about the Prosecutor’s Office . . . it would be her decision to make those formal complaints accordingly.”

DSG Lewis subsequently advised DSG Krisanda to take a statement from Ms. Gallagher. According to DSG Lewis’ March 8, 2017 Supplemental Investigation Report, DSG Lewis “advised DSG Krisanda to merely request the victim to explain why she came to Sussex Station.” He further instructed him to “record the interview to completely document [their] interaction with her.”<sup>55</sup> DSG Krisanda then conducted Ms. Gallagher’s video recorded statement.

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<sup>52</sup> In a July 18, 2017 interview with DSFC Tutko, Lt. Widovic acknowledged having spoken with DSG Lewis regarding his “suggestion” to contact OCU. Lt. Widovic stated that he “asked what [DSG Lewis’] chain-of-command had suggested and . . . [that he then] suggested to wait until the next day . . . and meet with the Prosecutor’s Office, and [Sussex Station] Command staff, and come up with a solution.”

<sup>53</sup> In his July 21, 2017 interview with DSFC Tutko, DSFC Muller made clear that he advised DSG Lewis that OCU was not to be contacted during their call on February 8, 2017.

<sup>54</sup> In our interview with DSG Krisanda, he acknowledged that he had “some involvement” in the case – just not as much as Detective DeLorenzo or DSG Lewis. He opined that “maybe I shouldn’t have done it [i.e., take Ms. Gallagher’s recorded statement].”

<sup>55</sup> All of the SCPO and NJSP witnesses with whom we spoke indicated that it is almost unheard of to record an interview of someone who is seeking to apply for a restraining order. In fact, none of the witnesses recalled an instance



The statement began at approximately 8:10 p.m. Ms. Gallagher explained that she had gone over to the SCPO earlier that afternoon to speak with AP Pappas and Lt. Williams and that the meeting had lasted “a couple hours.” She stated that “basically, they told me that everything I was told from the detective who had called me and said that Ian was arrested, had confessed, and was on his way to the jail . . . was false.” According to Ms. Gallagher, AP Pappas and Lt. Williams told her that Mr. Schweizer “didn’t confess and, in fact, that he was wrongfully charged.” She indicated that they “kind of wanted me, I believe, to drop charges or lessen charges against him because there was no full penetration involved or rape. . . . that he just took it a little too far and in his head he thought it was a date.” She stated that she explained to them “numerous times” that she had “told Ian flat out, no this is not a date and I’m not interested.” According to Ms. Gallagher, “they seemed to defend the fact that, because he thought it was a date, it was okay.” She stated that AP Pappas and Lt. Williams told her that “what I [] say could put him in prison for ten years, [that] he could lose his right to vote, and basically [that] I should really think hard about the charges I’m pressing on him.” According to Ms. Gallagher, they questioned her motive for reaching out to Mr. Schweizer’s ex-girlfriend and were “trying to twist it like I was in cahoots her with.” Ms. Gallagher indicated that she had never previously met Mr. Schweizer’s ex-girlfriend.

Ms. Gallagher stated that AP Pappas and Lt. Williams told her that “Ian had come in and was extremely remorseful and he was sorry.” She expressed her confusion because “in one sense they’re telling me that he didn’t do anything wrong and then, in the next sense, they’re telling me he’s remorseful.” While Ms. Gallagher initially indicated that AP Pappas and Lt. Williams had

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in which they had done so in the past. In our interview, LTC Callahan stated that “not in 100 years of history has a [restraining order] application ever been recorded” by the NJSP. That being so, when senior officials at the NJSP and SCPO later learned of Ms. Gallagher’s February 8, 2017 recorded statement, they saw it as further evidence that the Sussex Station CIO detectives were not following established protocols and acting in a manner vastly inconsistent with NJSP practices.

stated that they had spoken to Mr. Schweizer, she later clarified that she assumed they had done so based on their statement that Mr. Schweizer was remorseful. Ms. Gallagher acknowledged that AP Pappas and Lt. Williams requested to search her phone and stated that they represented that they were “going to contact every number in [the] phone that has to do with” the case.

Ms. Gallagher stated that she was “attacked in a sense” and that both AP Pappas and Lt. Williams expressed their belief that her description of the events “didn’t line up.”<sup>56</sup> According to Ms. Gallagher, AP Pappas and Lt. Williams stated, “If he wanted to rape [you], he could have raped [you], but he didn’t.” She stated that “they were downplaying [the sexual assault] because, basically, he didn’t fully rape me.” She further stated that AP Pappas and Lt. Williams asked her whether she had any prior relationship with Detective DeLorenzo. She described the meeting as “very intrusive” and stated that she felt that “they thought I was lying or making it up.” She further indicated that AP Pappas and Lt. Williams had implied that she had “been leading [Mr. Schweizer] on.” Ms. Gallagher described how AP Pappas and Lt. Williams repeatedly asked her to drop the charges. According to Ms. Gallagher, they asked whether she would do so if Mr. Schweizer would apologize for his actions.<sup>57</sup>

In describing her feelings following the meeting, Ms. Gallagher stated that she felt “overwhelmed,” “stressed out,” “blindsided,” and “confused.” She indicated that she had attempted to reach out to Detective DeLorenzo because he “seemed straightforward in what he did” with respect to the case. She indicated that she had come to the Station to “get a second opinion” on what had just occurred and that, after meeting with a DASI advocate, she wanted to

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<sup>56</sup> In our interview, Ms. Gallagher stated that AP Pappas was “really coming at [her].” While she explained that Lt. Williams was more “quiet” and “silent” during the meeting, she expressed her disappointment that Lt. Williams “did not try to stop” AP Pappas’ alleged “attacks.”

<sup>57</sup> In our interview, Ms. Gallagher described how AP Pappas and Lt. Williams were “coming at [her] from every angle to get [her] to drop the charges.” Her description was consistent with her March 29, 2017 statement to DSFC Tutko in which indicated that the SCPO was “basically . . . trying to coerce [her] into dropping the charges” and “interrogated [her].”

apply for a restraining order. The statement concluded at approximately 8:27 p.m. Notably, during her statement, Ms. Gallagher said nothing about Mr. Schweizer's father.

Following the conclusion of Ms. Gallagher's statement, DSG Krisanda contacted Judge Gavan to inquire as to the proper procedure for obtaining a SARO. Judge Gavan indicated that he was unsure of the process and would have to call back. Shortly thereafter, Judge Gavan called DSG Krisanda to inform him that he did not have the authority to grant a SARO and that it would have to be sought from a Superior Court judge. DSG Krisanda then contacted the Sussex County Sheriff's Communications Center and asked to speak to the SCPO on-duty assistant prosecutor. He subsequently received a call from Detective Matthew Magnone of the SCPO's Detectives' Unit, who indicated that he would speak to the on-call assistant prosecutor and get back to him. Several minutes later, after speaking with the on-call assistant prosecutor, Detective Magnone called DSG Krisanda and advised him that, based on the on-call assistant prosecutor's belief that the incident involved a dating relationship, a temporary restraining order could be sought from a municipal court judge. Detective Magnone further advised that, in order to apply for a SARO, the victim would have to appear in person, during business hours, in Superior Court, as only a Superior Court judge could grant such an order. DSG Krisanda then explained to Ms. Gallagher the process for obtaining a SARO and that "she would be responsible for lodging any complaints about the [SCPO] on her own." Ms. Gallagher then departed Sussex Station.

**M. Detective Crane Contacts the NJSP Official Corruption Unit**

The next day, on February 9, 2017, Detective Crane contacted DSG Thomas Donnelly<sup>58</sup> of the NJSP Official Corruption North Unit ("OCNU") "to report Ms. [Gallagher's] concerns

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<sup>58</sup> DSG Donnelly has served with the NJSP since his graduation from the NJSP Academy in July 2006. From 2006 until 2012, he served as a Road Trooper at Sussex Station. From 2012 until 2017, he served as a Detective, and later a DSG, in the OCNU of the NJSP's Official Corruption Bureau. In that role, DSG Donnelly was responsible for conducting criminal investigations into allegations of official misconduct asserted against State employees. He has

pertaining to the accused having a possible connection/political tie to any of the employees of the [SCPO].” According to Detective Crane, his purpose in contacting DSG Donnelly was not to request that he initiate an immediate investigation or to “make a report,” but rather to inquire as to whether the suggestion of potential improper influence by Mr. Schweizer’s father, as conveyed to him by Ms. Gallagher the day before, would be a proper subject of investigation for the OCNU. At the time, Detective Crane reasoned that, because the Sussex CIO does not investigate allegations of prosecutorial misconduct, those allegations should be looked into by another Unit or investigative agency. He described his “inquiry” as: “I’m just throwing this at you. This is what I’ve got. What do you think?” In his October 27, 2017 interview with DSFC Tutko, Detective Crane explained that his “inquiry” encompassed both allegations of prosecutorial misconduct on the part of the SCPO and improper influence on the part of Mr. Schweizer’s father. He further stated that, at the time he called DSG Donnelly on February 9, 2017, he had not yet been advised by DSG Lewis as to Troop “B” Command’s instructions, from the day before, that OCU was not to be contacted by the Sussex CIO detectives.<sup>59</sup> Detective Crane insists that he did not inform any other member of the Sussex CIO regarding his intention to contact DSG Donnelly prior to making the call.

DSG Donnelly recalls having received the call from Detective Crane on February 9, 2017 and described it as “more of a ‘what do you think’ type of conversation.” He stated that Detective

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also served as a DSG in the Gangs & Organized Crime North Unit of the NJSP’s Violent & Organized Crime Control North Bureau and in the NJSP’s Office of Professional Standards. He currently serves in the NJSP’s Partner Engagement Unit. During our interview, DSG Donnelly indicated that, during his time as a Road Trooper at Sussex Station, he worked with several of the CIO detectives involved in the Schweizer investigation. He further indicated that he has a “friendly” and “personal” relationship with Detective Crane based on them having grown up in the same town together and having attended the same high school. He stated that he is also familiar with the SCPO and its prosecutors based upon his time at Sussex Station. According to Detective Crane, he has known DSG Donnelly for more than twenty years, attended high school with him, and considers him to be a friend.

<sup>59</sup> In his interview with DSFC Tutko, Detective Crane made clear that: “If [DSG Lewis] told me that we’re not doing that, I’m not doing it. I never had that conversation with him.”

Crane advised him of an issue regarding a sexual assault case investigated by the Sussex Station CIO and described how the SCPO had denied probable cause for the suspect's arrest. He further recalled that "there were suspicions that the suspect had some type of political connection" and that "it appeared that there may be some political reasons why the suspect was treated the way he was and the victim was treated the way she was." In his August 1, 2017 interview with DSFC Tutko, DSG Donnelly recalled being told that "the victim had stated at some point that the suspect's father was possibly politically connected, was an attorney or some high-powered position political player in the area and may know people at the [SCPO]." He expressed to Detective Crane that the allegations, as described to him, would fall within the investigative jurisdiction of the OCNU and be sufficient to trigger a preliminary fact-finding. To that end, DSG Donnelly agreed to come to Sussex Station the following week to meet with Detective Crane, obtain the recorded statements, and gather the initial facts.

**N. Troop "B" Command Orders that the OCU Not Be Contacted**

Meanwhile, on February 10, 2017, a meeting was convened at Troop "B" Headquarters in Totowa to discuss the Sussex Station CIO detectives' decision-making with respect to the case. The meeting was attended by Major Devlin, Lt. Ghilon, DSFC Muller,<sup>60</sup> DSG Lewis and other members of the Troop "B" Command Staff. DSG Lewis stated that he provided a full description of the events that occurred in the case and explained the detectives' decision-making process for

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<sup>60</sup> Around the time of this meeting, DSFC Muller issued a Commendation to Detective DeLorenzo for his investigation of the Gallagher/Schweizer incident. In a Performance Notice entered in the NJSP's Management Awareness and Personnel Performance System ("MAPPS"), DSFC Muller wrote: "[Detective DeLorenzo] is commended for his investigative and interview skills regarding a sexual assault that occurred on January 31, 2017[.] . . . Upon [i]nterviewing the suspect, Det. DeLorenzo elicited a confession from the male suspect regarding his actions. Det. DeLorenzo is commended for his investigation, interview and interrogation skills in getting a confession from a sexual assault suspect which is, within itself, inherently difficult. Det. DeLorenzo's dedication to duty not only brings credit upon himself, but also the Division of State Police." The Performance Notice is undated and unsigned. Many of the individuals we interviewed who had watched Mr. Schweizer's recorded statement questioned the underlying basis for this Commendation.

the actions they had taken. According to DSG Lewis, at that meeting, Major Devlin issued a direct order that OCU was not to be contacted by the Sussex Station CIO. It remains unclear as to whether DSG Lewis conveyed Major Devlin's message to the other members of the Sussex Station CIO upon his return to Sussex Station later that day, or whether he only advised them of this order at a later date.<sup>61</sup>

**O. DSG Donnelly Visits Sussex Station to Gather Initial Facts Regarding the Allegations Against the SCPO Raised by Detective Crane**

On the morning of February 13, 2017, DSG Donnelly and Detective Jesus Torres, also of the OCNU, visited Sussex Station to gather the initial facts regarding the allegations against the SCPO that Detective Crane had raised on the February 9, 2017 call.<sup>62</sup> In an undated NJSP Investigator's Report authored by DSG Donnelly, he wrote: "On February 13, 2017, [Detective Torres] and I arrived at Sussex Station for a scheduled meeting in reference to a potential corruption investigation. Upon arrival, we met with [Detective Crane] regarding the matter." In the Report, DSG Donnelly indicated that Detective Crane briefed him on the factual background of the case, including the fact that "[t]he suspect [had] confessed to the crime during [a] taped interview" and that Ms. Gallagher had spoken to Mr. Schweizer's ex-girlfriend who had "explained that Schweizer's father was a powerful attorney." Detective Crane also provided DSG Donnelly with a DVD containing the recorded statements from the investigation. In his October 27, 2017 interview with DSFC Tutko, Detective Crane indicated that he informed DSG Donnelly,

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<sup>61</sup> In his October 20, 2017 interview with DSFC Tutko, DSG Lewis stated that he did not recall who was at Sussex Station when he returned from the meeting at Totowa Headquarters, but that there was no formal meeting that occurred regarding the order that Major Devin had issued. He explained: "I never felt that anyone below my rank would be [contacting OCU] so it wasn't a discussion that we ever had about it." In Detective Crane's October 27, 2017 interview with DSFC Tutko, however, he indicated that DSG Lewis informed him of Major Devlin's order "whatever day he went to Totowa." According to Detective Crane, at that point, he had "already set up" a meeting with DSG Donnelly.

<sup>62</sup> DSG Lewis indicated that he first became aware that Detective Crane had contacted OCU when DSG Donnelly and Detective Torres came to Sussex Station on the morning of February 13, 2017. After seeing them in the Station, DSG Lewis spoke with Detective Crane who informed him, apparently for the first time, that he had called DSG Donnelly on February 9, 2017.

at that time, of Major Devlin's order that the Sussex Station CIO refrain from contacting OCU. In his October 20, 2017 interview with DSFC Tutko, DSG Lewis stated that he "advised [DSG Donnelly and Detective Torres] that [he] didn't feel that they should do anything with [the allegations against the SCPO raised by Detective Crane] because [he] was directly ordered by the Major not to contact them." He further stated that "[he] told them [he] didn't think they should go anywhere with the information that Detective Crane had spoken to them about."

DSG Donnelly's Report indicates that, after meeting with Detective Crane, he "[a]ttempted to search [whether] the accused[']s father ha[d] any connections to the SCPO and/or SCPO attorneys." In our interview, DSG Donnelly stated that he conducted a preliminary online search for information regarding Mr. Schweizer's father and determined that Glenn Schweizer was, at that time, the Executive Director of the MCMUA. He described his initial investigative efforts as more of a "fact-finding" mission as opposed to the launching of an official OCU investigation. He further described that his initial investigation was "really nothing too far in depth" and that he discontinued his investigation shortly thereafter for reasons described later in this report.

**P. Ms. Gallagher Applies for a Protective Order and Speaks with Richard Pompelio**

On February 14, 2017, Ms. Gallagher appeared in Sussex County Superior Court, Chancery Division, Family Part, and applied for a Temporary Protective Order ("TPO") against Mr. Schweizer pursuant to the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq. Judge Michael C. Gaus, J.S.C. signed the TPO and scheduled a final hearing for February 23, 2017 to determine whether a Final Protective Order ("FPO") should be entered.

Following the issuance of the TPO, Ms. Gallagher sought the assistance of an attorney to advise her on her case and to help her navigate the forthcoming FPO hearing. In our interview with DSG Lewis, he indicated that he or another member of the Sussex Station CIO provided Ms.

Gallagher with the contact information for victims' rights attorney Richard Pompelio.<sup>63</sup> Ms. Gallagher contacted Mr. Pompelio and, on February 22, 2017, went to his office to discuss her case.

In our interview with Mr. Pompelio, he recalled that, after listening to Ms. Gallagher's case and reviewing some of the paperwork that she had provided, "there was just something about the case that made [him] feel uncertain." That being so, he suggested to Ms. Gallagher that they reach out to the NJSP to obtain some additional information. Ms. Gallagher provided Mr. Pompelio with Detective Crane's cellphone number and they called him together.<sup>64</sup> According to Mr. Pompelio, when speaking with Detective Crane, "[he] got a sense that there was an agenda to what he was saying to [him]. It seemed like he was pushing [Ms. Gallagher] into having a conflict with the Prosecutor's Office." He further expressed that he did "not have a good feeling" about the case at that time. He elaborated: "It was clear when I spoke to the State Police that they were pushing this woman and weren't being completely candid with me. My sense was that the State Police were trying to use her . . . I felt like they were trying to sell me on this. I wasn't buying it. I thought they were not being truthful and were being biased."

Mr. Pompelio then placed a call to AP Pappas, whom he described as "one of the better victim-centered prosecutors." Mr. Pompelio indicated that he asked Ms. Gallagher to step out of

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<sup>63</sup> Mr. Pompelio has spent the vast majority of his legal career assisting crime victims in the criminal justice system. According to his website, in 1992, following the tragic murder of his son, Mr. Pompelio established the New Jersey Crime Victims' Law Center ("VLC") which provides *pro bono* legal assistance to victims of violent crime in the criminal justice system throughout the State of New Jersey. The VLC was the first of its kind in the United States and had served as a model for other *pro bono* crime victim law clinics that have developed in other states. In addition to his current role as Director of the VLC, Mr. Pompelio previously served as Chairman of the New Jersey Victims of Crimes Compensation Board. He has been integrally involved in the drafting of virtually all victims' rights legislation in New Jersey, including the Victims' Rights Constitutional Amendment in 1991. He has also represented many crime victims before the courts throughout the State of New Jersey, and has served as special counsel to many organizations in the area of victims' rights including the Office of the Attorney General.

<sup>64</sup> In a NJSP Supplemental Investigation Report authored by Detective Crane dated March 10, 2017, Detective Crane wrote: "On [February 22, 2017], Ms. [Gallagher] contact[ed] me via my work cell phone while seated at her attorney's office. I returned the call to Richard Pompelio . . . on the same day who had inquired about obtaining all of the completed reports through the e discovery/Criminal Justice Records Bureau process."



the room so that he could speak with AP Pappas in private. While he indicated that AP Pappas “didn’t want to say a whole lot,” he stated that he “got the sense from her that there was something going on with the State Police – that [Ms. Gallagher] was being pushed by the State Police.” Mr. Pompelio indicated that, after speaking with AP Pappas, he “really didn’t think it would be a good idea for [him] to be involved” in the matter. That being so, he “explained to [Ms. Gallagher] why it was not in her best interests to pursue” the case and that it was his belief that she would be “re-victimized” if she did so. Mr. Pompelio then declined the representation. He told us that this was one of the only times he could remember turning down the representation of a crime victim.

In our interview with Ms. Gallagher, she stated that she was unaware, at the time of their meeting, that Mr. Pompelio had a connection to AP Pappas. She stated that, after she was asked to leave the room, she could hear Mr. Pompelio “laughing” on the phone, and that, after this call, “his demeanor changed as if what had happened to [her] was not a big deal to him.” She further stated that Mr. Pompelio told her that the Sussex Station CIO detectives were “just using [her] as a political football.” She stated that, after the meeting, she “started to feel like nobody was going to help” and that “everyone kept shutting [her] down.”

On February 23, 2017, one day after Ms. Gallagher’s meeting with Mr. Pompelio, Judge Noah Franzblau, J.S.C entered a Sexual Assault Continuance Order extending the TPO and adjourning the final hearing on the matter to March 9, 2017. Several additional adjournments and continuances followed over the next several months. Notably, and despite indicating that they had never done so before, both the Sussex Station CIO detectives and the SCPO prosecutors maintained an active interest in the FPO proceedings and even participated in them. For example, both Detective DeLorenzo (pursuant to a subpoena) and Detective Crane attended the court proceedings on April 6, 2017, May 18, 2017, and June 13, 2017. Detective Crane further directly

provided Ms. Gallagher's attorney with copies of the NJSP reports regarding the Sussex CIO's investigation of the matter despite this being contrary to NJSP record policies. FAP Mueller, in turn, provided Mr. Schweizer's attorney with a copy of the text messages and other data obtained pursuant to the SCPO's search of Ms. Gallagher's cellphone and appeared in court on May 18, 2017 to explain how that information could be analyzed and interpreted.

In our interview with FAP Mueller, he stated that the SCPO typically has no involvement in protective order applications because "they are civil proceedings." He explained that, in this instance, Mr. Schweizer's attorney requested "discovery" regarding the case and the SCPO provided that requested discovery, including the results of the cellphone extraction, to him. He did not recall proactively reaching out to Mr. Schweizer's attorney and stated that the SCPO was not trying to "tip the scales of justice" in favor of Mr. Schweizer by providing the requested information. He further stated his belief that he had a discussion with Prosecutor Koch at that time as to whether the SCPO had an "ethical obligation" to inform Mr. Schweizer's attorney regarding the results of the cellphone extraction.

On June 13, 2017, a final hearing on Ms. Gallagher's FPO application was finally held, during which time both Detective DeLorenzo and Ms. Gallagher testified. On cross-examination, Ms. Gallagher was extensively questioned regarding the text messages on her cellphone. In an oral decision entered on the record, Judge Gaus denied Ms. Gallagher's application for an FPO. In denying the application, Judge Gaus specifically noted that certain text messages on Ms. Gallagher's cellphone drew into question her motives for reporting the alleged sexual assault.

**Q. Chief McCormick Meets with Major Devlin at Totowa Headquarters**

Meanwhile, on February 16, 2017, Chief McCormick, pursuant to the request made by LTC Callahan on February 7, 2017, met with Major Devlin at Troop "B" Headquarters in Totowa.

In his arbitration testimony, Chief McCormick recalled that he and Major Devlin discussed “the fact that the Prosecutor’s directive was disregarded and how to rectify it.” He stated: “I voiced the concerns of my office, and he gave the views of his office. It was a meeting between two supervisors regarding the investigation.” Chief McCormick further requested Major Devlin’s assistance in obtaining a copy of Ms. Gallagher’s recorded statement from February 8, 2017.<sup>65</sup>

In his arbitration testimony, Major Devlin described his meeting with Chief McCormick as follows: “It was more of him, his concerns with the way the [d]etectives, the way things went as far as . . . going to the judge after his [a]ssistant [p]rosecutor advised that there wasn’t enough probable cause, and some of his concerns. I basically just listened, advised him maybe he should have called me first before making that phone call to [LTC] Callahan, and said moving forward if you have any issues you can do that, call me . . . . [M]ost of the meeting was that I was going to ensure that my [t]roopers and our [d]etectives were going to work . . . collectively up there because it’s a very busy area with a lot of investigations going on.” According to Major Devlin, “I assured [Chief McCormick] that we would be cooperative with his office and that we would be professional and we would work with them on future cases. And I gave my assurance that he would get that from our [d]etectives and [t]roopers.” He further indicated that Chief McCormick did not ask him to take any specific actions with respect to Detective DeLorenzo or any other Sussex CIO detective.

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<sup>65</sup> Chief McCormick indicated that the SCPO first became aware of Ms. Gallagher’s February 8, 2017 visit to Sussex Station as a result of a conversation between DSFC McCurry and SCPO Detectives’ Unit Captain Don Peter that occurred on or about February 10, 2017. That same day, the SCPO contacted Sussex Station to “request any paperwork or documents” regarding Ms. Gallagher’s visit” on February 8, 2017. At that time, the SCPO was informed that, because Ms. Gallagher “was unable to get a restraining order . . . that night, [Sussex Station] had no paperwork regarding her visit.” It is unclear as to whether someone at Sussex Station informed the SCPO about Ms. Gallagher’s additional recorded statement and, if not, whether that information was intentionally withheld.

**R. LTC Callahan Reviews Mr. Schweizer's Recorded Statement and Determines that an Internal Investigation is Warranted**

While the specific date is unclear, at some point following his February 16, 2017 meeting with Major Devlin, Chief McCormick had a telephone conversation with LTC Callahan who expressed his desire to view Mr. Schweizer's video recorded statement so that he could "see it for himself." To that end, Chief McCormick went to NJSP Division Headquarters in West Trenton and provided LTC Callahan with a copy of the recorded statement. In our interview, LTC Callahan indicated that he wanted to review Mr. Schweizer's statement in light of the Sussex Station CIO detectives' insistence that a "confession" had been elicited. In essence, LTC Callahan wanted to see for himself the basis for the disagreement that had arisen between the SCPO and the Sussex Station CIO detectives. According to LTC Callahan, upon receiving the statement from Chief McCormick, he immediately watched it with his most senior deputies, Major Glen Szenzenstein<sup>66</sup> and Captain Vincent Greene.<sup>67</sup>

We interviewed both LTC Callahan and Major Szenzenstein regarding their impressions of the statement and both expressed their belief that it did not constitute a confession.<sup>68</sup> Major Szenzenstein noted that both he and LTC Callahan "viewed the video with an open mind and agreed that they did not have a confession." They both also noted that Detective DeLorenzo never

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<sup>66</sup>Szenzenstein joined the NJSP in 1994. Upon his enlistment, he served as a Road Trooper for approximately four and a half years. He later served, for approximately thirteen years, in the Technical Emergency and Mission Specialists ("TEAMS") Unit, a multi-faceted emergency response Unit that combines Special Weapons and Tactics ("SWAT"), Rescue Operations, Underwater Search and Recovery, and Counter-Terrorism Operations. As a DSFC, and later as a Lieutenant, Szenzenstein oversaw the operations of the three squads comprising the TEAMS Unit. Beginning in 2013, he served as Station Commander of Troop "B" Meadowlands Station. He later served as a Captain in Troop "B", Troop "C", and, later, in the Field Operations Section. He was promoted to Major in 2015. At the time of the Gallagher/Schweizer incident, he was serving as Deputy Branch Commander of the Field Operations Section under LTC Callahan. When he retired from the NJSP in January 2021, he held the rank of Lieutenant Colonel and served as Commander of the Homeland Security Branch.

<sup>67</sup> At the time of the Gallagher/Schweizer incident, Captain Greene was the Executive Officer in the Field Operations Section.

<sup>68</sup> In his arbitration testimony, Captain Greene indicated that he reached the same conclusion. He stated, "[W]e watched the interview of the suspect . . . [a]nd[] it w[as] . . . my opinion that no confession was given[.]"

asked the suspect whether he had digitally penetrated the victim. LTC Callahan also addressed this issue in his arbitration testimony. There, he stated: “[I]n a case such as this, although it’s not an easy question to ask, the [d]etective should have asked if the subject digitally penetrated the alleged victim. That was never stated. . . . Although, again, not an easy question to ask, if you’re going to charge somebody with than heinous crime, you need to ask that question. That question[,] in that hour and a half or two-hour video[,] was never asked, and it needed to be and needed to be answered.” As he had also previously indicated in his arbitration testimony, LTC Callahan made clear in our interview that, based upon his review of the statement, he considered Detective DeLorenzo’s interview to be “some of the worst police work that [he has] seen in his twenty-six years” with the NJSP.

It was at this time, after viewing the statement, that LTC Callahan came to believe that the Sussex Station CIO detectives involved in the investigation were in the wrong. Notably, he explained that he did not come to the conclusion that a sexual assault had not occurred or that the victim was lying, but, instead, that the Sussex Station CIO detectives’ actions were not reasonable in light of the evidence they had at that time. As LTC Callahan described in his arbitration testimony: “[T]hat video . . . resulted in me making a determination that a confession was not elicited; and that if the judge was told that there was one on videotape, that, in my estimation, wasn’t an accurate statement to make to the judge.” Major Szenzenstein echoed this sentiment. During our interview, he opined that, “[i]f your Affidavit of Probable Cause isn’t accurately reflecting what was in the suspect’s statement, then you have a problem.” At that time, based upon his review of the recorded statement and his knowledge of the CIO detectives’ subsequent conduct, LTC Callahan determined that it was appropriate to refer this matter to the OPS for an internal

affairs investigation. According to LTC Callahan, the situation “definitely rose to the level of an internal investigation.”

To that end, on or about February 27, 2017, Captain Greene, at the request of either LTC Callahan, Major Szenzenstein, or both, submitted a NJSP Reportable Incident Form to the OPS. The Reportable Incident Form identified “Field Operations Section/Division HQ” as the “Reporting Station/Unit” and listed the “Members Involved” as Detective DeLorenzo, Detective Crane, DSG Lewis, and DSG Krisanda. In describing the incident reported, Captain Greene wrote: “Sussex [C]ounty, Chief of Detectives, Thomas McCormick contacted the Field Operations Section in regards to a Sexual Assault investigation . . . which was generated out of Sussex Station. Chief McCormick advised the case was initially presented to the on-call Assistant Prosecutor (AP) who determined there was not sufficient Probable Cause to charge the suspect. Sussex Station detectives disregarded the initial determination by the AP and contacted a local judge who found probable cause to issue the complaint. Further review of the affidavits and warrant indicated the subject had confessed and there is a discrepancy with the confession.”

**S. LTC Callahan is Made Aware of the Complaint to the OCU**

While, four years later, LTC Callahan does not have an exact recollection of the sequence of events,<sup>69</sup> he recalled that he was informed, around the time that he made the decision to initiate the OPS investigation, that a Sussex Station CIO detective had referred the SCPO to the OCU

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<sup>69</sup> While it remains unclear as to the specific date on which Troop “B” Command was first advised of Detective Crane’s contacting of the OCU, or who first informed them of Detective Crane’s actions, it appears that certain members of Troop “B” Command were aware of the situation as of February 24, 2017. In his July 21, 2017 interview with DSFC Tutko, DSFC Muller stated he received a call from Lt. Ghilon on that date who asked him whether he knew anything about the OCU being notified. DSFC Muller “explained to him that [he] did not” and “told him [he] would make some phone calls and find out.” According to DSFC Muller, he then spoke with Detective Crane who acknowledged that he had contacted the OCU on February 9, 2017 and provided DSG Donnelly with the recorded statements on February 13, 2017. DSFC Muller stated that he “asked [Detective Crane] why he did that and [Detective Crane] said that the [SCPO] was acting inappropriately and that he felt their actions should be investigated.” DSFC Muller then explained to Detective Crane “that that’s not his decision to make and that that type of accusation would have to be forwarded up the . . . chain of the command [who] would make that decision.”

based upon an allegation that the SCPO's decision to dismiss the Complaint against Mr. Schweizer was somehow impacted or influenced by a possible connection between the SCPO and Mr. Schweizer's father. According to LTC Callahan, he viewed the allegation with skepticism and considered it to be rooted in the detectives' frustrations about the SCPO's decision to dismiss the Complaint. Notwithstanding his views of the veracity of the allegation, LTC Callahan believed, at that time, that it would be inappropriate for the NJSP to investigate the SCPO due to the inherent conflict of interest. He explained: "[I]f you're going to be the accusing agency, you can't also be the investigating agency." He further stated that "knowing the friction [between the SCPO and the Sussex Station CIO], if [the Sussex Station CIO] [was] going to make that allegation, it should be immediately referred to [the] DCJ."

At some point after learning of Detective Crane's allegations against the SCPO, LTC Callahan called Captain Matthew Lubertazzi,<sup>70</sup> the Chief of the OCU. According to LTC Callahan, he advised Captain Lubertazzi, in light of the circumstances surrounding the allegations, that it would be inappropriate for the NJSP to investigate the SCPO and that the underlying matter would likely be the subject of an OPS investigation. While it is unclear as to whether LTC Callahan stated that the allegations would be referred to the Attorney General's Office or that it would make more sense for the Attorney General's Office to look into the allegations, it is clear that LTC Callahan conveyed to Captain Lubertazzi that the OCU should not be the agency investigating the matter.

Captain Lubertazzi recalls having received the call from LTC Callahan. According to Captain Lubertazzi, LTC Callahan advised him that the allegations "might be an OPS matter" and

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<sup>70</sup> Lubertazzi has served with the NJSP since 1994. Upon his enlistment, he spent five years as a Road Trooper. For the next twelve years, he served in the NJSP's Central Security Unit, where he was responsible for the investigation of threats and other criminal activity directed against high level, elected and appointed officials. Beginning in 2012, he served in the Intelligence & Criminal Enterprise Section and later, as an Assistant Bureau Chief in both the Counter Terrorism Bureau and the Official Corruption Bureau. In May 2015, he was promoted to Captain and became the Bureau Chief of the Official Corruption Bureau. He currently holds the rank of Major and serves as head of the NJSP Office of Executive Protection, a position he has held since July 2020.

that he told him “I need you to stand down and I’ll let you know how to proceed.” Captain Lubertazzi explained that, at the time, the investigation was “in its infancy” and that he considered LTC Callahan’s instructions as “benign.” While the *Newsweek* article classifies LTC Callahan’s call to Captain Lubertazzi as an order to “shut it [i.e., the OCU investigation] down,” both LTC Callahan and Captain Lubertazzi deny that there was any such direction or drama involved. Rather, as Captain Lubertazzi explained in his interview, “There was no investigation to shut down at that point since it was in the initial fact-finding stage.” Captain Lubertazzi subsequently passed along LTC Callahan’s instructions to DSG Donnelly.

In his August 1, 2017 interview with DSFC Tutko, DSG Donnelly acknowledged having been advised of LTC Callahan’s instructions. He stated: “Things came through [the] Field [Operations Section] to [the Intelligence & Criminal Enterprise Section] and at the time we were told to just hold on to it. Don’t review it yet. We’ll let you know in the future when to look at it.” He further stated that “[t]here was not an official investigation started into this.” In our interview, DSG Donnelly explained that, after he had conducted some initial fact-finding, he was “told that the investigation had to stop due to the fact that it became an internal affairs investigation.” He stated that Captain Lubertazzi advised him of this, that he “listened to the order,” and that he stopped his investigation accordingly. In a NJSP Investigation Report prepared by DSG Donnelly dated February 27, 2017, DSG Donnelly noted that the “[i]nvestigation [was] TOT’d [i.e., turned over to] . . . the Division of Criminal Justice.” He further noted in the Report that the “Case Status” was “Closed”.

In our interview with former DCJ Deputy Director Christine Hoffman (“AAG Hoffman”),<sup>71</sup> she could not recall whether a specific referral of the OCU complaint was made to

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<sup>71</sup> From 2013 to 2020, AAG Hoffman served as Deputy Director of the DCJ where she was responsible for the supervision of multiple bureaus, including the Specialized Crimes Bureau, the Financial & Cyber Crimes Bureau, and



the DCJ. She did recall receiving notice that OPS had initiated an internal investigation and indicated that the corruption allegations would have fallen within OPS' investigative authority. She further indicated her belief that the DCJ likely told OCU to "deconflict with OPS" and that OPS would be handling the matter. AAG Hoffman explained that, while the DCJ did not open its own separate investigation, it could have done so if the OPS investigation had unearthed any evidence of corruption by the SCPO. She indicated her belief that no such evidence of corruption justifying a separate DCJ investigation was ever found.

**T. Sussex Station CIO Informs Ms. Gallagher that the OCU Will Not be Investigating the Matter**

Later in the day on February 27, 2017, DSFC Muller called DSG Lewis and requested that he contact Ms. Gallagher to explain to her that the OCU would not be investigating the matter. He further advised DSG Lewis to tell Ms. Gallagher to contact the Attorney General's Office or the DCJ if she wished to make a formal complaint against the SCPO. Shortly thereafter, DSG Lewis attempted to call Ms. Gallagher, however, she did not pick up the phone. He then advised DSG Krisanda to attempt to relay the information to Ms. Gallagher later that night. The following day, on February 28, 2017, Ms. Gallagher returned DSG Krisanda's call. In a NJSP Supplemental Investigation Report authored by DSG Krisanda dated March 8, 2017, DSG Krisanda wrote: "On [February 28 2017], . . . Ms. [Gallagher] was advised that the NJ State Police Official Corruption Unit was not investigating her case and that if she would like to make a complaint, she should contact the Attorney General's Office. Ms. [Gallagher] stated, 'I kind of figured it was going to go that way.'"

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the Corruption Bureau. Prior to her appointment to Deputy Director in 2013, AAG Hoffman served as Chief of the DCJ's Corruption Bureau beginning in 2009. Upon joining the DCJ in 2000, she served as Deputy Chief of the DCJ's Major Crimes Bureau. Prior to joining the DCJ, she was an assistant prosecutor with the Burlington County Prosecutor's Office. She has served as Acting Gloucester County Prosecutor since her appointment to that position in March 2020.

**U. Prosecutor Koch and Chief McCormick Meet with LTC Callahan and Major Szenzenstein at the Golden Corner Diner in Bound Brook**

On or about February 28, 2017, LTC Callahan called Chief McCormick to arrange a meeting with Prosecutor Koch. They agreed to meet near the Blairstown Airport the following morning. While LTC Callahan originally intended to take a helicopter to Blairstown, those plans were ultimately scrapped after poor weather conditions made flying impossible. That being so, Chief McCormick suggested to LTC Callahan that they meet at the Golden Corner Diner in Bound Brook, a location fairly equidistant between the SCPO in Newton and NJSP Division Headquarters in West Trenton. Based on the suggestion, LTC Callahan and Major Szenzenstein met with Prosecutor Koch and Chief McCormick at that location on the morning of March 1, 2017.

In our interview with Prosecutor Koch, he described his meeting with LTC Callahan, Major Szenzenstein and Chief McCormick. Prosecutor Koch stated that he had never met Major Szenzenstein prior to this date and that LTC Callahan likely asked him to attend because he was the “second in command for Operations.” Prosecutor Koch stated that, during the meeting, LTC Callahan stated that he “wanted to apologize because the troopers had not followed proper protocols” and because “there was a referral of a complaint that your office is corrupt.” According to Prosecutor Koch, LTC Callahan further stated that he had no indication “as to what the corruption was” and that “we have nothing to support it.” Prosecutor Koch described LTC Callahan’s characterization of the corruption allegation as a “blanket statement that there was corruption at the [SCPO] for dismissiveness.” Prosecutor Koch stated that this meeting was the first time that he (or anyone else within the SCPO) had been told that a corruption allegation had been lodged with the OCU. He explained his reaction to the corruption allegation as being “sort of baffled.” He further stated that he thought the corruption allegation “was insane” and that he was not worried about it because he “knew he didn’t do anything corrupt.”

Chief McCormick provided some additional context to the March 1, 2017 meeting. He stated that, during the meeting, LTC Callahan informed Prosecutor Koch that the SCPO had been “reported for official corruption.” According to Chief McCormick, he and Prosecutor Koch “pressed” LTC Callahan for additional information regarding the allegation, however, LTC Callahan only stated, in sum and substance, “I don’t have any corruption. I’m just saying that an allegation has been made.” Chief McCormick recalled that LTC Callahan made a statement regarding the corruption allegation to the effect of: “It doesn’t make sense. It’s like ordering a hot dog at McDonalds.” Chief McCormick stated his impression was that LTC Callahan was “embarrassed” and “somewhat apologetic to the Prosecutor.” He further stated his belief that LTC Callahan wanted to tell Prosecutor Koch in person “out of respect for him.” Chief McCormick stated that there was “absolutely no” discussion of any reassignment of the Sussex Station CIO detectives during the meeting.

In our interview, LTC Callahan recalled the meeting as being “more of a try to mend fences breakfast.”<sup>72</sup> According to LTC Callahan, the group discussed the important relationship between the SCPO and the Sussex Station CIO and the need to maintain that relationship moving forward. He recalled discussing the allegation received by the OCU and conveying his belief that “if you’re going to be the accusing agency, you can’t also be the investigating agency.” As LTC Callahan stated in his arbitration testimony: “The discussion was, it’s not the State Police’s role to investigate prosecutors.”

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<sup>72</sup> LTC Callahan’s recollection of the March 1, 2017 meeting is consistent with the description he provided in his arbitration testimony. There, he stated that “it was about trying to mend what I thought was a bridge that had been . . . somewhat impacted negatively [by] what [had] happened over the month leading up to [the meeting].” While LTC Callahan indicated in his arbitration testimony that he thought the SCPO was aware, at the time of the meeting, that their Office had been reported to OCU, he indicated to us that he could not state for certain whether that was, in fact, the case.

We also discussed the March 1, 2017 meeting with Major Szenzenstein. He stated that the “purpose of the meeting was to go up there and discuss the relationship with the Prosecutor’s Office and how to repair that relationship because [the NJSP] is the primary law enforcement [agency] in Sussex County.”<sup>73</sup> He explained: “If we don’t have a relationship, were failing the residents of Sussex County.” Major Szenzenstein described the meeting as “completely professional,” and that they “just happened to meet while having breakfast.” He further described that there was nothing unusual meeting at a diner and that they had conducted meetings outside of Division Headquarters in the past. Major Szenzenstein did not recall whether the corruption allegations against the SCPO were discussed during the meeting.

**V. Ms. Gallagher Submits a Tip Line Complaint to the Division of Criminal Justice**

On March 2, 2017, after feeling that all of her previous efforts had “c[ome] to a dead end,” Ms. Gallagher submitted a Tip Line complaint to the DCJ. In the e-mail complaint, Ms. Gallagher outlined the factual history of her case, including her perceived mistreatment by the SCPO during her February 8, 2017 meeting with AP Pappas and Lt. Williams. She wrote, in relevant part: “As the[y] continued to question me[,] I could sense that they did not want to do anything in regards to my case[,] but rather[,] were aggressively trying to coerce me to drop the charges against my attacker.” She further outlined her February 22, 2017 meeting with Mr. Pompelio and indicated her belief that Mr. Pompelio “believe[d] the lies of [AP Pappas] and wouldn’t even give the . . . detectives who had all the evidence a chance.” She further wrote: “Now I am currently left without an attorney, with all these powerful figures trying to coerce me to drop these charges and I feel I have nowhere to turn . . . .Please let me know where I can go from here . . . . I [want to] find out

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<sup>73</sup>Major Szenzenstein’s recollection of the March 1, 2017 is consistent with the description he provided in his arbitration testimony. There, he stated that the group “discussed the case, the relationship between the Prosecutor’s Office and CIO, and . . . [t]rying to continue to have an open line of communication with the Prosecutor’s Office and the State Police to make sure we continue to have a good working relationship.”

why what happened to me isn't important to them and why they re-victimized me again[.]” During our interview with Ms. Gallagher, she indicated that she never received a response to her March 2, 2017 Tip Line complaint.

According to an Intake Tracking Sheet generated in response to Ms. Gallagher's complaint, the complaint was received by the DCJ's Record and Identification Section on March 6, 2017. An investigator was assigned to the complaint who subsequently forwarded it to a supervisor for review. According to the Intake Tracking Sheet, on April 13, 2017, the complaint was referred to the DCJ Corruption Unit after this supervisor determined that “No Further Action” was required from the Records and Identification Section due to the “[c]ase being handled by other agencies.”

In our interview with AAG Hoffman, she explained that, upon Ms. Gallagher's complaint “having hit the Corruption Unit's inbox” after referral from the Record and Identification Section, the complaint “would have been considered as part of the OPS investigation” and handled as such. Our review of DSFC's Tutko's Internal Investigation Report (and the related documents and recorded interviews constituting the investigate file), indicated that the issues identified in Ms. Gallagher's Tip Line complaint, namely her alleged mistreatment by the SCPO, the SCPO's decision to dismiss the charges against Mr. Schweizer, and Mr. Pompelio's alleged indifference to her request for legal assistance, were all noted by DSFC Tutko in his OPS Investigation Report. Moreover, the individuals named in Ms. Gallagher's complaint were all interviewed pursuant to the OPS investigation.

#### **W. The Reassignment of the Sussex Station CIO Detectives and Troopers**

Shortly after the matter was referred to the OPS, LTC Callahan and Major Szenzenstein reached a joint decision that the detectives and troopers involved in the case should be reassigned to maintain the working relationship between the SCPO and the Sussex Station CIO. In our

interview, LTC Callahan stated that this was due to “operational need.” He expressed his belief, that “if it rises to the level of an internal [investigation], it necessitates a reassignment.” In his arbitration testimony, LTC Callahan further elaborated on his decision to order the reassignments. He stated: “Telling a judge that you have a videotaped confession, that diminishes trust. Not following proper protocols with bail reform and hav[ing] a charge not approved and going to a judge, that diminishes trust. Videotaping the complaint against the [SCPO], that diminishes trust . . . [C]alling our Official Corruption Bureau and making an allegation, that diminished trust. Those four things over the course of six weeks, it was clear that the working relationship was now defunct and operational need would require that they be reassigned, and that’s what we did.” Major Szenzenstein expressed the same belief during our interview. He noted that “the whole legal system breaks down if there is a breakdown in the relationship between the troopers and the Prosecutor’s Office to whom they must bring their cases.”

Having decided that the reassignments were both justified and necessary, LTC Callahan and Major Szenzenstein called Major Devlin to advise him of their decision. According to Major Devlin, the ultimate decision as to where the detectives and troopers would be reassigned was left to Lt. Ghilon and DSFC Muller. The reassignments were formalized on March 7, 2017 and became effective on March 11, 2017.

#### **X. The OPS Investigation and Its Aftermath**

Meanwhile, on March 1, 2017, the OPS investigation officially began when DSFC Tutko was assigned to investigate the matter. From March 1, 2017 until December 14, 2017, DSFC Tutko conducted an extensive and thorough investigation, during which time he conducted at least twenty-five separate witness interviews. While the OPS investigation was focused on the actions of the detectives and troopers who were the subject of Captain Greene’s initial OPS complaint

(and others who were added as principals during the course of the investigation), several of the witnesses whom DSFC Tutko interviewed, including Detective Crane and DSG Donnelly, spoke at length about the alleged connection between the SCPO and Mr. Schweizer's father. Detective Crane and DSG Donnelly further described to DSFC Tutko how that allegation came to be presented to the OCU and how it was initially addressed. Based upon our review of the OPS investigative file, it does not appear that any evidence of corruption was ever substantiated during DSFC Tutko's investigation, despite him having been informed of the allegations against the SCPO by multiple witnesses he interviewed.

As part of his investigative duties, on August 15, 2017, DSFC Tutko, in accordance with OPS procedures, sent a Memorandum Request for Legal Review to Assistant Attorney General Michal Williams<sup>74</sup> ("AAG Williams") of the DCJ, who, at the time, was Counsel to Director Honig. In that Memorandum, DSFC Tutko outlined the factual history of the matter and the allegations against the Sussex Station CIO detectives and troopers who were the subject of the investigation. While AAG Williams did not specifically recall the corruption allegations against the SCPO as being part of his legal review, he indicated that it could not be said that the allegations had been "hidden from [the DCJ] if they were included in the file." On September 13, 2017, after consultation with AAG Hoffman, AAG Williams issued a declination letter to OPS in which he indicated that "[u]pon [his] review of the materials submitted by [OPS], th[e] matter w[ould] be returned to [OPS] to be handled administratively." As such, DSFC Tutko's investigation

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<sup>74</sup> AAG Williams was first hired by the DCJ in 1988. He spent the next thirty years of his career at that agency, where he served as a Deputy Attorney General in the Appellate Bureau, Deputy Chief of that Bureau, and later as Counsel to Director Honig. In April 2018, AAG Williams joined the Hunterdon County Prosecutor's Office as First Assistant Prosecutor. In April 2019, he was appointed as Acting Hunterdon County Prosecutor. In his role as Counsel to the Director, AAG Williams was responsible for reviewing all OPS matters to determine whether they involved any element of criminality necessitating further investigation or prosecution by the DCJ. In our interview, he explained that his review process for each OPS matter normally entailed a review of the full OPS investigative report including all materials within the OPS investigative file.

continued, ultimately culminating in an Internal Investigation Report dated January 14, 2018. That same day DSFC Tutko submitted an “Allegations & Conclusions” Report substantiating certain allegations against Detective DeLorenzo and Detective Crane.<sup>75</sup> His conclusions were later upheld by his OPS supervisors.

The conclusion of the OPS investigation, however, did not mark the end of this matter. Instead, multiple lawsuits were filed (by six of the Sussex Station CIO detectives and troopers against the State and individual members of the NJSP; by Ms. Gallagher against Mr. Schweizer; and by Mr. Schweizer against the NJSP, the Sussex Station CIO detectives and others) and an employment grievance was initiated by Detective Crane. Perhaps most indicative of the tension that still remained between the SCPO and the Sussex Station CIO, on September 7, 2017, before the first OPS investigation was completed, FAP Mueller lodged a complaint against Detective Crane that resulted in a second, separate OPS investigation by DSFC Tutko. The basis for that complaint was FAP Mueller’s allegation that Detective Crane, on August 29, 2017, had attempted to tape record a trial preparation session on a case being handled by AP Pappas. Neither the Sussex Station CIO detectives nor the SCPO had ever dealt with such a situation before. The scope of the second OPS investigation was subsequently expanded to include additional allegations made by certain members of the SCPO against certain Sussex Station CIO detectives. Some of these additional allegations were based on actions that had allegedly occurred as far back as 2014.<sup>76</sup>

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<sup>75</sup> Specifically, the allegation of “Culpable Inefficiency” against both Detective DeLorenzo and Detective Crane was deemed “substantiated” by DSFC Tutko. DSFC Tutko further deemed the allegations of “Unauthorized Release of Reports” and “Disobey[ing] a Direct Order” “substantiated” as to Detective Crane.

<sup>76</sup> While we do not address the second OPS investigation or the subsequent legal proceedings at length in this report, as we feel they are tangential to our stated investigative purpose, we mention them here as further evidence of the tensions that continued to persist between the parties well beyond the initial criminal investigation.



#### IV. FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

##### A. The SCPO's Decision to Dismiss the Sexual Assault Charges Against Mr. Schweizer

After Mr. Schweizer was arrested based on Detective DeLorenzo's belief that he had sufficiently confessed to sexually assaulting Ms. Gallagher, Detective DeLorenzo called the SCPO with the expectation that they would sign off on the arrest. As described above, that is not what happened. Instead, AP Nazzaro, the Chief of the SCPO's Sex Crimes Unit, made clear to Detective DeLorenzo that, based on his description of the state of affairs and her initial review of the charging documents that he had submitted, there did not appear to be sufficient probable cause for the arrest at that time. When AP Nazzaro and her supervisor, AP Pappas, the former Chief of the Sex Crimes Unit, called back – after discussing the matter with Prosecutor Koch, FAP Mueller and Chief McCormick – and told Detective DeLorenzo that the SCPO was not prepared to approve the charges at that moment, it is clear that Detective DeLorenzo disagreed. After consultation with and approval from others within the Sussex Station CIO, Detective DeLorenzo decided to bypass the SCPO's decision and present the charges directly to Judge Gavan, who listened to Detective DeLorenzo's description of the case, reviewed the charging documents, and ultimately approved charges against Mr. Schweizer.

After the SCPO dismissed those charges the next day and Mr. Schweizer was released from custody, Ms. Gallagher showed up at Sussex Station and described to the CIO detectives how she had felt “re-victimized” as a result of a meeting she had just had with AP Pappas and Lt. Williams. Detective DeLorenzo, Detective Crane and the other CIO detectives, after hearing Ms. Gallagher's complaints, concluded that the SCPO had acted inappropriately. Their concerns were heightened when they learned that Ms. Gallagher had raised to Detective Crane the possibility that Mr.

Schweizer had been treated favorably by the SCPO because his father had “political connections” or was a “high-powered attorney.”

The next day, and apparently before he was told that Troop “B” Command had directed that no referral be made, Detective Crane passed that concern on to DSG Donnelly of the NJSP’s OCU. While DSG Donnelly took preliminary steps to investigate whether that complaint had any merit, before he could move beyond the initial fact-finding stage, he was told by his supervisor, Captain Lubertazzi, that the OCU’s investigation was to be discontinued in favor of an internal affairs investigation by the OPS that had been directed by LTC Callahan. Following that decision, LTC Callahan and his direct report in Field Operations, Major Glen Szenzenstein, met for breakfast with Prosecutor Koch and Chief McCormick during which time they discussed the entire situation, including the fact that a corruption allegation had been raised against the SCPO.

Despite the Sussex Station CIO detectives’ continued belief that the SCPO acted inappropriately and press articles that question whether the OCU investigation was discontinued for nefarious reasons, our investigation has determined that these allegations are both unsubstantiated by the facts. Instead, what our investigation has determined is that when the initial call came in to AP Nazzaro, she believed, based on her training and experience, that Detective DeLorenzo had not elicited sufficient probable cause to move forward with what she knew would be a difficult “he said/she said” sexual assault prosecution. But rather than make that call on her own, she conferred with a number of other more experienced prosecutors and investigators within the SCPO, including AP Pappas, FAP Mueller, Chief McCormick and Prosecutor Koch. As described above, most of those individuals had substantial sex crimes prosecution experience and each concurred in the decision that more investigation was required before proceeding with charges.

All of the SCPO personnel who participated in or witnessed the subsequent call between AP Pappas, AP Nazzaro and Detective DeLorenzo state that AP Pappas made clear that, while the SCPO was not approving charges at that time, AP Pappas proffered additional investigative avenues that could be pursued – such as a search of Mr. Schweizer’s and Ms. Gallagher’s cellphones – to find potential additional evidence to justify Mr. Schweizer’s arrest and the filing of charges.

While Detective DeLorenzo has indicated that AP Pappas made no such investigative suggestions, it is undisputed that he reacted to the call by telling the prosecutors that he disagreed with their decision and that he was going to go directly to Judge Gavan to seek his approval of the charges. In the prosecutors’ minds, this was an affront to their role in the criminal justice system and, importantly, in direct contravention of the recently enacted bail reform rules that required prosecutorial approval before the NJSP (or any other law enforcement entity) was permitted to lodge charges of this nature. While we cannot definitively conclude whether or not AP Pappas asked Detective DeLorenzo whether he wanted to “start a war” as he claims she did (and as all three SCPO participants to the call deny), there is no doubt that the SCPO believed that the decision to disregard its direct order and go directly to Judge Gavan was going to cause serious tension between the offices. As detailed above, that is exactly what happened.

In response to Detective DeLorenzo’s decision to bypass its authority and disregard the new bail reform rules, the SCPO did two things, neither of which we conclude was improper. First, the SCPO contacted senior officials in both the Attorney General’s Office and in the NJSP to notify them of what was going on. The first person contacted was AAG Aronow whose job, at the time, was to help County Prosecutors to navigate the problems they encountered in their positions, including those arising out of their interactions with other law enforcement entities. As AAG

Aronow recounted during his interview, he thought that the NJSP's decision to file charges over the SCPO's objection was not in accordance with the new bail reform rules. AAG Aronow also stated that, during his call with the SCPO, they discussed the possibility of the SCPO contacting LTC Callahan who was then the head of the NJSP's Field Operations Bureau which had supervisory authority over the actions of the troopers and detectives at Sussex Station. While press reports on this matter suggest the call from Chief McCormick to LTC Callahan was somehow improper, we conclude that it was not. While the SCPO could have contacted someone lower in the NJSP hierarchy, it certainly was not unreasonable for them to contact the person who had top level responsibility for the actions of the Sussex Station CIO detectives. AAG Aronow likewise stated that this was a reasonable decision.

The second thing that the SCPO did was to hold off on actually dismissing the charges that had been filed against Mr. Schweizer until it had a chance to obtain and review the recordings of the interviews that Detective DeLorenzo had conducted. We interviewed at least six senior members of the SCPO (Prosecutor Koch, FAP Mueller, AP Pappas, AP Nazzaro, Chief McCormick and Lt. Williams) and each one of them credibly indicated that they did not believe, based on the recorded interview, that Mr. Schweizer had confessed to sexually assaulting Ms. Gallagher. Certain members of the SCPO pointed out flaws in the interview that could have made the introduction of the statement into evidence at trial difficult, even if it had evidentiary value. For instance, they specifically noted Detective DeLorenzo's delayed *Miranda* warnings, failure to have Mr. Schweizer sign a *Miranda* waiver card, and failure to ask the key question of whether Mr. Schweizer had digitally penetrated Ms. Gallagher.

As part of our investigation, we spoke to a number of additional members of law enforcement who had reason to review the recording of Mr. Schweizer's interview, including LTC

Callahan, Major Szenzenstein, and AAG Christine Hoffman, and each shared a similar view that, at a minimum, Mr. Schweizer did not confess to sexually assaulting Ms. Gallagher. The undersigned also had a chance to review the recording and we share the same view. As such, we conclude that the SCPO did not act unreasonably or for improper reasons in determining that Mr. Schweizer had not confessed to sexually assaulting Ms. Gallagher.

In addition to Mr. Schweizer's recorded statement, the Sussex Station CIO detectives believed that certain text messages that Mr. Schweizer and Ms. Gallagher shared after the incident provided further proof that Mr. Schweizer was guilty of sexual assault. As described above, Mr. Schweizer texted Ms. Gallagher and said "I'm sorry[.] I'm really turned on by you. And I took it too far." While we agree that the text message exchange has evidentiary value, we do not conclude the SCPO's belief that it did not have sufficient evidence to prove Mr. Schweizer had committed a sexual assault to be unreasonable. Indeed, during our interviews with several members of the SCPO, they noted that the text exchange was not a clear confession and that it is unusual, in their experience prosecuting sexual assault cases, for someone who had just committed a sexual assault to tell the victim "I really like you[.]" to call her "[a] breath of fresh air[.]" and seemingly try to set the stage to go out together again.

Members of the SCPO further described how their decision to not later bring charges against Mr. Schweizer was influenced by the communications, described above, that they obtained from Ms. Gallagher's cellphone. Specifically, they believed that a jury may have interpreted Ms. Gallagher's text messages to Mr. Schweizer's ex-girlfriend as providing an ulterior motive for her reporting of the alleged sexual assault. It is noteworthy that the judge who ruled on Ms. Gallagher's application for a final protective order against Mr. Schweizer had the benefit of reviewing those communications and ultimately denied Ms. Gallagher's application.

In light of all of the above, we are convinced that the evidence strongly supports the conclusion that the SCPO's actions in this case were not undertaken for any improper purpose. That said, we went one step further and interviewed Mr. Schweizer's father, Glenn, to seek confirmation that what each member of the SCPO told us – that no one knew Glenn Schweizer and that he played no role in the decisions that the SCPO made in this matter – was accurate. During that interview, Mr. Schweizer credibly stated that he had no interactions with anyone from the SCPO in connection with this matter and that his former position as Executive Director of the MCMUA had absolutely no relevance to what happened in Sussex County. We found Mr. Schweizer to be entirely credible in our interview. Furthermore, considering how condensed the time frame was between Detective DeLorenzo calling AP Nazzaro and seeking approval for the charges against Mr. Schweizer and the SCPO making and notifying Detective DeLorenzo of its decision to not approve those charges, there would have been little time for any third party to have gotten involved or to have influenced the process, even if they had tried. Simply put, there is no basis to believe Glenn Schweizer played any role in the SCPO's decision-making.

Based on the foregoing, we conclude that the SCPO's conduct in refusing to approve and ultimately dismissing the sexual assault charges against Mr. Schweizer was neither improper nor based on any improper or corrupt influence.

**B. The Involvement of LTC Callahan and Other Senior NJSP Officials**

After learning that Detective DeLorenzo had disregarded its direction and gone directly to Judge Gavan to obtain approval for the charges against Mr. Schweizer, the SCPO, through Chief McCormick, contacted LTC Callahan and briefed him on the emerging dispute between the SCPO and the Sussex Station CIO detectives. Based on our investigation, we find that the actions taken by LTC Callahan and others within the NJSP hierarchy as a result of Chief McCormick's report

to LTC Callahan were taken in good faith and based on a reasonable belief that those actions were both appropriate and necessary to maintain a continued productive relationship between the SCPO and the Sussex Station CIO.

When LTC Callahan spoke to Chief McCormick on February 7, 2017 and first learned that a Sussex Station CIO detective had disregarded an SCPO directive not to move forward with charges, he immediately viewed the situation as problematic. In our interview, he noted that the paramilitary nature of the NJSP requires its members to follow orders and that, in the context of criminal prosecutions, this includes those orders coming from a County Prosecutor. He explained that this proposition was even more pronounced as of January 2017 when newly instituted bail reform laws unquestionably required law enforcement officers, including NJSP detectives, to seek prosecutorial approval before filing serious charges against a suspect. LTC Callahan's initial instinct in this regard was reasonable based on the information he had been told.

LTC Callahan did not, however, base his subsequent decisions on Chief McCormick's representations alone. Instead, LTC Callahan went further and asked to review Mr. Schweizer's recorded statement, the varying opinions of which had formed the basis for the burgeoning disagreement between the SCPO and the Sussex Station CIO detectives. After obtaining the video, LTC Callahan watched the full recording with his direct reports in Field Operations, including Major Szenzenstein. These two experienced and respected troopers, who numerous witnesses described as having unimpeachable credibility, came to the conclusion, after watching the recorded statement, that Mr. Schweizer had not confessed (which, as described above, is a sentiment shared by virtually everyone with whom we spoke who had reviewed the statement other than the Sussex Station CIO detectives). Indeed, both men believed that Detective DeLorenzo's interview of Mr. Schweizer was poorly conducted. They further indicated that, after watching the statement that the

Sussex Station CIO detectives had deemed a confession, they believed that those detectives' subsequent actions in disregarding the SCPO's express instructions to not file charges and in accusing the SCPO of wrongdoing were improper. They also believed that the Commendation given to Detective DeLorenzo for his interview of Mr. Schweizer was wrong and evidence of an attempt to protect one of their own.

That baseline belief that troopers under his supervision had not acted in accordance with the new bail reform rules, had disregarded SCPO directives, and were mischaracterizing a fundamentally important piece of evidence, is instructive in understanding and evaluating the later actions that LTC Callahan took in this matter. Of note, LTC Callahan indicated that he immediately decided that an internal affairs investigation by OPS into the detectives' conduct was both appropriate and warranted by the circumstances. Major Szenzenstein informed us that, while it was ultimately LTC Callahan's decision to refer the matter to OPS, he fully concurred in that decision. We conclude that this decision was reasonable in light of the information that LTC Callahan and Major Szenzenstein – the individuals with ultimate supervisory authority over the troopers and detectives at Sussex Station – had before them.

We likewise find it reasonable that LTC Callahan directed Captain Lubertazzi and the OCU to discontinue their nascent investigation into the allegation lodged by Detective Crane, regarding Mr. Schweizer's father, in favor of an OPS investigation. Rather than believing that there was any conceivable legitimacy to the allegation – an allegation that Ms. Gallagher herself later described as “more [of] . . . a conspiracy theory”, LTC Callahan credibly explained that he believed the SCPO's conduct had been reasonable such that he did not see any realistic possibility of corruption in its actions.



Our investigation also determined that there is no support for the allegation contained in the *Newsweek* article that LTC Callahan aggressively and dramatically ordered the cessation of the OCU investigation. The *Newsweek* article suggests that, after getting direction from LTC Callahan, Captain Lubertazzi dramatically ordered DSG Donnelly to “[s]hut it down,” and to “[s]hut it down now.” In our interview with Captain Lubertazzi, he described a much more mundane situation. As described more fully above, he explained that he had received a call from LTC Callahan (with whom he had worked as a younger trooper and whom he described as having “unquestioned ethics”) who, after briefly describing the background of the dispute between the SCPO and the Sussex Station CIO detectives, explained that it was his determination that the matter should be reviewed by OPS in the first instance. In our interview, Captain Lubertazzi indicated that he had no problem whatsoever with LTC Callahan’s suggestion and that he considered it “benign.” In our interview with DSG Donnelly, he confirmed that he was not told to “shut down” his investigation, but rather, was simply told that it was being discontinued in favor of an OPS investigation.

The *Newsweek* article also incorrectly suggests that the OCU investigation “remains open[]” despite “no investigative work . . . being done.” We were provided the entirety of the OCU investigative file which consists of only two reports spanning a combined four pages. As described above, in the first report, an undated NJSP Investigator’s Report authored by DSG Donnelly, DSG Donnelly noted that the OCU investigation was opened on February 9, 2017 and that on February 13, 2017, he and Detective Torres met with Detective Crane and were briefed on the factual background of the case and the allegation made by Ms. Gallagher that she had been told by Mr. Schweizer’s ex-girlfriend that “[Mr.] Schweizer’s father was a powerful attorney.” DSG Donnelly’s Report further indicates that, after meeting with Detective Crane, he “[a]ttempted to search [whether] the accused[’s] father ha[d] any connections to the SCPO and/or SCPO

attorneys.” In our interview, DSG Donnelly stated that he conducted a preliminary online search for information regarding Mr. Schweizer’s father and determined only that Glenn Schweizer was, at that time, the Executive Director of the MCMUA. The second report in the OCU file, dated February 27, 2017, is the closeout report in which the “Crime Status” is listed as “Administratively Cleared” and the “Case Status” is listed as “Closed[.]” The “Narrative” simply states that the investigation had been “TOT’d [i.e., turned over to] . . . the Division of Criminal Justice.”

While DSG Donnelly’s February 27, 2017 closeout report states that the matter had been “TOT’d to the Division of Criminal Justice[.]” that never happened and appears to have never been the intent of the individuals involved. While LTC Callahan explained his belief that the DCJ would have been the more appropriate agency to investigate the allegation against the SCPO (due to the inherent conflict of interest that would result if the NJSP were to serve as both “accusing agency” and “prosecuting agency”), he made clear that it was his intent, as far as the NJSP was concerned, that the OPS investigation should proceed. Our interviews with Captain Lubertazzi and DSG Donnelly confirmed that they both understood, at that time, that the OCU investigation was being superseded by the OPS investigation, not a separate investigation by the DCJ.

We also confirmed, through our interviews with several senior officials of the DCJ, that the DCJ never initiated its own separate investigation into the allegation surrounding Mr. Schweizer’s father. Both AAG Hoffman and AAG Williams indicated, however, that they had complete access to DSFC Tutko’s entire OPS investigative file and that, if they had believed that any further criminal investigation on any of the topics addressed therein needed to be conducted, they would have directed such an investigation. Indeed, AAG Hoffman, who had previously spent substantial time as Chief of the DCJ’s Corruption Bureau, indicated that she found absolutely no reason to believe that the SCPO’s conduct regarding the Schweizer investigation (as described by

DSFC Tutko in his January 14, 2018 Investigation Report and related investigative files) was in any way impacted by improper or corrupt influences.

Finally, while we were not tasked with evaluating the propriety of the decision made by LTC Callahan and other senior NJSP officials to reassign the Sussex Station CIO detectives and troopers involved in the Gallagher/Schweizer matter from an employment law perspective, or to comment on the ongoing litigation in that regard, we find LTC Callahan's statements that he believed the reassignments to be appropriate and necessary to heal the immense rift that developed between the SCPO and the Sussex Station CIO to be credible and reasonable. In our interview, LTC Callahan explained that the NJSP performs primary law enforcement duties for thirteen municipalities within Sussex County and, as a result, they are regularly required to work with and bring their cases to the SCPO. Since the NJSP had no ability to effectuate the reassignment of the Sussex County Prosecutor or any assistant prosecutors within the SCPO for that matter, the only option LTC Callahan had available to him to help assure that the important law enforcement functions in Sussex County remained productive was to reassign the detectives and troopers most directly involved in the matter. We conclude that LTC Callahan's explanation for his actions is both credible and reasonable.

Based on the foregoing, we conclude that LTC Callahan's stated reasons for his decision: (1) to initiate an OPS investigation into the conduct of the Sussex Station CIO detectives and troopers involved in the Schweizer investigation; (2) to direct the discontinuance of the OCU investigation in favor of the OPS investigation; and (3) to order the reassignment of the Sussex Station CIO detectives and troopers, were reasonable and not made for any improper or corrupt reasons.

**C. The March 1, 2017 Meeting at the Golden Corner Diner**

We similarly find no wrongdoing with the March 1, 2017 breakfast meeting between LTC Callahan, Major Szenzenstein, Prosecutor Koch and Chief McCormick. We discussed this meeting with all four participants and each of them maintained that its purpose was to simply “mend fences” between the NJSP and the SCPO to ensure a productive working relationship moving forward. The overture by LTC Callahan was not made for some nefarious or improper purpose, but rather, to make sure that the important relationship between these two law enforcement entities would not be compromised due to this incident.

The meeting participants acknowledged that LTC Callahan discussed the fact that an allegation of possible corruption on the part of the SCPO had been reported to the OCU. While LTC Callahan recalls thinking that Prosecutor Koch and Chief McCormick had been aware of this allegation at the time of the meeting, both Prosecutor Koch and Chief McCormick told us otherwise. Regardless of whose recollection is accurate, we find that LTC Callahan’s discussion (or disclosure) of the allegation was neither improper nor intended to compromise any existing investigation. Rather, LTC Callahan raised the issue as part of his regret for the breakdown between the two offices. Even assuming the SCPO lacked knowledge of the corruption complaint, it cannot be said that LTC Callahan’s disclosure of the existence of that complaint to the SCPO was tantamount to “tipping off” the subjects of an investigation. After all, as Captain Lubertazzi explained during his interview, “[there was no [OCU] investigation . . . at that point since it was in the initial fact-finding stage.” Moreover, at the time of the meeting, the OCU “investigation” had already been discontinued in favor of the newly-initiated OPS investigation. The situation begs the question of how LTC Callahan’s disclosure of the corruption allegation could have possibly compromised a non-existent investigation.

We also find that there is no evidence to support an inference of impropriety from the fact that this meeting took place at a diner in Bound Brook rather than at NJSP Division Headquarters in West Trenton or at the SCPO in Newton. All of the participants at the meeting credibly and consistently stated that meeting at this location was solely a matter of convenience. As described in detail above, LTC Callahan and Major Szenzenstein had originally planned to take a NJSP helicopter to Blirstown Airport on the morning of March 1, 2017 and meet with Prosecutor Koch and Chief McCormick near that location. Those plans were subsequently scrapped when poor weather conditions made flying impossible. As a result, Chief McCormick recommended, and the parties agreed, to meet at the Golden Corner Diner in Bound Brook, a location fairly equidistant between the two offices. That said, in a State that is famous for its diners, the fact that a diner was the location of choice certainly does not warrant an inference of wrongdoing.

**D. The Actions and Motivations of the Sussex Station CIO Detectives**

One of the questions we endeavored to answer through our investigation was whether the actions of the Sussex Station CIO detectives were motivated by a good faith belief that Mr. Schweizer had in fact sexually assaulted Ms. Gallagher or whether those actions were the product of some alternative motivation. We determined that this question was worthy of exploration in light of the fact: (1) that a significant number of experienced law enforcement professionals who viewed Mr. Schweizer's recorded statement, including members of the SCPO, the NJSP and the Attorney General's Office, all came to the conclusion that the statement did not constitute a confession; and (2) that the detectives ignored both the clear instructions from the SCPO and the requirements of bail reform by presenting the charges directly to a judge. Based on our investigation, we conclude that the Sussex Station CIO detectives involved in the matter acted as

they did, and aggressively defended their actions, based on a legitimately held belief that they were protecting and supporting a victim of a serious crime.

During the course of our investigation, we interviewed four of the detectives involved in the underlying criminal investigation and its aftermath: DSG Lewis, DSG Krisanda, Detective Crane and SSgt. Weis. What is abundantly clear from these interviews, and our review of the detectives' investigative reports and prior statements in this matter, is that the Sussex Station CIO detectives shared a collective belief that Ms. Gallagher was the victim of a sexual assault perpetrated by Mr. Schweizer and that Mr. Schweizer's recorded statement, when coupled with his text messages to Ms. Gallagher, qualified as an admission to that sexual assault. Furthermore, each of these witnesses credibly expressed, in their own words, their strong belief that all of their actions were taken to defend a victim of a sexual assault and they expressed confusion as to why others involved did not act similarly. The sincerity of this belief was palpable during our interviews and we found nothing during the course of our investigation to suggest that the Sussex Station CIO detectives believed they had anything less than probable cause when they arrested Mr. Schweizer.

Our conclusion that Detective DeLorenzo and the other CIO detectives acted in good faith in arresting and charging Mr. Schweizer is further buttressed by our review of certain documents created during the course of the underlying criminal investigation. Specifically, in the Affidavit of Probable Cause submitted in support of his application for a complaint-warrant, Detective DeLorenzo explicitly noted that Mr. Schweizer "advised [that] he and the victim mutually kissed and said the victim touched his genitals." We find the inclusion of this sentence important. If Detective DeLorenzo had intentionally been trying to mislead the SCPO into thinking Mr. Schweizer had confessed in order to get it to "rubber stamp" the charges, he surely would not have included this information within the supporting Affidavit of Probable Cause. Indeed, it was partly

based on this description that AP Nazzaro indicated that she came to the conclusion that sufficient probable cause for Mr. Schweizer's arrest did not yet exist. As such, we find Detective DeLorenzo's inclusion of Mr. Schweizer's version of the events within the Affidavit of Probable Cause to be evidence of his good faith in seeking approval for the charges against Mr. Schweizer.

Another factor lending itself to our finding of good faith is that Detective DeLorenzo did, in fact, inform Judge Gavan that the SCPO had reviewed the matter and denied its approval for the charges. While we did not interview Judge Gavan, we listened to the interview he provided to DSFC Tutko pursuant to the OPS investigation. During that interview, Judge Gavan made clear that, at the outset of his call with Detective DeLorenzo, Detective DeLorenzo had informed him that the SCPO did not want to proceed with the matter due to the apparent strength of the case. While Judge Gavan informed DSFC Tutko that he was not clear, at that time, that the SCPO had denied its approval of the charges based upon a perceived lack of probable cause, he stated that he was aware, at the time he issued the Complaint-Warrant, that the SCPO had withheld its approval of Detective DeLorenzo's application.<sup>77</sup> Notably, Judge Gavan also noted during his interview that, while he later learned that bail reform rules required prosecutorial approval for the issuance of a complaint-warrant, at the time he approved the Complaint-Warrant against Mr. Schweizer, he was under the mistaken belief that the pre-bail reform rules still applied and that the NJSP did not need prior prosecutorial approval before applying for a complaint-warrant. The fact that Detective DeLorenzo disclosed to Judge Gavan the disagreement that then existed with the SCPO further strengthens our view that he, and the other Sussex Station CIO detectives who had approved of his

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<sup>77</sup> In our interviews with AP Pappas and AP Nazzaro, they both indicated that AP Pappas had instructed Detective DeLorenzo to include a notation within the Affidavit of Probable Cause indicating that the SCPO had denied its approval of the charges based upon its finding that those charges were not supported by probable cause. While our review indicates that no such notation was included within the Affidavit of Probable Cause submitted to Judge Gavan, we believe that Detective DeLorenzo's oral representation to the Court is sufficient evidence to support our finding that Detective DeLorenzo was acting in good faith and not intentionally omitting relevant information from the Court's consideration.

calling Judge Gavan, were acting in good faith based on a legitimate belief Mr. Schweizer had sexually assaulted Ms. Gallagher.

One last point to address is the detectives' failure to adhere to the newly implemented bail laws. As discussed more fully above, each of the Sussex Station troopers and CIO detectives with whom we spoke denied ever having received the SCPO's bail reform Directive and, as such, denied contemporaneous knowledge or understanding of the procedural changes it required. While it is clear that the SCPO Directive was e-mailed to Sussex Station Commander Lt. John Widovic on October 31, 2016, it remains unclear as to whether the SCPO Directive was subsequently disseminated to the troopers and detectives within Sussex Station. While we did not seek access to NJSP e-mail archives to confirm the veracity of the detectives' statements, we did review Lt. Widovic's recorded interview with DSFC Tutko. In that interview, as described above, Lt. Widovic explained that it was his general practice at the time to forward anything he received from the SCPO directly to the CIO, the Detective Sergeants First Class, and Staff Sergeants within Sussex Station. He could not specifically recall, however, as to whether he had done so in this instance. Furthermore, Lt. Widovic told DSFC Tutko that he was not aware of any training that the Sussex Station CIO detectives would have received regarding the SCPO's Directive. In light of these uncertain statements, and confirmation we received from FAP Mueller that no one from Sussex Station ever attended the SCPO's mandatory bail reform trainings, we have no basis to conclude that the detectives actually received the SCPO's Directive or the associated training. As such, we cannot find that they intentionally violated the new bail reform rules by going directly to Judge Gavan.



**E. The SCPO's Decision to Not Refile Charges Against Mr. Schweizer**

We next address the issue of whether the SCPO, after dismissing the charges against Mr. Schweizer on February 8, 2017, investigated the facts surrounding Ms. Gallagher's sexual assault allegation, such that it was able to make a reasonable determination as to whether charges should have been refiled. Our investigation determined that, while the SCPO did not conduct a substantial further investigation, the subsequent investigative measures taken by the SCPO allowed the SCPO's prosecutors to fairly conclude, in their professional judgment, that a prosecution of Mr. Schweizer was not viable based on existing facts and circumstances and insufficient evidence to prove Mr. Schweizer's guilt beyond a reasonable doubt at trial.

It is important to note that the four experienced sex crimes prosecutors (Prosecutor Koch, FAP Mueller, AP Pappas and AP Nazzaro) and two investigators (Chief McCormick and Lt. Williams) who played a role in the Schweizer investigation all believed, from the outset, that the underlying facts of this case would make it inherently difficult, if not impossible, to prove Ms. Gallagher's allegations beyond a reasonable doubt. Those facts included, amongst others: (1) the "he said/she said" nature of the allegations; (2) a lack of physical injury on the part of the alleged victim, (3) the length of time with which the alleged victim and perpetrator had spent at a bar prior to the occurrence of the alleged sexual assault; and (4) the absence of video evidence to corroborate the allegations. When coupled with the fact that none of the SCPO prosecutors or investigators viewed Mr. Schweizer's statement to be a confession, and the fact that the *Miranda* warnings issued to Mr. Schweizer by Detective DeLorenzo may have been constitutionally suspect thus possibly precluding introduction of the statement at trial, the SCPO has reasons to believe that this would be a difficult case.

While the SCPO recognized the difficulty it would have in obtaining a conviction at trial, that difficulty did not dissuade the SCPO from pursuing further investigative measures in an effort to identify and obtain additional evidence. Specifically, the SCPO requested, and Ms. Gallagher consented to, a search of the contents of her cellphone. AP Pappas and Lt. Williams both indicated that this search was conducted to determine whether any additional relevant evidence, beyond the handful of text messages that Ms. Gallagher had already provided to Detective DeLorenzo, existed. After executing the search of the cellphone and combing through the communications, information and data recovered pursuant to that search, the SCPO had further reasons to believe that it would be challenging to establish Mr. Schweizer's guilt beyond a reasonable doubt.

As described in detail above, several of the members of the SCPO whom we interviewed, including Prosecutor Koch, FAP Mueller, AP Pappas and Chief McCormick, all expressed concerns regarding certain text message conversations found on Ms. Gallagher's cellphone and the impact those conversations may have had on a jury. Specifically, Prosecutor Koch, FAP Mueller, AP Pappas and Chief McCormick all pointed towards text messages in which Ms. Gallagher appeared to mention that she had spoken to Mr. Schweizer's ex-girlfriend following the alleged sexual assault and had reported the assault to possibly assist her in a custody dispute with Mr. Schweizer. Chief McCormick explained that the text messages showed a "possible ulterior motive" for Ms. Gallagher's reporting of the alleged sexual assault. Again, it is noteworthy that the judge who ruled on Ms. Gallagher's application for a final protective order, in a proceeding governed by the lesser preponderance of the evidence standard, specifically cited to these messages in denying Ms. Gallagher's application. In his oral decision, the judge indicated his view that these messages drew into question Ms. Gallagher's motives for reporting the alleged sexual assault. Regardless of Ms. Gallagher's true reasons for contacting Mr. Schweizer's ex-girlfriend, which

she described in our interview as simply an effort to find out more information about the man who had sexually assaulted her, we find it reasonable for the SCPO to believe that these messages could be interpreted (or misinterpreted) by a jury to discredit Ms. Gallagher's allegations.

In addition to conducting a search of Ms. Gallagher's cellphone, the SCPO took the additional investigative measure of meeting with Ms. Gallagher on February 8, 2017. While, as described in this report, the SCPO and Ms. Gallagher have vastly different recollections as to what was discussed at this meeting, both AP Pappas and Lt. Williams, who attended the meeting on behalf of the SCPO, indicated that they did not obtain any additional information or evidence that would have gotten the SCPO any closer to meeting its burden of proof at trial. While the Sussex Station CIO detectives believed that the only consideration that mattered at that point was whether they had probable cause for Mr. Schweizer's arrest, the SCPO, as FAP Mueller described in our interview, was "thinking beyond probable cause" to whether they "might ultimately be able to prove the case [against Mr. Schweizer] beyond a reasonable doubt."

During our interviews with members of the SCPO, they described other investigative avenues that were explored by the SCPO but not pursued due to a belief that such efforts would be futile. For example, while the SCPO considered requesting an interview with Mr. Schweizer, during which they could have asked the specific question regarding digital penetration, they decided not to do so because Mr. Schweizer was then represented by counsel who they reasonably believed almost certainly would have declined the SCPO's request. The SCPO also considered attempting to obtain video evidence from outside Boomer's, however, they were aware from a prior investigation that Boomer's does not have a video surveillance system. In addition, the SCPO contemplated interviewing additional witnesses with whom Ms. Gallagher may have possibly

discussed the sexual assault, but, as Prosecutor Koch explained in his interview, those discussions would likely have been inadmissible at trial.

While they were not able to pinpoint a specific date, the SCPO witnesses whom we interviewed indicated that they determined fairly quickly that the SCPO was not going to uncover any additional (or sufficient) evidence to establish Mr. Schweizer's guilt beyond a reasonable doubt. Based on the evidence that existed at the time, and the likelihood that additional evidence would not be uncovered, we find that the SCPO's decision to not refile charges against Mr. Schweizer was not outside the realm of reasonableness. We are not in a position to question the professional judgement of experienced prosecutors in that regard.

That said, we believe that the SCPO could have better communicated to Ms. Gallagher its decision to not refile charges. In our interview, Ms. Gallagher expressed her disappointment and frustration with how the SCPO handled her case. Perhaps her greatest frustration was that she simply did not understand the reasons why the SCPO chose not to prosecute the charges against Mr. Schweizer, particularly when she was sincere in her recounting of what had happened and had been told by the Sussex Station CIO detective that Mr. Schweizer had confessed. While it likely would not have cured the pain that Ms. Gallagher had endured as a result of this matter, the SCPO, after reaching its final determination, could have called Ms. Gallagher and fully explained its decision. Instead, after hearing nothing from the SCPO, she remained in the dark as to why the charges against Mr. Schweizer were dismissed and why those charges were never refiled, especially in light of what the Sussex Station CIO detectives had told her regarding their views of the evidence.

**F. The February 8, 2017 Meeting Between AP Pappas, Lt. Williams and Ms. Gallagher**

Finally, we address the issue of whether AP Pappas and Lt. Williams acted improperly when they met with Ms. Gallagher at the SCPO on February 8, 2017. As described above, from the SCPO's perspective, the main purpose of this meeting was to inform Ms. Gallagher that the SCPO would be dismissing the charges against Mr. Schweizer without prejudice, not to seek Ms. Gallagher's permission to do so. By deciding to dismiss the charges without prejudice, the SCPO preserved its ability to potentially bring charges against Mr. Schweizer in the future if they were determined to be warranted after further investigation. As such, the meeting was also an opportunity for AP Pappas and Lt. Williams to learn more about the potential case, to hear from the victim herself, and to gather additional evidence that could potentially be used to support a later prosecution. From the perspective of Ms. Gallagher, who was someone with no prior experience with the criminal justice system and who had just been told one day earlier by Detective DeLorenzo that her assailant had "confessed" and been arrested on that basis, the meeting was an opportunity to meet with members of the Prosecutor's Office whom she believed would be vindicating her decision to report the sexual assault and who would be bringing her attacker to justice. As she described during our interview, she certainly did not think, when she walked into the SCPO, that there was any basis for the charges to be dismissed. Not surprising, based on these two fundamentally different perspectives, AP Pappas and Lt. Williams, on one hand, and Ms. Gallagher, on the other, have very different recollections as to what was discussed and what occurred during this meeting. We provided a thorough description of those different recollections earlier in this report.

Based on the divergent descriptions of the meeting provided to us during our interviews with AP Pappas, Lt. Williams and Ms. Gallagher, and the fact the meeting was not recorded, it is

impossible to know for sure what was said between the parties and how it was conveyed. What is certain is that AP Pappas and Lt. Williams requested Ms. Gallagher's permission to conduct a search of her cellphone and that Ms. Gallagher consented to that request. While Ms. Gallagher, during our interview, explained her assumption that the search would be limited to the text messages and conversations with Mr. Schweizer that she had previously described and subsequently provided to Detective DeLorenzo, AP Pappas and Lt. Williams, based on their prosecutorial and investigative experience, and their desire to gather as much potential evidence as possible, deemed it necessary to capture the full contents of Ms. Gallagher's cellphone. While Ms. Gallagher was bothered by this and, in hindsight, viewed it as both an invasion of her privacy and an intrusion into personal matters that she considered to be outside the scope of, and unnecessary for, the forthcoming criminal prosecution, we believe that AP Pappas' and Lt. Williams' request to conduct a full search of Ms. Gallagher's cellphone was a reasonable investigative measure.

As to the dispute about the tone and nature of the conversation, which Ms. Gallagher described as being focused on AP Pappas' and Lt. Williams' aggressive efforts to get her to "drop the charges" against Mr. Schweizer, it goes without saying that victims of crimes, especially victims of the heinous crime of sexual assault, should be able to report those crimes without fear of being "attacked" or having their motives questioned. It is also true, however, that both prosecutor and investigator have a duty to get to the facts, to explore every possible motive, to search for the truth, and to anticipate what arguments will be made on a defendant's behalf. Their fulfillment of these duties, for better or worse, can sometimes lead to uncomfortable questions or misdirected accusations.

That said, we believe it is unlikely that AP Pappas and Lt. Williams, two law enforcement officers with extensive experience in the investigation and prosecution of sex crimes and who were described by many of the people we interviewed as “fiercely victim-focused”, would try to aggressively coerce Ms. Gallagher into dropping the charges against Mr. Schweizer considering that the SCPO did not need her permission to do so. We asked both AP Pappas and Lt. Williams about Ms. Gallagher’s description of the meeting and read to them the exact words she used to describe their interaction in her e-mail complaint to the DCJ Tip Line. Both of them credibly denied that Ms. Gallagher’s description accurately reflected what was said or what occurred during the meeting. In fact, Lt. Williams, whom one Sussex Station trooper described as a “straight shooter,” told us that, “[i]f [AP Pappas] was going to attack [Ms. Gallagher (in the manner described in her Tip Line complaint)], [she] would have asked her to leave the room.” Lt. Williams also told us that she has met with “hundreds” of victims during her time at the SCPO and described how she “always sees everybody as a victim” and treats them accordingly. Notably, each of the SCPO witnesses whom we interviewed, and several of the Sussex Station CIO detectives, all vouched for Lt. Williams’ demonstrated commitment to and compassion for the victims of the crimes she has investigated. We have no evidence to suggest that she handled this matter any differently. Similarly, AP Pappas told us that, while she certainly conducted an interview of Ms. Gallagher to better evaluate the viability of a prosecution, Ms. Gallagher never expressed any “concern or confusion” during the meeting.

While we were not able to corroborate Ms. Gallagher’s allegations of mistreatment by the SCPO, that does not mean that we believe the SCPO could not have handled the matter differently once it concluded that it was not going to move forward with the prosecution. As mentioned in the previous section, while the SCPO certainly had no obligation to meet with Ms. Gallagher again

since the case against Mr. Schweizer had already been dismissed, in light of the intense acrimony that existed between it and the Sussex Station CIO detectives, which it knew Ms. Gallagher was in the middle of, the SCPO could have requested to meet with Ms. Gallagher to fully explain its decision. Given the depth of Ms. Gallagher's disappointment in her perceived mistreatment by the SCPO, such an outreach may not have had much of an impact. But, considering Ms. Gallagher was someone who came to law enforcement to report that she was a victim of a sexual assault and had walked away feeling further victimized, it would have been worth at least a try. If nothing else, at least the SCPO could have explained its decision to Ms. Gallagher and, by doing so, it could have been sure that she had been told the reasons for its actions. We do not mean for this potential course of action, however, to imply that AP Pappas or Lt. Williams acted inappropriately during their February 8, 2017 meeting with Ms. Gallagher. As described above, our investigation does not support such a conclusion.