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## Misconduct Investigation

Prepared for

Mirick, O'Connell, DeMallie & Lougee, LLP on  
behalf of the Town of Hopkinton, MA

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# 1. Introduction

Kroll was retained by Nicholas Anastasopoulos, Esq. of Mirick, O'Connell, DeMallie & Lougee, LL – on behalf of the Town of Hopkinton, Massachusetts – to investigate possible police misconduct within the Hopkinton Police Department (“HPD”).

On August 24, 2022, HPD Chief Joseph Bennett (“Chief Bennett” or “the Chief”) was informed by investigators from the Massachusetts State Police, assigned to the Middlesex District Attorney’s Office, that they had commenced a criminal investigation of HPD Deputy Chief John Porter (“Porter”) and needed to interview Sergeant Timothy Brennan (“Brennan”) as part of the investigation. On August 25, after speaking with the investigator and members of the Middlesex District Attorney’s office, Chief Bennett placed Porter on leave pending the outcome of the investigation. According to information provided by Chief Bennett, it is Kroll’s understanding that a criminal process has commenced. Investigators informed the Chief that the investigation stemmed from allegedly inappropriate actions committed by Porter with a student Porter met while serving as a School Resource Officer (“SRO”).

Some months later, while in an equipment storage area, Brennan made a statement to the Chief about not wanting to be involved in the Porter case. The Chief cut off the conversation as he did not want to interfere with an ongoing investigation. On January 19, 2023, at approximately 1:19 p.m., Chief Bennett was paged by Brennan and asked to come to the sergeant’s office. Brennan told the Chief that he was concerned about the welfare of the department after the case with Porter was finished. Brennan informed the Chief that he was previously aware that Porter was having an affair with the victim student. Brennan informed the Chief that the victim did not want to take any action at the time she initially reported the affair to him, but that in the summer of 2022, she changed her mind and wanted to report what had happened. Brennan informed the Chief that he referred the victim to the DA’s office and told her to write down what she remembered before meeting with them. Brennan said he then met with the victim [REDACTED] to review her notes. During that meeting, the victim

revealed that she had been raped by Porter. Brennan stated to the Chief, “People are going to wonder how long I knew.”

The Chief consulted with legal counsel regarding his concerns that Brennan may have failed to report his knowledge of a crime and of Porter’s misconduct. Kroll was tasked with identifying what exactly happened and if anyone was aware of misconduct and/or criminal acts and failed to properly respond.

## 2. Documents Reviewed to Date

Kroll reviewed the following documents over the course of its investigation:

- Interview of Chief Bennett
- Interview of Sergeant Brennan
- Administrative Report of Chief Joseph Bennett
- Interview of Sergeant McNeil
- Hopkinton Police Rule & Regulations 10:0 Attention to Duty
- Sgt. Brennan's receipt of Hopkinton Police Rule & Regulations 10:0 Attention to Duty
- Hopkinton Police Policy 2.07 Rape and Sexual Assault Investigations
- Sgt. Brennan's receipt of Hopkinton Police Policy 2.07 Rape and Sexual Assault Investigations
- Hopkinton Police Internal Affairs Policy 4.01
- Sgt. Brennan's receipt of Hopkinton Police Internal Affairs Policy 4.01
- Hopkinton Police Department Handling Juveniles Policy 1.15
- Sgt. Brennan's receipt of Hopkinton Police Department Handling Juveniles Policy
- Hopkinton Police School Resource Policy
- Sgt. Brennan's receipt of Hopkinton Police School Resource Policy
- Hopkinton Police Mandatory Notifications Policy
- Sgt. Brennan's receipt of Hopkinton Police Mandatory Notifications Policy
- Interview of Sgt. Burchard

### 3. Timeline of Events

- **2004** – Porter is a School Resource Officer and meets the victim while she is a freshman in high school. He is 35 years old, and the victim is 14. Sometime during the year, the victim is allegedly sexually assaulted by Porter.
- **April 2005** – Porter is promoted to Detective.
- **July 1, 2005** – Brennan is assigned as a School Resource Officer and meets with the victim while she is a junior in high school.
- **2004 to 2008** – During the victim's high school years, [REDACTED].
- **2005 to 2008** – During the victim's high school years, [REDACTED].
- **May 21, 2007** – Porter is promoted to Sergeant.
- **January 2008** – Brennan is promoted to Detective and leaves the SRO position.
- **2013 to May 2, 2023** – Porter is serving as the girls soccer coach at Blackstone Valley Regional Vocational Technical High School in Upton Mass.
- **December 8, 2014** – Brennan is promoted to Sergeant.
- **2015** – Brennan and the victim meet in person. [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

➤ **December 2015** – Porter is promoted to Lieutenant.

➤ **2017** – The victim reports to Brennan that, when she was 14 years-old, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Brennan describes this incident as an indecent assault and battery. Every six to nine months, the victim meets with Brennan in person or calls him on the phone.

➤ **October 5, 2021** – Porter is promoted to Deputy Chief.

➤ **July 16, 2022** – News article congratulates Deputy Chief Porter for 30 years of service.

➤ **Spring and Summer of 2022** – The victim contacts Brennan several times and asks about the process to report the indecent assault and battery committed by Porter when the victim was 14. Brennan gives her the phone number and email address for the head of the District Attorney's child abuse unit.

➤ [REDACTED] **2022** – The victim contacts the DA's office. The DA's office then schedules the victim for a SANE interview [REDACTED]. The victim speaks every other day with Brennan after setting up the appointment, as she is concerned about Porter finding out and for her personal safety.

➤ **August 21, 2022** – Brennan and the victim meet [REDACTED] and discuss her notes for the interview scheduled for the following day. Brennan learns that in addition to the victim's



allegations that Porter indecently assaulted her when she was 14, he attempted to rape her and ██████ raped her during that event.

- ██████, 2022 – The victim is interviewed by investigators from the DA's office. After the interview, the victim contacts Brennan and informs him that the investigators believed her and are launching an investigation.
- **August 24, 2022** – The Chief is notified by the Massachusetts State Police that they are conducting a criminal investigation of Porter and are enroute to interview Brennan. Brennan is subsequently interviewed by the Massachusetts State Police.
- **August 25, 2022** – Porter is placed on administrative leave.
- **September/October 2022** – The Chief and Brennan have a brief conversation in the storage area.
- **January 19, 2023** – Brennan reports to the Chief that he has prior knowledge of an affair between the victim and Porter. He also discloses that he was aware of the indecent assault on the victim and later learned of the alleged rape prior to the report to the DA's office. The Chief is given the impression that Brennan has known this information for quite some time.



Brennan did not inform a supervisor [REDACTED], and he did not believe permission was needed from a supervisor to do so.

MR. LINSKEY: What about relationships – so, SROs, if you're outside of school, is there a need to notify a supervisor, hey, I got invited to this kid's graduating his Eagle Scout competition. He asked me to come by and be there for him. I'm going to go to a family event for this kid. Do you need to notify anyone of that?

SGT. BRENNAN: The only time you would notify is if you're' . . . going to put in for pay. You had to get approval in advance. So, where I live in town and grow up and stuff like that, sometimes I would go watch a – take my kids and go watch a game of someone that I knew that was playing or something like that. If the kid was struggling and asked, hey, you're going to come watch my game today? I'd say, oh, I got my kids, I'll come by and watch it for a minute. But only if you were going to put in for pay is really where you would – where you would ask for permission.

MR. LINSKEY: Would you ever have to ask for, hey, Linskey acted up today. I'm going to give him a ride home, Sarge, would there have to be approval of a sergeant to take a student off campus?

SGT. BRENNAN: I don't think so. The SRO works very independent. SRO is like a detective. They work very independent, don't have constant supervision, like a patrol sarge on the road or anything like that.<sup>2</sup>

Brennan stated that he and the victim stayed in touch over the years, speaking on the phone or meeting in person [REDACTED].

In 2015, the victim and Brennan [REDACTED] when [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Brennan claimed that he did not have any immediate concerns when he first learned from the victim that [REDACTED]

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<sup>2</sup> Timothy Brennan interview 02/17/2023, p. 38.

[REDACTED] Kroll notes that at the time that Brennan received this information, both he and Porter were sergeants.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MR. LINSKEY: *Okay. When that person gets selected for Deputy Chief, did you come forward with any information, said, hey, I just want to let you know, I know you're thinking of making him Deputy Chief, he's got some judgment issues you should be aware of?*

SGT. BRENNAN: *No, I was a candidate also.*<sup>3</sup>

The victim and Brennan met again sometime in 2017. At this meeting, she reported to Brennan that when she was 14 years-old, Porter [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Brennan described this incident as an indecent assault and battery. Brennan informed the victim that what happened was a crime and told her she should report it. She replied that she was not going to report the event and if Brennan reported it, she would deny that it happened. She stated that Porter had told her that due to her issues and his status as a police officer, no one would believe her if she reported it. Brennan went home and informed his wife of the conversation he had with the victim but did not report the information to anybody else.

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<sup>3</sup> Timothy Brennan interview 02/17/2023, p. 55.

MR. LINSKEY: [REDACTED]  
A couple of years later, 2000 -- I think '17 or '18 were saying, you learn [REDACTED]  
[REDACTED] there was an alleged sexual assault, indecent A&B on a child.

SGT. BRENNAN: Correct. 14 years later.

MR. LINSKEY: Okay.

SGT. BRENNAN: I learned it.

MR. LINSKEY: And no conversation with the Chief?

SGT. BRENNAN: No because she was going to tell him I was lying.

MR. LINSKEY: Okay. She was going to tell him you were lying.

SGT. BRENNAN: She said -- I said you should report that. She says, I'm not reporting it to anyone, and if you do, I'm going to tell you I never said anything of this sort.

MR. LINSKEY: Okay. Why didn't you take her up on that offer. Why didn't you report it to the Chief and say look, she's going to say I'm lying, but I just want to let you know, you know, I -- [REDACTED]  
[REDACTED] she's telling me that she was sexually assaulted when she was 14. Chief, I want to make you aware of that, because this guy has got our uniform and our badge, and it could reflect negatively on the department?

SGT. BRENNAN: I did not tell him that.

MR. LINSKEY: Okay. Any reason why?

SGT. BRENNAN: Because she was not willing to go forward with that.

Brennan acknowledged that he was aware he was required to report allegations of any wrongdoing he had become aware of and that such a report could cause an investigation to commence even with an anonymous victim.

MR. LINSKEY: Couldn't she have remained anonymous? Couldn't you have said, hey, Chief, I got somebody doesn't want to come forward, very much concerned. But in any event, I got information that this person in our police department sexually assaulted somebody when they were 14?

SGT. BRENNAN: Anything is possible, I could have done that.

MR. LINSKEY: But it's the policy you can remain anonymous and make a complaint against police officers. Right?

SGT. BRENNAN: Correct.

MR. LINSKEY: And then that would generate an investigation.

SGT. BRENNAN: Correct.

MR. LINSKEY: Okay. And that didn't happen.

SGT. BRENNAN: Correct.<sup>4</sup>

Brennan stated that every six to nine months, he would speak to the victim either on the phone or in person. During the Spring and Summer of 2022, the victim contacted Brennan several times and asked about the process for reporting the indecent assault and battery committed by Porter when she was 14. Brennan gave her the phone number of the DA's child abuse unit. The victim eventually contacted the DA's office [REDACTED] and was given an appointment for a SANE interview [REDACTED], [REDACTED]. Brennan said he spoke with the victim every other day leading up to her SANE interview because the victim was concerned for her personal safety and was worried that Porter would find out.

Even though Brennan now had a cooperative victim who had started the process of a criminal investigation with the Middlesex District Attorney's Office, Brennan failed to comply with his duty and obligation to notify the department. This lack of action occurred even though the victim expressed concerns for her personal safety. At this time, Porter was the second highest ranking law enforcement officer in the town and had access to his duty weapon as well as others. There was a distinct possibility that he could learn of the investigation. Other than informing the victim that it was unlikely the investigation would leak out from the DA's office, Brennan took no actions for two weeks to ensure the victim's safety.

MR. LINSKEY: *Did she get a date for the SANE interview. And I said, what happened next?*

SGT. BRENNAN: *She gets a date, two weeks out. And then she gets nervous that he's going to find out about it in that two-week window. So, she's very nervous, and she's calling me, like, every other day.*

MR. LINSKEY: *Okay.*

SGT. BRENNAN: *Because she's afraid. She's afraid of physical harm to herself or her children.*

MR. LINSKEY: *So now she's fearful of retaliation.*

SGT. BRENNAN: *Correct.*

MR. LINSKEY: *Okay.*

SGT. BRENNAN: *So she gets the SANE, and –*

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<sup>4</sup> Timothy Brennan interview 02/17/2023, p. 55.

MR. LINSKEY: And you would talk to her. Would you give her any advice, guidance? Did you tell her to yeah –

SGT. BRENNAN: Of course. Of course. Yeah. I -- I tried to reinforce to her that -- that there's a very, very small chance that he's going to know about this before she gets before the people for the SANE, from my training experience, that's what I could tell her, that he wasn't going to know about this before then.

MR. LINSKEY: He wasn't going to know.

SGT. BRENNAN: Correct.

MR. LINSKEY: Okay. Oh, so you were -- you -- when you said, there's a small chance, to me, when I first heard that, I was like, are you telling her that, you know, it's possible someone's going to tell him? You were trying to downplay the fact that, look, that's –

SGT. BRENNAN: Correct. There's a very small chance that he's going to find out.<sup>5</sup>

On August 21, 2022, Brennan and the victim [REDACTED] to go over her notes for the interview the next day. During this meeting, Brennan learned that in addition to the victim's allegations that Porter indecently assaulted her when she was 14, he also attempted to rape her and [REDACTED] raped her during that event. Brennan described this incident as rape of a child.

[REDACTED]

On August 24, 2022, after being contacted by investigators from the DA's office, Brennan relayed his knowledge of the allegations made by the victim to the investigators. Other than his wife, this was the first time Brennan shared what he learned from the victim in 2015, 2017 and the summer of 2022 with another person.

Brennan stated that at no point [REDACTED] [REDACTED] did he officially notify anyone in the Hopkinton Police Department. The only sharing of what he knew occurred when he spoke to the Chief in the Sergeant's office, where he

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<sup>5</sup> Timothy Brennan interview 02/17/2023, p. 30

shared information along with a concern that “people are going to wonder how long I knew” on January 19, 2023.

Brennan also acknowledged that after the victim told him of the alleged indecent assault and battery committed by Porter when the victim was 14 and while Porter was the SRO at her school, Brennan failed to report that information to the Hopkinton Police Department. In addition, if Brennan was concerned that the case would not be investigated because it involved a senior member of the HPD, he did not engage other agencies who could have investigated. Brennan did not report that information to the District Attorney's Child Abuse Unit, the Massachusetts Attorney General's Office or the FBI. Brennan gave the victim the name, phone number and email for the head of the Middlesex DA's Office Child Abuse Unit. He did not assist her in contacting them or reach out on his own to inform them of what he knew of the matters nor accompany her to any meetings. Brennan also never directed the victim to any victim service agencies.

SGT. BRENNAN: *If she chose to do that, and I told her, I said, you know, Catherine Folder is the Chief of the Child Abuse Unit. That's who you would speak to at the District Attorney's Office. And then she would assign investigators probably to investigate it. And I told her about what a SANE interview is. I was a detective here for six years and I worked at a college for 15, so I did my fair share of rape cases.*

MR. LINSKEY: *Certified for sexual assault investigations in Mass?*

SGT. BRENNAN: *Yes.*

MR. LINSKEY: *Okay, and you gave her advice and counsel, hey, this is the person who does child abuse investigations. They'll do a SANE interview. Let me tell you what that's all about. Did you report any of those conversations to anyone in the PD?<sup>6</sup>*

SGT. BRENNAN: *No.*

MR. LINSKEY: *Did you have any conversation with anyone in the department like, you won't believe what the subject did?*

SGT. BRENNAN: *I don't think so, no.*

MR. LINSKEY: *Anyone outside the department that's also in law enforcement, do you have any -- besides your wife, you have any friends or -- like, geeze, this guy is getting promoted up the ranks. And, you know, if you knew what I knew.*

SGT. BRENNAN: *I don't think so.*

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<sup>6</sup> Interview of Sergeant Brennan, p. 26.



MR. LINSKEY: So, this was just between you, the victim, and your wife?

SGT. BRENNAN: My wife knew, correct. I'm trying to think. Did I talk to anyone else about this? I don't think I did.

Kroll notes that Brennan is a certified sexual assault investigator in the Commonwealth of Massachusetts and has worked several sexual assault investigations, including child sexual abuse cases.<sup>7</sup>

Although Brennan remembered having a brief conversation with the Chief in the storage area before the Chief cut off the conversation, he does not recall exactly what was said. Brennan reported the conversation in his office with the Chief on January 19, 2023, and his recollection was consistent with the Chief's.

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<sup>7</sup> Interview of Sergeant Brennan, p. 25.

## 4. Officers with Possible Knowledge of Porter's Relationship with the Victim

Following the issuance of its investigative report on February 28, 2023, Kroll learned of another member of the HPD who may have had prior knowledge of Porter's actions. Specifically, the town had learned that Sergeant Burchard ("Burchard") served as a witness during the grand jury relative to the Porter investigation. In May 2023, Kroll was asked to conduct an inquiry into what Burchard knew about Porter's relationship with the victim and to determine if he failed to report that information to the HPD in accordance with rules and regulations.

On May 18, 2023, Kroll Investigators Daniel Linskey and Katy Shanahan conducted a recorded interview of Burchard at the HPD. Burchard was informed of his *Carney, Weingarten and Garrity Rights* and signed a waiver indicating as such. Burchard did not elect to be accompanied by a union representative or a lawyer. He was informed that if at any point during the interview he wanted to stop and seek guidance from either, he could stop the interview and do so.

Burchard said he has specialized training relative to the department's rules, regulations and policies. He stated that new rules, regulations and policies are released by email and that the department has a software application program whereby each officer is responsible for reading and signing that they are aware of any changes. He said the department also goes over any changes during roll call.

When asked what he knew regarding the Porter investigation, Burchard said he now knew more since the issuance of a recent press release. He said, he was questioned as a witness during the investigation relative to a motor vehicle stop in 2007. Burchard was questioned by two detectives with the Massachusetts State Police – a Sergeant Detective and a State Trooper – from the District Attorney's CPAC unit. Burchard was first notified about a month or month and a half ago by the state trooper. Burchard said Trooper Emily Todesco ("Todesco") initially contacted his wife, who then gave Todesco his phone number. Todesco called Burchard on April 18<sup>th</sup>, saying she needed to speak to him

regarding Porter being on leave and asked to meet. She said over the phone that he would be getting a grand jury summons and that she wanted to serve him with that summons. Todesco further told him that she wanted to discuss a 2007 motor vehicle stop that Burchard made of a young woman ("victim"). Burchard reported that he then met with Todesco at the Millbury barracks and was served with the summons. After receiving the written summons, Burchard notified Chief Bennett ("Chief") on April 19<sup>th</sup> when he next saw the Chief in person. He said that he had received a call from the DA's office looking to interview him relative to the Porter Investigation.

Burchard and Todesco subsequently exchanged text messages. On April 23, she wrote, "Good evening. Just confirming we are still all set for tomorrow at 10:00 a.m. at Millbury barracks." He responded, "All set." She said, "Thank you." They then exchanged text messages the morning that he served as a witness at the Woburn courthouse. They discussed where to meet, and Burchard asked who the district attorney was, with Todesco saying, "Tom Brant."

Burchard reported that in 2007, he stopped a young female he later determined to be the victim for a possible OUI based on "odor, bloodshot, and glassy eyes." While giving her a field sobriety test, the young woman took off on foot. [REDACTED]

[REDACTED] It was "pretty late" at night and the building was locked. The woman ran up onto the back deck and banged on the door. Burchard reported that she was crying and "visibly upset." Burchard said that he pursued her, caught her and placed her in handcuffs for "refusal to submit to a police officer." Burchard said he intended to arrest her or keep her from taking off again until he could complete his investigation.

Burchard, who was an overnight patrolman at the time, radioed the incident into dispatch when pursuing the woman. Shortly thereafter, Porter showed up on scene; Burchard does not recall anyone else showing up. Burchard said he could not recall if he had a conversation with Porter on the scene or back at the station, but Burchard said Porter told him he knew the young woman and that she had experienced various issues in her background.

MR. BURCHARD: She was pretty upset and crying about the whole situation.

MR. LINSKEY: Was she calling him by name? Was she asking him for help? Did she -- did you get an impression that he knew her well?

MR. BURCHARD: I got the impression that she knew him. How well, I didn't know. I knew -- I knew he told me he was a school resource officer at the time she was in school.

MR. LINSKEY: Okay, so prior he was the school -- because he wasn't when he's a sergeant?

MR. BURCHARD: Correct. So prior.

MR. LINSKEY: He told you when his role was school resource officer, --

MR. BURCHARD: Yeah.

MR. LINSKEY: -- he had encountered her and this was information he was sharing with you about her background?

MR. BURCHARD: Correct.

MR. LINSKEY: [REDACTED] <sup>8</sup>

Burchard said he did not recall the woman saying anything during this time but recalled that she was really upset. [REDACTED]

[REDACTED]. Burchard said he learned of that fact during the recent investigation and after the press release came out.

MR. LINSKEY: Did he ever inform you that [REDACTED]

MR. BURCHARD: I don't think so.

MR. LINSKEY: Never said [REDACTED]

MR. BURCHARD: I don't think so. I don't recall, no.

MR. LINSKEY: Have you ever learned [REDACTED]

MR. BURCHARD: Yes.

MR. LINSKEY: When did you learn that?

<sup>8</sup> William Burchard interview page 14-15

MR. BURCHARD: During the recent investigation, when the news came out, the press release.<sup>9</sup>

Following the discussion with Porter, Burchard said he “felt empathetic” for the woman and ended up “placing her in protective custody.” Burchard said Porter did not ask him to put her in protective custody. He said the woman was an adult but under the drinking age, so between the ages of 18 and 21. He said two friends came to pick her up but that he did not send her to the hospital to detox. Burchard said he does not think he has ever dealt with this woman again and does not recall seeing her around town. He said he has never seen her with Porter, and prior to the press release, he was [REDACTED]

Burchard stated that Porter did not pressure him to release the woman, and he did not consider it misconduct for Porter to tell Burchard about her background.

Burchard said the HPD is “usually pretty hard on OUIs,” saying he has only released suspected OUIs two or three times in his career out of approximately 60-100 OUIs. He insisted that he was not pressured in this case but felt it was the appropriate response in his discretion.

MR. LINSKEY: Okay. What’s your normal practice of – what was the practice back then, you know, some - - some departments, you know, there’s kind of no discretion with OUI. It’s kind of like, if you’re over, you’re over. If you’re -- you know, if you’re there -- if you make the decision on the street to take them in, it’s kind of -- you go. Some departments, you know, ah, let me put them in protective custody and, you know, not do the paperwork for 4 hours. What was the practice of the Hopkinton PD back then?

MR. BURCHARD: We usually -- usually pretty good, hard on OUIs, we still have a pretty good reputation.

MR. LINSKEY: What was your practice?

MR. BURCHARD: Depended on the person. Not if I knew them or not, but if -- mostly it was, you know, by the book. Take them in.

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<sup>99</sup> William Burchard interview page 15

MR. LINSKEY: Have you made decisions to take other people you've taken into custody where on the street you decided, okay, my -- my assessment is that they are in violation. I'm going to go through the process. I'm going to have them take a breath test, and I'm going to charge them criminally. Is that a process where you have done that, got to the station, found out information about the person's background or what was going on that day or what have you, and you made a decision to put them in protective custody as well?

MR. BURCHARD: Very rarely. Probably only done that two or three times in my career.

MR. LINSKEY: One of them being this young female?

MR. BURCHARD: Yes.

MR. LINSKEY: What were the other two times?

MR. BURCHARD: I couldn't tell you.

MR. LINSKEY: How many OUIs have you done?

MR. BURCHARD: Personally, arrests? I couldn't tell you. At least probably close to 100. At least 60. 60 to 100. Somewhere in there.

MR. LINSKEY: Okay. 60 to 100, and 3 of them you've done PCs? Approximately?

MR. BURCHARD: Approximately, yeah.

MR. LINSKEY: Okay. But it wasn't pressure. You didn't feel pressure from the sergeant to make that move? He didn't say, hey, do me a favor, cut her slack?

MR. BURCHARD: I don't -- I don't remember him phrasing it like that, no. He was just kind of filling me in on her background.

MS. SHANAHAN: And she never said -- I want to just clarify. She never said to you anything specific to Porter when she -- when you were --

MR. BURCHARD: Not that I recall, no. Again, I mean you're this is 2007.<sup>10</sup>

Burchard said no one knew why Porter was placed on administrative leave, saying the investigation was "pretty tight lipped." He said there were so many rumors such as that Porter's "daughter had murdered somebody and it was a cover up," that Porter had "stolen some evidence, some drug evidence" or the "usual" sexual misconduct rumors. Burchard said he was not aware of any allegations

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<sup>10</sup> William Burchard interview page 20

regarding a [REDACTED], saying that at the grand jury, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Following the grand jury, the ADA told him not to speak to anyone about his testimony, but Burchard did not recall being told that he could not discuss his testimony specifically with the Chief. Burchard noted that it would not have mattered because he had already told the Chief that he was testifying. He said he spoke to the Chief in person later that day.

Kroll later confirmed with Chief Bennett that Burchard quickly reported to him that he had been summoned to court regarding an incident with the victim during a motor vehicle stop. Bennett also confirmed that after his testimony, Burchard informed him of his appearance at the grand jury.

## 5. Findings

Based on Kroll's investigation, including its review of relevant documents and interviews of Chief Bennett, Sergeant Brennan and Sergeant Burchard, Kroll makes the following findings of fact:

During the initial drafting of this report, there was an ongoing criminal investigation concerning actions allegedly committed by Porter. Since issuing our initial report, Porter has been indicted on three counts of child rape related to the victim. Kroll notes that the statute of limitations was not applicable and did not bar such a criminal prosecution. Brennan as a certified sexual assault investigator would have been aware that the delay in reporting the crimes would not prohibit a prosecution. It is also important to note that, as reported publicly in the media, Porter has served as a girl's high school soccer coach since 2013,<sup>11</sup> a fact known to Brennan and other members of the HPD.

The allegations, as reported by Brennan, were that while serving as an SRO, Porter sexually assaulted and [REDACTED] raped the victim when she was 14 years old and a student at the school that Porter supervised. However, his knowledge of Porter's conduct with the victim has evolved over time. [REDACTED]

[REDACTED] Later, Brennan learned of an alleged molestation (indecent assault and battery) by Porter of the victim when she was 14 and while Porter was an SRO. At a later date, Brennan learned that not only had the victim alleged that she was molested at 14 by Porter but that Porter had, in fact, raped her. Regardless, during all iterations of these allegations, Brennan was a duly sworn member of the HPD and was bound to report these allegations by the department's rules, regulations, policies and procedures, as well as by special orders. **Attachment A** of this report contains the department's applicable rules, regulations, policies and procedures, as well as the special orders that were in place to help guide Brennan and other officers during these types of circumstances.

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<sup>11</sup> <https://www.metrowestdailynews.com/story/news/crime/2023/05/01/former-hopkinton-police-officer-charged-with-sexually-assaulting-a-teenager/70170346007/>



Further, Kroll did identify **one instance whereby Brennan's actions specifically violated** the department's rules, regulations, policies and procedures, as well as special orders, noted as follows:

## 5.1 Brennan [REDACTED]

On July 1, 2005, Brennan was assigned as a School Resource Officer and met the victim when she was a junior in high school. From 2005 to 2007, during the victim's high school years, [REDACTED]. In these circumstances, Brennan scheduled private off-campus meetings with a student without seeking or receiving permission from his supervisor.

### REGULATION:

**Hopkinton Police Department Rules and Regulations School Resource Officer Policy and Procedure 4.10. Section 9 Prohibited Conduct:**

*An SRO will not arrange or schedule a private off-campus meeting with a student unless the SRO's supervisor approves such activity.*

Brennan violated Hopkinton Police Policy and Procedure 4.10 Sec. 9 Prohibited Conduct when he [REDACTED].

### Finding: Sustained

Kroll identified **four instances where Brennan's failure to act/report information** violated the department's rules, regulations, policies and procedures, as well as special orders:

## 5.2 Brennan Knew of [REDACTED]

In 2015, [REDACTED]. She informed Brennan, who was now a police supervisor, [REDACTED]

[REDACTED]

Brennan is a trained and experienced sex crime investigator. Brennan, like any trained police officer, understood that [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Porter's actions, as reported, would bring discredit to the HPD and, at a minimum, would amount to conduct unbecoming an officer and a violation of the HPD's rules and regulations.

**REGULATION:**

**Rule 10.1 Professional Image**

**"Employees shall not act in a manner which is inconsistent with the image of a professional po-lice department".**

Brennan was on notice of Porter's alleged actions and their violation of Rule 10.1 As a police officer and a police supervisor, he had an obligation to report [REDACTED]. Brennan did not report what he had learned to anyone at the HPD. This clearly posed a concern as to the HPD's liability, potentially resulting in heightened community interest.

**REGULATION:**

**Hopkinton Police Department Rules and Regulations General Order 2018-0004**

***"The Chief of Police and the Deputy Chief, through the chain of command, shall be notified immediately in the event of any situation or incidents where there may be a question as to this agency's liability or which may result in heightened community interest. Notification shall be made by the shift supervisor, Detective Sergeant, or the OIC. The Chief or Deputy Chief shall be reachable 24/7."***

Brennan violated the HPD's Rules and Regulations General Order 2018-004 when he failed to report his knowledge of [REDACTED] and Porter's alleged violation of Rule 10.1 Professional Image.

**Finding: Sustained**

### 5.3 Brennan Learned of an Alleged Sexual Assault Involving a 14-Year-Old Victim

In 2017, the victim reported to Brennan that, when she was 14 years old, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Once he learned of these allegations, Brennan was on notice that [REDACTED]  
[REDACTED]. He was also on notice that the victim was now alleging a felony sexual assault. Further, the victim informed Brennan, a police supervisor, that a crime had been committed by an on-duty member of the HPD. As a certified sexual assault investigator, Brennan reasonably should have understood that [REDACTED]  
[REDACTED]. Brennan was also on notice that the victim had alleged a crime committed by a police officer. Brennan had a duty and obligation to report the conduct and the allegations but chose not to do so. Kroll notes that at no time during his interview did he ever indicate that he did not believe the victim's allegations.

#### **REGULATION:**

##### **Hopkinton Police Rules and Regulations 10.0 Attention to Duty**

*"Officers are expected to be constantly alert and vigilant in the performance of their duties and to respond prudently but decisively when police action is required or expected. Every employee of the department who has occasion to handle any complaint, assistance call, arrest or other duty with business-like dispatch and courtesy and without any unnecessary loss of time. Employees shall furnish information and render aid to all persons with due courtesy whenever such request is*

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*consistent with their duty. Employees shall not withhold information on criminal activity from the department or other authorized personnel where there is a duty to disclose some information.”*

Brennan was on notice of and had a duty to report the felony sexual assault that occurred [REDACTED]. He failed to do so in violation of HPD Rules and Regulations 10.0 Attention to Duty.

**FINDING: Sustained**

**REGULATION:**

*Hopkinton Police Internal Affairs Policy 4.01  
General Considerations and Guidelines*

*“A relationship of trust between employees of this police department and the citizens of the community is essential. As such, all police employees are expected to conduct themselves in such a manner as to reflect favorably upon themselves and the department.*

*To a large degree, the public image of this department is determined by how well it responds to allegations of misconduct against the department or its officers. To that end, the objectives of an Internal Affairs investigation are:*

- Protection of the public*
- Protection of the employee.*
- Protection of the department.*
- Removal of unfit personnel; and*
- Correction of procedural training problems.*

*All alleged or suspected violations of laws, ordinances, by-laws, department rules, regulations, policies, procedures, and orders (verbal or written) must be investigated according to the procedures outlined for each.*

**Policy**

*It is the policy of this department to:*

- A. Investigate all complaints, including anonymous complaints, against the department or a member of the department, regardless of the source of such complaints, through a regulated, fair, and impartial Internal Affairs Program.*
- B. Determine whether or not such complaints are valid; and*
- C. Take appropriate action”.*

Brennan was on notice of and had a duty to report the felony sexual assault [REDACTED]. He failed to do so in violation of HPD's Rules and Regulations and Internal Affairs Policy 4.01.

**FINDING: Sustained**

**REGULATION:**

**Hopkinton Police Department Rules and Regulations General Order 2018-0004**

"The Chief of Police and the Deputy Chief, through the chain of command, shall be notified immediately in the event of any situation or incidents where there may be a question as to this agency's liability or which may result in heightened community interest. Notification shall be made by the shift supervisor, Detective Sergeant, or the OIC. The Chief or Deputy Chief shall be reachable 24/7."

Brennan was on notice of and had a duty to report the felony sexual assault [REDACTED]. He failed to do so in violation of HPD's Rules and Regulations and General Order 2018-0004.

**Finding: Sustained**

## 5.4 Brennan Knew the Victim was Seeking a Criminal Investigation and was Concerned for Her Safety

The victim eventually decided to contact the DA's office [REDACTED] and was given an appointment for a SANE interview [REDACTED]. According to Brennan, he spoke with the victim every other day leading up to her SANE interview because she was concerned for her safety and was worried Porter would find out. Even though Brennan now had a cooperative victim who had started the process of a criminal investigation with the Middlesex District Attorney's Office, he again did not comply with his duty and obligation to notify the department. This is a serious lack of action on his part, as now the victim had expressed concerns for her personnel safety. Porter was the second highest-ranking law enforcement officer in the town and had access to his duty weapon, as well as

other firearms. There was also a possibility that he could learn of the investigation. Other than informing the victim that it was unlikely that the investigation would leak from the DA's office, Brennan took no action to assist with ensuring the victim's safety for two weeks.

Brennan stated that he did not report the allegations against Porter because the victim initially refused to make a statement and because several years had passed since the alleged incidents occurred. However, those excuses were no longer applicable after the victim went to the District Attorney's Office with her allegations. Still, Brennan took no action to report the information.

**REGULATION:**

**Hopkinton Police Rules and Regulations 10.0 Attention to Duty**

*"Officers are expected to be constantly alert and vigilant in the performance of their duties and to respond prudently but decisively when police action is required or expected. Every employee of the department who has occasion to handle any complaint, assistance call, arrest or other duty with business-like dispatch and courtesy and without any unnecessary loss of time. Employees shall furnish information and render aid to all persons with due courtesy whenever such request is consistent with their duty. Employees shall not withhold information on criminal activity from the department or other authorized personnel where there is a duty to disclose some information."*

Brennan was on notice of and had a duty to report the felony sexual assault [REDACTED] [REDACTED] and had a duty to provide support to a victim who was fearful for her personal safety. Brennan's failure to report violated HPD's Rules and Regulations 10.0 Attention to Duty.

**FINDING: Sustained**

**REGULATION:**

**Hopkinton Police Internal Affairs Policy 4.01  
General Considerations and Guidelines**

*"A relationship of trust between employees of this police department and the citizens of the community is essential. As such, all police employees are expected to conduct themselves in such a manner as to reflect favorably upon themselves and the department."*

To a large degree, the public image of this department is determined by how well it responds to allegations of misconduct against the department or its officers. To that end, the objectives of an Internal Affairs investigation are:

- Protection of the public
- Protection of the employee.
- Protection of the department.
- Removal of unfit personnel; and
- Correction of procedural training problems.

All alleged or suspected violations of laws, ordinances, by-laws, department rules, regulations, policies, procedures, and orders (verbal or written) must be investigated according to the procedures outlined for each.

#### Policy

It is the policy of this department to:

- D. Investigate all complaints, including anonymous complaints, against the department or a member of the department, regardless of the source of such complaints, through a regulated, fair, and impartial Internal Affairs Program.
- E. Determine whether or not such complaints are valid; and
- F. Take appropriate action”.

Brennan was on notice of and had a duty to report the felony sexual assault [REDACTED] [REDACTED] and had a duty to provide support to a victim who was fearful for her personal safety. Brennan failed to do so in violation of HPD's Rules and Regulations and Internal Affairs Policy 4.01.

#### FINDING: Sustained

#### REGULATION:

Hopkinton Police Department Rules and Regulations General Order 2018-0004

The Chief of Police and the Deputy Chief, through the chain of command, shall be notified immediately in the event of any situation or incidents where there may be a question as to this agency's liability or which may result in heightened community interest. Notification shall be made by the shift supervisor, Detective Sergeant, or the OIC. The Chief or Deputy Chief shall be reachable 24/7.



Brennan was on notice of and had a duty to report the felony sexual assault [REDACTED] and had a duty to provide support to a victim who was fearful for her personal safety. Brennan failed to do so in violation of HPD's Rules and Regulations and General Order 2018-0004.

**Finding: Sustained**

## 5.5 Brennan Failed to Report an Alleged Rape

On August 21, 2022, Brennan and the victim met [REDACTED] and went over her notes for the interview scheduled for the following day. Brennan learned that, in addition to the victim's allegations that Porter indecently assaulted her when she was 14, he also allegedly raped her during that event. Brennan was now informed of another alleged felony by the victim, committed by an on-duty HPD officer. Brennan had a duty and obligation to report the conduct and the allegations but failed to do so.

### REGULATION:

#### **Hopkinton Police Rules and Regulations 10.0 Attention to Duty**

*Officers are expected to be constantly alert and vigilant in the performance of their duties and to respond prudently but decisively when police action is required or expected. Every employee of the department who has occasion to handle any complaint, assistance call, arrest or other duty with business-like dispatch and courtesy and without any unnecessary loss of time. Employees shall furnish information and render aid to all persons with due courtesy whenever such request is consistent with their duty. Employees shall not withhold information on criminal activity from the department or other authorized personnel where there is a duty to disclose some information.*

Brennan was on notice of and had a duty to report the crime of the alleged rape. He failed to do so in violation of HPD's Rules and Regulations 10.0 Attention to Duty.

**FINDING: Sustained**

### REGULATION:

#### **Hopkinton Police Internal Affairs Policy 4.01 General Considerations and Guidelines**

*“A relationship of trust between employees of this police department and the citizens of the community is essential. As such, all police employees are expected to conduct themselves in such a manner as to reflect favorably upon themselves and the department.*

*To a large degree, the public image of this department is determined by how well it responds to allegations of misconduct against the department or its officers. To that end, the objectives of an Internal Affairs investigation are:*

- Protection of the public*
- Protection of the employee.*
- Protection of the department.*
- Removal of unfit personnel; and*
- Correction of procedural training problems.*

*All alleged or suspected violations of laws, ordinances, by-laws, department rules, regulations, policies, procedures, and orders (verbal or written) must be investigated according to the procedures outlined for each.*

#### Policy

*It is the policy of this department to:*

- G. Investigate all complaints, including anonymous complaints, against the department or a member of the department, regardless of the source of such complaints, through a regulated, fair, and impartial Internal Affairs Program.*
- H. Determine whether or not such complaints are valid; and*
- I. Take appropriate action”.*

Brennan was on notice of and had a duty to report the crime of the alleged rape. He failed to do so in violation of HPD's Rules and Regulations and Internal Affairs Policy 4.01.

#### **FINDING: Sustained**

#### **REGULATION:**

**Hopkinton Police Department Rules and Regulations General Order 2018-0004**

*“The Chief of Police and the Deputy Chief, through the chain of command, shall be notified immediately in the event of any situation or incidents where there may be a question as to this agency's liability or which may result in heightened community interest. Notification shall be made by the shift supervisor, Detective Sergeant, or the OIC. The Chief or Deputy Chief shall be reachable 24/7.”*

- A. In the event that any of the following incidents occur the Chief of Police and the Deputy Chief shall be immediately notified.

6. Rape

Brennan was on notice of and had a duty to report the crime of the alleged rape. He failed to do so in violation of HPD's Rules and Regulations General Order 2018-0004.

**Finding: Sustained**

*In total, Kroll found eleven instances in which Sergeant Brennan's conduct violated the HPD's rules, regulations, policies, procedures and special orders.*

## 5.6 Burchard May Have Provided Preferential Treatment

When he was a patrol officer, Sergeant Burchard conducted a traffic stop of the victim. During the course of that stop, she fled the scene on foot and was apprehended. Burchard suspected she was under the influence of alcohol and took her into custody. Porter – then a sergeant – responded to the scene to back up Burchard. The victim was allegedly over 18 years old but under 21. [REDACTED]

[REDACTED] Burchard evaluated all the facts and circumstances and decided on his own to place the victim in protective custody. He stated that this was something he rarely did, but he decided it was the appropriate thing to do in this case. He said Porter did not try to unduly influence his decision, and the victim did not communicate in a manner that made Burchard aware that she and Porter had a relationship, and the victim never indicated that she had been assaulted by Porter in the past. Further, Porter's communications to Burchard and to the victim did not give Burchard any indication that there was a relationship between the two. Burchard only learned that [REDACTED]

On April 18, 2023, Burchard was called by an investigator from the Middlesex District Attorney's Office and informed that they wanted to question him about a matter related to Porter investigation. Burchard met with the investigator and was given a summons to appear before the grand jury. The

very next day, as soon as he saw Chief Bennett, Burchard reported that he was summonsed to appear before the grand jury regarding the Porter investigation, and that it involved a traffic stop in 2007 that Burchard made of the victim.

[REDACTED]

Burchard was well within his discretion to place the victim into protective custody that evening and did not provide her with preferential treatment due to her relationship with Porter. Burchard was not aware of or given any indication that Porter had a relationship with the victim.

**Finding: Unfounded**

Kroll notes that as soon as Burchard became aware that he may have information concerning criminal activity conducted by Porter, he alerted the HPD through the Chief. In addition, as soon as he testified at the grand jury, Burchard again alerted the Chief as to his participate in the Porter investigation.

Respectfully Submitted,



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