

November 10, 2015

**VIA HAND DELIVER**

***Hearing Pursuant to R.I.G.L. 42-28.6-1 et seq.  
Law Enforcement Bill of Rights***

City of Providence v. Sergeant David Marchant

**LEOBOR Panel**

Kristian V. Calise, Chairman  
Rhode Island College Police Department  
North Providence Police Department (Retired)

Oscar Perez, City of Providence Selection  
Providence Police Department

John Seebeck, Sergeant David Marchant Selection  
Pawtucket Police Department

On July 22, 2015, Sergeant David Marchant (herein referred to as Marchant) received notification by the City of Providence that it was terminating his employment as a Police Officer for the City of Providence as a result of the Charges and Specifications that were issued to him as a result of an incident that occurred on a call for service on December 27, 2014 and that he, Marchant, had five (5) days to reply and utilize the opportunity afforded to him to defend himself of those Charges and present his defense before a LEOBOR hearing committee for adjudication. The above panel was assembled and hearings regarding this matter commenced on August 24, 2015. A review of the incident giving rise to these proceedings is described as follows:

On December 27, 2014, Officer Khari Bass and Officer Raymond Majeau responded to the Brown University Mailroom for a report of a suspicious package. Upon their arrival they met with Marchant who had already arrived on scene. The suspicious package was described as a tan envelope that was covered in a white powdery dust-like substance. The package was opened by Sergeant Marchant, to which Bass also assisted, where it was learned that the tan package contained a book. Officer Frank Moody, a thirty- five (35) year veteran of the Department, also arrived on scene as he has an enormous amount of specialized training in the WMD field and is the Team Leader of the Providence five man WMD Team. Once Moody had learned that protocols were not followed as the package was handled prior to his arrival, Moody addressed Marchant and Bass regarding the violation of Department protocol. Upon hearing this Marchant responded, "How I handled it was OK because I had the one black Officer open the package." According to the Defense, this inappropriate statement was made as a joke. Marchant also said in his statement, "Ptlm. Bass voluntarily assisted me after I had already started opening the

package myself.” (As memorialized in Sgt. Marchant’s written statement to Major Thomas Verdi on January 9, 2015) Upon hearing this comment Moody responded, “That’s not right” and left the scene.

According to Officer Bass’ transcribed interview with Sergeant Terrence Green on January 26, 2015 regarding this incident Officer Bass said, “Sergeant Marchant starts to say that, ‘Well, we just have to pay attention’, uh, referring to me Patrolman Bass. ‘Cause if any...if he gets sick, then we have to worry. But if he doesn’t get sick, you know, then, you know, no one’s gonna get sick.’ And then he’s like, ‘Oh, yeah, but, you know, it won’t, it won’t be a problem, ‘cause he’s a black guy anyway.’ As far as if I were to get sick or not or something would happen to me, it’s not, ‘It’s not a big deal, he’s a black guy anyway.’ And, uh, he, he quickly made it a second time as though he didn’t know if anyone heard him.” (Page 6 of 18, Lines 8-19)

The City of Providence is represented by Mr. Vincent F. Ragosta, Jr. Esq. and presented the City’s case. The below is a synopsis of the witnesses called and their relevant testimony:

On September 14, 2015, the committee heard from Ptlm. Frank Moody, a thirty-five year veteran of the PPD and the Team Leader of the five-man PPD WMD team. Moody is a member of the State of Rhode Island WMD Team and has extensive training in this field. When Officer Moody arrived on scene to learn that Sgt Marchant handled this suspicious package both Marchant and Ptlm. Bass said he was displeased with the failure of the Officers on scene to follow Department procedure. According to Moody’s testimony (Page 33), Moody was informed by Sgt. Marchant that the package was “all set”. When Moody questioned Sgt. Marchant’s evaluation he testified that Sgt. Marchant replied, “Yeah it’s all set, I had the black guy do it.” Moody said he replied, “That’s not right” and immediately turned around and walked out. (Lines 13-17)

Officer Moody described this comment as “unprofessional” and it “offended him because it was unprofessional”. Officer Moody continued, “We need to be better than that. There were many people there. As Police Officers, we can’t say things like that that will not only offend people, but it makes us look bad in the eyes of the public.” (Moody Page 36, Lines 6-10) When questioned by Sgt. Marchant’s Defense Attorney, Mr. Michael Colucci, regarding Marchant’s comment being made as a joke, Officer Moody responded, “It may have been a joke on his part, but it was unprofessional, Mr. Colucci.” (Moody Page 39, Lines 24-25)

The committee then heard from Officer Khari Bass, the recipient of the comments by Sgt. Marchant. Officer Bass is a ten-year member of the PPD currently assigned to the Patrol Bureau. Bass described that he and Officer Raymond Majeau, a five-year member of PPD, were working a foot patrol when they responded to this call for service at the Brown University mailroom on December 27, 2014. In accordance with the above, Officer Bass testified that upon learning of Officer Moody’s displeasure of the way this package was mishandled Sgt. Marchant responded by saying, “So as long as he doesn’t get sick, then we should be fine. Who cares, anyway, he’s a black guys anyhow. That’s what I heard him say.” (Bass Page 55, Lines 19-22) Bass further testified, “I was – one, I was hurt, you know; two, I felt disgusted, you know. But I was near speechless.” (Bass Page 59, Lines 21-23)

Officer Bass further testified the comment(s) made by Sgt. Marchant made him feel that if something happened to him, if he were to “die or something, it’s not a big deal, he’s just a black guy, no big deal.” (Bass Page 61, lines 4-6) Bass further explained that he did not like the comments because they suggested black people are of lesser value or are less significant because of their heritage or skin color.

Officer Bass added that he thought Sgt. Marchant does not think before he understands his audience. At this time Officer Bass described an incident that occurred at Hope High School, an incident previous to this occurrence, where he and other officers were checking an alarm bell at Hope High School. Officer Bass separated from the group while searching the building and when he was seen by Sgt. Marchant and other Officers who were present down a hallway, Sgt. Marchant said words to the effect of, “it’s the black guy, it must be him.” (Bass Page 63, Lines 1-2) Bass said he “construed this” as he is the black guy so therefore he must have been the guy that broke in. Bass further said, “And I understand his intentions were to be funny, but I don’t find that funny, personally.” (Bass Page 63, Lines 6-8)

Attorney Ragosta described officer Bass as a “Stoic Individual”. Bass explained that he keeps this that matter to him “close” and will speak about trivialities. Therefore, he said this incident was difficult to speak about. Officer Bass said he received an apology from Sgt. Marchant regarding the Brown University incident to which he accepted; however, Bass testified that he tries to avoid Sgt. Marchant (Bass Page 69, Lined 11-13) and when the subject of being around Sgt. Marchant when he speaks about things other than work related issues Officer Bass said, “But if we start speaking in a very, I guess friendly manner, I mean, something comes out of his mouth, I’m kind of like, jeez, did he really say that. I just try to stay away from it so I’m not always in earshot of things that he says.” (Bass Page 70, lines 19-24)

Officer Bass answered that he did not feel that Sgt. Marchant’s words to him about his skin color fostered good morale within the Department. He felt the words spoken about him, about his skin color, on December 27, 2014, were “disrespectful, degrading, not what he would expect from a Supervisor, and not an environment he was comfortable working in.” (Bass Page 83, Lines 5-16)

Officer Bass was cross-examined by Attorney Colucci and it was discernable that this incident had an effect on him. He explained that he did not feel that Mr. Colucci could understand how hurtful it felt when someone spoke about him because of his race. Officer Bass explained that after work that day he spoke with family (sister) and some friends about how he should handle the situation.

Officer Raymond Majeau, a five-year member of the PPD, was then called to testify. Officer Majeau testified that while he did not hear the direct comment made by Sgt. Marchant, he was told by Officer Bass that Sgt. Marchant made a comment regarding Bass’ skin color. Officer Majeau said, “He was definitely bothered by it. He wasn’t yelling or anything like that, but you could tell he was a little forlorn, disappointed. It affected him. He’s a pretty stoic guy in general, anyway. He’s pretty good at controlling his emotions, but he was definitely bothered by it.” (Majeau Page 102, Lines 17-23) When Majeau was, again, asked to describe the effects of Sgt. Marchant’s words on Officer Bass Majeau replied, “I don’t recall exactly how he described it. I just know he was offended by it, he didn’t want to hear it, he didn’t appreciate it. (Majeau Pages

104-105, Lines 24-25, 1) Majeau later continued that Officer Bass did not view these words as a joke.

On September 24, 2015, Officer David Iamarone was called to testify. Officer Iamarone explained that he is a ten and a half year member of the Providence Police Department. Officer Iamarone explained that he was present at the call for service (alarm bell) at Hope High School where Sgt. Marchant made the comment in the hallway at the school. He said when Officer Bass walked around a corner into their line of sight he heard Sgt. Marchant say, "There's a black guy, get him." (Iamarone Page 6, Lines 6-7) He said he was "stunned" to hear those words from Sgt. Marchant. Iamarone further added, "I just couldn't believe that anybody would say something like that, or even think that, to a fellow Officer, let alone a stranger, particularly a fellow Officer." (Iamarone Page 6-7, Lines 23-25, 1) When asked if he observed a reaction from Officer Bass he described Officer Bass as a very quiet individual who keeps to himself.

On Cross Examination by Mr. Colucci, Officer Iamarone was asked if he thought Sgt. Marchant was joking when he made the comment to which Officer Iamarone replied, "No." (Iamarone Page 8, Line 16) Iamarone also offered that he has never heard Sgt. Marchant make other remarks such as this since this incident, nor has he observed Sgt. Marchant behave in a discriminatory or harassing-type manner toward any fellow employees.

Major Thomas Verdi was then called to testify. Major Verdi offered that he is a twenty-nine year member of the Providence Police Department, currently the Commanding officer of the Uniform Division. Major Verdi was asked if he would characterize Sgt. Marchant to be a stellar employee or having a stellar record, as described by Mr. Colucci during his opening statement. Major Verdi answered that he would disagree with that statement. Major Verdi said the comments made by Sgt. Marchant are, "An example of what should not be - - what a Supervisor-how a Supervisor should not at any time conduct himself." (Verdi Page 22, Lines 8-12) He said he was unsure if these comments were a Brady/Giglio issue; however, they certainly would impact his credibility. He continued, in his opinion, that "incidents that adversely impacts the image of the Police Department, any comment, any incident that adversely impacts the image of the Providence Police Department certainly impacts the trust of the community. They go hand-in-hand. The most important component of community police relationships is trust and confidence." (Verdi Page 24, Lines 2-8)

Colonel Hugh T. Clements was then called to testify. Colonel Clements offered that he is a thirty-one year member of the Providence Police Department and has worked in several Divisions within the Department during his tenure. Colonel Clements stated that the rank of Sergeant is an important rank within the Department as they are the "boots on the ground." They are an integral supervisory position within the Department because of how closely they work with the Patrol Officers.

Colonel Clements was asked if he thought Sgt. Marchant had a "stellar record" as a Police Officer to which the Colonel replied, "No." When asked about his decision to terminate Sgt. Marchant in this case Colonel Clements said that, "I don't do this lightly.... I do it in regards of the reputation of the Providence Police Department and the reputation of the City of Providence based on what I testified to earlier and the breakdown of the City of Providence and out Police Department."(Clements Page 51, Lines 14-21) When asked by Mr. Ragosta if Colonel Clements

remembered him telling the hearing panel that he (Clements) had a zero tolerance for someone that makes racially disparaging remarks, someone that doesn't lead by example and setting a bias-free workplace, Colonel Clements answered, "Yes, I do. And yes, I do, we do, and we have to." (Clements Page 52, Lines 15-16)

Colonel Clements further offered that the community is aware and takes notice of incidents such as this and felt this incident, "had a significant adverse impact on the Police Department, not only on the entire Police Department within the district of the co-workers within the particular community, within the Police Department and outside the Police Department..." (Clements Page 53, Lines 11-16.) Colonel Clements also referenced that he had attended the funeral for two NYPD Officers in New York City and felt that incident was a direct result of anger in the African-American community with Police. He further stated, "So, for a member of the Providence Police Department, and even more so a supervisor on the Providence Police Department, to make that comment at that time was outrageous." (Clements Page 54, Lines 5-16)

On Page 55 Colonel Clements said he does not feel that Sergeant Marchant would be able to conform/set an example and to the standards of the Providence Police Department; both within the ranks of the Department and within the community. He testified that Marchant makes flippant remarks at times and he is not confident that that would end. He does not feel he has the self-discipline to control his comments.

During examination by Mr. Colucci, Colonel Clements said he was made aware of this incident involving Officer Bass in January of 2015 and Sgt. Marchant was placed on Administrative Duty on March 30, 2015. He said that while Sgt. Marchant has been on Administrative duty he has been performing well. He has been training members of the Patrol Bureau with report writing issues or problems that Colonel Clements said is part of his responsibilities in that Division.

Colonel Clements was asked if he could "point to anyone else that has been terminated for such an infraction in the Department and Colonel Clements answered, 'No. But I can think of no other case similar to this.'" (Clements Page 72, Lines 21-25) Colonel Clements later added, "I need to look out for the entire Department and the entire City in how offensive that was to the receiver of the comment and whatever way he took it. It was clearly wrong, but as well, it's crystal clear that Officer Bass was deeply offended." (Clements Page 95, Lines 10-15)

However, when later asked by Det. Captain Seebeck (Panelist) if he thought Sgt. Marchant was a racist he answered, "No. I would not consider Dave Marchant a racist. I would testify that his comments were significantly offensive, certainly inappropriate, hurtful and against policy of – they were harsh, they were abusive to a fellow co-worker, they were derogatory, demeaning. I would not consider him a racist." (Clements Page 102, Lines 12-18)

On September 25, 2015, the defense Counsel's case for Sgt. Marchant began. The first witness called was Officer Thomas Rose, a thirty-year member of the Providence Police Department. Officer Rose explained that he has known Sgt. Marchant for several years; however, he has worked directly for Sgt. Marchant for the last five years, as Sgt. Marchant is his direct Supervisor. He explained he has never known Sgt. Marchant in a harassing or discriminatory

way towards his co-workers or the community. He has not had any problems working for Sgt. Marchant.

Officer Rose was asked, "...assume for a moment that a racially insensitive joke was made between co-workers by the Sergeant. Having that in mind, and based on your experience working for him, do you foresee any problems working with or for him going forward?" Officer Rose answered, "No." (Rose, Page 8, Lines 3-12)

During examination by Attorney Ragosta Rose, and several other witnesses agreed that Officers, at times, need to be stern and diplomatic; however, have to also be careful about the words they choose to accomplish their objective. When asked if he was aware of an incident that took place between Sgt. Marchant and Officer Edmonds, Officer Rose said he was not aware of any conflict between them. Attorney Ragosta then asked Officer Rose, "So, essentially, the bottom line about your testimony here today is insofar as you're concerned, you've never had any negative interactions with Sergeant Marchant and, therefore, you don't foresee problems working with him, based on your interactions?" Answer, "That pretty much sums it up in a nutshell, sir." (Rose Page 17, Lines 9-16)

When asked by Captain Perez (Panelist), "How would you feel if you heard anyone make a racial, derogatory comment to another brother Officer, a community member or a family member? Officer Rose answered; I would be upset. I don't think it's appropriate." (Rose Page 25-26. Lines 24-25, 1-3)

Officer Anibal Baez, a twenty-one year member of the Department, then testified at the hearing. Officer Baez said he and Sgt. Marchant attended the same Police Academy together and he worked for him briefly when he worked the East Side District. He has never observed Sgt. Marchant to act in a discriminatory or racially insensitive manner with co-workers or the public. He described Sgt. Marchant as being, "very professional, by the books." (Baez Page 30, Line 5)

During examination by Attorney Ragosta Officer Baez acknowledged that there are certain rules and regulations that Officers need to abide by. He admitted to being disciplined a number of times and additionally being suspended at least twice during his career.

When asked about jokes about others' ethnicity Officer Baez said if he were to be the recipient of a joke such as this he would not mind, he would just laugh along. However, he also agreed that a joke that someone may intend as a joke might not always be taken as a joke. He agreed that if the statement was not a joke, he would be upset.

At the conclusion of Officer Baez' examination he was asked by Captain Oscar Perez, "How would you feel if you heard anyone make a racial or derogatory comment towards another brother, sister Officer, community member or family member? Baez: By another Officer? Capt. Perez: By another Officer. How would you feel? Answer: Probably be upset if it's a serious content. Capt. Perez: Would you feel comfortable enough to work with that person again? Baez: No." (Baez Page 40-41, Lines 17-25, 1-2)

Officer David Morgan, a twenty-eight and a half year veteran of the Department then testified. Officer Morgan said he currently works District Eight and has worked for Sgt. Marchant for approximately two years; however, has known him for quite some time. He said he has never seen Sgt. Marchant act in a discriminatory way towards co-workers or the community.

During examination by Attorney Ragosta Officer Morgan said he has a military background. Specifically, he retired from the Army holding the rank of Command Sergeant Major. Morgan said he was not at either call for service that has been brought into question during these proceedings, Hope High School or Brown University. Officer Morgan said he does not reference fellow Officers by the color of their skin or by the ethnic or cultural background.

Officer Morgan was asked by Capt. Perez, “How would you feel if you heard a brother or sister Officer make a racial or derogatory comment toward another brother or sister Officer or member of the community in your presence?” Morgan answered, “My job, I would bring them aside and tell them that’s not appropriate. As Officers, we stand out in society. We can’t go out in the public and act certain ways, because we are supposed to be the filters. We are the guys standing up for everybody else. For us to do it to teach each other or say it to other people is wrong.” Question, “Would you be comfortable working with that person again?” Answer, “If I had a one-on-one with him, and we had a talk and corrected it, yes.” (Morgan Pages 55-56, Lines 15-25, 1-5)

Lt. Alyssa DeAndrade then testified. She is an eighteen-year member of the Providence Police Department who is currently assigned to the Records Bureau, Prosecution, and Human Resources. Lt. DeAndrade said Sgt. Marchant has been working in the Records Bureau focusing on maintaining errorless audits for report writing. He has taken the lead on training Officers who have patterns with making errors. Sgt. Marchant had reportedly volunteered to change his work shift so that Officers working between 0300 hrs. and 0700 hrs. could be trained as well. Lt. DeAndrade further said that Sgt. Marchant has had a great attitude and is positive and upbeat.

During cross-examination by Attorney Ragosta, Lt. DeAndrade acknowledged that it is important for the Department to maintain a bias-free and non-discriminatory work environment. Also, part of Lt. DeAndrade’s Human Resource responsibilities is to ensure that the policies that govern discriminatory behavior in the workplace are enforced. Lt. DeAndrade was asked, “Is it appropriate, in your view as a Lieutenant, as someone who is in charge of Human Resources, for Supervisors in the Providence Police Department to refer to subordinate officers by their skin color?” Answer: “No, absolutely not.” (DeAndrade Page 71, Lines 3-8) Lieutenant DeAndrade was asked, “Is it appropriate for Police Officers who hold Supervisory rank in the Providence Police Department to make disparaging comments about a subordinate Police Officer linking the skin color of that subordinate Officer to alleged criminality?” Answer, “No.” (DeAndrade Page 71, Lines 14-20) Lieutenant DeAndrade further testified that she did not condone Officers making offensive comments to others about their race or skin color.

However, upon being questioned by the panel (Capt. Seebeck) Lieutenant DeAndrade state she felt that she considered Sgt. Marchant an asset to the Department and the Records Bureau. But when asked by Captain Perez, “How would you feel if you heard another Officer make a racial or derogatory comment towards a brother or sister Officer or a member of the community; you,

yourself, how would you feel if you heard that?” Answer, “I would not be happy with that, and I wouldn’t tolerate that.” Question: And would you feel comfortable having that person continue under the ranks of our Department, continue to be employed?” Answer, “No.” Question, “I’m sorry?” Answer, “No.” (DeAndrade Page 80, Lines 7-19)

On October 14, 2015, Sgt. David Marchant testified before the hearing committee. Sgt. Marchant informed that he is a twenty-one year veteran of the Providence Police Department and currently assigned to the Records Bureau. Sgt. Marchant holds an Associate’s Degree in Accounting, an Associate’s, Bachelor’s and Master’s Degree in Criminal Justice, and a Bachelor’s Degree in Psychology. He is married and has three stepchildren.

Sgt. Marchant was asked to describe his Supervisory style. He answered, “My style is basically I look at myself more as a senior Patrolman than a Sergeant, not that I’m much more above, but I make the decisions when the decisions are made, and I don’t order anybody to do - - go on to any call that I would not go first. I believe I lead by example in that sense. I have an open door policy, if you call it that way, where any Patrolman can come and tell me anything they would like. I will learn from anybody that has something to tell me.” (Marchant Pages 21-22, Lines 25, 1-9)

After some preliminary questions by Attorney Colucci, Sgt. Marchant was asked to explain the events at the Brown University call for service. He said he responded to the call for service at the mailroom at Brown University. He spoke with a Brown Sergeant, some of their Officers, and other Brown University personnel. He learned the package had been sent from Brown University to Germany and was returned. He explained the package had a very minor amount of a white powdery (talcum-like) substance on it. He said as Officers did arrive on scene he used a pen to open the corner of the package and saw a small hardcover book that was wrapped in brown paper (Marchant Page 28, Lines 1-23)

Sgt. Marchant said he tore the package open with his pen to see if it was a book that was contained inside. He said he asked for a pair of scissors and when he obtained them he began to cut the package open “a little bit” which was when Officer Bass began to help him. Upon learning it was a book he requested a mailroom employee to put this article in a plastic bag and seal it “in case there was something we did not know – we weren’t aware of and to ask their, I believe it was the Library it was mailed from, whether they actually mailed the book out, and if not, to let us know back and, obviously, we’d have to do a little further investigation.” (Marchant Page 29, Lines 15-20)

At this point in Sgt. Marchant’s testimony he felt that he and Officer Bass had a friendly relationship. Attorney Colucci then referred the Hope High School incident whereby Sgt. Marchant said he had no recollection of that incident. Additionally, he offered that Officer Bass never spoke with him about the incident.

Referring back to the incident at Brown University, Sgt. Marchant said shortly after instructing the Brown University employee to place the item in a plastic bag, Officer Frank Moody arrived on scene. He explained that he could not remember where he saw Officer Moody on scene but they walked back to Moody’s vehicle and while doing so Sgt. Marchant explained to Moody the

circumstances surrounding this call for service. He told Moody he was satisfied the package was not a threat. In turn Moody began to counsel Marchant regarding incidents across the country where Officers have been injured in similar circumstances such as this one. While they were speaking Officer Bass walked over to them.

Sgt. Marchant said, "I hadn't said too much to Officer Moody. I had just listened to what he had said, and to break up the seriousness of it, when Patrolman Bass walked up to us, I just turned quickly and said, that's why I had the black guy do it, the black Officer." (Marchant Page 32, Lines 10-16) Marchant continued that he did not have a malicious intent by making the comment, only that he was trying to "lighten the mood". Marchant said it was just the three of them together, nobody else was around. Marchant said he did not think Officer Bass took offense to this comment. He stated Officer Moody said, "That's not right", but in "his manner when things - - other questionable statements and joking around. He says, hey, that's not right, in that type of manner." (Marchant Page 33, Lines 4-8)

Sgt. Marchant said he was not aware that Officer Bass was offended by his comment until January 9, 2015, when he was called into Major Verdi's office. Sgt. Marchant said he did not know why he was called into the Major's office. He said, "They asked me if I had been on a call recently with Khari Bass, and I must have looked at them with a blank stare because I didn't recall that specific - - any specific call, and then - -." (Marchant Page 34, Lines 10-13) Sgt. Marchant continued he thought he was being questioned regarding the handling of the package and not about his comment.

Upon learning from Captain Lepre that Officer Bass was offended by the comment he made, Sgt. Marchant said he spoke with Officer Bass "the first time I saw him", approximately three days afterwards. He said he spoke with Officer Bass in the auditorium at Police Headquarters because Officer Bass requested they speak privately and he apologized to Officer Bass about the comment he made and he said the apology was accepted.

During examination by Attorney Ragosta Sgt. Marchant acknowledged that there are rules and regulations that set the standards of behavior that Police Officers must live up to, there is a great deal of public trust conveyed to Law Enforcement Officers, and that the Providence Police Department is a paramilitary organization. Sgt. Marchant also acknowledged that sometimes a joke can "cross the line." (Marchant Page 47, Lines 1-2) Sgt. Marchant admitted that "even if the context may seem innocent or non-malicious, a word that is spoken can cause great harm." (Marchant Page 47, Lines 12-15)

Attorney Ragosta, in referring to the testimony by Officer Baez, asked Sgt. Marchant, "So that bottom line is that no matter what somebody's subjective intentions are, malicious, non-malicious or otherwise, that jokes about ethnicity, skin color, race or any other protected class can certainly be deemed offensive, isn't that right?" Answer, to an individual, yes." (Marchant Page 59, Lines 15-21)

Sgt. Marchant admitted during examination by Attorney Ragosta that as a result of being counseled by Officer Moody regarding the potential dangerousness of the situation he responded, "That's why I had the black guy do it." (Marchant Page 64, Lines 3-7) Attorney Ragosta asked,

“You were referring to Officer Bass’ skin color; isn’t that right?” Answer, “Yes.” (Marchant Page 64, Lines 14-16) Sgt. Marchant explained that he referred to the skin color of Officer Bass to “make light of the situation” because of the seriousness that was being interjected by Officer Moody. (Marchant Page 65)

Sgt. Marchant also denied making the statement twice; that statement of “him getting sick and being the black guy”. Sgt. Marchant admitted that, after speaking with Officer Bass, Bass was hurt by his remarks. Sgt. Marchant was asked if he “always jokes about the skin color of fellow Officers?” Answer, “No.” Attorney Ragosta also asked him, “You’d agree with me that that was not appropriate at all?” Answer, “That’s correct.” (Marchant Page 73, Lines 5-7, 12-14) Attorney Ragosta further asked (in part) “... You understand in the employment setting in this country people lose their jobs for bad behavior in a workplace; you understand that as a general proposition?” Answer, “Yes.” (Marchant Page 73, Lines 17-22)

When questioned by the panelists Captain Perez asked Sgt. Marchant, “Do you think using racial remarks as a joke toward another human being is a stress reliever?” Answer, “At the time, yes.” (Marchant Page 92, Lines 12-14)

On October 15, 2016, the hearing committee heard the rebuttal testimony of Mr. James Vincent. Mr. Vincent explained that he is the President of the Providence Chapter of the NAACP. He is also employed by RIPTA as their Civil Rights Compliance Officer. He has attained a degree in Urban Studies from Dartmouth College and a Master’s Degree in City planning from the University of Pennsylvania.

Mr. Vincent stated that he has a close working relationship with the command staff of the Providence Police Department who he considers to be proactive in the area of affirmative action, anti-discrimination, and diversity. Mr. Vincent was asked if he had any knowledge of this case and he answered that he was made aware that Officers had responded to a call for service for a suspicious package. He explained he was made aware that it was probably something that “special forces” should have investigated because of the seriousness of bomb threats. He further explained that when the Sergeant was questioned about following protocol he said (paraphrasing), “I did, I sent the black guy in.” (Vincent Page 10, Lines 9-14) Mr. Vincent explained that he was hurt by this comment and thought it was “hurtful and vicious”.

When asked about how he felt about people, some day, being able to joke about race Mr. Vincent responded, “I don’t think there will ever be a day where we can just joke about race. Certainly, there are friends that are outside of Police work that may have grown up together, they have a certain kind of relationship where they joke back and forth outside of employment of any type, outside the workplace and, you know, I’m sure that goes on in the country.” (Vincent Page 17, Lines 13-20) Mr. Vincent continued, “But when you’re in the Police Department and you violate a Police policy in terms of racism, and then the person that you’re working with does not take it as a joke and takes it as a racist comment and is highly offended by it, then that is apples to oranges. We’re talking about two entirely different things. There is no tolerance for racist behavior in the Providence Police Department.” (Vincent Pages 17-18, Lines 21-25, 1-4)

Mr. Vincent was asked if he thought it was unusual for co-workers to joke and banter within the workplace and sometimes including ethnicity. He responded, "I think today in 2015 within Departments, do I think it's unusual for people to do that? Yes, I do. Yes, I do. I think it's highly unusual, and I think most people would understand that that's something you don't even do even without Department policy that says you can't do it. So I think that's unusual today. Maybe five years ago, maybe I would have felt differently. Today, I think it's highly unusual." (Vincent Page 28, Lines 1-9)

When panelist Capt. John Seebeck asked Mr. Vincent if he thought the fact that Sgt. Marchant was under stress due to the fact that he was being admonished by Officer Moody and made the statement because he was emotional. Mr. Vincent answered, "No. I don't think people under stress react to stress by making racist statements. I think they might react, but you don't - - if you react and make a racist statement, that calls into question who you are." (Vincent Pages 50-51, Lines 22-25, 1)

On October 16, 2015, closing arguments were heard regarding this LEOBOR matter. Attorney Michael Colucci, counsel for Sgt. David Marchant, was first to address the panel. Mr. Colucci stipulated, "What this case is, it's about a joke, about a joke made without thought and reflection to lighten the moment of an otherwise stressful situation. What it's not, it's not about purposeful, malicious discriminatory conduct. We've heard those words mentioned often, but it's not about that. What it is, it's a cop-to-cop joke, kind of like shop talk." (Colucci closing Page 3, Lines 20)

Mr. Colucci pointed out that, "The United States Supreme Court has said that (referring to workplace harassment, racial discrimination, abuse, or tyrannical conduct). Just to quote from one of the cases on that topic, Harris versus Forklift systems, Inc., 510 US at Page 21, when they talk about discrimination and abusive work environment under the Civil Rights statutes, the case law says those are violated when the workplace is permeated with discriminatory intimidation, ridicule and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and creation of an abusive working environment. It goes on to state in making those determinations the court looks at all the circumstances, including the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, or whether it's just a mere offensive utterance, whether or not it reasonably interferes with an employee's work performance." (Colucci closing Page 5-6, Lines 10-25, 1-3)

Mr. Colucci refers and infers that progressive discipline should be utilized for this case by stating, "The typical stages of progressive discipline in the workplace are, Number 1, counseling, or verbal warning; Number 2, a written warning; 3, suspension or demotion; and 4, termination. To get to the particular stage they go to depends on the severity of the infraction, previous work history, how the choice might affect others in the organization." (Colucci closing Page 8, Lines 6-14) Mr. Colucci also referred to a model of progressive discipline utilized out of Indiana University, which is to utilize the least severe action to correct an undesirable situation and to increase the level of discipline only if the condition is not corrected.

Mr. Colucci also spoke about the intent of Sgt. Marchant. "Whether there was a malicious or evil intent, or whether it was - - the comment was intended as a joke, that is what's paramount, not the subjective feeling of the recipient. Yes, that's important to know was he offended. We

know he was offended. If it was Officer Baez, he wouldn't have been offended, he would have laughed it off." (Colucci closing Page 16, Lines 13-20)

During the onset of Mr. Ragosta's closing argument he pointed out that cases such as this are about "maintaining the highest of standards in your profession and maintaining ethics in our profession." Attorney Ragosta further stated the reputation of the institution, the Providence Police Department, is at stake in this case. When Mr. Ragosta spoke about the penalty of termination in this case he pointed out that Colonel Clements did not make this decision lightly. He said, "This is a decision that Colonel Clements had to make because not only did Marchant harm the reputation of the providence Police Department, but he broke the trust that he owes to the community and to his co-workers and, ultimately, what this boils down to is exactly what Colonel Clements told you, the city's interest, these were his words, are paramount to any personal considerations of David Marchant." (Ragosta closing Page 28, Lines 12-21)

Mr. Ragosta pointed out that Colonel Clements feels that Sgt. Marchant cannot be trusted and depended upon, lacks good judgment and self-control. He further said, "And as Major Verdi said, actually swore to that, once you break that bond and you say things that call into question your trust, that's devastating. Major Verdi at Page 24 of his testimony said, any comment like David Marchant's that impacts the image of the Police Department, that breaks the trust of the community, And Major Verdi said, I swear by that, I swear by that." (Ragosta closing Page 32, Lines 17-24) Attorney Ragosta later referenced a statement Colonel Clements made stating that the words spoken by David Marchant to Khari Bass "impacted his ability to work within the ranks of the Providence Police Department."

Based upon the aforementioned and following findings of fact; and in accordance with RIGL 42-28.6-11 I, Kristian V. Calise, am of the opinion that the City of Providence has proven by a ***fair preponderance of the evidence*** that Sergeant David Marchant is guilty of the following seven (7) charges.

### **Adjudication of Charges:**

#### **Charge 1:**

#### **Violation of the Providence Police Department Rules and Regulations DISCRIMINATORY REMARKS:**

**Section 200.17**, which states in whole or part, to wit: "Personnel shall not speak slightingly of any individual's national or ethnic origin, race, religion, color, sex, age, disability, or sexual orientation."

#### **Specification 1:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a “Suspicious Package” found in their mailroom located at the corners of Waterman and Brown Streets. The following Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody.

Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from “Germany” was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who directed him to leave a statement related to the matter. “How I handled it was OK because I had the one black officer open the package,” wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant’s comments in reference to Officer Bass when Moody inquired as to how the package was opened. “I had the Black guy do it,” as Marchant ‘motioned’ towards Bass. Officer Moody’s reply back to the sergeant was “That’s not right.” Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, “If he gets sick... you know, it won’t be a problem, because he’s a black guy anyway... It’s not a big deal anyway.” According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes “upset” and “disgusted.” He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some “Joke along racial lines... some off-color comment.” Officer Majeau also stated that Officer Bass was “definitely uncomfortable about it.”

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 1 is hereby **Sustained** based on the following facts: You admitted to violating **Section 200.17** of the **Providence Police Department Rules and Regulations: Discriminatory Remarks** when on October 14, 2015, during the LEOBOR Hearing regarding this matter under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on  
4 direct examination, at least what I wrote down,  
5 "That's why I had the black guy do it"; is that  
6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color;  
15 isn't that right?**

**16 A. Yes.**

**17 Q. And you were referring to Officer Bass as the  
18 black guy in the context of Moody's criticism that  
19 someone could be injured or harmed as a result of  
20 the handling of that package; isn't that right?**

**21 A. Yes.**

**22 Q. And so you then referred to Officer Bass and his  
23 skin color as being the black guy because the fact  
24 that he touched it, it was okay, he was the black  
25 guy; isn't that what you intended to say?**

**Page 65**

**A. No, I don't believe in the way you're wording  
2 it, no.**

**3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?**

**8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a  
10 thought-out planned ahead of time type of  
11 incident.**

**12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?**

**14 A. Yes.**

Page 66

1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?

3 A. Yes.

4 Q. You're the one that injected an officer's skin  
5 color into the conversation?

6 A. Yes.

7 Q. You're the one that injected an officer's race  
8 into the conversation?

9 A. Yes.

10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer  
12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36  
15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line  
18 20 -- "Did he know that you were the team leader  
19 for the WMD unit in the Providence Police  
20 Department?" Answer, "He was aware of it."

21 Question, "When he said the words it's all set, I  
22 had the black guy open it, words to that effect,  
23 was that an acceptable response from your  
24 perspective?" Answer, "No, it was not. It was  
25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what  
3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will  
6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your

20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

23 Q. You said that your intention was to make this  
24 statement a joke, that's what you said -- the  
25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything  
9 to do with the strategic handling of the call on  
10 December 27th of 2014?

11 A. No.

12 Q. You'd agree with me that that was not appropriate  
13 at all?

14 A. That's correct.

Charge 2:

**Violation of the Providence Police Department Rules and Regulations CONDUCT TOWARD PERSONNEL AND DEPARTMENT:**

**Section 200.14**, which states in whole or part, to wit: "Personnel shall treat supervisors, members and employees with respect at all times. Personnel shall not criticize any member or employee, nor shall they gossip maliciously about any person, order, policy, procedure, and case or police event; nor shall a member or employee cause to discredit, lower or injure the morale of the personnel of the Department. Nothing in this section shall preclude a supervisor from evaluating or correcting the actions of an officer."

**Specification 2:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a "Suspicious Package" found in their mailroom located at the corners of Waterman and Brown Streets. The following

Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody.

Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from “Germany” was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who directed him to leave a statement related to the matter. “How I handled it was OK because I had the one black officer open the package,” wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant’s comments in reference to Officer Bass when Moody inquired as to how the package was opened. “I had the Black guy do it,” as Marchant ‘motioned’ towards Bass. Officer Moody’s reply back to the sergeant was “That’s not right.” Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, “If he gets sick... you know, it won’t be a problem, because he’s a black guy anyway... It’s not a big deal anyway.” According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes “upset” and “disgusted.” He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some “Joke along racial lines... some off-color comment.” Officer Majeau also stated that Officer Bass was “definitely uncomfortable about it.”

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 2 is hereby **Sustained** based on the following facts: You admitted to violating **Section 200.14** of the **Providence Police Department Rules and Regulations: Conduct Toward Personnel and Department** when on October 14, 2015, during the LEOBOR Hearing

regarding this matter, under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on  
4 direct examination, at least what I wrote down,  
5 "That's why I had the black guy do it"; is that  
6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color;  
15 isn't that right?**

**16 A. Yes.**

**17 Q. And you were referring to Officer Bass as the  
18 black guy in the context of Moody's criticism that  
19 someone could be injured or harmed as a result of  
20 the handling of that package; isn't that right?**

**21 A. Yes.**

**22 Q. And so you then referred to Officer Bass and his  
23 skin color as being the black guy because the fact  
24 that he touched it, it was okay, he was the black  
25 guy; isn't that what you intended to say?**

**Page 65**

**A. No, I don't believe in the way you're wording  
2 it, no.**

**3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?**

**8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a  
10 thought-out planned ahead of time type of  
11 incident.**

**12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?**

**14 A. Yes.**

**Page 66**

**1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?**

3 A. Yes.

4 Q. You're the one that injected an officer's skin  
5 color into the conversation?

6 A. Yes.

7 Q. You're the one that injected an officer's race  
8 into the conversation?

9 A. Yes.

10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer  
12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36

15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line

18 20 -- "Did he know that you were the team leader

19 for the WMD unit in the Providence Police

20 Department?" Answer, "He was aware of it."

21 Question, "When he said the words it's all set, I

22 had the black guy open it, words to that effect,

23 was that an acceptable response from your

24 perspective?" Answer, "No, it was not. It was

25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what  
3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will  
6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your  
20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

23 Q. You said that your intention was to make this  
24 statement a joke, that's what you said -- the  
25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything  
9 to do with the strategic handling of the call on  
10 December 27th of 2014?

11 A. No.

12 Q. You'd agree with me that that was not appropriate  
13 at all?

14 A. That's correct.

**Charge 3:**

**Violation of the Providence Police Department Rules and Regulations DEMEANOR:**

**Section 200.13**, which states in whole or part, to wit: "Personnel shall not commit, or omit, any act which detracts from a professional image. Whether on duty or off duty, members are under continuous scrutiny by the public. Personnel shall maintain the confidence of the public and must take care to conduct themselves in a manner so as to bring credit to themselves, the Department and the City of Providence."

**Specification 3:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a "Suspicious Package" found in their mailroom located at the corners of Waterman and Brown Streets. The following Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody.

Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from "Germany" was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper

back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who directed him to leave a statement related to the matter. "How I handled it was OK because I had the one black officer open the package," wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant's comments in reference to Officer Bass when Moody inquired as to how the package was opened. "I had the Black guy do it," as Marchant 'motioned' towards Bass. Officer Moody's reply back to the sergeant was "That's not right." Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, "If he gets sick... you know, it won't be a problem, because he's a black guy anyway... It's not a big deal anyway." According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes "upset" and "disgusted." He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some "Joke along racial lines... some off-color comment." Officer Majeau also stated that Officer Bass was "definitely uncomfortable about it."

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 3 is hereby ***Sustained*** based on the following facts: You admitted to violating **Section 200.13** of the **Providence Police Department Rules and Regulations: Demeanor** when on October 14, 2015 during the LEOBOR Hearing regarding this matter, under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on 4 direct examination, at least what I wrote down, 5 "That's why I had the black guy do it"; is that**

**6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color;**

**15 isn't that right?**

**16 A. Yes.**

**17 Q. And you were referring to Officer Bass as the  
18 black guy in the context of Moody's criticism that  
19 someone could be injured or harmed as a result of  
20 the handling of that package; isn't that right?**

**21 A. Yes.**

**22 Q. And so you then referred to Officer Bass and his  
23 skin color as being the black guy because the fact  
24 that he touched it, it was okay, he was the black  
25 guy; isn't that what you intended to say?**

**Page 65**

**A. No, I don't believe in the way you're wording  
2 it, no.**

**3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?**

**8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a  
10 thought-out planned ahead of time type of  
11 incident.**

**12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?**

**14 A. Yes.**

**Page 66**

**1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?**

**3 A. Yes.**

**4 Q. You're the one that injected an officer's skin  
5 color into the conversation?**

**6 A. Yes.**

**7 Q. You're the one that injected an officer's race  
8 into the conversation?**

**9 A. Yes.**

**10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer**

12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36  
15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line  
18 20 -- "Did he know that you were the team leader  
19 for the WMD unit in the Providence Police  
20 Department?" Answer, "He was aware of it."  
21 Question, "When he said the words it's all set, I  
22 had the black guy open it, words to that effect,  
23 was that an acceptable response from your  
24 perspective?" Answer, "No, it was not. It was  
25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what  
3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will  
6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your  
20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

23 Q. You said that your intention was to make this

24 statement a joke, that's what you said -- the

25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything

9 to do with the strategic handling of the call on

10 December 27th of 2014?

11 A. No.

12 Q. You'd agree with me that that was not appropriate

13 at all?

14 A. That's correct.

**Charge 4:**

**Violation of the Providence Police Department Rules and Regulation COURTESY:**

**Section 200.12**, which states in whole or part, to wit: "Members shall be civil, orderly, diligent, discreet, and courteous and patient as a reasonable person is expected to be in any situation, and shall not engage in any verbal or physical altercation, whether on duty or off duty, with any member of the department, employee of the city or citizen."

**Specification 4:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a "Suspicious Package" found in their mailroom located at the corners of Waterman and Brown Streets. The following Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody.

Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from "Germany" was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who

directed him to leave a statement related to the matter. "How I handled it was OK because I had the one black officer open the package," wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant's comments in reference to Officer Bass when Moody inquired as to how the package was opened. "I had the Black guy do it," as Marchant 'motioned' towards Bass. Officer Moody's reply back to the sergeant was "That's not right." Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, "If he gets sick... you know, it won't be a problem, because he's a black guy anyway... It's not a big deal anyway." According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes "upset" and "disgusted." He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some "Joke along racial lines... some off-color comment." Officer Majeau also stated that Officer Bass was "definitely uncomfortable about it."

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 4 is hereby ***Sustained*** based on the following facts: You admitted to violating **Section 200.12** of the **Providence Police Department Rules and Regulations: Courtesy** when on October 14, 2015 during the LEOBOR Hearing regarding this matter under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on  
4 direct examination, at least what I wrote down,  
5 "That's why I had the black guy do it"; is that  
6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color;  
15 isn't that right?**

**16 A. Yes.**

17 Q. And you were referring to Officer Bass as the  
18 black guy in the context of Moody's criticism that  
19 someone could be injured or harmed as a result of  
20 the handling of that package; isn't that right?

21 A. Yes.

22 Q. And so you then referred to Officer Bass and his  
23 skin color as being the black guy because the fact  
24 that he touched it, it was okay, he was the black  
25 guy; isn't that what you intended to say?

Page 65

A. No, I don't believe in the way you're wording  
2 it, no.

3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?

8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a  
10 thought-out planned ahead of time type of  
11 incident.

12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?

14 A. Yes.

Page 66

1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?

3 A. Yes.

4 Q. You're the one that injected an officer's skin  
5 color into the conversation?

6 A. Yes.

7 Q. You're the one that injected an officer's race  
8 into the conversation?

9 A. Yes.

10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer  
12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36  
15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line  
18 20 -- "Did he know that you were the team leader  
19 for the WMD unit in the Providence Police  
20 Department?" Answer, "He was aware of it."

21 Question, "When he said the words it's all set, I  
22 had the black guy open it, words to that effect,

23 was that an acceptable response from your  
24 perspective?" Answer, "No, it was not. It was  
25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what  
3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will  
6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your  
20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

**23 Q. You said that your intention was to make this**

24 statement a joke, that's what you said -- the  
25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything  
9 to do with the strategic handling of the call on

**10 December 27th of 2014?**

**11 A. No.**

**12 Q. You'd agree with me that that was not appropriate**

**13 at all?**

**14 A. That's correct.**

**Charge 5:**

**Violation of the Providence Police Department Rules and Regulations DUTY RESPONSIBILITIES:**

**Section 200.8**, which states in whole or part, to wit: "Personnel shall perform duties as required or directed by law; departmental order, rule, procedure, policy, or by lawful order of a supervisor. A member, regardless of his rank or assignment, shall act instantly to protect life, liberty or property; to enforce all laws and to detect the commission of crimes; and to apprehend law violators. Nothing in this section is to be construed to authorize the arrest or apprehension of an individual where an officer lacks the jurisdictional authority to do so under the General Laws of the State of Rhode Island."

**Specification 5:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a "Suspicious Package" found in their mailroom located at the corners of Waterman and Brown Streets. The following Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody.

Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from "Germany" was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who directed him to leave a statement related to the matter. "How I handled it was OK because I had the one black officer open the package," wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant's comments in reference to Officer Bass when Moody inquired as to how the package was opened. "I had the Black guy do it," as Marchant 'motioned' towards Bass. Officer Moody's reply back to the sergeant was "That's not right." Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, "If he gets sick... you know, it won't be a problem, because he's a black guy anyway... It's not a big deal anyway." According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes "upset" and "disgusted." He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some "Joke along racial lines... some off-color comment." Officer Majeau also stated that Officer Bass was "definitely uncomfortable about it."

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 5 is hereby **Sustained** based on the following facts: You admitted to violating **Section 200.8** of the **Providence Police Department Rules and Regulations: Duty Responsibilities** when on October 14, 2015 during the LEOBOR Hearing regarding this matter under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on 4 direct examination, at least what I wrote down, 5 "That's why I had the black guy do it"; is that 6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color; 15 isn't that right?**

**16 A. Yes.**

**17 Q. And you were referring to Officer Bass as the 18 black guy in the context of Moody's criticism that 19 someone could be injured or harmed as a result of 20 the handling of that package; isn't that right?**

21 A. Yes.

22 Q. And so you then referred to Officer Bass and his  
23 skin color as being the black guy because the fact

24 that he touched it, it was okay, he was the black  
25 guy; isn't that what you intended to say?

Page 65

A. No, I don't believe in the way you're wording  
2 it, no.

3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?

8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a  
10 thought-out planned ahead of time type of  
11 incident.

12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?

14 A. Yes.

Page 66

1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?

3 A. Yes.

4 Q. You're the one that injected an officer's skin  
5 color into the conversation?

6 A. Yes.

7 Q. You're the one that injected an officer's race  
8 into the conversation?

9 A. Yes.

10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer  
12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36  
15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line  
18 20 -- "Did he know that you were the team leader  
19 for the WMD unit in the Providence Police  
20 Department?" Answer, "He was aware of it."

21 Question, "When he said the words it's all set, I  
22 had the black guy open it, words to that effect,  
23 was that an acceptable response from your  
24 perspective?" Answer, "No, it was not. It was  
25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what  
3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will  
6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your  
20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

**23 Q. You said that your intention was to make this**

24 statement a joke, that's what you said -- the  
25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything  
9 to do with the strategic handling of the call on  
10 December 27th of 2014?

11 A. No.

12 Q. You'd agree with me that that was not appropriate  
13 at all?  
14 A. That's correct.

**Charge 6:**

**Violation of the Providence Police Department Rules and Regulations RULES GOVERNING CONDUCT:**

**Section 200.6**, which states in whole or part: “Any act or omission, contrary to good order, discipline, or accepted standards of conduct either on or off duty, shall subject a member or employee to disciplinary action.”

**Specification 6:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a “Suspicious Package” found in their mailroom located at the corners of Waterman and Brown Streets. The following Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody. Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from “Germany” was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who directed him to leave a statement related to the matter. “How I handled it was OK because I had the one black officer open the package,” wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant’s comments in reference to Officer Bass when Moody inquired as to how the package was opened. “I had the Black guy do it,” as Marchant ‘motioned’ towards Bass. Officer Moody’s reply back to the sergeant was “That’s not right.” Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, "If he gets sick... you know, it won't be a problem, because he's a black guy anyway... It's not a big deal anyway." According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes "upset" and "disgusted." He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some "Joke along racial lines... some off-color comment." Officer Majeau also stated that Officer Bass was "definitely uncomfortable about it."

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 6 is hereby ***Sustained*** based on the following facts: You admitted to violating **Section 200.17** of the **Providence Police Department Rules and Regulations: Rules Governing Conduct** when on October 14, 2015 during the LEOBOR Hearing regarding this matter under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on 4 direct examination, at least what I wrote down, 5 "That's why I had the black guy do it"; is that 6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color; 15 isn't that right?**

**16 A. Yes.**

**17 Q. And you were referring to Officer Bass as the 18 black guy in the context of Moody's criticism that 19 someone could be injured or harmed as a result of 20 the handling of that package; isn't that right?**

**21 A. Yes.**

**22 Q. And so you then referred to Officer Bass and his 23 skin color as being the black guy because the fact 24 that he touched it, it was okay, he was the black 25 guy; isn't that what you intended to say?**

**Page 65**

A. No, I don't believe in the way you're wording  
2 it, no.

3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?

8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a  
10 thought-out planned ahead of time type of  
11 incident.

12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?

14 A. Yes.

Page 66

1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?

3 A. Yes.

4 Q. You're the one that injected an officer's skin  
5 color into the conversation?

6 A. Yes.

7 Q. You're the one that injected an officer's race  
8 into the conversation?

9 A. Yes.

10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer  
12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36  
15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line  
18 20 -- "Did he know that you were the team leader  
19 for the WMD unit in the Providence Police  
20 Department?" Answer, "He was aware of it."

21 Question, "When he said the words it's all set, I  
22 had the black guy open it, words to that effect,  
23 was that an acceptable response from your  
24 perspective?" Answer, "No, it was not. It was  
25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what  
3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will

6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your  
20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

23 Q. You said that your intention was to make this  
24 statement a joke, that's what you said -- the  
25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything  
9 to do with the strategic handling of the call on  
10 December 27th of 2014?

11 A. No.

12 Q. You'd agree with me that that was not appropriate  
13 at all?

14 A. That's correct.

Charge 7:

Violation of the Providence Police Department Rules and Regulations STANDARD OF CONDUCT:

**Section 200.5**, which states in whole or part: “Personnel shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the Department.”

**Specification 7:**

On December 27, 2014, at approximately 0900 hours, members of the Providence Police Department were dispatched to Brown University for a report of a “Suspicious Package” found in their mailroom located at the corners of Waterman and Brown Streets. The following Providence police personnel responded to the scene: Sergeant David Marchant; Officer Khari Bass; Officer Raymond Majeau and Officer Frank Moody.

Sergeant Marchant along with Officer Bass and Officer Majeau met with personnel from Brown University Police and Security and they were escorted into the mailroom, where a package that appeared to be mailed from “Germany” was located. Upon entering the room Sergeant Marchant discovered the package to be a hard cover book wrapped in brown paper with a small amount of a substance on it which was white in color. He further inspected the package by peeling the paper back, and was assisted by Officer Bass in opening the package as Brown personnel were present. Shortly thereafter, Officer Frank Moody responded to the scene and made his way into the area where the package had been discovered. Officer Moody who is a member of Special Response Unit was dismayed about how the scene and package were handled. Officer Moody expressed his concerns to Sergeant Marchant in regards to the handling of the entire situation. And during the conversation between Marchant and Moody, Marchant made reference to the fact that Officer Bass had also touched the package and also made reference to Bass being a Black officer. Officer Bass heard the comment made by Sergeant Marchant and became upset over it. Sergeant Marchant addressed the issue on January 9, 2015, when he spoke with Major Thomas Verdi who directed him to leave a statement related to the matter. “How I handled it was OK because I had the one black officer open the package,” wrote Sergeant Marchant in his statement to Major Verdi.

On January 26, 2015, an audio-recorded statement was obtained from Officer Frank Moody where he gives a similar response to Sergeant Marchant’s comments in reference to Officer Bass when Moody inquired as to how the package was opened. “I had the Black guy do it,” as Marchant ‘motioned’ towards Bass. Officer Moody’s reply back to the sergeant was “That’s not right.” Upon addressing the comment by Marchant, Moody walks away.

On January 26, 2015, an audio-recorded statement was also obtained from Officer Khari Bass where he gives a similar account of the incident. However, Bass states that Marchant says to Moody, “If he gets sick... you know, it won’t be a problem, because he’s a black guy anyway... It’s not a big deal anyway.” According to Officer Bass, Sergeant Marchant repeats the comment twice to Officer Moody. Upon hearing the comment Bass becomes “upset” and “disgusted.” He further states that the sergeant has him read the book title for some unknown purpose. After leaving the mailroom Marchant, Bass and Moody walk outside, where Bass walks over to his police car, where he tells his assigned-partner, Officer Majeau what the sergeant had just said about him. Officer Majeau also provides a statement. Although he did not hear what was said in

real-time, Officer Majeau does report that Officer Bass was upset and that Sergeant Marchant had made some “Joke along racial lines... some off-color comment.” Officer Majeau also stated that Officer Bass was “definitely uncomfortable about it.”

**It should be noted:** During the course of this investigation- Officer Bass informed investigators from the Office of Professional Responsibility that Sergeant Marchant has directed racially offensive comments towards him in the past while on-duty.

Charge 7 is hereby ***Sustained*** based on the following facts: You admitted to violating **Section 200.5** of the **Providence Police Department Rules and Regulations: Standard Of Conduct** when on October 14, 2015 during the LEOBOR Hearing regarding this matter under cross-examination by Attorney Vincent F. Ragosta, Jr., Esq. you answered:

**Page 64:**

**Q. And your response was -- this is what you said on  
4 direct examination, at least what I wrote down,  
5 "That's why I had the black guy do it"; is that  
6 right?**

**7 A. Yes.**

**8 Q. And you were referring to Officer Bass?**

**9 A. Yes.**

**10 Q. Officer Bass was there?**

**11 A. Yes.**

**12 Q. Officer Moody was there?**

**13 A. Yes.**

**14 Q. You were referring to Officer Bass's skin color;  
15 isn't that right?**

**16 A. Yes.**

**17 Q. And you were referring to Officer Bass as the  
18 black guy in the context of Moody's criticism that  
19 someone could be injured or harmed as a result of  
20 the handling of that package; isn't that right?**

**21 A. Yes.**

**22 Q. And so you then referred to Officer Bass and his  
23 skin color as being the black guy because the fact  
24 that he touched it, it was okay, he was the black  
25 guy; isn't that what you intended to say?**

**Page 65**

**A. No, I don't believe in the way you're wording  
2 it, no.**

**3 Q. Well, do you have any rational explanation to  
4 these three gentlemen on the committee as to why  
5 you had to refer to the skin color of that officer  
6 with respect to criticism that was brought your  
7 way by Patrolman Moody?**

**8 A. It was a spur of the moment between officers  
9 to make light of the situation. It wasn't a**

10 thought-out planned ahead of time type of  
11 incident.

12 Q. Spur of the moment, but you chose to refer to that  
13 man's race?

14 A. Yes.

Page 66

1 Q. So he's criticizing the tactics associated with  
2 the manner in which that package was handled?

3 A. Yes.

4 Q. You're the one that injected an officer's skin  
5 color into the conversation?

6 A. Yes.

7 Q. You're the one that injected an officer's race  
8 into the conversation?

9 A. Yes.

10 Q. And you're the one that pointed the finger, if you  
11 will, at a subordinate under your command, Officer  
12 Khari Bass; isn't that right?

13 A. Yes.

14 MR. RAGOSTA: Mike, this is on page 36  
15 of the September 14 transcript.

16 Q. Then I asked Patrolman Moody, "And when Marchant  
17 sees you" -- actually begins at Page 35, Line

18 20 -- "Did he know that you were the team leader  
19 for the WMD unit in the Providence Police  
20 Department?" Answer, "He was aware of it."

21 Question, "When he said the words it's all set, I  
22 had the black guy open it, words to that effect,  
23 was that an acceptable response from your  
24 perspective?" Answer, "No, it was not. It was  
25 unprofessional. It offended me because it was

Page 67

1 unprofessional." Question, "When you say it was  
2 unprofessional, it was unprofessional from what

3 perspective?" Answer, "We need to be better than  
4 that. There were many people there. As police  
5 officers, we can't say things like that that will  
6 not only offend people, but it will make us look  
7 bad in the eyes of the public." Do you remember  
8 his testimony?

9 A. Yes.

10 Q. Fair to say he was immediately offended by your  
11 reference to Officer Bass and his race in the  
12 context of your tactics?

13 A. Yes.

14 Q. In fact, he said to you, That's not right?

15 A. Correct.

16 Q. So the bottom line about what you did is you were  
17 being criticized about your tactical handling of  
18 that call, and you reacted by pointing to the race  
19 of your subordinate police officer under your  
20 command; isn't that right?

21 A. Yes.

Page 72

12 Q. But you heard him testify that he was hurt by your  
13 remarks?

14 A. Yes.

15 Q. So you're not doubting the fact that the remarks  
16 that you made about his skin color were hurtful to  
17 him?

18 A. No.

19 Q. You're not doubting the fact that he has a  
20 particular sensitivity based on his family  
21 background and life experiences, are you?

22 A. That's correct.

23 Q. You said that your intention was to make this  
24 statement a joke, that's what you said -- the  
25 statement to Officer Bass --

Page 73

8 Q. Did the skin color of Officer Bass have anything  
9 to do with the strategic handling of the call on  
10 December 27th of 2014?

11 A. No.

12 Q. You'd agree with me that that was not appropriate  
13 at all?

14 A. That's correct.

### Additional Supporting Facts:

#### **September 14, 2015 Testimony:**

- Officer Frank Moody testified Sgt. Marchant told him, "Yeah, it's all set. I had the black guy do it." (Moody Page 33, Lines 13-14)
- Officer Moody answered, "We need to be better than that. As Police Officers we can't say things like that that will not only offend people, but it makes us look bad in the eyes of the public." (Moody page 36, Lines 6-10)
- "Were you (Moody) also offended by the somewhat complacent, cavalier manner in which that package was handled?" Answer, "Yes, I was." (Moody Page 36, Lines 15-17)
- Officer Khari Bass testified, "He was in front of us while most people were still in the lobby of the building behind us. So, he says, oh, don't worry, he touched the package."

So as long as he doesn't get sick, then we should be fine. Who cares, anyway, he's a black guy anyhow. That's what I heard him say." (Bass Page 55, Lines 16-22)

- Officer Bass, "And he quickly made it a second time, as though he didn't know if anyone heard him." (Bass, Page 58, Lines 18-20)
- Officer Bass, "I was - - one, I was hurt, you know; two, I felt disgusted, you know. But I was near speechless." (Bass Page 59, Lines 21-23)
- Question by Mr. Ragosta, "So, would the committee be correct in understanding that that comment about s black guy getting sick, it was a general comment directed to black people, but also to you as an individual?" Answer, "Yes." (Bass Page 62, Lines 2-6)
- Question by Mr. Ragosta: "You also indicated that you avoid him, you try to stay away from him?" Answer, "Yes." (Bass Page 69, Lines 11-13)
- "Would the committee be correct in understanding, and Sergeant Marchant be correct in understanding by your testimony in that statement that the impact of those words that he spoke is that you try to avoid your Supervisor—" Answer, "Yes." (Bass Page 70, Lines 10-15)
- Question by Mr. Colucci: "I'm just talking about the situation. It was an untrue statement intended to be funny. It wasn't funny to you, but all I'm asking you it was an untrue statement intended to be funny equals joke, poor joke, nonetheless? Answer, "I don't find it to be a joke." (Bass Page 77, Lines 2-7)
- Questions by Mr. Ragosta, "Did you consider that language to be degrading to you as a human being?" Answer, "Yes, sir." Question, "Is that something you expect of a Supervisor in your Police Department?" Answer, "No, Sir." Question, "Is that an environment you are comfortable working in?" Answer, "No, Sir." (Bass Page 83, Lines 8-16)
- Testimony by Officer Raymond Majeau when he described the impact of the words spoken by Sgt. David Marchant upon Officer Khari Bass, "Yes. He was definitely bothered by it. He wasn't yelling or anything like that, but you could tell he was a little forlorn, disappointed. It affected him. He's a pretty stoic guy in general, anyway. He's pretty good at maintaining control of his emotions, but he was definitely bothered by it." (Majeau, Page 102, Lines 17-23)

#### **September 24, 2015 Testimony:**

- Testimony by Colonel Clements, "So, I certainly, in my opinion, feel as though these actions are so egregious that I am impressing upon this panel for termination, and certainly I feel that he has impacted his ability to work further not only within the ranks of the Providence Police Department but within the community. I can tell you many members of the community would be upset having a Police Officer, knowing these were his actions, to be placed in their community." (Col. Clements Page 104, Lines 1-11)

#### **September 24, 2015 Testimony:**

- Officer Thomas Rose testimony, "How would you feel if you heard anyone make a racial, derogatory comment to another brother Officer, a community member or a family member?" Answer, "I would be upset, I don't think it's appropriate." (Rose Pages 25, 26, Lines 24-25, 1-2)

- Question to Officer Annabel Baez regarding comments made about ethnicity, “For the joke? I wouldn’t mind. I’ll just laugh along.” Question, “What if it was not a joke?” Answer, “Then I’d be upset.” (Baez Page 34, Lines 11-14)
- Question by Captain Oscar Perez,” And just a question, how would you feel if you heard anyone make a racial or derogatory comment towards another brother, sister officer, community member or family member? Answer, “By another Officer?” CPT Perez, “By another Officer. How would you feel?” Answer, “Probably be upset if it’s a serious content.” Question, “Would you be comfortable enough to work with that person again?” Answer, “No.” (Baez Pages 40-41, Lines 17-25, 1-2)
- Question to Officer David Morgan by Captain John Seebeck, “Would you have a problem if that was a Sergeant who you worked for making an off-color comment, would you pull that Sergeant aside and personally tell him?” Answer, “Yes, I would tell him I didn’t like what he said.” (Morgan Page 56, Lines 13-18)
- Question to Lt. Alyssa DeAndrade by Capt. Oscar Perez, “How would you feel if you heard another Officer make a racial or derogatory comment towards a brother or sister Officer or a member of the community; you, yourself, how would you feel if you heard that?” Answer, I would not be happy with that, and I wouldn’t tolerate that.” Question, “And would you feel comfortable having that person continue under the ranks of our Department, continued to be employed?” Answer, “No.” Question, “I’m sorry?” Answer, “No.” (DeAndrade Page 80, Lines 7-19).

### **Decision:**

Several facts and circumstances were taken into consideration when sustaining the seven charges levied against Sgt. David Marchant by the City of Providence. Attorney Michael Colucci did an admirable job in conveying Sgt. Marchant’s message that his words spoken to Patrol Officer Khari Bass on December 27, 2014, may have been intended to be a joke. However, his remarks were not received as they were intended and therefore were acknowledged as hurtful, demeaning, degrading, and racist. The comments spoken by Sgt. David Marchant left Officer Khari Bass feeling, “hurt”, “disgusted”, “speechless”, and whose life was not as of equal worth as the other Officers because of the color of his skin.

Attorney Michael Colucci also argued that progressive discipline should be utilized in this case. I respectfully disagree. Progressive discipline is suited for minor infractions of the Department’s Rules and Regulations/Policy Procedures of the Department. Sgt. David Marchant’s egregious behavior needs to be addressed severely to not only preserve the reputation of the Providence Police Department but also show that the Command Staff, Colonel Clements in particular, is committed to ensuring the Officers within the Providence Police Department can perform their duties in a bias-free work environment.

Captain Oscar Perez (Providence Police Department) and I are in agreement, that the City of Providence has proven their case by a ***fair preponderance of the evidence***, and have both sustained the seven (7) charges levied against Sgt. David Marchant. Capt. John Seebeck (Pawtucket Police Department) dissents, opining that only Charge 2, a violation of the Providence Police Department Rules and regulations **Conduct Toward Personnel and Department**, was proven by the City of Providence.

Captain Oscar Perez (Providence Police Department) has decided, as he has maintained throughout these proceedings, that in the best interest of the Community and the Providence Police Department that Sgt. David Marchant be terminated for his actions. Captain John Seebeck disagrees. Initially, Captain Seebeck felt that a suspension was appropriate. A demotion and suspension for Sgt. David Marchant were also discussed to which Captain Seebeck was also in agreement. However, after much review and reflection I agree with Captain Oscar Perez. Sergeant David Marchant's reprehensible behavior (as Capt. Perez describes), "disabled himself from working in a culturally, racially, ethnically, and otherwise diverse Law Enforcement Agency and City." Colonel Hugh Clements, Major Thomas Verdi, and Captain Oscar Perez know what is in the best interest of the Providence Police Department. Having sustained the seven charges levied against Sgt. David Marchant it would be irresponsible to modify their recommended sanction. Therefore, in agreement with Captain Oscar Perez (Providence Police Department) I also stipulate that David Marchant be **terminated** from employment from the City of Providence and the Providence Police Department. Captain John Seebeck, Pawtucket Police Department, dissents.

Respectfully,

Kristian V. Calise, Chairman  
Rhode Island College Police Department  
North Providence Police Department (Retired)

Captain Oscar Perez  
Providence Police Department

Captain John Seebeck-Dissenting  
Pawtucket Police Department