

Exhibit Three

County probation policies tighten

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Author: Raymond Drumsta

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ITHACA -- An extensive investigation of a probationer's claims that his probation officer abused drugs, gave him drugs and performed sex acts with him has led to tighter probation department standards, a Tompkins County report and officials have revealed.

The allegations -- unproven, county officials stressed -- are laid out in a sheriff's report of the investigation, along with other allegations and denials by the officer, her former boyfriend, a second officer and a second probationer. Their names and identifying information, along with information about individuals' physical and mental health, were redacted from the report, which was obtained through a Freedom of Information Act request.

While she declined to comment on the details of the investigation, District Attorney Gwen Wilkinson said "there were allegations that, if true, constituted a crime. However, the proof was not there."

The affair then became a personnel matter, said Wilkinson and Tompkins County Administrator Joe Mareane.

"The Probation Department cooperated fully with the investigation," a statement by Mareane read. "After evaluating the evidence, the district attorney, in consultation with the Sheriff's Office, decided not to pursue criminal charges, but that personnel disciplinary procedures were in order."

The probation officer and subject of the investigation, who had been suspended without pay pending the investigation's outcome, "subsequently left county employment," according to Mareane's statement.

"As a part of this review, the Probation Department has instituted several measures to further strengthen policies and procedures pertaining to standards of employee conduct," Mareane's statement concluded.

The investigation began in late April when the sheriff's office received information that a probation officer "was having a personal relationship with one of her probationers and that she was obtaining heroin from another probationer," according to the sheriff's report. By August, sheriff's investigators had quizzed the two probationers, the two probation officers, the first officer's boyfriend, and several other probation officers, the report indicates.

In addition to his claim about the sex acts, the first probationer alleged that his probation officer had given him Oxycontin and heroin, taken him places, allowed him to spend the night at her residence, traded pills and heroin with another probation officer, obtained heroin from another of her probationers and threatened his life, the report said. She also told him to pick up heroin from the second probationer and "deliver it to people for her," the probationer alleged.

Investigators spoke to the probationer several times during the investigation, the report indicates. When asked why he was giving them the information, he replied he that he was tired of the officer "making him do whatever she wanted him to do to stay out of jail," the report said. "He said he did it at first because he thought it would make his time on probation go faster and easier."

The probationer wavered during the investigation, however, once saying that "there wasn't anything in it for him" to speak with investigators, and that he wasn't going to throw the officer "under the bus," the report said. The probationer later expressed concern about his drug use and tried to barter his cooperation to be released from felony probation, the report said.

While denying the probationer's drug and sex allegations, the first officer told investigators she met with probationers at her office and their homes as part of her work, the report said. But she later admitted she "made poor decisions in her relationship" with the first probationer.

"(The officer) denied doing anything outside the scope of her duties, at first," the report said, but conceded that she had picked the probationer up, taken him places, and gone with him to his friends' homes "for a couple of hours." After she made these statements, the officer's attorney advised her to say nothing further.

Though the second probation officer and second probationer denied most of the allegations, they told investigators they had seen the first officer and probationer together in her car and at her house, the report said. The first officer's former boyfriend corroborated this.

The second probation officer admitted to trading Xanax and Valium -- medications prescribed to her -- with the first probation officer, the report said. The second officer also admitted that she had a "prescription drug problem" she was in treatment for, and that she gave the first officer Ritalin and money, sometimes for pills, the report said.

The second probation officer also alleged that the first officer stole her credit card and had texted her while drinking with a third probationer, the report said.

Midway through the investigation, the second probationer contacted sheriff's deputies to tell them that the first probation officer called him a snitch and threatened him, saying he'd "better sleep with one eye open," according to the report. A witness corroborated the threat, but the probationer declined to file a complaint about it, the report went on to say.

The allegations caused them concern and led to the extensive investigation, Mareane and Wilkinson said.

"This was thorough from the get-go," Wilkinson said. "We decided this was potentially serious."

Mareane also wouldn't comment on the particulars of the investigation, saying that it's a personnel matter and that county attorneys advised them not to disclose details. Though he declined to disclose why the first officer left the department, Mareane said she left on June 20 and that the second officer was suspended for 30 days before returning to work.

"There are limits on what can be said pertaining to personnel," Mareane said, but added that "the misconduct was significant."

Probation department employees don't have to undergo drug testing, which is "a contractual matter and would have to be negotiated with employee unions," Mareane said. The probation department has now started annual ethics training, is drafting conduct standards and putting quality assurance improvements in place, he added.

"Supervisors are now more actively involved in overseeing the work of their subordinates," he said.

The thoroughness of the investigation -- which included interviews with the entire probation department -- satisfied them that this was an isolated matter and not a systemic problem, Mareane said. With 40 full-time employees and an annual budget of \$3.04 million -- \$2.27 million of which is local taxes -- the department handles about 710 probation cases, he added.

"As a county, our goal now is to make sure we learn from the experience, and have already begun to translate the lessons learned into policies and procedures we believe will deter similar situations in the future," he said.

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Abstract (Document Summary)

In addition to his claim about the sex acts, the first probationer alleged that his probation officer had given him Oxycontin and heroin, taken him places, allowed him to spend the night at her residence, traded pills and heroin with another probation officer, obtained heroin from another of her probationers and threatened his life, the report said.

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Exhibit Four

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Opposing claims filed in Ithaca police officer's discrimination lawsuit

City claims officer misbehaved; Miller says officials conspired to soil his reputation

By Raymond Drumsta · rdrumsta@gannett.com · August 18, 2010, 7:40 pm

Ithaca police officer Christopher Miller is on administrative leave, according to City of Ithaca officials, but court papers filed by the city's attorneys indicate Ithaca Police Department officials tried to fire Miller for lying on his job application and other misconduct.

Miller, meanwhile, has filed an amended \$17 million federal lawsuit that levels detailed accusations to support his claim that he was discriminated against based on his race and gender and suffered retaliation for filing complaints with the state Division of Human Rights.

The amended lawsuit alleges the city and Ithaca Police Department practiced racially biased hiring and promotion policies, failed to discipline minority officers for conduct Miller and other white officers received sanctions and tried to terminate Miller for filing his first lawsuit this spring.

The city has denied this latest claim in a motion to dismiss the suit. The motion includes a statement by Deputy Chief John Barber; a letter from the Vinton, Va., Police Department where Miller worked as an officer; Miller's Ithaca Police job application; a finding in one of Miller's human-rights complaints and a document entitled "Official Record of the Department of Criminal Justice Services."

The documents also shed light on Ithaca Police Department sanctions against Miller which became an issue in local felony cases. According to the Tompkins County district attorney's office, these sanctions led prosecutors to ask that these cases be dismissed.

The amended lawsuit, filed July 12, names the City of Ithaca, Police Chief Ed Vallely, Barber, Deputy Chief Pete Tyler, Tompkins County District Attorney Gwen Wilkinson and the county as defendants.

According to Barber's statement, Miller had "blatantly lied" on his 1999 job application by concealing that he had been a Vinton police officer and had been fired for cause.

"The first evidence of Miller's deception came to us on May 18, 2010, when we received an 'Official Record of the Department of Criminal Justice Services' dated May 17, 2010, indicating Miller's prior employment with the Vinton Police Department and the notation that he had been 'Terminated for Cause,'" Barber's statement reads. Neither Barber's statement or the record itself indicates where the record originated.

Miller began working as a Vinton police officer in August 1996, according to the Vinton Police Department's letter to the Ithaca Police Department. In March 1997, during his probationary period, Miller signed a counseling letter for failing to follow commands, procedures and directives, the letter said.

Miller also failed to get an inspection sticker on his car and admitted to scratching an obscenity on a fellow officer's sunglasses because he didn't like the officer, the letter said. Noting these incidents and the earlier counseling, the Vinton police chief recommended Miller be fired in April 1997. Miller was fired for cause in February 1998, the criminal justice record said.

Miller's application for the Ithaca Police Department

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doesn't show that he worked for the Vinton Police Department or that he was terminated "for reasons other than lack of work or funds." They decided to fire Miller for lying, drafted a notice of discipline to do that on May 27 and intended to give it to Miller the next day, Barber's statement reads.

Though he was told legal papers had been left at Ithaca Police headquarters and a reporter left a message asking about Miller's lawsuit that evening, Barber said he didn't discover the lawsuit's details until the next day. He and Valley chose to fire Miller "as it had already been decided, and was based on information completely unrelated to the allegations in Miller's (lawsuit)," Barber's statement reads. They gave Miller the discipline notice to terminate him on June 1.

In addition to lying on his job application, Miller had been disciplined for "creating a written discrepancy on a bail receipt" in May 2008, and for falsely completing an official STOP DWI log in June 2009, the notice said. According to the Division of Human Rights finding, Miller had been disciplined at that time for "falsely documenting four traffic stops." Miller had committed forgery, perjury and broken other laws in these incidents, the notice said.

Based on letters from Assistant District Attorney Andrew McElwee, County Judge William F. Ames dismissed gun, drug and drunken driving charges against Messiah Flowers and assault and weapon charges against convicted Ithaca burglar Christian L. Little-Paz last fall. Their office moved to dismiss the charges based on review of grand jury testimony and the disclosure that Miller, who arrested the men, had been "sanctioned internally by the Ithaca Police Department for paperwork inaccuracies," McElwee's letters said.

According to the notice of discipline, Wilkinson had told Valley that Miller's paperwork inaccuracies had irreparably damaged his credibility and she was unwilling to put him on the witness stand. This lack of credibility had led Wilkinson to dismiss all criminal cases Miller had initiated, resulted in desk duties for Miller and caused "great public discredit to the IPD," the notice stressed. Miller had broken the law when he falsely completed the STOP DWI log, the notice said.

Miller began working for the department in 2000, and first experienced discrimination a few years

after when then-Deputy Chiefs David Barnes and Glen Shearson told Miller he was "junior" to two African-American officers because he is white, the suit said.

In 2008, Ithaca Human-Resources Director Shelly-Michelle Nunn said "we want more black males," and in 2007, then-Chief Lauren Signer said that Mayor Carolyn Peterson wanted her to promote African Americans, the suit said.

The lawsuit alleges Signer once refused to discipline an African-American officer, announcing, "This is Ithaca, and he is black man. What do you think, I'm crazy?" She allegedly promoted an African-American officer to sergeant, even though the officer had been involved in several acts of misconduct, was less qualified and had a lower test score than Miller. The department passed Miller over for promotion and training in favor of minority officers with less experience and seniority, the suit claims.

When asked about this, Valley quickly dismissed Miller saying, "You weren't chosen," and "just because," the suit claims.

Miller filed complaints with the state Division of Human Rights in 2005, 2008 and 2009, his attorney A.J. Bosman said. The first one was for discrimination and the second one was for discrimination and the retaliation he suffered after he filed the first complaint, she explained. The division found no probable cause in the first two cases, and Miller's 2009 complaint for the continuing retaliation is pending, she said.

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The defendants retaliated against him by changing his assignments for the worse and deliberately and unduly scrutinizing his DWI log in order to discriminate against him, the suit said.

African-American Ithaca Police Officer Christine Barksdale called Miller filthy, corrupt, a liar and a pig over his discrimination complaints, and though he reported it, no disciplinary action was taken against her, the suit alleges.

Vallely and Wilkinson conspired to create a sham opinion of Miller's credibility so the Ithaca Police Department could punish him and assign him to desk duties in retaliation for his human rights complaints, the suit claims.

The defendants publicly humiliated Miller by announcing the dismissal of the charges and his purported paperwork inaccuracies, threatened to prosecute him over the STOP DWI log unless he signed a waiver of arbitration and broke state law by releasing his personnel information, the lawsuit said.

Though he was innocent of any crime, he signed the waiver and wasn't prosecuted, the suit claims. In May, Vallely, Barber and Tyler accused Miller of posting derogatory comments on the Internet concerning a story this newspaper printed about officer misconduct, claimed Miller knew his human rights complaints were "all a lie" and told him he should find another place to work, the suit said.

"If you don't leave, I will find a way to get rid of you," Vallely allegedly said. Miller was administratively suspended after receiving the notice of discipline and ordered to surrender his badge, firearm and police equipment on June 1, according to the suit.

Ithaca City Attorney Dan Hoffman said he can't comment on why Miller is on leave. A number of motions in the case, including the city's motion to dismiss Miller's suit, are pending in federal court in Binghamton.



Chris Miller of Ithaca Police Dept. (Staff)

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