DETROIT POLICE DEPARTMENT 71/120

INTER-OFFICE MEMORANDUM
Internal Affairs Section

Date October 20, 1971

Assistant Superintendent (through channels)

SUMMARY OF MISCONDUCT REPORT MADE AGAINST PATROLMAN DAVID LEMAUX, BADGE #1346 AND PATROLMAN PATRICK ORTMAN, BADGE #1830, OF THE SEVENTH PRECINCT.

The following is a summary of our investigation of the allegations made against PATROLMAN DAVID LEMAUX and PATROLMAN PATRICK ORTMAN of the Seventh Precinct.

On October 6, 1971, at approximately 4:40 a.m. complainant [redacted] 17/F/N of [redacted] appeared at the Seventh Precinct Station and made a preliminary complaint report to PATROLMAN ROBERT HINES in which she alleged that she had been raped and robbed by two plain clothes Detroit police officers who were driving an unmarked police car with license number CVD-655.

She further reported that these officers had ordered her into their police vehicle after investigating her on the corner of Mack and Chene, where she had been talking to a man. (Since identified as [redacted] M/N/38 of [redacted], Detroit).

After complainant [redacted] entered the police vehicle, she stated she was taken to a railroad siding in the vicinity of Watson and ST. Aubin Streets where she was ordered by the passenger in the vehicle to take down her panties. After shining a flashlight on her vagina, she was told to pull her panties back up which she did.

The passenger at this point asked her what it would be worth to her "not to go to jail". Complainant stated anything. Complainant then alleged that both officers had sexual intercourse with her and that she then performed acts of oral perversion on both officers.

Complainant stated that the passenger in the vehicle also took eighteen dollars from her coat after which she was driven to Hale and Chene Streets, where she was permitted to exit the vehicle and go on her way.

On October 6, 1971, at 10:00 a.m. the Internal Affairs Section was notified as to the above complaint and D/Sergeant Justin Watt and D/Sergeant Kenneth Gardiner were assigned the investigation.

The officers responded to 1300 Beaubien at 10:30 a.m., where they interviewed complainant [redacted] During the interview with the complainant, she admitted to the officers that she had not been completely truthful in her allegations and statements made to other officers in their investigation of the complaint. (Complainant had been previously questioned by Inspector Donald Cowell, #7 Precinct , Commanding Officer; Lieutenant Alf Nelson, Commanding Officer of #7 Precinct C.I.D. and officers of the Women's Section. She indicated at this time that she wished to make a truthful statement to Sergeants Watt and Gardiner and stated that the officers in the unmarked police vehicle had not raped her and stated that although she was missing $18.00 from her coat pocket, she could not be sure what had happened to it and may have lost it. The complainant remained adamant, however, to the fact that she had committed acts of oral perversion on both officers so that she would not be arrested.

On October 6, 1971 at 11:45 a.m., D/Sergeant Watt and D/Sergeant Gardiner conducted an interview with [redacted] [redacted] N/M/38 of 2959 Maple at the Women's Section, 1300 Beaubien. MR. [redacted] stated that while driving home on October 6, 1971 at about 3:45 a.m. he observed a female Negro (later identified as complainant [redacted] on the corner of Mack and Chene. MR. [redacted] stated that he had seen her several times at or near this location on previous occasions and had chatted with her before. MR. [redacted] continued that he stopped his car and was engaging in small talk with the complainant when he noticed a white Plymouth "Fury" with one headlight out going north on Chene and recognized it as a police vehicle. MR [redacted] stated that the car made a "U" turn and pulled up behind his car. Two white males in plain clothes got out of the car and one of the men approached him identifying himself as a Detroit police officer while the second white male approached the complainant and had some conversation with her.

MR. [redacted] went on to say that after he showed the officer his identification, the officer looked through his car briefly with a flashlight. The officer then returned MR. [redacted] identification and advised him to go on his way. MR. [redacted] concluded by stating that as he got back into his vehicle, he noticed that the time was 3:55 a.m. As he drove from the scene he observed the officers continuing their investigation of the woman and stated that he had no knowledge of any other events that may have transpired after this point.

On October 6, 1971, at about 12:30 p.m. D/Sergeants Watt and Gardiner responded to the Seventh Precinct, where in company with Inspector Donald Cowell they informed the officers of the allegations made against them in the presence of their attorney, Mr. Alfred Varga, Jr., and after being fully advised of their Constitutional and Contractual rights, they refused to make any statement. The officers were permitted to leave without any further questioning and were instructed to appear the following day (October 7, 1971) at the Internal Affairs Section with a statement regarding their activities of the preceeding tour of duty which Inspector Cowell ordered them to prepare.

At this time Sergeants Watt and Gardiner learned from Inspector Cowell that the officers had made a verbal statement to Lieutenant Kenneth White upon returning to the Station for off duty at 5:00 a.m. to the effect that they had talked briefly to the complainant after investigating her on the street and had sent her on her way. They denied any knowledge of her complaint.

On October 6, 1971 Sergeants Watt and Gardiner picked up PATROLMAN ROBERT COLTER of the Scientific Division and proceeded to the 15th Precinct arriving there at about 2:30 p.m. to check Code #67-2003, 1967 Plymouth Sedan, 1971 Michigan license #CVD-655, which was the vehicle used by the officers during the alleged offense. Upon arrival at the station the officers met D/Sergeant Rodney Merkle of the Scientific Bureau, Latent Prints Section, who was checking the vehicle at our direction. D/Sergeant Merkle at this time turned over to D/Sergeant Watt a brown handled pocket knife with a broken blade which he had found beneath the rear seat of the vehicle. (Placed in evidence).

On October 7, 1971 at 8:30 a.m. Sergeants Watt and Gardiner conveyed the complainant [redacted] to the vicinity of St. Aubin and Waton Streets to a railroad siding nearby to check the scene of the alleged complaint. She pointed out the approximate location which was checked for any possible physical evidence with negative results.

After further questioning the complainant stated to the officers that shortly after being ordered into the back seat of the police vehicle she had discarded a pocket knife which she had been carrying in her coat pocket to avoid the possibility of the officers charging her with carrying it. She described this knife as having a brown handle with a partially broken blade. She further stated that she remembered that while she was still in the officer's vehicle she had heard a radio run coming over the police radio of cars being sent to Jefferson and Van Dyke. She could not recall what the problem was.

After examination of the scene the complainant was returned to the Women's Detention cell block at 1300 Beaubien, where she was being detained as a police witness with holds for two capiases for Accosting and Soliciting.

On October 7, 1971 at approximately 9:30 a.m. PATROLMAN LEMAUX and PATROLMAN ORTMAN appeared at the offices of the Internal Affairs Section in the company of their attorney Alfred Varga and met with Sergeants Watt and Gardiner and Inspector Donald Cowell, their Commanding Officer.

At this time the officers presented typed identical statements which they had signed pursuant to Inspector Cowell's order of October 6, 1971. The statements indicated that the officers had investigated both the complainant and MR [redacted] at approximately 3:45 a.m. on the corner of Chene and Mack as PATROLMAN LEMAUX had recognized her as a suspected prostitute. They went on to state that MR. [redacted] was permitted to go on his way after informing him that the complainant was a suspected prostitute that it was against the law to patronize a prostitute and that he should be more careful in the future.

The statement then indicated that the complainant was unable to present any identification and that after a check of her outer garments for possible offensive weapons, PATROLMAN ORTMAN instructed her to go back and get in the police vehicle. Once in the car the officers stated that the complainant was informed that while they did not have enough evidence to take her into custody she should be more careful in the future. Then in order to make certain that MR. [redacted] did not return to the scene they proceeded (PATROLMAN LEMAUX driving) with the complainant to drive south on Chene to Hale, right on Hale to an alley running north and south, where upon they backed out of the alley and headed east on Hale, stopping just short of Chene. After a wait of approximately ten minutes they determined that the man was not returning to the scene and having no further evidence, they released the complainant at that location and left the scene. They then drove to the 15th Precinct, where they turned their car in and called for a car to convey them to the 7th Precinct. Upon arrival at the 7th Precinct they were instructed to remain until further notice.

After the officers were once again advised of their Constitutional and Contractual rights by Sergeant Justin Watt, in the presence of their attorney, they refused to answer any questions. Inspector Donald Cowell their Commanding Officer then, due to the seriousness of the allegations and the fact that an investigation was in progress suspended the officers from duty and they were permitted to leave.

On October 7, 1971, Sergeants Watt and Gardiner conveyed the complainant [redacted] to the Michigan State Police Post (Redford Station at Seven Mile and Grand River) at 12:15 p.m., where she was tested by Sergeant Richard L. North, Polygraphist and the results of this test were tentatively affirmed as to the complainant's truthfulness, however, as the complainant was beginning to show evidence of withdrawal and was becoming impatient, restless and distracted, a second test was scheduled for 3:00 p.m. on October 8, 1971.

On October 8, 1971 at 3:00 p.m. the second test was administered to the complainant by Sergeant North;after the examination was conducted, Sergeant North advised the investigators that it was his opinion that the complainant was telling the truth and a written report would be submitted to them at a later date. (This written report in addition to the results of the first test has been received).

On October 8, 1971 a warrant request was presented to the Wayne County Prosecutor's Office and the warrant was denied by Assistant Prosecuting Attorney James Garber due to insufficient evidence of a crime and the matter was referred for Police Department Administrative action.

On October 12, 1971 at approximately 11:00 a.m. PATROLMAN LEMAUX and PATROLMAN ORTMAN in company with their attorney, Mr. Alfred Varga, responded to the Internal Affairs Section at our direction at which time the officers were advised that a warrant request had been presented to the Prosecutor's Office and had been denied.

A copy of General Order #2475 was then shown to each of the officers and it was read aloud for them by Sergeant Watt.

After indicating that they understood General Order #2475, both officers were asked a series of questions by both Sergeants Watt and Gardiner which they answered, both stating that they had had no sexual relations with the complainant and had no knowledge of the complainant's allegations. Both officers then were asked if they would be willing to submit to a polygraph examination after they were informed that the complainant had voluntarily submitted to one, and after conferring with their attorney, Mr. Varga, they refused.

Both officers were then permitted to leave.

On October 14, 1971 at approximately 10:00 a.m. Sergeants Watt and Gardiner went to the Communication Section of the Detroit Police Department and requested Sergeant Stanley Wroblewski to check the tapes and run slips (DPD #98) for October 6, 1971 on or about 3:45 a.m. or after that time to verify the information given by complainant [redacted] relative to her statement that she had heard police cars being sent to Van Dyke and Jefferson while still in the officers car.

A search of the records by Sergeant Wroblewski revealed that on October 6, 1971 at 4:18 a.m. Scout 7-1 was dispatched to Van Dyke, north of Jefferson to meet Scout 7-70 (Code 9010). The audio tapes indicate that the location of Jefferson and Van Dyke was mentioned twice on the Police Radio at this time. A further review of the tape indicated that at no other time during a several hour period either before or after 4:18 a.m. was this location mentioned.

On October 18, 1971 at 2:30 p.m. PATROLMAN LEMAUX and PATROLMAN ORTMAN appeared at the Internal Affairs Section at our direction in company with Attorney Alfred Varga, Attorney Norman Lippitt, D.P.O.A. President Carl Parsell, Patrolman John Breed, Patrolman Gary Lee and their stenographer Mimi Kulback.

After preliminary remarks (of which a transcription was made by their (DPOA) stenographer) Inspector Donald Cowell reinstated the officers to duty. They were apprised of General Order #2475 again and further the legal opinions obtained at the request of Commissioner John Nichols from the Detroit Police Department Legal staff relative to mandatory polygraph examinations for police officers and the penalties for refusing to obey a direct order of a superior officer. After they were given a direct order by their Commanding Officer, Inspector Cowell, to submit to a polygraph examination regarding the allegations made against them in this case. They conferred briefly with their attorneys and refused to obey the direct order.

The officers were immediately suspended from duty by Inspector Cowell for the specific charge of refusing to obey a lawful verbal command of a superior officer.

The officers were served with a written notice to this effect and were excused.

JUSTIN WATT
Detective Sergeant
Internal Affairs Section

KENNETH GARDINER
Detective Sergeant
Internal Affairs Section

JW/KG/mmk

READ AND APPROVED:

LIEUTENANT WILLIAM J. CORBETT
Commanding Officer
Internal Affairs Section