

June 3, 2022



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Mayor Kathi Stone
Village of New Vienna
97 W. Main Street,
New Vienna, OH 45159

RE: Chief of Police Darryl Pate

Dear Mayor Stone:

On March 3, 2022, you formally asked the Clinton County Sheriff's Office ("CCSO") to conduct an internal investigation of law enforcement officers for the Village of New Vienna, Ohio. The scope of your request related to two distinct incidents involving Francis Music on the 28th day of January, 2022, and William Cluxton on February 1, 2022. Chief of Police Darnell Pate, Jr., and Officer Robert Peters are the officers involved in both incidents. On June 2, 2022, the Clinton County Prosecutor's Office was advised of the formal findings with respect to both incidents. For purposes of the contents of this correspondence, I assume you have received copy of the findings.

To recapitulate, the CCSO determined that the officers' interactions with and arrests of Francis Music and William Cluxton were executed without merit, illegally, and contrary to the constitutional protections afforded to citizens. Further, during the course of the investigations, the CCSO determined that Chief Pate was previously suspended and his employment with the Village of Addyston Police Department terminated for misrepresentations he made regarding the existence of a K-9 program and for benefits he received as a result. He is also the subject of an investigation regarding a use of force incident that is similar to that of Mr. Cluxton's encounter with Chief Pate.

Government disclosure of material exculpatory and impeachment evidence is part of the constitutional guarantee to a fair trial. *Brady v. Maryland* (1963), 373 U.S. 83; *Giglio v. United States* (1972), 405 U.S. 150. The law requires the disclosure of exculpatory and impeachment evidence when such evidence is material to guilt or punishment. *Id.* Because they are constitutional obligations, *Brady* and *Giglio* evidence must be disclosed regardless of whether the defendant makes a request for exculpatory or impeachment evidence. *Kyles v. Whitley* (1995), 514 U.S. 419.

Our office follows the standard set by the United States Department of Justice regarding disclosure of such evidence. Review of the United States Department of Justice Policy Regarding the *Disclosure to Prosecutors of Potential Impeachment Information Concerning Law Enforcement Agency Witnesses* ("*Giglio Policy*") 9-5.100 imposes an

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affirmative obligation upon prosecutors to disclose potential impeachment information, either in response to discovery or by presentation to the relevant court for *in camera* consideration and further direction. See, *U.S. v. Henthorn* (9th Cir. 1991), 931 F.2d 29, cert. denied, (1992) 503 U.S. 972.

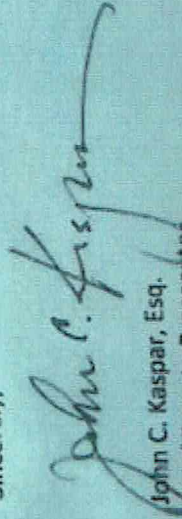
Potential impeachment information relating to agency employees may include, but is not limited to, pursuant to 9-S-100(5)(c):

- (i) Any finding of misconduct that reflects upon the truthfulness or possible bias of the employee; ...
- (iii) Any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;

Based on the findings of the CCSO's investigations, our office has determined that both Darnell Pate and Robert Peters qualify as *Brady* officers and that the Music and Cluxton findings are subject to voluntary disclosure of this Office as potential impeachment information under *Giglio*. Further, with respect to Darnell Pate, the termination of his employment by the Village of Addyston Police Department and the circumstances related thereto are also subject to disclosure.

If you have any questions with respect to this letter or the practical effects of such designation, please do not hesitate to contact me.

Sincerely,



John C. Kaspar, Esq.
Chief Deputy Prosecutor
CLINTON COUNTY PROSECUTOR