



**COURT
APPEARANCES**

Legal Studies

Chapter 5

Court Appearances

Instructor Guide



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Chapter 5 Court Appearances



Chapter 5 Court Appearances SYNOPSIS

Date Prepared: June 2014

Date Reviewed / Revised: 11/28/14

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Reviewed/Approved By: Lt. Christine Seppa

This chapter will provide the probationary police officer with an understanding of the rules of evidence and the ability to properly prepare for and testify at all stages of criminal trials.

Method of Instruction: Lecture / discussion / question and answer

Time Allocated: 5.5 Hours

Training Need: Entry level police officer training.

Terminal Learning Objective: At the completion of this chapter, probationary police officers will be able to demonstrate the principles of proper and well prepared trial testimony.

Learning Outcomes:

1. Describe the information required to be recorded during a preliminary investigation
2. Explain the proper procedures for appearing in court.
3. Identify and explain the rules of evidence.
4. Identify three types of pre-trial hearings.
5. Demonstrate the principles of proper trial preparation and testimony.
6. Explain the Penal Law offenses of perjury and tampering with physical evidence.
7. Describe the elements of proper traffic court testimony.

Required Reading: NYPD Police Student's Guide and Patrol Guide.

Instructional Resources Required:

- PowerPoint projector
- Computer with monitor
- Classroom seating

Evaluation Strategies:

- Observation of the level and quality of classroom participation.
- Observation and evaluation of module learning outcomes as applied to quizzes, 100 question multiple choice exam and classroom exercises.

References:

NYPD Police Student's Guide and Patrol Guide.



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INTRODUCTION

This chapter is designed to help you become an effective witness in judicial proceedings. Effective police witnesses are those who are able to articulate clearly, fully, and truthfully both the facts and circumstances of the matters that have brought them to court and their roles in these matters. Effective witnesses come to court prepared; they make certain that they have properly documented events and that they have properly processed any evidence for which they are responsible. Effective witnesses are aware of the strategies that may be used by opposing counsel to discredit them or trap them into phrasing their answers in ways that may mislead jurors.

Our system is adversarial, and places the burden of proof squarely on the prosecutor. Unlike inquisitorial systems, our system draws a great distinction between factual guilt and legal guilt. In our system, the only two outcomes of criminal trials generally are those in which prosecutors succeed in proving guilt beyond a reasonable doubt and those in which prosecutors fail to prove guilt beyond a reasonable doubt. Nobody is ever found innocent in our system because defendants

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do not have to prove their innocence: instead, they are either found guilty or not guilty. To prove guilt in our system, police and prosecutors must overcome a series of obstacles designed by our Founding Fathers to protect the freedoms they fought the Revolutionary War to gain. In our system, prosecutors who fail to show that the evidence they introduce was obtained in compliance with the Bill of Rights cannot use the evidence, even though it may clearly show that defendants committed the crimes with which they have been charged. When this happens, people who are factually guilty cannot be proven legally guilty beyond a reasonable doubt, and are therefore released to prey on our citizens again. Thus, in our system, it is critically important that officers testify credibly, honestly, knowledgeably, and convincingly in criminal cases. Police testimony is evidence, and when evidence is presented improperly, it results in lost cases and injustice.

Although most police testimony occurs in criminal, juvenile, or traffic proceedings as a result of an officer's law enforcement actions, officers also testify in civil proceedings in which they, the Department, or others are the accused parties. In these cases as well, it is critical that officers know how to be effective, honest, and credible witnesses.

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LEARNING OUTCOMES

1. Describe the information required to be recorded during a preliminary investigation.
2. Explain the proper procedures for appearing in court.
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5. Demonstrate the principles of proper trial preparation and testimony.
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PRELIMINARY INVESTIGATIONS

- Precise time of important events
- Time elapsed between events
- Layouts of indoor locations
- Street configurations
- Exact addresses
- Lighting at crime scene
- Weather
- Detailed description of suspects
- Statements made by suspects
- Names of other officers present
- Exact location of seized contraband

Learning Outcome # 1

Describe the Information required to be Recorded during a Preliminary Investigation.

Describe the Information Required to be Recorded During a Preliminary Investigation

Good preparation for court testimony encompasses the entire investigative process: the facts of the offense; location of the witnesses; discovering, preserving, and marking evidence; recording events that led to the apprehension of the defendant, and other incidents pertaining to the arrest.

One of the most important aspects of an investigation is the gathering of materials that may become evidence at a later trial. This includes the names and addresses of all potential witnesses, even if they appear to duplicate witnesses you already have. Taking note of details that you may be asked to recall later is a skill a good investigator must develop. The experienced officer learns to concentrate on seemingly minor items that may take on great importance from the witness stand.

You need to start doing this at the moment you become involved in any case, no matter how strong the case may seem. This means that, the stronger the evidence in a case, the more likely it is that defense attorneys will try to attack your credibility by suggesting to jurors that you have left out information that might weaken the prosecution's case.

When you go to court to testify, make sure that you are thoroughly

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knowledgeable about your case; that you have anticipated likely questions, and that you are prepared to testify honestly, confidently, and fully about any aspect of the case that might be raised in court.

The process of discrediting witnesses in the eyes of the jury is known as impeachment. Be aware that, the stronger the case in which you are testifying, the more likely opposing counsel is to try to impeach you by making it appear to the jury that you are both incompetent and dishonest. Do not take this personally: the defense attorney is playing his or her part in the adversarial American justice system. Your part in this process is to keep opposing counsel from impeaching you by coming to court at least as ready as he or she is.

To do your job properly, you need to ensure that you have all the details of the case thoroughly recorded. This includes:

The Precise Time of Important Events

1. When the crime was committed;
2. Officer first received the call;
3. Officer responded to the scene/Officer arrived on the scene;
4. Officer first saw defendant;
5. Defendant taken into custody;
6. Any post-arrest identification by a witness; time & place;
7. Any post-arrest statements; time and place.

The Time Elapsed Between Important Events

1. In a chase situation, the time between the first sighting of the defendant and the time of his or her apprehension;
2. The time between statements made by defendants.

Layouts of Indoor Locations

1. Number of rooms;
2. Arrangement of furniture;

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3. Condition of rooms (e.g., messy, neat, etc.);
4. Evidence of occupation (clothes in closets, food in refrigerator, etc.);
5. Number of beds.

Configuration of Streets at Outdoor Locations

1. Intersections;
2. Direction of street (north/south/east/west);
3. Type of street (e.g., two-way, dead-end, etc.).

Exact Street Addresses

1. Apartment number, floor;
2. Cross streets;
3. Location on block (middle, corner).

Lighting at Crime Scenes

1. Location of street lamps; are they in working order (assuming it's at night)?
2. Amount of natural light.

The Weather

1. Sunny/rainy;
2. Clear/overcast;
3. Warm/cold;
4. Rain/sleet.

Physical Characteristics and Clothing of Suspects

1. Age;
2. Approximate height;

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3. Approximate weight;
4. Description of face;
5. Description of hair;
6. Description of multiple articles of clothing;
7. Unusual features (tattoos, scars, etc.).

Statements Made by Defendants

1. Need not be a signed confession;
2. Anything the defendant says may be important. Document all details:
 - Beginning time and ending time of statement;
 - Location;
 - Other witnesses (including officers);
 - Exact wording;
 - Circumstances of warnings given.

Names of Other Officers Assigned to Case

Include their location, and what actions each officer performed (e.g., recovered property, interrogated the suspect). The officer assigned to secure a crime scene must make an Activity Log entry of the rank, name, and command of every person that enters the crime scene area.

Exact Location of Seized Contraband

1. If recovered from the defendant's person, record the precise location (e.g., right front pants pocket).
2. If near defendant, distance between defendant and contraband (e.g., "located within six inches of defendant's foot"). The word approximately should be used.
3. If indoors, whether in plain view or hidden, and exactly where it was (e.g., on top of coffee table in living room, in top drawer of dresser), and whether other objects, tending to connect contraband with owner, were near (e.g., drawer contained women's clothing and passport for Irma Smith).

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CHAIN OF CUSTODY

FROM THE TIME EVIDENCE HAS BEEN SEIZED TO THE TIME IT IS PRESENTED IN COURT THERE MUST BE:

- AN UNBROKEN RECORD OF THE LOCATION OF THE EVIDENCE
- DOCUMENTATION OF WHO HAS BEEN RESPONSIBLE FOR IT
- ASSURANCE THAT IT HAS NOT BEEN TAMPERED WITH

CHAIN OF CUSTODY

- OFFICER SEIZING EVIDENCE SHOULD VOUCHER IT AT ONCE
- PROCESSING EVIDENCE MUST BE DONE METICULOUSLY
- AS FEW PEOPLE AS POSSIBLE SHOULD HANDLE THE EVIDENCE

Chain of Custody

The presentation of physical evidence for use at trial is another crucial part of the investigation. Chain of custody is critical here: chain of custody means that from the time evidence has been seized to the time it is presented in court, there has been an unbroken record of the location of the evidence, thorough documentation of who has been responsible for it, and solid assurance that it has not been tampered with or otherwise tainted in any way. Because admissibility at trial depends upon an unbroken chain of custody from arresting officer to courtroom, the processing of evidence (vouchering) must be done meticulously. As few people as possible should handle physical property, especially contraband. The officer who seizes it, either from the defendant or the location, should therefore, vouch it at once. Under no circumstances should evidence from different defendants be combined on one voucher. Chain of custody is one of the most fertile areas of trial for the defense attorney to cast doubt on the prosecution's case; only meticulous attention to detail will insure the admissibility of the physical evidence that will help convict the defendant.

When in doubt as to the relevance of physical evidence, **VOUCHER IT!** Property can always be returned, but an item not vouchered at the proper time can leave a hole in the prosecution's case.

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ACTIVITY LOG ENTRIES

- Make entries as soon as possible
- List all details learned during your preliminary investigation
- Describe the crime scene
- Document all statements made by the suspect

Recording the Facts in your Activity Log

Note taking should begin at once. Your Activity Log should begin to contain entries recording your observations as soon as practicable. Many police officers believe that their Activity Logs contain confidential or highly secret information. They feel that since they made the record it is their personal record and no one else has the right to see it. In fact, nothing could be further from the truth. You are a public servant and as such the records you make are public records. You should keep this in mind when you make your initial memo entries. While writing them, be aware that there is a good possibility that these records will be produced in a court of law and may even be read to the judge or jury. On occasion, officers have even been surprised to find that their requests for Departmental recognition have been obtained by defense attorneys, and when they embellish the facts, it has been used to impeach officers' accounts of arrests. It is a better practice to wait until the case is over, before putting in for Departmental recognition.

Good Activity Log entries should read like testimony. There should be a minimum number of conclusions and a maximum number of details. Remember that it is the details, even though you may consider them insignificant, which will convince

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the court or jury that you are telling the truth and that the defendants are guilty of the crime for which you have arrested them. At the very minimum, your Activity Log entry should contain the defendant's full name, alias, address, age, occupation, physical description of the clothes the defendant was wearing at the time of the arrest and the acts committed. The full names of any complainant(s) or witness(es) should be included, and, to the extent possible, you should record their exact words.

It is also helpful to describe the crime scene. Often the experienced police officer will sketch a diagram of the crime scene, indicating the location of certain items, e.g., body, gun, etc., and the approximate distances from doors, windows, etc.

Officers should also note weather conditions, lighting conditions, the exact time they responded to the crime scene and a detailed description, including serial or identification numbers, of any property stolen.

Your Activity Log, and for that matter, any police report you prepare, should be prepared accurately, thoroughly, and as quickly as possible, while your memory is fresh because often you may need to use it to refresh your recollection while you are on the witness stand.

Never include anything that you are not sure of. At the same time, items you are certain are true should not be excluded for any reason. Failure to record an important fact can be used by the defense lawyer at trial to cast doubt upon your credibility.

In addition to routine paperwork (Complaint Reports, Arrest Reports, Unusual Occurrence Reports), you may have occasion to conduct procedures that involve the defendant's constitutional rights. These include taking statements, conducting a show-up, and arranging for a line-up. In all such instances, notes should be made concerning the manner in which the procedure was conducted. ALL statements, however seemingly harmless, made by a defendant should be recalled, recorded, and repeated to the Assistant District Attorney. One never knows what twist and turns a criminal case may take, and what appears to be a harmless statement by a defendant may turn out to be significant as the court case develops and the defense develops their strategy. Miranda Warnings must, of course, be given and a record kept of that fact.

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PREPARING TO TESTIFY

- KNOW THE FACTS OF YOUR CASE
- REVIEW THE CASE WITH THE A.D.A
- ANTICIPATE LIKELY QUESTIONS
- TESTIFY TRUTHFULLY
- DRESS APPROPRIATELY
- MAKE SURE ALL EVIDENCE IS AVAILABLE FOR TRIAL
- ASSIST A.D.A TO ENSURE ALL WITNESSES APPEAR IN COURT

Learning Outcome # 2
 Explain the Proper Procedures for Appearing in Court.

Explain the Proper Procedures for Appearing in Court

Preparation for Hearings and Trials

There is no such thing as an over prepared case. Every lawyer, whether on the side of the prosecution or the defense, knows this simple truth. With good preparation by the A.D.A, a police officer's testimony becomes sharpened and focused, emerging as the cornerstone of the People's case. With full preparation, the police officer understands his or her role in the case, and may even be able to anticipate hostile defense questions. A properly prepared police witness comes across to the jury as a competent, objective professional whose testimony can be relied upon.

There is no substitute for knowing the case and being well prepared. By succinctly and accurately communicating facts to the courts, the officer's testimony should demonstrate that he or she is knowledgeable.

Truthful testimony is a must, even if it is favorable to the defendant. Traditionally, police have had an edge on lay witnesses when testifying in court. The

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uniform or shield symbolized credibility and, both the training you are now receiving and the experience of working in the street, under pressure, will help to make you an articulate and powerful witness. Juries tend to believe the police officer. Today a police officer must strive to offer clear, concise and logical testimony.

By contrast, a poorly prepared witness may fumble or back track, may rifle through papers in a frantic attempt to locate a vital fact. Worse, his or her feelings of inadequacy may erupt in a hostile outburst at the defense lawyer whose questions seem irrelevant. As a result, the jury loses respect for the witness and may choose to believe the defense version of events.

Adequate preparation for trial is the right of every police witness. The A.D.A. who promises to talk to you in the hall on the way to court is not doing his or her job properly and may cause you to do less than your best on the witness stand. You have the right and duty to insist on a thorough preparation before placing your credibility and the Department's image on the line.

Good preparation serves several functions: It helps you, the witness, to understand courtroom procedures; to acquaint you with the prosecutor's theory of the case; to allow you to convey vital information to the A.D.A. and to aid in refreshing your recollection.

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PROCEDURES FOR COURT

APPEAR IN UNIFORM IF ASSIGNED TO DUTY IN UNIFORM EXCEPT IF (P.G. 211-01):

- OFF DUTY
- SICK LEAVE
- C.O. AUTHORIZED
- ARRAIGN DEFERRED/HOLDOVER PRISONER
- RESTRICTED DUTY

REPORT TO POLICE SIGN-IN ROOM, SUBMIT ID CARD, COMPLETE COURT ATTENDANCE RECORD

Procedures for Court Appearances (Patrol Guide 211-01)

When a uniformed member of the service is required to appear in court, before a Grand Jury or other government agency, such officer must conform to the procedures found in the Patrol Guide. These procedures require the officer to:

A. Appear in uniform, if assigned to duty in uniform, except if:

1. Off-duty;
2. On sick report or restricted duty;
3. Required to arraign deferred or holdover prisoner;
4. Authorized by commanding officer.

Note: Finest Message Serial # 006142 – dated 12/07/05 states: “Sergeants, police officers and detectives performing duty in uniform may wear the regulation turtleneck shirt underneath the regulation long sleeve uniform shirt. The top button only of the long sleeve shirt is to be left unbuttoned. No tie to be worn. This combination may be worn with or without the uniform duty jacket. i.e., it may be worn as an outer garment. It may be worn to court and to detail assignments, however this may not be worn by members assigned to perform administrative functions.”

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- B. Report to the Police Sign-In Room and submit I.D. card and Court Attendance Record (PD468-141) to supervisor / designee.
- C. Inform supervisor / designee if scheduled to appear in more than one part of court, before another government agency, or if on a court alert.

Notify supervisor/designee if appearing on off-duty time.
- D. Wear appropriate business attire, if appearing in civilian clothes. Wear shield on outermost garment at all times when in courtroom or within court building.
- E. Take meal period when court is in recess and enter meal location in Activity Log.
- F. Report to the Police Room if you are required to leave the court building for reasons other than meal, and upon return.
- G. Have Activity Log and evidence available at each appearance.
- H. Request adjournment to a day when performing duty on a 2nd platoon or, if a detective, when performing day duty. Inform the judge if the adjourned date is on a scheduled day off.
- I. Report to the Police Room upon completion of court appearance and obtain a completed Court Attendance Record.
- J. Return evidence, if any, to Property Clerk. Notify the desk officer by phone upon dismissal from Police Sign-in Room and comply with instructions.

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ON THE TRIAL DATE

- **Show up early with all relevant material**
- **Dress appropriately, uniform or business attire**
- **Meet with prosecutor to review testimony and exhibits**
- **Make appropriate notifications regarding court adjournments on your RDO**

Preparing to Testify

On or before meeting with the A.D.A., the officer should take the following steps in order to provide accurate and professional testimony:

- A. Review your notes, reports, and previous testimony. (The defense attorney will have all of these as a result of the discovery process.)
- B. Review the case with other officers that were present.
- C. Review the case with the prosecutor.
- D. Review your testimony with the prosecutor. If you are on the stand and are asked by the defense attorney if you discussed the case with the prosecutor, tell him or her that you did, in fact, discuss the case. This question is a trick: many people, unfamiliar with the courts, may believe that it is somehow improper to talk with the attorney who represents the side for which they are testifying, it is not.
- E. Make sure that you and the prosecutor have all of the exhibits and evidence that will be utilized at the trial. Make sure you can identify them and that they

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are marked with your mark in addition to having evidence tags.

- Calibration records;
- Weapons;
- Your certifications;
- Pictures;
- Reports.

F. Assist the prosecutor in making sure that all witnesses show up.

G. Show the witnesses their statements and let them review them.

H. Put the witnesses at ease - explain the court system to them.

Trial or Hearing Date

A. Show up early to meet with A.D.A and review notes and exhibits.

B. If assigned to appear on a scheduled day off, inform the judge of such condition and request an adjournment to a day when performing duty with the 2nd Platoon.

C. Make an Activity Log entry if re-scheduling is impossible. Such entry must include:

- Name of the Judge and A.D.A.;
- Date of appearance;
- Adjournment date,
- Court and part.

D. Inform the Borough Court Section supervisor assigned to the Police Room of such scheduling on day off.

Note: A uniformed member of the service who is assigned to appear in court on a scheduled day off will be assigned to a tour starting at 0900 hours, unless the court scheduling necessitates a different start time. UMOs returning from court may be excused upon request, if the exigencies of the service will permit.

E. Dress appropriately - uniform or business suit that is clean and pressed with a conservative hairstyle and minimal jewelry. Men must wear a tie when in business attire.

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EVIDENCE DEFINED

EVIDENCE IS ANYTHING THAT IS USED TO PROVE OR DISPROVE A DISPUTED ISSUE IN A COURT OF LAW

Learning Outcome # 3
Identify and Explain the Rules of Evidence.

RULES OF EVIDENCE

Your responsibility as a police officer is to legally gather and preserve as much evidence as you can. You should not make decisions as to the usefulness or admissibility of particular items. What will be presented as evidence in a criminal case is up to the prosecutor. The prosecutor is trained to recognize what the judge is likely to admit in order to prove the guilt or innocence of a defendant and he or she bears the responsibility for the proper presentation of the People's case. The remainder of this chapter will consist of a look at the rules of evidence and how they apply to your duties and responsibilities.

Evidence Defined

Evidence is anything that is used to prove or disprove a disputed issue in a court of law. It may consist of testimony, documents or objects. The rules of evidence in New York State are not contained in any one statute such as the Penal Law or Criminal Procedure Law, but are a set of rules which have developed over the years through decisions in individual cases. They do not tell us what is admissible as

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evidence in a trial. They tell us what is NOT admissible. As previously stated, you need not concern yourself with whether a particular item of information will be admissible or not; that is, the function of the prosecutor.

It is possible that evidence that would ordinarily be admissible may be suppressed, which means the evidence will be excluded. This happens when it is obtained through a violation of someone's constitutional rights. The police officer must be aware of the rights of individuals so as not to damage a strong case through carelessness.

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EXCLUSIONARY RULE

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial.

Examples:

- Unreasonable search and seizure
- An illegally obtained confession
- Improper eyewitness identification

Exclusion of Evidence

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial. Guns, narcotics, contraband, confessions or eyewitness identifications may be suppressed if they were obtained in violation of the United States Constitution or in violation of the New York State Constitution. If the prosecutor (District Attorney) offers into evidence one of these items (guns, narcotics, or a confession), the defense attorney will usually object. The objection may occur prior to the trial or during the trial itself. The defense attorney will make what is known as a motion to suppress. If the court grants the motion, it will exclude the evidence from use at the trial. The following are examples of circumstances that most often result in motions to suppress:

- The property was obtained by means of an unlawful search or seizure.
- The statements, admissions or confessions were not made voluntarily to the police officer.
- There was improper eyewitness identification.

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- There is an eavesdropping/wiretap recording of the defendant obtained under circumstances that preclude its admissibility in court.
- Certain evidence exists which would be admissible, but for the fact that, the police became aware of it through an unlawful means. This is referred to as the "fruit of the poisonous tree" doctrine.

The judge may grant or deny a motion to suppress evidence or may order a hearing just to determine if the evidence should be suppressed. If a hearing is conducted, you, as the arresting officer, may be called to testify.

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THE ROSARIO RULE

ALL STATEMENTS WHICH RELATE TO THE SUBJECT MATTER OF A WITNESS' TESTIMONY MUST BE RELEASED BY THE PROSECUTION TO THE DEFENSE COUNSEL

ANY FORM OF MATERIAL WHICH MAY BE USED TO RECORD A WITNESS' STATEMENT IS CONSIDERED ROSARIO MATERIAL

FAILURE TO PRODUCE ROSARIO MATERIAL CAN RESULT IN A MISTRIAL OR REVERSAL OF A CONVICTION

The Rosario Rule

Various court decisions have developed the Rosario Rule (L.B.B. Vol. 17 No. 10, People v. Rangello, and L.B.B. Vol. 21 No. 5, People v. Wallace), which requires all statements that relate to the subject matter of a witness' testimony be released by the prosecutor to the defense attorney.

Rosario material is defined as any prior statements to the police made by a witness who will appear and testify at the trial. Such "witness statements" are rarely recorded in a neat fashion on a single police report. In addition, police officers that investigate crimes and make arrests do not decide which witnesses involved in the case will actually testify at trial. The judge, prosecutor and/or defense attorney usually makes that decision.

The best approach police officers can take is to treat all statements they receive from witnesses as potential Rosario material. This includes statements by fellow police officers that witnessed the crime, seized evidence, or made an arrest. For example, courts have identified the following items typically prepared by police officers as Rosario material: Activity Logs, personal handwritten notes, preliminary

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worksheets, arrest reports, interview reports, Unusual Occurrence Reports, Complaint Reports (UF61s), Complaint Follow-up Reports (DD5), electronic recordings such as audio tapes, video tapes, 911 tapes, teletype messages, email, voice-mail , etc.

The penalty for violating the Rosario Rule is catastrophic to a criminal prosecution. Any failure to produce Rosario material, regardless of the good faith effort by police in attempting to locate it, can result in the reversal of a conviction.

The best way to ensure that you meet your obligations under the Rosario Rule is to follow these guidelines:

1. If you are the arresting officer:
 - Preserve all of your notes, records and police reports in an arrest folder. This includes all handwritten notes. Be sure to include photocopies of any entries you made in your Activity Log, whether written on the front or back of the page.
 - Each time you are assigned to court in connection with the arrest - including your first trip to the Complaint Room immediately following the arrest - bring the complete folder with you and show its entire contents to the Assistant District Attorney (A.D.A.) assigned to the case. Allow the A.D.A. to photocopy whatever he or she wishes from the folder.
 - If you prepare scratch copies of official police reports that are later typed, save a photocopy of the scratch copy in your folder. As soon as possible, obtain a copy of the typed report and place it in your folder as well.
 - Do not permit anyone except the A.D.A. to remove an original document, such as your handwritten notes, from your folder. The A.D.A. may be given an original document from your folder, but you should make a photocopy first. All other persons who are entitled, such as supervisors or detectives assigned to the case, should be given photocopies only of any documents in your folder.
2. If you are not the arresting officer, but you prepared an official police report (such as a Complaint Report or a Complaint Report Follow-Up), or made written notes of statements you received from witnesses or victims of a crime:
 - Photocopy your report(s) or handwritten notes and give them to the arresting

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officer for inclusion in his/her arrest folder.

- Save a copy of the report(s) you prepared and your original handwritten notes so that you can produce them for the A.D.A., if necessary.
- Bring all documents you have concerning the incident with you to every court appearance or meeting with the A.D.A. concerned.

These guidelines apply to all members of the service other than the arresting officer. This includes patrol officers who take statements from witnesses, detectives who do subsequent interviews, and supervisors who interview witnesses for preparation of Unusual Occurrence Reports. Any information you receive from witnesses and record in an official Department form, such as a Complaint Report or a Complaint Report Follow-Up, or in handwritten notes, must be preserved and turned over to the A.D.A. concerned.

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BRADY MATERIAL

- **Exculpatory evidence that tends to clear someone's guilt**
- **Prosecution MUST disclose any evidence which may be favorable to a defendant**

Brady Material

Another important area of law that a police officer should be familiar with is exculpatory evidence, commonly referred to as Brady material. Exculpatory evidence is evidence that tends to clear someone's guilt. Brady material does not necessarily have to be written or recorded; it can also include anything oral. The prosecution is mandated by law to disclose any evidence that is favorable to the defense upon request by the defense. Unsolicited exculpatory evidence must also be disclosed when it creates a reasonable doubt that would not otherwise exist. A police officer must bring any such evidence to the attention of the District Attorney. Failure to do so may jeopardize the prosecution and bring about judicial sanctions. Remember, a police officer should gather and preserve as much evidence as possible at a scene of a crime. The District Attorneys will determine what evidence, if any, is exculpatory.

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TESTIMONY BY CHILDREN

- A child 9 or older may testify under oath in court
- A child less than 9 may not testify under oath in court, unless the child understands what taking an oath means, may give unsworn testimony
- A defendant may not be convicted solely on unsworn testimony of a child

ACCOMPLICE TESTIMONY

- A person may not be convicted of an offense solely upon the testimony of an accomplice
- Accomplice testimony + other corroborating evidence = enough for conviction

Testimony by Children (C.P.L. Section 60.20)

As a general rule, a witness who is a child less than nine may not testify under oath in court, unless the judge (referred to as "the court") determines that the child understands what taking an oath means. A child less than nine may, however, testify without taking an oath. If a child does testify without taking an oath, a defendant may not be convicted solely on the child's testimony.

When you have a case where a child is less than nine you should attempt to obtain additional evidence. Additional evidence is also important in cases where a complainant or witness may have mental disease or defect, since the judge may not allow such a person to testify in court.

Accomplice Testimony (C.P.L. Section 60.22)

A defendant may not be convicted of any offense solely upon the uncorroborated testimony of an accomplice, unsupported by other evidence tending to connect the defendant with the commission of the offense.

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An "accomplice" means a witness in a criminal action who may reasonably be considered to have participated in:

- The offense charged; or
- An offense based upon the same or some of the same facts or conduct that constitutes the offense charged.

The fact that a witness in a criminal action is also an accomplice, and that he or she has a defense such as infancy, or some type of immunity, does not affect his status as a witness.

Example: Bill and Henry commit a robbery. If Bill is arrested and names Henry as his partner in the crime, Henry cannot be convicted solely on Bill's testimony. However, in combination with any other evidence that ties Henry to the crime, Bill's testimony may be sufficient corroboration to convict him.

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HEARSAY

- When a witness gives testimony that is **NOT** based on personal knowledge (repeating what they heard someone else say about a particular incident)
- Hearsay is not usually admissible

EXCEPTIONS TO THE HEARSAY RULE

- DEFENDANT'S CONFESSION OR STATEMENTS
- DEFENDANT'S ADMISSIONS AGAINST PENAL INTEREST
- VICTIM'S DYING DECLARATION
 - When death is imminent
 - Only admissible if death of victim actually occurs

The Hearsay Rule

Hearsay is evidence not from personal knowledge of the witness, but where the witness merely repeats what the witness heard others say. It is testimony about something said outside the court by other than the witness, which the witness testifies as being true. Hearsay evidence is usually not admissible.

Briefly stated, the hearsay rule precludes testifying to anything that was said out of court. Here's an example: You and your partner are sitting in your patrol car when a woman comes up and tells you her bag has been snatched. If you were telling this story to someone outside of a courtroom, you would undoubtedly say, "The lady told me someone took her pocketbook." In court, this is called hearsay.

The theory is that each witness testifies only to what he or she saw and heard first-hand. You did not SEE the purse snatching; therefore you cannot testify that it happened. The reason for hearsay not being admissible is that the person who actually said the words is not under oath and cannot be cross-examined. The woman herself will take the stand and tell that part of the story and be cross-examined.

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Your testimony, without hearsay, would consist of: "I was in the car with my partner. A woman came up to me; and told me something. As a result of what she told me, I took her in the car and we drove around. Eventually we saw the defendant and stopped him. I then had a conversation with the woman, and placed the defendant under arrest."

Exceptions to the Hearsay Rule

There are many exceptions to the hearsay rule. However, there are three that you will most likely encounter. They are as follows:

- Confession or Statement: Given by a defendant.
- Admission: A statement made by a defendant that is against his penal interests, but does not amount to an acknowledgment of guilt.
- Dying Declaration: A statement made by the victim of an assault which is made when death is imminent and the declarer has abandoned hope of recovery. Dying declarations may only be used when the victim actually dies.

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PRETRIAL HEARINGS

MAPP HEARING DETERMINES WHETHER PHYSICAL EVIDENCE TO BE PRESENTED AT TRIAL WAS LEGALLY OR ILLEGALLY SEIZED

HUNTLEY HEARING DETERMINES ADMISSIBILITY OF A CONFESSION, ADMISSION OR STATEMENT MADE BY THE DEFENDANT

WADE-GILBERT-STOVELL HEARING DETERMINES THE FAIRNESS OF THE EYEWITNESS IDENTIFICATION OF A DEFENDANT

Learning Outcome # 4
Identify Three Types of Pre-trial Hearings.

Identify Three Types of Pre-trial Hearings

Pretrial Hearings and Motions to Suppress

The motion to suppress may be handled without a hearing if the District Attorney and the defense attorney agree to the facts in the case. This is not often done, however. If a hearing is conducted, you, as the arresting officer, will be called as a witness. The reason that the motion to suppress is so important is because, if the defense counsel is successful, the evidence sought to be admitted by the People will not be admissible as evidence in the case. This often means that the case is won or lost at the suppression hearing.

Example: A police officer arrests and charges a defendant for criminal possession of a weapon. If the defense counsel is successful in a suppression motion, the court will rule that the gun cannot be introduced in court as evidence. Without the gun being introduced as evidence, it is almost impossible to prove the crime of criminal possession of a weapon. In gun cases, if the defense counsel wins at the suppression hearing, the District Attorney will drop the charge against the defendant. On the other hand, if the People win, the defendant will often edge

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towards entering a plea of guilty. This is because he knows that once the court rules that the weapon is admissible, the People will have an easier time establishing their case.

Types of Pretrial Hearings

1. Mapp Hearing: A hearing conducted prior to trial, a Mapp Hearing, determines whether physical evidence to be presented at trial was legally or illegally seized.
2. Huntley Hearing: Also conducted prior to trial, a Huntley Hearing is one in which the defendant asks the court to determine the admissibility of a confession, admission, or statement made by the defendant.
3. Wade-Gilbert-Stovell Hearing: This hearing determines the fairness of the eyewitness identification of a defendant. This will usually follow a lineup or show-up at which the defendant was identified by a witness or the victim.

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OVERVIEW OF A TRIAL

- UNDERSTAND THE THEORY OF THE CASE
- PREPARE THE CASE WITH THE ADA BEFORE TRIAL
- RETRIEVE ALL PHYSICAL EVIDENCE TO BE PRESENTED AT TRIAL
- MAINTAIN PROFESSIONAL APPEARANCE AND DEMEANOR AT ALL TIMES

Learning Outcome # 5
Demonstrate the Principles of Proper Trial Preparation and Testimony.

Demonstrate the Principles of Proper Trial Preparation and Testimony

Understanding the Theory of the Case

The ability of a witness to testify effectively is enhanced when the witness understands the purpose for which he or she is called and where his or her testimony fits into the case as a whole. Your testimony is like a piece in a jigsaw puzzle: taken by itself, it may seem to lack a coherent meaning, but put in context with other pieces, it forms a clear picture. It is up to the A.D.A. to show you exactly where your piece of the puzzle fits.

In addition to having his or her own theory of the case, an experienced A.D.A. will often be able to anticipate the approach the defense will take. He or she will be able to help you prepare for the exact type of cross-examination you will face in the courtroom. Your testimony may take on a different character depending on the nature of the defense claim.

Conveying Information to the Prosecution

The educational function of pretrial preparation is not just a one-way street. You are as much an expert in your profession of law enforcement as the A.D.A. is in the legal arena. You can, therefore, add to the strength of the People's case by the

Instructor Notes:

Review courtroom testimony checklist within the Student Guide.



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information you provide to the prosecutor during preparation.

You can educate the prosecutor on such topics as routine police actions, the requirements of the Patrol Guide, and the many types of reports that may be filed on a given case. An experienced police officer who knows "the street" can often help a prosecutor understand the motives and methods of those who commit crimes.

Where the officer has had an ongoing relationship with the defendant, he or she can illuminate the defendant's family relationships and prior conduct for the benefit of the A.D.A. (The prosecutor will have to decide which portions of the defendant's criminal past he or she will use in court.)

The police officer conveys vital information to the Assistant District Attorney in another, very basic way: by bringing to the prosecutor's office ALL reports, memoranda, documents and scratch notes connected with the case. The A.D.A. will use all of this to help you refresh your recollection of events, and will also determine which documents he or she intends to introduce at trial.

The initial meeting between the police officer and the A.D.A. assigned to the case is critical. It is at this meeting that the facts of the arrest/incident are conveyed to the A.D.A. assigned to the case. The officer must attempt to relate all the facts. If he or she is unsure about whether a particular detail is important, the A.D.A. should be allowed to decide. ALL paperwork related to the case must be given to the assigned A.D.A. If, during the course of the trial, a police officer recalls previously forgotten information, this information should be immediately related to the assigned A.D.A. If a police officer either failed or simply forgot to disclose a certain fact or detail, he or she should admit this at trial. Failure to do so will only serve to taint everything else the officer says.

Sometimes an Arrest Report will differ from a Complaint Report in some particulars. It is up to you to point out any such discrepancies to the Assistant District Attorney so that they can be explained at trial. A discrepancy may be a simple mistake, or it may have a reasonable explanation. The important thing is that the A.D.A. be forewarned, so that the discrepancy does not come as a surprise, but can be dealt with at trial.

The arresting officer will be designated to retrieve all physical evidence from the Property Clerk and bring it to court. Vouchers should accompany all items. The A.D.A. will review the paperwork with you, and prepare you to testify, with emphasis on establishing the "chain of custody". The officer should be able to account for the property at every stage of these proceedings.

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Appearance

A professional appearance is essential to being an effective police witness. Jurors expect a police officer to be more objective, more competent, and more impressive than a civilian witness.

Department policy requires that an officer assigned to patrol must wear his or her uniform to court unless he or she is off-duty, on sick report, or is authorized by the commanding officer to be out of uniform. When a member of the service appears in court in uniform, the uniform should be clean and pressed. Any and all citations should be worn above your shield. You earned them - let the jurors see that you are an experienced officer who has been commended by the Department. Civilian jurors are impressed by citations; the A.D.A. may even ask you to explain them to the jury in order to enhance your position as a seasoned officer.

If you are appearing in court in civilian clothes, your attire should present a professional, essentially conservative image. Think of yourself as dressing for a job interview at a bank. Business suits are appropriate for witnesses for either sex. However, a sports jacket and slacks, providing they are conservative in cut and color, are also permissible for men; a tie is mandatory.

Demeanor

The way an officer behaves in court is at least as important as the way he or she dresses in creating an impression on the jury. One vital rule about proper courtroom demeanor is that it begins the minute you enter the courthouse. Your overall attitude should be a combination of confidence about the accuracy of your own testimony, respect for the court, and neutrality toward both attorneys. Showing too much friendliness toward the A.D.A. or displaying hostility toward the defense lawyer will cast doubt upon your objectivity.

As much as possible, you should try to look at the jury when testifying. Keep your voice up. Answer all questions with the same calm sincerity, appearing concerned and interested at all times. Listen carefully to all questions and take time to consider your answer. You may ask that a question be repeated or clarified if you did not understand it. Answer only the question asked, without volunteering information not requested. If a question CANNOT be answered "yes" or "no", you may ask the judge for permission to expand your reply.

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DIRECT EXAMINATION

- **OPEN ENDED QUESTIONS ASKED BY THE PROSECUTOR**
- **NO LEADING QUESTIONS**
- **PHYSICAL EVIDENCE INTRODUCED**
- **DO NOT USE POLICE JARGON**
- **DO NOT GIVE OPINIONS OR SPECULATE**

Direct Examination

Straightforward, open-ended questions are asked ("And then what happened?"). The witness answers, telling his or her story in a direct, chronological fashion.

The key to persuasive direct testimony is good preparation. When the A.D.A. asks, "What, if anything, did you do then?", you must have some idea what particular aspect of your activities he or she wants you to mention. The way to achieve this certainty is through thorough pretrial discussion with the prosecution.

The A.D.A. is not permitted to ask leading questions of his or her own witness. He or she cannot ask questions that point to a single answer ("The defendant told you he was guilty, didn't he?"), but must instead make open-ended queries ("Did the defendant say anything to you?"). This is another reason why preparation is needed: the A.D.A. will not be able to guide your answers by asking suggestive questions.

Most physical evidence is introduced on direct examination. When you are presented with physical evidence ("Officer, I will show you a weapon. Do you recognize it?"), take care to examine it before you give your answer. You may tell the A.D.A. "I'd like to examine it," before committing yourself.

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When looking at the evidence, note any identifying marks you made when vouchering the evidence. This will enable you to establish the first link in the chain of custody that will allow the item to be introduced into evidence. You may need to refresh your recollection from the voucher or the ballistics report; do not hesitate to ask the court's permission to look at relevant documents.

During your testimony, the defense attorney may object to certain questions asked by the A.D.A. When this happens, STOP. Only after the judge rules on the objection should you resume your answer, following whatever ruling the judge makes. If the judge sustains the objection, you cannot answer. If he overrules the objection, you can answer. Under no circumstances should you react to the court's ruling, favorably or unfavorably.

Potential Problems During Direct Examination

The first pitfall is the tendency to talk like a police report instead of a person. Some officers do this in the mistaken belief that they sound more professional; others paraphrase the arrest report because they have been inadequately prepared.

Other potential problems on direct examination include opinion evidence, speculation, and "background" material. In general, a witness testifies to facts, not opinions. Thus, you must tell the court: "The defendant turned and ran away after I announced myself and told him to stop." You are not permitted to give your opinion that "he intended to flee." He may well have intended to flee, but how would you know whether this was so? You have no way to get into his head and to determine his intent. Instead, it will be up to the jury to determine whether he intended to flee based on the facts you present to them. In this example, the only fact you can present is that he fled.

Expert witnesses are an exception to this rule. Fingerprint technicians, ballistics experts, and any police officer who can demonstrate specialized technical training may be qualified as an expert. For example, police officers who have received courses in coin games may be permitted to give an expert opinion as to whether words said by the defendant constituted the opening moves in a well-known fraudulent accounting scheme.

Speculation is also precluded. You may have reason to believe that the defendant's behavior indicated intent to commit a crime; but you may not say so. One exception is that in testifying at a suppression hearing about probable cause to search or arrest, you may tell the judge that you acted upon a reasonable belief that the defendant was committing or about to commit a crime.

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DIRECT EXAMINATION

Refresh your recollection:

- Visit the scene of the crime
- Review your notes and reports
- Speak to other officers involved
- Request permission of the judge to review notes if you are testifying

Refreshing Your Recollection

Although the Assistant District Attorney will help you reconstruct the events about which you will be testifying, in the final analysis it is YOUR memory that is being refreshed. Any memory aids that will help you to recapture a vivid and complete recollection should be used. For instance, if it is possible to visit the scene of the crime or arrest, this may help you recall such details as the physical layout and lighting conditions.

Reviewing your own and other officer's paperwork is another way to trigger your recollection. You may wish to discuss the case generally with your partner, or other fellow officers who were present on the scene. **BE CAREFUL:** The idea is to refresh YOUR OWN memory, not to conform your testimony to what someone else saw or heard. Too much discussion among police officers may result in testimony that seems tailored to a jury. If there are minor discrepancies among the police officers and yourself, don't worry about it. Nothing in real life is ever perfect, and an experienced A.D.A. can handle it during the course of the trial. If you do consult with others, it is permissible to admit to the court that you conferred with fellow officers.

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During your testimony you may also refresh your recollection by briefly reviewing any material you have brought with you to court. Your paperwork should be kept neatly organized in a folder that you can place next to you on the witness stand. You should not hold the folder and fidget with your paperwork while testifying, as this will convey nervousness to the jury. If you cannot remember a specific detail to properly answer a question, you may ask the judge if you can refresh your recollection by referring to your notes, paperwork, Activity Log or anything else that would help you remember the answer. If given permission by the judge you may view these items briefly, then put them away and give your answer. You may NOT read aloud from any documents in your possession unless the specific item you are reading from has been admitted into evidence.

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DIRECT EXAMINATION

Explaining discrepancies:

- State “approximately” if you are unsure of exact figures or measurements
- Admit and explain any discrepancies found in your paperwork in advance to the A.D.A.
- “I don’t recall” should be rarely used

Explaining Discrepancies

It goes without saying that a police officer should thoroughly review all forms and notes before testifying. These notes include (but are not limited to) Complaint Reports, Complaint Report Worksheets, Online Booking System Worksheets, Activity Log entries, etc. The police officer/witness should also review his or her testimony with the A.D.A. Police officer/witnesses should refresh their own memories only. Police officer/witnesses should not be afraid to use the term approximately when they're unsure about exact figures or measurements. If a police officer forgot about a particular detail he or she must admit, “I don't recall,” at the same time, he or she should anticipate and be prepared to testify about anything he or she may be asked to recall, so that this phrase is used only rarely.

Complicated cases can give rise to numerous, somewhat technical, discrepancies. Discrepancies are normal and even expected. The jury would be surprised if absolutely everything proceeded along in a textbook fashion. Only a police officer's honest and truthful response could impress the jury enough that they could overlook minor (and ultimately unimportant) discrepancies regarding various elements of testimony. The defense attorney will attempt to exploit minor

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discrepancies, i.e. a difference between two arrest times - one on the Online Booking System Worksheet, and one in the officer's Activity Log. Once again, the best course of action a police officer could take is to simply answer clearly and truthfully as much as his or her memory allows. Going "head to head" with a defense attorney is NOT the answer: when you do this, juries begin to believe that you are more interested in beating the defense attorney than in whether justice is accomplished. Don't fight with the defense attorney and, certainly, keep in mind that NO CASE IS WORTH PERJURY.

The main point of working to enhance your memory of events is to transform the dry words of your police reports into a vivid picture that the jurors can SEE. A police officer who testifies like a walking Complaint Report is far less effective than one who can recount the sights, sounds, and smells he or she actually experienced. Trials take place in sheltered courtrooms, under artificial lights. Letting the jurors HEAR the breaking glass, SEE the blood flowing from the victim's head, and SMELL the P.C.P. in the defendant's car; this brings them out of the calm of the courtroom and into the reality of your experience. The more concrete details you can include in your testimony, the more believable your account will be to a jury.

Background Material

You may know for a fact that a certain location is a "drug prone area", and that the defendant's presence in such an area indicated criminal intent. It is important that you be able to tell the jury WHY you believe the area is drug prone. For example, arrest statistics or observations of drug sales would be better than mere assertions. In some cases, the A.D.A. will be permitted to establish background (e.g., "Do you know whether the officers in your precinct have previously made drug arrests at this location?" "Have you previously made such arrests at this location?" "How many?"). In other cases, the judge will rule that background information is too prejudicial to be heard by the jury. The best way to handle this type of testimony is to clear it with the A.D.A. before trial.

Everything that is said on direct examination is subject to further questioning by defense counsel on cross-examination. Volunteering information not asked for by the A.D.A. can give the defense attorney an extra line of questioning he or she might not have known about. Giving overly precise information when you are not really as certain as you sound ("The defendant was standing exactly 17-1/2 inches away from me at the time.") can give the defense lawyer an edge on cross-examination ("Officer,

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you didn't measure that distance, did you? Could it have been 15 inches? 20 inches? 17-3/4 inches? You're not really sure HOW far away the defendant was, are you?"). Remember, it is perfectly alright to use words like "about" and "approximately" when describing times and distances, unless you are certain as to the precise numbers.

In cases where physical force was used to effect an arrest, there may be a natural tendency to play down the amount of force employed. This will definitely boomerang on cross-examination when the defense attorney questions you about injuries sustained by the defendant. If force was required, don't be afraid to state exactly what you did and what the defendant did to necessitate your actions. Trying to "cover up" will only make things worse when the truth comes out on cross-examination.

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CROSS EXAMINATION

- **QUESTIONS FROM DEFENSE ATTORNEY**
- **DESIGNED TO ELICIT FACTS FAVORABLE TO DEFENDANT**
- **QUESTIONS ARE RARELY CHRONOLOGICAL**
- **DEFENSE ATTORNEY MAY TRY TO LIMIT ANSWERS TO "YES" OR "NO"**

Cross-Examination

Cross-examination is designed to lay the foundation for the arguments the lawyer intends to advance in summation. Each cross-question is a building block for the structure to be built in summation.

For example: You arrested the defendant for robbery, recovering and vouchering a sum of money. Although a gun was used in the crime, you found no weapon on the defendant, who was arrested some fifteen minutes after the robbery. The complainant identified the defendant in an on-scene show-up.

Defense counsel's questions will be designed to demonstrate to the jury those facts in the defendant's favor: That you did not see the robbery; that the gun was not found on the defendant; that the money may have come from somewhere other than the victim's cash register; and that the defendant was the only person shown to the complainant at the time of identification.

Defense attorneys may ask if you spoke with the A.D.A or fellow officers about the case before trial and imply that doing so is improper. That is not true, as stated earlier in this chapter, preparing the case with the A.D.A is not only proper but essential.

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A defense attorney may seem either friendly or hostile. One who seems angry does so to make the police officer look bad in front of the jury. He wants a hostile response. Police officers must remain cool, detached and professional. Courtroom demeanor will tell the jury a great deal. **DO NOT ALLOW YOURSELF TO BE PROVOKED TO ANGER.** When you do this, you give the defense attorney the opportunity to suggest that your bad temper was the real cause of the arrest of his or her client.

One simple rule to keep in mind during cross-examination: The facts are the facts. If there was no gun recovered, you must say so frankly and forthrightly. If a search of the area was conducted, and still no gun was found, you must admit that fact. If no search was made, there is no choice but to say so and let the jury draw the inference that the police work was less than perfect.

Unlike direct, cross-examination is rarely chronological. The cross-examiner's purpose is to chip away at the incriminating facts presented on direct; to highlight those elements favorable to the defense; and to underscore any omissions, inconsistencies, and mistakes that tend to cast doubt on the People's case. The last thing in the world the defense lawyer wants you to do is repeat the smoothly flowing, extremely damaging narrative you delivered on direct.

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CROSS EXAMINATION POLICE OFFICERS SHOULD:

- Stay calm
- Think before you speak
- State the facts
- You may ask the judge to permit you to give an explanation when "yes" or "no" would be misleading
- Correct any factual mistakes stated by defense attorney in a question

When testifying in court always listen carefully to every question, making certain you understand it fully before answering. Think before you speak, responding in a calm deliberate voice that refuses to be hurried by the defense lawyer's haste. Letting yourself get caught up in the lawyer's machine gun rhythm can open the door to mistakes and inconsistencies, as answers are given with insufficient reflection.

Another common area of questioning is the kind of inquiry designed to convey to the jury the impression that you, as a police officer, are interested in the outcome of the case. The questions may center on a supposed bias you hold toward the defendant or upon the notion that you will earn promotions or commendations through making arrests, especially those that result in convictions. Your best response is to answer such questions truthfully and dispassionately, without displaying outrage or becoming defensive.

Defense lawyers often make a point of asking police officers about police work not done in the course of an investigation. For example, a failure to take fingerprints at a crime scene or to "dust" a gun for prints can be used to infer that, had prints been taken they would not have been those of the defendant.

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However, once again, the facts are the facts. If it is possible to explain the failure to take fingerprints, either because the surface was not printable or Department policy did not call for a crime scene investigation, you should be able to testify to that effect. This is where thorough preparation with the A.D.A. pays off. Together, you will have anticipated this line of questioning and discussed the best way to answer.

Questions about time and distance can cause difficulty on cross-examination. For example: On direct, you testified that you observed the defendant for a period of "two minutes". The cross-examiner breaks down this time, asking when you first noticed the defendant, how long it took him to walk from one place to another, whether your attention was distracted from him at any time. When the questioning is completed, the jury may be asked to infer that you saw the defendant's facial features for only ten seconds out of that original two minutes.

"Answer yes or no" is a phrase that begins a great many questions asked on cross-examination. It can be frustrating at times to compress a complex answer into the simple "yes or no" the cross-examiner prefers. Yet, when you can reply with a yes or no, you should do so, knowing that the A.D.A. will have the opportunity on redirect to expand on your answer. In those cases where you honestly believe that a yes or no response would be so incomplete as to mislead the jury, you may courteously ask the court for permission to add an explanation to your reply.

There are some questions you do not have to answer in the form in which they are asked. You may request the judge to separate a compound question; ("Did you arrest the defendant, handcuff him, and place him in the patrol car?" should be asked in three separate inquiries). You may ask to have a question you did not hear repeated, and to have a question you did not understand explained.

Occasionally, a less-than-scrupulous defense lawyer will incorporate a false premise into a question in order to obtain a misleading answer. Example: You have testified all along that the defendant was in a blue car. On cross, you are asked, "When the green car turned the corner, didn't you follow it?" You must, first, listen carefully to the question so that the discrepancy is noted. Then you may reply, "The car I saw was blue, not green."

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WHY DOESN'T THE A.D.A. OBJECT?

- **OBJECTIONS MUST BE MADE ON PROPER LEGAL GROUNDS**
- **HOSTILE QUESTIONING MAY NOT RISE TO THE LEVEL OF "BADGERING THE WITNESS"**
- **THE A.D.A. DOES NOT WANT TO CREATE THE IMPRESSION THAT THEY ARE PROTECTING YOU**

Objections

Many police officers have a question in the back of their minds when they endure a blistering cross-examination from defense counsel: "Why doesn't the A.D.A. object?" There are two reasons why the A.D.A. may not intervene. One is that objections must be made on proper legal grounds. Tough, hostile questioning that does not rise to the level of "badgering the witness" is not objectionable. The second reason is that the A.D.A. would much rather have the jurors see YOU handling the questions by yourself than create the impression that he or she is protecting you by jumping to your defense when the questions get tough. Painful as it is in the short run to be the object of a stinging cross-examination, in the long run your professional demeanor will do more than any number of A.D.A. objections to convince the jury that you are testifying honestly and objectively.

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RE-DIRECT

- **A.D.A ASKS QUESTIONS TO CLARIFY CERTAIN POINTS RAISED DURING CROSS EXAMINATION**

RE-CROSS

- **DEFENSE LAWYER ASKS QUESTIONS LIMITED TO MATTERS RAISED ON RE-DIRECT**

Re-direct and Re-cross

No further questions. With that statement, the defense attorney concludes his or her cross-examination. You experience a surge of relief, thinking that the worst is over.

Your job as a witness, however, is not finished. The Assistant District Attorney may have more questions for you on re-direct examination. Redirect is your opportunity to give the full explanation you were not permitted to present on cross. Now you CAN tell the jury why no fingerprints were taken at the scene, or explain the troubling discrepancy between the arrest report and the voucher. You can tell the jury what happened in plain English. You can explain details that you feel need further clarification.

Re-direct is not designed to repeat the entire direct, but is limited to matters raised on cross. The A.D.A.'s focus will be to clarify points that are unclear and to explain items that might otherwise score points for the defense on summation. The A.D.A. will not belabor items he or she considers adequately established and may fail to ask questions you are expecting. If this happens, it will be a signal that the A.D.A.

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feels that your answers on cross-examination were strong enough to need no further explanation to the jury.

The disciplined professionalism you bring to the courtroom should stay with you at all times. You are a working police officer even when you are not actually answering questions. Thus, it is important to conceal from the jury whatever sense of relief you may feel at the close of your testimony. Even if the cross-examination was a grueling ordeal, the jury should see you step from the stand in an unhurried manner. Nor should smiles, winks or victory signals pass between you, the A.D.A., or other officers.

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DEFINITIONS

OATH: affirmation attesting to the truth of what is stated

TESTIMONY: oral statement made under oath in an official proceeding

SWEAR FALSELY: intentionally making a false statement you do not believe to be true, during testimony, or in a sworn written statement

Learning Outcome # 6
 Explain Penal Law Offenses of Perjury and Tampering with Physical Evidence

Explain the Penal Law Offenses of Perjury and Tampering with Physical Evidence

Definitions of Terms Related to Perjury (P.L. 210.00)

Testimony: an oral statement made under oath in a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer the oath or cause it to be administered.

Oath: includes an affirmation and every other means authorized by law of attesting to the truth of what is stated.

Swear Falsely: is an offense that occurs when a person intentionally makes a false statement that he or she does not believe to be true, either while giving testimony; OR under oath in a signed written instrument.

Note: A false swearing in a signed written instrument shall not be deemed complete until the instrument is delivered by its signer, or by someone acting in his or her behalf, to another person with intent that it be used as true.

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PERJURY 3RD DEGREE– MISDEMEANOR (P.L. 210.05)

WHEN A PERSON SWEARS FALSELY
(When the statement is not material to the proceeding)

PERJURY 2ND DEGREE – FELONY (P.L. 210.10)

A PERSON SWEARS FALSELY AND THE FALSE STATEMENT IS

- A SIGNED WRITTEN STATEMENT MADE UNDER OATH
- INTENDING TO MISLEAD A PUBLIC SERVANT
- MATERIAL TO THE PROCEEDING

Perjury in the 3rd degree – Misdemeanor (P.L. 210.05)

Perjury in the third degree occurs when a person swears falsely. It does not require that the false statement be material to the issues of the case. In other words, the false statement will have no effect on the outcome of the trial. This false statement may be made while giving testimony or under oath in a signed written instrument.

Example: A witness testifies that he saw a street crime occur while he was taking a solitary walk on the street when, in fact, out on a date with a woman who was not his wife. This is a false statement, but it has no bearing whatsoever on the facts in issue at the trial.

Perjury in the 2nd degree– Felony (P.L. 210.10)

This occurs when a person swears falsely and when his or her false statement is:

1. made in a signed written instrument for which an oath is required by law;

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and

2. made with intent to mislead a public servant in the performance of his or her official functions;

and

3. is material to the action, proceeding or matter involved.

Example: A police officer signs a Criminal Court Complaint which states that he saw the defendant with a gun in his hand when, in fact, he saw the gun on the ground.

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PERJURY 1ST DEGREE – FELONY (P.L. 210.15)

**A PERSON SWEARS FALSELY AND THE
FALSE STATEMENT CONSISTS OF**

- **TESTIMONY**
- AND**
- **IS MATERIAL TO THE ACTION,
PROCEEDING OR MATTER IN WHICH
IT IS MADE**

Perjury in the 1st degree – Felony (P.L. 210.15)

This occurs when a person swears falsely and the false statement consists of

a. testimony

and

b. is material to the action, proceeding or matter in which it is made

Example: A police officer testifies in a hearing/trial that that he recovered a gun pursuant to doing a vehicle inventory of a car at the station house when in fact he recovered the weapon from the trunk of the car during an illegal search of the vehicle on the street.

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HOW TO AVOID PERJURY

- Take notes after every arrest
- TELL THE TRUTH
- **CAREFULLY READ ALL STATEMENTS BEFORE SIGNING (ACCUSATORY INSTRUMENTS)**
- Never try to improve a case by adding facts
- If you are unsure of a particular fact, be honest and tell the A.D.A in advance

HOW TO AVOID PERJURY

WHEN YOU ARE ASSIGNED AN ARREST BY A SUPERVISOR AND YOU DID NOT WITNESS THE ACTUAL OFFENSE

ENSURE THAT THE AFFIDAVIT **DOES NOT** INDICATE YOU WITNESSED THE OFFENSE

THE AFFIDAVIT YOU SIGN SHOULD STATE:
"THE DEPONENT WAS INFORMED BY..."

Most arrests result in the preparation of an Affidavit or Criminal Complaint. The information in the complaint is dictated by an A.D.A. You must never sign anything, particularly an accusatory instrument, without reading its contents. It may contain a mistake of fact. If it does, you may have a problem when testifying later. The A.D.A. knows the law better than you do, but nobody knows the facts of your arrests better than you – make sure they are stated accurately.

The temptation to perjure yourself may sometimes be strong. If an officer observes a defendant engage in some activity that arouses his or her suspicion and the officer searches the defendant illegally and finds narcotics in the defendant's pockets, the officer is presented with a problem. The search was clearly illegal, but the officer may feel that justice would best be served by testifying that the defendant dropped the narcotics in the street as the officer approached. If the officer did so, he or she would be committing perjury.

Another situation that occurs quite often is when the police officer is in pursuit of a suspect. The officer is certain that the defendant is guilty and testifies that he or she never lost sight of the defendant from the scene of the crime up to the eventual arrest. If this is not true, he or she is committing perjury.

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To Avoid These Situations Simply Follow These Rules:

1. Take careful notes as soon as possible after making an arrest.
2. Tell the truth.
3. Carefully read all statements before signing.
4. Never try to improve the case by adding facts that are not true.
5. If you are uncertain of any details, make it known to the Assistant District Attorney and testify only to those things of which you are sure. If uncertain, state it to the court.
6. If you are assigned an arrest by a supervisor and you did not witness the incident, the accusatory instrument that you sign and all accompanying paperwork should state "the deponent was informed by police officer, sergeant, lieutenant..." and should never imply that you witnessed an incident when you in fact did not.

Note: When signing any type of accusatory instrument, you are affirming as to the truthfulness and accuracy of the facts contained therein. Before signing it you must be certain that the facts are true and accurate to the best of your knowledge. A personal service summons, such as a "C" summons for disorderly conduct or an Environmental Control Board Notice of Violation should never be signed in advance. These summonses should be signed only at the time of issuance. When completed, accusatory instruments that are prepared by another person on your behalf (that is, an Affidavit or Complaint which may be typed for you by court personnel) should be carefully proofread before signing to ensure accuracy.

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DEFINITIONS

- **PHYSICAL EVIDENCE:** any article, object, document, record or other thing of physical substance produced or used as evidence in an official proceeding
- **OFFICIAL PROCEEDING:** any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received

TAMPERING WITH PHYSICAL EVIDENCE FELONY (PL 215.40)

WITH INTENT THAT IT BE USED IN AN OFFICIAL PROCEEDING, A PERSON...

Knowingly makes, devises or prepares false physical evidence

or

Produces or offers such evidence at such a proceeding knowing that it is false

or

Believing certain physical evidence is about to be produced in an official proceeding, intending to prevent its production, he suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person.

Definitions of Terms Related to Tampering with Physical Evidence

Physical Evidence: any article, object, document, record or other thing of physical substance that is produced or used as evidence in any official proceeding.

Official Proceeding: any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received.

Tampering With Physical Evidence (P.L. 215.40)

Considering the importance of physical evidence in the prosecution of a criminal case, and your responsibility for the gathering, marking and the identification of evidence, you should be aware of the ramifications of tampering with physical evidence. Tampering with physical evidence is a felony and can be committed in three ways.

Tampering with Physical Evidence - Felony, when: with intent that it be used or introduced in an official proceeding, he or she:

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1. Knowingly makes, devises or prepares false physical evidence;
or
2. Produces or offers such evidence at such a proceeding knowing it to be false;
or
3. Believing that certain physical evidence is about to be produced or used in an official proceeding or a prospective official proceeding, and intending to prevent such production or use, he or she suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person.

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APPEARING IN TRAFFIC COURT

- **SHOULD HAVE DETAILED NOTES TO RECREATE THE INCIDENT** (direction of travel, location of signs, traffic control devices, etc.)
- **MUST BRING ACTIVITY LOG** (from the date of issuance of the summons) **AND COPY OF SUMMONS**
- **MAY REFER TO ACTIVITY LOG AND SUMMONS AS AN AID WHEN TESTIFYING**
- **FAILURE TO BRING THESE ITEMS MAY RESULT IN DEPARTMENTAL DISCIPLINE**

Learning Outcome # 7
Describe the Elements of Proper Traffic Court Testimony

Describe the Elements of Proper Traffic Court Testimony

You must report to traffic court with your Activity Log and a copy of the relevant summons. Failure to bring these items may result in Departmental discipline.

The Importance of Detailed Notes

Uniformed members of the service must be able to testify to all facts stated on the summons (for example, the time of day, the location, etc.). This is especially true if the summons is issued for a signal light violation. An officer must be able to testify as to where traffic control devices were. It is strongly suggested that the officer draw a diagram of the intersection, illustrating the position of the traffic control devices controlling the intersection and be able to show:

1. The direction traveled by the violator's vehicle;
2. Which directions were controlled by traffic control devices;
3. Where the officer was positioned when the violation was observed;

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4. The exact location of any crosswalk or stop line at any given intersection.

Note: This diagram can be drawn on the rear (unlined) side of your Activity Log page.

Officers' Testimony Should Address the Following Important Points:

1. The date, time and location of the offense;
2. The officer's location at the time of the offense;
3. The officer's assignment;
4. Weather conditions;
5. Road conditions and visibility;
6. A description of the area (traffic control device/commercial/residential/highway);
7. The location and direction of the R.M.P. (Exact location of officer when on foot patrol);
8. The direction the motorist was traveling;
9. The name of the street/highway (Indicate whether one way/two way);
10. Exactly where the vehicle was stopped and the manner in which the driver was pulled over;
11. Constant observation of vehicle from initial time of violation to time vehicle stopped;
12. The relative distance of the violator's vehicle from the police officer at the time violation was observed;
13. A description of the vehicle (color, make, year, model and plate number);

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14. Secondary characteristics of the vehicle (for example, raised rear end, side exhaust, thick racing tires, etc.);
15. Identification of the defendant as the driver of the vehicle and any other conduct;
16. Any conversation with the operator;
17. Elements of the offense (for example, the defendant's vehicle entered the crosswalk while the light was steady red and then proceeded through the intersection or the vehicle crossed the white stop line in the roadway);
18. A specific reference to the fact that a summons was issued.

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TRAFFIC COURT TESTIMONY

THREE COMPONENTS OF TRAFFIC COURT TESTIMONY:

- INTRODUCE YOURSELF AND THE LOCATION OF THE VIOLATION
- DESCRIBE THE FACTS AND CIRCUMSTANCES OF THE VIOLATION
- DESCRIBE YOUR INTERACTION WITH THE VIOLATOR

Components of Traffic Court Testimony

When providing traffic court testimony, officers are required to relate the series of events surrounding the violation exactly as they occurred. Therefore, such testimony should resemble a story, with a beginning, middle, and an end.

The Beginning: Introducing Yourself and the Location of the Violation

- a. Name, rank, shield number, and command;
- b. Time of violation;
- c. Date of violation;
- d. Location of violator's vehicle, including a description of the location (for example, a one-way street controlled by an overhanging traffic signal);
- e. Officer's position relative to violator's vehicle at time of violation (e.g., on north-east corner facing the stop sign).

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The Middle: Describing the Facts and Circumstances of the Violation

- a. Provide defendant and vehicle information;
- b. Observation of direction/distance of vehicle (for example, northbound on Third Avenue, approximately five car lengths from crosswalk);
- c. A statement that the officer observed that the traffic signal was functioning (The officer knows this because he or she saw it change from green to yellow to red, then back to green.);
- d. Statements regarding:
 - The number of passengers and where seated;
 - Weather conditions;
 - Other relevant road markings;
 - Any traffic agents directing traffic.

The End: Describing Your Interaction with the Violator

- a. Any statements made by the violator;
- b. Continuity of eye contact, length of observation;
- c. Summons served.

The issuance of a summons is not the final step, but it is an important one. The officer issuing the summons must document all of the facts regarding the violation(s). Remember to fill in all of the captions as required on the summons; an incomplete summons will cause a dismissal of the case in court. You are not required to retain a mental picture of the violator or to pick him or her out of a crowd, but you must be able to testify that, at the time of the summons, you were satisfied he or she was the person described on the license presented to you. During testimony, always remain calm, be polite and, most of all, do not become argumentative. As long as you have prepared your case properly you will be confident in yourself.

Instructor Notes:



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SUMMARY

1. Describe the information required to be recorded during a preliminary investigation.
2. Explain the proper procedures for appearing in court.
3. Identify and explain the rules of evidence.
4. Identify three types of pre-trial hearings.
5. Demonstrate the principles of proper trial preparation and testimony.
6. Explain the Penal Law offenses of perjury and tampering with physical evidence.
7. Describe the elements of proper traffic court testimony.

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Instructor Notes:

Use various questioning techniques to have recruits demonstrate their knowledge of the material learned in this chapter. Review all learning outcomes listed above.



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CHAPTER 6 SYNOPSIS

Date Prepared: June 2014

Date Reviewed / Revised: 10/22/15

Prepared By: Curriculum and Evaluation Unit

Reviewed/Approved By: Lt. Christine Seppa

This chapter will provide the probationary police officer with an understanding of the rules of evidence and the ability to properly prepare for and testify at all stages of criminal trials.

Method of Instruction: Lecture / discussion / question and answer

Time Allocated: 3.0 Hours

Training Need: Entry level police officer training.

Terminal Learning Objective: At the completion of this chapter, probationary police officers will be able to demonstrate the principles of proper and well prepared trial testimony.

Learning Outcomes:

1. Describe important information required to be recorded during a preliminary investigation.
2. Define chain of custody, and how it relates to criminal trials.
3. Explain the proper procedures for appearing in court.
4. Identify and explain the rules of evidence.
5. Identify three types of pre-trial hearings.
6. Demonstrate the principles of proper trial preparation and testimony.
7. Explain the Penal Law offenses of perjury and tampering with physical evidence.
8. Describe the elements of proper traffic court testimony.

Required Reading: NYPD Police Student's Guide and Patrol Guide.

Instructional Resources Required:

- Powerpoint projector
- Computer with monitor
- Classroom seating

Evaluation Strategies:

- Observation of the level and quality of classroom participation.
- Observation and evaluation of module learning outcomes as applied to quizzes, 100 question multiple choice exam and classroom exercises.

References:

NYPD Police Student's Guide and Patrol Guide.



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Introduction

This chapter is designed to assist in the development of becoming an effective witness in judicial proceedings. Effective police witnesses are those who are able to articulate clearly, fully, and truthfully both the facts and circumstances of the matters that have brought them to court and their roles in these matters. Effective witnesses come to court prepared; they make certain that they have properly documented events and that they have properly processed any evidence for which they are responsible. Effective witnesses are aware of the strategies that may be used by opposing counsel to discredit them or trap them into phrasing their answers in ways that may mislead jurors.

Our judicial system is adversarial, and places the burden of proof squarely on the prosecutor. Unlike inquisitorial systems, our system draws a great distinction between factual guilt and legal guilt. In our system, the only two outcomes of criminal trials generally are those in which prosecutors succeed in proving guilt beyond a reasonable doubt and those in which prosecutors fail to prove guilt beyond a reasonable doubt. Nobody is ever found innocent in our system because defendants

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do not have to prove their innocence: instead, they are either found guilty or not guilty. To prove guilt in our system, police and prosecutors must overcome a series of obstacles designed by our Founding Fathers to protect the freedoms they fought the Revolutionary War to gain. In our system, prosecutors who fail to show that the evidence they introduce was obtained in compliance with the Bill of Rights cannot use the evidence, even though it may clearly show that defendants committed the crimes with which they have been charged. When this happens, people who are factually guilty cannot be proven legally guilty beyond a reasonable doubt, and are therefore released to prey on our citizens again. Thus, in our system, it is critically important that officers testify credibly, honestly, knowledgeably, and convincingly in criminal cases. Police testimony is evidence, and when evidence is presented improperly, it results in lost cases and injustice.

Although most police testimony occurs in criminal, juvenile, or traffic proceedings as a result of an officer's law enforcement actions, officers also testify in civil proceedings in which they, the Department, or others are the accused parties. In these cases as well, it is critical that officers know how to be effective, honest, and credible witnesses.

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LEARNING OUTCOMES

1. Describe important information required to be recorded during a preliminary investigation.
2. Define chain of custody, and how it relates to criminal trials.
3. Explain the proper procedures for appearing in court.
4. Identify and explain the rules of evidence.
5. Identify three types of pre-trial hearings.
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Learning Outcomes:

1. Describe important information required to be recorded during a preliminary investigation.
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PRELIMINARY INVESTIGATIONS

- Precise time of important events
- Time elapsed between events
- Layouts of indoor locations
- Street configurations
- Exact addresses
- Lighting at crime scene
- Weather
- Detailed description of suspects
- Statements made by suspects
- Names of other officers present
- Exact location of seized contraband

Learning Outcome # 1

Describe the information to be recorded during a preliminary investigation.

Information to be Recorded During a Preliminary Investigation

Good preparation for court testimony encompasses the entire investigative process: the facts of the offense; location of the witnesses; discovering, preserving, and marking evidence; recording events that led to the apprehension of the defendant, and other incidents pertaining to the arrest.

One of the most important aspects of an investigation is the gathering of materials that may become evidence at a later trial. This includes the names and addresses of all potential witnesses, even if they appear to duplicate witnesses already spoken to. Making note of details that officers may be asked to recall later is a skill a good investigator must develop. The experienced officer learns to concentrate on seemingly minor items that may take on great importance on the witness stand.

Officers need to start doing this at the moment they become involved in any case, no matter how strong the case may seem. The stronger the evidence in a case, the more likely it is that the defense attorney will try to attack the officer's credibility by suggesting to jurors that they have left out information that might weaken the prosecution's case.

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When an officer goes to court to testify, they must ensure that they are thoroughly knowledgeable about the case; that they have anticipated likely questions, and that they are prepared to testify honestly, confidently, and fully about any aspect of the case that may be raised in court.

The process of discrediting witnesses in the eyes of the jury is known as impeachment. The stronger the case in which the officer is testifying, the more likely opposing counsel will try to impeach the officer by making it appear to the jury that the officer is both incompetent as well as dishonest. This should not be taken personally. The defense attorney is playing their part in the adversarial American justice system. The officer's part in this process is to keep opposing counsel from impeaching them by coming to court at least as prepared as the attorney is.

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ACTIVITY LOG ENTRIES

- Make entries as soon as possible
- List all details learned during your preliminary investigation
- Describe the crime scene
- Document all statements made by the suspect

Note taking should begin at once. The Activity Log should begin to contain entries recording your observations as soon as practicable. Many police officers believe that their Activity Logs contain confidential or highly secret information. They feel that since they made the record, it is their personal record and no one else has the right to see it. In fact, nothing could be further from the truth. Police officers are public servants and as such the records they make are public records. Officers should keep this in mind when making initial entries. While writing them, officers should be aware that there is a good possibility that these records will be produced in a court of law and may even be read to the judge or jury. On occasion, officers have even been surprised to find that their requests for Departmental recognition have been obtained by defense attorneys, and when they embellish the facts, these requests have been used to impeach officer accounts of arrests. It is a better practice to wait until the case is over, before submitting a request for Departmental recognition.

Good Activity Log entries should read like testimony. There should be a minimum number of conclusions and a maximum number of details. Remember that it is the details, even though you may consider them insignificant, which will convince the court or jury that you are telling the truth and that the defendants are guilty of the crime for which you have arrested them. At the very minimum, Activity Log entries should contain the defendant's full name, alias, address, age, and occupation. There should

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also be note of the physical description of the clothes the defendant was wearing at the time of the arrest, as well as what acts were committed. The full names of any complainants or witnesses should be included, and, to the extent possible, their exact statements should be recorded.

It is also helpful to describe the crime scene. Often the experienced police officer will sketch a diagram of the crime scene, indicating the location of certain items, e.g., body, gun, etc., and the approximate distances from doors, windows, etc.

Officers should also note weather conditions, lighting conditions, the exact time they responded to the crime scene and a detailed description, including serial or identification numbers, of any property stolen.

Activity Log entries, and for that matter, any police reports completed, should be prepared accurately, thoroughly, and as quickly as possible, while memory of the event is fresh. Often, an officer may need to use these documents to refresh their recollection while they are on the witness stand.

Officers should never include anything that they are unsure of. At the same time, items that officers are certain are true should not be excluded for any reason. Failure to record an important fact can be used by the defense lawyer at trial to cast doubt upon the case's credibility.

In addition to routine paperwork (Complaint Reports, Arrest Reports, Unusual Occurrence Reports), officers may have occasion to conduct procedures that involve the defendant's constitutional rights. These include taking statements, conducting a show-up, and arranging for a line-up. In all such instances, notes should be made concerning the manner in which the procedures were conducted. ALL statements, however seemingly harmless, made by a defendant should be recalled, recorded, and repeated to the Assistant District Attorney. One never knows what twist and turns a criminal case may take, and what appears to be a harmless statement by a defendant may turn out to be significant as the court case develops. Miranda Warnings must, of course, be given and a record kept of that fact.

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ACTIVITY LOG ENTRIES

Important to Record:

- Precise Time of Important Events
- The Time Elapsed Between Important Events
- Layouts of Indoor Locations
- Configuration of Streets at Outdoor Locations
- Exact Street Addresses
- Lighting at Crime Scenes

ACTIVITY LOG ENTRIES

- The Weather
- Physical Characteristics/Clothing of Suspects
- Statements Made by Defendants
- Names of Other Officers Assigned to Case
- Exact Location of Seized Contraband

To do a proper job, officers must ensure that they have all of the details of the case thoroughly recorded. This includes:

The Precise Time of Important Events

- When the crime was committed;
- When the officer first received the call;
- When the officer responded to the scene and when they arrived on the scene;
- When the officer first saw defendant;
- When the defendant was taken into custody;
- Time, place, and any statements made by a witness in a post-arrest situation

The Time Elapsed Between Important Events

- In a chase situation, the time between the first sighting of the defendant and the time of his or her apprehension;
- The time between statements made by defendants.

Layouts of Indoor Locations

- Number of rooms
- Arrangement of furniture
- Condition of rooms (e.g., messy, neat, etc.)
- Evidence of occupation (clothes in closets, food in refrigerator, etc.)

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- Number of beds.

Configuration of Streets at Outdoor Locations

- Intersections;
- Direction of street (north/south/east/west)
- Type of street (e.g., two-way, dead-end, etc.)

Exact Street Addresses

- Apartment number, floor
- Cross streets
- Location on block (middle, corner)

Lighting at Crime Scenes

- If at night, the location of street lamps; are they in working order?
- Amount of natural light

The Weather

- Sunny/rainy, clear/overcast, warm/cold, sleet/snow?

Physical Characteristics and Clothing of Suspects

- Age, height, weight, description of face, description of hair, description of clothing
- Are there any unusual features? (scars, marks, tattoos, etc.)

Statements Made by Defendants

- Need not be a signed confession;
- Anything the defendant says may be important. Document all details, such as the beginning time and ending time of statement, the location where it was uttered, if there were any other witnesses to the statement, what the exact wording was, and what the circumstances were of any warnings given.

Names of Other Officers Assigned to Case

- Include their location, and what actions each officer performed (e.g., recovered property, interrogated the suspect). The officer assigned to secure a crime scene must make an Activity Log entry of the rank, name, and command of every person that enters the crime scene area.

Exact Location of Seized Contraband

- If recovered from the defendant's person, record the precise location (e.g., right front pants pocket).
- If near defendant, distance between defendant and contraband (e.g., "located within approximately six inches of defendant's foot"). The word approximately should be used.
- If indoors, whether in plain view or hidden, and exactly where it was (e.g., on top of coffee table in living room, in top drawer of dresser), and whether other objects, tending to connect contraband with owner, were near (e.g., drawer contained women's clothing and passport for Irma Smith).

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CHAIN OF CUSTODY

From the time evidence is seized to the time that it is presented in court, there must be:

- An unbroken record of the location of the evidence.
- Documentation of who has been responsible for it.
- Assurance that it has not been tampered with.

CHAIN OF CUSTODY

- Officer seizing evidence should vouch for it at once
- Processing evidence must be done meticulously
- As **FEW** people as possible should handle the evidence.

Learning Outcome #2
Chain of custody and how it relates to criminal trials.

Chain of Custody

The presentation of physical evidence for use at trial is another crucial part of the investigation. Chain of custody is critical here: chain of custody means that from the time evidence has been seized to the time it is presented in court, there has been an unbroken record of the location of the evidence, thorough documentation of who has been responsible for it, and some assurance that it has not been tampered with or otherwise tainted in any way. Because admissibility at trial depends upon an unbroken chain of custody from arresting officer to courtroom, the processing of evidence must be done meticulously. As few people as possible should handle physical property, especially contraband. The officer who seizes it, either from the defendant or the location, should therefore vouch for it at once. Under no circumstances should evidence from different defendants be combined on one voucher. Chain of custody is one of the most fertile areas of trial for the defense attorney to cast doubt on the prosecution's case and only meticulous attention to detail will insure the admissibility of the physical evidence that will help convict the defendant.

When in doubt as to the relevance of physical evidence, INVOICE IT! Property can always be returned, but an item not vouchered at the proper time can leave a hole in the prosecution's case.

Instructor Notes:



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PROCEDURES FOR COURT

Truthful testimony is a **MUST**.

There is no such thing as an over prepared case.

- Poorly prepared witnesses look bad, even when they are honest.
- Good preparation helps witnesses understand courtroom procedures.
- Thorough preparation lends itself to credibility on the stand.

Learning Outcome #3
Explain the proper procedures for appearing in court

Proper Procedures for Appearing in Court

There is no such thing as an over prepared case. Every lawyer, whether on the side of the prosecution or the defense, knows this simple truth. With good preparation by the A.D.A., a police officer's testimony becomes sharpened and focused, emerging as the cornerstone of the People's case. With full preparation, the police officer understands his or her role in the case, and may even be able to anticipate hostile defense questions. A properly prepared police witness comes across to the jury as a competent, objective professional whose testimony can be relied upon.

There is no substitute for knowing the case and being well prepared. By succinctly and accurately communicating facts to the courts, the officer's testimony should demonstrate that he or she is knowledgeable.

Truthful testimony is a must, even if it is favorable to the defendant. Traditionally, police have had an edge on lay witnesses when testifying in court. The uniform or shield symbolize credibility and, both the training officers are now receiving coupled with the experience of working in the street, under pressure, will help to make officers articulate and powerful witnesses. Juries tend to believe the police officer. Today a

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police officer must strive to offer clear, concise and logical testimony.

In contrast, a poorly prepared witness may fumble or back track, may rifle through papers in a frantic attempt to locate a vital fact. Worse, his or her feelings of inadequacy may erupt in a hostile outburst at the defense lawyer whose questions seem irrelevant. As a result, the jury loses respect for the witness and may choose to believe the defense version of events.

Adequate preparation for trial is the right of every police witness. The A.D.A. who promises to prepare a police officer in the hall on the way to court is not doing their job properly and may cause an officer to do less than their best on the witness stand. Officers have the right and duty to insist on thorough preparation before placing their credibility and the Department's image on the line.

Good preparation serves several functions: It helps the witness understand courtroom procedures; it acquaints the officer with the prosecutor's theory of the case, it allows the officer to convey vital information to the A.D.A., and it aids in refreshing the officer's recollection of events.

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PROCEDURES FOR COURT

APPEAR IN UNIFORM IF ASSIGNED TO DUTY IN UNIFORM EXCEPT IF (P.G. 211- 01):

- OFF DUTY
- SICK LEAVE
- C.O. AUTHORIZED
- ARRAIGN DEFERRED/HOLDOVER PRISONER
- RESTRICTED DUTY

REPORT TO POLICE SIGN-IN ROOM, SUBMIT ID CARD, COMPLETE COURT ATTENDANCE RECORD

Procedures for Court Appearances (Patrol Guide 211-01)

When a uniformed member of the service is required to appear in court, before a Grand Jury or other government agency, such officer must conform to the procedures found in the Patrol Guide. These procedures require the officer to:

- A. Appear in uniform, if assigned to duty in uniform, except if:
1. Off-duty
 2. On sick report or restricted duty
 3. Required to arraign deferred or holdover prisoner
 4. Authorized by commanding officer.

Note: Patrol Guide procedure 204-04, “Optional Uniform Items” states: Uniformed members of the service in the rank of sergeants, police officers and detectives performing duty in uniform and civilian uniformed and auxiliary counterparts MAY wear the regulation turtleneck shirt underneath the regulation long sleeve uniform shirt. The top button only of the long sleeve shirt is to be left unbuttoned. No tie is to be worn. This combination may be worn with or without the uniform duty jacket. i.e., it may be worn as an outer garment. It may be worn to court and to detail assignments. This

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uniform option may NOT be worn by members assigned to perform administrative positions.

- B. Report to the Police Sign-In Room and submit I.D. card and Court Attendance Record (PD468-141) to supervisor / designee.
- C. Inform supervisor / designee if scheduled to appear in more than one part of court before another government agency, or if on a court alert.
Notify supervisor/designee if appearing on off-duty time.
- D. Wear appropriate business attire, if appearing in civilian clothes. Wear shield on outermost garment at all times when in courtroom or within court building.
- E. Take meal period when court is in recess and enter meal location in Activity Log.
- F. Report to the Police Room if you are required to leave the court building for reasons other than meal, and upon return.
- G. Have Activity Log and evidence available at each appearance.
- H. Request adjournment to a day when performing duty on a 2nd platoon or, if a detective, when performing day duty. Inform the judge if the adjourned date is on a scheduled day off.
- I. Report to the Police Room upon completion of court appearance and obtain a completed Court Attendance Record.
- J. Return evidence, if any, to Property Clerk. Notify the desk officer by phone upon dismissal from Police Sign-in Room and comply with instructions.

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ON THE TRIAL DATE

- Show up early with all relevant material.
- Dress appropriately, uniform or business attire.
- Meet with prosecutor to review testimony and exhibits.
- Make appropriate notifications regarding court adjournments on your RDO.

On or before meeting with the A.D.A., the officer should take the following steps in order to provide accurate and professional testimony:

Review notes, reports, and transcripts of previous testimony. (The defense attorney will have all of these as a result of the discovery process.) Review the case with other officers that were present. Review the case with the prosecutor. Review what questions will be asked during testimony with the prosecutor.

If the officer on the stand is asked by the defense attorney the case was discussed with the prosecutor prior to trial, the officer should be up front and tell the defense counsel that the case was discussed previously. This question is a trick: many people, unfamiliar with the courts, may believe that it is somehow improper to talk with the attorney who represents the side for which the witness is testifying, it is not.

The officer must ensure that he and the prosecutor have all of the exhibits and evidence that will be utilized at the trial. The officer should also ensure that all evidence submitted can be identified, and that they are marked with a recognizable mark, in addition having evidence tags. Some items that may be submitted into evidence are calibration records, weapons, officer training certifications, photographs,

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and reports.

Sometimes, the police officer is called upon to assist the prosecutor in making sure that all other witnesses show up. The officer should show the witnesses their statements and let the witnesses review them. The officer should make it a point to put the witnesses at ease, and explain the court system to them.

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ON THE TRIAL DATE

- Show up early with all relevant material.
- Dress appropriately, uniform or business attire.
- Meet with prosecutor to review testimony and exhibits.
- Make appropriate notifications regarding court adjournments on your RDO.

On the trial or hearing date, the officer should show up early to meet with the A.D.A to review notes and exhibits. If the officer is assigned to appear on a scheduled day off, they should inform the judge of such condition and request an adjournment to a day when performing duty with the 2nd Platoon. If re-scheduling is not possible, the officer should make an Activity Log entry. The entry should include the name of the judge and the A.D.A., the date of the appearance, the adjournment date, as well as the court and part names. The officer should then inform the Borough Court Section supervisor assigned to the Police Room if an appearance is scheduled on a day off.

A uniformed member of the service who is assigned to appear in court on a scheduled day off will be assigned to a tour starting at 0900 hours, unless the court scheduling necessitates a different start time. UMOS returning from court may be excused upon request, if the exigencies of the service will permit.

Officers must always dress appropriately for court appearances. They must ensure that uniform or business suits are clean and well pressed. The officers should appear with a conservative hairstyle and minimal jewelry. Men must wear a tie when in business attire.

A key police officer responsibility is to legally gather and preserve as much evidence

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as possible. Decisions should not be made as to the usefulness or admissibility of particular items. What will be presented as evidence in a criminal case is up to the prosecutor. The prosecutor is trained to recognize what the judge is likely to admit in order to prove the guilt or innocence of a defendant. He or she bears the responsibility for the proper presentation of the People's case. It is vital that officers are familiar with the rules of evidence and how they apply to their duties and responsibilities.

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EVIDENCE DEFINED

EVIDENCE IS ANYTHING THAT IS USED TO PROVE OR DISPROVE A DISPUTED ISSUE IN A COURT OF LAW

EXCLUSIONARY RULE

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial.

Examples:

- Unreasonable search and seizure
- An illegally obtained confession
- Improper eyewitness identification

Learning Outcome #1
Identify and explain the rules of evidence.

Identifying and Explaining the Rules of Evidence

Evidence is anything that is used to prove or disprove a disputed issue in a court of law. It may consist of testimony, documents, or objects. The rules of evidence in New York State are not contained in any one statute such as the Penal Law or Criminal Procedure Law. They are a set of rules which have developed over the years through decisions in individual legal cases. These rules do not tell us what is admissible as evidence in a trial; instead they tell us what is NOT admissible. Police Officers do not need to be concerned with issues of admissibility, as that is the function of the prosecutor.

It is possible that evidence that would ordinarily be admissible may be suppressed, or in other words excluded. For evidence to be suppressed, it is obtained through a violation of someone's constitutional rights. The police officer must be aware of the rights of individuals so as not to damage a strong case through carelessness.

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial. Guns, narcotics, contraband, confessions, or eyewitness identifications may be suppressed if they were obtained in violation of the United

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States or New York State Constitutions. If the prosecutor offers into evidence one of these illegally obtained items, the defense attorney will usually object. The objection may occur prior to the trial or during the trial itself. The defense attorney will make what is known as a motion to suppress. If the court grants the motion, it will exclude the evidence from use at the trial. The following are examples of circumstances that most often result in motions to suppress:

- The property was obtained by means of an unlawful search or seizure.
- The statements, admissions or confessions were not made voluntarily to the police officer.
- There was improper eyewitness identification.
- There is an eavesdropping/wiretap recording of the defendant obtained under circumstances that preclude its admissibility in court.
- Evidence obtained that is in violation of the “fruit of the poisonous tree” doctrine. Certain evidence exists which would be admissible, but for the fact that, the police became aware of it through an unlawful means.

The judge may grant or deny a motion to suppress evidence or may order a hearing just to determine if the evidence should be suppressed. If a hearing is conducted, you, as the arresting officer, may be called to testify.

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THE ROSARIO RULE

ALL STATEMENTS WHICH RELATE TO THE SUBJECT MATTER OF A WITNESS' TESTIMONY MUST BE RELEASED BY THE PROSECUTION TO THE DEFENSE COUNSEL

ANY FORM OF MATERIAL WHICH MAY BE USED TO RECORD A WITNESS' STATEMENT IS CONSIDERED ROSARIO MATERIAL

FAILURE TO PRODUCE ROSARIO MATERIAL CAN RESULT IN A MISTRIAL OR REVERSAL OF A CONVICTION

Various court decisions have developed the Rosario Rule (L.B.B. Vol. 17 No. 10, People v. Ranghelle, and L.B.B. Vol. 21 No. 5, People v. Wallace), which requires all statements that relate to the subject matter of a witness' testimony be released by the prosecutor to the defense attorney.

Rosario material is defined as any prior statements to the police made by a witness who will appear and testify at the trial. Such "witness statements" are rarely recorded in a neat fashion on a single police report. In addition, police officers that investigate crimes and make arrests do not decide which witnesses involved in the case will actually testify at trial. The judge, prosecutor and/or defense attorney usually makes that decision.

The best approach police officers can take is to treat all statements they receive from witnesses as potential Rosario material. This includes statements by fellow police officers that witnessed the crime, seized evidence, or made an arrest. For example, courts have identified the following items typically prepared by police officers as Rosario material: Activity Logs, personal handwritten notes, preliminary worksheets, arrest reports, interview reports, Unusual Occurrence Reports, Complaint Reports (UF61s), Complaint Follow-up Reports (DD5), electronic recordings such as audio

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tapes, video tapes, 911 tapes, teletype messages, email, voice-mail , etc.

The penalty for violating the Rosario Rule is catastrophic to a criminal prosecution. Any failure to produce Rosario material, regardless of the good faith effort by police in attempting to locate it, can result in the reversal of a conviction.

There are some ways to ensure that arresting officers meet their obligations under the Rosario Rule. All notes, records, and police reports must be preserved in an arrest folder. This includes all handwritten notes. The officer should include photocopies of any entries made into the Activity Log, whether written on the front or back of the page. Each time an officer is assigned to court in connection with the arrest, including the first trip to the Complaint Room immediately following the arrest, the officer should bring the complete arrest folder with him and show its entire contents to the Assistant District Attorney (A.D.A.) assigned to the case. The officer should then allow the A.D.A. to photocopy whatever he or she wishes from the folder.

If scratch copies are prepared of official police reports that are later typed, the officer should save a photocopy of the scratch copy in the arrest folder. A typed copy of the report should be obtained as soon as possible, for placement into the arrest folder. The arresting officer should ensure that nobody except the A.D.A. removes an original document, such as handwritten notes, from the arrest folder. The A.D.A. may be given an original document from your folder, but a photocopy of the document should be made first. All other persons who are entitled, such as supervisors or detectives assigned to the case, should only be given photocopies of any documents in the arrest folder.

If an officer is not the arresting officer, but they have prepared official paperwork in regards to the case, or have handwritten notes regarding the case, they should make a photocopy of that paperwork and give it to the arresting officer for inclusion into the arrest folder. A copy of these reports should also be retained, so they can be produced if the A.D.A. requests them. These officers should ensure that they bring copies of all documents they have prepared to all meetings or court appearances.

These guidelines apply to all members of the service other than the arresting officer. This includes patrol officers who take statements from witnesses, detectives who do subsequent interviews, and supervisors who interview witnesses for preparation of Unusual Occurrence Reports. All case documents must be preserved, as per Rosario.

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BRADY MATERIAL

- Exculpatory evidence that tends to clear someone's guilt
- Prosecution **MUST** disclose any evidence which may be favorable to a defendant

Another important area of law that a police officer should be familiar with is exculpatory evidence, commonly referred to as Brady material. Exculpatory evidence is evidence that tends to clear someone's guilt. Brady material does not necessarily have to be written or recorded; it can also include anything oral. The prosecution is mandated by law to disclose any evidence that is favorable to the defense upon request by the defense. Unsolicited exculpatory evidence must also be disclosed when it creates a reasonable doubt that would not otherwise exist. A police officer must bring any such evidence to the attention of the District Attorney. Failure to do so may jeopardize the prosecution and bring about judicial sanctions. Remember, a police officer should gather and preserve as much evidence as possible at a scene of a crime. The District Attorneys will determine what evidence, if any, is exculpatory.

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HEARSAY

- When a witness gives testimony that is NOT based on personal knowledge (repeating what they heard someone else say about a particular incident)
- Hearsay is not usually admissible

Hearsay is evidence not from personal knowledge of the witness, but where the witness merely repeats what the witness heard others say. It is testimony about something said outside the court by other than the witness, which the witness testifies as being true. Hearsay evidence is usually not admissible.

Briefly stated, the hearsay rule precludes testifying to anything that was said out of court. Here's an example: You and your partner are sitting in your patrol car when a woman comes up and tells you her bag has been snatched. If you were telling this story to someone outside of a courtroom, you would undoubtedly say, "The lady told me someone took her pocketbook." In court, this is called hearsay.

The theory is that each witness testifies only to what he or she saw and heard first-hand. You did not SEE the purse snatching; therefore you cannot testify that it happened. The reason for hearsay not being admissible is that the person who actually said the words is not under oath and cannot be cross-examined. The woman herself will take the stand and tell that part of the story and be cross-examined.

Your testimony, without hearsay, would consist of: "I was in the car with my partner. A woman came up to me; and told me something. As a result of what she told me, I

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took her in the car and we drove around. Eventually we saw the defendant and stopped him. I then had a conversation with the woman, and placed the defendant under arrest.”

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EXCEPTIONS TO THE HEARSAY RULE

- Defendant's confession or statements.
- Defendant's admissions against penal interest.
- Victim's dying declaration
 - When death is imminent
 - Only admissible if death of victim actually occurs

There are many exceptions to the hearsay rule. However, there are three that you will most likely encounter. They are as follows:

Confession or Statement: Given by a defendant.

Admission: A statement made by a defendant that is against his penal interests, but does not amount to an acknowledgment of guilt.

Dying Declaration: A statement made by the victim of an assault which is made when death is imminent and the declarer has abandoned hope of recovery. Dying declarations may only be used when the victim actually dies.

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TESTIMONY BY CHILDREN

- A child 9 or older may testify under oath in court
- A child less than 9 may not testify under oath in court, unless the child understands what taking an oath means, may give un-sworn testimony
- A defendant may not be convicted solely on unsworn testimony of a child

ACCOMPLICE TESTIMONY

- A person may not be convicted of an offense solely upon the testimony of an accomplice
- Accomplice testimony + other corroborating evidence = enough for conviction

Testimony by Children (C.P.L. Section 60.20)

As a general rule, a witness who is a child less than nine may not testify under oath in court, unless the judge (referred to as "the court") determines that the child understands what taking an oath means. A child less than nine may, however, testify without taking an oath. If a child does testify without taking an oath, a defendant may not be convicted solely on the child's testimony.

When you have a case where a child is less than nine you should attempt to obtain additional evidence. Additional evidence is also important in cases where a complainant or witness may have mental disease or defect, since the judge may not allow such a person to testify in court.

Accomplice Testimony (C.P.L. Section 60.22)

A defendant may not be convicted of any offense solely upon the uncorroborated testimony of an accomplice, unsupported by other evidence tending to connect the defendant with the commission of the offense. An "accomplice" means a witness in a criminal action who may reasonably be considered to have participated in the offense

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charged, or an offense based upon the same or some of the same factors or conduct that constitutes the offense charged.

The fact that a witness in a criminal action is also an accomplice, and that he or she has a defense such as infancy, or some type of immunity, does not affect his status as a witness.

Example: Bill and Henry commit a robbery. If Bill is arrested and names Henry as his partner in the crime, Henry cannot be convicted solely on Bill's testimony. However, in combination with any other evidence that ties Henry to the crime, Bill's testimony may be sufficient corroboration to convict him.

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PRETRIAL HEARINGS

Mapp Hearing determines whether physical evidence to be presented at trial was legally or illegally seized

Huntley Hearing determines admissibility of a confession, admission or statement made by the defendant

Wade-Gilbert-Stovell Hearing determines the fairness of the eyewitness identification of a defendant

Learning Outcome #5
Explain three types of pre-trial hearings.

Identify Three Types of Pre-trial Hearings

The motion to suppress may be handled without a hearing if the District Attorney and the defense attorney agree to the facts in the case. This is not often done, however. If a hearing is conducted, you, as the arresting officer, will be called as a witness. The reason that the motion to suppress is so important is because, if the defense counsel is successful, the evidence sought to be admitted by the People will not be admissible as evidence in the case. This often means that the case is won or lost at the suppression hearing.

Example: A police officer arrests and charges a defendant for criminal possession of a weapon. If the defense counsel is successful in a suppression motion, the court will rule that the gun cannot be introduced in court as evidence. Without the gun being introduced as evidence, it is almost impossible to prove the crime of criminal possession of a weapon. In gun cases, if the defense counsel wins at the suppression hearing, the District Attorney will drop the charge against the defendant. On the other hand, if the People win, the defendant will often edge towards entering a plea of guilty. This is because he knows that once the court rules that the weapon is admissible, the People will have an easier time establishing their case.

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The following are the most common pretrial hearings:

Mapp Hearing: A hearing conducted prior to trial, a Mapp Hearing, determines whether physical evidence to be presented at trial was legally or illegally seized.

Huntley Hearing: Also conducted prior to trial, a Huntley Hearing is one in which the defendant asks the court to determine the admissibility of a confession, admission, or statement made by the defendant.

Wade-Gilbert-Stovell Hearing: This hearing determines the fairness of the eyewitness identification of a defendant. This will usually follow a lineup or show-up at which the defendant was identified by a witness or the victim.

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OVERVIEW OF A TRIAL

- Understand the theory of the case.
- Prepare the case with the A.D.A. before trial.
- Retrieve all physical evidence to be presented at trial.
- Maintain professional appearance and demeanor at all times.

Learning Outcome #6
Demonstrate the principles of proper trial preparation and testimony.

Demonstrate the Principles of Proper Trial Preparation and Testimony

The ability of a witness to testify effectively is enhanced when the witness understands the purpose for which he or she is called and where his or her testimony fits into the case as a whole. Officer testimony is like a piece in a jigsaw puzzle: taken by itself, it may seem to lack a coherent meaning, but put in context with other pieces, it forms a clear picture. It is up to the A.D.A. to show the police officer exactly where their piece of the puzzle fits. In addition to having his or her own theory of the case, an experienced A.D.A. will often be able to anticipate the approach the defense will take. He or she will be able to help the officer prepare for the exact type of cross-examination faced in the courtroom. The police officer's testimony may take on a different character depending on the nature of the defense claim.

The educational function of pretrial preparation is not just a one-way street. The officer is as much an expert in their profession of law enforcement as the A.D.A. is in the legal arena. Officers can, therefore, add to the strength of the People's case with the information provided to the prosecutor during preparation.

Police officer witnesses can educate the prosecutor on such topics as routine police actions, the requirements of the Patrol Guide, and the many types of reports that may

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be filed on a given case. An experienced police officer who knows "the street" can often help a prosecutor understand the motives and methods of those who commit crimes.

Where the officer has had an ongoing relationship with the defendant, he or she can illuminate the defendant's family relationships and prior conduct for the benefit of the A.D.A. The prosecutor will then have to decide which portions of the defendant's criminal past he or she will use in court.

The police officer conveys vital information to the Assistant District Attorney in another, very basic way: by bringing to the prosecutor's office ALL reports, memoranda, documents and scratch notes connected with the case. The A.D.A. will use all of this to help the officer refresh their recollection of events, and will also determine which documents he or she intends to introduce at trial.

The initial meeting between the police officer and the A.D.A. assigned to the case is critical. It is at this meeting that the facts of the arrest/incident are conveyed to the A.D.A. assigned to the case. The officer must attempt to relate all the facts. If he or she is unsure about whether a particular detail is important, the A.D.A. should be allowed to decide. ALL paperwork related to the case must be given to the assigned A.D.A. If, during the course of the trial, a police officer recalls previously forgotten information, this information should be immediately related to the assigned A.D.A. If a police officer either failed or simply forgot to disclose a certain fact or detail, he or she should admit this at trial. Failure to do so will only serve to taint everything else the officer says.

Sometimes an Arrest Report will differ from a Complaint Report in some particulars. It is up to the officer to point out any such discrepancies to the Assistant District Attorney so that they can be explained at trial. A discrepancy may be a simple mistake, or it may have a reasonable explanation. The important thing is that the A.D.A. be forewarned, so that the discrepancy does not come as a surprise, but can be dealt with at trial.

The arresting officer will be designated to retrieve all physical evidence from the Property Clerk and bring it to court. Vouchers should accompany all items. The A.D.A. will review the paperwork with the officer, and prepare them to testify, with emphasis on establishing the "chain of custody". The officer should be able to account for the property at every stage of these proceedings.

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PROPER TESTIMONY AND TRIAL PREPARATION

- Appearance
 - Uniformed or plainclothes.
 - Clean and pressed clothing.
 - Convey professionalism.
- Demeanor
 - Attitude should convey confidence, respect, and neutrality towards both attorneys.
 - Look at the jury.
 - Answer questions with calm sincerity.

A professional appearance is essential to being an effective police witness. Jurors expect a police officer to be more objective, more competent, and more impressive than a civilian witness. Department policy requires that an officer assigned to patrol must wear his or her uniform to court unless he or she is off-duty, on sick report, or is authorized by the commanding officer to be out of uniform. When a member of the service appears in court in uniform, the uniform should be clean and pressed. Any and all citations should be worn above your shield. You earned them - let the jurors see that you are an experienced officer who has been commended by the Department. Civilian jurors are impressed by citations; the A.D.A. may even ask you to explain them to the jury in order to enhance your position as a seasoned officer. If you are appearing in court in civilian clothes, your attire should present a professional, essentially conservative image. Think of yourself as dressing for a job interview at a bank. Business suits are appropriate for witnesses for either sex. However, a sports jacket and slacks, providing they are conservative in cut and color, are also permissible for men; a tie is mandatory.

The way an officer behaves in court is at least as important as the way he or she dresses in creating an impression on the jury. One vital rule about proper courtroom demeanor is that it begins the minute you enter the courthouse. Your overall attitude

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should be a combination of confidence about the accuracy of your own testimony, respect for the court, and neutrality toward both attorneys. Showing too much friendliness toward the A.D.A. or displaying hostility toward the defense lawyer will cast doubt upon your objectivity.

As much as possible, you should try to look at the jury when testifying. Keep your voice up. Answer all questions with the same calm sincerity, appearing concerned and interested at all times. Listen carefully to all questions and take time to consider your answer. You may ask that a question be repeated or clarified if you did not understand it. Answer only the question asked, without volunteering information not requested. If a question CANNOT be answered "yes" or "no", you may ask the judge for permission to expand your reply.

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DIRECT EXAMINATION

- Open ended questions asked by the prosecutor.
- No leading questions.
- Physical evidence introduced.
- Do not use police jargon.
- Do not give opinions or speculate.

Direct examination is the initial part of trial that the police officer will be participating in. Straightforward, open-ended questions are asked ("And then what happened?"). The witness answers, telling his or her story in a direct, chronological fashion.

The key to persuasive direct testimony is good preparation. When the A.D.A. asks, "What, if anything, did you do then?" you must have some idea what particular aspect of your activities he or she wants you to mention. The way to achieve this certainty is through thorough pretrial discussion with the prosecution.

The A.D.A. is not permitted to ask leading questions of his or her own witness. He or she cannot ask questions that point to a single answer ("The defendant told you he was guilty, didn't he?"), but must instead make open-ended queries ("Did the defendant say anything to you?"). This is another reason why preparation is needed: the A.D.A. will not be able to guide your answers by asking suggestive questions.

Most physical evidence is introduced on direct examination. When you are presented with physical evidence ("Officer, I will show you a weapon. Do you recognize it?"), take care to examine it before you give your answer. You may tell the A.D.A. "I'd like to examine it," before committing yourself.

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When looking at the evidence, note any identifying marks you made when vouching the evidence. This will enable you to establish the first link in the chain of custody that will allow the item to be introduced into evidence. You may need to refresh your recollection from the voucher or the ballistics report; do not hesitate to ask the court's permission to look at relevant documents.

During your testimony, the defense attorney may object to certain questions asked by the A.D.A. When this happens, STOP. Only after the judge rules on the objection should you resume your answer, following whatever ruling the judge makes. If the judge sustains the objection, you cannot answer. If he overrules the objection, you can answer. Under no circumstances should you react to the court's ruling, favorably or unfavorably.

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REFRESHING RECOLLECTION

- Visit the scene of the crime
- Review your notes and reports
- Speak to other officers involved
- Request permission of the judge to review notes if you are testifying

Although the Assistant District Attorney will help you reconstruct the events about which you will be testifying, in the final analysis it is YOUR memory that is being refreshed. Any memory aids that will help you to recapture a vivid and complete recollection should be used. For instance, if it is possible to visit the scene of the crime or arrest, this may help you recall such details as the physical layout and lighting conditions.

Reviewing your own and other officer's paperwork is another way to trigger your recollection. You may wish to discuss the case generally with your partner, or other fellow officers who were present on the scene. **BE CAREFUL:** The idea is to refresh YOUR OWN memory, not to conform your testimony to what someone else saw or heard. Too much discussion among police officers may result in testimony that seems tailored to a jury. If there are minor discrepancies among the police officers and yourself, don't worry about it. Nothing in real life is ever perfect, and an experienced A.D.A. can handle it during the course of the trial. If you do consult with others, it is permissible to admit to the court that you conferred with fellow officers.

During your testimony you may also refresh your recollection by briefly reviewing any material you have brought with you to court. Your paperwork should be kept neatly

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organized in a folder that you can place next to you on the witness stand. You should not hold the folder and fidget with your paperwork while testifying, as this will convey nervousness to the jury. If you cannot remember a specific detail to properly answer a question, you may ask the judge if you can refresh your recollection by referring to your notes, paperwork, Activity Log or anything else that would help you remember the answer. If given permission by the judge you may view these items briefly, then put them away and give your answer. You may NOT read aloud from any documents in your possession unless the specific item you are reading from has been admitted into evidence.

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TESTIMONY PITFALLS

- Do not speak like a police report. Use common terminology.
 - Examples: Marked patrol car vs. RMP, 3pm vs 1500 hours.
- Do not speculate or give an opinion.
- "I don't recall" should be rarely used.
- Paint a picture for the jury with your testimony.

TESTIMONY PITFALLS

- Review all reports and be aware of discrepancies.
- Realize that discrepancies are normal, and often expected.
- Defense will try to exploit discrepancies.
- **NO CASE IS WORTH PERJURY**. Do not lie to explain away discrepancies.

There are some pitfalls that police officers should be aware of when testifying in court. The first pitfall is the tendency to talk like a police report instead of a person. Some officers do this in the mistaken belief that they sound more professional; others paraphrase the arrest report because they have been inadequately prepared.

Other potential problems on direct examination include opinion evidence, speculation, and "background" material. In general, a witness testifies to facts, not opinions. Thus, you must tell the court: "The defendant turned and ran away after I announced myself and told him to stop." You are not permitted to give your opinion that "he intended to flee." He may well have intended to flee, but how would you know whether this was so? You have no way to get into his head and to determine his intent. Instead, it will be up to the jury to determine whether he intended to flee based on the facts you present to them. In this example, the only fact you can present is that he fled.

Expert witnesses are an exception to this rule. Fingerprint technicians, ballistics experts, and any police officer who can demonstrate specialized technical training may be qualified as an expert. For example, police officers who have received courses in con games may be permitted to give an expert opinion as to whether words said by the defendant constituted the opening moves in a well-known fraudulent ransacking scheme.

Speculation is also precluded. You may have reason to believe that the defendant's

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behavior indicated intent to commit a crime; but you may not say so. One exception is that in testifying at a suppression hearing about probable cause to search or arrest, you may tell the judge that you acted upon a reasonable belief that the defendant was committing or about to commit a crime.

It goes without saying that a police officer should thoroughly review all forms and notes before testifying. These notes include (but are not limited to) Complaint Reports, Complaint Report Worksheets, Online Booking System Worksheets, Activity Log entries, etc. The police officer/witness should also review his or her testimony with the A.D.A. Police officer/witnesses should refresh their own memories only. Police officer/witnesses should not be afraid to use the term approximately when they're unsure about exact figures or measurements. If a police officer forgot about a particular detail he or she must admit, "I don't recall," at the same time, he or she should anticipate and be prepared to testify about anything he or she may be asked to recall, so that this phrase is used only rarely.

Complicated cases can give rise to numerous, somewhat technical, discrepancies. Discrepancies are normal and even expected. The jury would be surprised if absolutely everything proceeded along in a textbook fashion. Only a police officer's honest and truthful response could impress the jury enough that they could overlook minor (and ultimately unimportant) discrepancies regarding various elements of testimony. The defense attorney will attempt to exploit minor discrepancies, i.e. a difference between two arrest times - one on the Online Booking System Worksheet, and one in the officer's Activity Log. Once again, the best course of action a police officer could take is to simply answer clearly and truthfully as much as his or her memory allows. Going "head to head" with a defense attorney is NOT the answer: when you do this, juries begin to believe that you are more interested in beating the defense attorney than in whether justice is accomplished. Don't fight with the defense attorney and, certainly, keep in mind that NO CASE IS WORTH PERJURY.

The main point of working to enhance your memory of events is to transform the dry words of your police reports into a vivid picture that the jurors can SEE. A police officer who testifies like a walking Complaint Report is far less effective than one who can recount the sights, sounds, and smells he or she actually experienced. Trials take place in sheltered courtrooms, under artificial lights. Letting the jurors HEAR the breaking glass, SEE the blood flowing from the victim's head, and SMELL the P.C.P. in the defendant's car; this brings them out of the calm of the courtroom and into the reality of your experience. The more concrete details you can include in your testimony, the more believable your account will be to a jury.

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BACKGROUND MATERIAL

- The A.D.A. can sometimes be permitted to establish background in the case.
 - For example, to illustrate a drug prone location, the A.D.A. may ask "Do you know if officers in your precinct have previously made drug arrests in this location?" "Have you ever made such arrests at this location?" "How many?"
- Do not volunteer information past what is asked.
- Do not "cover up", the truth will come out in cross examination.

You may know for a fact that a certain location is a "drug prone area", and that the defendant's presence in such an area indicated criminal intent. It is important that you be able to tell the jury WHY you believe the area is drug prone. For example, arrest statistics or observations of drug sales would be better than mere assertions. In some cases, the A.D.A. will be permitted to establish background (e.g., "Do you know whether the officers in your precinct have previously made drug arrests at this location?" "Have you previously made such arrests at this location?" "How many?"). In other cases, the judge will rule that background information is too prejudicial to be heard by the jury. The best way to handle this type of testimony is to clear it with the A.D.A. before trial.

Everything that is said on direct examination is subject to further questioning by defense counsel on cross-examination. Volunteering information not asked for by the A.D.A. can give the defense attorney an extra line of questioning he or she might not have known about. Giving overly precise information when you are not really as certain as you sound ("The defendant was standing exactly 17-1/2 inches away from me at the time.") can give the defense lawyer an edge on cross-examination ("Officer, you didn't measure that distance, did you? Could it have been 15 inches? 20 inches? 17-3/4 inches? You're not really sure HOW far away the defendant was, are you?").

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Remember, it is perfectly alright to use words like "about" and "approximately" when describing times and distances, unless you are certain as to the precise numbers.

In cases where physical force was used to effect an arrest, there may be a natural tendency to play down the amount of force employed. This will definitely boomerang on cross-examination when the defense attorney questions you about injuries sustained by the defendant. If force was required, don't be afraid to state exactly what you did and what the defendant did to necessitate your actions. Trying to "cover up" will only make things worse when the truth comes out on cross-examination.

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CROSS EXAMINATION

- Questions from defense attorney.
- Designed to elicit facts favorable to defendant.
- Questions are rarely chronological.
- Defense attorney may try to limit answers to “yes” or “no”.

Cross-examination is designed to lay the foundation for the arguments the lawyer intends to advance in summation. Each cross question is a building block for the structure to be built in summation.

For example: You arrested the defendant for robbery, recovering and vouching a sum of money. Although a gun was used in the crime, you found no weapon on the defendant, who was arrested some fifteen minutes after the robbery. The complainant identified the defendant in an on scene show-up.

Defense counsel’s questions will be designed to demonstrate to the jury those facts in the defendant’s favor: That you did not see the robbery; that the gun was not found on the defendant; that the money may have come from somewhere other than the victim’s cash register; and that the defendant was the only person shown to the complainant at the time of identification.

Defense attorneys may ask if you spoke with the A.D.A or fellow officers about the case before trial and imply that doing so is improper. That is not true, as stated earlier in this chapter, preparing the case with the A.D.A is not only proper but essential.

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A defense attorney may seem either friendly or hostile. One who seems angry does so to make the police officer look bad in front of the jury. He wants a hostile response. Police officers must remain cool, detached and professional. Courtroom demeanor will tell the jury a great deal. **DO NOT ALLOW YOURSELF TO BE PROVOKED TO ANGER.** When you do this, you give the defense attorney the opportunity to suggest that your bad temper was the real cause of the arrest of his or her client.

One simple rule to keep in mind during cross-examination: The facts are the facts. If there was no gun recovered, you must say so frankly and forthrightly. If a search of the area was conducted, and still no gun was found, you must admit that fact. If no search was made, there is no choice but to say so and let the jury draw the inference that the police work was less than perfect.

Unlike direct, cross-examination is rarely chronological. The cross-examiner's purpose is to chip away at the incriminating facts presented on direct; to highlight those elements favorable to the defense; and to underscore any omissions, inconsistencies, and mistakes that tend to cast doubt on the People's case. The last thing in the world the defense lawyer wants you to do is repeat the smoothly flowing, extremely damaging narrative you delivered on direct.

When testifying in court, the witness officer should always listen carefully to every question, making certain they understand it fully before answering. Officers should think before speaking, and respond in a calm deliberate voice that refuses to be hurried by the defense lawyer's haste. Getting caught up in the lawyer's machine gun rhythm can open the door to mistakes and inconsistencies, as answers can be given with insufficient reflection.

Another common area of questioning is the kind of inquiry designed to convey to the jury the impression that the police officer is interested in the outcome of the case. The questions may center on a supposed bias held toward the defendant or upon the notion that the officer will earn promotions or commendations through making arrests, especially those that result in convictions. The best response is to answer such questions truthfully and dispassionately, without displaying outrage or becoming defensive.

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Defense lawyers often make a point of asking police officers about police work not done during the course of an investigation. For example, a failure to take fingerprints at a crime scene or to "dust" a gun for prints can be used to infer that, had prints been taken, they would not have been those of the defendant.

However, once again, the facts are the facts. If it is possible to explain the failure to take fingerprints, either because the surface was not printable or Department policy did not call for a crime scene investigation, the officer should be able to testify to that effect. This is where thorough preparation with the A.D.A. pays off. Together, the officer and the prosecutor will have anticipated this line of questioning and discussed the best way to answer.

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CROSS EXAMINATION

Police officers should:

- Stay calm
- Think before you speak
- State the facts
- You may ask the judge to permit you to give an explanation when "yes" or "no" would be misleading.
- Correct any factual mistakes stated by defense attorney in a question.

Questions about time and distance can cause difficulty on cross-examination. For example: On direct, the officer testified that the defendant was for a period of "two minutes". The cross-examiner breaks down this time, asking when the officer first noticed the defendant, how long it took him to walk from one place to another, and whether the officer's attention was distracted from him at any time. When the questioning is completed, the jury may be asked to infer that the officer merely saw the defendant's facial features for only ten seconds out of that original two minutes.

"Answer yes or no" is a phrase that begins a great many questions asked on cross-examination. It can be frustrating at times to compress a complex answer into the simple "yes or no" the cross-examiner prefers. Yet, when officers can reply with a yes or no, it should be done, knowing that the A.D.A. will have the opportunity on redirect to expand on the answer. In those cases where the testifying officer honestly believes that a yes or no response would be so incomplete as to mislead the jury, the officer may courteously ask the court for permission to add an explanation to the reply.

There are some questions officers do not have to answer in the form in which they are asked. The testifying officer may request the judge to separate a compound question; ("Did you arrest the defendant, handcuff him, and place him in the patrol car?" should

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be asked in three separate inquiries). The officer may ask to have a missed question repeated, or to have a confusing question explained.

Occasionally, a less-than-scrupulous defense lawyer will incorporate a false premise into a question in order to obtain a misleading answer.

Example: The officer has testified all along that the defendant was in a blue car. On cross, they are asked, "When the green car turned the corner, didn't you follow it?" The testifying officer must, first, listen carefully to the question so that the discrepancy is noted. Then they may reply, "The car I saw was blue, not green."

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WHY DOESN'T THE A.D.A. OBJECT?

- Objections must be made on proper legal grounds.
- Hostile questioning may not rise to the level of "badgering the witness".
- The A.D.A. does not want to create the impression they are protecting you.

RE-DIRECT

- A.D.A asks questions to clarify certain points raised during cross examination.

RE-CROSS

- Defense lawyer asks questions limited to matters raised on re-direct.

Objections

Many police officers have a question in the back of their minds when they endure a blistering cross-examination from defense counsel: "Why doesn't the A.D.A. object?" There are two reasons why the A.D.A. may not intervene. One is that objections must be made on proper legal grounds. Tough, hostile questioning that does not rise to the level of "badgering the witness" is not objectionable. The second reason is that the A.D.A. would much rather have the jurors see the officer handling the questions by themselves than create the impression that he or she is protecting the officer by jumping to their defense when the questions get tough. Painful as it is in the short run to be the object of a stinging cross-examination, in the long run a professional demeanor will do more than any number of A.D.A. objections to convince the jury that testimony given is honest and objective.

Re-direct and Re-cross

No further questions. With that statement, the defense attorney concludes his or her cross-examination. The officer experiences a surge of relief, thinking that the worst is over.

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The job as a witness, however, is not finished. The Assistant District Attorney may have more questions on re-direct examination. Redirect is the officer's opportunity to give the full explanation that they were not permitted to present on cross. Now the officer CAN tell the jury why no fingerprints were taken at the scene, or explain the troubling discrepancy between the arrest report and the voucher. The officer can tell the jury what happened in plain English, and explain details that need further clarification.

Re-direct is not designed to repeat the entire direct, but is limited to matters raised on cross. The A.D.A.'s focus will be to clarify points that are unclear and to explain items that might otherwise score points for the defense on summation. The A.D.A. will not belabor items he or she considers adequately established and may fail to ask questions you are expecting. If this happens, it will be a signal that the A.D.A. feels that the initial answers on cross-examination were strong enough to need no further explanation to the jury.

The disciplined professionalism an officer brings to the courtroom should stay with them at all times. Police officers are working even when they are not actually answering questions. Thus, it is important to conceal from the jury whatever sense of relief an officer may feel at the close of testimony. Even if the cross-examination was a grueling ordeal, the jury should see the officer step from the stand in an unhurried manner. Smiles, winks, or victory signals should never pass between the testifying officer, the A.D.A., or other officers.

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DEFINITIONS

OATH: affirmation attesting to the truth of what is stated

TESTIMONY: oral statement made under oath in an official proceeding

SWEAR FALSELY: intentionally making a false statement you do not believe to be true, during testimony, or in a sworn written statement

PERJURY 3RD DEGREE– MISDEMEANOR (P.L. 210.05)

WHEN A PERSON SWEARS FALSELY and the statement is not material to the proceeding.

Learning Outcome #7
 Explain the Penal Law offenses of perjury and tampering with physical evidence.

Explain the Penal Law Offenses of Perjury and Tampering with Physical Evidence

Definitions of Terms Related to Perjury (P.L. 210.00)

Testimony: an oral statement made under oath in a proceeding before any court, body, agency, public servant, or other person authorized by law to conduct such proceeding and to administer the oath or cause it to be administered.

Oath: includes an affirmation and every other means authorized by law of attesting to the truth of what is stated.

Swear Falsely: is an offense that occurs when a person intentionally makes a false statement that he or she does not believe to be true, either while giving testimony OR under oath in a signed written instrument.

Note: A false swearing in a signed written instrument shall not be deemed complete until the instrument is delivered by its signer, or by someone acting in his or her

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behalf, to another person with intent that it be used as true.

Perjury in the 3^d degree – Misdemeanor (P.L. 210.05)

Perjury in the third degree occurs when a person swears falsely. It does not require that the false statement be material to the issues of the case. In other words, the false statement will have no effect on the outcome of the trial. This false statement may be made while giving testimony or under oath in a signed written instrument.

Example: A witness testifies that he saw a street crime occur while he was taking a solitary walk on the street when, in fact, he was out on a date with a woman who was not his wife. This is a false statement, but it has no bearing whatsoever on the facts in issue at the trial.

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PERJURY 2ND DEGREE – FELONY (P.L. 210.10)

A PERSON SWEARS FALSELY AND THE FALSE STATEMENT IS

- A SIGNED WRITTEN STATEMENT MADE UNDER OATH
- INTENDING TO MISLEAD A PUBLIC SERVANT
- MATERIAL TO THE PROCEEDING

PERJURY 1ST DEGREE – FELONY (P.L. 210.15)

A PERSON SWEARS FALSELY AND THE FALSE STATEMENT CONSISTS OF

- TESTIMONY
- AND
- IS MATERIAL TO THE ACTION, PROCEEDING OR MATTER IN WHICH IT IS MADE

Perjury in the 2nd degree – Felony (P.L. 210.10)

This occurs when a person swears falsely and when his or her false statement is:

1. made in a signed written instrument for which an oath is required by law;
AND
2. made with intent to mislead a public servant in the performance of his or her official functions;
AND
3. is material to the action, proceeding or matter involved.

Example: A police officer signs a Criminal Court Complaint which states that he saw the defendant with a gun in his hand when, in fact, he saw the gun on the ground.

Perjury in the 1st degree – Felony (P.L. 210.15)

This occurs when a person swears falsely and his false statement consists of

- a. testimony
AND
- b. is material to the action, proceeding or matter in which it is made

Example: A police officer testifies in a hearing/trial that that he recovered a gun

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pursuant to doing a vehicle inventory of a car at the station house when in fact he recovered the weapon from the trunk of the car during an illegal search of the vehicle on the street.

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HOW TO AVOID PERJURY

- Take notes after every arrest.
- Tell the truth.
- **CAREFULLY READ ALL STATEMENTS BEFORE SIGNING ACCUSATORY INSTRUMENTS**
- Never try to improve a case by adding facts.
- If you are unsure of a particular fact, be honest and tell the A.D.A in advance.

HOW TO AVOID PERJURY

When you are assigned an arrest by a supervisor and you did not witness the actual offense, ensure that the affidavit does not indicate you witnessed the offense.

The affidavit you sign should state:
"The deponent was informed by..."

Most arrests result in the preparation of an Affidavit or Criminal Complaint. The information in the complaint is dictated by an A.D.A. Officers must never sign anything, particularly an accusatory instrument, without reading its contents. It may contain a mistake of fact. If it does, there may have a problem when testifying later. The A.D.A. knows the law better than you do, but nobody knows the facts of the arrests better than the arresting officer – be sure that they are stated accurately.

The temptation to perjure yourself may sometimes be strong. If an officer observes a defendant engage in some activity that arouses his or her suspicion and the officer searches the defendant illegally and finds narcotics in the defendant's pockets, the officer is presented with a problem. The search was clearly illegal, but the officer may feel that justice would best be served by testifying that the defendant dropped the narcotics in the street as the officer approached. If the officer does so, he or she would be committing perjury.

Another situation that occurs quite often is when the police officer is in pursuit of a suspect. The officer is certain that the defendant is guilty and testifies that he or she never lost sight of the defendant from the scene of the crime up to the eventual arrest. If this is not true, he or she is committing perjury.

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To Avoid These Situations Simply Follow These Rules:

- Take careful notes as soon as possible after making an arrest.
- Tell the truth.
- Carefully read all statements before signing.
- Never try to improve the case by adding facts that are not true.

If the officer is uncertain of any details, make it known to the Assistant District Attorney. Testify only to those things of which you are sure. If uncertain, state it to the court.

If you are assigned an arrest by a supervisor and you did not witness the incident, the accusatory instrument that you sign and all accompanying paperwork should state “the deponent was informed by police officer/sergeant/lieutenant...” and should never imply that you witnessed an incident when you in fact did not.

Note: When signing any type of accusatory instrument, you are affirming as to the truthfulness and accuracy of the facts contained therein. Before signing it you must be certain that the facts are true and accurate to the best of your knowledge. A personal service summons, such as a “C” summons for disorderly conduct or an Environmental Control Board Notice of Violation should never be signed in advance. These summonses should be signed only at the time of issuance. When completed, accusatory instruments that are prepared by another person on your behalf (that is, an Affidavit or Complaint which may be typed for you by court personnel) should be carefully proofread before signing to ensure accuracy.

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DEFINITIONS

- **PHYSICAL EVIDENCE:** any article, object, document, record or other thing of physical substance produced or used as evidence in an official proceeding
- **OFFICIAL PROCEEDING:** any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received

TAMPERING WITH PHYSICAL EVIDENCE FELONY (PL 215.40)

WITH INTENT THAT IT BE USED IN AN OFFICIAL PROCEEDING, A PERSON...

Knowingly makes, devises or prepares false physical evidence

or

Produces or offers such evidence at such a proceeding knowing that it is false

or

Believing certain physical evidence is about to be produced in an official proceeding, intending to prevent its production, he suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person.

Definitions of Terms Related to Tampering with Physical Evidence

Physical Evidence: any article, object, document, record or other thing of physical substance that is produced or used as evidence in any official proceeding.

Official Proceeding: any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received.

Tampering With Physical Evidence (P.L. 215.40)

Considering the importance of physical evidence in the prosecution of a criminal case, officers should be aware of the ramifications of tampering with physical evidence. Tampering with physical evidence is a felony and can be committed in three ways.

Tampering with Physical Evidence - With intent that it be used or introduced in an official proceeding, he or she:

1. Knowingly makes, devises or prepares false physical evidence; OR
2. Produces or offers such evidence at such a proceeding knowing it to be false; OR

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3. Believing that certain physical evidence is about to be produced or used in an official proceeding or a prospective official proceeding, and intending to prevent such production or use, he or she suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person

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APPEARING IN TRAFFIC COURT

- Should have detailed notes to recreate the incident
- Must bring activity log and copy of summons.
- May refer to activity log and summons as an aid when testifying.
- Failure to bring these items may result in departmental discipline.

Learning Outcome #8
Describe the elements of proper traffic court testimony.

Describe the Elements of Proper Traffic Court Testimony

You must report to traffic court with your Activity Log and a copy of the relevant summons. Failure to bring these items may result in Departmental discipline. Uniformed members of the service must be able to testify to all facts stated on the summons (for example, the time of day, the location, etc.). This is especially true if the summons is issued for a signal light violation. An officer must be able to testify as to where traffic control devices were. It is strongly suggested that the officer draw a diagram of the intersection illustrating the position of the traffic control devices controlling the intersection, and be able to show:

1. The direction traveled by the violator's vehicle;
2. Which directions were controlled by traffic control devices;
3. Where the officer was positioned when the violation was observed;
4. The exact location of any crosswalk or stop line at any given intersection.

Note: This diagram can be drawn on the rear (unlined) side of your Activity Log page.

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Officers' Testimony Should Address the Following Important Points:

1. The date, time and location of the offense;
2. The officer's location at the time of the offense;
3. The officer's assignment;
4. Weather conditions;
5. Road conditions and visibility;
6. A description of the area (traffic control device, commercial, residential, highway);
7. The location and direction of the R.M.P. (Exact location of officer when on foot patrol);
8. The direction the motorist was traveling;
9. The name of the street/highway (Indicate whether one way/two way);
10. Exactly where the vehicle was stopped and the manner in which the driver was pulled over;
11. Constant observation of vehicle from initial time of violation to time vehicle stopped;
12. The relative distance of the violator's vehicle from the police officer at the time violation was observed;
13. A description of the vehicle (color, make, year, model and plate number);
14. Secondary characteristics of the vehicle (for example, raised rear end, side exhaust, thick racing tires, etc.);
15. Identification of the defendant as the driver of the vehicle and any other conduct;
16. Any conversation with the operator;
17. Elements of the offense (for example, the defendant's vehicle entered the crosswalk while the light was steady red and then proceeded through the intersection or the vehicle crossed the white stop line in the roadway);
18. A specific reference to the fact that a summons was issued.

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TRAFFIC COURT TESTIMONY

There are three major components of traffic court testimony:

- Introduce yourself and the location of the violation.
- Describe the facts and circumstances of the violation.
- Describe your interaction with the violator.

Components of Traffic Court Testimony

When providing traffic court testimony, officers are required to relate the series of events surrounding the violation exactly as they occurred. Therefore, such testimony should resemble a story, with a beginning, middle, and an end.

The Beginning: Introducing Yourself and the Location of the Violation

- a. Name, rank, shield number, and command;
- b. Time of violation;
- c. Date of violation;
- d. Location of violator's vehicle, including a description of the location (for example, a one-way street controlled by an overhanging traffic signal);
- e. Officer's position relative to violator's vehicle at time of violation (e.g., on north-east corner facing the stop sign).

The Middle: Describing the Facts and Circumstances of the Violation

- a. Provide defendant and vehicle information;

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- b. Observation of direction/distance of vehicle (for example, northbound on Third Avenue, approximately five car lengths from crosswalk);
- c. A statement that the officer observed that the traffic signal was functioning (The officer knows this because he or she saw it change from green to yellow to red, then back to green.);
- d. Statements regarding:
 - The number of passengers and where seated;
 - Weather conditions;
 - Other relevant road markings;
 - Any traffic agents directing traffic.

The End: Describing Your Interaction with the Violator

- a. Any statements made by the violator;
- b. Continuity of eye contact, length of observation;
- c. Summons served.

The issuance of a summons is not the final step, but it is an important one. The officer issuing the summons must document all of the facts regarding the violation(s).

Remember to fill in all of the captions as required on the summons; an incomplete summons will cause a dismissal of the case in court. You are not required to retain a mental picture of the violator or to pick him or her out of a crowd, but you must be able to testify that, at the time of the summons, you were satisfied he or she was the person described on the license presented to you. During testimony, always remain calm, be polite and, most of all, do not become argumentative. As long as you have prepared your case properly you will be confident in yourself.

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SUMMARY

1. Describe important information required to be recorded during a preliminary investigation.
2. Define chain of custody, and how it relates to criminal trials.
3. Explain the proper procedures for appearing in court.
4. Identify and explain the rules of evidence.
5. Identify three types of pre-trial hearings.
6. Demonstrate the principles of proper trial preparation and testimony.
7. Explain the Penal Law offenses of perjury and tampering with physical evidence.
8. Describe the elements of proper traffic court testimony.

Summary

1. Describe important information required to be recorded during a preliminary investigation.
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8. Describe the elements of proper traffic court testimony.

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Chapter 7

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Instructor Guide



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CHAPTER 7 SYNOPSIS

Date Prepared: June 2014

Date Reviewed / Revised: 08/2019

Prepared By: Curriculum and Evaluation Unit

Reviewed/Approved By: Unit Coordinator, Curriculum and Evaluation Unit

This chapter will provide the probationary police officer with an understanding of the rules of evidence and the ability to properly prepare for and testify at all stages of criminal trials.

Method of Instruction: Lecture / discussion / question and answer

Time Allocated: 3.0 Hours

Training Need: Entry level police officer training.

Terminal Learning Objective: At the completion of this chapter, probationary police officers will be able to demonstrate the principles of proper and well prepared trial testimony.

Learning Outcomes:

1. Describe important information required to be recorded during a preliminary investigation.
2. Define chain of custody, and how it relates to criminal trials.
3. Explain the proper procedures for appearing in court.
4. Identify and explain the rules of evidence.
5. Identify three types of pre-trial hearings.
6. Demonstrate the principles of proper trial preparation and testimony.
7. Explain the Penal Law offenses of perjury and tampering with physical evidence.
8. Describe the elements of proper traffic court testimony.

Required Reading: NYPD Police Student's Guide and Patrol Guide.

Instructional Resources Required:

- PowerPoint projector
- Computer with monitor
- Classroom seating

Evaluation Strategies:

- Observation of the level and quality of classroom participation.
- Observation and evaluation of module learning outcomes as applied to quizzes, 100 question multiple choice exam and classroom exercises.

References:

NYPD Police Student's Guide and Patrol Guide.



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Introduction

This chapter is designed to assist in the development of becoming an effective witness in judicial proceedings. Effective police witnesses are those who are able to articulate clearly, fully, and truthfully both the facts and circumstances of the matters that have brought them to court and their roles in these matters. Effective witnesses come to court prepared; they make certain that they have properly documented events and that they have properly processed any evidence for which they are responsible. Effective witnesses are aware of the strategies that may be used by opposing counsel to discredit them or trap them into phrasing their answers in ways that may mislead jurors.

Our judicial system is adversarial, and places the burden of proof squarely on the prosecutor. Unlike inquisitorial systems, our system draws a great distinction between factual guilt and legal guilt. In our system, the only two outcomes of criminal trials generally are those in which prosecutors succeed in proving guilt beyond a reasonable doubt and those in which prosecutors fail to prove guilt beyond a reasonable doubt. Nobody is ever found innocent in our system because defendants

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do not have to prove their innocence: instead, they are either found guilty or not guilty. To prove guilt in our system, police and prosecutors must overcome a series of obstacles designed by our Founding Fathers to protect the freedoms they fought the Revolutionary War to gain. In our system, prosecutors who fail to show that the evidence they introduce was obtained in compliance with the Bill of Rights cannot use the evidence, even though it may clearly show that defendants committed the crimes with which they have been charged. When this happens, people who are factually guilty cannot be proven legally guilty beyond a reasonable doubt, and are, therefore, released to prey on our citizens again. Thus, in our system, it is critically important that officers testify credibly, honestly, knowledgeably, and convincingly in criminal cases. Police testimony is evidence, and when evidence is presented improperly, it results in lost cases and injustice.

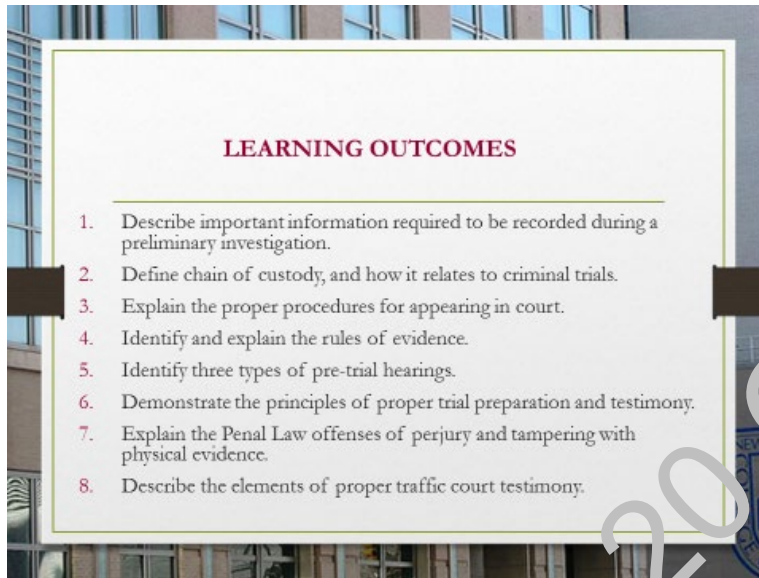
Although most police testimony occurs in criminal, juvenile, or traffic proceedings as a result of an officer's law enforcement actions, officers also testify in civil proceedings in which they, the Department, or others are the accused parties. In these cases as well, it is critical that officers know how to be effective, honest, and credible witnesses.

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Learning Outcomes:

1. Describe important information required to be recorded during a preliminary investigation.
2. Define chain of custody, and how it relates to criminal trials.
3. Explain the proper procedures for appearing in court.
4. Identify and explain the rules of evidence.
5. Identify three types of pre-trial hearings.
6. Demonstrate the principles of proper trial preparation and testimony.
7. Explain the Penal Law offenses of perjury and tampering with physical evidence.
8. Describe the elements of proper traffic court testimony.

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PRELIMINARY INVESTIGATIONS

- Precise time of important events
- Time elapsed between events
- Layouts of indoor locations
- Street configurations
- Exact addresses
- Lighting at crime scene
- Weather
- Detailed description of suspects
- Statements made by suspects
- Names of other officers present
- Exact location of seized contraband

Learning Outcome #1
 Describe the Information to be Recorded During a Preliminary Investigation.

Information to be Recorded During a Preliminary Investigation

Good preparation for court testimony encompasses the entire investigative process: the facts of the offense; location of the witnesses; discovering, preserving, and marking evidence; recording events that led to the apprehension of the defendant, and other incidents pertaining to the arrest.

One of the most important aspects of an investigation is the gathering of materials that may become evidence at a later trial. This includes the names and addresses of all potential witnesses, even if they appear to duplicate witnesses already spoken to. Making note of details that officers may be asked to recall later is a skill a good investigator must develop. The experienced officer learns to concentrate on seemingly minor items that may take on great importance on the witness stand.

Officers need to start doing this at the moment they become involved in any case, no matter how strong the case may seem. The stronger the evidence in a case, the more likely it is that the defense attorney will try to attack the officer's credibility by suggesting to jurors that they have left out information that might weaken the prosecution's case.

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When an officer goes to court to testify, they must ensure that they are thoroughly knowledgeable about the case; that they have anticipated likely questions, and that they are prepared to testify honestly, confidently, and fully about any aspect of the case that may be raised in court.

The process of discrediting witnesses in the eyes of the jury is known as impeachment. The stronger the case in which the officer is testifying, the more likely opposing counsel will try to impeach the officer by making it appear to the jury that the officer is both incompetent as well as dishonest. This should not be taken personally. The defense attorney is playing their part in the adversarial American justice system. The officer's part in this process is to keep opposing counsel from impeaching them by coming to court at least as prepared as the attorney is.

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Note taking should begin at once. The Activity Log should begin to contain entries recording your observations as soon as practicable. Many police officers believe that their Activity Logs contain confidential or highly secret information. They feel that since they made the record, it is their personal record and no one else has the right to see it. In fact, nothing could be further from the truth. Police officers are public servants and as such the records they make are public records. Officers should keep this in mind when making initial entries. While writing them, officers should be aware that there is a good possibility that these records will be produced in a court of law and may even be read to the judge or jury. On occasion, officers have even been surprised to find that their requests for Departmental recognition have been obtained by defense attorneys, and when they embellish the facts, these requests have been used to impeach officer accounts of arrests. It is a better practice to wait until the case is over, before submitting a request for Departmental recognition.

Good Activity Log entries should read like testimony. There should be a minimum number of conclusions and a maximum number of details. Remember that it is the details, even though you may consider them insignificant, which will convince the court or jury that you are telling the truth and that the defendants are guilty of the crime for which you have arrested them. At the very minimum, Activity Log entries should contain the defendant's full name, alias, address, age, and occupation. There should

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also be note of the physical description of the clothes the defendant was wearing at the time of the arrest, as well as what acts were committed. The full names of any complainants or witnesses should be included, and, to the extent possible, their exact statements should be recorded.

It is also helpful to describe the crime scene. Often the experienced police officer will sketch a diagram of the crime scene, indicating the location of certain items, e.g., body, gun, etc., and the approximate distances from doors, windows, etc.

Officers should also note weather conditions, lighting conditions, the exact time they responded to the crime scene and a detailed description, including serial or identification numbers, of any property stolen.

Activity Log entries, and for that matter, any police reports completed, should be prepared accurately, thoroughly, and as quickly as possible while memory of the event is fresh. Often, an officer may need to use these documents to refresh their recollection while they are on the witness stand.

Officers should never include anything that they are unsure of. At the same time, items that officers are certain are true should not be excluded for any reason. Failure to record an important fact can be used by the defense lawyer at trial to cast doubt upon the case's credibility.

In addition to routine paperwork (Complaint Reports, Arrest Reports, Unusual Occurrence Reports), officers may have occasion to conduct procedures that involve the defendant's constitutional rights. These include taking statements, conducting a show-up, and arranging for a line-up. In all such instances, notes should be made concerning the manner in which the procedures were conducted. ALL statements, however seemingly harmless, made by a defendant should be recalled, recorded, and repeated to the Assistant District Attorney. One never knows what twist and turns a criminal case may take, and what appears to be a harmless statement by a defendant may turn out to be significant as the court case develops. Miranda Warnings must, of course, be given and a record kept of that fact.

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ACTIVITY LOG ENTRIES

Important to Record:

- Precise Time of Important Events
- The Time Elapsed Between Important Events
- Layouts of Indoor Locations
- Configuration of Streets at Outdoor Locations
- Exact Street Addresses
- Lighting at Crime Scenes

ACTIVITY LOG ENTRIES

- The Weather
- Physical Characteristics/Clothing of Suspects
- Statements Made by Defendants
- Names of Other Officers Assigned to Case
- Exact Location of Seized Contraband

To do a proper job, officers must ensure that they have all of the details of the case thoroughly recorded. This includes:

The Precise Time of Important Events

- When the crime was committed;
- When the officer first received the call;
- When the officer responded to the scene and when they arrived on the scene;
- When the officer first saw defendant;
- When the defendant was taken into custody;
- Time, place, and any statements made by a witness in a post-arrest situation

The Time Elapsed Between Important Events

- In a chase situation, the time between the first sighting of the defendant and the time of his or her apprehension;
- The time between statements made by defendants.

Layouts of Indoor Locations

- Number of rooms
- Arrangement of furniture
- Condition of rooms (e.g., messy, neat, etc.)
- Evidence of occupation (clothes in closets, food in refrigerator, etc.)
- Number of bedrooms

Configuration of Streets at Outdoor Locations

- Intersections;
- Direction of street (north/south/east/west)
- Type of street (e.g., two-way, dead-end, etc.)

Exact Street Addresses

- Apartment number, floor
- Cross streets

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- Location on block (middle, corner)

Lighting at Crime Scenes

- If at night, the location of street lamps; are they in working order?
- Amount of natural light

The Weather

- Sunny/rainy, clear/overcast, warm/cold, sleet/snow?

Physical Characteristics and Clothing of Suspects

- Age, height, weight, description of face, description of hair, description of clothing
- Are there any unusual features? (scars, marks, tattoos, etc.)

Statements Made by Defendants

- Need not be a signed confession;
- Anything the defendant says may be important. Document all details, such as the beginning time and ending time of statement, the location where it was uttered, if there were any other witnesses to the statement, what the exact wording was, and what the circumstances were of any warnings given.

Names of Other Officers Assigned to Case

- Include their location, and what actions each officer performed (e.g., recovered property, interrogated the suspect). The officer assigned to secure a crime scene must make an Activity Log entry of the rank, name, and command of every person that enters the crime scene area.

Exact Location of Seized Contraband

- If recovered from the defendant's person, record the precise location (e.g., right front pants pocket).
- If near defendant, distance between defendant and contraband (e.g., "located within approximately six inches of defendant's foot"). The word approximately should be used.
- If indoors, whether in plain view or hidden, and exactly where it was (e.g., on top of coffee table in living room, in top drawer of dresser), and whether other objects, tending to connect contraband with owner, were near (e.g., drawer contained woman's clothing and passport for Irma Smith).

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CHAIN OF CUSTODY

From the time evidence is seized to the time that it is presented in court, there must be:

- An unbroken record of the location of the evidence.
- Documentation of who has been responsible for it.
- Assurance that it has not been tampered with.

CHAIN OF CUSTODY

- Officer seizing evidence should vouch for it at once
- Processing evidence must be done meticulously
- As FEW people as possible should handle the evidence.

Learning Outcome #2
Chain of Custody and How it Relates to Criminal Trials.

Chain of Custody

The presentation of physical evidence for use at trial is another crucial part of the investigation. Chain of custody is critical here: chain of custody means that from the time evidence has been seized to the time it is presented in court, there has been an unbroken record of the location of the evidence, thorough documentation of who has been responsible for it, and solid assurance that it has not been tampered with or otherwise tainted in any way. Because admissibility at trial depends upon an unbroken chain of custody from arresting officer to court room, the processing of evidence must be done meticulously. As few people as possible should handle physical property, especially contraband. The officer who seizes it, either from the defendant or the location, should therefore vouch for it at once. Under no circumstances should evidence from different defendants be combined on one voucher. Chain of custody is one of the most fertile areas of trial for the defense attorney to cast doubt on the prosecution's case and only meticulous attention to detail will insure the admissibility of the physical evidence that will help convict the defendant.

When in doubt as to the relevance of physical evidence, INVOICE IT! Property can always be returned, but an item not vouchered at the proper time can leave a hole in the prosecution's case.

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PROCEDURES FOR COURT

Truthful testimony is a **MUST**.

There is no such thing as an over prepared case.

- Poorly prepared witnesses look bad, even when they are honest.
- Good preparation helps witnesses understand courtroom procedures.
- Thorough preparation lends itself to credibility on the stand.

Learning Outcome #3
 Explain the Proper Procedures for Appearing in Court.

Proper Procedures for Appearing in Court

There is no such thing as an over prepared case. Every lawyer, whether on the side of the prosecution or the defense, knows this simple truth. With good preparation by the A.D.A., a police officer's testimony becomes sharpened and focused, emerging as the cornerstone of the People's case. With full preparation, the police officer understands his or her role in the case, and may even be able to anticipate hostile defense questions. A properly prepared police witness comes across to the jury as a competent, objective professional whose testimony can be relied upon.

There is no substitute for knowing the case and being well prepared. By succinctly and accurately communicating facts to the courts, the officer's testimony should demonstrate that he or she is knowledgeable.

Truthful testimony is a must, even if it is favorable to the defendant. Traditionally, police have had an edge on lay witnesses when testifying in court. The uniform or shield symbolize credibility and, both the training officers are now receiving coupled with the experience of working in the street, under pressure, will help to make officers articulate and powerful witnesses. Juries tend to believe the police officer. Today a

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police officer must strive to offer clear, concise and logical testimony.

In contrast, a poorly prepared witness may fumble or back track, may rifle through papers in a frantic attempt to locate a vital fact. Worse, his or her feelings of inadequacy may erupt in a hostile outburst at the defense lawyer whose questions seem irrelevant. As a result, the jury loses respect for the witness and may choose to believe the defense version of events.

Adequate preparation for trial is the right of every police witness. The A.D.A. who promises to prepare a police officer in the hall on the way to court is not doing their job properly and may cause an officer to do less than their best on the witness stand. Officers have the right and duty to insist on thorough preparation before placing their credibility and the Department's image on the line.

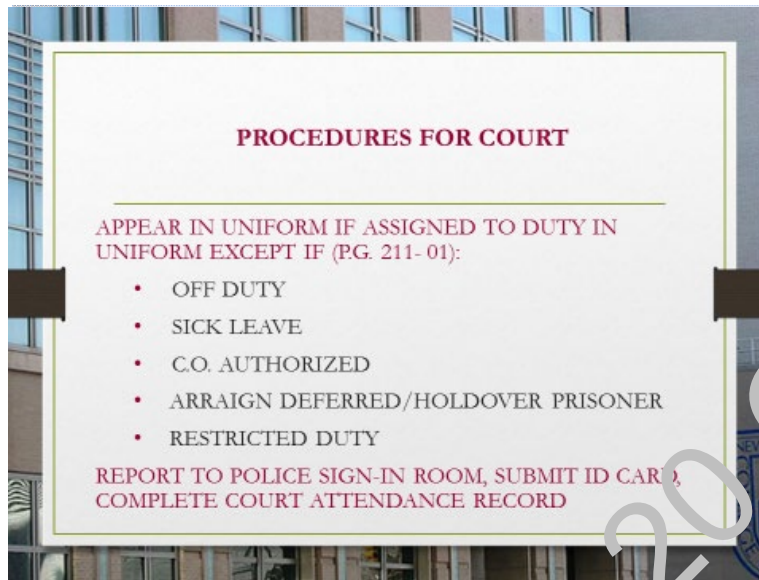
Good preparation serves several functions: It helps the witness understand courtroom procedures; it acquaints the officer with the prosecutor's theory of the case, it allows the officer to convey vital information to the A.D.A. and it aids in refreshing the officer's recollection of events.

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Procedures for Court Appearances (Patrol Guide 211-01)

When a uniformed member of the service is required to appear in court, before a Grand Jury or other government agency, such officer must conform to the procedures found in the Patrol Guide. These procedures require the officer to:

- A. Appear in uniform, if assigned to duty in uniform, except if:
1. Off-duty
 2. On sick report or restricted duty
 3. Required to arraign deferred or holdover prisoner
 4. Authorized by commanding officer.

Note: Patrol Guide procedure 204-04, "Optional Uniform Items" states: Uniformed members of the service in the rank of sergeants, police officers and detectives performing duty in uniform and civilian uniformed and auxiliary counterparts MAY wear the regulation turtleneck shirt underneath the regulation long sleeve uniform shirt. The top button only of the long sleeve shirt is to be left unbuttoned. No tie is to be worn. This combination may be worn with or without the uniform duty jacket. i.e., it may be worn as an outer garment. It may be worn to court and to detail assignments. This

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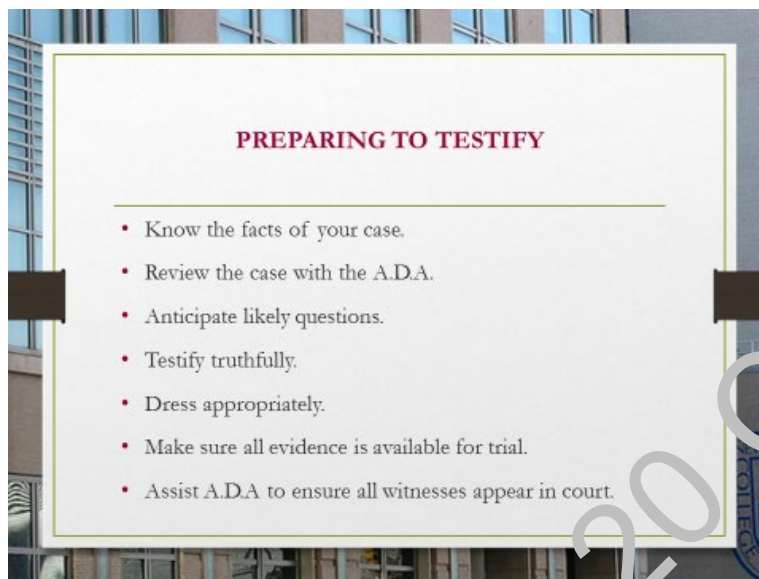
uniform option may NOT be worn by members assigned to perform administrative positions.

- B. Report to the Police Sign-In Room and submit I.D. card and Court Attendance Record (PD468-141) to supervisor / designee.
- C. Inform supervisor / designee if scheduled to appear in more than one part of court before another government agency, or if on a court alert.
Notify supervisor/designee if appearing on off-duty time.
- D. Wear appropriate business attire, if appearing in civilian clothes. Wear shield on outermost garment at all times when in courtroom or within court building.
- E. Take meal period when court is in recess and enter meal location in Activity Log.
- F. Report to the Police Room if you are required to leave the court building for reasons other than meal, and upon return.
- G. Have Activity Log and evidence available at each appearance.
- H. Request adjournment to a day when performing duty on a 2nd platoon or, if a detective, when performing day duty. Inform the judge if the adjourned date is on a scheduled day off.
- I. Report to the Police Room upon completion of court appearance and obtain a completed Court Attendance Record.
- J. Return evidence, if any, to Property Clerk. Notify the desk officer by phone upon dismissal from Police Sign-in Room and comply with instructions.

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On or before meeting with the A.D.A., the officer should take the following steps in order to provide accurate and professional testimony.

Review notes, reports, and transcripts of previous testimony. (The defense attorney will have all of these as a result of the discovery process.) Review the case with other officers that were present. Review the case with the prosecutor. Review what questions will be asked during testimony with the prosecutor.

If the officer on the stand is asked by the defense attorney the case was discussed with the prosecutor prior to trial, the officer should be up front and tell the defense counsel that the case was discussed previously. This question is a trick: many people, unfamiliar with the courts, may believe that it is somehow improper to talk with the attorney who represents the side for which the witness is testifying, it is not.

The officer must ensure that he and the prosecutor have all of the exhibits and evidence that will be utilized at the trial. The officer should also ensure that all evidence submitted can be identified, and that they are marked with a recognizable mark, in addition having evidence tags. Some items that may be submitted into evidence are calibration records, weapons, officer training certifications, photographs, and reports.

Sometimes, the police officer is called upon to assist the prosecutor in making sure that all other witnesses show up. The officer should show the witnesses their statements and let the witnesses review them. The officer should make it a point to put the witnesses at ease, and explain the court system to them.

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On the trial or hearing date, the officer should show up early to meet with the A.D.A to review notes and exhibits. If the officer is assigned to appear on a scheduled day off, they should inform the judge of such condition and request an adjournment to a day when performing duty with the 2nd Platoon. If re-scheduling is not possible, the officer should make an Activity Log entry. The entry should include the name of the judge and the A.D.A., the date of the appearance, the adjournment date, as well as the court and part names. The officer should then inform the Borough Court Section supervisor assigned to the Police Room if an appearance is scheduled on a day off.

A uniformed member of the service who is assigned to appear in court on a scheduled day off will be assigned to a tour starting at 0900 hours, unless the court scheduling necessitates a different start time. UMOS returning from court may be excused upon request, if the exigencies of the service will permit.

Officers must always dress appropriately for court appearances. They must ensure that uniform or business suits are clean and well pressed. The officers should appear with a conservative hairstyle and minimal jewelry. Men must wear a tie when in business attire.

A key police officer responsibility is to legally gather and preserve as much evidence as possible. Decisions should not be made as to the usefulness or admissibility of particular items. What will be presented as evidence in a criminal case is up to the prosecutor. The prosecutor is trained to recognize what the judge is likely to admit in order to prove the guilt or innocence of a defendant. He or she bears the responsibility for the proper presentation of the People's case. It is vital that officers are familiar with the rules of evidence and how they apply to their duties and responsibilities.

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EVIDENCE DEFINED

EVIDENCE IS ANYTHING THAT IS USED TO PROVE OR DISPROVE A DISPUTED ISSUE IN A COURT OF LAW

EXCLUSIONARY RULE

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial.

Examples:

- Unreasonable search and seizure
- An illegally obtained confession
- Improper eyewitness identification

Learning Outcome #4
Identify and Explain the Rules of Evidence.

Identifying and Explaining the Rules of Evidence

Evidence is anything that is used to prove or disprove a disputed issue in a court of law. It may consist of testimony, documents, or objects. The rules of evidence in New York State are not contained in any one statute such as the Penal Law or Criminal Procedure Law. They are a set of rules which have developed over the years through decisions in individual legal cases. These rules do not tell us what is admissible as evidence in a trial; instead they tell us what is NOT admissible. Police Officers do not need to be concerned with issues of admissibility, as that is the function of the prosecutor.

It is possible that evidence that would ordinarily be admissible may be suppressed, or in other words excluded. For evidence to be suppressed, it is obtained through a violation of someone's constitutional rights. The police officer must be aware of the rights of individuals so as not to damage a strong case through carelessness.

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial. Guns, narcotics, contraband, confessions, or eyewitness identifications may be suppressed if they were obtained in violation of the United States or New York State Constitutions. If the prosecutor offers into evidence one of these illegally obtained items, the defense attorney will usually object. The objection may occur prior to the trial or during the trial itself. The defense attorney will make what is known as a motion to suppress. If the court grants the motion, it will exclude the evidence from use at the trial. The following are examples of circumstances that most often result in motions to suppress:

- The property was obtained by means of an unlawful search or seizure.
- The statements, admissions or confessions were not made voluntarily to the police officer.
- There was improper eyewitness identification.
- There is an eavesdropping/wiretap recording of the defendant obtained under circumstances that preclude its admissibility in court.

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- Evidence obtained that is in violation of the “fruit of the poisonous tree” doctrine. Certain evidence exists which would be admissible, but for the fact that, the police became aware of it through an unlawful means.

The judge may grant or deny a motion to suppress evidence or may order a hearing just to determine if the evidence should be suppressed. If a hearing is conducted, you, as the arresting officer, may be called to testify.

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Various court decisions have developed the Rosario Rule (L.B.B. Vol. 17 No. 10, People v. Ranghelle, and L.B.B. Vol. 21 No. 5 People v. Wallace), which requires all statements that relate to the subject matter of a witness' testimony be released by the prosecutor to the defense attorney.

Rosario material is defined as any prior statements to the police made by a witness who will appear and testify at the trial. Such "witness statements" are rarely recorded in a neat fashion on a single police report. In addition, police officers that investigate crimes and make arrests do not decide which witnesses involved in the case will actually testify at trial. The judge, prosecutor and/or defense attorney usually makes that decision.

The best approach police officers can take is to treat all statements they receive from witnesses as potential Rosario material. This includes statements by fellow police officers that witnessed the crime, seized evidence, or made an arrest. For example, courts have identified the following items typically prepared by police officers as Rosario material: Activity Logs, personal handwritten notes, preliminary worksheets, arrest reports, interview reports, Unusual Occurrence Reports, Complaint Reports (UF61), Complaint Follow-up Reports (DD5), electronic recordings such as audio

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tapes, video tapes, 911 tapes, teletype messages, email, voice-mail , etc.

The penalty for violating the Rosario Rule is catastrophic to a criminal prosecution. Any failure to produce Rosario material, regardless of the good faith effort by police in attempting to locate it, can result in the reversal of a conviction.

There are some ways to ensure that arresting officers meet their obligations under the Rosario Rule. All notes, records, and police reports must be preserved in an arrest folder. This includes all handwritten notes. The officer should include photocopies of any entries made into the Activity Log, whether written on the front or back of the page. Each time an officer is assigned to court in connection with the arrest, including the first trip to the Complaint Room immediately following the arrest, the officer should bring the complete arrest folder with him and show its entire contents to the Assistant District Attorney (A.D.A.) assigned to the case. The officer should then allow the A.D.A. to photocopy whatever he or she wishes from the folder.

If scratch copies are prepared of official police reports that are later typed, the officer should save a photocopy of the scratch copy in the arrest folder. A typed copy of the report should be obtained as soon as possible, for placement into the arrest folder. The arresting officer should ensure that nobody except the A.D.A. removes an original document, such as handwritten notes, from the arrest folder. The A.D.A. may be given an original document from your folder, but a photocopy of the document should be made first. All other persons who are entitled, such as supervisors or detectives assigned to the case, should only be given photocopies of any documents in the arrest folder.

If an officer is not the arresting officer, but they have prepared official paperwork in regards to the case, or have handwritten notes regarding the case, they should make a photocopy of that paperwork and give it to the arresting officer for inclusion into the arrest folder. A copy of these reports should also be retained, so they can be produced if the A.D.A. requests them. These officers should ensure that they bring copies of all documents they have prepared to all meetings or court appearances.

These guidelines apply to all members of the service other than the arresting officer. This includes patrol officers who take statements from witnesses, detectives who do subsequent interviews, and supervisors who interview witnesses for preparation of Unusual Occurrence Reports. All case documents must be preserved, as per Rosario.

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BRADY MATERIAL

- Exculpatory evidence that tends to clear someone's guilt
- Prosecution **MUST** disclose any evidence which may be favorable to a defendant

Another important area of law that a police officer should be familiar with is exculpatory evidence, commonly referred to as Brady material. Exculpatory evidence is evidence that tends to clear someone's guilt. Brady material does not necessarily have to be written or recorded; it can also include anything oral. The prosecution is mandated by law to disclose any evidence that is favorable to the defense upon request by the defense. Unsolicited exculpatory evidence must also be disclosed when it creates a reasonable doubt that would not otherwise exist. A police officer must bring any such evidence to the attention of the District Attorney. Failure to do so may jeopardize the prosecution and bring about judicial sanctions. Remember, a police officer should gather and preserve as much evidence as possible at a scene of a crime. The District Attorneys will determine what evidence, if any, is exculpatory.

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HEARSAY

- When a witness gives testimony that is NOT based on personal knowledge (repeating what they heard someone else say about a particular incident)
- Hearsay is not usually admissible

Hearsay is evidence not from personal knowledge of the witness, but where the witness merely repeats what the witness heard others say. It is testimony about something said outside the court by other than the witness, which the witness testifies as being true. Hearsay evidence is usually not admissible.

Briefly stated, the hearsay rule precludes testifying to anything that was said out of court. Here's an example: You and your partner are sitting in your patrol car when a woman comes up and tells you her bag has been snatched. If you were telling this story to someone outside of a courtroom, you would undoubtedly say, "The lady told me someone took her pocketbook." In court, this is called hearsay.

The theory is that each witness testifies only to what he or she saw and heard first-hand. You did not SEE the purse snatching; therefore you cannot testify that it happened. The reason for hearsay not being admissible is that the person who actually said the words is not under oath and cannot be cross-examined. The woman herself will take the stand and tell that part of the story and be cross-examined.

Your testimony, without hearsay, would consist of: "I was in the car with my partner. A woman came up to me; and told me something. As a result of what she told me, I

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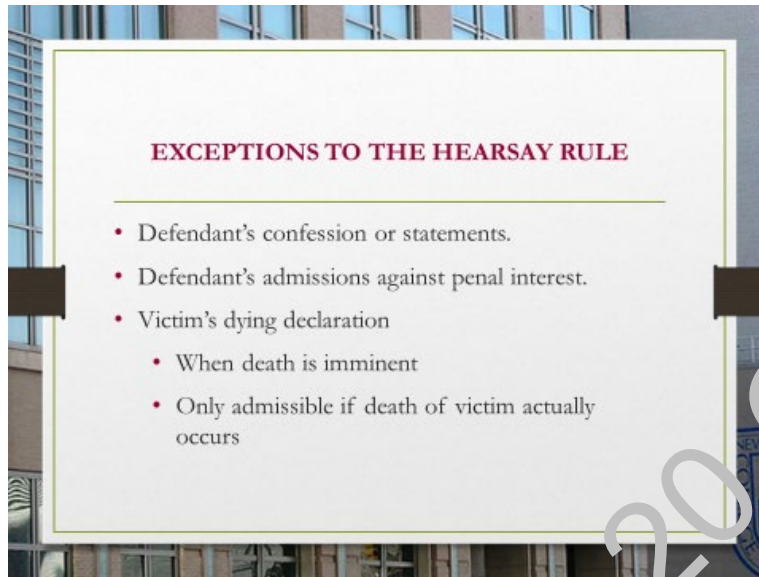
took her in the car and we drove around. Eventually we saw the defendant and stopped him. I then had a conversation with the woman, and placed the defendant under arrest.”

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There are many exceptions to the hearsay rule. However, there are three that you will most likely encounter. They are as follows:

Confession or Statement: Given by a defendant.

Admission: A statement made by a defendant that is against his penal interests, but does not amount to an acknowledgment of guilt.

Dying Declaration: A statement made by the victim of an assault which is made when death is imminent and the declarer has abandoned hope of recovery. Dying declarations may only be used when the victim actually dies.

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TESTIMONY BY CHILDREN

- A child 9 or older may testify under oath in court
- A child less than 9 may not testify under oath in court, unless the child understands what taking an oath means, may give un-sworn testimony
- A defendant may not be convicted solely on unsworn testimony of a child

ACCOMPLICE TESTIMONY

- A person may not be convicted of an offense solely upon the testimony of an accomplice
- Accomplice testimony + other corroborating evidence = enough for conviction

Testimony by Children (C.P.L. Section 60.20)

As a general rule, a witness who is a child less than nine may not testify under oath in court, unless the judge (referred to as "the court") determines that the child understands what taking an oath means. A child less than nine may, however, testify without taking an oath. If a child does testify without taking an oath, a defendant may not be convicted solely on the child's testimony.

When you have a case where a child is less than nine you should attempt to obtain additional evidence. Additional evidence is also important in cases where a complainant or witness may have mental disease or defect, since the judge may not allow such a person to testify in court.

Accomplice Testimony (C.P.L. Section 60.22)

A defendant may not be convicted of any offense solely upon the uncorroborated testimony of an accomplice, unsupported by other evidence tending to connect the defendant with the commission of the offense. An "accomplice" means a witness in a criminal action who may reasonably be considered to have participated in the offense charged, or an offense based upon the same or some of the same factors or conduct that constituted the offense charged.

The fact that a witness in a criminal action is also an accomplice, and that he or she

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has a defense such as infancy, or some type of immunity, does not affect his status as a witness.

Example: Bill and Henry commit a robbery. If Bill is arrested and names Henry as his partner in the crime, Henry cannot be convicted solely on Bill's testimony. However, in combination with any other evidence that ties Henry to the crime, Bill's testimony may be sufficient corroboration to convict him.

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PRETRIAL HEARINGS

Mapp Hearing determines whether physical evidence to be presented at trial was legally or illegally seized

Huntley Hearing determines admissibility of a confession, admission or statement made by the defendant

Wade-Gilbert-Stovell Hearing determines the fairness of the eyewitness identification of a defendant

Learning Outcome #5
 Explain Three Types of Pre-Trial Hearings.

Identify Three Types of Pre-trial Hearings

The motion to suppress may be handled without a hearing if the District Attorney and the defense attorney agree to the facts in the case. This is not often done, however. If a hearing is conducted, you, as the arresting officer, will be called as a witness. The reason that the motion to suppress is so important is because, if the defense counsel is successful, the evidence sought to be admitted by the People will not be admissible as evidence in the case. This often means that the case is won or lost at the suppression hearing.

Example: A police officer arrests and charges a defendant for criminal possession of a weapon. If the defense counsel is successful in a suppression motion, the court will rule that the gun cannot be introduced in court as evidence. Without the gun being introduced as evidence, it is almost impossible to prove the crime of criminal possession of a weapon. In gun cases, if the defense counsel wins at the suppression hearing, the District Attorney will drop the charge against the defendant. On the other hand, if the People win, the defendant will often edge towards entering a plea of guilty. This is because he knows that once the court rules that the weapon is admissible, the People will have an easier time establishing their case.

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The following are the most common pretrial hearings:

Mapp Hearing: A hearing conducted prior to trial, a Mapp Hearing, determines whether physical evidence to be presented at trial was legally or illegally seized.

Huntley Hearing: Also conducted prior to trial, a Huntley Hearing is one in which the defendant asks the court to determine the admissibility of a confession, admission, or statement made by the defendant.

Wade-Gilbert-Stovell Hearing: This hearing determines the fairness of the eyewitness identification of a defendant. This will usually follow a lineup or show-up at which the defendant was identified by a witness or the victim.

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OVERVIEW OF A TRIAL

- Understand the theory of the case.
- Prepare the case with the A.D.A. before trial.
- Retrieve all physical evidence to be presented at trial.
- Maintain professional appearance and demeanor at all times.

Learning Outcome #6
Demonstrate the Principles of Proper Trial Preparation and Testimony.

Demonstrate the Principles of Proper Trial Preparation and Testimony

The ability of a witness to testify effectively is enhanced when the witness understands the purpose for which he or she is called and where his or her testimony fits into the case as a whole. Officer testimony is like a piece in a jigsaw puzzle: taken by itself, it may seem to lack a coherent meaning, but put in context with other pieces, it forms a clear picture. It is up to the A.D.A. to show the police officer exactly where their piece of the puzzle fits. In addition to having his or her own theory of the case, an experienced A.D.A will often be able to anticipate the approach the defense will take. He or she will be able to help the officer prepare for the exact type of cross-examination faced in the courtroom. The police officer's testimony may take on a different character depending on the nature of the defense claim.

The educational function of pretrial preparation is not just a one-way street. The officer is as much an expert in their profession of law enforcement as the A.D.A. is in the legal arena. Officers can, therefore, add to the strength of the People's case with the information provided to the prosecutor during preparation.

Police officer witnesses can educate the prosecutor on such topics as routine police actions, the requirements of the Patrol Guide, and the many types of reports that may

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be filed on a given case. An experienced police officer who knows "the street" can often help a prosecutor understand the motives and methods of those who commit crimes.

Where the officer has had an ongoing relationship with the defendant, he or she can illuminate the defendant's family relationships and prior conduct for the benefit of the A.D.A. The prosecutor will then have to decide which portions of the defendant's criminal past he or she will use in court.

The police officer conveys vital information to the Assistant District Attorney in another, very basic way: by bringing to the prosecutor's office ALL reports, memoranda, documents and scratch notes connected with the case. The A.D.A. will use all of this to help the officer refresh their recollection of events, and will also determine which documents he or she intends to introduce at trial.

The initial meeting between the police officer and the A.D.A. assigned to the case is critical. It is at this meeting that the facts of the arrest/incident are conveyed to the A.D.A. assigned to the case. The officer must attempt to relate all the facts. If he or she is unsure about whether a particular detail is important, the A.D.A. should be allowed to decide. ALL paperwork related to the case must be given to the assigned A.D.A. If, during the course of the trial, a police officer recalls previously forgotten information, this information should be immediately related to the assigned A.D.A. If a police officer either failed or simply forgot to disclose a certain fact or detail, he or she should admit this at trial. Failure to do so will only serve to taint everything else the officer says.

Sometimes an Arrest Report will differ from a Complaint Report in some particulars. It is up to the officer to point out any such discrepancies to the Assistant District Attorney so that they can be explained at trial. A discrepancy may be a simple mistake, or it may have a reasonable explanation. The important thing is that the A.D.A. be forewarned, so that the discrepancy does not come as a surprise, but can be dealt with at trial.

The arresting officer will be designated to retrieve all physical evidence from the Property Clerk and bring it to court. Vouchers should accompany all items. The A.D.A. will review the paperwork with the officer, and prepare them to testify, with emphasis on establishing the "chain of custody". The officer should be able to account for the property at every stage of these proceedings.

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PROPER TESTIMONY AND TRIAL PREPARATION

- Appearance
 - Uniformed or plainclothes.
 - Clean and pressed clothing.
 - Convey professionalism.
- Demeanor
 - Attitude should convey confidence, respect, and neutrality towards both attorneys.
 - Look at the jury.
 - Answer questions with calm sincerity.

A professional appearance is essential to being an effective police witness. Jurors expect a police officer to be more objective, more competent, and more impressive than a civilian witness. Department policy requires that an officer assigned to patrol must wear his or her uniform to court unless he or she is off-duty, on sick report, or is authorized by the commanding officer to be out of uniform. When a member of the service appears in court in uniform, the uniform should be clean and pressed. Any and all citations should be worn above your shield. You earned them - let the jurors see that you are an experienced officer who has been commended by the Department. Civilian jurors are impressed by citations; the A.D.A. may even ask you to explain them to the jury in order to enhance your position as a seasoned officer. If you are appearing in court in civilian clothes, your attire should present a professional, essentially conservative image. Think of yourself as dressing for a job interview at a bank. Business suits are appropriate for witnesses for either sex. However, a sports jacket and slacks, providing they are conservative in cut and color, are also permissible for men; a tie is mandatory.

The way an officer behaves in court is at least as important as the way he or she dresses in creating an impression on the jury. One vital rule about proper courtroom demeanor is that it begins the minute you enter the courthouse. Your overall attitude

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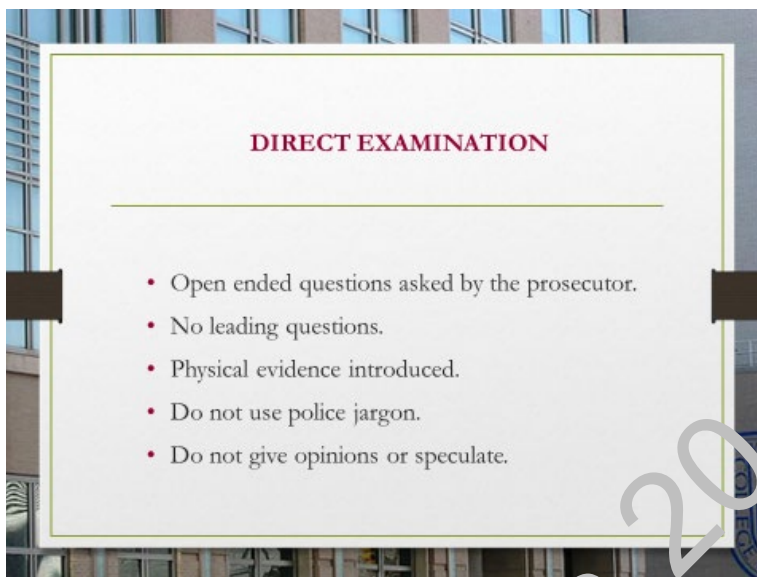
should be a combination of confidence about the accuracy of your own testimony, respect for the court, and neutrality toward both attorneys. Showing too much friendliness toward the A.D.A. or displaying hostility toward the defense lawyer will cast doubt upon your objectivity.

As much as possible, you should try to look at the jury when testifying. Keep your voice up. Answer all questions with the same calm sincerity, appearing concerned and interested at all times. Listen carefully to all questions and take time to consider your answer. You may ask that a question be repeated or clarified if you did not understand it. Answer only the question asked, without volunteering information not requested. If a question CANNOT be answered "yes" or "no", you may ask the judge for permission to expand your reply.

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Direct examination is the initial part of trial that the police officer will be participating in. Straightforward, open-ended questions are asked ("And then what happened?"). The witness answers, telling his or her story in a direct, chronological fashion.

The key to persuasive direct testimony is good preparation. When the A.D.A. asks, "What, if anything, did you do then?", you must have some idea what particular aspect of your activities he or she wants you to mention. The way to achieve this certainty is through thorough pretrial discussion with the prosecution.

The A.D.A. is not permitted to ask leading questions of his or her own witness. He or she cannot ask questions that point to a single answer ("The defendant told you he was guilty, didn't he?"), but must instead make open-ended queries ("Did the defendant say anything to you?"). This is another reason why preparation is needed: the A.D.A. will not be able to guide your answers by asking suggestive questions.

Most physical evidence is introduced on direct examination. When you are presented with physical evidence ("Officer, I will show you a weapon. Do you recognize it?"), take care to examine it before you give your answer. You may tell the A.D.A. "I'd like to examine it," before committing yourself.

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When looking at the evidence, note any identifying marks you made when vouchering the evidence. This will enable you to establish the first link in the chain of custody that will allow the item to be introduced into evidence. You may need to refresh your recollection from the voucher or the ballistics report; do not hesitate to ask the court's permission to look at relevant documents.

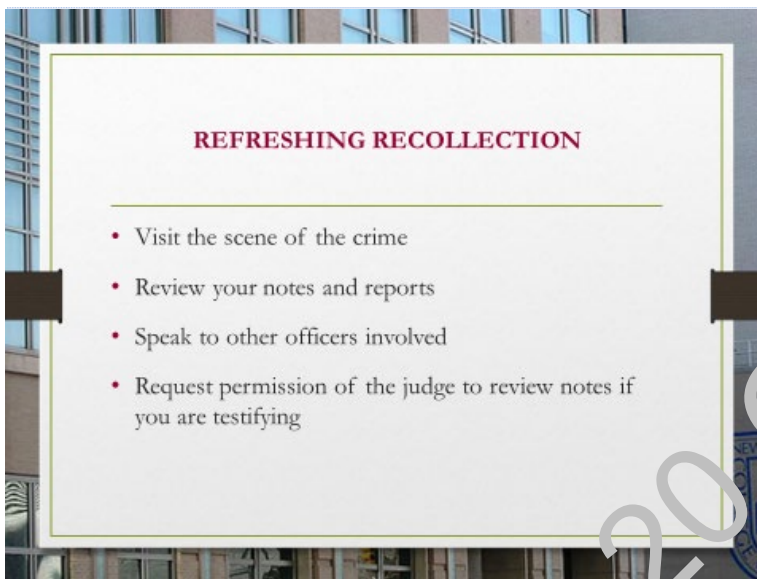
During your testimony, the defense attorney may object to certain questions asked by the A.D.A. When this happens, STOP. Only after the judge rules on the objection should you resume your answer, following whatever ruling the judge makes. If the judge sustains the objection, you cannot answer. If he overrules the objection, you can answer. Under no circumstances should you react to the court's ruling, favorably or unfavorably.

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Although the Assistant District Attorney will help you reconstruct the events about which you will be testifying, in the final analysis it is YOUR memory that is being refreshed. Any memory aids that will help you to recapture a vivid and complete recollection should be used. For instance, if it is possible to visit the scene of the crime or arrest, this may help you recall such details as the physical layout and lighting conditions.

Reviewing your own and other officer's paperwork is another way to trigger your recollection. You may wish to discuss the case generally with your partner, or other fellow officers who were present on the scene. **BE CAREFUL:** The idea is to refresh YOUR OWN memory, not to conform your testimony to what someone else saw or heard. Too much discussion among police officers may result in testimony that seems tailored to a jury. If there are minor discrepancies among the police officers and yourself, don't worry about it. Nothing in real life is ever perfect, and an experienced A.D.A. can handle it during the course of the trial. If you do consult with others, it is permissible to admit to the court that you conferred with fellow officers.

During your testimony you may also refresh your recollection by briefly reviewing any material you have brought with you to court. Your paperwork should be kept neatly

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organized in a folder that you can place next to you on the witness stand. You should not hold the folder and fidget with your paperwork while testifying, as this will convey nervousness to the jury. If you cannot remember a specific detail to properly answer a question, you may ask the judge if you can refresh your recollection by referring to your notes, paperwork, Activity Log or anything else that would help you remember the answer. If given permission by the judge you may view these items briefly, then put them away and give your answer. You may NOT read aloud from any documents in your possession unless the specific item you are reading from has been admitted into evidence.

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TESTIMONY PITFALLS

- Review all reports and be aware of discrepancies.
- Ensure that all discrepancies are pointed out to the A.D.A. before trial.
- Realize that discrepancies are normal, and often expected.
- Defense will try to exploit discrepancies.
- **NO CASE IS WORTH PERJURY.** Do not lie to explain away discrepancies.

TESTIMONY PITFALLS

- Do not speak like a police report. Use common terminology.
 - Examples: Marked patrol car vs. RMP, 3pm vs 1500 hours.
- Do not speculate or give an opinion.
- "I don't recall" should be rarely used.
- Paint a picture for the jury with your testimony.

There are some pitfalls that police officers should be aware of when testifying in court. The first pitfall is the tendency to talk like a police report instead of a person. Some officers do this in the mistaken belief that they sound more professional; others paraphrase the arrest report because they have been inadequately prepared.

Other potential problems on direct examination include opinion evidence, speculation, and "background" material. In general, a witness testifies to facts, not opinions. Thus, you must tell the court: "The defendant turned and ran away after I announced myself and told him to stop." You are not permitted to give your opinion that "he intended to flee." He may well have intended to flee, but how would you know whether this was so? You have no way to get into his head and to determine his intent. Instead, it will be up to the jury to determine whether he intended to flee based on the facts you present to them. In this example, the only fact you can present is that he fled.

Expert witnesses are an exception to this rule. Fingerprint technicians, ballistics experts, and any police officer who can demonstrate specialized technical training may be qualified as an expert. For example, police officers who have received courses in gun games may be permitted to give an expert opinion as to whether words said by the defendant constituted the opening moves in a well-known fraudulent accounting scheme.

Speculation is also precluded. You may have reason to believe that the defendant's behavior indicated intent to commit a crime; but you may not say so. One exception is that in testifying at a suppression hearing about probable cause to search or arrest, you may tell the judge that you acted upon a reasonable belief that the defendant was committing or about to commit a crime.



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It goes without saying that a police officer should thoroughly review all forms and notes before testifying. These notes include (but are not limited to) Complaint Reports, Complaint Report Worksheets, Online Booking System Worksheets, Activity Log entries, etc. The police officer/witness should also review his or her testimony with the A.D.A. Police officer/witnesses should refresh their own memories only. Police officer/witnesses should not be afraid to use the term approximately when they're unsure about exact figures or measurements. If a police officer forgot about a particular detail he or she must admit, "I don't recall," at the same time, he or she should anticipate and be prepared to testify about anything he or she may be asked to recall, so that this phrase is used only rarely.

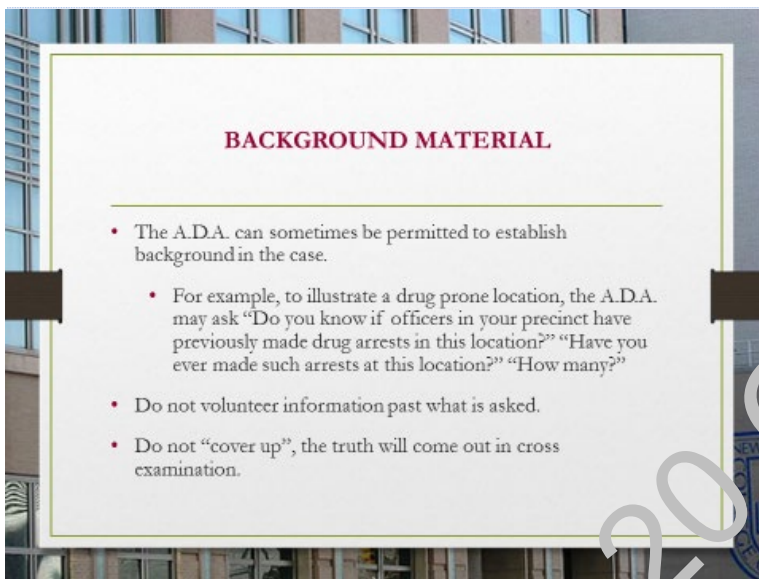
Complicated cases can give rise to numerous, somewhat technical, discrepancies. Discrepancies are normal and even expected. The jury would be surprised if absolutely everything proceeded along in a textbook fashion. Only a police officer's honest and truthful response could impress the jury enough that they could overlook minor (and ultimately unimportant) discrepancies regarding various elements of testimony. The defense attorney will attempt to exploit minor discrepancies, i.e. a difference between two arrest times - one on the Online Booking System Worksheet, and one in the officer's Activity Log. Once again, the best course of action a police officer could take is to simply answer clearly and truthfully as much as his or her memory allows. Going "head to head" with a defense attorney is NOT the answer: when you do this, juries begin to believe that you are more interested in beating the defense attorney than in whether justice is accomplished. Don't fight with the defense attorney and, certainly, keep in mind that **NO CASE IS WORTH PERJURY**.

The main point of working to enhance your memory of events is to transform the dry words of your police reports into a vivid picture that the jurors can SEE. A police officer who testifies like a reading Complaint Report is far less effective than one who can recount the sights, sounds, and smells he or she actually experienced. Trials take place in sheltered courtrooms, under artificial lights. Letting the jurors HEAR the breaking glass, SEE the blood flowing from the victim's head, and SMELL the P.C.P. in the defendant's car; this brings them out of the calm of the courtroom and into the reality of your experience. The more concrete details you can include in your testimony, the more believable your account will be to a jury.

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You may know for a fact that a certain location is a “drug prone area”, and that the defendant’s presence in such an area indicated criminal intent. It is important that you be able to tell the jury WHY you believe the area is drug prone. For example, arrest statistics or observations of drug sales would be better than mere assertions. In some cases, the A.D.A. will be permitted to establish background (e.g., “Do you know whether the officers in your precinct have previously made drug arrests at this location?” “Have you previously made such arrests at this location?” “How many?”). In other cases, the judge will rule that background information is too prejudicial to be heard by the jury. The best way to handle this type of testimony is to clear it with the A.D.A. before trial.

Everything that is said on direct examination is subject to further questioning by defense counsel on cross-examination. Volunteering information not asked for by the A.D.A. can give the defense attorney an extra line of questioning he or she might not have known about. Giving overly precise information when you are not really as certain as you sound (“The defendant was standing exactly 17-1/2 inches away from me at the time.”) can give the defense lawyer an edge on cross-examination (“Officer, you didn’t measure that distance, did you? Could it have been 15 inches? 20 inches? 17-3/4 inches? You’re not really sure HOW far away the defendant was, are you?”).

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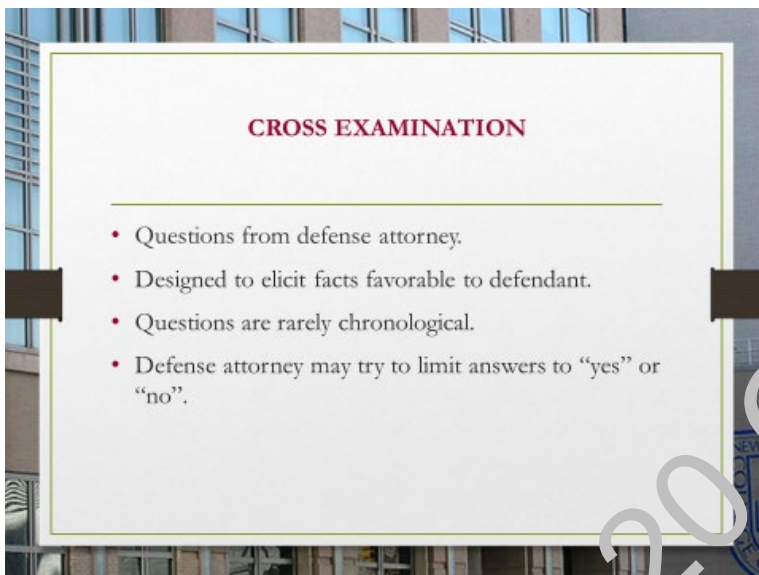
Remember, it is perfectly alright to use words like "about" and "approximately" when describing times and distances, unless you are certain as to the precise numbers.

In cases where physical force was used to effect an arrest, there may be a natural tendency to play down the amount of force employed. This will definitely boomerang on cross-examination when the defense attorney questions you about injuries sustained by the defendant. If force was required, don't be afraid to state exactly what you did and what the defendant did to necessitate your actions. Trying to "cover up" will only make things worse when the truth comes out on cross-examination.

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Cross-examination is designed to lay the foundation for the arguments the lawyer intends to advance in summation. Each cross question is a building block for the structure to be built in summation.

For example: You arrested the defendant for robbery, recovering and vouching a sum of money. Although a gun was used in the crime, you found no weapon on the defendant, who was arrested some fifteen minutes after the robbery. The complainant identified the defendant in an on-scene show-up.

Defense counsel's questions will be designed to demonstrate to the jury those facts in the defendant's favor: That you did not see the robbery; that the gun was not found on the defendant; that the money may have come from somewhere other than the victim's cash register; and that the defendant was the only person shown to the complainant at the time of identification.

Defense attorneys may ask if you spoke with the A.D.A or fellow officers about the case before trial and imply that doing so is improper. That is not true, as stated earlier in this chapter, preparing the case with the A.D.A is not only proper but essential.

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A defense attorney may seem either friendly or hostile. One who seems angry does so to make the police officer look bad in front of the jury. He wants a hostile response. Police officers must remain cool, detached and professional. Courtroom demeanor will tell the jury a great deal. **DO NOT ALLOW YOURSELF TO BE PROVOKED TO ANGER.** When you do this, you give the defense attorney the opportunity to suggest that your bad temper was the real cause of the arrest of his or her client.

One simple rule to keep in mind during cross-examination: The facts are the facts. If there was no gun recovered, you must say so frankly and forthrightly. If a search of the area was conducted, and still no gun was found, you must admit that fact. If no search was made, there is no choice but to say so and let the jury draw the inference that the police work was less than perfect.

Unlike direct, cross-examination is rarely chronological. The cross-examiner's purpose is to chip away at the incriminating facts presented on direct; to highlight those elements favorable to the defense; and to underscore any omissions, inconsistencies, and mistakes that tend to cast doubt on the People's case. The last thing in the world the defense lawyer wants you to do is repeat the smoothly flowing, extremely damaging narrative you delivered on direct.

When testifying in court, the witness officer should always listen carefully to every question, making certain they understand it fully before answering. Officers should think before speaking, and respond in a calm deliberate voice that refuses to be hurried by the defense lawyer's haste. Getting caught up in the lawyer's machine gun rhythm can open the door to mistakes and inconsistencies, as answers can be given with insufficient reflection.

Another common area of questioning is the kind of inquiry designed to convey to the jury the impression that the police officer is interested in the outcome of the case. The questions may center on a supposed bias held toward the defendant or upon the notion that the officer will earn promotions or commendations through making arrests, especially those that result in convictions. The best response is to answer such questions truthfully and dispassionately, without displaying outrage or becoming defensive.

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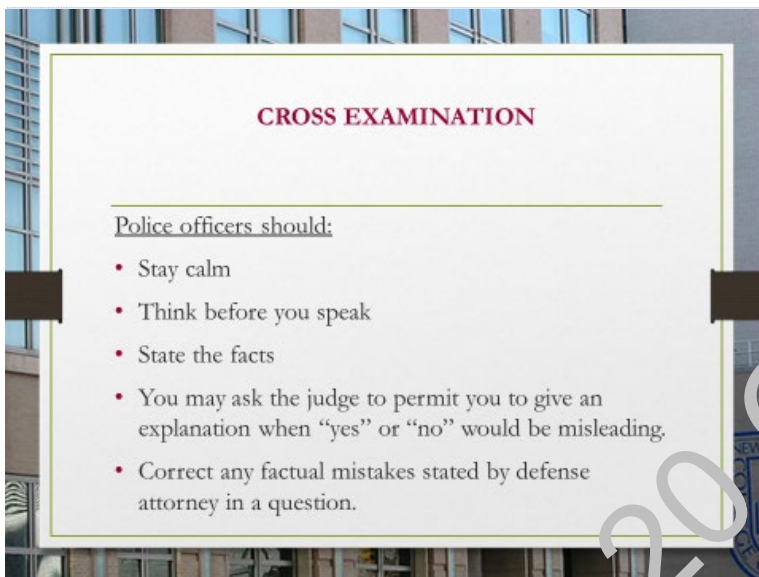
Defense lawyers often make a point of asking police officers about police work not done during the course of an investigation. For example, a failure to take fingerprints at a crime scene or to "dust" a gun for prints can be used to infer that, had prints been taken, they would not have been those of the defendant.

However, once again, the facts are the facts. If it is possible to explain the failure to take fingerprints, either because the surface was not printable or Department policy did not call for a crime scene investigation, the officer should be able to testify to that effect. This is where thorough preparation with the A.D.A. pays off. Together, the officer and the prosecutor will have anticipated this line of questioning and discussed the best way to answer.

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Questions about time and distance can cause difficulty on cross-examination. For example: On direct, the officer testified that the defendant was for a period of "two minutes". The cross-examiner breaks down this time, asking when the officer first noticed the defendant, how long it took him to walk from one place to another, and whether the officer's attention was distracted from him at any time. When the questioning is completed, the jury may be asked to infer that the officer merely saw the defendant's facial features for only ten seconds out of that original two minutes.

"Answer yes or no" is a phrase that begins a great many questions asked on cross-examination. It can be frustrating at times to compress a complex answer into the simple "yes or no" the cross-examiner prefers. Yet, when officers can reply with a yes or no, it should be done, knowing that the A.D.A. will have the opportunity on redirect to expand on the answer. In those cases where the testifying officer honestly believes that a yes or no response would be so incomplete as to mislead the jury, the officer may courteously ask the court for permission to add an explanation to the reply.

There are some questions officers do not have to answer in the form in which they are asked. The testifying officer may request the judge to separate a compound question; ("Did you arrest the defendant, handcuff him, and place him in the patrol car?" should

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be asked in three separate inquiries). The officer may ask to have a missed question repeated, or to have a confusing question explained.

Occasionally, a less-than-scrupulous defense lawyer will incorporate a false premise into a question in order to obtain a misleading answer.

Example: The officer has testified all along that the defendant was in a blue car. On cross, they are asked, "When the green car turned the corner, didn't you follow it?" The testifying officer must, first, listen carefully to the question so that the discrepancy is noted. Then they may reply, "The car I saw was blue, not green."

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WHY DOESN'T THE A.D.A. OBJECT?

- Objections must be made on proper legal grounds.
- Hostile questioning may not rise to the level of "badgering the witness".
- The A.D.A. does not want to create the impression they are protecting you.

RE-DIRECT

- A.D.A. asks questions to clarify certain points raised during cross examination.

RE-CROSS

- Defense lawyer asks questions limited to matters raised on re-direct.

Objections

Many police officers have a question in the back of their minds when they endure a blistering cross-examination from defense counsel: "Why doesn't the A.D.A. object?" There are two reasons why the A.D.A. may not intervene. One is that objections must be made on proper legal grounds. Tough, hostile questioning that does not rise to the level of "badgering the witness" is not objectionable. The second reason is that the A.D.A. would much rather have the jurors see the officer handling the questions by themselves than create the impression that he or she is protecting the officer by jumping to their defense when the questions get tough. Painful as it is in the short run to be the object of a stinging cross-examination, in the long run a professional demeanor will do more than any number of A.D.A. objections to convince the jury that testimony given is honest and objective.

Re-direct and Re-cross

No further questions. With that statement, the defense attorney concludes his or her cross-examination. The officer experiences a surge of relief, thinking that the worst is over.

The job as a witness, however, is not finished. The Assistant District Attorney may have more questions on re-direct examination. Redirect is the officer's opportunity to give the full explanation that they were not permitted to present on cross. Now the officer CAN tell the jury why no fingerprints were taken at the scene, or explain the troubling discrepancy between the arrest report and the voucher. The officer can tell the jury what happened in plain English, and explain details that need further clarification.

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Re-direct is not designed to repeat the entire direct, but is limited to matters raised on cross. The A.D.A.'s focus will be to clarify points that are unclear and to explain items that might otherwise score points for the defense on summation. The A.D.A. will not belabor items he or she considers adequately established and may fail to ask questions you are expecting. If this happens, it will be a signal that the A.D.A. feels that the initial answers on cross-examination were strong enough to need no further explanation to the jury.

The disciplined professionalism an officer brings to the courtroom should stay with them at all times. Police officers are working even when they are not actually answering questions. Thus, it is important to conceal from the jury whatever sense of relief an officer may feel at the close of testimony. Even if the cross-examination was a grueling ordeal, the jury should see the officer step from the stand in an unhurried manner. Smiles, winks, or victory signals should never pass between the testifying officer, the A.D.A., or other officers.

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DEFINITIONS

OATH: affirmation attesting to the truth of what is stated

TESTIMONY: oral statement made under oath in an official proceeding

SWEAR FALSELY: intentionally making a false statement you do not believe to be true, during testimony, or in a sworn written statement

**PERJURY 3RD DEGREE- MISDEMEANOR
(P.L. 210.05)**

WHEN A PERSON SWEARS FALSELY and the statement is not material to the proceeding.

Learning Outcome #7
 Explain the Penal Law Offenses of Perjury and Tampering with Physical Evidence.

Explain the Penal Law Offenses of Perjury and Tampering with Physical Evidence

Definitions of Terms Related to Perjury (P.L. 210.00)

Testimony: an oral statement made under oath in a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer the oath or cause it to be administered.

Oath: includes an affirmation and every other means authorized by law of attesting to the truth of what is stated.

Swear Falsely: is an offense that occurs when a person intentionally makes a false statement that he or she does not believe to be true, either while giving testimony OR under oath in a signed written instrument.

Note: A false swearing in a signed written instrument shall not be deemed complete until the instrument is delivered by its signer, or by someone acting in his or her behalf, to another person, with intent that it be used as true.

Perjury in the 3rd degree – Misdemeanor (P.L. 210.05)

Perjury in the third degree occurs when a person swears falsely. It does not require that the false statement be material to the issues of the case. In other words, the false statement will have no effect on the outcome of the trial. This false statement may be made while giving testimony or under oath in a signed written instrument.

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Example: A witness testifies that he saw a street crime occur while he was taking a solitary walk on the street when, in fact, he was out on a date with a woman who was not his wife. This is a false statement, but it has no bearing whatsoever on the facts in issue at the trial.

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PERJURY 2ND DEGREE – FELONY
(P.L. 210.10)

A PERSON SWEARS FALSELY AND THE FALSE STATEMENT IS

A SIGNED WRITTEN STATEMENT MADE UNDER OATH

INTENDING TO MISLEAD A PUBLIC SERVANT MATERIAL TO THE PROCEEDING

PERJURY 1ST DEGREE – FELONY
(P.L. 210.15)

A PERSON SWEARS FALSELY AND THE FALSE STATEMENT CONSISTS OF

- TESTIMONY

AND

- IS MATERIAL TO THE ACTION, PROCEEDING OR MATTER IN WHICH IT IS MADE

Perjury in the 2nd degree – Felony (P.L. 210.10)

This occurs when a person swears falsely and when his or her false statement is:

1. made in a signed written instrument for which an oath is required by law;
AND
2. made with intent to mislead a public servant in the performance of his or her official functions;
AND
3. is material to the action, proceeding or matter involved.

Example: A police officer signs a Criminal Court Complaint which states that he saw the defendant with a gun in his hand when, in fact, he saw the gun on the ground.

Perjury in the 1st degree – Felony (P.L. 210.15)

This occurs when a person swears falsely and his false statement consists of

- a. testimony
AND
- b. is material to the action, proceeding or matter in which it is made

Example: A police officer testifies in a hearing/trial that that he recovered a gun pursuant to doing a vehicle inventory of a car at the station house when in fact he recovered the weapon from the trunk of the car during an illegal search of the vehicle on the street.

Instructor Notes:



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HOW TO AVOID PERJURY

- Take notes after every arrest.
- Tell the truth.
- **CAREFULLY READ ALL STATEMENTS BEFORE SIGNING ACCUSATORY INSTRUMENTS !**
- Never try to improve a case by adding facts.
- If you are unsure of a particular fact, be honest and tell the A.D.A. in advance.

HOW TO AVOID PERJURY

When you are assigned an arrest by a supervisor and you did not witness the actual offense, ensure that the affidavit does not indicate you witnessed the offense.

The affidavit you sign should state:
"The deponent was informed by..."

Most arrests result in the preparation of an Affidavit or Criminal Complaint. The information in the complaint is dictated by an A.D.A. Officers must never sign anything, particularly an accusatory instrument, without reading its contents. It may contain a mistake of fact. If it does, there may be a problem when testifying later. The A.D.A. knows the law better than you do, but nobody knows the facts of the arrests better than the arresting officer – be sure that they are stated accurately.

The temptation to perjure yourself may sometimes be strong. If an officer observes a defendant engage in some activity that arouses his or her suspicion and the officer searches the defendant illegally and finds narcotics in the defendant's pockets, the officer is presented with a problem. The search was clearly illegal, but the officer may feel that justice would best be served by testifying that the defendant dropped the narcotics in the street as the officer approached. If the officer does so, he or she would be committing perjury.

Another situation that occurs quite often is when the police officer is in pursuit of a suspect. The officer is certain that the defendant is guilty and testifies that he or she never lost sight of the defendant from the scene of the crime up to the eventual arrest. If this is not true, he or she is committing perjury.

Instructor Notes:



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To Avoid These Situations Simply Follow These Rules:

- Take careful notes as soon as possible after making an arrest.
- Tell the truth.
- Carefully read all statements before signing.
- Never try to improve the case by adding facts that are not true.

If the officer is uncertain of any details, make it known to the Assistant District Attorney. Testify only to those things of which you are sure. If uncertain, state it to the court.

If you are assigned an arrest by a supervisor and you did not witness the incident, the accusatory instrument that you sign and all accompanying paperwork should state “the deponent was informed by police officer/sergeant/lieutenant...” and should never imply that you witnessed an incident when you in fact did not.

Note: When signing any type of accusatory instrument, you are affirming as to the truthfulness and accuracy of the facts contained therein. Before signing it you must be certain that the facts are true and accurate to the best of your knowledge. A personal service summons, such as a “C” summons for disorderly conduct or an Environmental Control Board Notice of Violation should never be signed in advance. These summonses should be signed only at the time of issuance. When completed, accusatory instruments that are prepared by another person on your behalf (that is, an Affidavit or Complaint which may be typed for you by court personnel) should be carefully proofread before signing to ensure accuracy.

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DEFINITIONS

- **PHYSICAL EVIDENCE:** any article, object, document, record or other thing of physical substance produced or used as evidence in an official proceeding
- **OFFICIAL PROCEEDING:** any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received

**TAMPERING WITH PHYSICAL EVIDENCE FELONY
(PL 215.40)**

WITH INTENT THAT IT BE USED IN AN OFFICIAL PROCEEDING, A PERSON...

- Knowingly makes, devises or prepares false physical evidence
- or
- Produces or offers such evidence at such a proceeding knowing that it is false
- or
- Believing certain physical evidence is about to be produced in an official proceeding, intending to prevent its production, he suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person.

Definitions of Terms Related to Tampering with Physical Evidence

Physical Evidence: any article, object, document, record or other thing of physical substance that is produced or used as evidence in any official proceeding.

Official Proceeding: any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received.

Tampering With Physical Evidence (P.L. 215.40)

Considering the importance of physical evidence in the prosecution of a criminal case, officers should be aware of the ramifications of tampering with physical evidence. Tampering with physical evidence is a felony and can be committed in three ways.

Tampering with Physical Evidence - With intent that it be used or introduced in an official proceeding, he or she:

1. Knowingly makes, devises or prepares false physical evidence; OR
2. Produces or offers such evidence at such a proceeding knowing it to be false; OR
3. Believing that certain physical evidence is about to be produced or used in an official proceeding or a prospective official proceeding, and intending to prevent such production or use, he or she suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person

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APPEARING IN TRAFFIC COURT

- Should have detailed notes to recreate the incident
- Must bring activity log and copy of summons.
- May refer to activity log and summons as an aid when testifying.
- Failure to bring these items may result in departmental discipline.

Learning Outcome #8
 Describe the Elements of Proper Traffic Court Testimony.

Describe the Elements of Proper Traffic Court Testimony

You must report to traffic court with your Activity Log and a copy of the relevant summons. Failure to bring these items may result in Departmental discipline. Uniformed members of the service must be able to testify to all facts stated on the summons (for example, the time of day, the location, etc.). This is especially true if the summons is issued for a signal light violation. An officer must be able to testify as to where traffic control devices were. It is strongly suggested that the officer draw a diagram of the intersection illustrating the position of the traffic control devices controlling the intersection and be able to show:

1. The direction traveled by the violator's vehicle;
2. Which directions were controlled by traffic control devices;
3. Where the officer was positioned when the violation was observed;
4. The exact location of any crosswalk or stop line at any given intersection.

Note: This diagram can be drawn on the rear (unlined) side of your Activity Log page.

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Officers' Testimony Should Address the Following Important Points:

1. The date, time and location of the offense;
2. The officer's location at the time of the offense;
3. The officer's assignment;
4. Weather conditions;
5. Road conditions and visibility;
6. A description of the area (traffic control device, commercial, residential, highway);
7. The location and direction of the R.M.P. (Exact location of officer when on foot patrol);
8. The direction the motorist was traveling;
9. The name of the street/highway (Indicate whether one way/two way);
10. Exactly where the vehicle was stopped and the manner in which the driver was pulled over;
11. Constant observation of vehicle from initial time of violation to time vehicle stopped;
12. The relative distance of the violator's vehicle from the police officer at the time violation was observed;
13. A description of the vehicle (color, make, year, model and plate number);
14. Secondary characteristics of the vehicle (for example, raised rear end, side exhaust, thick racing tires, etc.);
15. Identification of the defendant as the driver of the vehicle and any other conduct;
16. Any conversation with the operator;
17. Elements of the offense (for example, the defendant's vehicle entered the crosswalk while the light was steady red and then proceeded through the intersection or the vehicle crossed the white stop line in the roadway);
18. A specific reference to the fact that a summons was issued.

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TRAFFIC COURT TESTIMONY

There are three major components of traffic court testimony:

- Introduce yourself and the location of the violation.
- Describe the facts and circumstances of the violation.
- Describe your interaction with the violator.

Components of Traffic Court Testimony

When providing traffic court testimony, officers are required to relate the series of events surrounding the violation exactly as they occurred. Therefore, such testimony should resemble a story, with a beginning, middle, and an end.

The Beginning: Introducing Yourself and the Location of the Violation

- a. Name, rank, shield number, and command;
- b. Time of violation;
- c. Date of violation;
- d. Location of violator's vehicle, including a description of the location (for example, a one-way street controlled by an overhanging traffic signal);
- e. Officer's position relative to violator's vehicle at time of violation (e.g., on north-east corner facing the stop sign).

The Middle: Describing the Facts and Circumstances of the Violation

- a. Provide defendant and vehicle information;

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- b. Observation of direction/distance of vehicle (for example, northbound on Third Avenue, approximately five car lengths from crosswalk);
- c. A statement that the officer observed that the traffic signal was functioning (The officer knows this because he or she saw it change from green to yellow to red, then back to green.);
- d. Statements regarding:
 - The number of passengers and where seated;
 - Weather conditions;
 - Other relevant road markings;
 - Any traffic agents directing traffic.

The End: Describing Your Interaction with the Violator

- a. Any statements made by the violator;
- b. Continuity of eye contact, length of observation;
- c. Summons served.

The issuance of a summons is not the final step, but it is an important one. The officer issuing the summons must document all of the facts regarding the violation(s).

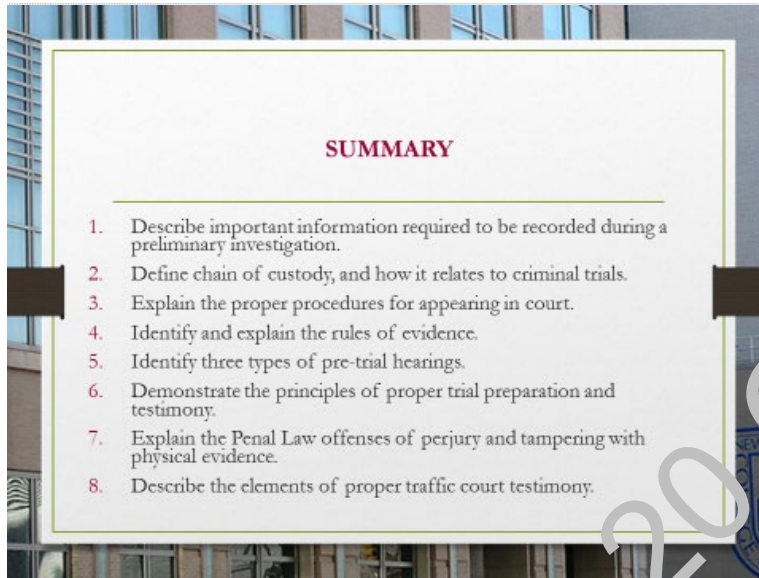
Remember to fill in all of the captions as required on the summons; an incomplete summons will cause a dismissal of the case in court. You are not required to retain a mental picture of the violator or to pick him or her out of a crowd, but you must be able to testify that, at the time of the summons, you were satisfied he or she was the person described on the license presented to you. During testimony, always remain calm, be polite and, most of all, do not become argumentative. As long as you have prepared your case properly you will be confident in yourself.

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Summary

1. Describe important information required to be recorded during a preliminary investigation.
2. Define chain of custody, and how it relates to criminal trials.
3. Explain the proper procedures for appearing in court.
4. Identify and explain the rules of evidence.
5. Identify three types of pre-trial hearings.
6. Demonstrate the principles of proper trial preparation and testimony.
7. Explain the Penal Law offenses of perjury and tampering with physical evidence.
8. Describe the elements of proper traffic court testimony.

Instructor Notes:



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~ CHAPTER 7 ~

Topics and concepts included in this chapter:

1. Important information required to be recorded during a preliminary investigation
2. Chain of custody and how it relates to criminal trials
3. Proper procedures for court appearances
4. The rules of evidence
5. Pretrial hearings
6. The principles of effective trial preparation and testimony
7. Penal Law offenses relating to perjury and tampering with physical evidence
8. Elements of proper traffic court testimony



Mandatory Patrol Guide Procedures

Court and Agency Appearances

P.G. 211-01	Duties and Conduct in Court
P.G. 211-04	Computerized Court Appearance Control System (CACs)
P.G. 211-05	Processing Notifications to Appear at Courts and other Government Agencies
P.G. 211-07	Prevention of Court Appearance on Scheduled Day Off

Mandatory Legal Bureau Bulletin

Vol. 46, No. 1, "The Rosario Rule - Duty to Preserve and Disclose Police Officer's Notes"

Vol. 47, No. 1, "Cross-Examination of Police Witnesses"





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PART I: INTRODUCTION

This chapter is designed to help you become an effective witness in judicial proceedings. Effective police witnesses are those who are able to articulate clearly, fully, and truthfully both the facts and circumstances of the matters that have brought them to court and their roles in these matters. Effective witnesses come to court prepared; they make certain that they have properly documented events and that they have properly processed any evidence for which they are responsible. Effective witnesses are aware of the strategies that may be used by opposing counsel to discredit them or trap them into phrasing their answers in ways that may mislead jurors.

Effective and honest police testimony is particularly important in our system of justice. In some countries, criminal justice systems are *inquisitorial*, which means that they are designed only to determine whether individuals committed the crimes of which they have been accused, and that they pay little or no attention to the manner in which the police collect evidence. In such places, there is no Bill of Rights: no right to be free from unreasonable search and seizure, no right to counsel at interrogation, and no right to decline to answer interrogators' questions. In such places, jurors or judges (in some countries there is no right to trial by jury) are free to infer that accused persons who do not take the witness stand in their own defense do so because they are guilty. In most such places, all that matters is whether the police can produce evidence of guilt. Indeed, in some such places, the burden of proof may not even be on the prosecutor – instead, accused persons may have the near impossible burden of proving that they did not commit the crimes with which they have been charged.

This is not the way our system works. Our system is *adversarial*, and places the burden of proof squarely on the prosecutor. Unlike inquisitorial systems, **our system draws a great distinction between factual guilt and legal guilt.** In our system, the only two outcomes of criminal trials generally are those in which prosecutors succeed in proving guilt beyond a reasonable doubt and those in which prosecutors fail to prove guilt beyond a reasonable doubt. Nobody is ever found *innocent* in our system because defendants do not have to prove their innocence: instead, they are either found guilty or not guilty. To prove guilt in our system, police and prosecutors must overcome a series of obstacles designed by our Founding Fathers to protect the freedoms they fought the Revolutionary War to gain.

In our system, prosecutors who fail to show that the evidence they introduce was obtained in compliance with the Bill of Rights cannot use the evidence, even though it may clearly show that defendants committed the crimes with which they have been charged. When this happens, people who are factually guilty cannot be proven legally guilty beyond a reasonable doubt, and are, therefore, released to prey on our citizens again. Thus, in our system, it is critically important that officers testify credibly, honestly,



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knowledgeably, and convincingly in criminal cases. Police testimony is evidence, and when evidence is presented improperly, it results in lost cases and injustice.

Although most police testimony occurs in criminal, juvenile, or traffic proceedings as a result of an officer's law enforcement actions, officers also testify in civil proceedings in which they, the Department, or others are the accused parties. In these cases as well, it is critical that officers know how to be effective, honest, and credible witnesses.

PART II: THE ROLE OF THE POLICE OFFICER

Effective police witnesses begin preparing their testimony from the instant they suspect that criminal activity may be occurring. They know that, from the moment they first take action, they may have to testify about everything they have seen and done. They know also that answers like "I don't recall" can be used to raise questions about their honesty, so they make it a point to imprint images of their actions deep into their memories and to document them carefully, as well. They take great pride in doing this in a way that reflects favorably on them and the Department, and that includes thorough mental and written recording of the facts.

Good preparation for court testimony encompasses the entire investigative process: the facts of the offense; location of the witnesses; discovering, preserving, and marking evidence; recording events that led to the apprehension of the defendant, and other incidents pertaining to the arrest.

One of the most important aspects of an investigation is the gathering of materials that may become evidence at a later trial. This includes the names and addresses of **all** potential witnesses, even if they appear to duplicate witnesses you already have. Taking note of details that you may be asked to recall later is a skill a good investigator must develop. The experienced officer learns to concentrate on seemingly minor items that may take on great importance from the witness stand.

You need to start doing this at the moment you become involved in any case, no matter how strong the case may seem. Keep in mind that nobody wants to go to jail and that, especially in serious cases, offenders are likely to try very hard to stay out of jail. This means that, ***the stronger the evidence in a case, the more likely it is that defense attorneys will try to attack your credibility by suggesting to jurors that you have left out information that might weaken the prosecution's case.***

Here's an example: Let's say that you and your partner come upon a fatal shooting that has taken place at 2200 hours on a public street, in front of 50 or more witnesses at a street fair. There you learn that several of these bystanders – mostly friends of the decedent – immediately jumped the shooter, disarmed him, and held him



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until you arrived. Let's say also that one of the bystanders, a friend of the dead man, gives you what he identifies as the shooter's gun. Then, you and your partner start interviewing these witnesses. After speaking to ten or so (all of whom knew the victim), you find that they all say essentially the same thing: that the victim was unarmed, and that the suspect shot him dead, in cold blood, during what apparently had been a heated argument. They also indicate that another man was with the shooter, but that he had fled the scene (the next day, you learn that the other man was the shooter's brother).

The worst thing you can do at this point is to conclude that you have gathered enough eyewitness evidence, and release the remaining 40 bystanders without at least learning who they were, what they saw, and how to get in touch with them. Good attorneys know that if they want to avoid surprises and to win their cases, they should never ask questions of witnesses unless they know in advance what the answers will be. If you were to send the remaining 40 witnesses on their way in this case, opposing counsel would almost certainly design a set of questions for you, knowing that the answers you would be compelled to give would make it appear as though you were both incompetent and dishonest. This would be likely to turn this apparently clear-cut case into one that involved reasonable doubt about the defendant's guilt. Consider the answers you would have to give to the following questions in our hypothetical case; consider also how your answers would affect the jury's view of the evidence and of you:

- Q. *Now, Officer, you testified that when you arrived, you found the defendant being held by five or six people, and that there were about 50 people in the immediate area, is that correct?*
- Q. *And some of these people told you that my client had shot the dead man, is that correct?*
- Q. *But you didn't see the shooting yourself, is that correct?*
- Q. *So the only things you know about the shooting are what these people told you?*
- Q. *How many of these people did you talk to?*
- Q. *And these ten people all told you the same thing?*
- Q. *What about the other 40 people? Did you talk to them?*
- Q. *So you want the jurors to believe that you let these 40 people go without talking to them or identifying them, and that the ten you did talk to all said the same thing?*
- Q. *Now these ten all were friends of the dead man, is that correct?*
- Q. *So you can tell us that, but you can't tell us anything about the other 40?*



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- Q. *You can't tell us whether these 40 people were also friends of the dead man, can you?*
- Q. *Is that the way you were trained, Officer? To interview only friends of victims and to let everybody else go without finding out who they were and what they had seen?*
- Q. *I have the NYPD's **Police Student's Guide** here, Officer. I'd like to show it to you and to ask you whether you can find in it anything that says that you should interview only friends of dead people and let everybody else go. Can you do that for me?*
- Q. *Can you give me the names of any Police Academy instructors who taught you that it was proper to let 40 witnesses leave a homicide scene without finding out who they were and what they had to say?*
- Q. *And you obviously can't tell us whether these 40 people you conveniently let go would have told you the same story as the ten friends of the dead man whom you kept around, isn't that right?*
- Q. *You're aware that my client's brother has testified that the dead man and several of the people you interviewed attacked him and my client with knives, and that my client had shot the dead man in self-defense?*
- Q. *Did you find any knives on the scene?*
- Q. *No, you didn't find any knives. Did you even look for any knives?*
- Q. *You never searched any of these ten eyewitness friends of the dead man to see if they had knives?*
- Q. *It was ten o'clock at night when this shooting took place?*
- Q. *Was it dark?*
- Q. *Do you know whether it was too dark for anybody to have seen whether the dead man had a knife in his hand when he was shot?*
- Q. *Do you know whether the streetlights were on?*
- Q. *Can you describe them? Were they all working? Do you know where they were?*
- Q. *And you never questioned the other 40 people you let go to see whether they would tell you that these friends of the dead man had attacked my client and his brother with knives?*
- Q. *And you don't know who or where they are so that we could ask them now?*
- Q. *Did you ever see my client with the gun in this case?*



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Q. You found the gun in somebody else's hands, is that correct?

Q. Do you know whether my client's fingerprints were found on the gun?

Note: Because the gun had been forcibly taken from the shooter and then held by somebody else, it is extremely unlikely that the suspect's fingerprints would be found on this gun.

Q. So the only fingerprints you did find on the gun were those of the other man, is that right?

Q. So you did not see the shooting, and you never saw the gun in my client's hands, and you found no fingerprints to indicate that the gun had ever been in my client's hands, is that right?

Q. But then you locked up my client because the guy you did find holding the gun – and his friends – said that my client did the shooting?

Q. How do you know they are telling the truth? I can think of some reasons that they might lie about this. Can you?

As you can see, a line of questioning like this takes advantage of any investigative failure, and tries to use it to raise reasonable doubt about defendants' guilt. And, to avoid a conviction, the only thing that defense attorneys must do is to create such doubt in the mind of just one juror. The moral is simple: **when you go to court to testify, make sure that you are thoroughly knowledgeable about your case; that you have anticipated likely questions, and that you are prepared to testify honestly, confidently, and fully about any aspect of the case that might be raised in court.**

The process of discrediting witnesses in the eyes of the jury is known as **impeachment**. Be aware that, the stronger the case in which you are testifying, the more likely opposing counsel is to try to impeach you by making it appear to the jury that you are both incompetent and dishonest. Do not take this personally: the defense attorney is playing their part in the **adversarial** American justice system. Your part in this process is to keep opposing counsel from impeaching you by coming to court at least as ready as they are.

To do your job properly, you need to ensure that you have all the details of the case thoroughly recorded. This includes:

The Precise Time of Important Events

1. When the crime was committed;
2. Officer first received the call;
 - a. Officer responded to the scene;



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3. Officer arrived on the scene;
4. Officer first saw defendant;
5. Defendant taken into custody;
6. Any post-arrest identification by a witness; time & place;
7. Any post-arrest statements; time and place.

The Time Elapsed Between Important Events

1. In a chase situation, the time between the first sighting of the defendant and the time of their apprehension;
2. The time between statements made by defendants.

Layouts of Indoor Locations

1. Number of rooms;
2. Arrangement of furniture;
3. Condition of rooms (e.g., messy, neat, etc.);
4. Evidence of occupation (clothes in closets, food in refrigerator, pictures or diplomas on the wall, etc.);
5. Number of beds.

Configuration of Streets at Outdoor Locations

1. Intersections;
2. Direction of street (north/south/east/west);
3. Type of street (e.g., two way, dead-end, etc.).

Exact Street Addresses

1. Apartment number, floor;
2. Cross streets;
3. Location on block (middle, corner).

Lighting at Crime Scenes

1. Location of street lamps; are they in working order (assuming it's at night)?
2. Amount of natural light.

The Weather

1. Sunny/rainy;
2. Clear/overcast;
3. Warm/cold;
4. Rain/sleet.



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Physical Characteristics and Clothing of Suspects

1. Age;
2. Approximate height;
3. Approximate weight;
4. Description of face;
5. Description of hair;
6. Description of multiple articles of clothing;
7. Unusual features (tattoos, scars, etc.).

Statements Made by Defendants

1. Need not be a signed confession;
2. **Anything** the defendant says may be important. Get the full details of the statement, including:
 - a. Beginning time and ending time of statement;
 - b. Location;
 - c. Other witnesses (including officers);
 - d. Exact wording;
 - e. Circumstances of warnings given.

Exact Location of Seized Contraband

1. If recovered from the defendant's person, record the precise location (e.g., right front pants pocket).
2. If near defendant, distance between defendant and contraband (e.g., "located within six inches of defendant's foot"). The word *approximately* should be used.
3. If indoors, whether in plain view or hidden, and exactly where it was (e.g., on top of coffee table in living room, in top drawer of dresser), and whether other objects, tending to connect contraband with owner, were near (e.g., drawer contained women's clothing and passport for Irma Smith).

NAMES OF OTHER OFFICERS ASSIGNED TO CASE

Include their location, and what actions each officer performed (e.g., recovered property, interrogated the suspect). The officer assigned to secure a crime scene *must* make an *Activity Log entry* of the rank, name, and command of every person that enters the crime scene area.



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CHAIN OF CUSTODY

The presentation of physical evidence for use at trial is another crucial part of the investigation. *Chain of custody* means that from the time evidence has been seized to the time it is presented in court, there has been an unbroken record of the location of the evidence, thorough documentation of who has been responsible for it, and solid assurance that it has not been tampered with or otherwise tainted in any way. Because admissibility at trial depends upon an unbroken chain of custody from arresting officer to courtroom, the processing of evidence (invoicing) must be done meticulously. As few people as possible should handle physical property, especially contraband. The officer who seizes it, either from the defendant or the location, should therefore, invoice it at once. Under no circumstances should evidence from different defendants be combined on one invoice. *Chain of custody is one of the most fertile areas of trial for the defense attorney to cast doubt on the prosecution's case; only meticulous attention to detail will insure the admissibility of the physical evidence that will help convict the defendant.*

When in doubt as to the relevance of physical evidence, INVOICE IT! Property can always be returned, but an item not invoiced at the proper time can leave a hole in the prosecution's case.

RECORDING THE FACTS

Note taking should begin at once. Your Activity Log should begin to contain entries recording your observations as soon as practicable. Many police officers believe that their Activity Logs contain confidential or highly secret information. They feel that since they made the record, it is their personal record and no one else has the right to see it. In fact, nothing could be further from the truth. You are a public servant and as such the records you make are public records. You should keep this in mind when you make your Activity Log entries. While writing them, be aware that there is a good possibility that these records will be produced in a court of law and may even be read to the judge or jury. On occasion, officers have even been surprised to find that their requests for Departmental recognition have been obtained by defense attorneys, and when they embellish the facts, the requests have been used to impeach officers' accounts of arrests. It is a better practice to wait until the case is over, before submitting a request for Departmental recognition.

Thorough Activity Log entries should read like testimony. There should be a minimum number of conclusions and a maximum number of details. Remember that it is the details, even ones considered insignificant, that will convince the court or jury that you are telling the truth and that the defendants are guilty of the crime for which you have arrested them. At the very minimum, your Activity Log entry should contain the defendant's full name, alias, address, age, occupation, physical description of the clothes the defendant was wearing at the time of the arrest, and the acts committed.



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The full names of any complainant(s) or witness(es) should be included, and, to the extent possible, you should record their exact words.

It is also helpful to describe the crime scene. Often the experienced police officer will sketch a diagram of the crime scene, indicating the location of certain items, e.g., body, gun, etc., and the approximate distances from doors, windows, etc.

Officers should also note weather conditions, lighting conditions, the exact time they responded to the crime scene, and a detailed description, including serial or identification numbers, of any property stolen.

Your Activity Log, and for that matter, any police report you prepare, should be prepared accurately, thoroughly, and as quickly as possible, while your memory is fresh. Sometimes you may need to use it to refresh your recollection while you are on the witness stand.

Never include anything that you are not sure of. At the same time, items you are certain are true should not be excluded for any reason. Failure to record an important fact can be used by the defense lawyer at trial to cast doubt upon your credibility.

In addition to routine paperwork (Complaint Reports, Arrest Reports, Unusual Occurrence Reports), you may have occasion to conduct procedures that involve the defendant's constitutional rights. These include taking statements, conducting a show-up, and arranging for a line-up. In all such instances, notes should be made concerning the manner in which the procedure was conducted. **ALL** statements, however seemingly harmless, made by a defendant should be recalled, recorded, and repeated to the Assistant District Attorney. One never knows what twist and turns a criminal case may take, and what appears to be a harmless statement by a defendant may turn out to be significant as the court case develops and the defense develops their strategy. Miranda Warnings must, of course, be given and a record kept of that fact.

PART III: THE ROLE OF THE DISTRICT ATTORNEY

Although the District Attorney ("D.A.") has a great deal of discretion in deciding how a case should proceed, they are ultimately working with the product brought to their office by the police. Therefore, it is your responsibility to bring the D.A. a case that is as thoroughly prepared as possible. You must keep in mind that, unlike defense attorneys and lawyers in general, the D.A. is not obligated to zealously advocate the position of his client (the "People of the State of New York"). Therefore, the D.A. will **not** prosecute someone where the evidence does not support a conviction.

The first prosecutor you meet will probably be the **Assistant District Attorney (ADA)** at the **Early Case Assessment Bureau (E.C.A.B.)**. You will recite facts to this



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A.D.A, and they will decide on the basis of those facts what charges to file against the defendant. Since the facts as conveyed by you to the ADA can be used to discredit you at trial, you should articulate the facts of the case to the ADA as precisely as possible. Furthermore, the A.D.A's initial assessment of the case, whether to treat the case as a felony or misdemeanor will, in some instances, be based on the actual interview of the arresting officer. Remember to always include all statements made by the defendant, no matter how insignificant you may believe them to be.

The temptation to perjure yourself may sometimes be strong. If an officer observes a defendant engage in some activity that arouses their suspicion and the officer searches the defendant illegally and finds narcotics in the defendant's pockets, the officer is presented with a problem. The search was clearly illegal, but the officer may feel that justice would best be served by testifying that the defendant dropped the narcotics in the street as the officer approached. If the officer did so, they would be committing perjury. Another situation that occurs quite often is when the police officer is in pursuit of a suspect. The officer is certain that the defendant is guilty and testifies that they never lost sight of the defendant from the scene of the crime up to the eventual arrest. If this is not true, they are committing perjury. **To avoid these situations simply follow these rules:**

- Take careful notes as soon as possible after making an arrest.
- Tell the truth.
- Carefully read all statements before signing.
- Never try to improve the case by adding facts that are not true.

If you are uncertain of any details, make it known to the Assistant District Attorney and testify only to those things of which you are sure. If uncertain, state it to the court. If you are assigned on arrest by a supervisor and you did not witness the incident, the accusatory instrument that you sign and all accompanying paperwork should state "the deponent was informed by Police Officer Jane Doe, Sergeant John Doe, etc." and should never imply that you witnessed an incident when you in fact did not.

The police officer is allowed to talk to the A.D.A to prepare their testimony. As the hypothetical case at the beginning of this chapter suggested, the defense attorney may attempt to discredit the police officer by implying perjury, misconduct, or incompetence. Case preparation should therefore be thorough and thought out.

The adversarial system is the foundation of the Anglo-American judicial process. The parties must remain within the bounds of the law. Each side will exert effort to present their case in the strongest light and, in theory, this partisan confrontation will yield the truth, and justice will be served. The defense and ADA will present their cases



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and argue the applicable law. The judge serves to rule on issues presented by each side. The judge assumes a neutral and relatively detached role as decision-maker.

Case strategy depends on the ADA assigned. Some ADAs will keep testimony simple and straightforward because *the facts speak for themselves*, and the evidence is strong. Other ADAs will rely almost entirely on witness testimony. Relying heavily on witness testimony requires extensive pre-trial preparation. Failure to prepare creates a situation whereby the defense can discredit the ADA's case. Proper case preparation can help ensure that the case will not be overturned on appeal. Case strategy also hinges on the veracity of the evidence and witnesses. It's impossible to predict who a jury will believe and to what extent they'll consider *expert testimony*, which often involves scientific analysis of physical evidence.

In some cases, the ADA has the power to charge either a felony or a misdemeanor. They, for example, may offer a plea bargain, because the case appears weak or because the defendant has agreed to cooperate on other matters.

Sometimes it may seem to you that the "deals" made by prosecutors and defense lawyers are not only contrary to justice but undermine the good police work done on the case. Your police reports may seem to vanish into a black hole, having no impact whatsoever on the criminal justice system. This, however, is simply not the truth.

The ADA's decisions regarding the case are made with careful consultation of all available police reports, including the E.C.A.B. write-up. Before offering to engage in plea negotiations, the ADA will review the file, taking into account such factors (recorded on police reports) as the extent of injuries sustained by the victim, the presence of a weapon, and the existence of incriminating statements by the defendant. The plea offered will usually reflect the police view of the seriousness of the case - as reflected in your reports.

The defense lawyer also relies upon police reports to do their job of advising the defendant. They must counsel the accused concerning the chances of prevailing at trial versus the certainty of the plea bargain. Their advice will be influenced by the contents of the police reports they obtain through the discovery process. Thus, even if you never have the opportunity to take the stand, your police work, as contained in the reports you have prepared, is a crucial factor in each and every criminal case. The more accurate and complete those reports are, the stronger your presence in the courtroom will be - whether or not you actually take the witness stand.

PREPARING TO TESTIFY

There is no such thing as an over prepared case. Every lawyer, whether on the side of the prosecution or the defense, knows this simple truth. With good preparation by the ADA, a police officer's testimony becomes sharpened and focused,



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emerging as the cornerstone of the People's case. With full preparation, the police officer understands their role in the case, and may even be able to anticipate hostile defense questions. A properly prepared police witness comes across to the jury as a competent, objective professional whose testimony can be relied upon.

There is no substitute for knowing the case and being well prepared. By succinctly and accurately communicating facts to the court, the officer's testimony should demonstrate that they are knowledgeable.

Truthful testimony is a must, even if it is favorable to the defendant. Traditionally, police have had an edge on lay witnesses when testifying in court. The uniform or shield symbolized credibility and, both the training you are now receiving and the experience of working in the street, under pressure, will help to make you an articulate and powerful witness. Juries tend to believe the police officer. Today a police officer must strive to offer clear, concise and logical testimony.

By contrast, a poorly prepared witness may fumble or back track, rifling through papers in a frantic attempt to locate a vital fact. Worse, their feelings of inadequacy may erupt in a hostile outburst at the defense lawyer. As a result, the jury loses respect for the witness and may choose to believe the defense version of events.

Adequate preparation for trial is the right of every police witness. The ADA who promises to talk to you in the hall on the way to court is not doing their job properly and may cause you to do less than your best on the witness stand. You have the right and duty to insist on a thorough preparation before placing your credibility and the Department's image on the line.

Good preparation serves several functions: It helps you, the witness, to understand courtroom procedures; it acquaints you with the prosecutor's theory of the case; it allows you to convey vital information to the ADA, and it aids in refreshing your recollection.

- A. On or before meeting with the ADA, the officer should take the following steps in order to provide accurate and professional testimony:
- B. Review your notes, reports, and previous testimony. (The defense attorney will have all of these as a result of the discovery process.)
- C. Review the case with other officers that were present.
- D. Review the case with the prosecutor.
- E. Review your testimony with the prosecutor. If you are on the stand and are asked by the defense attorney if you discussed the case with the prosecutor, tell



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them that you did, in fact, discuss the case. This question is a trick: many people, unfamiliar with the courts, may believe that it is somehow improper to talk with the attorney who represents the side for which they are testifying. It is not, as no competent lawyer would put anybody on the stand unless they had a very good idea of what the witness is likely to say.

- F. Make sure that you and the prosecutor have all of the exhibits and evidence that will be utilized at the trial. Make sure you can identify them and that they are marked with your mark in addition to having evidence tags.

Examples of evidence:

- Records;
- Weapons;
- Your certifications;
- Pictures;
- Reports.

G. Assist the prosecutor in making sure that all witnesses show up.

H. Show the witnesses their statements and let them review them.

I. Put the witnesses at ease - explain the court system to them.

TRIAL OR HEARING DATE

A. Show up early to meet with ADA and review notes and exhibits.

B. If assigned to appear on a scheduled day off, inform the judge of such condition and request an adjournment to a day when performing duty with the 2nd Platoon.

C. Make an Activity Log entry if re-scheduling is impossible. Such entry **must** include:

- Name of the Judge and ADA;
- Date of appearance;
- Adjournment date;
- Court and part.



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D. Inform the Borough Court Section supervisor assigned to the Police Room of such scheduling on day off.

- **Note:** A uniformed member of the service who is assigned to appear in court on a scheduled day off will be assigned to a tour starting at 0900 hours, unless the court scheduling necessitates a different start time. UMOS returning from court may be excused upon request, if the exigencies of the service will permit.

E. Dress appropriately - uniform or business suit;

- Neat/pressed;
- Clean;
- Leather polished;
- Minimal jewelry;
- Hairstyle.

APPEARING IN COURT

The attitude a police witness brings into the courtroom may be as important as their actual testimony. No matter how hard you work at *letting it go*, at telling yourself the facts of the case are the facts, human nature dictates that you will feel differently about an acquittal than a conviction. It is almost impossible not to regard a conviction as a vindication of your police work, and equally difficult not to view an acquittal as some sort of blot on your police record.

These feelings are only natural. The experience of testifying in court is one that generates a great deal of adrenaline. The defense attorney questioned your police work and, maybe, your integrity. The jury may have chosen to reject your testimony in favor of a defense theory you may regard as false.

It is important to put these feelings in perspective. Your police work was not on trial. Your testimony may have had little to do with the eventual outcome of the case. Speaking to the ADA after trial can help you understand the verdict, and would also help you improve as a witness for the next trial.

Some police officers have the impression that an unfavorable courtroom verdict is a black mark against them within the Department. This is not the case. Presenting the facts truthfully and as clearly as possible is all the Department expects of its officers.



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Most athletes find that their performances are enhanced when they are able to detach themselves from an overly strong need to win. Personal antagonism toward an opponent seldom improves the athlete's game; trying too hard leads to mistakes. In the same way, your performance as a witness becomes better - and easier - the more you can let it go.

GENERAL PRINCIPLES OF COURTROOM TESTIMONY

PERSONAL APPEARANCE

A professional appearance is essential to being an effective police witness. Jurors expect a police officer to be more objective, more competent, and more impressive than a civilian witness.

Department policy requires that an officer assigned to patrol must wear their uniform to court unless they are off-duty, on sick report, or authorized by their commanding officer to be out of uniform. When a member of the service appears in court in uniform, the uniform should be clean and pressed. Any and all citations should be worn above your shield. You earned them - let the jurors see that you are an experienced officer who has been commended by the Department. Civilian jurors are impressed by citations; the ADA may even ask you to explain them to the jury in order to enhance your position as a seasoned officer.

If you are appearing in court in civilian clothes, your attire should present a professional, essentially conservative image. Think of yourself as dressing for a job interview at a bank. Business suits are appropriate for witnesses of either sex. However, a sports jacket and slacks, providing they are conservative in cut and color, are also permissible for men; a tie is mandatory.

Women have more clothing options than men, but a businesslike appearance is still the key. A dress should not be revealing. A skirt or pants, accompanied by a blouse of conservative cut and color may be worn, preferably with a jacket. Stockings and business shoes should be worn.

The shield should be displayed on the outermost garment. If weapons are carried, they should be out of sight. Good grooming - neatly trimmed hair and beard, polished shoes, and well-kept clothing - is important to the professional image you are striving to project.

The damage to credibility due to appearance should not be underestimated. A sloppy appearance will lead the jury to perceive the witness' police work as equally sloppy. Loud colors, flashy jewelry, or extreme styles may lead to speculation that the officer's performance on the job is guided by a desire for flamboyance. A casual look



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not befitting the courtroom creates the subtle inference that the witness is casual in the performance of their duties.

DEMEANOR

The way an officer behaves in court is at least as important as the way they dress in creating an impression on the jury. One vital rule to remember regarding proper courtroom demeanor is that it begins the minute you enter the courthouse. Many criminal cases have been lost in hallways and elevators, where prospective jurors overhear remarks that influence their thinking about guilt or innocence. An officer who is overheard making disparaging remarks about the accused will lose any claim to credibility that they might have had.

Before entering the courtroom, it may be helpful to take deep breaths and consciously relax yourself. When your name is called, step up to the witness stand with confidence, neither hurrying nor displaying reluctance. If you have been thoroughly prepared to testify, you have nothing to fear. **Remember. It is the defendant who is on trial - NOT you and your police work.**

In every case where a police officer appears as a witness for the prosecution, studies indicate that the jury gives any witness (but a police officer in particular) a good deal of thought after they testify. This can lead to either a high or low conviction rate depending on what the jury believes of the witness. Mark Fuhrman, the Los Angeles detective who was caught in lies about whether he had ever used the "n-word", illustrates what happens if a jury believes that a witness is untrustworthy. His racism may or may not have had anything to do with whether he was telling the truth about what he had seen and done in the O.J. Simpson murder case – but once a witness falls from grace, there's usually no return. **There are no such things as stretching the truth, fibs, or white lies on the witness stand: anything that is not the whole truth and nothing but the truth is perjury.**

When taking the oath, do so in a firm, clear voice. The ADA will then ask for your name, rank, shield number and command. Try to answer in a natural tone, but loudly enough so that you can be heard throughout the courtroom.

Your overall attitude should be a combination of confidence about the accuracy of your own testimony, respect for the court, and neutrality toward both attorneys. Showing too much friendliness toward the ADA or displaying hostility toward the defense lawyer will cast doubt upon your objectivity.

As much as possible, you should try to look at the jury when testifying. Keep your voice up. Answer all questions – from both prosecution and defense – with the same calm sincerity, appearing concerned and interested at all times. Do not try to *slant* answers so as to help the ADA or frustrate the defense lawyer.



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Listen carefully to all questions and take time to consider your answer. You may ask that a question be repeated or clarified if you did not understand it. Try to answer only the question asked, without volunteering information not requested. On the other hand, DO answer questions as fully as necessary without hedging or evading. If a question CANNOT be answered "yes" or "no", you may ask the judge for permission to expand your reply. Even if permission is denied, the ADA will be on notice that you have more to say on the subject. In such circumstances, when the ADA gets an opportunity to re-examine you, they will almost certainly ask you the following question.

"Officer, on cross-examination, Mr. Smith asked you about... It didn't seem to me that you had an opportunity to complete your answer to that question. Is there anything else you would like to add to your answer now?"

There can be a great temptation to enhance the People's case: To *make it better*. This temptation should be resisted. **The bottom line is that the case is the case.** You cannot correct mistakes that might have been made or add to the facts that will convict the defendant. You are in court to tell the truth. **No case – repeat, NOT ANY case – is worth perjury.**

UNDERSTANDING LEGAL PROCEDURE

The courtroom is similar to a foreign country to many people. Customs are different, and a strange language is spoken. The ADA should be your tour guide, explaining such basics as how the courtroom is laid out, the proper way to address the judge, and the differences between direct and cross-examination. They should practice with you how to handle your documents and/or physical evidence so that in-court admission of these items goes smoothly. The hearsay rule, which prevents you from testifying to the contents of conversations with third parties, should be thoroughly discussed so that you will not be rattled by defense objections at trial. After a suppression hearing, certain facts may no longer be admissible; the ADA should help you structure your testimony so as to leave out any reference to the suppressed items.

The better your understanding of the courtroom, the more comfortable you will be on the witness stand. Feel free to ask the ADA any and all questions that come to mind. A few ADA's have the mistaken idea that all police witnesses are automatically experienced in court and need no explanation of procedure. Especially in your first few court appearances, you may have to insist that the ADA, as *tour guide*, gives you a thorough grounding in courtroom basics. When you press this hard enough, the ADA will see that it is in their interest to help you through this process: you are on the same team.



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RULES OF EVIDENCE

Your responsibility as a police officer is to legally gather and preserve as much evidence as you can. You should not make decisions as to the usefulness or admissibility of particular items. What will be presented as evidence in a criminal case is up to the prosecutor. The prosecutor is trained to recognize what the judge is likely to admit in order to prove the guilt or innocence of a defendant and they bear the responsibility for the proper presentation of the People's case. The remainder of this chapter will consist of a look at the rules of evidence and how they apply to your duties and responsibilities.

EVIDENCE DEFINED

Evidence is anything that is used to prove or disprove a disputed issue in a court of law. It may consist of testimony, documents, or objects. The rules of evidence in New York State are not contained in any one statute such as the Penal Law or Criminal Procedure Law. Instead, they are a set of rules which have developed over the years through decisions in individual cases. These rules do not tell us what *is* admissible as evidence in a trial. Instead, the rules tell us what is **NOT** admissible. As previously stated, you need not concern yourself with whether a particular item of information will be admissible or not, because that is the function of the prosecutor. It is possible that evidence that would ordinarily be admissible may be suppressed, which means the evidence will be excluded. This happens when it is obtained through a violation of someone's constitutional rights. The police officer must be aware of the rights of individuals so as not to damage a strong case through carelessness.

EXCLUSION OF EVIDENCE

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial. Guns, narcotics, contraband, confessions, or eyewitness identifications may be suppressed if they were obtained in violation of the United States Constitution or in violation of the New York State Constitution. If the prosecutor (District Attorney) offers into evidence one of these items (guns, narcotics, or a confession), the defense attorney will usually object. The objection may occur prior to the trial or during the trial itself. The defense attorney will make what is known as a motion to suppress. If the court grants the motion, it will exclude the evidence from use at the trial. The following are examples of circumstances that most often result in motions to suppress:

- The property was obtained by means of an unlawful search or seizure.
- The statements, admissions, or confessions were not made voluntarily to the police officer.
- There was improper eyewitness identification.
- There is an eavesdropping/wiretap recording of the defendant obtained under circumstances that preclude its admissibility in court.



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- Certain evidence exists which would be admissible, but for the fact that the police became aware of it through an unlawful means. This is referred to as the "fruit of the poisonous tree" doctrine.

The judge may grant or deny a motion to suppress evidence or may order a hearing just to determine if the evidence should be suppressed. If a hearing is conducted, you, as the arresting officer, may be called to testify.

THE ROSARIO RULE

People v. Rosario, is the landmark New York Court of Appeals case that created an obligation on police officers to preserve for trial, and prosecutors to ultimately make available to the defense, all statements about a crime that relate to a witness's testimony. These preservation and disclosure obligations are now codified in Criminal Procedure Law section 240.45. Police officers must preserve and disclose all handwritten notes as well as electronically stored information including all emails, text messages, voicemails, photos, videos, and other information generated by any other application on Department issued smartphones and tablets.

Rosario and Criminal Procedure Law section 240.45 require the prosecutor in a criminal case to disclose to the defendant, any written or recorded statement made by a person whom the prosecutor intends to call as a witness at trial, and which relates to the subject matter of the witness's testimony. Therefore, officers must always secure all items which may contain a witness's statement and inform the prosecutor, as soon as possible, that such material is available. Failure to do so may result in the reversal of a criminal conviction.

Rosario material is not only limited to handwritten notes in notebooks or on scraps of paper. Any electronic records or correspondence is considered *Rosario* material and must be preserved and disclosed as such. New York courts have identified the following as *Rosario* material:

- Activity Logs;
- Personal notes and preliminary worksheets prepared by an investigating officer;
- All notes made by a police officer who witnesses a crime, if they are made in connection with the defendant's arrest;
- Arrest reports, interview reports, complaint reports, and incident reports; and
- Electronically recorded communications.

It does not matter how the aforementioned categories of materials are recorded. Regardless of whether they are handwritten and kept in a paper file or typed and electronically stored, if they contain a witness statement, they **must** be turned over to



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the prosecutor. The prosecutor will then determine when the material will be turned over to the defendant's attorney and what will be included.

There is an exemption on certain materials that the court would consider sensitive or confidential, such that it should be withheld from the defendant's attorney. However, such exemptions are rarely utilized by the courts. Any material which a police officer considers to be confidential should be discussed with the district attorney at the start of the case, so that it may be withheld with the court's approval. If an officer is unsure of whether material is *Rosario* material or confidential, he or she should discuss the matter with the prosecutor so that the prosecutor can make a proper determination.

Regardless of confidentiality concerns, all emails, text messages, voicemails, photo, videos, and other information generated by any other application on Department smartphones and tablets must be retained on the device. In the event that usage approaches or exceeds the memory of a Department smartphone or tablet, **photos** and **videos** must be transmitted to the applicable command email address listed in Operations Order 20 of 2015. Those photos and videos may then be removed from the device once it is confirmed that the data has been properly moved and stored. All emails, text messages, voicemails, and other information generated by any other application on Department smartphones and tablets, however, must not be deleted from the device. Though non-Department issued devices **should not** be used for official business, any information contained on personal electronic devices should also be preserved and disclosed in the event such smartphones and tables are used.

Members of the service must be mindful of their obligation to preserve and disclose their written notes as well as all emails, text messages, voicemails, photos, videos, GPS or other information generated by any other application on these devices, may be *Rosario* material and/or information that is discoverable in criminal prosecutions, civil lawsuits, CCRB and IAB investigations and proceedings, the Department's internal disciplinary processes and/or other legal administrative proceedings. Refer to Operations Order 20 of 2015 for official Department procedure for using Department smartphones and tablets.

The penalty for violating the *Rosario* Rule is catastrophic to a criminal prosecution. **Any** failure to produce *Rosario* material, regardless of the good faith effort by police in attempting to locate it, can result in the reversal of a conviction.

BRADY MATERIAL

Another important area of law that a police officer should be familiar with is exculpatory evidence, commonly referred to as Brady material. Exculpatory evidence is evidence that tends to clear someone's guilt. Brady material does not necessarily have to be written or recorded; it can also include anything oral. The prosecution is mandated by law to disclose any evidence that is favorable to the defense upon request by the



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defense. Unsolicited exculpatory evidence must also be disclosed when it creates a reasonable doubt that would not otherwise exist. A police officer must bring any such evidence to the attention of the District Attorney. Failure to do so may jeopardize the prosecution and bring about judicial sanctions. Remember, a police officer should gather and preserve as much evidence as possible at a scene of a crime. The District Attorneys will determine what evidence, if any, is exculpatory.

TESTIMONIAL EVIDENCE

TESTIMONY BY CHILDREN (C.P.L. SECTION 60.20)

As a general rule, a witness who is a child less than nine may not testify under oath in court, unless the judge (referred to as "the court") determines that the child understands what taking an oath means. A child less than nine may, however, testify without taking an oath. If a child does testify without taking an oath, a defendant may not be convicted solely on the child's testimony.

When you have a case where a child is less than nine you should attempt to obtain additional evidence. Additional evidence is also important in cases where a complainant or witness may have mental disease or defect, since the judge may not allow such a person to testify in court.

ACCOMPLICE TESTIMONY (C.P.L. SECTION 60.22)

A defendant may not be convicted of any offense solely upon the uncorroborated testimony of an accomplice, unsupported by other evidence tending to connect the defendant with the commission of the offense.

An "accomplice" means a witness in a criminal action who may reasonably be considered to have participated in:

- The offense charged; **or**
- An offense based upon the same or some of the same facts or conduct that constitutes the offense charged.

The fact that a witness in a criminal action is also an accomplice, and that they have a defense such as infancy, or some type of immunity, does not affect his status as a witness.

- **Example:** Bill and Henry commit a robbery. If Bill is arrested and names Henry as his partner in the crime, Henry cannot be convicted solely on Bill's testimony. However, in combination with any other evidence that ties



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Henry to the crime, Bill's testimony may be sufficient corroboration to convict him.

THE HEARSAY RULE

Hearsay is evidence not from personal knowledge of the witness, but where the witness merely repeats what the witness heard others say. It is testimony about something said outside the court by other than the witness, which the witness testifies as being true. **Hearsay evidence is usually not admissible.**

Briefly stated, the hearsay rule precludes testifying to anything that was said out of court. Here's an example: You and your partner are sitting in your patrol car when a woman comes up and tells you her bag has been snatched. If you were telling this story to someone outside of a courtroom, you would undoubtedly say, "The lady told me someone took her pocketbook." In court, this is called hearsay.

The theory is that **each witness testifies only to what they saw and heard first-hand**. You did not **SEE** the purse snatching; therefore you cannot testify that it happened. The reason for hearsay not being admissible is that the person who actually said the words is not under oath and cannot be cross-examined. The woman herself will take the stand and tell that part of the story and be cross-examined.

Your testimony, without hearsay, would consist of: "I was in the car with my partner. A woman came up to me; and told me something. As a result of what she told me, I took her in the car and we drove around. Eventually we saw the defendant and stopped him. I then had a conversation with the woman, and placed the defendant under arrest."

There are exceptions to the hearsay rule. Perhaps the most important is that you may testify to any admissions or confessions made by the defendant (providing, of course, that they have not been suppressed prior to trial). Other exceptions to the hearsay rule, such as spontaneous utterances or dying declarations should be discussed beforehand with the ADA.

EXCEPTIONS TO THE HEARSAY RULE

There are many exceptions to the hearsay rule. However, there are three that you will most likely encounter. They are as follows:

- **Confession or Statement:** Given by a defendant.
- **Admission:** A statement made by a defendant that is against his penal interests, but does not amount to an acknowledgment of guilt.



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- **Dying Declaration:** A statement made by the victim of an assault which is made when death is imminent and the declarer has abandoned hope of recovery. Dying declarations may only be used when the victim actually dies.

PRETRIAL HEARINGS AND MOTIONS TO SUPPRESS

The motion to suppress may be handled without a hearing if the District Attorney and the defense attorney agree to the facts in the case. This is not often done, however. If a hearing is conducted, you, as the arresting officer, will be called as a witness. The reason that the motion to suppress is so important is because, if the defense counsel is successful, the evidence sought to be admitted by the People will not be admissible as evidence in the case. This often means that the case is won or lost at the suppression hearing.

- **Example:** A police officer arrests and charges a defendant for criminal possession of a weapon. If the defense counsel is successful in a suppression motion, the court will rule that the gun cannot be introduced in court as evidence. Without the gun being introduced as evidence, it is almost impossible to prove the crime of criminal possession of a weapon. In gun cases, if the defense counsel wins at the suppression hearing, the District Attorney will drop the charge against the defendant. On the other hand, if the People win, the defendant will often edge towards entering a plea of guilty. This is because he knows that once the court rules that the weapon is admissible, the People will have an easier time establishing their case.

TYPES OF PRETRIAL HEARINGS

1. **The Mapp Hearing:** A hearing conducted prior to trial, a Mapp Hearing determines whether **physical evidence** to be presented at trial was legally or illegally seized.
2. **The Huntley Hearing:** Also conducted prior to trial, a Huntley Hearing is one in which the defendant asks the court to determine the admissibility of a **confession, admission, or statement** made by the defendant.
3. **The Wade-Gilbert-Stovell Hearing:** This hearing determines the fairness of the **eyewitness identification** of a defendant. This will usually follow a lineup or show-up at which the defendant was identified by a witness or the victim.



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UNDERSTANDING THE THEORY OF THE CASE

The ability of a witness to testify effectively is enhanced when the witness understands the purpose for which they are called and where their testimony fits into the case as a whole. Your testimony is like a piece in a jigsaw puzzle: taken by itself, it may seem to lack a coherent meaning, but put in context with other pieces, it forms a clear picture. It is up to the ADA to show you exactly where your piece of the puzzle fits.

In addition to having their own theory of the case, an experienced ADA will often be able to anticipate the approach the defense will take. They will be able to help you prepare for the exact type of cross-examination you will face in the courtroom. Your testimony may take on a different character depending on the nature of the defense claim.

For example, suppose that you are a witness in two robbery cases. In the first case, the accused raised a defense of mistaken identity, asserting that he was not the person who committed the crime. Your testimony will probably focus on matters of physical description, comparing the description given to you by the complaining witness with the actual appearance of the defendant.

In the second case, the defendant, who is acquainted with the complaining witness, asserts that the complainant fabricated the entire robbery story in order to get revenge for some other act of the defendant. Since the parties are known to each other, identification would not be the issue, and your testimony would differ considerably from that in the first case.

Cross-examination cannot only be anticipated, but simulated; with the ADA playing the role they expect the defense lawyer to play in the courtroom. The ADA may even be able to put you on notice regarding the individual defense attorney's usual style and tactics.

CONVEYING INFORMATION TO THE PROSECUTION

The educational function of pretrial preparation is not just a one-way street. You are as much an expert in your profession of law enforcement as the ADA is in the legal arena. You can, therefore, add to the strength of the People's case by the information you provide to the prosecutor during preparation.

One obvious area in which the police officer can instruct the prosecutor is in police procedure. While some ADAs are well versed in the workings of the Police Department, others are not and would benefit from your experience. You can educate the prosecutor on such topics as routine police actions, the requirements of the Patrol Guide, and the many types of reports that may be filed for a given case. For example, the ADA may be well aware that a Complaint Report, a Complaint Report Follow-Up,



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and an Arrest Report have been filled out, but do they know that an application for a commendation was prepared? The commendation form may contain a more detailed account of the incident and, therefore, might be used by the defense to impeach the routine reports filed in the case.

An experienced police officer who knows "the street" can often help a prosecutor understand the motives and methods of those who commit crimes. Some con games, for example, require a thorough analysis by an expert in order to be fully understood by a layperson. The police officer that understands the con game educates the ADA, who then educates the jury.

Where the officer has had an ongoing relationship with the defendant, they can illuminate the defendant's family relationships and prior conduct for the benefit of the ADA. The prosecutor will then have to decide which portions of the defendant's criminal past they will use in court.

The police officer conveys vital information to the Assistant District Attorney in another very basic way: by bringing to the prosecutor's office **ALL** reports, memoranda, documents, and scratch notes connected with the case. The ADA will use all of this to help you refresh your recollection of events, and will also determine which documents they intend to introduce at trial.

The initial meeting between the police officer and the ADA assigned to the case is critical. It is at this meeting that the facts of the arrest/incident are conveyed to the ADA assigned to the case. The officer must attempt to relate all the facts. If they are unsure about whether a particular detail is important, the ADA should be allowed to decide. ALL paperwork related to the case must be given to the assigned ADA. This includes Complaint Reports, Online Booking System Worksheets, Complaint Report Worksheets, Stop Reports, Police Accident Reports (in cases involving vehicle collisions), Aided Reports, narcotics "buy reports", Activity Log entries, and scratch notes. The officer should make the ADA aware of applicable Patrol Guide procedures, and any particular knowledge or expertise that the officer has.

Legal Bureau Bulletin Volume 2, Number 9, describes an arrest made by a Housing Authority police detective. This detective received information regarding drug dealing by a particular defendant from an unidentified informant. Over a period of two weeks, the detective then made independent observations of the defendant and his actions. It was the detective's observations, and not the information supplied by the unknown informant, that led to the establishment of probable cause. If the detective had not painted such a good word picture, he would not have been allowed to testify as an expert, nor would he have had established probable cause for the arrest. A new officer who has recently graduated from the Police Academy would find it harder to be recognized as an expert than would an experienced narcotics detective.



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If, during the course of the trial, a police officer recalls previously forgotten information, this information should be immediately related to the assigned ADA. If a police officer either failed or simply forgot to disclose a certain fact or detail, they should admit this at trial. Failure to do so will only serve to taint everything else the officer says. If a police officer should attempt to *fix* a previously undisclosed fact or detail, the defense attorney could use this to win an acquittal for a client. Additionally, the police officer would be guilty of perjury. ***The greater good can never be achieved by perjury, but only by diligent police work, augmented by a careful and reliable judicial inquiry.***

Sometimes an Arrest Report will differ from a Complaint Report in some ways. It is up to you to point out any such discrepancies to the Assistant District Attorney so that they can be explained at trial. A discrepancy may be a simple mistake, or it may have a reasonable explanation. The important thing is that the ADA be forewarned, so that the discrepancy does not come as a surprise, but can be dealt with at trial.

The arresting officer will be designated to retrieve all physical evidence from the Property Clerk and bring it to court. Invoices should accompany all items. The ADA will review the paperwork with you, and prepare you to testify, with emphasis on establishing the "chain of custody". The officer should be able to account for the property at every stage of these proceedings.

THE COURSE OF TRIAL: AN OVERVIEW

A suppression hearing, whether in Criminal or Supreme Court, precedes many trials. After the hearing, if a trial is still required, a jury will be impaneled. Both the ADA and defense counsel are permitted to question prospective jurors during the ***voir dire*** (selection of jurors) in order to insure impartiality.

Once the jury is selected, the trial begins. The ADA must make an opening statement, telling the jury what they intend to prove. Because the defense is not required to present a case, the defense lawyer's opening statement is optional.

Testimony begins with the ADA calling witnesses. Their questioning of prosecution witnesses is called ***direct examination***. When the ADA is finished, the defense lawyer may question the witness. This is called ***cross-examination***. The ADA may have some questions on ***re-direct***, the defense lawyer is then permitted to ***re-cross***.

When the prosecution's entire case is complete, the ADA ***rests their case***. At this point, defense counsel moves to dismiss the charges. It is up to the judge to grant the motion if ***ALL*** elements of the crime have not been established. If they have established all of the elements, called a ***prima facie*** case, the motion will be denied. The defense attorney has the choice of making a second motion to dismiss, this time on



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the grounds that the evidence was insufficient to prove the defendant's guilt beyond a reasonable doubt, or proceed to present his defense. Defense witnesses are questioned in the same manner as prosecution witnesses.

The prosecution may call additional witnesses to the stand after the defense has rested its case. This is known as **rebuttal**, and is permitted only where the defense has raised issues of fact not already covered in the prosecution's case (e.g. evidence tending to disprove a defendant's alibi).

When all testimony has been received, both attorneys deliver summations to the jury. The judge delivers a charge on the law, and the jurors retire to consider their verdict.

WHAT TAKES PLACE DURING A DIRECT EXAMINATION?

Direct examination lives up to its name. Straightforward, open-ended questions are asked ("And then what happened?"). The witness answers, telling their story in a direct, chronological fashion.

The key to persuasive direct testimony is good preparation. When the ADA asks, "What, if anything, did you do then?" you must have some idea what particular aspect of your activities they want you to mention. The way to achieve this certainty is through thorough pretrial discussion with the prosecution.

The ADA is not permitted to ask *leading* questions of their own witness. They cannot ask questions that point to a single answer ("The defendant told you he was guilty, didn't he?"), but must instead make open-ended queries ("Did the defendant say anything to you?"). This is another reason why preparation is needed: the ADA will not be able to guide your answers by asking suggestive questions.

Most physical evidence is introduced on direct examination. When you are presented with physical evidence ("Officer, I will show you a weapon. Do you recognize it?"), take care to examine it before you give your answer. You may tell the ADA "I'd like to examine it" before committing yourself.

When looking at the evidence, note any identifying marks you made when invoicing the evidence. This will enable you to establish the first link in the chain of custody that will allow the item to be introduced into evidence. You may need to refresh your recollection from the invoice or the ballistics report; do not hesitate to ask the court's permission to look at relevant documents.

During your testimony, the defense attorney may object to certain questions asked by the ADA. When this happens, **STOP** testifying. Only after the judge rules on the objection should you resume your answer, following whatever ruling the judge



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makes. If the judge sustains the objection, you cannot answer. If he overrules the objection, you can answer. Under no circumstances should you react to the court's ruling, favorably or unfavorably.

Since direct testimony is like telling a story exactly as it happened, it would seem that few problems could arise. There are, however, some pitfalls inherent in direct examinations. These can be overcome once they are recognized and anticipated.

POTENTIAL PROBLEMS DURING DIRECT EXAMINATION

The first pitfall is the tendency to talk like a police report instead of a person. Some officers do this in the mistaken belief that they sound more professional; others paraphrase the arrest report because they have been inadequately prepared. Whatever the reason, the officer who consistently says things like, "I observed the perpetrator from my R.M.P." instead of telling the jury, "I was in the car when I saw the guy," runs the risk of losing the jury by sounding unnatural and rehearsed.

Other potential problems on direct examination include opinion evidence, speculation, and "background" material. In general, a witness testifies to facts, not opinions. Thus, you must tell the court: "The defendant turned and ran away after I announced myself and told him to stop." You are **not** permitted to give your opinion that "he intended to flee." He may well have intended to flee, but how would you know whether this was so? You have no way to get into his head and to determine his intent. Instead, it will be up to the jury to determine whether he *intended* to flee based on the facts you present to them. In this example, the only fact you can present is that *he fled*.

Expert Witnesses are an exception to this rule. Fingerprint technicians, ballistics experts, and any police officer who can demonstrate specialized technical training may be qualified as an expert. For example, police officers who have received courses in con games may be permitted to give an expert opinion as to whether words said by the defendant constituted the opening moves in a well-known fraudulent accosting scheme.

Speculation is also precluded. You may have reason to believe that the defendant's behavior indicated intent to commit a crime, but you may not say so. One exception is that in testifying at a suppression hearing about probable cause to search or arrest, you may tell the judge that you acted upon a reasonable belief that the defendant was committing or about to commit a crime.

REFRESHING YOUR RECOLLECTION

Although the Assistant District Attorney will help you reconstruct the events about which you will be testifying, in the final analysis it is **YOUR** memory that is being refreshed. Any memory aids that will help you to recapture a vivid and complete recollection should be used. For instance, if it is possible to visit the scene of the crime



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or arrest, this may help you recall such details as the physical layout and lighting conditions.

Reviewing your own and other officer's paperwork is another way to trigger your recollection. You may wish to discuss the case generally with your partner, or other fellow officers who were present on the scene. **BE CAREFUL: The idea is to refresh YOUR OWN memory, not to conform your testimony to what someone else saw or heard.** Too much discussion among police officers may result in testimony that seems *tailored* to a jury. If there are minor discrepancies among the police officers and yourself, don't worry about it. Nothing in real life is ever perfect, and an experienced ADA can handle it during the course of the trial. If you do consult with others, it is permissible to admit to the court that you conferred with fellow officers.

During your testimony you may also refresh your recollection by briefly reviewing any material you have brought with you to court. Your paperwork should be kept neatly organized in a folder that you can place next to you on the witness stand. You should not hold the folder and fidget with your paperwork while testifying, as this will convey nervousness to the jury. If you cannot remember a specific detail to properly answer a question, you may ask the judge if you can refresh your recollection by referring to your notes, paperwork, Activity Log, or anything else that would help you remember the answer. If given permission by the judge you may view these items briefly, then put them away and give your answer. You may NOT read aloud from any documents in your possession unless the specific item you are reading from has been admitted into evidence.

EXPLAINING DISCREPANCIES TO THE JURY

It goes without saying that a police officer should thoroughly review all forms and notes before testifying. These notes include (but are not limited to) Complaint Reports, Complaint Report Worksheets, Online Booking System Worksheets, Activity Log entries, etc. The police officer/witness should also review their testimony with the ADA. Police officer/witnesses should refresh their own memories only. Police officer/witnesses should not be afraid to use the term *approximately* when they're unsure about exact figures or measurements. If a police officer forgot about a particular detail they must admit, "***I don't recall,***" at the same time, they should anticipate and be prepared to testify about anything they may be asked to recall, so that this phrase is used only rarely.

The jury understands that memory can fail and a police officer who testifies "***I'm not really sure***" or "***I don't recall***" approximately 10%-15% of the time will, in all probability, appear truthful to the jury. Therefore, they'll be more inclined to believe him. Discrepancies occur in almost every case that has ever been tried. More complicated cases can give rise to numerous, somewhat technical, discrepancies. Discrepancies are normal and even expected. The jury would be surprised if absolutely everything



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proceeded along in a textbook fashion. Only a police officer's honest and truthful response could impress the jury enough that they could overlook minor (and ultimately unimportant) discrepancies regarding various elements of testimony. The defense attorney will attempt to exploit minor discrepancies, i.e. a difference between two arrest times - one on the Online Booking System Worksheet, and one in the officer's Activity Log. Once again, the best course of action a police officer could take is to simply answer clearly and truthfully as much as their memory allows. ***Going "head to head" with a defense attorney is NOT the answer: when you do this, juries begin to believe that you are more interested in beating the defense attorney than in whether justice is accomplished. Don't fight with the defense attorney and, certainly, keep in mind that NO CASE IS WORTH PERJURY.***

The main point of working to enhance your memory of events is to transform the dry words of your police reports into a vivid picture that the jurors can **SEE**. A police officer who testifies like a walking Complaint Report is far less effective than one who can recount the sights, sounds, and smells they actually experience. Trials take place in sheltered courtrooms, under artificial lights. Letting the jurors **HEAR** the breaking glass, **SEE** the blood flowing from the victim's head, and **SMELL** the alcohol in the defendant's car; this brings them out of the calm of the courtroom and into the reality of your experience. ***The more concrete details you can include in your testimony, the more believable your account will be to a jury.***

Some of the same memory aids you use to help a witness recollect events can be used in refreshing your own memory. Ask yourself questions: What type of neighborhood was I patrolling? What types of homes or businesses comprise the neighborhood? What were the demographics? What did I eat for lunch that day? What was the weather? Was I the driver or the recorder on the tour? What was I doing immediately before and after the incident I'm testifying to? Some defense lawyers make a point of testing an officer's memory by asking about unrelated incidents. When the officer can't remember, the lawyer argues before the jury that the officer recalls only the incident on trial only because they have rehearsed.

PROVIDING BACKGROUND MATERIAL

This is another area that is fraught with difficulties. You may know for a fact that a certain location is a "drug prone area", and that the defendant's presence in such an area indicated criminal intent. It is important that you be able to tell the jury **WHY** you believe the area is drug prone. For example, arrest statistics or observations of drug sales would be better than mere assertions. In some cases, the ADA will be permitted to establish background (e.g., "Do you know whether the officers in your precinct have previously made drug arrests at this location?" "Have you previously made such arrests at this location?" "How many?"). In other cases, the judge will rule that background information is too prejudicial to be heard by the jury. The best way to handle this type of testimony is to clear it with the ADA before trial.



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Everything that is said on direct examination is subject to further questioning by the defense counsel on cross-examination. Volunteering information not asked for by the ADA can give the defense attorney an extra line of questioning they might not have known about. Giving overly precise information when you are not really as certain as you sound ("The defendant was standing exactly 17-1/2 inches away from me at the time.") can give the defense lawyer an edge on cross-examination ("Officer, you didn't measure that distance, did you? Could it have been 15 inches? 20 inches? 17-3/4 inches? You're not really sure **HOW** far away the defendant was, are you?"). Remember, it is perfectly alright to use words like "about" and "approximately" when describing times and distances, unless you are certain as to the precise numbers.

In cases where physical force was used to effect an arrest, there may be a natural tendency to play down the amount of force employed. This will definitely boomerang on cross-examination when the defense attorney questions you about injuries sustained by the defendant. If force was required, don't be afraid to state exactly what you did and what the defendant did to necessitate your actions. Trying to "cover up" will only make things worse when the truth comes out on cross-examination.

WHAT TAKES PLACE DURING A CROSS-EXAMINATION

Cross-examination is designed to lay the foundation for the arguments the lawyer intends to advance in summation. Each cross-question is a building block for the structure to be built in summation.

- **Example:** You arrested the defendant for robbery, recovering and invoicing a sum of money. Although a gun was used in the crime, you found no weapon on the defendant, who was arrested some fifteen minutes after the robbery. The complainant identified the defendant in an on-scene show-up.

Defense counsel's questions will be designed to demonstrate to the jury those facts in the defendant's favor: that you did *not* see the robbery; that the gun was *not* found on the defendant; that the money may have come from somewhere other than the victim's cash register; and that the defendant was the only person shown to the complainant at the time of identification.

Most defense lawyers ask the police officer if they have discussed the case with anyone before the trial. As indicated earlier, the police officer can do so without a problem and the defense counsel knows this. Often, counsel will imply, by facial expression or tone of voice, that the witness who admits discussing the case has done something wrong. This is **NOT** the case; talking to the Assistant District Attorney or your fellow officers before trial is good sense, not wrongdoing. A defense attorney may seem either friendly or hostile. One who seems angry does so to make the police



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officer look bad in front of the jury. He wants a hostile response. Police officers must remain cool, detached and professional. Courtroom demeanor will tell the jury a great deal. **DO NOT ALLOW YOURSELF TO BE PROVOKED TO ANGER.** When you do this, you give the defense attorney the opportunity to suggest that your bad temper was the real cause of the arrest of their client.

One simple rule to keep in mind during cross-examination: **The facts are the facts.** If there was no gun recovered, you must say so frankly and forthrightly. If a search of the area was conducted, and still no gun was found, you must admit that fact. If no search was made, there is no choice but to say so and let the jury draw the inference that the police work was less than perfect.

Unlike direct, cross-examination is rarely chronological. The defense attorney's purpose is to chip away at the incriminating facts presented on direct; to highlight those elements favorable to the defense; and to underscore any omissions, inconsistencies, and mistakes that tend to cast doubt on the People's case. The last thing in the world the defense lawyer wants you to do is repeat the smoothly flowing, extremely damaging narrative you delivered on direct.

The best way to counter this strategy is to **listen** carefully to every question, making certain you understand it fully before answering. **Think** before you speak, responding in a calm deliberate voice that refuses to be hurried by the defense lawyer's haste. Letting yourself get caught up in the lawyer's machine gun rhythm can open the door to mistakes and inconsistencies, as answers are given with insufficient reflection.

Another common area of questioning is the kind of inquiry designed to convey to the jury the impression that you, as a police officer, are *interested* in the outcome of the case. The questions may center on a supposed bias you hold toward the defendant or upon the notion that you will earn promotions or commendations through making arrests, especially those that result in convictions. Your best response is to answer such questions truthfully and dispassionately, without displaying outrage or becoming defensive.

Defense lawyers often make a point of asking police officers about police work not done in the course of an investigation. For example, a failure to take fingerprints at a crime scene or to "dust" a gun for prints can be used to infer that, had prints been taken, they would not have been those of the defendant.

However, once again, the facts are the facts. If it is possible to explain the failure to take fingerprints, either because the surface was not printable or Department policy did not call for a crime scene investigation, you should be able to testify to that effect. This is where thorough preparation with the ADA pays off. Together, you will have anticipated this line of questioning and discussed the best way to answer.



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Questions about time and distance can cause difficulty on cross-examination. For example: On direct, you testified that you observed the defendant for a period of "two minutes". The cross-examiner breaks down this time, asking when you first noticed the defendant, how long it took him to walk from one place to another, whether your attention was distracted from him at any time. When the questioning is completed, the jury may be asked to infer that you saw the defendant's facial features for only ten seconds out of that original two minutes.

"Answer yes or no" is a phrase that begins a great many questions asked on cross-examination. It can be frustrating at times to compress a complex answer into the simple "yes or no" the cross-examiner prefers. Yet, when you **can** reply with a yes or no, you should do so, knowing that the ADA **will** have the opportunity on redirect to expand on your answer. In those cases where you honestly believe that a yes or no response would be so incomplete as to mislead the jury, you may courteously ask the court for permission to add an explanation to your reply.

There are some questions you do not have to answer in the form in which they are asked. You may request the judge to separate a compound question; ("Did you arrest the defendant, handcuff him, and place him in the patrol car?" should be asked in three separate inquiries). You may ask to have a question you did not hear repeated, and to have a question you did not understand explained.

Occasionally, a less-than-scrupulous defense lawyer will incorporate a false premise into a question in order to obtain a misleading answer. For example: You have testified all along that the defendant was in a blue car. On cross, you are asked, "When the green car turned the corner, didn't you follow it?" You must first listen carefully to the question, so that the discrepancy is noted. Then you may reply, "The car I saw was blue, not green."

Defense attorneys bring different styles into the courtroom. Some appear folksy, disarming you with their unexpected friendliness, while other attorneys are downright hostile. Each style is a tactic; each requires wariness in your response.

For example, the lawyer who seems friendly, who asks questions designed to build you up as a professional, is doing this for a purpose. They hope to lull you into a sense of false security, to obtain favorable answers to questions. Building you up will be the preparation for knocking you down eventually ("Officer, you finished at the top of your class in the Police Academy. Now you have 23 commendations and years of experience - and yet you failed to completely fill in all the blanks on the Complaint Report?"). Your best response is to be wary: to keep your distance. Admit any mistakes you may have made in a forthright manner.

The opposite of this style is the aggressive cross-examiner whose questions are so hostile that **you** begin to feel like the person who is on trial. The goal of this lawyer is



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to put you on the defensive, to trigger your anger and create a poor impression of you in front of the jury.

It will at times seem very tempting to answer this type of lawyer in kind. A sarcastic reply may easily come to mind – but it should not be stated. The jury expects a certain amount of verbal jousting from the lawyers in the case; that is their job. From a police witness, however, the jury expects cool, detached professionalism. Losing your temper with the lawyer could lead the jury to suspect that you arrested the defendant while in an emotional state. Becoming sarcastic could indicate arrogance, while a defensive stance leads jurors to conclude that you did something wrong and are attempting to cover up. None of this may be true - but the jurors will speculate about your motives, and your courtroom demeanor will tell them a great deal.

The best method for dealing with a cross-examiner who is out to destroy your credibility with a verbal attack is to give them exactly the opposite of what they want. The more you are able to remain calm, polite, and in control, the more you will be showing the jury that you are a thorough professional who is simply telling the truth about actions you took in the line of duty.

The manner in which a question is phrased is critical. A defense attorney may attempt to introduce new evidence via a question (e.g., "Officer when did you stop lying about what really happened?"). Answers must be carefully considered because they have ramifications on jury deliberation. Only by carefully explaining what occurred can police officers expect to maintain credibility.

OBJECTIONS

Many police officers have a question in the back of their minds when they endure a blistering cross-examination from defense counsel: "Why doesn't the ADA object?" There are two reasons why the ADA may not intervene. One is that objections must be made on proper legal grounds. Tough, hostile questioning that does not rise to the level of "badgering the witness" is not objectionable. The second reason is that the ADA would much rather have the jurors see **YOU** handling the questions by yourself than create the impression that they are protecting you by jumping to your defense when the questions get tough. Painful as it is in the short run to be the object of a stinging cross-examination, in the long run your professional demeanor will do more than any number of ADA objections to convince the jury that you are testifying honestly and objectively.

DEFENSE ATTORNEY TACTICS

It must be remembered that the litigants themselves move and shape the contour of any courtroom proceeding. Defense attorneys sometimes follow a particular style that works for them and are sometimes guided by the ADA (e.g., they'll respond to their presentation). If the trial is a bench trial (before a judge, not a jury), or a jury trial, the



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defense attorney will attempt to argue their case in such a way as to favor their client. In a jury trial the defense attorney will attempt to pick jurors at the selection – **voir dire** – stage, for the purpose of assessing their fitness to pass judgment in a particular case.

Obviously the defense attorney will try to select jurors who aren't biased against their client, hopefully rendering a decision that is favorable to the defendant. The voir dire process is essentially a self-disclosure interview. Defense attorneys recognize that potential jurors are never wholly devoid of bias. The U.S. Supreme Court has decided that a juror's qualifications as to impartiality must fall within minimum standards. Defense attorneys may use voir dire to influence jurors before the start of the trial. Defense attorneys may try to plant the seeds of a certain argument or line of proof in the minds of potential jurors. Defense attorneys may also attempt to create a favorable personal impression or establish a good rapport with the jury in advance.

Defense attorneys may exclude potential jurors via peremptory challenges, i.e., the exclusion of individuals from the jury for whatever reason. Often, defense attorneys will attempt to either discredit a police officer witness or plant in the minds of jurors the idea that the police officer is either lying or unsure of their testimony. Tactics vary from attorney to attorney. One defense attorney may be direct and argumentative while another will be more subtle. Their goal is the same, to discredit the officer in an attempt to create reasonable doubt.

RE-DIRECT AND RE-CROSS

No further questions. With that statement, the defense attorney concludes their cross-examination. You experience a surge of relief, thinking that the worst is over.

Your job as a witness, however, is not finished. The Assistant District Attorney may have more questions for you on redirect examination. Redirect is your opportunity to give the full explanation you were not permitted to present on cross. Now you CAN tell the jury why no fingerprints were taken at the scene, or explain the troubling discrepancy between the arrest report and the invoice. You can tell the jury what happened in plain English. You can explain details that you feel need further clarification.

Redirect is not designed to repeat the entire direct, but is limited to matters raised on cross. The ADA's focus will be to clarify points that are unclear as well as to explain items that might otherwise score points for the defense on summation. The ADA will not re-labor items they consider adequately established and may fail to ask questions you are expecting. If this happens, it will be a signal that the ADA feels that your answers on cross-examination were strong enough to need no further explanation to the jury.

The disciplined professionalism you bring to the courtroom should stay with you at all times. You are a working police officer even when you are not actually answering



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questions. Thus, it is important to conceal from the jury whatever sense of relief you may feel at the close of your testimony. Even if the cross-examination was a grueling ordeal, the jury should see you step from the stand in an unhurried manner. Nor should smiles, winks or victory signals pass between you, the ADA, or other officers.

PART IV: OFFENSES AGAINST PUBLIC ADMINISTRATION

These offenses involve misconduct related to official proceedings in court and other judicial forums, which includes perjury.

PERJURY AND RELATED OFFENSES

While aggressively pursuing violators of the law, members of the service will make arrests, be required to sign affidavits, appear before Grand Juries, and testify under oath in court. As members of the service, we have pledged to maintain a higher standard of integrity than is generally expected of others. Nowhere is this obligation more important than on the witness stand in a court of law. When a police officer commits perjury, the making of a **FALSE STATEMENT WHILE UNDER OATH**, they not only jeopardize the outcome of that particular case, but also many other proceedings where a police officer's credibility is in question.

Perjury only serves to break down the police/community trust that community policing tries to cultivate. Most importantly, officers should be aware that if they make false statements in these situations, they may be arrested and prosecuted. Even in the cases where you are not prosecuted, an ADA may be obligated to disclose this to the defense, thus making you an ineffective and unusable witness in that case and future judicial proceedings.

DEFINITIONS OF TERMS RELATED TO PERJURY (P.L. 210.00)

- **Oath:** includes an affirmation and every other mean authorized by law of attesting to the truth of what is stated.
- **Swear:** means to state under oath.
- **Testimony:** means an oral statement made under oath in a proceeding before any court, body, agency, public servant, or other person authorized by law to conduct such proceeding and to administer the oath or cause it to be administered.



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- **Swear falsely:** is an offense that occurs when a person intentionally makes a false statement that they do not believe to be true (a) while giving testimony, **OR** (b) under oath in a signed written instrument.
 - **Note:** A false swearing in a signed written instrument shall not be deemed complete until the instrument is delivered by its signer, or by someone acting in their behalf, to another person with intent that it be used as true.

PERJURY IN THE THIRD DEGREE – “A” MISDEMEANOR (P.L. 210.05)

This occurs when a person swears falsely.

- It does not require that the false statement be material to the issues of the case. In other words, the false statement will have no effect on the outcome of the trial.
- This false statement may be made while giving testimony or under oath in a signed written instrument.
 - **Example:** A male witness testifies that he saw a street crime occur while he was taking a solitary walk on the street when, in fact, was out on a date with a woman who was not his wife. This is a false statement, but it has no bearing whatsoever on the facts in issue at the trial.

PERJURY IN THE SECOND DEGREE – “E” FELONY (P.L. 210.10)

This occurs when a person swears falsely and when their false statement is:

- made in a signed written instrument for which an oath is required by law;
and
- made with intent to mislead a public servant in the performance of their official functions;
and
- material to the action, proceeding, or matter involved.
 - **Example:** A police officer signs a criminal court complaint that states that s/he saw the defendant with a gun in the perp's hand when, in fact, s/he saw the gun on the ground.



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PERJURY IN THE FIRST DEGREE – “D” FELONY (P.L. 210.15)

This occurs when a person swears falsely **and** his/her false statement:

- consists of testimony,
and
- is material to the action, proceeding or matter in which it is made
 - **Example:** A police officer testifies in a hearing/trial that that s/he recovered a gun pursuant to doing a vehicle inventory of a car at the stationhouse when, in fact, s/he recovered the weapon from the trunk of the car during an illegal search of the vehicle on the street.

OFFENSES RELATING TO JUDICIAL PROCEEDINGS

DEFINITIONS OF TERMS RELATED TO TAMPERING WITH PHYSICAL EVIDENCE (P.L. 215.35)

- **Physical Evidence:** any article, object, document, record or other thing of physical substance which is or is about to be produced or used as evidence in any official proceeding.
- **Official Proceeding:** any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received.

TAMPERING WITH PHYSICAL EVIDENCE – “E” FELONY (P.L. 215.40)

Considering the importance of physical evidence in the prosecution of a criminal case, and your responsibility for the gathering, marking, and identification of the evidence, you should be aware of the ramifications of tampering with physical evidence. Tampering with physical evidence is a felony and can be committed in three ways.

A person is guilty of tampering with physical evidence, when, with intent that it be used or introduced in an official proceeding or a prospective official proceeding, s/he:

- Knowingly makes, devises, or prepares false physical evidence;
or
- Produces or offers such evidence at such a proceeding knowing it to be false;



POLICE STUDENT'S GUIDE

Police Science



or

- Believing that certain physical evidence is about to be produced or used in an official proceeding or a prospective official proceeding, and intending to prevent such production or use, s/he suppress it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person.

PART V: TRAFFIC COURT TESTIMONY

Traffic Violations Bureau (TVB) testimony is the most common form of courtroom testimony given by patrol officers. The standard of proof required to win in traffic court is clear and convincing evidence. The importance of this testimony should not be underestimated since it is equally as important as criminal court testimony. The manner in which you testify reflects upon your own personal credibility as well as the way the entire Department is perceived in the eyes of the community.

A police officer's duties do not end with the issuance of a summons. Summoning officers are also responsible for documenting all relevant facts regarding the violation(s) and for ultimately presenting this information at a hearing. Lack of documentation such as an incomplete summons or an insufficient **ACTIVITY LOG** entry will severely hinder the case. Currently, numerous traffic violation cases are being dismissed due to improper testimony by police officers. In most instances, these dismissals could have been avoided if the officers would simply devote more time to preparation. You, the summoning officer, must be adequately prepared in order to present a professional image and to enhance the effectiveness of your testimony.

Remember that, as with any testimony, the most important thing is to tell the truth. Police officers find themselves giving sworn testimony at traffic court more than any other forum. The laws of perjury, of course, also apply to traffic court. Your performance depends upon you. As is the case with criminal court testimony, preparation and professionalism are the keys to success.

THREE COMPONENTS OF TRAFFIC COURT TESTIMONY

When providing traffic court testimony, officers are required to relate the series of events surrounding the violation **exactly as they occurred**; therefore, such testimony should resemble a story, with a beginning, middle, and an end.



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THE BEGINNING:

INTRODUCING YOURSELF AND THE LOCATION OF THE VIOLATION

- Name, rank, shield number, and command;
- Time and date of violation;
- Location of violator's vehicle, including a description of the location (for example, a one-way street controlled by an overhanging traffic signal);
- Officer's position relative to violator's vehicle at time of violation (e.g., on north-east corner facing the stop sign).

THE MIDDLE:

DESCRIBING THE FACTS AND CIRCUMSTANCES OF THE VIOLATION

- Provide defendant and vehicle information;
- Observation of direction/distance of vehicle (for example, northbound on Third Avenue, approximately five car lengths from crosswalk);
- A statement that the officer observed that the traffic signal was functioning (e.g., the officer knows this because s/he saw it change from green to yellow to red, then back to green);
- Statements regarding:
 - The number of passengers and where seated;
 - Weather conditions;
 - Other relevant road markings;
 - Any traffic agents directing traffic.

THE END:

DESCRIBING YOUR INTERACTION WITH THE VIOLATOR

- Any statements made by the violator;
- Continuity of eye contact, length of observation;
- Summons served.

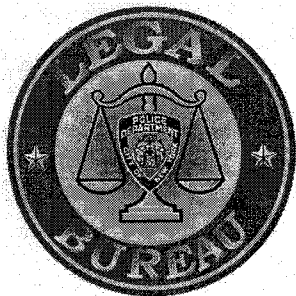


POLICE STUDENT'S GUIDE

Police Science



The issuance of a summons is not the final step, but it is an important one. The officer issuing the summons must document all of the facts regarding the violation(s). Remember to fill in all of the captions as required on the summons; an incomplete summons will cause a dismissal of the case in court. You are not required to retain a mental picture of the violator or to pick them out of a crowd, but you must be able to testify that, at the time of the summons, you were satisfied they were the person described on the license presented to you. During testimony, always remain calm, be polite and, most of all, do not become argumentative. As long as you have properly prepared for the hearing, you will be confident in your testimony.



OFFICE OF THE DEPUTY COMMISSIONER - LEGAL MATTERS

LEGAL BUREAU BULLETIN

Vol. 47, No. 1

January 25, 2017

- I. **SUBJECT:** **CROSS- EXAMINATION OF POLICE WITNESSES**
- II. **QUESTION:** May police witnesses be cross-examined in a criminal trial about prior misconduct including allegations made against the officer in unrelated civil cases or disciplinary proceedings?
- III. **ANSWER:** Yes, in certain circumstances, cross-examination of an officer about allegations of prior misconduct made to IAB or CCRB, and those made in unrelated civil cases, may be permitted, even when those allegations have not yet been proven.
- IV. **DISCUSSION:**

A. Introduction

At every trial, the defendant has a constitutional right to confront and cross-examine witnesses called to testify against him or her. A key purpose of cross-examination is to create doubt in the minds of jurors about whether a witness is reliable or believable. To ensure a defendant's right to a fair trial, the law requires that before trial, the prosecutor must disclose to the defense attorney all relevant impeachment material for a prosecution witness. Impeachment material for a witness includes, among other things, a witness's criminal convictions (if any) and any prior misconduct committed by the witness and known to the prosecution that bears on the witness's credibility.

The purpose of this Bulletin is: (1) to alert Members of the Service that, when appearing as a witness for the prosecution, they may, in certain circumstances, be cross-examined by defense counsel about prior allegations of misconduct; and (2) to advise officers that, before they take the witness stand, a prosecutor may ask the officer about any instances of misconduct in the officer's background in order to prepare the officer for cross-examination.

B. Allegations of Misconduct in Other Proceedings as Impeachment Material

The same rules that apply to the prosecutor's duty to disclose impeachment material for civilian witnesses also apply to police witnesses. As a result, the prosecution must disclose to the

Plaintiff's

Exhibit 2

defense any **proven or substantiated allegations** of a police witness's misconduct in any other matter when the prosecution has knowledge of that information and when the misconduct is somehow relevant to the present case that is going to trial.¹ In addition, court decisions make clear that impeachment material may also include mere allegations against a police officer in a civil lawsuit, even when the allegations have not been proven at trial or in a court proceeding.²

For example, a defendant confessed to the murder of a 13-year-old girl, but then later alleged that a police detective coerced him into confessing. The court held that allegations made in a civil lawsuit that the same detective coerced a confession in an unrelated arson investigation involving a different defendant could be used to impeach the detective during the murder trial. The underlying facts of the allegation were relevant to the detective's testimony because they supported the murder defendant's false confession theory.³ The court stated that facts underlying allegations "can [still] be proper fodder for cross-examination" even though the allegations had not yet been proven in the civil trial.⁴ Although appellate courts have not yet ruled that this principle applies to unproven IAB or CCRB allegations, some trial judges have liberally extended these rulings to require prosecutors to disclose CCRB and/or IAB allegations as well.

This is not to say that there are no limits on what a defense attorney may ask a police witness in this regard. First, the allegations that form the basis for the questioning must be relevant to the credibility of the officer. Second, the police officer can only be asked about the facts underlying the allegations and not whether he or she has been accused of misconduct by another person. To illustrate, the proper cross-examination question in the above-described homicide case would be: "*Isn't it true, officer, that when you were questioning a suspect in an arson investigation you threatened him to get him to speak to you?*" **and not** "*Isn't it true that you were sued by another defendant for forcing him to confess?*" Defense counsel should also be prohibited from asking the officer whether he or she has been sued or whether a civil case settled, unless there is an admission of wrongdoing on the part of the officer as part of the settlement. Typically, settlement agreements contain language that states that nothing in the agreement should be deemed an admission of liability. Finally, defense counsel may not ask if the underlying criminal charges relating to the plaintiff's civil action were dismissed in an effort to show that the officer acted improperly.

C. Adverse Credibility Findings as Impeachment Material

A police witness may also be cross-examined about instances in which another judge in an unrelated hearing or trial found the officer's testimony to be incredible. Prosecutors refer to this type of impeachment material as an "adverse credibility finding." Although New York appellate courts have not yet decided whether cross-examination of a police officer about an adverse credibility finding is appropriate, some trial judges in state court rely on these federal decisions to permit such cross-examination.

D. Disclosure Letters

¹ *People v. Garrett*, 23 N.Y.3d 878, 888-90 (2014).

² *People v. Smith*, 27 N.Y.3d 652, 661 (2016).

³ *Garrett*, 23 N.Y.3d at 886.

⁴ *Smith*, 27 N.Y.3d at 661.

It is the practice of some District Attorney's Offices and United States Attorney's Offices to prepare a letter for defense counsel and the court which summarizes impeachment material pertaining to a particular officer that, in the prosecution's judgment, must be disclosed. In such instances, an Assistant District Attorney ("ADA") or Assistant United States Attorney ("AUSA") will provide a copy of the letter to defense counsel prior to trial. As part of trial preparation, the ADA or AUSA should also advise the officer who will be testifying at trial that such a letter exists, review the letter with him or her and discuss anticipated cross-examination.

E. Best Practice is to Discuss Background Information with the Prosecutor to Prepare for Cross- Examination by Defense Counsel

In anticipation of the cross-examination of a police officer, a prosecutor should prepare an officer to testify prior to trial by, among other things, asking him or her a series of questions designed to ascertain if there is any impeachment material in the officer's background.

The questions a prosecutor is likely to ask during preparation include:

- Whether an officer is aware that his or her testimony at a hearing or trial has ever been found by a judge to be incredible;⁵
- Whether an officer has a pending criminal case or a past criminal conviction against him or her;
- Whether an officer is aware of any pending or past civil lawsuit filed against him or her, what the suit was about and what was the outcome;
- Whether an officer or the Department has posted anything about the case on any social media accounts or whether there is any derogatory information about the officer anywhere on the Internet, of which he or she is aware; and
- Whether an officer is aware of any pending or past CCRB and/or IAB investigations.

Police personnel files are confidential under New York Civil Rights Law § 50-a. The law prohibits defense attorneys from directly accessing an officer's disciplinary records, although there is an exception for prosecutors to access limited portions of the officer's disciplinary history during the course of the prosecutor's official duties. Thus, the law does not prohibit prosecutors from seeking information responsive to these questions.

It is beneficial to both the officer and the prosecution for the officer to answer these questions honestly and completely. By learning about such information ahead of time, the prosecutor may be able to prevent its use by arguing before the trial judge that the information is not relevant, will likely confuse or mislead the jury or will create a substantial risk of undue prejudice to the prosecution. This is often referred to as a "*motion in limine*." While impeachment evidence must be disclosed to the defense, it is always in the complete discretion of the trial court whether to bar its use during cross-examination. Moreover, even if the court is inclined to permit cross-examination about an officer's past misconduct, a fully informed prosecutor may be better able to successfully argue for restrictions on the cross-examination of the officer so that improper or inaccurate questions are not asked.

⁵ Incredible - a legal term meaning not reliable, in error, illogical or not believable.

In addition, an officer's failure to inform the prosecutor about such information may negatively impact the trial. A defense attorney may otherwise learn of the information by investigating and researching the officer's background. For example, some court records are available on the Internet, providing defense attorneys easy access to information and records pertaining to lawsuits filed against police officers. Any media coverage about such litigation is also easily accessible. Further, the Legal Aid Society claims to have assembled its own database on police officers in which information about officers' civil lawsuits, allegations of misconduct, and adverse credibility findings are stored and accessed by Legal Aid's attorneys prior to a hearing or trial. Whether their database is as comprehensive as claimed is unclear. Other attorneys and defense organizations are likely to adopt this practice as well. Finally, once a court permits cross-examination of a particular officer about past misconduct, the officer should assume that the information may resurface in a subsequent unrelated trial. Defense attorneys often share information and transcripts of proceedings among themselves.

In sum, because defense attorneys have alternative methods to obtain an officer's background information, it is the best practice to provide accurate and complete responses to the prosecutor's questions during trial preparation in order to become a well-prepared witness and to avoid surprise that may negatively impact the case. If an officer is uncertain about the outcome of a civil lawsuit against him or her, he may contact the Legal Bureau's Police Action Litigation Section (PALS) for assistance. If an officer has a pending disciplinary matter or a pending criminal or civil lawsuit the officer may wish to confer with his or her attorney or the Law Department attorney handling the civil litigation and/or put the prosecutor in touch with that attorney prior to speaking to the prosecutor about the facts underlying the case or prior to answering questions about it during cross-examination.

F. Conclusion

A police officer who testifies at a criminal trial may be cross-examined about derogatory information in his or her background for impeachment purposes. In anticipation of such cross-examination, prosecutors will prepare an officer by inquiring about past and present misconduct allegations, civil lawsuits, criminal convictions, information on social media accounts and Internet sites, and if any past testimony by the officer was found to be incredible by a judge. To be well prepared and to ensure a just outcome in the case, officers should provide relevant background information to the prosecutor prior to testifying.

Members of the Service are encouraged to call the Legal Bureau at (646) 610-5400 with questions about the principles discussed in this bulletin.

This bulletin was prepared by
Joseph Rizza, Law Fellow, Legal Bureau

PLAINTIFF'S
EXHIBIT

PX-77

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY
100 CENTRE STREET
NEW YORK, NY 10013

FEE:\$10.00

CERTIFICATE OF DISPOSITION INDICTMENT

DATE: 10/16/2020

CERTIFICATE OF DISPOSITION NUMBER: 69825

PEOPLE OF THE STATE OF NEW YORK
VS.

CASE NUMBER: 04844-2014
LOWER COURT NUMBER(S): 2014NY080532
DATE OF ARREST: 10/21/2014
ARREST #: M14692369
DATE OF BIRTH: 02/24/1996
DATE FILED: 10/29/2014

FRASER, JAWAWN

DEFENDANT

I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS ON FILE IN THIS OFFICE THAT ON 02/20/2020 THE ABOVE NAMED DEFENDANT WAS CONVICTED OF THE VIOLATIONS(S) BELOW BEFORE JUSTICE BIBEN,E THEN A JUSTICE OF THIS COURT.

DISORDERLY CONDUCT PL 240.20 00 V

THAT ON 02/20/2020, UPON THE AFORESAID CONVICTION BY PLEA THE HONORABLE BIBEN,E THEN A JUDGE OF THIS COURT, SENTENCED THE DEFENDANT TO

DISORDERLY CONDUCT PL 240.20 00 V
UNCONDITIONAL DISCHARGE

CVAF = \$25 (JUDGMENT ORDERED)
SURCHARGE = \$95 (JUDGMENT ORDERED)

THIS CASE IS SEALED PURSUANT TO CPL 160.55:

OFFICIAL RECORDS RELATED TO THE ARREST AND PROSECUTION ON FILE WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES, POLICE AGENCIES AND/OR THE PROSECUTOR'S OFFICE ARE SEALED, HOWEVER, COURT RECORDS REMAIN AVAILABLE FOR PUBLIC INSPECTION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL ON THIS DATE 10/16/2020.


COURT CLERK

Marijuana convictions under PL 221.05 or PL 221.10 are vacated, dismissed and expunged as of August 28, 2019. The court system is in the process of updating its records, but in the meantime, it is an unlawful discriminatory practice unless specifically required or permitted by statute, for any entity to make any inquiry about an expunged conviction or to use an expunged conviction adversely, whether in any form of application or otherwise, against such individual.

Pursuant to section 70.15 of the Penal Law, any misdemeanor sentence with a jail term of "1 year", "12 months", or "365 days" is, by operation of

Fraser 002607

law, deemed to be a sentence of 364 days. Any Certificate of Disposition indicating a jail sentence of "1 year", "12 months", "52 weeks", or "365 days" for a misdemeanor conviction shall be interpreted as a sentence of 364 days.

Void <input type="checkbox"/>		Employee's social security number [REDACTED]		OMB No. 1545-0048	
b Employer identification number 11-2617549			1 Wages, tips, other compensation 6113.14		2 Federal income tax withheld 721.00
c Employer's name, address, and ZIP code UNITED SHEETMETAL CORP 27-20 SKILLMAN AVE LONG ISLAND CITY NY 11101			3 Social security wages 6113.14		4 Social security tax withheld 379.01
			5 Medicare wages and tips 6113.14		6 Medicare tax withheld 89.64
			7 Social security tips		8 Allocated tips
d Control number 52			9		10 Dependent care benefits
e Employer's first name and initial JAWAUN		Last name FRASER	Staff		11 Nonqualified plans
f Employee's address and ZIP code 911 FDR DRIVE APT 4D NEW YORK, NY 10009			12a		12b See instructions for box 12
			13a		13b
			14 Other		14c
g Employee's address and ZIP code NY 130-00627			15 State tax 6113.14	16 State tax withheld 206.82	17 Local income tax 6113.14
			18 Local income tax withheld 135.46	19 R.O.C.	N.Y.C.

Form **W-2** Wage & Tax Statement
Copy D - For Employer.

2014

Department of the Treasury - Internal Revenue Service
For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

PLAINTIFF'S EXHIBIT
PX-78

EMPLOYEE EARNINGS RECORD															UNIT'S	
01/15/20		FRASER LAMUN		1811 FOR DRIVE		AP		NEW YORK NY		10000		HIRE(10/14/14)		TERM		
18020-RATE		19-UC		SINGLE		0-ND		A6-EEC		210019-DEPARTMENT						
WTR	PER	GR	RET	AG	D/T	SS	RET	FICA	CITY	SUB	STATE	DEDS	UNION	EXPENSE	NET	PREMIUM
10/15/14	16.72		140.33	55.50		305.55	33.00	23.31	4.54			5.57		95.08	142.74	
10/22/14			140.33	55.50		305.55	33.00	23.31	4.54			5.57		95.08	142.74	
10/29/14			140.33	55.50		305.55	33.00	23.31	4.54			5.57		95.08	142.74	
11/05/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
11/12/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
11/19/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
11/26/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
12/03/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
12/10/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
12/17/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
12/24/14	24.00		180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
01/01/20			180.54	69.00		405.84	42.00	32.75	5.81			7.13		127.97	215.77	
YTD:		61.00	5840.01	2273.13		2113.14	217.00	165.46	225.62			24.78		4537.43	757.01	
YTD:		61.00	5840.01	2273.13		2113.14	217.00	165.46	225.62			24.78		4537.43	757.01	

a. Employer's social security number [REDACTED]		OMB No. 1545-0048	
b. Employer identification number 11-2617549		1. Wages, tips, other compensation 1824.93	2. Federal income tax withheld 187.00
c. Employer's name, address, and ZIP code UNITED SHEETMETAL CORP 27-20 SKILLMAN AVE LONG ISLAND CITY NY 11101		3. Social security wages 1824.93	4. Social security tax withheld 113.13
		5. Medicare wages and tips 1824.93	6. Medicare tax withheld 26.47
		7. Social security tips 0	8. Allocated tips 0
d. Control number 40		9.	10. Dependent care benefits
e. Employee's first name and initial JAWAUN		Last name FRASER	Self
f. Employee's address and ZIP code 911 FDR DRIVE APT 4D NEW YORK, NY 10009		11. Nonqualified plans	12a. See instructions for box 12
g. Employee's address and ZIP code NY 130-00627		12b.	12c.
h.		12d.	12e.
i.		12f.	12g.
13.	14.	15.	16.
17.	18.	19.	20.
21.	22.	23.	24.
25.	26.	27.	28.
29.	30.	31.	32.
33.	34.	35.	36.
37.	38.	39.	40.
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49.	50.	51.	52.
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65.	66.	67.	68.
69.	70.	71.	72.
73.	74.	75.	76.
77.	78.	79.	80.
81.	82.	83.	84.
85.	86.	87.	88.
89.	90.	91.	92.
93.	94.	95.	96.
97.	98.	99.	100.

Form **W-2** Wage & Tax Statement
 Copy D -- For Employer.

2015

Department of the Treasury - Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

EMPLOYEE EARNINGS RECORD 122-19 UNITS

36135-CN		FRASER, JANAUN		911 FDR DRIVE		AP NEW YORK, NY		10009		HIRE(101414)		TERM(0)		
15020-RATE		19-UC		SINGLE		0-ND		A6-EE0		210019-DEPARTMENT				
W/E	HOURS		EARNINGS		TAXES					DEDUCTIONS		EXPENSE	NET	PREMIUM
	REG	O/T	REG	AB	GRSS	FWT	FICA	CITY	SUI	STATE	DEDS			
010715	16.00		240.32		240.32	21.00	18.37	2.74		3.96		1.76		192.49
011415	24.00		360.48		360.48	39.00	27.58	8.31		9.03		2.84		275.92
012115	27.00		405.54		405.54	45.00	31.03	7.83		11.41		2.97		307.30
012815	30.50		458.11		458.11	53.00	35.04	9.79		14.51		3.36		342.42
020415	18.00		240.32		240.32	21.00	18.38	2.74		3.96		1.76		192.48
021115	8.00		120.16		120.16	8.00	9.20	.46				.86		101.62
YTD	121.50		1824.93		1824.93	187.00	138.60	29.86		42.87		13.37		1412.23
YTD	121.50		1824.93		1824.93	187.00	138.60	29.86		42.87		13.37		1412.23

NOV 17 2020

PLAINTIFF'S
EXHIBIT

PX-79



Since 1849

NICHOLSON & GALLOWAY, INC.

HISTORIC PRESERVATION
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November 11, 2020

Mr. Matthew Wasserman
Law Offices of Joel B. Rudin, P.C.
Carnegie Hall Tower
152 West 57th Street, 8th floor
New York NY 10019
Tel: (212) 752-7600
Fax: (212) 980-2968
Email: jbrudin@rudinlaw.com

Re: Employment Records of Jawaun Fraser
DOB: [REDACTED]/1996, SSN: [REDACTED]

Dear Mr. Wasserman:

As requested, enclosed please find the following documents:

ADP statements covering February 2015 through November 2015
ADP statements covering April 2017 through April 2019
ADP statements covering August 2019 through September 2020
W-2 Forms for 2015, 2017, 2018 and 2019

Mr. Fraser is still in the employ of Nicholson & Galloway, at an hourly rate of \$35.98.

Very truly yours,
NICHOLSON & GALLOWAY, INC.

Patricia Owens
Vice President
enclosures

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95835			M	CV	FRASER, JAWAUN A	NY	19	
Date 1	Date 2	Date 3	911 FDR DRIVE APT 4D					
02/12/2015		996						

PAY DETAILS		HOURS/UNITS		EARNINGS			GROSS	STATUTORY DEDUCTIONS			VOLUNTARY DED		NET PAY					
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3 & 4	Earnings 5	Med Surtax	Federal	SS	Local	Amount	CD	Amount	CD	Check #
01	03/31/2015	04/01/2015	40.00					600.80		600.80	4.79	37.25	10.06	519.69	W	4.40	ASS	000000140067
02	04/07/2015	04/08/2015	40.00					600.80		600.80	4.79	37.25	10.06	519.68	W	4.40	ASS	000000150070
03	04/14/2015	04/15/2015	40.00					600.80		600.80	4.79	37.25	10.06	519.69	W	4.40	ASS	000000160072
04	04/21/2015	04/22/2015	40.00					657.60	55.60	713.20	16.03	44.22	14.22	514.40	W	35.60	ASS	000000170069
05	04/28/2015	04/29/2015	40.00					657.60	55.60	713.20	22.19	10.34	0.60	55.60	VAC			000000180072
06	05/05/2015	05/06/2015	32.00					526.08	44.48	570.56	1.77	35.38	8.94	429.12	W	28.48	ASS	000000190074
07	05/12/2015	05/13/2015	40.00					657.60	55.60	713.20	13.52	8.27	0.60	44.48	VAC			000000200072
08	05/19/2015	05/20/2015	16.00					263.04	22.24	285.28	22.19	10.34	0.60	55.60	VAC			000000210077
09	05/26/2015	05/27/2015	8.00					131.52	11.12	142.64	.53	4.14	0.60	22.24	VAC			000000220060
10	06/02/2015	06/03/2015	32.00					526.08	44.48	570.56	1.77	35.37	8.94	429.13	W	28.48	ASS	000000230082
11	06/09/2015	06/10/2015	36.00					591.84	50.04	641.88	13.52	8.27	0.60	44.48	VAC			000000240083
12	06/16/2015	06/17/2015	40.00					657.60	55.60	713.20	8.90	39.60	11.58	471.88	W	32.04	ASS	000000250084
13	06/23/2015	06/24/2015	40.00					657.60	55.60	713.20	17.73	9.31	0.60	50.04	VAC			000000260086

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	EARNINGS 5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED
QTR	444.00	0.00	0.00	0.00	7128.96	0.00	0.00	0.00	450.36	7579.32	106.96	469.92	131.78	6550.81
YTD										0.00	202.15	109.80	7.80	0.00
										10823.64	126.12	671.07	180.32	
										0.00	275.48	156.94	11.40	

HOURS/UNITS ANALYSIS		EARNINGS ANALYSIS		STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS						
	450.36	VAC		202.15	01NY	131.78	0022	5798.89	W	301.56	ASS	450.36	VAC	

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SU/SBI	LOCAL	
95935			M	CV	FRASER, JAWAUN A	NY	19		
Date 1	Date 2	Date 3							
02/12/2015	1996		NEW YORK NY 10009						

PAY #	P/E Date	Pay Date	HOURS/UNITS		EARNINGS			GROSS	STATUTORY DEDUCTIONS			VOLUNTARY DED.		NET PAY				
			Reg	O/T	Hours 3 & 4	Reg	O/T		Earnings 3 & 4	Earnings 5	Med Surtax	Federal	SS		Local	Amount CD	Amount CD	Check #
01	06/30/2015	07/01/2015	24.00			394.56		33.36	VAC	427.92	6.23	26.53	4.22	329.41	W	21.36	ASS	000000270088
02	07/07/2015	07/08/2015	32.00			526.08		44.48	VAC	570.56	1.77	35.37	8.94	429.13	W	28.48	ASS	000000280088
03	07/14/2015	07/15/2015	40.00			657.60		55.60	VAC	713.20	13.52	8.27	0.60	44.48	VAC			000000290088
04	07/21/2015	07/22/2015	36.00			591.84		50.04	VAC	641.88	16.03	44.22	14.22	514.40	W	35.60	ASS	000000300090
05	07/28/2015	07/29/2015	40.00			657.60		55.60	VAC	713.20	22.19	10.34	0.60	55.60	VAC			000000310092
06	08/04/2015	08/05/2015	40.00			669.20		55.60	VAC	724.80	8.90	39.80	11.58	471.88	W	32.04	ASS	000000320089
07	08/11/2015	08/12/2015	16.00			267.68		23.36	VAC	291.04	17.73	9.31	0.60	50.04	VAC			000000330090
08	08/18/2015	08/19/2015	32.00			535.36		46.72	VAC	582.08	16.03	44.21	14.22	514.41	W	35.60	ASS	000000340091
09	08/25/2015	08/26/2015	32.00			535.36		46.72	VAC	582.08	22.19	10.34	0.60	55.60	VAC			000000350091
10	09/01/2015	09/02/2015	40.00			669.20		58.40	VAC	727.60	17.42	44.94	14.67	522.52	W	35.60	ASS	000000360090
11	09/08/2015	09/09/2015	32.00			535.36		46.72	VAC	582.08	22.94	10.51	0.60	55.60	VAC			000000370090
12	09/15/2015	09/16/2015	32.00			535.36		46.72	VAC	582.08	18.05	1.15		225.14	W	17.76	ASS	000000380091
13	09/22/2015	09/23/2015	40.00			669.20		58.40	VAC	727.60	7.76	4.22	0.60	23.36	VAC			000000390091

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	EARNINGS 5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED.
QTR														
YTD														

HOURS/UNITS ANALYSIS	EARNINGS ANALYSIS	STATE ANALYSIS	LOCAL ANALYSIS	VOLUNTARY DEDUCTIONS ANALYSIS

CONTINUED ON NEXT PAGE

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SU/SD	LOCAL	
95835			M	CV	FRASER, JAWAUN A	NY	19		
Date 1	Date 2	Date 3							
02/12/2015		1996	911 FDR DRIVE APT 4D						

PAY DETAILS			HOURS/UNITS		EARNINGS				GROSS	STATUTORY DEDUCTIONS			VOLUNTARY DED.		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3 & 4	Earnings 5	Med Surtax	Federal	SS	Local	Amount	CD	Amount	CD	Check #
14	09/29/2015	09/30/2015	32.00			535.36		46.72 VAC		582.08	13.86	36.08	9.37	431.49	W	35.52	ASS	
000104		16.7300									13.86	8.44	0.60	46.72	VAC			000000400089

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	EARNINGS 5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED
QTR	468.00	0.00	0.00	0.00	7779.76	0.00	0.00	0.00	668.44	8448.20	98.32	523.78	145.41	7328.44
YTD										0.00	221.35	122.50	8.40	0.00
										19271.84	224.44	1194.85	325.73	
										0.00	496.83	279.44	19.80	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS							
				668.44	VAC			221.35	01NY	145.41	0022	6187.16	W	472.84	ASS	668.44	VAC		

ADP Employee Earnings Record

NICHOLSON & GALLOWAY
Company Code: ZBQ

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FRASER, JAWAUN A

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95835			M	CV	FRASER, JAWAUN A	NY	19		
Date 1	Date 2	Date 3	911 FDR DRIVE APT 4D						
02/12/2015	1996		NEW YORK NY 10009						

Pay #	P/E Date	Pay Date	HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS			VOLUNTARY DED		NET PAY		
			Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3 & 4		Earnings 5	Federal	SS	Local	Amount		CD	Check #
01	10/06/2015	10/07/2015	24.00			401.52		35.04 VAC	436.56				329.98	W	26.64	ASS	
000104		16.7300								6.42	6.33	4.48	35.04	VAC			000000410088
02	10/13/2015	10/14/2015	40.00			669.20		58.40 VAC	727.60	14.49	45.11	14.78	516.58	W	44.40	ASS	000000420090
000104		16.7300								22.69	10.55	0.60	58.40	VAC			000000430090
03	10/20/2015	10/21/2015	40.00			669.20		58.40 VAC	727.60	14.49	45.11	14.78	516.58	W	44.40	ASS	
000104		16.7300								22.69	10.55	0.60	58.40	VAC			000000440093
04	10/27/2015	10/28/2015	24.00			401.52		35.04 VAC	436.56				329.98	W	26.64	ASS	
000104		16.7300								6.42	6.33	0.60	35.04	VAC			000000450093
05	11/03/2015	11/04/2015	40.00			669.20		58.40 VAC	727.60	14.49	45.11	14.78	516.58	W	44.40	ASS	
000104		16.7300								22.69	10.55	0.60	58.40	VAC			000000460094
06	11/10/2015	11/11/2015	40.00			669.20		58.40 VAC	727.60	14.49	45.11	14.78	516.58	W	44.40	ASS	
000104		16.7300								22.69	10.55	0.60	58.40	VAC			000000470094
07	11/17/2015	11/18/2015	16.00			267.68		23.36 VAC	291.04				225.30	W	17.76	ASS	
000104		16.7300								.60	4.22	1.15	23.36	VAC			

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	EARNINGS 5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED
QTR	224.00	0.00	0.00	0.00	3747.52	0.00	0.00	0.00	327.04	4074.56	57.98	252.63	69.23	3527.26
YTD										0.00	104.20	59.08	4.20	0.00
										23346.40	282.40	1447.48	394.96	
										0.00	601.03	338.52	24.00	

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS									
			327.04	VAC		104.20	01NY	69.23	0022	2951.58	W	248.64	ASS	327.04	VAC				

ADP Employee Earnings Record

NICHOLSON & GALLOWAY
Company Code: ZBQ

Batch: 4424-040 Quarter Ended: 12/31/2015 Page: 90
FRASER, JAWAUN A

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	CV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	749 FDR DRIVE APT 2F					
02/12/2015		1996						

PAY DETAILS		HOURS/UNITS		EARNINGS			GROSS	STATUTORY DEDUCTIONS			VOLUNTARY DED		NET PAY						
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3 & 4	Earnings 5	Med Surtax	Federal	SS	Local	Amount	CD	Amount	CD	Check #	
01	10/03/2017	10/04/2017	32.00					557.12	48.64	VAC	605.76	51.90	37.56	15.62	38.40	ASS	0.76	PFL	382.58
000104		17.4100									20.91	8.79	0.60	48.64	VAC			000000105431	
02	10/10/2017	10/11/2017	32.00					557.12	48.64	VAC	605.76	51.90	37.55	15.62	38.40	ASS	0.76	PFL	382.60
000104		17.4100									20.91	8.78	0.60	48.64	VAC			000000105462	
03	10/17/2017	10/18/2017	40.00					696.40	60.80	VAC	757.20	74.61	46.95	22.19	48.00	ASS	0.95	PFL	481.45
000104		17.4100									30.67	10.98	0.60	60.80	VAC			000000105494	
04	10/24/2017	10/25/2017	32.00					557.12	48.64	VAC	605.76	51.90	37.56	15.62	38.40	ASS	0.76	PFL	382.59
000104		17.4100									20.91	8.78	0.60	48.64	VAC			000000105526	
05	10/31/2017	11/01/2017	40.00					696.40	60.80	VAC	757.20	74.61	46.94	22.19	48.00	ASS	0.95	PFL	481.46
000104		17.4100									30.67	10.98	0.60	60.80	VAC			000000105557	
06	11/07/2017	11/08/2017	40.00					696.40	60.80	VAC	757.20	74.61	46.95	22.19	48.00	ASS	0.95	PFL	481.44
000104		17.4100									30.66	10.98	0.60	60.80	VAC			000000105589	
07	11/14/2017	11/15/2017	34.00					591.94	51.68	VAC	643.82	57.58	39.90	17.25	40.80	ASS	0.81	PFL	402.32
000104		17.4100									23.35	9.33	0.60	51.68	VAC			000000105624	
08	11/21/2017	11/22/2017	24.00					417.84	36.48	VAC	454.32	29.18	28.17	9.33	28.80	ASS	0.57	PFL	302.69
000104		17.4100									11.91	6.59	0.60	36.48	VAC			000000105659	
09	11/28/2017	11/29/2017	24.00					417.84	36.48	VAC	454.32	29.18	28.17	9.34	28.80	ASS	0.57	PFL	302.66
000104		17.4100									11.91	6.59	0.60	36.48	VAC			000000105693	
10	12/05/2017	12/06/2017	32.00					557.12	48.64	VAC	605.76	51.90	37.56	15.62	39.40	ASS	0.76	PFL	382.59
000104		17.4100									20.91	8.78	0.60	48.64	VAC			000000105728	
11	12/12/2017	12/13/2017	40.00					696.40	60.80	VAC	757.20	74.61	48.94	22.19	48.00	ASS	0.95	PFL	481.46
000104		17.4100									30.67	10.98	0.60	60.80	VAC			000000105782	
12	12/19/2017	12/20/2017	40.00					696.40	60.80	VAC	757.20	74.61	46.95	22.19	48.00	ASS	0.95	PFL	481.45
000104		17.4100									30.67	10.98	0.60	60.80	VAC			000000105806	
13	12/26/2017	12/27/2017	28.00					487.48	42.56	VAC	530.04	40.54	32.86	12.48	33.60	ASS	0.67	PFL	342.67
000104		17.4100									16.37	7.69	0.60	42.56	VAC			000000105854	

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	EARNINGS 5	GROSS PAY	FEDERAL TAX	SOC SEC TAX	LOCAL	FOT VOL DED
QTR														
YTD														

HOURS/UNITS ANALYSIS	EARNINGS ANALYSIS	STATE ANALYSIS	LOCAL ANALYSIS	VOLUNTARY DEDUCTIONS ANALYSIS

CONTINUED ON NEXT PAGE

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SOI	LOCAL	
95965	On File		M	CV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	749 FDR DRIVE APT 2F						
02/12/2015		996	NEW YORK NY 10009						

PAY DETAILS		HOURS/UNITS		EARNINGS			GROSS	STATUTORY DEDUCTIONS			VOLUNTARY DED		NET PAY					
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3 & 4	Earnings 5	Med Surtax	Federal	SS	Local	Amount	CD	Amount	CD	Check #
14	12/28/2017	12/27/2017						300.00	B	300.00	State	MED	SUI/SDI	0.38	PFL			249.02
000104		17.4100									4.77	4.35	12.88					000000105855

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	EARNINGS 5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED
QTR	438.00	0.00	0.00	0.00	7625.58	0.00	300.00	0.00	665.76	8591.34	747.13	532.66	234.71	1202.15
YTD										22009.38	1941.51	1364.58	578.56	5437.00
										0.00	792.39	319.14	20.40	

HOURS/UNITS ANALYSIS#	EARNINGS ANALYSIS#		STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS							
	300.00	B	665.76	VAC	305.31	01NY	234.71	0022	525.60	ASS	10.79	PFL	665.76	VAC

ADP Employee Earnings Record

NICHOLSON & GALLOWAY
Company Code: ZBQ

Batch: 4991-040 Quarter Ended: 12/31/2017 Page: 104
FRASER, JAWAUN A

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	CV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	749 FDR DRIVE APT 2F					
02/12/2015	1996							

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY	
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	FLI	Federal	SS	Local	Amount CD	Amount CD	Check #
Dept	Rate	Rate								State	MED	SUI/SDI				
01	01/02/2018	01/03/2018	8.00					139.28		.19		9.39	0.35	9.60	ASS	12.16 VAC
000104	17.4100	17.4100									2.20	0.60				116.95
02	01/09/2018	01/10/2018	8.00					139.28		.19		9.39	0.35	9.60	ASS	12.16 VAC
000104	17.4100	17.4100									2.19	0.60				116.96
03	01/16/2018	01/17/2018	37.00					644.17		.88	86.10	43.42	18.59	50.00	E	44.40 ASS
000104	17.4100	17.4100									26.88	10.16	0.60	56.24	VAC	483.14
04	01/23/2018	01/24/2018	24.00					417.84		.57	23.16	28.17	8.69	50.00	E	28.80 ASS
000104	17.4100	17.4100									11.91	6.59	0.60	36.48	VAC	259.35
05	01/30/2018	01/31/2018	40.00					696.40		.95	59.51	46.95	20.95	48.00	ASS	60.80 VAC
000104	17.4100	17.4100									30.48	10.97	0.60			477.99
06	02/06/2018	02/07/2018	32.00					557.12		.76	41.34	37.56	14.68	38.40	ASS	48.64 VAC
000104	17.4100	17.4100									20.89	8.79	0.60			394.10
07	02/13/2018	02/14/2018	32.00					557.12		.76	41.34	37.56	14.68	38.40	ASS	48.64 VAC
000104	17.4100	17.4100									20.89	8.78	0.60			394.12
08	02/20/2018	02/21/2018	40.00					696.40		.95	59.51	46.95	20.95	48.00	ASS	60.80 VAC
000104	17.4100	17.4100									30.48	10.98	0.60			477.98
09	02/27/2018	02/28/2018	32.00	1.00	O			557.12		.80	44.74	39.32	15.84	40.20	ASS	50.92 VAC
000104	17.4100	17.4100									22.69	9.20	0.60			409.85
10	03/06/2018	03/07/2018	16.00					278.56		.38		18.78	3.57	231.64	W	19.20 ASS
000104	17.4100	17.4100									4.39	0.60		24.32	VAC	000000100077
11	03/20/2018	03/21/2018	16.00					278.56		.38	7.21	18.77	3.57	219.56	W	19.20 ASS
000104	17.4100	17.4100									4.88	4.39	0.60	24.32	VAC	000000120084
12	03/27/2018	03/28/2018	16.00					278.56		.38	7.21	18.78	3.57	219.55	W	19.20 ASS
000104	17.4100	17.4100									4.88	4.39	0.60	24.32	VAC	000000130084

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FLI	FEDERAL TAX	SOC SEC TAX	LOCAL	TOT VOL DED	RET PAY
QTR	301.00	0.00	0.00	1.00	5240.41	0.00	0.00	485.92	5726.33	7.19	350.12	355.03	125.79	1493.55	
YTD									5726.33	7.19	350.12	355.03	125.79	3130.44	

HOURS/UNITS ANALYSIS		EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS												
1.00	O	26.12	O	459.80	VAC	173.98	01NY	125.79	0022	670.75	W	363.00	ASS	459.80	VAC						

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	CV	FRASER, JAWAUN A 749 FDR DRIVE APT 2F	NY	19	0022
Date 1	Date 2	Date 3						
02/12/2015	1996							

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY	
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Mod Surtax	FLI	Federal	SS MED	Local SUI/SDI	Amount CD	Amount CD	Check #
01	04/03/2018	04/04/2018	32.00					557.12		.76	41.34	37.56	14.68	394.10 W	38.40 ASS	
000104		17.4100						48.64 VAC	605.76		20.89	8.79	0.60	48.64 VAC		000000140074
02	04/10/2018	04/11/2018	40.00					696.40		.95	59.51	46.95	20.95	477.99 W	48.00 ASS	
000104		17.4100						60.80 VAC	757.20		30.48	10.97	0.60	60.80 VAC		000000150090
03	04/17/2018	04/18/2018	37.00					644.17		.88	52.69	43.42	18.59	446.55 W	44.40 ASS	
000104		17.4100						56.24 VAC	700.41		26.88	10.16	0.60	56.24 VAC		000000160093
04	04/24/2018	04/25/2018	24.00					417.84		.57	23.16	28.17	8.69	309.35 W	28.80 ASS	
000104		17.4100						36.48 VAC	454.32		11.91	6.59	0.60	36.48 VAC		000000170096
05	05/01/2018	05/02/2018	32.00					557.12		.76	41.34	37.56	14.68	394.11 W	38.40 ASS	
000104		17.4100						48.64 VAC	605.76		20.89	8.78	0.60	48.64 VAC		000000180098
06	05/08/2018	05/09/2018	40.00					696.40		.95	59.51	46.94	20.95	477.99 W	48.00 ASS	
000104		17.4100						60.80 VAC	757.20		30.48	10.98	0.60	60.80 VAC		000000190098
07	05/15/2018	05/16/2018	32.00					557.12		.76	41.34	37.56	14.68	394.11 W	38.40 ASS	
000104		17.4100						48.64 VAC	605.76		20.89	8.78	0.60	48.64 VAC		000000200099
08	05/22/2018	05/23/2018	40.00					696.40		.95	59.51	46.95	20.94	477.99 W	48.00 ASS	
000104		17.4100						60.80 VAC	757.20		30.48	10.98	0.60	60.80 VAC		000000210100
09	05/29/2018	05/30/2018	32.00					557.12		.76	41.34	37.55	14.68	394.11 W	38.40 ASS	
000104		17.4100						48.64 VAC	605.76		20.89	8.79	0.60	48.64 VAC		000000220104
10	06/05/2018	06/06/2018	40.00					696.40		.95	59.51	46.95	20.95	477.98 W	48.00 ASS	
000104		17.4100						60.80 VAC	757.20		30.48	10.98	0.60	60.80 VAC		000000230103
11	06/12/2018	06/13/2018	40.00					696.40		.95	59.51	46.95	20.94	477.99 W	48.00 ASS	
000104		17.4100						60.80 VAC	757.20		30.48	10.98	0.60	60.80 VAC		000000240103
12	06/19/2018	06/20/2018	40.00					696.40		.95	59.51	46.94	20.95	477.99 W	48.00 ASS	
000104		17.4100						60.80 VAC	757.20		30.48	10.98	0.60	60.80 VAC		000000250101
13	06/26/2018	08/27/2018	32.00					557.12		.76	41.34	37.56	14.68	394.11 W	38.40 ASS	
000104		17.4100						48.64 VAC	605.76		20.89	8.78	0.60	48.64 VAC		000000260099

TOTALS															
	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FLI	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED.	NET PAY
QTR	461.00	0.00	0.00	0.00	8026.01	0.00	0.00	700.72	8726.73		10.95	639.61	541.06	226.36	6848.29
YTD									14453.06		0.00	989.73	896.09	352.15	0.00
											0.00	500.10	209.57	15.00	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS													
				700.72	VAC			326.12	01NY	226.36	0022	5594.37	W	563.20	ASS	700.72	VAC								

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	FV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	NEW YORK NY 10009						
02/12/2015	998		749 FDR DRIVE APT 2F						

PAY DETAILS		HOURS/UNITS			EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	FLI	Federal State	SS MED	Local SUI/SDI	Amount CD	Amount CD	Check #	
01	07/03/2018	07/03/2018	22.00					383.02			18.62	25.82	7.27	287.88	W 26.40	ASS	000000270095
000104		17.4100						33.44	416.46	.52	9.87	6.04	0.60	33.44	VAC		
02	07/10/2018	07/11/2018	16.00					278.56	302.86	.38	7.21	18.78	3.57	219.55	W 19.20	ASS	000000280099
000104		17.4100						24.32	757.20	.95	4.88	4.39	0.60	24.32	VAC		
03	07/17/2018	07/18/2018	40.00					698.40	454.32	.57	59.51	46.95	20.95	477.98	W 48.00	ASS	000000290096
000104		17.4100						60.80	719.36	.90	30.48	10.98	0.60	60.80	VAC		
04	07/24/2018	07/25/2018	24.00					417.84	1233.92	1.55	23.16	28.16	8.69	309.36	W 28.80	ASS	000000300097
000104		17.4100						36.48	1118.24	1.41	11.91	6.59	0.60	36.48	VAC		
05	07/31/2018	08/01/2018	32.00	4.00	O			557.12	990.80	1.25	54.97	44.60	19.37	480.05	W 3.00-	E	000000310098
000104		17.4100						57.76	1065.12	1.34	28.08	10.43	0.60	45.60	ASS 57.78	VAC	
06	08/07/2018	08/08/2018	40.00	16.00	O			703.20	792.64	1.00	68.00	76.51	40.72	708.51	W 78.08	ASS	000000320099
000104		26.3700						40.80	1118.24	1.41	60.65	17.89	0.60	108.80	VAC		
07	08/14/2018	08/15/2018	40.00	12.00	O			703.20	990.80	1.25	316.44	69.33	35.92	654.92	W 70.76	ASS	000000330101
000104		17.5800						98.60	1065.12	1.34	53.33	16.21	0.60	98.60	VAC		
08	08/21/2018	08/22/2018	40.00					903.60	990.80	1.25	87.20	61.43	30.65	599.72	W 61.20	ASS	000000340104
000104		22.5900						87.20	1065.12	1.34	45.26	14.37	0.60	87.20	VAC		
09	08/28/2018	08/29/2018	40.00	2.00	O			903.60	792.64	1.00	67.78	66.03	33.72	633.01	W 65.80	ASS	000000350106
000104		33.8900						17.44	1118.24	1.41	49.97	15.44	0.60	93.74	VAC		
10	09/04/2018	09/05/2018	32.00					722.88	990.80	1.25	69.76	49.15	22.42	492.77	W 48.96	ASS	000000360104
000104		22.5900						69.76	1065.12	1.34	32.72	11.50	0.60	69.76	VAC		
11	09/11/2018	09/12/2018	40.00					903.60	990.80	1.25	89.12	61.43	30.64	599.74	W 61.20	ASS	000000370108
000104		22.5900						87.20	792.64	1.00	45.26	14.36	0.60	87.20	VAC		
12	09/18/2018	09/19/2018	32.00					722.88	792.64	1.00	63.76	49.14	22.42	492.78	W 48.96	ASS	000000380107
000104		22.5800						69.76	1118.24	1.41	32.72	11.50	0.60	69.76	VAC		

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	GROSS PAY	FLI	FEDERAL TAX STATE TAX	SOC SEC TAX MEDICARE TAX	LOCAL SUI/SDI	TOT. VOL. DED	NET PAY
QTR															
YTD															

HOURS/UNITS ANALYSIS	EARNINGS ANALYSIS	STATE ANALYSIS	LOCAL ANALYSIS	VOLUNTARY DEDUCTIONS ANALYSIS

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95985	On File		M	FV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3						
02/12/2015	1996		749 FDR DRIVE APT 2F NEW YORK NY 10009					

PAY DETAILS		HOURS/UNITS		EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	FLI	Federal State	SS MED	Local SUI/SDI	Amount CD	Amount CD	Check #
13	09/25/2018	09/26/2018	32.00			722.88		69.76 VAC	792.64	1.00	63.76	49.14	22.42	492.79 W	48.96 ASS	000000390107
000104		22.5900									32.72	11.49	0.60	69.76 VAC		

QTR	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX		SOC. SEC. TAX		LOCAL		TOT VOL. DED
										FLI	STATE TAX	MEDICARE SURTAX	MEDICARE TAX	SUI/SDI	NET PAY	
	430.00	0.00	0.00	34.00	8618.78	0.00	0.00	1808.24	10427.02	13.12	898.23	646.47	298.76	7973.60		
YTD									24880.08	0.00	437.85	151.19	7.80	0.00		
											31.25	1887.96	1542.56	650.91		
											0.00	937.95	360.76	22.80		

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS											
34.00	O			910.62	O	897.62	VAC	437.85	01NY	298.76	0022	3.00	E	6427.06	W	651.92	ASS	897.62	VAC				

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	FV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	749 FDR DRIVE APT 2F					
02/12/2015	1998		NEW YORK NY 10009					

Pay #	P/E Date	Pay Date	HOURS/UNITS		EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY						
			Reg	O/T	Hours 3 & 4	Reg		O/T	Earnings 3,4,&5	Med Surtax	FLI	Federal	SS		Local	Amount	CD	Amount	CD	Check #
01	10/02/2018	10/03/2018	32.00				722.88		69.76	VAC	792.64	1.00	63.76	49.15	22.42	492.78	W	48.96	ASS	000000400109
000104		22.5900											32.72	11.49	0.60	69.76	VAC			
02	10/09/2018	10/10/2018	40.00				903.60		87.20	VAC	990.80	1.25	89.12	61.43	30.64	599.73	W	61.20	ASS	000000410109
000104		22.5900											45.26	14.37	0.60	87.20	VAC			
03	10/16/2018	10/17/2018	38.00				858.42		82.84	VAC	941.26	1.19	81.60	58.36	28.58	574.17	W	58.14	ASS	000000420108
000104		22.5900											42.13	13.65	0.60	82.84	VAC			
04	10/23/2018	10/24/2018	40.00				903.60		87.20	VAC	990.80	1.25	89.12	61.43	30.64	599.73	W	61.20	ASS	000000430107
000104		22.5900											45.26	14.37	0.60	87.20	VAC			
05	10/30/2018	10/31/2018	32.00				722.88		69.76	VAC	792.64	1.00	63.76	49.14	22.42	492.79	W	48.96	ASS	000000440106
000104		22.5900											32.72	11.49	0.60	69.76	VAC			
06	11/06/2018	11/07/2018	27.00				609.93		58.86	VAC	668.79	.84	48.90	41.46	17.28	424.96	W	41.31	ASS	000000450106
000104		22.5900											24.88	8.70	0.60	58.86	VAC			
07	11/13/2018	11/14/2018	40.00				903.60		87.20	VAC	990.80	1.25	89.12	61.43	30.64	599.74	W	61.20	ASS	000000460108
000104		22.5900											45.26	14.36	0.60	87.20	VAC			
08	11/20/2018	11/21/2018	32.00				722.88		69.76	VAC	792.64	1.00	63.76	49.15	22.42	492.77	W	48.96	ASS	000000470107
000104		22.5900											32.72	11.50	0.60	69.76	VAC			
09	11/27/2018	11/28/2018	24.00				542.16		52.32	VAC	594.48	.75	39.98	36.86	14.23	384.22	W	36.72	ASS	000000480107
000104		22.5900											20.18	8.62	0.60	52.32	VAC			
10	12/04/2018	12/05/2018	40.00				903.60		87.20	VAC	990.80	1.25	89.12	61.43	30.64	599.74	W	61.20	ASS	000000490107
000104		22.5900											45.26	14.36	0.60	87.20	VAC			
11	12/11/2018	12/12/2018	8.00				180.72		17.44	VAC	198.16	.25			1.30	150.47	W	12.24	ASS	000000500105
000104		22.5900											.70	2.88	0.60	17.44	VAC			
12	12/18/2018	12/19/2018	16.00				361.44		34.88	VAC	396.32	.50	16.58	24.57	6.61	273.50	W	24.48	ASS	000000510216
000104		22.5900											8.88	5.74	0.60	34.88	VAC			
13	12/18/2018	12/19/2018							300.00	B	300.00	.38	6.92	18.60	11.81	253.17	W			
000104		22.5900											4.77	4.35						000000510217

TOTALES	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4	GROSS PAY	FLI	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED
										MLI	STATE TAX	MEDICARE TAX	SUI/SDI	NET PAY
QTR														
YTD														

HOURS/UNITS ANALYSIS	EARNINGS ANALYSIS	STATE ANALYSIS	LOCAL ANALYSIS	VOLUNTARY DEDUCTIONS ANALYSIS

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	FV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	749 FDR DRIVE APT 2F						
02/12/2015			NEW YORK NY 10009						

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	FLI	Federal	SS	Local	Amount	CD	Amount	CD	Check #
Dept		Rate								MLI	State	MED	SUI/DI					
14	12/25/2018	12/26/2018	24.00					542.16			39.98	36.86	14.23	384.22	W	36.72	ASS	
000104		22.5900							594.48	.75	20.18	8.62	0.80	52.32	VAC			000000520098

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FLI	FEDERAL TAX	SOC. SEC. TAX	LOCAL	TOT. VOL. DED
										MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	NET PAY
QTR	393.00	0.00	0.00	0.00	8877.87	0.00	300.00	856.74	10034.61	12.66	781.70	622.15	283.86	7780.02
YTD									34914.69	0.00	400.92	145.50	7.80	0.00
										43.92	2669.66	2164.71	934.77	
										0.00	1338.87	506.26	30.60	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS				LOCAL ANALYSIS				VOLUNTARY DEDUCTIONS ANALYSIS											
				300.00	B	656.74	VAC	400.92	01NY	283.86	0022	6321.99	W	601.29	ASS	856.74	VAC										

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	FV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	749 FDR DRIVE APT 2F						
02/12/2015		996	NEW YORK NY 10009						

PAY DETAILS		HOURS/UNITS			EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DED		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4, & 5	Med Surtax	FLI	Federal	SS	Local	Amount CD	Amount CD	Check #
Dept	Rate									MLI	State	MED	SUI/SDI			
13	03/26/2019	03/27/2019	24.00			542.16		52.32 VAC	594.48	.91	39.45	36.86	14.23	384.60 W	36.72 ASS	000000130085
000104	22.5900										20.17	8.62	0.80	52.32 VAC		

TOTALS									GROSS PAY	FLI	FEDERAL TAX	SOC SEC TAX	LOCAL	TOT VOL DED
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5		MEICARE SURTAX	MLI	STATE TAX	MEICARE TAX	SUI/SDI	NET PAY
384.00	0.00	0.00	9.00	8493.92	0.00	0.00	1171.56		9665.48	14.78	748.66	599.26	267.30	7500.83
									0.00	0.00	386.70	140.15	7.80	0.00
YTD									9665.48	14.78	748.66	599.26	267.30	
									0.00	0.00	386.70	140.15	7.80	

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS											
9.00	O		305.01	O	866.55	VAC	386.70	01NY	267.30	0022	6026.06	W	608.22	ASS	866.55	VAC						

ADP Employee Earnings Record

NICHOLSON & GALLOWAY
Company Code: ZBQ

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FRASER, JAWAUN A

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	FV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3							
02/12/2015	1996		NEW YORK NY 10009						
					749 FDR DRIVE APT 2F				

PAY DETAILS		HOURS/UNITS			EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY				
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/DI	MLI					
01	04/02/2019	04/03/2019	40.00					903.60		1.52	87.01	61.43	30.64	602.05	W	61.20	ASS	
000104		22.5900									44.78	14.37	0.60	87.20	VAC			000000140091
02	04/09/2019	04/10/2019	24.00					542.16		.91	39.45	36.85	14.23	52.32	V	36.72	ASS	384.61
000104		22.5900									20.17	8.62	0.60					

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DEP.
									MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/DI	MLI	NET PAY
QTR	64.00	0.00	0.00	0.00	1445.76	0.00	0.00	139.52	1585.28	2.43	126.46	98.28	44.87	639.49
YTD									0.00	0.00	64.95	22.99	1.20	384.61
									11250.76	17.21	875.12	697.54	312.17	
									0.00	0.00	451.65	163.14	9.00	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS							
				52.32	V	87.20	VAC	64.95	01NY	44.87	0022	52.32	V	602.05	W	97.92	ASS	87.20	VAC

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS				STATE	SUI/SDI	LOCAL
95965	On File		M	HV	FRASER, JAWAUN A				NY	19	0022
Date 1	Date 2	Date 3									
02/12/2015		1996	144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018								

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount CD	Amount CD	Check #	
Dept		Rate								State	MED	SUI/DI	MLI				
01	06/27/2019	08/28/2019	35.50		24.00	O		989.39	1003.44	O							
000104		27.8700						235.95	VAC								
02	09/03/2019	09/04/2019	24.00		4.00	O		668.88	167.24	O							
000104		41.8100						79.20	VAC								
								19.80	VAC								
03	09/10/2019	09/11/2019	40.00					1114.80	132.00	VAC							
000104		27.8700															
04	09/17/2019	09/18/2019	40.00		12.50	O		1114.80	522.63	O							
000104		27.8700						193.88	VAC								
05	09/24/2019	09/25/2019	32.00		9.00	O		891.84	376.29	O							
000104		41.8100						105.60	VAC								
								44.55	VAC								

TOTALS										GROSS PAY		FEDERAL TAX		SOC. SEC. TAX		LOCAL		FLI		TOT VOL DED			
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	NET PAY		NET PAY		NET PAY		NET PAY		NET PAY		NET PAY		NET PAY		NET PAY	
QTR	171.50	0.00	0.00	49.50	4779.71	0.00	0.00	2080.58		7680.29	1042.27	474.95	0.00	11.73	5621.70								
YTD										0.00	395.57	111.07	3.00	0.00	0.00								
										18911.05	1917.39	1172.49	312.17	28.94									
										0.00	847.22	274.21	12.00	0.00									

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS				
REG	O/T	UNITS	REG	O/T	EARNINGS	STATE	LOCAL	W	ASS	VAC	CD	CD	CD	CD
49.50	O		2069.50	O	810.98	VAC	395.57	01NY						
									4350.91	W	459.81	ASS	810.98	VAC

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	HV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3						
02/12/2015	1996		144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018					

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
01	10/01/2019	10/02/2019	40.00			1114.80		132.00 VAC	1246.80	143.04	77.30		1.91	738.39	W	74.80	ASS	000000400112
000104		27.8700								60.68	18.08	0.60		132.00	VAC			
02	10/08/2019	10/09/2019	40.00			1114.80		132.00 VAC	1246.80	143.04	77.30		1.91	738.39	W	74.80	ASS	000000410112
000104		27.8700								60.68	18.08	0.60		132.00	VAC			
03	10/15/2019	10/16/2019	32.00			891.84		105.60 VAC	997.44	88.18	61.84		1.53	620.19	W	59.84	ASS	000000420114
000104		27.8700								45.20	14.46	0.60		105.60	VAC			
04	10/22/2019	10/23/2019	40.00			1114.80		132.00 VAC	1246.80	143.04	77.30		1.91	738.39	W	74.80	ASS	000000430114
000104		27.8700								60.68	18.08	0.60		132.00	VAC			
05	10/29/2019	10/30/2019	36.00			1003.32		118.80 VAC	1122.12	115.61	69.57		1.72	679.29	W	67.32	ASS	000000440111
000104		27.8700								52.94	16.27	0.60		118.80	VAC			
06	11/05/2019	11/06/2019	32.00			891.84		105.60 VAC	997.44	88.18	61.84		1.53	620.19	W	59.84	ASS	000000450113
000104		27.8700								45.20	14.46	0.60		105.60	VAC			
07	11/12/2019	11/13/2019	32.00			891.84		105.60 VAC	997.44	88.18	61.85		1.53	620.17	W	59.84	ASS	000000460109
000104		27.8700								45.20	14.47	0.60		105.60	VAC			
08	11/19/2019	11/20/2019	40.00		8.00 O	1114.80		334.48 O 132.00 VAC 39.60 VAC	1620.88	225.33	100.49		2.48	915.69	W	97.28	ASS	000000470109
000104		41.8100								83.91	23.50	0.60		171.60	VAC			
09	11/26/2019	11/27/2019	37.00			1031.19		122.10 VAC	1153.29	122.46	71.50		1.76	694.08	W	69.19	ASS	000000480111
000104		27.8700								54.88	16.72	0.60		122.10	VAC			
10	12/03/2019	12/04/2019	15.00			418.05		49.50 VAC	467.55	24.22	28.99		72	316.00	W	28.05	ASS	000000490110
000104		27.8700								12.69	6.78	0.60		49.50	VAC			
11	12/10/2019	12/11/2019	40.00			1114.80		132.00 VAC	1246.80	143.04	77.30		1.91	738.39	W	74.80	ASS	000000500110
000104		27.8700								60.68	18.08	0.60		132.00	VAC			
12	12/17/2019	12/18/2019	28.00			780.36		92.40 VAC	872.76	72.85	54.11		1.33	549.01	W	52.36	ASS	000000510226
000104		27.8700								37.45	12.65	0.60		92.40	VAC			

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
										STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY
QTR														
YTD														

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS									

CONTINUED ON NEXT PAGE

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	HV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015		1996	APT 508					
EAST ORANGE						NJ 07016		

PAY DETAILS			HOURS/UNITS		EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY						
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Mod	Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #	
Dept	Rate	Rate																		
01	01/07/2020	01/08/2020	28.00					780.36			92.40	VAC								
000104		27.8700																		
02	01/14/2020	01/15/2020	32.00		8.00	O		891.84			334.48	O								
000104		41.8100																		
03	01/21/2020	01/22/2020	35.00					975.45			115.50	VAC								
000104		27.8700																		
04	01/28/2020	01/29/2020	40.00					1114.80			132.00	VAC								
000104		27.8700																		
05	02/04/2020	02/05/2020	40.00					1114.80			132.00	VAC								
000104		27.8700																		
06	02/11/2020	02/12/2020	20.00					557.40			66.00	VAC								
000104		27.8700																		
07	02/18/2020	02/19/2020	24.00					668.88			79.20	VAC								
000104		27.8700																		
08	02/25/2020	02/26/2020	32.00					891.84			105.60	VAC								
000104		27.8700																		
09	03/03/2020	03/04/2020	40.00					1114.80			132.00	VAC								
000104		27.8700																		
10	03/10/2020	03/11/2020	32.00		8.00	O		891.84			334.48	O								
000104		41.8100																		
11	03/17/2020	03/18/2020	32.00		8.00	O		891.84			334.48	O								
000104		27.8700																		
12	03/24/2020	03/25/2020	24.00		8.00	O		668.88			334.48	O								
000104		41.8100																		

TOTALS														
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	YOF	VOL. DER
QTR									STATE TAX	MEDICARE TAX	SUI/SDI	MLI		NET PAY
YTD														

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS				
CONTINUED ON NEXT PAGE														

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	HV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3							
02/12/2015	1998		144 SOUTH HARRISON STREET						
APT 508									
EAST ORANGE NJ 07018									

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY	
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4, & 5	Med Surtax	Federal State	SS MED	Local SUI/DI	FLI MLI	Amount CD	Amount CD	Check #
000104	03/24/2020	03/25/2020						39.60 VAC								

TOTALS										GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	STATE TAX	STATE TAX	MEDICARE TAX	SUI/SDI	FLI	NET PAY		
378.00	0.00	0.00	32.00	10562.73	0.00	0.00	2747.02	13309.75	1407.42	825.20	0.00	35.95	10222.49		
YTD								0.00	618.50	192.99	7.20	0.00	0.00		
								13309.75	1407.42	825.20	0.00	35.95			
								0.00	618.50	192.99	7.20	0.00			

HOURS/UNITS ANALYSIS		EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS												
32.00	O			1337.92	O	1409.10	VAC	618.50	01NY			8014.74	W	798.65	ASS	1409.10	VAC				

ADP Employee Earnings Record

NICHOLSON & GALLOWAY
Company Code: ZBQ

Batch: 5362-040

Quarter Ended: 03/31/2020 Page: 78
FRASER, JAWAUN A

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95985	On File		M	HV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015	1996		APT 508					
					EAST ORANGE	NJ 07018		

PAY DETAILS		HOURS/UNITS		EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY				
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount CD	Amount CD	Check #	
Dept		Rate								State	MED	SUI/DI	MLI				
01	03/31/2020	04/01/2020	24.00					668.88	79.20	VAC							
000104		27.8700							748.08	57.36	46.39	0.60	2.02	477.25	W	44.88	ASS
										29.53	10.85			79.20	VAC		000000140056

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT VOL. DED.
QTR	24.00	0.00	0.00	0.00	668.88	0.00	0.00	79.20	748.08	57.36	46.39	0.60	2.02	691.33
YTD									14057.83	1464.78	871.59	0.00	87.97	0.00
									0.00	648.03	203.84	7.80	0.00	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS											
				79.20	VAC			29.53	01NY			477.25	W	44.88	ASS	79.20	VAC						

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	JV	FRASER,JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015		1995	APT 508					
EAST ORANGE NJ 07018								

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,8,5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/SDI	MLI					
01	06/30/2020	07/01/2020	56.00					1560.72		250.59	108.22		4.71	976.26	W	104.72	ASS	
000104		27.8700						184.80	1745.52	90.31	25.31	0.60		184.80	VAC			000000270074
02	07/07/2020	07/08/2020	32.00					891.84	997.44	87.28	61.84		2.69	620.42	W	59.84	ASS	
000104		27.8700						105.60		44.71	14.46	0.60		105.60	VAC			000000280074
03	07/14/2020	07/15/2020	40.00		6.00	O		1114.80	1527.36	202.59	94.70		4.12	872.40	W	92.12	ASS	
000104		41.8100						161.70		76.98	22.15	0.60		161.70	VAC			000000290079
04	07/21/2020	07/22/2020	40.00		14.00	O		1114.80	1901.44	285.24	117.88		5.13	1048.74	W	114.68	ASS	
000104		41.8100						585.34		100.30	27.57	0.60		201.30	VAC			000000300082
05	07/28/2020	07/29/2020	40.00		8.00	O		1114.80	1620.88	223.16	100.50		4.38	952.06	W	62.40	ASS	
000104		41.8100						334.48		82.68	23.50	0.60		171.60	VAC			000000310082
06	08/04/2020	08/05/2020	24.00					850.80	951.84	81.81	59.01		2.57	613.88	W	37.20	ASS	
000104		35.4500						101.04		41.93	13.80	0.60		101.04	VAC			000000324083
07	08/11/2020	08/12/2020	32.00		12.00	O		1134.40	1983.12	304.85	122.96		5.35	1126.95	W	77.56	ASS	
000104		35.4500						210.56		105.53	28.76	0.60		210.56	VAC			000000330084
08	08/18/2020	08/19/2020	36.00		10.00	O		1276.20	2022.76	314.36	125.41		5.46	1120.73	W	104.04	ASS	
000104		53.1800						531.80		108.07	29.33	0.60		214.76	VAC			000000340083
09	08/25/2020	08/26/2020	35.00		14.00	O		1240.75	2221.10	361.96	137.71		6.00	1209.90	W	114.24	ASS	
000104		35.4500						235.83		122.66	32.20	0.60		235.83	VAC			000000350084
10	09/01/2020	09/02/2020	40.00		16.00	O		1418.00	2657.40	466.67	164.75		7.17	1403.64	W	136.68	ASS	
000104		35.4500						282.16		157.19	38.54	0.60		282.16	VAC			000000360082
11	09/08/2020	09/09/2020	32.00		14.00	O		1134.40	3556.81	696.76	220.53		9.60	1861.86	W	160.14	ASS	
000104		79.2500			17.00	DT		1347.25		225.11	51.57	0.60		330.64	VAC			000000370081
12	09/15/2020	09/16/2020	24.00		4.00	O		850.80	1189.84	128.34	73.77		3.21	722.72	W	61.20	ASS	
000104		35.4500						126.32		56.43	17.25	0.60		126.32	VAC			000000380085

TOTALS																
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED	NET PAY		
									STATE TAX	MEDICARE TAX	SUI/SDI	MLI				
QTR																
YTD																

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS					
CONTINUED ON NEXT PAGE																	

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	JV	FRASER,JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015		1996	APT 508					
EAST ORANGE NJ 07018								

PAY DETAILS		HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY	
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount CD	Amount CD	Check #
13	09/22/2020	09/23/2020	40.00					1418.00	1586.40	215.59	98.35		4.29	913.98	W 81.60	ASS
000104		35.4500								80.58	23.01	0.60		168.40	VAC	000000390083
14	09/29/2020	09/30/2020	40.00					1418.00	1586.40	215.59	98.36		4.29	913.98	W 81.60	ASS
000104		35.4500								80.58	23.00	0.60		168.40	VAC	000000400083

TOTALS										GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SU/SDI	MLJ	NET PAY		
511.00	0.00	0.00	117.00	16538.31	0.00	0.00	9010.00	25548.31	3834.79	1583.99	0.00	68.97	18308.65		
QTR								0.00	1373.06	370.45	8.40	0.00	0.00		
YTD								39606.14	5299.57	2455.58	0.00	106.94	0.00		
								0.00	2021.09	574.28	16.20	0.00			

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS											
100.00	O	17.00	DT	4999.64	O	1347.25	DT	1373.06	01NY			14357.52	W	1288.02	ASS	2663.11	VAC						
				2663.11	VAC																		

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Void <input type="checkbox"/>		a Employee's social security number [REDACTED]		OMB No. 1545-0008 ZBQ		000104		095835							
b Employer identification number (EIN) 11-2836932				1 Wages, tips, other compensation 23346.40		2 Federal income tax withheld 282.40									
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545				3 Social security wages 23346.40		4 Social security tax withheld 1447.48									
				5 Medicare wages and tips 23346.40		6 Medicare tax withheld 338.52									
				7 Social security tips		8 Allocated tips									
d Control number 095835 LONG/ZBQ				9 [REDACTED]		10 Dependent care benefits									
e Employee's first name and initial JAWAUN A		Last name FRASER		Suff.		11 Nonqualified plans		12a See instructions for box 12							
911 FDR DRIVE APT 4D NEW YORK NY 10009				13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b									
				14 Other 24.00 SDI		12c									
						12d									
f Employee's address and ZIP code				15 State Employer's state ID number NY 11-2836932		16 State wages, tips, etc. 23346.40		17 State income tax 601.03		18 Local wages, tips, etc. 23346.40		19 Local income tax 394.96		20 Locality name NYC RES	

Form **W-2** Wage and Tax Statement
Copy D — For Employer

2015

Department of the Treasury—Internal Revenue Service
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Void <input type="checkbox"/>		a Employee's social security number [REDACTED]		OMB No. 1545-0008 ZBQ		000104		095965					
b Employer identification number (EIN) 11-2836932				1 Wages, tips, other compensation 34914.69		2 Federal income tax withheld 2669.66							
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545				3 Social security wages 34914.69		4 Social security tax withheld 2164.71							
				5 Medicare wages and tips 34914.69		6 Medicare tax withheld 506.26							
				7 Social security tips		8 Allocated tips							
				9 Verification code		10 Dependent care benefits							
d Control number 095965 LONG/ZBQ				11 Nonqualified plans		12a See instructions for box 12							
e Employee's first name and initial Last name JAWAUN A FRASER 749 FDR DRIVE APT 2F NEW YORK NY 10009				13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b							
				14 Other 30.80 SDI 43.92 NY PFL		12c							
						12d							
f Employee's address and ZIP code				16 State wages, tips, etc. 34914.69		17 State income tax 1338.87		18 Local wages, tips, etc. 34914.69		19 Local income tax 934.77		20 Locally name NYC RES	
15 State Employer's state ID number NY 11-2836932													

Form **W-2** Wage and Tax Statement
Copy D — For Employer

2018

Department of the Treasury — Internal Revenue Service
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

2019 W-2 and EARNINGS SUMMARY



This blue section is your Earnings Summary which provides more detailed information on the generation of your W-2 statement and W-4 profile. The reverse side includes instructions and other general information.

Employee Reference Copy		W-2		Wage and Tax Statement		2019	
Copy C for employee's records							
d Control number	Dept.	Corp.	Employer use only				
095965 LONG/ZBQ	000104		A		60		
c Employer's name, address, and ZIP code							
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545							
Batch #00817							
e/f Employee's name, address, and ZIP code							
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018							
b Employer's FED ID number	a Employee's SSA number						
11-2836932							
1 Wages, tips, other comp.	2 Federal income tax withheld						
34172.69	3467.17						
3 Social security wages	4 Social security tax withheld						
34172.69	2118.71						
5 Medicare wages and tips	6 Medicare tax withheld						
34172.69	495.50						
7 Social security tips	8 Allocated tips						
9	10 Dependent care benefits						
11 Nonqualified plans	12a See instructions for box 12						
14 Other	12b						
	12c						
	12d						
	13 Stat emp Ret. plan 3rd party sick pay						
15 State	Employer's state ID no.	16 State wages, tips, etc.					
NY	11-2836932	34172.69					
17 State income tax	18 Local wages, tips, etc.						
1547.09	34172.69						
19 Local income tax	20 Locality name						
312.17	NYC RES						

1. Your Gross Pay was adjusted as follows to produce your W-2 Statement.

	Wages, Tips, other Compensation Box 1 of W-2	Social Security Wages Box 3 of W-2	Medicare Wages Box 5 of W-2	NY State Wages, Tips, Etc. Box 16 of W-2	NYC RES Local Wages, Tips, Etc. Box 18 of W-2
Gross Pay	34,172.69	34,172.69	34,172.69	34,172.69	34,172.69
Reported W-2 Wages	34,172.69	34,172.69	34,172.69	34,172.69	34,172.69

2. Employee Current W-4 Profile. To make changes, file a new W-4 with your payroll department.

JAWAUN A FRASER
144 SOUTH HARRISON STREET
APT 508
EAST ORANGE NJ 07018

Social Security Number: [REDACTED]
Taxable Marital Status: SINGLE

Exemptions/Allowances:

FEDERAL: 2
STATE: 2
LOCAL: 2 Tax Blocked

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1 Wages, tips, other comp.	2 Federal income tax withheld						
34172.69	3467.17						
3 Social security wages	4 Social security tax withheld						
34172.69	2118.71						
5 Medicare wages and tips	6 Medicare tax withheld						
34172.69	495.50						
d Control number	Dept.	Corp.	Employer use only				
095965 LONG/ZBQ	000104		A		60		
c Employer's name, address, and ZIP code							
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545							
b Employer's FED ID number	a Employee's SSA number						
11-2836932							
7 Social security tips	8 Allocated tips						
9	10 Dependent care benefits						
11 Nonqualified plans	12a See instructions for box 12						
14 Other	12b						
	12c						
	12d						
	13 Stat emp Ret. plan 3rd party sick pay						
e/f Employee's name, address and ZIP code							
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018							
15 State	Employer's state ID no.	16 State wages, tips, etc.					
NY	11-2836932	34172.69					
17 State income tax	18 Local wages, tips, etc.						
1547.09	34172.69						
19 Local income tax	20 Locality name						
312.17	NYC RES						
Federal Filing Copy							
W-2		Wage and Tax Statement		2019		Copy B to be filed with employee's Federal Income Tax Return.	

1 Wages, tips, other comp.	2 Federal income tax withheld						
34172.69	3467.17						
3 Social security wages	4 Social security tax withheld						
34172.69	2118.71						
5 Medicare wages and tips	6 Medicare tax withheld						
34172.69	495.50						
d Control number	Dept.	Corp.	Employer use only				
095965 LONG/ZBQ	000104		A		60		
c Employer's name, address, and ZIP code							
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545							
b Employer's FED ID number	a Employee's SSA number						
11-2836932							
7 Social security tips	8 Allocated tips						
9	10 Dependent care benefits						
11 Nonqualified plans	12a						
14 Other	12b						
	12c						
	12d						
	13 Stat emp Ret. plan 3rd party sick pay						
e/f Employee's name, address and ZIP code							
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018							
15 State	Employer's state ID no.	16 State wages, tips, etc.					
NY	11-2836932	34172.69					
17 State income tax	18 Local wages, tips, etc.						
1547.09	34172.69						
19 Local income tax	20 Locality name						
312.17	NYC RES						
NY State Filing Copy							
W-2		Wage and Tax Statement		2019		Copy 2 to be filed with employee's State Income Tax Return.	

1 Wages, tips, other comp.	2 Federal income tax withheld						
34172.69	3467.17						
3 Social security wages	4 Social security tax withheld						
34172.69	2118.71						
5 Medicare wages and tips	6 Medicare tax withheld						
34172.69	495.50						
d Control number	Dept.	Corp.	Employer use only				
095965 LONG/ZBQ	000104		A		60		
c Employer's name, address, and ZIP code							
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545							
b Employer's FED ID number	a Employee's SSA number						
11-2836932							
7 Social security tips	8 Allocated tips						
9	10 Dependent care benefits						
11 Nonqualified plans	12a						
14 Other	12b						
	12c						
	12d						
	13 Stat emp Ret. plan 3rd party sick pay						
e/f Employee's name, address and ZIP code							
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018							
15 State	Employer's state ID no.	16 State wages, tips, etc.					
NY	11-2836932	34172.69					
17 State income tax	18 Local wages, tips, etc.						
1547.09	34172.69						
19 Local income tax	20 Locality name						
312.17	NYC RES						
City or Local Filing Copy							
W-2		Wage and Tax Statement		2019		Copy 2 to be filed with employee's City or Local Income Tax Return.	

Last Name	First Name	Hours Paid	Hours Worked	Company	Work Ending Date
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	12/2/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	11/25/2020
FRASER	JAWAUN	12	12	NICHOLSON-GALLOWAY,IND.	11/18/2020
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	11/11/2020
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	11/4/2020
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	10/28/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	10/21/2020
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	10/14/2020
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	10/7/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	9/30/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	9/23/2020
FRASER	JAWAUN	30	28	NICHOLSON-GALLOWAY,IND.	9/16/2020
FRASER	JAWAUN	87	63	NICHOLSON-GALLOWAY,IND.	9/9/2020
FRASER	JAWAUN	67	58	NICHOLSON-GALLOWAY,IND.	9/2/2020
FRASER	JAWAUN	56	49	NICHOLSON-GALLOWAY,IND.	8/26/2020
FRASER	JAWAUN	51	46	NICHOLSON-GALLOWAY,IND.	8/19/2020
FRASER	JAWAUN	50	44	NICHOLSON-GALLOWAY,IND.	8/12/2020
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	8/5/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	7/29/2020
FRASER	JAWAUN	52	48	NICHOLSON-GALLOWAY,IND.	7/29/2020
FRASER	JAWAUN	61	54	NICHOLSON-GALLOWAY,IND.	7/22/2020
FRASER	JAWAUN	49	46	NICHOLSON-GALLOWAY,IND.	7/15/2020
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	7/8/2020
FRASER	JAWAUN	56	56	NICHOLSON-GALLOWAY,IND.	7/1/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	6/24/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	6/17/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	6/10/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	6/3/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	5/27/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	5/20/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	5/13/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	5/6/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	4/29/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	4/22/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	4/15/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	4/8/2020
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	4/1/2020
FRASER	JAWAUN	36	32	NICHOLSON-GALLOWAY,IND.	3/25/2020
FRASER	JAWAUN	44	40	NICHOLSON-GALLOWAY,IND.	3/18/2020
FRASER	JAWAUN	44	40	NICHOLSON-GALLOWAY,IND.	3/11/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	3/4/2020
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	2/26/2020
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	2/19/2020
FRASER	JAWAUN	20	20	NICHOLSON-GALLOWAY,IND.	2/12/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	2/5/2020
FRASER	JAWAUN	0	0	NICHOLSON-GALLOWAY,IND.	2/5/2020
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	1/29/2020
FRASER	JAWAUN	35	35	NICHOLSON-GALLOWAY,IND.	1/22/2020
FRASER	JAWAUN	44	40	NICHOLSON-GALLOWAY,IND.	1/15/2020
FRASER	JAWAUN	28	28	NICHOLSON-GALLOWAY,IND.	1/8/2020
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	1/1/2020
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	12/25/2019

FRASER	JAWAUN	28	28	NICHOLSON-GALLOWAY,IND.	12/18/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	12/11/2019
FRASER	JAWAUN	15	15	NICHOLSON-GALLOWAY,IND.	12/4/2019
FRASER	JAWAUN	37	37	NICHOLSON-GALLOWAY,IND.	11/27/2019
FRASER	JAWAUN	52	48	NICHOLSON-GALLOWAY,IND.	11/20/2019
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	11/13/2019
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	11/6/2019
FRASER	JAWAUN	36	36	NICHOLSON-GALLOWAY,IND.	10/30/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	10/23/2019
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	10/16/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	10/9/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	10/2/2019
FRASER	JAWAUN	45.5	45.5	NICHOLSON-GALLOWAY,IND.	9/25/2019
FRASER	JAWAUN	58.75	52.5	NICHOLSON-GALLOWAY,IND.	9/18/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	9/11/2019
FRASER	JAWAUN	30	28	NICHOLSON-GALLOWAY,IND.	9/4/2019
FRASER	JAWAUN	0	0	JPR Mechanical Inc. (BT)	8/28/2019
FRASER	JAWAUN	71.5	59.5	NICHOLSON-GALLOWAY,IND.	8/28/2019
FRASER	JAWAUN	16	16	JPR Mechanical Inc. (BT)	8/21/2019
FRASER	JAWAUN	21	21	JPR Mechanical Inc. (BT)	8/14/2019
FRASER	JAWAUN	19	19	JPR Mechanical Inc. (BT)	8/14/2019
FRASER	JAWAUN	52	48	JPR Mechanical Inc. (BT)	8/7/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	7/31/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	7/24/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	7/17/2019
FRASER	JAWAUN	24	24	JPR Mechanical Inc. (BT)	7/10/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	7/3/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	6/26/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	6/19/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	6/12/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	6/5/2019
FRASER	JAWAUN	32	32	JPR Mechanical Inc. (BT)	5/29/2019
FRASER	JAWAUN	14	14	JPR Mechanical Inc. (BT)	5/22/2019
FRASER	JAWAUN	21	21	JPR Mechanical Inc. (BT)	5/22/2019
FRASER	JAWAUN	21	21	JPR Mechanical Inc. (BT)	5/15/2019
FRASER	JAWAUN	16	16	JPR Mechanical Inc. (BT)	5/15/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	5/8/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	5/1/2019
FRASER	JAWAUN	31.5	31.5	JPR Mechanical Inc. (BT)	4/24/2019
FRASER	JAWAUN	40	40	JPR Mechanical Inc. (BT)	4/17/2019
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	4/10/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	4/3/2019
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	3/27/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	3/20/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	3/13/2019
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	3/6/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	2/27/2019
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	2/20/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	2/13/2019
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	2/6/2019
FRASER	JAWAUN	33.5	33	NICHOLSON-GALLOWAY,IND.	1/30/2019
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	1/23/2019
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	1/16/2019
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	1/9/2019
FRASER	JAWAUN	28	24	NICHOLSON-GALLOWAY,IND.	1/2/2019

FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	12/26/2018
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	12/19/2018
FRASER	JAWAUN	8	8	NICHOLSON-GALLOWAY,IND.	12/12/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	12/5/2018
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	11/28/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	11/21/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	11/14/2018
FRASER	JAWAUN	27	27	NICHOLSON-GALLOWAY,IND.	11/7/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	10/31/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	10/24/2018
FRASER	JAWAUN	38	38	NICHOLSON-GALLOWAY,IND.	10/17/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	10/10/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	10/3/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	9/26/2018
FRASER	JAWAUN	8	8	NICHOLSON-GALLOWAY,IND.	9/19/2018
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	9/19/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	9/12/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	9/5/2018
FRASER	JAWAUN	43	42	NICHOLSON-GALLOWAY,IND.	8/29/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	8/22/2018
FRASER	JAWAUN	58	52	NICHOLSON-GALLOWAY,IND.	8/15/2018
FRASER	JAWAUN	64	56	NICHOLSON-GALLOWAY,IND.	8/8/2018
FRASER	JAWAUN	38	36	NICHOLSON-GALLOWAY,IND.	8/1/2018
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	7/25/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	7/18/2018
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	7/11/2018
FRASER	JAWAUN	22	22	NICHOLSON-GALLOWAY,IND.	7/4/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	6/27/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	6/20/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	6/13/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	6/6/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	5/30/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	5/23/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	5/16/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	5/9/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	5/2/2018
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	4/25/2018
FRASER	JAWAUN	37	37	NICHOLSON-GALLOWAY,IND.	4/18/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	4/11/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	4/4/2018
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	3/28/2018
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	3/21/2018
FRASER	JAWAUN	16	16	NICHOLSON-GALLOWAY,IND.	3/7/2018
FRASER	JAWAUN	33.5	33	NICHOLSON-GALLOWAY,IND.	2/28/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	2/21/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	2/14/2018
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	2/7/2018
FRASER	JAWAUN	40	40	NICHOLSON-GALLOWAY,IND.	1/31/2018
FRASER	JAWAUN	24	24	NICHOLSON-GALLOWAY,IND.	1/24/2018
FRASER	JAWAUN	37	37	NICHOLSON-GALLOWAY,IND.	1/17/2018
FRASER	JAWAUN	8	8	NICHOLSON-GALLOWAY,IND.	1/10/2018
FRASER	JAWAUN	8	8	NICHOLSON-GALLOWAY,IND.	1/3/2018
FRASER	JAWAUN	28	28	NICHOLSON-GALLOWAY,IND.	12/27/2017
FRASER	JAWAUN	8	8	NICHOLSON-GALLOWAY,IND.	12/20/2017
FRASER	JAWAUN	32	32	NICHOLSON-GALLOWAY,IND.	12/20/2017

FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	12/13/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	12/6/2017
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	11/29/2017
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	11/22/2017
FRASER	JAWAUN	34	34 NICHOLSON-GALLOWAY,IND.	11/15/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	11/8/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	11/1/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	10/25/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	10/18/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	10/11/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	10/4/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	9/27/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	9/20/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	9/13/2017
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	9/6/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	8/30/2017
FRASER	JAWAUN	34	34 NICHOLSON-GALLOWAY,IND.	8/23/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	8/16/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	8/9/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	8/2/2017
FRASER	JAWAUN	25	25 NICHOLSON-GALLOWAY,IND.	7/26/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	7/19/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	7/12/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	7/5/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	6/28/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	6/21/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	6/14/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	6/7/2017
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	5/31/2017
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	5/24/2017
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	5/17/2017
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	5/10/2017
FRASER	JAWAUN	16	16 NICHOLSON-GALLOWAY,IND.	11/18/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	11/11/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	11/4/2015
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	10/28/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	10/21/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	10/14/2015
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	10/7/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	9/30/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	9/23/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	9/23/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	9/16/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	9/9/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	9/2/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	8/26/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	8/19/2015
FRASER	JAWAUN	16	16 NICHOLSON-GALLOWAY,IND.	8/12/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	8/5/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	7/29/2015
FRASER	JAWAUN	36	36 NICHOLSON-GALLOWAY,IND.	7/22/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	7/15/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	7/8/2015
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	7/1/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	6/24/2015

FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	6/17/2015
FRASER	JAWAUN	36	36 NICHOLSON-GALLOWAY,IND.	6/10/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	6/3/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	5/27/2015
FRASER	JAWAUN	16	16 NICHOLSON-GALLOWAY,IND.	5/20/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	5/13/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	5/6/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	4/29/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	4/22/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	4/15/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	4/8/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	4/8/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	4/1/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	4/1/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	3/25/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	3/25/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	3/18/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	3/18/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	3/11/2015
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	3/11/2015
FRASER	JAWAUN	8	8 NICHOLSON-GALLOWAY,IND.	3/4/2015
FRASER	JAWAUN	32	32 NICHOLSON-GALLOWAY,IND.	3/4/2015
FRASER	JAWAUN	40	40 NICHOLSON-GALLOWAY,IND.	2/25/2015
FRASER	JAWAUN	24	24 NICHOLSON-GALLOWAY,IND.	2/18/2015
FRASER	JAWAUN	8	8 UNITED SHEET METAL (BT)	2/11/2015
FRASER	JAWAUN	16	16 UNITED SHEET METAL (BT)	2/4/2015
FRASER	JAWAUN	30.5	30.5 UNITED SHEET METAL (BT)	1/28/2015
FRASER	JAWAUN	27	27 UNITED SHEET METAL (BT)	1/21/2015
FRASER	JAWAUN	24	24 UNITED SHEET METAL (BT)	1/14/2015
FRASER	JAWAUN	16	16 UNITED SHEET METAL (BT)	1/7/2015
FRASER	JAWAUN	24	24 UNITED SHEET METAL (BT)	12/31/2014
FRASER	JAWAUN	40	40 UNITED SHEET METAL (BT)	12/24/2014
FRASER	JAWAUN	40	40 UNITED SHEET METAL (BT)	12/17/2014
FRASER	JAWAUN	32	32 UNITED SHEET METAL (BT)	12/10/2014
FRASER	JAWAUN	40	40 UNITED SHEET METAL (BT)	12/3/2014
FRASER	JAWAUN	16	16 UNITED SHEET METAL (BT)	11/26/2014
FRASER	JAWAUN	44.5	44.5 UNITED SHEET METAL (BT)	11/19/2014
FRASER	JAWAUN	59	59 UNITED SHEET METAL (BT)	11/12/2014
FRASER	JAWAUN	39.5	39.5 UNITED SHEET METAL (BT)	11/5/2014
FRASER	JAWAUN	24	24 UNITED SHEET METAL (BT)	10/29/2014
FRASER	JAWAUN	32	32 UNITED SHEET METAL (BT)	10/22/2014
FRASER	JAWAUN	16	16 UNITED SHEET METAL (BT)	10/15/2014

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE JANUARY 29, 2015 TO JULY 29, 2015

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year		Fifth Year (6 mos.)
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & **6th Term	7th Term	8th Term	9th Term
	100%	25%	35%	45%	55%	70%	75%	80%
Wages	\$46.96	\$15.02	\$16.44	\$21.13	\$25.83	\$32.87	\$35.22	\$37.57
Vacation Fund	\$3.95	\$0.00	\$1.39	\$1.78	\$2.17	\$2.77	\$2.96	\$3.16
National Pension Fund	\$13.56	\$0.68	\$4.75	\$6.10	\$7.46	\$9.49	\$10.17	\$10.85
Annuity Fund	\$6.37	\$0.00	\$2.23	\$2.87	\$3.50	\$4.46	\$4.78	\$5.10
Health and Welfare Fund	\$12.38	\$4.50	\$4.50	\$5.57	\$6.81	\$8.67	\$9.29	\$9.90
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.35	\$0.45	\$0.54	\$0.69	\$0.74	\$0.79
Local Pension Fund	\$4.22	\$0.00	\$1.49	\$3.91	\$3.97	\$4.06	\$4.11	\$4.13
SASMI Fund	\$2.65	\$0.00	\$0.93	\$1.25	\$1.51	\$1.89	\$2.02	\$2.15
Local Education Fund	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.41	\$0.00	\$0.49	\$0.63	\$0.78	\$0.99	\$1.06	\$1.13
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$94.11	\$21.27	\$34.19	\$45.31	\$54.19	\$67.51	\$71.97	\$76.40
Total Taxable Wages	\$50.91	\$15.02	\$17.83	\$22.91	\$28.00	\$35.64	\$38.18	\$40.73
Total Fringe	\$43.20	\$6.25	\$16.36	\$22.40	\$26.19	\$31.87	\$33.79	\$35.67
<i>Assessments</i>	\$1.74	\$0.11	\$0.54	\$0.77	\$0.94	\$1.21	\$1.30	\$1.39
<i>E.T.E.R. Fund</i>	\$0.30	\$0.00	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30
<i>*PAL Fund</i>	\$0.07	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$2.11	\$0.11	\$0.89	\$1.12	\$1.29	\$1.56	\$1.65	\$1.74

* for Journeyperson only, Building Fund rate is included.

**Effective January 29, 2015, 5th and 6th terms are both at 55%

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE JULY 30, 2015 TO JANUARY 27, 2016

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year		Fifth Year (6 mos.)
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th Term	8th Term	9th Term
	100%	25%	35%	45%	55%	70%	75%	80%
Wages	\$47.70	\$15.42	\$16.73	\$21.49	\$26.26	\$33.41	\$35.79	\$38.17
Vacation Fund	\$4.15	\$0.00	\$1.46	\$1.87	\$2.28	\$2.91	\$3.11	\$3.32
National Pension Fund	\$14.51	\$0.73	\$5.08	\$6.53	\$7.98	\$10.16	\$10.88	\$11.61
Annuity Fund	\$6.37	\$0.00	\$2.23	\$2.87	\$3.50	\$4.46	\$4.78	\$5.10
Health and Welfare Fund	\$12.38	\$4.50	\$4.50	\$5.57	\$6.81	\$8.67	\$9.29	\$9.90
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.71	\$0.77
Local Pension Fund	\$4.22	\$0.00	\$1.49	\$3.91	\$3.97	\$4.06	\$4.11	\$4.13
SASMI Fund	\$2.71	\$0.00	\$0.95	\$1.28	\$1.54	\$1.93	\$2.07	\$2.20
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.41	\$0.00	\$0.49	\$0.63	\$0.78	\$0.99	\$1.06	\$1.13
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$96.11	\$21.77	\$34.89	\$46.21	\$55.29	\$68.91	\$73.47	\$78.00
Total Taxable Wages	\$51.85	\$15.42	\$18.19	\$23.36	\$28.54	\$36.32	\$38.90	\$41.49
Total Fringe	\$44.26	\$6.35	\$16.70	\$22.85	\$26.75	\$32.59	\$34.57	\$36.51
<i>Assessments</i>	<i>\$2.21</i>	<i>\$0.14</i>	<i>\$0.76</i>	<i>\$1.02</i>	<i>\$1.24</i>	<i>\$1.57</i>	<i>\$1.67</i>	<i>\$1.78</i>
<i>E.T.E.R. Fund</i>	<i>\$0.30</i>	<i>\$0.00</i>	<i>\$0.30</i>	<i>\$0.30</i>	<i>\$0.30</i>	<i>\$0.30</i>	<i>\$0.30</i>	<i>\$0.30</i>
<i>*PAL Fund</i>	<i>\$0.07</i>	<i>\$0.00</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>
Total UNION deductions from wages	\$2.58	\$0.14	\$1.11	\$1.37	\$1.59	\$1.92	\$2.02	\$2.13

*for Journeyperson only, Building Fund rate is included.

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE JANUARY 28, 2016 TO JULY 27, 2016

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	*Fourth Year	Fifth Year (6 mos.)
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	9th Term
	<i>*Effective 1/28/2016, 7th & 8th Term are at 70%</i>	100%	25%	35%	45%	55%	70%
Wages	\$47.70	\$15.42	\$16.73	\$21.49	\$26.26	\$33.41	\$38.17
Vacation Fund	\$4.15	\$0.00	\$1.46	\$1.87	\$2.28	\$2.91	\$3.32
National Pension Fund	\$14.51	\$0.73	\$5.08	\$6.53	\$7.98	\$10.16	\$11.61
Annuity Fund	\$6.37	\$0.00	\$2.23	\$2.87	\$3.50	\$4.46	\$5.10
Health and Welfare Fund	\$12.38	\$4.50	\$4.50	\$5.57	\$6.81	\$8.67	\$9.90
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.22	\$0.00	\$1.49	\$3.91	\$3.97	\$4.06	\$4.13
SASMI Fund	\$2.71	\$0.00	\$0.95	\$1.28	\$1.54	\$1.93	\$2.20
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.41	\$0.00	\$0.49	\$0.63	\$0.78	\$0.99	\$1.13
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$96.11	\$21.77	\$34.89	\$46.21	\$55.29	\$68.91	\$78.00
Total Taxable Wages	\$51.85	\$15.42	\$18.19	\$23.36	\$28.54	\$36.32	\$41.49
Total Fringe	\$44.26	\$6.35	\$16.70	\$22.85	\$26.75	\$32.59	\$36.51
<i>Assessments</i>	\$2.21	\$0.14	\$0.76	\$1.02	\$1.24	\$1.57	\$1.78
<i>E.T.E.R. Fund</i>	\$0.30	\$0.00	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30
<i>*PAL Fund</i>	\$0.07	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$2.58	\$0.14	\$1.11	\$1.37	\$1.59	\$1.92	\$2.13

** for Journey person only, Building Fund rate is included.*

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE JULY 28, 2016 TO JULY 31, 2017

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$48.90	\$16.06	\$17.14	\$22.02	\$26.93	\$34.25	\$39.14
Vacation Fund	\$4.32	\$0.00	\$1.52	\$1.95	\$2.37	\$3.03	\$3.46
National Pension Fund	\$15.53	\$0.78	\$5.44	\$6.99	\$8.54	\$10.87	\$12.42
Annuity Fund	\$6.65	\$0.00	\$2.33	\$3.00	\$3.65	\$4.66	\$5.32
Health and Welfare Fund	\$12.38	\$4.50	\$4.50	\$5.57	\$6.81	\$8.67	\$9.90
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.22	\$0.00	\$1.49	\$3.91	\$3.97	\$4.06	\$4.13
SASMI Fund	\$2.79	\$0.00	\$0.98	\$1.32	\$1.58	\$1.99	\$2.26
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.41	\$0.00	\$0.49	\$0.63	\$0.78	\$0.99	\$1.13
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$98.86	\$22.46	\$35.85	\$47.45	\$56.80	\$70.84	\$80.20
Total Taxable Wages	\$53.22	\$16.06	\$18.66	\$23.97	\$29.30	\$37.28	\$42.60
Total Fringe	\$45.64	\$6.40	\$17.19	\$23.48	\$27.50	\$33.56	\$37.60
Total Hourly Rate	\$98.86	\$22.46	\$35.85	\$47.45	\$56.80	\$70.84	\$80.20
<i>Assessments</i>	\$2.49	\$0.16	\$0.81	\$1.11	\$1.36	\$1.74	\$1.98
<i>E.T.E.R. Fund</i>	\$0.30	\$0.00	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$2.86	\$0.16	\$1.18	\$1.48	\$1.73	\$2.11	\$2.35

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE JULY 1, 2017 TO JULY 31, 2017

<i>Assessment increased by \$0.01</i>	Journey Person	Pre-Apprentice 6 Mo. Term	First Year 1st & 2nd Term	Second Year 3rd & 4th Term	Third Year 5th & 6th Term	Fourth Year 7th & 8th Term	Fifth Year (6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$48.90	\$16.06	\$17.14	\$22.02	\$26.93	\$34.25	\$39.14
Vacation Fund	\$4.32	\$0.00	\$1.52	\$1.95	\$2.37	\$3.03	\$3.46
National Pension Fund	\$15.53	\$0.78	\$5.44	\$6.99	\$8.54	\$10.87	\$12.42
Annuity Fund	\$6.65	\$0.00	\$2.33	\$3.00	\$3.65	\$4.66	\$5.32
Health and Welfare Fund	\$12.38	\$4.50	\$4.50	\$5.57	\$6.81	\$8.67	\$9.90
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.22	\$0.00	\$1.49	\$3.91	\$3.97	\$4.06	\$4.13
SASMI Fund	\$2.79	\$0.00	\$0.98	\$1.32	\$1.58	\$1.99	\$2.26
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.41	\$0.00	\$0.49	\$0.63	\$0.78	\$0.99	\$1.13
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$98.86	\$22.46	\$35.85	\$47.45	\$56.80	\$70.84	\$80.20
Total Taxable Wages	\$53.22	\$16.06	\$18.66	\$23.97	\$29.30	\$37.28	\$42.60
Total Fringe	\$45.64	\$6.40	\$17.19	\$23.48	\$27.50	\$33.56	\$37.60
Total Hourly Rate	\$98.86	\$22.46	\$35.85	\$47.45	\$56.80	\$70.84	\$80.20
<i>Assessments</i>	\$2.50	\$0.17	\$0.82	\$1.12	\$1.37	\$1.75	\$1.99
<i>E.T.E.R. Fund</i>	\$0.30	\$0.00	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$2.87	\$0.17	\$1.19	\$1.49	\$1.74	\$2.12	\$2.36

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE AUGUST 3, 2017 TO AUGUST 1, 2018

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$49.65	\$16.54	\$17.41	\$22.37	\$27.35	\$34.78	\$39.74
Vacation Fund	\$4.32	\$0.00	\$1.52	\$1.95	\$2.37	\$3.03	\$3.46
National Pension Fund	\$16.62	\$0.83	\$5.82	\$7.48	\$9.14	\$11.63	\$13.30
Annuity Fund	\$6.65	\$0.00	\$2.33	\$3.00	\$3.65	\$4.66	\$5.32
Health and Welfare Fund	\$12.38	\$4.50	\$4.50	\$5.57	\$6.81	\$8.67	\$9.90
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.22	\$0.00	\$1.49	\$3.91	\$3.97	\$4.06	\$4.13
SASMI Fund	\$2.85	\$0.00	\$1.00	\$1.34	\$1.61	\$2.03	\$2.30
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.61	\$0.00	\$0.56	\$0.72	\$0.89	\$1.13	\$1.29
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$100.96	\$22.99	\$36.59	\$48.40	\$57.96	\$72.31	\$81.88
Total Taxable Wages	\$53.97	\$16.54	\$18.93	\$24.32	\$29.72	\$37.81	\$43.20
Total Fringe	\$46.99	\$6.45	\$17.66	\$24.08	\$28.24	\$34.50	\$38.68
Total Hourly Rate	\$100.96	\$22.99	\$36.59	\$48.40	\$57.96	\$72.31	\$81.88
<i>Assessments</i>	\$2.48	\$0.17	\$0.77	\$1.08	\$1.33	\$1.72	\$1.97
<i>E.T.E.R. Fund</i>	\$0.36		\$0.36	\$0.36	\$0.36	\$0.36	\$0.36
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$2.91	\$0.17	\$1.20	\$1.51	\$1.76	\$2.15	\$2.40

APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE AUGUST 2, 2018 TO JULY 31, 2019

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$50.15	\$17.01	\$17.58	\$22.59	\$27.62	\$35.13	\$40.14
Vacation Fund	\$4.82	\$0.00	\$1.70	\$2.18	\$2.65	\$3.38	\$3.86
National Pension Fund	\$16.62	\$0.83	\$5.82	\$7.48	\$9.14	\$11.63	\$13.30
Annuity Fund	\$7.00	\$0.00	\$2.45	\$3.16	\$3.84	\$4.91	\$5.60
Health and Welfare Fund	\$12.63	\$4.56	\$4.59	\$5.68	\$6.95	\$8.85	\$10.10
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$2.90	\$0.00	\$1.02	\$1.37	\$1.64	\$2.06	\$2.34
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$103.06	\$23.52	\$37.33	\$49.35	\$59.12	\$73.78	\$83.56
Total Taxable Wages	\$54.97	\$17.01	\$19.28	\$24.77	\$30.27	\$38.51	\$44.00
Total Fringe	\$48.09	\$6.51	\$18.05	\$24.58	\$28.85	\$35.27	\$39.56
Total Hourly Rate	\$103.06	\$23.52	\$37.33	\$49.35	\$59.12	\$73.78	\$83.56
<i>Assessments</i>	\$2.52	\$0.17	\$0.79	\$1.10	\$1.35	\$1.75	\$2.00
<i>E.T.E.R. Fund</i>	\$0.36		\$0.36	\$0.36	\$0.36	\$0.36	\$0.36
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$2.95	\$0.17	\$1.22	\$1.53	\$1.78	\$2.18	\$2.43

LOCAL 28 WAGE AND FRINGE BENEFITS EFFECTIVE AUGUST 01, 2019 TO JULY 31, 2020

	Journey Person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$50.61	\$17.51	\$17.74	\$22.80	\$27.87	\$35.45	\$40.51
Vacation Fund	\$6.00	\$0.00	\$2.11	\$2.71	\$3.30	\$4.21	\$4.80
National Pension Fund	\$16.62	\$0.83	\$5.82	\$7.48	\$9.14	\$11.63	\$13.30
Annuity Fund	\$7.30	\$0.00	\$2.56	\$3.30	\$4.01	\$5.12	\$5.84
Health and Welfare Fund	\$12.63	\$4.56	\$4.59	\$5.68	\$6.95	\$8.85	\$10.10
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$2.96	\$0.00	\$1.04	\$1.39	\$1.68	\$2.10	\$2.39
Local Education Fund	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93	\$0.93
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$105.06	\$24.02	\$38.03	\$50.25	\$60.23	\$75.18	\$85.16
Total Taxable Wages	\$56.61	\$17.51	\$19.85	\$25.51	\$31.17	\$39.66	\$45.31
Total Fringe	\$48.45	\$6.51	\$18.18	\$24.74	\$29.06	\$35.52	\$39.85
Total Hourly Rate	\$105.06	\$24.02	\$38.03	\$50.25	\$60.23	\$75.18	\$85.16
<i>Assessments</i>	\$2.62	\$0.17	\$0.78	\$1.11	\$1.38	\$1.79	\$2.07
<i>E.T.E.R. Fund</i>	\$0.42	\$0.00	\$0.42	\$0.42	\$0.42	\$0.42	\$0.42
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$3.11	\$0.17	\$1.27	\$1.60	\$1.87	\$2.28	\$2.56

APPRENTICE WAGE AND FRINGE BENEFITS
10-29-2020 to 7-28-2021

	Journey person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year (6 mos.)
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$51.36	\$17.76	\$18.00	\$23.14	\$28.28	\$35.98	\$41.11
Vacation Fund	\$6.25	\$0.00	\$2.20	\$2.82	\$3.44	\$4.39	\$5.00
National Pension Fund	\$16.62	\$0.83	\$5.82	\$7.48	\$9.14	\$11.63	\$13.30
Annuity Fund	\$8.00	\$0.00	\$2.65	\$3.48	\$4.29	\$5.52	\$6.35
Health & Welfare Fund	\$12.63	\$4.56	\$4.59	\$5.68	\$6.95	\$8.85	\$10.10
SUB Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$3.01	\$0.00	\$1.05	\$1.41	\$1.70	\$2.14	\$2.43
Local Education Fund	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18
ITI/NEMI Fund	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
JLM/Equality Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
TOTAL HOURLY RATE	\$107.06	\$24.52	\$38.73	\$51.15	\$61.33	\$76.58	\$86.76
Total Taxable Wages	\$57.61	\$17.76	\$20.20	\$25.96	\$31.72	\$40.37	\$46.11
Total Fringe	\$49.45	\$6.76	\$18.53	\$25.19	\$29.61	\$36.21	\$40.65
Total Hourly Rate	\$107.06	\$24.52	\$38.73	\$51.15	\$61.33	\$76.58	\$86.76
<i>Working Assessments</i>	\$2.94	\$0.18	\$1.17	\$1.48	\$1.76	\$2.14	\$2.42
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$3.01	\$0.18	\$1.24	\$1.55	\$1.83	\$2.21	\$2.49



SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

OFFICIAL APPLICATION FORM



PERSONAL DETAILS: LOCAL UNION #: 28 MEMBER #: _____

WAS THIS THROUGH AN ORGANIZING EFFORT? (YES/NO) CIRCLE ONE

1. Name: JAWAUN (First) FRASER (Last) _____ (Middle) _____ (Jr. Sr. Etc.)

2. Address: 911 FRB Drive Apt #40

City: New York

State: NY Zip: 10009

Phone #: (917) 225-4874 Email: fraser1103@gmail.com

Province: _____ Zone: _____

3. Date of Birth: / / 1996 Age: 18 Years
(Month) (Day) (Year)

4. Sex: M 5. Race (Voluntary): B 6. Marital Status: S
(See Codes) (See Codes)

7. SS# or SI#:

CODES

MEMBERSHIP DETAILS:

- 8. PAL Member: _____ (Yes/No)
- 9. Retiree Club: _____ (Yes/No)
- 10. Registered Voter: _____ (Yes/No)
- 11. Type of Member: PM
(See Codes)
- 12. Class of Member: BT
(See Codes)

5. Valid Race Codes

A	Asian
B	African American
C	Caucasian
H	Hispanic
N	Native American
O	Other

12. Valid Class Codes

AR	Asbestos Removal
AS	Assorted Workers
AW	Automobile Workers
BT	Building Trades
CL	Classified (incl DS)
SF	Classified (SFUA)
CO	Contract
CS	Coppersmith
FB	Fabricating
FD	Federal
FS	Food Service & Beverage
HS	Hotel Service Employee
HV	HVAC Service Employee
IN	Indl Sheet Metal Wrk
IW	Indl Sheet Metal Wrk (75%)
MN	Maintenance
NY	Navy Yard
PC	Paper Cutter
PW	Production Worker
RA	Railroad Apprentice
RH	Railroad Helper
RM	Railroad Mechanic
RS	Residential
RS	Residential Worker (75%)
RF	Roofer
SY	Shipyards
SW	Sign Workers
SP	Specialty

6. Valid Marital Status

D	Divorced
M	Married
P	Separated
S	Single
W	Widowed

11. Valid Types of Members

AL	Applicant
AM	Apprentice Member
PM	Pre-Apprentice Member
RM	Regular Member

INITIATION DETAILS:

1. Initiation Date 10/9/2014

2. Initiation Fee 500.00

5. Name and Address of Employer: _____

SEAL

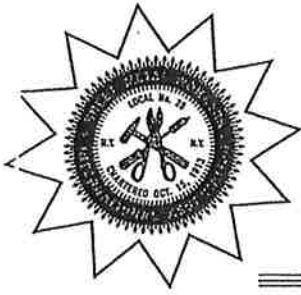
OATH

I hereby certify that I willingly subscribe to all the provisions and requirements of the Constitution and Ritual of the Sheet Metal Workers' International Association and in consideration of the acceptance of my application and being obligated as a member thereof, I hereby agree to remain loyal and true to the principals and policies and to be governed by the Constitution and Ritual of the Sheet Metal Workers' International Association in all matters now and hereafter included therein. I further agree to be governed by such Local rules and regulations as may be now effective, or which may be later adopted and made operative by affiliated local unions, which do not conflict with the Constitution and Ritual of the Sheet Metal Workers' International Association. I further authorize this Local Union to represent me for purposes of Collective bargaining, and in my behalf, to negotiate and conclude all agreements as to hours of labor, wages, and other conditions of employment. This authorization shall apply for any Employer by whom I am employed, unless revoked by me through written notice to the Local Union.

Jawaun Fraser (Signature) 10/9/2014 (Date)

Russell (Financial Secretary) Fraser 002657 (Date)





Sheet Metal Workers' Local 28
JOINT APPRENTICESHIP COMMITTEE
139-20 Jamaica Avenue, Jamaica, NY 11435

**EXCELLENCE
THROUGH
TRAINING**

June 14, 2016

International Association of Sheet Metal,
Air, Rail & Transportation Workers
Local Union No. 28
500 Greenwich Street
New York, NY 10013

To Whom It May Concern:

This letter serves as formal notification that the following person was terminated from the apprenticeship program effective 6/2/2016:

Jawaun Fraser 1st Term

Very truly yours,

Leah Rambo

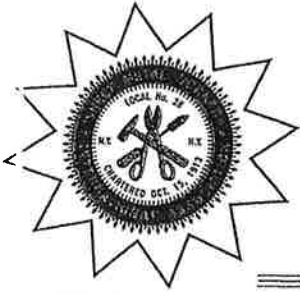
Leah Rambo
JAC Administrator

LR:sg

cc: Sylvia Spann, Local 28
Teri Brauner, Funds & Plans
Jodi Holzkenect, Funds & Plans

A JOINT MANAGEMENT LABOR FUND





Sheet Metal Workers' Local 28
JOINT APPRENTICESHIP COMMITTEE
139-20 Jamaica Avenue, Jamaica, NY 11435

EXCELLENCE
THROUGH
TRAINING

April 20, 2017

Jawaun Fraser
749 FDR Drive, Apt. #2F
New York, NY 10009

Dear Mr. Fraser:

On April 19, 2017 the Joint Apprenticeship Committee reviewed your request for reinstatement and has decided to reinstate you into the Sheet Metal workers' Local Union 28 Joint Apprentice Program as a 1st term apprentice. Your reinstatement is conditional provided that you:

- Report to the school by April 27, 2017 to pick up the drug screening packet; the test must be completed and returned with negative results.
- Contact Sylvia at 500 Greenwich Street at (212) 941-7700 to pay any outstanding dues or fees. Once you have provided us with proof of payment, you will be put on the employment list and placed back to work when a job becomes available.

Very truly yours,


Leah Rambo
JAC Administrator

LR:ll

cc: Sylvia Spann

Reinst. 500. -
5/2017 51. -
551.00

Passed

A JOINT MANAGEMENT LABOR FUND



California Required Notices

This report does not guarantee the accuracy or truthfulness of the information as to the subject of the investigation, but only that it is accurately copied from public records, and information generated as a result of identity theft, including evidence of criminal activity, may be inaccurately associated with the consumer who is the subject of the report.

An investigative consumer reporting agency shall provide a consumer seeking to obtain a copy of a report or making a request to review a file, a written notice in simple, plain English and Spanish setting forth the terms and conditions of his or her right to receive all disclosures, as provided in CA Civil Code Section 1786.26.

This report was prepared using software provided by RP On-Site LLC, which can be contacted at: 2201 Lakeside Blvd., Richardson, TX 75082; 1-877-222-0384; or <https://www.on-site.com/request-rental-report-or-submit-dispute/>.

Avisos obligatorios en el estado de California

El presente informe no garantiza la exactitud ni la veracidad de la información con respecto al tema de investigación, sino únicamente que es una copia exacta de los registros públicos y es posible que la información generada como consecuencia del robo de identidad, incluidos los registros de antecedentes delictivos, se haya asociado por error con el consumidor objeto del presente informe.

Una agencia de investigación de verificación de crédito proporcionará al consumidor que desee obtener una copia de un informe o que solicite la revisión de un archivo un aviso por escrito en inglés y español, escrito en un lenguaje simple y claro, que establezca los términos y condiciones de su derecho a recibir todas las divulgaciones conforme a la Sección 1786.26 del Código Civil de California.

Este informe se preparo con el software proporcionado pro RP On-Site LLC, que puede contractarse en: 2201 Lakeside Blvd., Richardson, TX 75082; 1-877-222-0384; or <https://www.on-site.com/request-rental-report-or-submit-dispute/>.

Rental Report for Jawaun Anthony keione Fraser

Identity	From Application	From Equifax
Name:	Jawaun Anthony keione Fraser	JAWAUN A. FRASER
SSN:	128-84-****	128-84-****
Birth Date:	2/**/1996	2/**/1996

Addresses	From Application	From Equifax
	749 Fdr Dr Apt 2FApt 2f New York, NY 10009-5644 - US	749 FDR DR. 2F NEW YORK, NY 10009 (Applicant) Reported 10/2020
		144 S HARRISON ST. 508 EAST ORANGE, NJ 07018 (Applicant) Reported 5/2020
		911 FDR DR. 4D NEW YORK, NY 10009 (Applicant) Reported 2/2019

Employment	From Application	From Equifax
Applicant:	Sheet metal worker Nicholson & Galloway inc \$90,000.00/Yr. Total monthly Income: \$7,500.00	



Rental Report for Jawaun Anthony keione Fraser, 10/14/2020 at St George

Criminal History						
Requested For Jawaun Anthony keione Fraser	Location Searched Multi-State: AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, WY	Period Searched All available records	Requested 10/14/2020	Returned 10/14/2020		
Case Number	Name on Record FRASER, JAWAWN JAWAWN FRASER (AKA)	Birth Date 2/**/1996	Record Source NEW YORK DEPARTMENT OF CORRECTIONS		Record Vendor HygenicsData, LLC	
	Physical Description Race: Black; Gender: Male;					
	Charge 11/20/2017 - Felony (Guilty) ROBBERY 3RD	Offense Date	Filed Date	Plea Date	Verdict Date	Disposition Date
	Sentence Type	Sentence Begins	Duration 2 Years (min), 6 Years (max)		Release Date 11/20/2017	

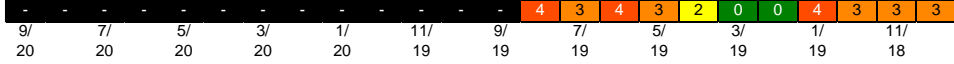
National Sex Offender Registry History		
Requested For Jawaun Anthony keione Fraser	Date Requested 10/14/2020	Date Returned 10/14/2020
Results No Records Found		

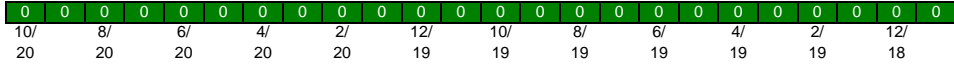
Landlord Tenant Court Records
There were no previous Landlord Tenant Court records found.

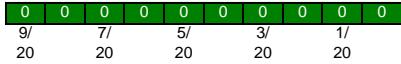
OFAC SDN Search		
Requested For Jawaun Anthony keione Fraser	Results No records found	Returned 10/14/2020


Risk Models		
From RealPage		
Risk Model Name RealPage AI Score (Applicant)	Score 627	Score Factors Tradeline scoring Debt-to-income ratio Credit Score Rental Payment History
	Description RealPage AI Score uses machine-learning and data patterns in credit score, debt/liability types, trade lines, rental payment history, and renter behavior to achieve reduced bad debt. The RealPage AI Score range is between 1 and 1000 (the higher the score, the less risky the consumer).	

From Equifax		
Risk Model Name FICO (Beacon) (Applicant)	Score 619	Score Factors Serious delinquency Length of time accounts have been established Time since delinquency is too recent or unknown Number of accounts with delinquency
Description The FICO score is a widely used risk model that uses credit report data to predict the likelihood of default. It is used most often by banks and credit grantors. The FICO score range is between 300 and 850 (the higher the score, the less risky the consumer). In the most recent study, the median FICO score was 711.		

Credit Accounts							
From Equifax							
Account Name EXETER FINANCE (Applicant)	Opened 1/2018	Last Active 12/2018	30-59 2	60-89 6	90+ 3	Past Due \$27,077.00	Balance \$27,077.00
	Monthly Payment	High Credit	Type INSTALLME	Comments CHARGED OFF ACCOUNT FIXED RATE Rate/Status 9: Charge-off			
	Payment History 						

Account Name CAPITAL ONE BANK USA (Applicant)	Opened 8/2018	Last Active 9/2020	30-59	60-89	90+	Past Due	Balance \$296.00
	Monthly Payment \$25.00	High Credit \$493.00	Type REVOLVING	Comments Rate/Status 1: Pays account as agreed			
	Payment History 						

Account Name CAPITAL ONE BANK USA (Applicant)	Opened 11/2019	Last Active 8/2020	30-59	60-89	90+	Past Due	Balance \$51.00
	Monthly Payment \$25.00	High Credit \$206.00	Type REVOLVING	Comments Rate/Status 1: Pays account as agreed			
	Payment History 						

Account Name CREDIT ONE BANK (Applicant)	Opened 1/2020	Last Active 1/2020	30-59	60-89	90+	Past Due	Balance \$0.00
	Monthly Payment	High Credit \$103.00	Type REVOLVING	Comments ACCOUNT CLOSED BY CREDIT GRANTOR Rate/Status 1: Pays account as agreed			
	Payment History 						

Previous Credit Inquiries	
From Equifax	
11/2019	CAPITAL ONE BANK USA (Applicant)
12/2018	AT&T SERVICES, INC.- (Applicant)



Para información en español, visite www.consumerfinance.gov/learnmore o escriba a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under FCRA. **For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - a person has taken adverse action against you because of information in your credit report;
 - you are the victim of identity theft and place a fraud alert in your file;
 - your file contains inaccurate information as a result of fraud;
 - you are on public assistance;
 - you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.consumerfinance.gov/learnmore for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete, or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.consumerfinance.gov/learnmore
- **You may limit "prescreened" offers of credit and insurance you get based on information in your credit report.** Unsolicited "prescreened" offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
- The following FCRA right applies with respect to nationwide consumer reporting agencies:

CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.consumerfinance.gov/learnmore.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:

TYPE OF BUSINESS:	CONTACT:
1.a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:	a. Consumer Financial Protection Bureau 1700 G Street, N.W. Washington, DC 20552 b. Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357
2. To the extent not included in item 1 above: a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations d. Federal Credit Unions	a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050 b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480 c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106 d. National Credit Union Administration Office of Consumer Financial Protection (OCFP) Division of Consumer Compliance Policy and Outreach 1775 Duke Street Alexandria, VA 22314
3. Air carriers	Asst. General Counsel for Aviation Enforcement & Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590
4. Creditors Subject to the Surface Transportation Board	Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street, S.W. Washington, DC 20423
5. Creditors Subject to the Packers and Stockyards Act, 1921	Nearest Packers and Stockyards Administration area supervisor
6. Small Business Investment Companies	Associate Deputy Administrator for Capital Access United States Small Business Administration 409 Third Street, S.W., Suite 8200 Washington, DC 20416
7. Brokers and Dealers	Securities and Exchange Commission 100 F Street, N.E. Washington, DC 20549
8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations	Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090
9. Retailers, Finance Companies, and All Other Creditors Not Listed Above	Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357

A Summary of Your Additional Rights in New Jersey

You may obtain a security freeze on your credit report to protect your privacy and ensure that credit is not granted in your name without your knowledge. You have a right to place a "security freeze" on your credit report pursuant to New Jersey law. The security freeze will prohibit a consumer reporting agency from releasing any information in your credit report without your express authorization or approval.

To place a security freeze on your credit report, you must contact each of these credit reporting agencies:

Equifax Security Freeze

P.O. Box 105788

Atlanta, GA 30348

(800) 685-1111

<https://www.freeze.equifax.com>

Experian Security Freeze

P.O. Box 9554

Allen, TX 75013

(888) 397-3742

<https://www.experian.com/freeze/center.html>

TransUnion LLC

P.O. Box 2000

Chester, PA 19022-2000

(888) 909-8872

www.transunion.com/personal-credit/credit-disputes/credit-freezes.page

The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. When you place a security freeze on your credit report, within five business days you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or to temporarily authorize the release of your credit report for a specific party, parties or period of time after the freeze is in place. To provide that authorization, you must contact the consumer reporting agency and provide all of the following:

1. The unique personal identification number or password provided by the consumer reporting agency;
2. Proper identification to verify your identity; and
3. The proper information regarding the third party or parties who are to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A consumer reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days or less, as provided by regulation, after receiving the request.

A security freeze does not apply to circumstances in which you have an existing account relationship and a copy of your report is requested by your existing creditor or its agents or affiliates for certain types of account review, collection, fraud control or similar activities.

If you are actively seeking credit, you should understand that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a freeze, either completely if

you are shopping around, or specifically for a certain creditor, a few days before actually applying for new credit.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a consumer reporting agency or a user of your credit report.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 04/01/17 THRU 04/28/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC:05-SB-36T NYSID:11875722P *
 *

FACILITY	DATE	TRANSACTION (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT GREENE						586.40
		STARTING BALANCE AT LINCOLN						.00
		BALANCE FORWARD				26.66	559.74	586.40
GREENE	04/05/17	PAYR-EXIT FAC	127404	4.64		.00	564.38	591.04
GREENE	04/05/17	PAYR-EXIT FAC	423211	2.84		.00	567.22	593.88
GREENE	04/05/17	CLSE ACCT			593.88	.00	26.66-	.00
LINCOLN	04/10/17	ESTABLISH ACCOUNT						
LINCOLN	04/11/17	TRANSFER FUNDS	E165580	593.88		.00	567.22	593.88
LINCOLN	04/12/17	BEG ENC-LOCK (\$5.35)				5.35	561.87	593.88
LINCOLN	04/12/17	PAY ENC-LOCK			5.35	5.35-	561.87	588.53
LINCOLN	04/20/17	MISC DIS (EXPENSES)			161.87	.00	400.00	426.66
LINCOLN	04/21/17	MAIL RECEIPT	E165590	200.00		.00	600.00	626.66
		MONTHLY ENDING TOTALS		801.36	761.10	26.66	600.00	626.66
		ENDING BALANCE AT LINCOLN						626.66
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		64.93	20% OF AVERAGE 6 MO DEPOSIT AMT			65.09

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

INMATE HAS BEEN TRANSFERRED TO -LINCOLN FROM GREENE

----- ENCUMBRANCE BREAKDOWN -----								
REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	DATE	COL TO-DATE	BALANCE DUE	CNTY/ORI CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66	.00		26.66	.00	
*PADLOCK	04/12/17		5.35	5.35		5.35	.00	

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.



STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 04/29/17 THRU 05/31/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC:06-SB-33T NYSID:11875722P *
 *

FACILITY	DATE	TRANSACTION (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN				26.66	600.00	626.66
		BALANCE FORWARD						626.66
LINCOLN	05/03/17	WR EXPENS			199.00	.00	401.00	427.66
LINCOLN	05/10/17	TRANSFER FUNDS	E165621	.18		.00	401.18	427.84
LINCOLN	05/12/17	WRK REL WAGES	B630470	300.49		.00	701.67	728.33
LINCOLN	05/12/17	WR FEE			60.10	.00	641.57	668.23
LINCOLN	05/16/17	WR EXPENS			100.00	.00	541.57	568.23
LINCOLN	05/19/17	WRK REL WAGES	B630568	458.47		.00	1,000.04	1,026.70
LINCOLN	05/19/17	WR FEE			91.69	.00	908.35	935.01
LINCOLN	05/30/17	WRK REL WAGES	B630670	380.02		.00	1,288.37	1,315.03
LINCOLN	05/30/17	WR FEE			76.00	.00	1,212.37	1,239.03
		MONTHLY ENDING TOTALS		1,139.16	526.79	26.66	1,212.37	1,239.03
		ENDING BALANCE AT LINCOLN						1,239.03
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		104.40	20% OF AVERAGE 6 MO DEPOSIT AMT			100.90

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

----- ENCUMBRANCE BREAKDOWN -----								
REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	DATE	COL TO-DATE	BALANCE DUE	CNTY/ORI CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66	.00		26.66	.00	

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 06/01/17 THRU 06/30/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC: - - NYSID:11875722P *
 *

FACILITY	DATE	TRANSACTION (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN				26.66	1,212.37	1,239.03
		BALANCE FORWARD						1,239.03
LINCOLN	06/02/17	WRK REL WAGES	B630757	300.48		.00	1,512.85	1,539.51
LINCOLN	06/02/17	WR FEE			60.10	.00	1,452.75	1,479.41
LINCOLN	06/02/17	WR EXPENS			300.00	.00	1,152.75	1,179.41
LINCOLN	06/09/17	WRK REL WAGES	B630858	380.01		.00	1,532.76	1,559.42
LINCOLN	06/09/17	WR FEE			76.00	.00	1,456.76	1,483.42
LINCOLN	06/15/17	MISC DIS			200.00	.00	1,256.76	1,283.42
LINCOLN	06/19/17	WRK REL WAGES	B630963	458.47		.00	1,715.23	1,741.89
LINCOLN	06/19/17	WR FEE			91.69	.00	1,623.54	1,650.20
LINCOLN	06/23/17	WRK REL WAGES	B631055	458.47		.00	2,082.01	2,108.67
LINCOLN	06/23/17	WR FEE			91.69	.00	1,990.32	2,016.98
LINCOLN	06/26/17	WR EXPENS			200.00	.00	1,790.32	1,816.98
LINCOLN	06/30/17	WRK REL WAGES	B631155	458.47		.00	2,248.79	2,275.45
LINCOLN	06/30/17	WR FEE			91.69	.00	2,157.10	2,183.76
		MONTHLY ENDING TOTALS		2,055.90	1,111.17	26.66	2,157.10	2,183.76
		ENDING BALANCE AT LINCOLN						2,183.76
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		173.34	20% OF AVERAGE 6 MO DEPOSIT AMT			163.77

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

----- ENCUMBRANCE BREAKDOWN -----

REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	COL TO-DATE	BALANCE DUE	CNTY/ORI	CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66	.00	26.66	.00		

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 07/01/17 THRU 07/31/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC:06-SB-33T NYSID:11875722P *
 *

FACILITY	DATE	TRANSACTION (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN				26.66	2,157.10	2,183.76
		BALANCE FORWARD						2,183.76
LINCOLN	07/07/17	WRK REL WAGES	B631233	377.49		.00	2,534.59	2,561.25
LINCOLN	07/07/17	WR FEE			75.50	.00	2,459.09	2,485.75
LINCOLN	07/10/17	WR EXPENS			200.00	.00	2,259.09	2,285.75
LINCOLN	07/18/17	WRK REL WAGES	B631369	377.47		.00	2,636.56	2,663.22
LINCOLN	07/18/17	WR FEE			75.49	.00	2,561.07	2,587.73
LINCOLN	07/24/17	WR EXPENS			200.00	.00	2,361.07	2,387.73
LINCOLN	07/25/17	WRK REL WAGES	B631455	377.48		.00	2,738.55	2,765.21
LINCOLN	07/25/17	WR FEE			75.50	.00	2,663.05	2,689.71
		MONTHLY ENDING TOTALS		1,132.44	626.49	26.66	2,663.05	2,689.71
		ENDING BALANCE AT LINCOLN						2,689.71
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		248.79	20% OF AVERAGE 6 MO DEPOSIT AMT			185.94

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

----- ENCUMBRANCE BREAKDOWN -----									
REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	DATE	COL TO-DATE	BALANCE DUE	CNTY/ORI	CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66			26.66	.00		

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 08/01/17 THRU 08/31/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC: - - NYSID:11875722P *
 *

FACILITY	DATE	--- TRANSACTION --- (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN						2,689.71
		BALANCE FORWARD				26.66	2,663.05	2,689.71
LINCOLN	08/02/17	TIME DEPOSIT INT	I63017	.05		.00	2,663.10	2,689.76
LINCOLN	08/03/17	WRK REL WAGES	B631578	308.65		.00	2,971.75	2,998.41
LINCOLN	08/03/17	WR FEE			61.73	.00	2,910.02	2,936.68
LINCOLN	08/04/17	WRK REL WAGES	B631589	455.06		.00	3,365.08	3,391.74
LINCOLN	08/04/17	WR FEE			91.01	.00	3,274.07	3,300.73
LINCOLN	08/07/17	WR EXPENS			200.00	.00	3,074.07	3,100.73
LINCOLN	08/11/17	WRK REL WAGES	B631682	383.24		.00	3,457.31	3,483.97
LINCOLN	08/11/17	WR FEE			76.65	.00	3,380.66	3,407.32
LINCOLN	08/21/17	WR EXPENS			200.00	.00	3,180.66	3,207.32
LINCOLN	08/22/17	WRK REL WAGES	B631801	461.45		.00	3,642.11	3,668.77
LINCOLN	08/22/17	WR FEE			92.29	.00	3,549.82	3,576.48
LINCOLN	08/29/17	WRK REL WAGES	B631887	402.32		.00	3,952.14	3,978.80
LINCOLN	08/29/17	WR FEE			80.46	.00	3,871.68	3,898.34
		MONTHLY ENDING TOTALS		2,010.77	802.14	26.66	3,871.68	3,898.34
		ENDING BALANCE AT LINCOLN						3,898.34
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		368.80	20% OF AVERAGE 6 MO DEPOSIT AMT			252.28

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

----- ENCUMBRANCE BREAKDOWN -----

REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	COL TO-DATE	BALANCE DUE	CNTY/ORI CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66	.00	26.66	.00	

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 09/01/17 THRU 09/29/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC: - - NYSID:11875722P *
 *

FACILITY	DATE	TRANSACTION (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN				26.66	3,871.68	3,898.34
		BALANCE FORWARD						3,898.34
LINCOLN	09/05/17	WR EXPENS			200.00	.00	3,671.68	3,698.34
LINCOLN	09/05/17	WRK REL WAGES	B631975	461.45		.00	4,133.13	4,159.79
LINCOLN	09/05/17	WR FEE				.00	4,040.84	4,067.50
LINCOLN	09/13/17	WRK REL WAGES	B735103	302.68		.00	4,343.52	4,370.18
LINCOLN	09/13/17	WR FEE				.00	4,282.98	4,309.64
LINCOLN	09/18/17	WR EXPENS			200.00	.00	4,082.98	4,109.64
LINCOLN	09/26/17	WRK REL WAGES	B735253	382.59		.00	4,465.57	4,492.23
LINCOLN	09/26/17	WR FEE				.00	4,389.05	4,415.71
LINCOLN	09/26/17	WRK REL WAGES	B735254	461.46		.00	4,850.51	4,877.17
LINCOLN	09/26/17	WR FEE				.00	4,758.22	4,784.88
		MONTHLY ENDING TOTALS		1,608.18	721.64	26.66	4,758.22	4,784.88
		ENDING BALANCE AT LINCOLN						4,784.88
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		508.75	20% OF AVERAGE 6 MO DEPOSIT AMT			291.59

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

----- ENCUMBRANCE BREAKDOWN -----							
REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	COL TO-DATE	BALANCE DUE	CNTY/ORI CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66	.00	26.66	.00	

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 09/30/17 THRU 10/31/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC:06-SB-33T NYSID:11875722P *
 *

FACILITY	DATE	---- TRANSACTION ---- (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN				26.66	4,758.22	4,784.88
		BALANCE FORWARD						4,784.88
LINCOLN	10/03/17	WR EXPENS			200.00	.00	4,558.22	4,584.88
LINCOLN	10/03/17	WRK REL WAGES	B735340	461.45		.00	5,019.67	5,046.33
LINCOLN	10/03/17	WR FEE			92.29	.00	4,927.38	4,954.04
LINCOLN	10/10/17	WRK REL WAGES	B735424	382.58		.00	5,309.96	5,336.62
LINCOLN	10/10/17	WR FEE			76.52	.00	5,233.44	5,260.10
LINCOLN	10/16/17	WR EXPENS			200.00	.00	5,033.44	5,060.10
LINCOLN	10/25/17	WRK REL WAGES	B735629	382.60		.00	5,416.04	5,442.70
LINCOLN	10/25/17	WR FEE			76.52	.00	5,339.52	5,366.18
LINCOLN	10/25/17	WRK REL WAGES	B735630	461.45		.00	5,800.97	5,827.63
LINCOLN	10/25/17	WR FEE			92.29	.00	5,708.68	5,735.34
LINCOLN	10/30/17	WR EXPENS			200.00	.00	5,508.68	5,535.34
LINCOLN	10/31/17	WRK REL WAGES	B735697	382.59		.00	5,891.27	5,917.93
LINCOLN	10/31/17	WR FEE			76.52	.00	5,814.75	5,841.41
		MONTHLY ENDING TOTALS		2,070.67	1,014.14	26.66	5,814.75	5,841.41
		ENDING BALANCE AT LINCOLN						5,841.41
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		682.57	20% OF AVERAGE 6 MO DEPOSIT AMT			333.90

LAGGED PAYROLL, DAYS LAGGED - 15 AMOUNT LAGGED - 13.34
 THIS AMOUNT WILL BE ADDED TO YOUR ACCOUNT UPON RELEASE ONLY

----- ENCUMBRANCE BREAKDOWN -----

REASON	DATE IMPOSED	NOTES	TOTAL OWED	COL MTD	DATE	COL TO-DATE	BALANCE DUE	CNTY/ORI	CAS
GATE MONEY	03/08/16	AUTO GATE MONEY	26.66	.00		26.66	.00		

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.

STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
 LINCOLN CORRECTIONAL FACILITY
 INMATE STATEMENT FOR THE PERIOD 11/01/17 THRU 11/30/17

 * NAME:FRASER JAWAWN DEPT ID:16R0176 CELL LOC: - - NYSID:11875722P *
 *

FACILITY	DATE	---- TRANSACTION ---- (COMMENTS)	TR-NUM	RECEIPT(+)	DISBURS(-)	COLLECTED AMT	STATEWIDE SPENDABLE	STATEWIDE ACCT BAL
		STARTING BALANCE AT LINCOLN BALANCE FORWARD				26.66	5,814.75	5,841.41 5,841.41
LINCOLN	11/13/17	WR EXPENS						
LINCOLN	11/15/17	TIME DEPOSIT INT	I93017	.19	200.00	.00	5,614.75	5,641.41
LINCOLN	11/17/17	LAGGED PAYRL	000901	13.34		.00	5,614.94	5,641.60
LINCOLN	11/17/17	DEL ENC-GATEM(2016-03-08)				.00	5,628.28	5,654.94
LINCOLN	11/17/17	CLSE ACCT				26.66-	5,654.94	5,654.94
					5,654.94	.00	.00	.00
		MONTHLY ENDING TOTALS		13.53	5,854.94	.00	.00	.00
		20% OF AVERAGE 6 MO SPENDABLE BALANCE		642.16	20% OF AVERAGE 6 MO DEPOSIT AMT			296.38

LAG PAYROLL HAS BEEN DEPOSITED TO THE ACCT BALANCE
 INMATE HAS BEEN PAROLED FROM LINCOLN

* ENCUMBRANCES ESTABLISHED AND PAID IN THE CURRENT MONTH.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Joseph Loglisci,
Plaintiff,

-against-

The City of New York, Stephan Munafo,
Undercover Police Officer Shield Number 9386,
John Patane, Anthony Demonte, Christopher
Bender, Jason Del Toro, Robert Lotufo, Joseph
Petrelli, Undercover Police Officer Shield Number
352, John Does 1 through 10,

Defendants


09 Civ. 1220 (SHS) (THK)

DECLARATION OF SERVICE
First Amended Complaint

I, Danny R. Vizuetec declares under penalty of perjury:

1. That I am over 18 years of age and am not a party to this action;
2. That on June 15, 2009, at the office of the New York City Police Department, Narcotics Division, One Police Plaza, New York, New York, I served a Summons and First Amended Complaint upon defendant Christopher Bender by personally delivering and leaving one true copy of said Summons and First Amended Complaint with PAA C. Busby.

Dated: New York, New York
June 26, 2009



Danny R. Vizuetec
Office Manager
233 Broadway, Suite 2208
New York, New York 10279



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

JOSEPH LOGLISCI,

Plaintiff,

-against-

THE CITY OF NEW YORK, STEPHAN MUNAFO,
UNDERCOVER POLICE OFFICER SHIELD NUMBER
9386, JOHN PATANE, ANTHONY DEMONTE,
CHRISTOPHER BENDER, JASON DEL TORO,
ROBERT LOTUFO, JOSEPH PETRELLI,
UNDERCOVER POLICE OFFICER SHIELD NUMBER
352, JOHN DOES 1 THROUGH 10,

Defendants.

----- x

**ANSWER TO THE
AMENDED COMPLAINT**

Jury Trial Demanded

09 Civ. 1220 (SHS)

Defendants City of New York, Police Officer Stephan Munafo, Undercover Police Officer Shield Number 9386, Lieutenant John Patane, Sergeant Anthony Demonte, Detective Joseph Petrelli, Detective Christopher Bender, Detective Jason Del Toro, Detective Robert Lotufo, and Undercover Detective Shield Number 352, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the amended complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "1" of the amended complaint, except admit that plaintiff purports to proceed as stated therein and state that the allegations concerning "under color of law" state a legal conclusion to which no response is required.

2. [REDACTED]

[REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the amended complaint.

7. Deny the allegations set forth in paragraph “7” of the amended complaint, except admit that the City of New York is a municipal corporation organized under New York State law.

8. Deny the allegations set forth in paragraph “8” of the amended complaint, except admit that the City of New York maintains a Police Department and respectfully refer the Court to the New York City Charter and Administrative Code for a recitation of the relationship between defendant City and the New York City Police Department.

9. Deny the allegations set forth in paragraph “9” of the amended complaint, except admit that on May 28, 2008, Stephan Munafo was employed by the City of New York as a Police Officer.

10. Deny the allegations set forth in paragraph “10” of the amended complaint, except admit on May 28, 2008, Police Officer Munafo’s shield number was 25679.

11. Deny the allegations set forth in paragraph “11” of the amended complaint, except admit that on May 28, 2008, Stephan Munafo held the rank of Police Officer.

12. Deny the allegations set forth in paragraph "12" of the amended complaint, except admit that on May 28, 2008, Police Officer Munafo was assigned to the New York City Police Department's Narcotics Borough Manhattan South.

13. Deny the allegations set forth in paragraph "13" of the amended complaint, except admit that on May 28, 2008, Undercover Police Officer Shield No. 9386 was employed by the City of New York as a Police Officer.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the amended complaint.

15. Deny the allegations set forth in paragraph "15" of the amended complaint, except admit that on May 28, 2008, Undercover Police Officer Shield No. 9386 was assigned to the New York City Police Department's Narcotics Borough Manhattan South.

16. Deny the allegations set forth in paragraph "16" of the amended complaint, except admit that on May 28, 2008, John Patane was employed by the City of New York as a Lieutenant.

17. Deny the allegations set forth in paragraph "17" of the amended complaint, except admit that on May 28, 2008, John Patane held the rank of Lieutenant.

18. Deny the allegations set forth in paragraph "18" of the amended complaint, except admit that on May 28, 2008, Lieutenant Patane was assigned to the New York City Police Department's Narcotics Borough Manhattan South.

19. Deny the allegations set forth in paragraph "19" of the amended complaint, except admit that on May 28, 2008, Anthony Demonte was employed by the City of New York as a Sergeant.

20. Deny the allegations set forth in paragraph "20" of the amended complaint, except admit that on May 28, 2008, Sergeant Demonte's Shield Number was 915.

21. Deny the allegations set forth in paragraph "21" of the amended complaint, except admit that on May 28, 2008, Anthony Demonte held the rank of Sergeant.

22. Deny the allegations set forth in paragraph "22" of the amended complaint, except admit that on May 28, 2008, Sergeant Demonte was assigned to the New York City Police Department's Narcotics Borough Manhattan South.

23. Deny the allegations set forth in paragraph "23" of the amended complaint, except admit that Christopher Bender is employed by the City of New York as a Detective.

24. Deny the allegations set forth in paragraph "24" of the amended complaint, except admit that on May 28, 2009, Christopher Bender held the rank of Police Officer.

25. Deny the allegations set forth in paragraph "25," except admit that Detective Bender's Shield Number is 1205.

26. Deny the allegations set forth in paragraph "26," except admit that Christopher Bender currently holds the rank of Detective.

27. Deny the allegations set forth in paragraph "27" of the amended complaint, except admit that on May 28, 2008, Christopher Bender was assigned to the New York City Police Department's Narcotics Borough Manhattan South.

28. Deny the allegations set forth in paragraph "28" of the amended complaint, except admit that Jason Del Toro is employed by the City of New York as a Detective.

29. Deny the allegations set forth in paragraph “29” of the amended complaint, except admit that on May 28, 2008, Jason Del Toro held the rank of Police Officer.

30. Deny the allegations set forth in paragraph “30,” except admit that Detective Del Toro’s Shield Number is 4218.

31. Deny the allegations set forth in paragraph “31,” except admit that Jason Del Toro’s Shield Number currently holds the rank of Detective.

32. Deny the allegations set forth in paragraph “32” of the amended complaint, except admit that on May 28, 2008, Jason Del Toro was assigned to the New York City Police Department’s Narcotics Borough Manhattan South.

33. Deny the allegations set forth in paragraph “33” of the amended complaint, except admit that on May 28, 2008, Robert Lotufo was employed by the City of New York as a Detective.

34. Deny the allegations set forth in paragraph “34,” except admit that on May 28, 2008, Detective Lotufo’s Shield Number was 4648.

35. Deny the allegations set forth in paragraph “35” of the amended complaint, except admit that on May 28, 2008, Robert Lotufo held the rank of Detective.

36. Deny the allegations set forth in paragraph “36” of the amended complaint, except admit that on May 28, 2008, Detective Lotufo was assigned to the New York City Police Department’s Narcotics Borough Manhattan South.

37. Deny the allegations set forth in paragraph “37” of the amended complaint, except admit that on May 28, 2008, Joseph Petrelli was employed by the City of New York as a Detective.

38. Deny the allegations set forth in paragraph “38” of the amended complaint, except admit that on May 28, 2008, Joseph Petrelli held the rank of Detective.

39. Deny the allegations set forth in paragraph “39” of the amended complaint, except admit that on May 28, 2008, Detective Petrelli was assigned to the New York City Police Department’s Narcotics Borough Manhattan South.

40. Deny the allegations set forth in paragraph “40” of the amended complaint, except admit that on May 28, 2008, Undercover Detective Shield Number 352 was employed by the City of New York as a Detective.

41. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “41” of the amended complaint.

42. Deny the allegations set forth in paragraph “42” of the amended complaint, except admit that on May 28, 2008, Undercover Shield Number 352 was assigned to the New York City Police Department’s Narcotics Borough Manhattan South.

43. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “43” of the amended complaint.

44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “44” of the amended complaint.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “45” of the amended complaint, except state that the allegations concerning “under color of law” state a legal conclusion to which no response is required.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the amended complaint.

47. Deny the allegations set forth in paragraph “47,” except that on May 28, 2008 defendants Police Officer Stephan Munafo, Undercover Police Officer Shield No. 9386, Lieutenant John Patane, Sergeant Anthony Demonte, Detective Joseph Petrelli, Detective Christopher Bender, Detective Jason Del Toro, Detective Robert Lotufo, Undercover Detective Shield No. 352 were members of a field team conducting a buy and bust operation.

48. Deny the allegations set forth in paragraph “48” of the amended complaint, except admit that on May 28, 2008, plaintiff was arrested by members of the New York City Police Department in the vicinity of Rutgers and Madison Streets New York, New York.

49. Deny the allegations set forth in paragraph “49” of the amended complaint, except admit that at the time of the plaintiff’s arrest on May 28, 2008, defendants Police Officer Stephan Munafo and Undercover Police Officer Shield No. 9386 were in the vicinity of Rutgers and Madison Streets, New York, New York.

50. Deny the allegations set forth in paragraph “50” of the amended complaint, except admit that plaintiff was handcuffed and placed in a police vehicle.

51. Deny the allegations set forth in paragraph “51” of the amended complaint, except admit that plaintiff was transported to the New York City Police Department’s 7th Precinct which is located at 19 ½ Pitt Street, New York, New York.

52. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “52” of the amended complaint.

53. Deny the allegations set forth in paragraph “53” of the amended complaint, except admit that plaintiff was transported to Manhattan Central Booking which is located at 100 Centre Street, New York, New York.

54. Deny the allegations set forth in paragraph “54” of the amended complaint.

55. Admit the allegations set forth in paragraph “55” of the amended complaint.

56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “56” of the amended complaint.

57. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “57” of the amended complaint.

58. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “58” of the amended complaint.

59. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “59” of the amended complaint.

60. Defendants state that the allegations set forth in paragraph “60” of the amended complaint contain legal conclusions, rather than averments of fact, and therefore no response is required. To the extent a response is required, defendants deny the allegations set forth in paragraph “60” of the amended complaint.

61. Deny the allegations set forth in paragraph “61” of the amended complaint.

62. Deny the allegations set forth in paragraph “62” of the amended complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning plaintiff’s purported economic, physical and psychological injuries.

63. [REDACTED]

[REDACTED]

[REDACTED]

64. In response to the allegations set forth in paragraph “64” of the amended complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “63” inclusive of their answer, as if fully set forth herein.

65. Deny the allegations set forth in paragraph “65” of the amended complaint.

66. [REDACTED]

[REDACTED]

[REDACTED]

67. [REDACTED]

[REDACTED]

68. [REDACTED]

[REDACTED]

69. [REDACTED]

[REDACTED]

70. In response to the allegations set forth in paragraph 70” of the amended complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “69” inclusive of their answer, as if fully set forth herein.

71. Deny the allegations set forth in paragraph “71” of the amended complaint.

72. [REDACTED]

[REDACTED]

73. In response to the allegations set forth in paragraph “73” of the amended complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “72” inclusive of their answer, as if fully set forth herein.

74. Deny the allegations set forth in paragraph “74” of the amended complaint.

75. [REDACTED]

76. In response to the allegations set forth in paragraph “76” of the amended complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “75” inclusive of their answer, as if fully set forth herein.

77. Deny the allegations set forth in paragraph “77” of the amended complaint.

78. [REDACTED]

79. In response to the allegations set forth in paragraph “79” of the amended complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “78” inclusive of their answer, as if fully set forth herein.

80. Deny the allegations set forth in paragraph “80” of the amended complaint.

81. [REDACTED]

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

82. The amended complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

83. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

84. Defendants Police Officer Stephan Munafo, Undercover Police Officer Shield Number 9386, Lieutenant John Patane, Sergeant Anthony Demonte, Detective Joseph Petrelli, Detective Christopher Bender, Detective Jason Del Toro, Detective Robert Lotufo, and Undercover Detective Shield Number 352 have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are protected by qualified immunity.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

85. At all times relevant to the acts alleged in the amended complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

86. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the culpable or negligent conduct of third parties, and was not the proximate result of any act of the defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

87. This action is barred in whole or in part by the applicable statute of limitations.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

88. This action is barred in whole or in part for plaintiff's failure to comply with N.Y. GEN. MUN. LAW § 50-(e), (h) or (i).

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

89. There was probable cause for plaintiff's arrest, detention and prosecution.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

90. At all times relevant to the acts alleged in the amended complaint, the duties and functions of defendant City of New York's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City of New York is entitled to governmental immunity from liability.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

91. Punitive damages cannot be recovered against the City of New York.


AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

92. Any search was privileged.

WHEREFORE, defendants City of New York, Police Officer Stephan Munafo, Undercover Police Officer Shield Number 9386, Lieutenant John Patane, Sergeant Anthony Demonte, Detective Joseph Petrelli, Detective Christopher Bender, Detective Jason Del Toro, Detective Robert Lotufo, and Undercover Detective Shield Number 352, request judgment dismissing the amended complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
July 2, 2009

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
*Attorney for Defendants City of New York, Police
Officer Stephan Munafo, Undercover Police Officer
Shield Number 9386, Lieutenant John Patane,
Sergeant Anthony Demonte, Detective Joseph
Petrelli, Detective Christopher Bender, Detective
Jason Del Toro, Detective Robert Lotufo, and
Undercover Detective Shield Number 352*
100 Church Street, Room 3-208
New York, New York 10007
(212) 788-0823

By: 
PHILIP R. DePAUL (PD 4803)
Assistant Corporation Counsel
Special Federal Litigation

cc: BY ECF and BY MAIL
Darius Wadia, Esq.
Attorney for Plaintiff
Darius Wadia, LLC
233 Broadway, Suite 2208
New York, New York 10279

Index No. 09 Civ. 1220 (SHS)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH LOGLISCI,

Plaintiff,

-against-

THE CITY OF NEW YORK, STEPHAN MUNAFO,
UNDERCOVER POLICE OFFICER SHIELD
NUMBER 9386, JOHN PATANE, ANTHONY
DEMONTE, CHRISTOPHER BENDER, JASON DEL
TORO, ROBERT LOTUFO, JOSEPH PETRELLI,
UNDERCOVER POLICE OFFICER SHIELD
NUMBER 352, JOHN DOES 1 THROUGH 10,

Defendants.

ANSWER TO THE AMENDED COMPLAINT

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York
*Attorney for Defendants City of New York, Police
Officer Stephan Munafo, Undercover Police Officer
Shield Number 9386, Lieutenant John Patane, Sergeant
Anthony Demonte, Detective Joseph Petrelli, Detective
Christopher Bender, Detective Jason Del Toro,
Detective Robert Lotufo, and Undercover Detective
Shield Number 352
100 Church Street
New York, N.Y. 10007*

Of Counsel: Philip R. DePaul
Tel: (212) 788-0823

Due and timely service is hereby admitted.

New York, N.Y., 200.....

..... Esq.

Attorney for

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

DONNELL MURRAY

against

CITY OF NEW YORK, ET AL

Plaintiff(s), Petitioner(s)

Defendant(s), Respondent(s)

ATTORNEY: Papa, DePaola and Brounstein

Index No.: 307520/09

DATE OF FILING: 9/15/2009



Handwritten marks and a vertical stamp on the right margin.

AFFIDAVIT OF SERVICE

STATE OF N.Y.: COUNTY OF NASSAU: ss:

I, Gary Monioudis, being duly sworn according to law upon my oath, depose and say, that deponent is not a party to this action, is over 18 years of age and resides in Valley Stream, NY.

That on **November 20, 2009 at 10:20 AM at 1 Police Plaza, Room 1100, New York, NY 10038**, deponent served the **Summons & Verified Complaint with Index Number & Date of Filing Endorsed Thereon** upon **Det. Jason Del Toro, Shield \$4218**, defendant/respondent/recipient herein .

Said service was effected in the following manner:

By delivering thereat a true copy of each to **P.A.A. Busby**, a person of suitable age and discretion. That person was also asked by deponent whether said premises was the defendant/respondent/recipient actual place of business and their reply was affirmative.

Deponent describes the individual served to the best of deponent's ability at the time and circumstances of service as follows: Sex: **Female** Skin: **Black** Hair: **Black** Age(Approx): **35-45** Height(Approx): **5' 8"** Weight(Approx): **110-120 lbs** Other: **Glasses**

On **November 21, 2009**, after delivery of process was effected, deponent enclosed an additional true and attested copy of same in postpaid envelope addressed to the defendant/respondent/recipient at defendant/respondent/recipient place of business in an official depository and by First Class Mail, under the exclusive care of the United States Postal Service within New York State. The envelope bore the Legend "Personal & Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant/respondent/recipient.

I asked the person spoken to if the defendant/respondent/recipient was in active military service of the United States or the State of New York in any capacity and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant/respondent/recipient is not in the military service of New York State or the United States as that term is defined in the statutes of New York State or the Federal Soldiers and Sailors Civil Relief Act.

I certify that the foregoing statements made by me are true, correct and my free act and deed. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Gary Monioudis, License No. 1308068

Sworn to before me on November 30 2009

Craig L. Eisenberg
Notary Public, State of New York
Registration No. 01E16030725
Qualified in Suffolk County
Commission Expires September 20, 2013

Alan Leibowitz
Notary Public, State of New York
Registration No. 01LE6029931
Qualified in Nassau County
Commission Expires August 30, 2013

RECEIVED
COUNTY CLERK
BRONX COUNTY
09 DEC -8 AM 10:43

Ultimate Process Service (516) 333-3447
Case No.: 110330

COHEN & FITCH LLP COHEN & FITCH LLP
U S DISTRICT COURT SOUTHERN DISTRICT STATE OF NEW YORK

MIRIAM NUNEZ, ETANO

PLAINTIFF

index No. 09 CIV 8798
Date Filed

- vs -

THE CITY OF NEW YORK, ETAL

DEFENDANT

Office No.
Court Date.

STATE OF NEW YORK, COUNTY OF NEW YORK :SS:

JOSE ESPINAL being duly sworn, deposes and says; I am over 18 years of age, not a party to this action, and reside in the State of New York. That on the 22ND day of OCTOBER, 2009 2:45PM at

MANH. SOUTH NARCOTICS 1 POLICE PLAZA, ROOM 1100
NEW YORK NY 10038

I served the SUMMONS AND COMPLAINT, JUDGES RULES, CIVIL COVER SHEET, upon DET. JASON DEL TORO, SHIELD NO. 4218 the DEFENDANT therein named by delivering and leaving a true copy or copies of the aforementioned documents with P.A.A. (JANE) GARDNER, CO-WORKER WHO REFUSED FIRST NAME a person of suitable age and discretion.

Deponent describes the person served as aforesaid to the best of deponent's ability at the time and circumstances of the service as follows.

SEX: FEMALE COLOR: BLACK HAIR: BLACK
APP. AGE: 40 APP. HT: 5/7 APP. WT: 140
OTHER IDENTIFYING FEATURES

On 10/23/2009 I deposited in the United States mail another true copy of the aforementioned documents properly enclosed and sealed in a post-paid wrapper addressed to the said DEFENDANT at the above address. That being the place of business of the DEFENDANT.

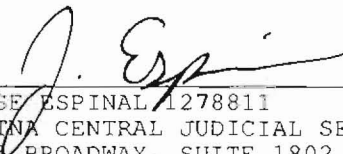
Copy mailed 1st class mail marked personal and confidential not indicating on the outside thereof by return address or otherwise that said notice is from an attorney or concerns an action against the person to be served.

COMMENTS:

That at the time of service, as aforesaid, I asked the person spoken to whether the DEFENDANT was in the military service of the United States Government, or of the State of New York, and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid I aver that the DEFENDANT is not in the military service, and is not dependent on anyone in the military service of the United States Government or the State of New York, as that term is defined in statutes of the State of New York, or of the Federal Soldiers and Sailors Civilian Relief Act.

Sworn to before me this
23RD day of OCTOBER, 2009

KENNETH WISSNER
Notary Public NEW YORK
01WI4714130
Qualified in NEW YORK
Commission Expires 03/30/2010


JOSE ESPINAL 1278811
AETNA CENTRAL JUDICIAL SERVICES
255 BROADWAY, SUITE 1802
NEW YORK, NY, 10007
Reference No: 3-CF-40345





UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MIRIAM NUNEZ and MEAGAN RIVERA,

Plaintiffs,

-against-

THE CITY OF NEW YORK, DET. JEFFREY MCAVOY,
Shield No. 7380, DET. JASON DEL TORO, Shield No.
4218, P.O. GEORGE VELEZ, Shield No. 31370, SGT.
ANTHONY DEMONTE, Shield 915 and P.O.'s "JOHN
DOE" #1-10, Individually and in their Official Capacities
(the name John Doe being fictitious, as the true names are
presently unknown),

x

**ANSWER ON BEHALF OF
DEFENDANTS**

09 CV 8798 (DLC)

JURY TRIAL DEMANDED

Defendants.

Defendants City of New York, Jeffrey McAvoy, Jason Del Toro, George Velez,
and Anthony Demonte, by their attorney, Michael A. Cardozo, Corporation Counsel of the City
of New York, for their answer to the complaint, respectfully allege, upon information and belief,
as follows:

1. Deny the allegations set forth in paragraph 1 of the complaint,
except admit that plaintiff purports to bring this action as stated therein.

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the complaint.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the complaint.

8. Deny the allegations set forth in paragraph 8 of the complaint, except admit that the City of New York is a municipal corporation duly organized and operating pursuant to the laws of the State of New York.

9. Deny the allegations set forth in paragraph 9 of the complaint, except admit that the City of New York is a municipal corporation duly organized and operating pursuant to the laws of the State of New York and that the New York City Police Department is an agency of the City of New York.

10. Deny the allegations set forth in paragraph 10 of the complaint, except admit that Jeffrey McAvoy, Jason Del Toro, Anthony Demonte and George Velez are employed by the City of New York as police officers.

11. Deny the allegations set forth in paragraph 11 of the complaint.

12. Deny the allegations set forth in paragraph 12 of the complaint.

13. Deny the allegations set forth in paragraph 13 of the complaint.

14. Deny the allegations set forth in paragraph 14 of the complaint.

15. Deny the allegations set forth in paragraph 15 of the complaint.

16. Deny the allegations set forth in paragraph 16 of the complaint.

17. Deny the allegations set forth in paragraph 17 of the complaint.

18. Deny the allegations set forth in paragraph 18 of the complaint.

19. Deny the allegations set forth in paragraph 19 of the complaint.

20. Deny the allegations set forth in paragraph 20 of the complaint.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of the complaint.

22. Deny the allegations set forth in paragraph 22 of the complaint.

23. Deny the allegations set forth in paragraph 23 of the complaint.

24. Deny the allegations set forth in paragraph 24 of the complaint.

25. Deny the allegations set forth in paragraph 25 of the complaint.

26. Deny the allegations set forth in paragraph 26 of the complaint, except admit that on April 14, 2008, a search warrant was conducted inside of 10 Avenue D, Apt. #8A.

27. Deny the allegations set forth in paragraph 27 of the complaint.

28. Deny the allegations set forth in paragraph 28 of the complaint.

29. Deny the allegations set forth in paragraph 29 of the complaint.

30. Deny the allegations set forth in paragraph 30 of the complaint.

31. In response to the allegations set forth in paragraph 31 of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

32. Deny the allegations set forth in paragraph 32 of the complaint.

33. Deny the allegations set forth in paragraph 33 of the complaint.

34. Deny the allegations set forth in paragraph 34 of the complaint.

35. Deny the allegations set forth in paragraph 35 of the complaint.

36. Deny the allegations set forth in paragraph 36 of the complaint.

37. In response to the allegations set forth in paragraph 37 of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

38. Deny the allegations set forth in paragraph 38 of the complaint.

39. Deny the allegations set forth in paragraph 39 of the complaint.

40. In response to the allegations set forth in paragraph 40 of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

41. Deny the allegations set forth in paragraph 41 of the complaint.

42. Deny the allegations set forth in paragraph 42 of the complaint.

43. Deny the allegations set forth in paragraph 43 of the complaint.

44. Deny the allegations set forth in paragraph 44 of the complaint.

45. In response to the allegations set forth in paragraph 45 of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

46. Deny the allegations set forth in paragraph 46 of the complaint.

47. Deny the allegations set forth in paragraph 47 of the complaint.

48. Deny the allegations set forth in paragraph 48 of the complaint.

49. Deny the allegations set forth in paragraph 49 of the complaint.

50. [REDACTED]

[REDACTED]

[REDACTED]

51. [REDACTED]

52. [REDACTED]

53. [REDACTED]

54. [REDACTED]

55. [REDACTED]

56. [REDACTED]

57. [REDACTED]

58. [REDACTED]

[REDACTED]

59. [REDACTED]

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

60. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

61. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, or any act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

62. To the extent the complaint alleges any claims against the City of New York arising under state law, such claims are barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

63. Plaintiffs may not seek punitive damages as against the City of New York.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

64. There was probable cause for plaintiffs' arrest and detention.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

65. Any injury alleged to have been sustained resulted from plaintiffs' own culpable or negligent conduct and/or the intervening conduct of third parties and was not the proximate result of any act of defendants.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

66. To the extent plaintiffs have stated any claims under state law, those claims are barred by their failure to comply with New York Municipal Law § 50 *et seq.*

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

67. Defendants McAvoy, Del Toro, Demonte and Velez have not violated any clearly established constitutional or statutory rights of which a reasonable person would have known and therefore are protected by qualified immunity.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

68. At all times relevant to the acts alleged in the complaint, defendant City of New York, its agents and officials acted reasonably and properly in the lawful exercise of their discretion. Therefore, they are entitled to governmental immunity from liability.

WHEREFORE, defendants request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
January 11, 2010

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street – Rm. 3-155
New York, New York 10007
(212) 788-1177

By: /s/
Benjamin E. Stockman
Assistant Corporation Counsel

To: Joshua Fitch, Esq.
Cohen & Fitch LLP (by ECF)
Attorneys for plaintiffs
225 Broadway, Suite 2700
New York, New York 10007

Index No. 09 CV 8798 (DLC)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
<p>MIRIAM NUNEZ and MEAGAN RIVERA,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">-against-</p> <p>THE CITY OF NEW YORK, DET. JEFFREY MCAVOY, Shield No. 7380, DET. JASON DEL TORO, Shield No. 4218, P.O. GEORGE VELEZ, Shield No. 31370, SGT. ANTHONY DEMONTE, Shield 915 and P.O.'s "JOHN DOE" #1-10, Individually and in their Official Capacities (the name John Doe being fictitious, as the true names are presently unknown),</p> <p style="text-align: right;">Defendants.</p>
ANSWER
<p style="text-align: center;">MICHAEL A. CARDOZO <i>Corporation Counsel of the City of New York</i> <i>Attorney for Defendants</i> <i>100 Church Street</i> <i>New York, New York 10007</i></p> <p style="text-align: center;"><i>Of Counsel: Benjamin E. Stockman</i> <i>Tel: (212) 788-1177</i> <i>NYCLIS No.</i></p>
<p><i>Due and timely service is hereby admitted.</i></p> <p><i>New York, N.Y., 200...</i></p> <p><i>..... Esq.</i></p> <p><i>Attorney for</i></p>

AFFIDAVIT OF SERVICE



**UNITED STATES DISTRICT COURT
SOUTHERN District of New York**

Index Number: 12-CV-4146-JSR-AJP

Date Filed: 8/21/2012

Plaintiff:
**A.T., A MINOR BY HER PARENT AND NATURAL GUARDIAN,
MADELINE SANCHEZ**

vs.

Defendant:
CITY OF NEW YORK

For:
Alissa Boshnack
ALISSA BOSHACK, ESQ.

Received by GUARANTEED SUBPOENA** on the 24th day of August, 2012 at 7:45 pm to be served on
DETECTIVE JASON DEL TORO, 1 POLICE PLAZA, ROOM 1100, NEW YORK, New York County, NY 10038.

I, Mohamed Bouri, being duly sworn, depose and say that on the **27th day of August, 2012 at 4:37 pm, I:**

served a **SUITABLE AGE PERSON** by delivering and leaving a true copy of the **SUMMONS & AMENDED COMPLAINT** with **MS. BUFBY, POLICE ADMINISTRATIVE AIDE, at 1 POLICE PLAZA, ROOM 1100, NEW YORK, New York County, NY 10038**, the said premises being the respondent's place of **Work** within the State of New York. Deponent completed service by mailing a true copy of the **SUMMONS & AMENDED COMPLAINT** in a postpaid envelope addressed to: **1 POLICE PLAZA, ROOM 1100, NEW YORK, New York County, NY 10038** and bearing the words "Personal & Confidential" by First Class Mail on **8/28/2012** and placed in an official depository of the U.S.P.S. in the State of New York.

Description of Person Served: Age: 45, Sex: F, Race/Skin Color: Black, Height: 5'6", Weight: 155, Hair: Black, Glasses: N

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

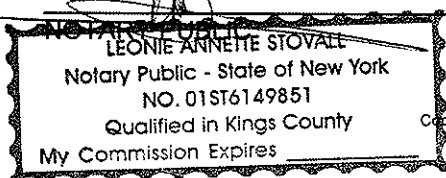
State: New York
County: Kings

Mohamed Bouri 8/29/12
1278466

Subscribed and Sworn to before me on the 29th day of August, 2012 by the affiant who is personally known to me (or has satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained..

GUARANTEED SUBPOENA**
2009 Morris Avenue
Union, NJ 07083
(800) 672-1952

Our Job Serial Number: BNP-2012002353
Ref: 20120824170313
Service Fee: _____





UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

ROBERT BEST,

Plaintiff,

-against-

THE CITY OF NEW YORK, RETIRED DETECTIVE
JOSE VALENTIN, tax # 898683, UNDERCOVER
OFFICER, shield # C0084, POLICE OFFICERS JOHN
AND JANE DOES 1-5,

Defendants.

----- x

**ANSWER ON BEHALF OF
DEFENDANTS CITY OF
NEW YORK, JOSE
VALENTIN &
UNDERCOVER OFFICER #
C0084**

11 CV 5611 (CM) (JCF)

JURY TRIAL DEMANDED

Defendants City of New York, Jose Valentine and Undercover Officer shield # C0084, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the Complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations as set forth in paragraph "1" of the complaint, except admit that plaintiff purports to proceed as stated therein.

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations as set forth in paragraph "4" of the complaint.

5. Deny the allegations as set forth in paragraph "5" of the complaint, except admit that the City of New York is a municipal corporation duly organized under the laws of the State of New York.

6. Deny the allegations set forth in paragraph “6” of the complaint, except admit that Jose Valentin and Undercover Officer # C0084 were employed by the City of New York as members of the New York City Police Department, and deny knowledge or information sufficient to form a belief as to the truth of the allegations as they relate to “Officers Doe 1-5,” and state that plaintiff’s assertion that defendants were “acting under color of state law” is a legal conclusion to which no response is required.

7. Deny the allegations as set forth in paragraph “7” of the complaint, except admit that on November 21, 2009, plaintiff was placed under arrest at or near 351 West 42nd Street, New York, New York 10036.

8. Deny the allegations as set forth in paragraph “8” of the complaint, except admit that on November 21, 2009, plaintiff was placed under arrest at or near 351 West 42nd Street, New York, New York 10036.

9. Deny the allegations as set forth in paragraph “9” of the complaint, except admit that on November 21, 2009, plaintiff was placed under arrest at or near 351 West 42nd Street, New York, New York 10036.

10. Deny the allegations as set forth in paragraph “10” of the complaint.

11. Deny the allegations as set forth in paragraph “11” of the complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations as they relate to “OFFICERS DOE 1-5.”

12. Deny the allegations as set forth in paragraph “12” of the complaint, except admit that plaintiff was transported to the 14th Police Precinct, and admit that plaintiff was charged with criminal possession of marijuana, criminal sale of marijuana, and resisting arrest.

13. Deny the allegations as set forth in paragraph “13” of the complaint, except admit that plaintiff was transported to Manhattan Central Booking.

14. Deny the allegations as set forth in paragraph “14” of the complaint.

15. Deny the allegations as set forth in paragraph “15” of the complaint, except admit that Jose Valentin signed a misdemeanor criminal court complaint.

16. Deny the allegations as set forth in paragraph “16” of the complaint, except admit that plaintiff was arraigned at or about 11:00 am on November 22, 2009 and subsequently released.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations as set forth in paragraph “17” of the complaint.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations as set forth in paragraph “18” of the complaint.

19. Deny the allegations as set forth in paragraph “19” of the complaint, except admit that the charges against plaintiff were dismissed on or about July 15, 2010.

20. Deny the allegations as set forth in paragraph “20” of the complaint.

21. Deny the allegations as set forth in paragraph “21” of the complaint.

22. In response to paragraph “22” of the complaint, defendants repeat and re-allege the responses as set forth in the preceding paragraphs of this answer as if fully set forth herein.

23. Deny the allegations as set forth in paragraph “23” of the complaint.

24. Deny the allegations as set forth in paragraph “24” of the complaint.

25. Deny the allegations as set forth in paragraph “25” of the complaint.

26. In response to paragraph “26” of the complaint, defendants repeat and re-allege the responses as set forth in the preceding paragraphs of this answer as if fully set forth herein.

27. Deny the allegations as set forth in paragraph “27” of the complaint.

28. Deny the allegations as set forth in paragraph “28” of the complaint.

29. In response to paragraph “29” of the complaint, defendants repeat and re-allege the responses as set forth in the preceding paragraphs of this answer as if fully set forth herein.

30. Deny the allegations as set forth in paragraph “30” of the complaint.

31. Deny the allegations as set forth in paragraph “31” of the complaint.

32. Deny the allegations as set forth in paragraph “32” of the complaint.

33. In response to paragraph “33” of the complaint, defendants repeat and re-allege the responses as set forth in the preceding paragraphs of this answer as if fully set forth herein.

34. Deny the allegations as set forth in paragraph “34” of the complaint.

35. Deny the allegations as set forth in paragraph “35” of the complaint.

36. Deny the allegations as set forth in paragraph “36” of the complaint.

37. Deny the allegations as set forth in paragraph “37” of the complaint, except admit that the charges against plaintiff were dismissed on or about July 15, 2010.

38. Deny the allegations as set forth in paragraph “38” of the complaint.

39. [REDACTED]

[REDACTED]

[REDACTED]

40. [REDACTED]

[REDACTED]

[REDACTED]

41. [REDACTED]

42. [REDACTED]

43. [REDACTED]

[REDACTED]

[REDACTED]

44. [REDACTED]

[REDACTED]

[REDACTED]

45. [REDACTED]

[REDACTED]

46. [REDACTED]

[REDACTED]

47. [REDACTED]

48. [REDACTED]

FIRST AFFIRMATIVE DEFENSE:

49. The complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE:

50. Defendants have not violated any rights, privileges, or immunities under the Constitution or laws of the United State or the State of New York or any political subdivision thereof, nor have defendants violated any Act of Congress providing for the protection of civil rights.

THIRD AFFIRMATIVE DEFENSE:

51. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of defendants.

FOURTH AFFIRMATIVE DEFENSE:

52. There was probable cause for plaintiff's arrest, detention and prosecution.

FIFTH AFFIRMATIVE DEFENSE:

53. Plaintiff cannot obtain punitive damages as against the City of New York.

SIXTH AFFIRMATIVE DEFENSE:

54. At all times relevant to the acts alleged in the complaint, defendant City, its agents and officials, acted reasonably, properly, lawfully and in good faith in the exercise of their discretion. Consequently, defendant City of New York is entitled to governmental immunity.

SEVENTH AFFIRMATIVE DEFENSE:

55. Plaintiff may have failed to comply with the conditions precedent to suit, including, but not limited to New York General Municipal Law §§ 50-e, 50-h and 50-i.

EIGHTH AFFIRMATIVE DEFENSE:

56. At all times relevant to the acts alleged in the complaint, defendants Jose Valentin and Undercover Officer # C0084 acted reasonably in the proper and lawful exercise of their discretion.

NINTH AFFIRMATIVE DEFENSE:

57. Defendants Jose Valentin and Undercover Officer # C0084 are entitled to qualified immunity from liability.

11 CV 5611 (CM) (JCF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT BEST,

Plaintiff,

-against-

THE CITY OF NEW YORK, RETIRED
DETECTIVE JOSE VALENTIN, tax # 898683,
UNDERCOVER OFFICER, shield # C0084,
POLICE OFFICERS JOHN AND JANE DOES 1-5,

Defendants.

**ANSWER ON BEHALF OF DEFENDANTS
CITY OF NEW YORK, JOSE VALENTIN &
UNDERCOVER OFFICER # C0084**

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorneys for Defendants
100 Church Street
New York, N.Y. 10007
Of Counsel: Virginia J. Nimick
Tel: (212) 788-0824
NYCLIS NO. 2011-026695

Due and timely service is hereby administered.

New York, N.Y., 2011

..... Esq.

Attorney for

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x

GARY PARRIS,

1:13-cv-6686-NRB

Plaintiff,

ANSWER

-against-

JURY TRIAL DEMANDED

THE CITY OF NEW YORK, ET AL.,

Defendants.

----- x

Defendant The City of New York, Detective Lisa McCalla, and UC0084 by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, as and for their answer to the Complaint, dated August 22, 2013 respectfully:

1. [REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "6" of the complaint.

7. Deny the allegations set forth in paragraph “7” of the complaint, except admit that the City is and was in July 2012 a municipal corporation incorporated under the laws of the State of New York.

8. Deny the allegations set forth in paragraph “8” of the complaint, except admit that the City maintains a police department and respectfully refers the Court and plaintiff to the New York City Charter and the Administrative Code for a recitation of the relationship between the City and the NYPD.

9. Deny the allegations set forth in paragraph “9” of the complaint, except admit that McCalla and UC0084 were in July 2012 employed by the NYPD as police officers, and were assigned to the Narcotics Borough Manhattan South, and state that the allegations that they were acting “under the supervision of said police department and according to his (sic) official duties” are legal conclusions to which no response is required.

10. Deny the allegations set forth in paragraph “10” of the complaint, except state that the allegation that defendants were acting under color of state law are legal conclusions to which no response is required.

11. Deny the allegations set forth in paragraph “11” of the complaint, except state that the allegation that the individual defendants were acting within the scope of their employment are legal conclusions to which no response is required.

12. Deny the allegations set forth in paragraph “12” of the complaint, except state that the allegation that the individual defendants were acting in furtherance of their employment are legal conclusions to which no response is required.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the complaint, except admit that a document purporting to be a notice of claim was received.

14. Deny the allegations set forth in paragraph “14” of the complaint, except admit that more than thirty days have elapsed and that plaintiff’s claims have not been adjusted or paid, and that plaintiff commenced an action on September 20, 2013.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the complaint.

16. Deny the allegations set forth in paragraph “16” of the complaint.

17. Deny the allegations set forth in paragraph “17” of the complaint.

18. Deny the allegations set forth in paragraph “18” of the complaint.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19” of the complaint.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of the complaint.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “21” of the complaint, except admit, on information and belief, that plaintiff’s criminal case was dismissed on January 23, 2013.

22. Deny the allegations set forth in paragraph “22” of the complaint.

23. In response to the allegations set forth in paragraph “23” of the complaint, defendants repeat the responses set forth in the previous paragraphs.

24. Deny the allegations set forth in paragraph “24” of the complaint.

25. Deny the allegations set forth in paragraph “25” of the complaint.

26. Deny the allegations set forth in paragraph “26” of the complaint.

27. Deny the allegations set forth in paragraph “27” of the complaint.

28. Deny the allegations set forth in paragraph “28” of the complaint.

29. Deny the allegations set forth in paragraph “29” of the complaint.

30. Deny the allegations set forth in paragraph “30” of the complaint.

31. [REDACTED]

32. In response to the allegations set forth in paragraph “32” of the complaint, defendants repeat the responses set forth in the previous paragraphs.

33. Deny the allegations set forth in paragraph “33” of the complaint.

34. Deny the allegations set forth in paragraph “34” of the complaint.

35. Deny the allegations set forth in paragraph “35” of the complaint.

36. Deny the allegations set forth in paragraph “36” of the complaint.

37. [REDACTED]

38. In response to the allegations set forth in paragraph “38” of the complaint, defendants repeat the responses set forth in the previous paragraphs.

39. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “39” of the complaint.

40. Deny the allegations set forth in paragraph “40” of the complaint.

41. Deny the allegations set forth in paragraph “41” of the complaint.

42. Deny the allegations set forth in paragraph “42” of the complaint.

43. Deny the allegations set forth in paragraph “43” of the complaint.

44. [REDACTED]

45. In response to the allegations set forth in paragraph “45” of the complaint, defendants repeat the responses set forth in the previous paragraphs.

46. Deny the allegations set forth in paragraph “46” of the complaint.

47. Deny the allegations set forth in paragraph “47” of the complaint.

48. Deny the allegations set forth in paragraph “48” of the complaint.

49. Deny the allegations set forth in paragraph “49” of the complaint.

50. Deny the allegations set forth in paragraph “50” of the complaint.

51. Deny the allegations set forth in paragraph “51” of the complaint.

52. Deny the allegations set forth in paragraph “52” of the complaint.

53. Deny the allegations set forth in paragraph “53” of the complaint.

54. Deny the allegations set forth in paragraph “54” of the complaint.

55. Deny the allegations set forth in paragraph “55” of the complaint.

56. Deny the allegations set forth in paragraph “56” of the complaint.

57.

[REDACTED]

58. In response to the allegations set forth in paragraph “58” of the complaint,

defendants repeat the responses set forth in the previous paragraphs.

59. Deny the allegations set forth in paragraph “59” of the complaint.

60. Deny the allegations set forth in paragraph “60” of the complaint.

61.

[REDACTED]

FIRST AFFIRMATIVE DEFENSE

62. The complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

63. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United State or the State of New York or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

THIRD AFFIRMATIVE DEFENSE

64. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct or the culpable or negligent conduct of third parties, and was not the proximate result of any act of defendants.

FOURTH AFFIRMATIVE DEFENSE

65. Plaintiff provoked or was at fault for the incident.

FIFTH AFFIRMATIVE DEFENSE

66. To the extent plaintiff seeks punitive damages, they cannot be awarded against the City of New York and the individual defendants in their official capacities.

SIXTH AFFIRMATIVE DEFENSE

67. There was probable cause to arrest and prosecute plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

68. If plaintiff was stopped by NYPD officers, they had reasonable suspicion and/or probable cause to do so.

EIGHTH AFFIRMATIVE DEFENSE

69. Defendants McCalla and UC0084 acted reasonably in the proper and lawful exercise of their discretion and did not violate any clearly established constitutional or statutory right of which a reasonable person would have known, and, therefore, they are entitled to qualified immunity.

NINTH AFFIRMATIVE DEFENSE

70. Plaintiff failed to mitigate any alleged damages.

TENTH AFFIRMATIVE DEFENSE

71. At all times relevant to the acts alleged in the complaint, the duties and functions of municipal defendant's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, the City has governmental immunity from liability.

ELEVENTH AFFIRMATIVE DEFENSE

72. To the extent that the complaint alleges any claims arising under the laws of the State of New York, such claims are barred in whole or in part by reason of plaintiff's failure to

comply with the requirements of the New York General Municipal Law, §§ 50-e, 50-h and/or 50-i.

WHEREFORE, defendants The City of New York, Detective McCalla, and UC0084 demand judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

DATED: New York, New York
December 9, 2013

Respectfully submitted,

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant
THE CITY OF NEW YORK
100 Church Street, Room 3-183
New York, New York 10007
(212) 356-2354
lsohn@law.nyc.gov

By:  _____
Liza Sohn

JOHN PIERALISI

Plaintiff(s)

Index # 15 CV 3785 (ABRAMS)

- against -

Purchased May 15, 2015

THE CITY OF NEW YORK, ETAL

Defendant(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

ANDERSON CHAN BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on June 12, 2015 at 11:15 AM at

1 POLICE PLAZA
ROOM 1100
NEW YORK, NY 10038

deponent served the within SUMMONS AND COMPLAINT on P.O. #C0084 therein named,

SUITABLE AGE

by delivering thereat a true copy of each to CYNTHIA BUSBY a person of suitable age and discretion. Said premises is Defendant's actual place of business within the state. She identified herself as the CO-WORKER of the Defendant.

Deponent further states that he describes the person actually served as follows:

Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx.)	Weight (Approx.)
FEMALE	BROWN	BROWN	50	5'6	130

MAILING

Deponent enclosed a copy of same in a postpaid wrapper properly addressed to the Defendant at the Defendant's actual place of business at

1 POLICE PLAZA
ROOM 1100
NEW YORK, NY 10038

and deposited said wrapper in a post office or official depository under exclusive care and custody of the United States Postal Service within New York State on June 15, 2015 by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.

MILITARY SERVICE

Person spoken to was asked whether the Defendant was in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the Defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

That at the time of such service deponent knew the person so served as aforesaid to be the same person mentioned and described as the Defendant in this action.



Sworn to me on: June 15, 2015

JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified In New York County
Commission Expires November 26, 2015

RALPH MULLEN
Notary Public, State of New York
No. 01MU6238632
Qualified in New York County
Commission Expires April 11, 2019

VINETTA BREWER
Notary Public, State of New York
No. 4949206
Qualified in Bronx County
Commission Expires April 3, 2019

ANDERSON CHAN
Fraser 00597
License #: 1220482
Invoice #: 625697



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN PIERALISI,

Plaintiff,

v.

**ANSWER TO COMPLAINT
ON BEHALF OF CITY OF
NEW YORK, PAUL RIVERA,
P.O. #C0084, AND P.O. #C0241,**

THE CITY OF NEW YORK, P.O. #C0084, P.O. #C0241,
DET. PAUL RIVERA (Shield #1283), and P.O.'s "JOHN
DOE" #1-15, Individually and in their Official Capacities
(the names "John Doe" being fictitious, as the true names are
presently unknown),

15 CV 3785 (RA) (HBP)

JURY TRIAL DEMANDED

Defendants.

-----X

Defendants City of New York, Paul Rivera, P.O. #C0084, and P.O. #C0241, by
their attorney Zachary W. Carter, Corporation Counsel of the City of New York, for their answer
to Plaintiff's First Complaint, respectfully allege, upon information and belief, as follows:

AS TO "PRELIMINARY STATEMENT"

Deny the allegations set forth in the preliminary statement, except admit that
plaintiff purports to proceed as stated therein.

AS TO "JURISDICTION"

1. [REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

AS TO “VENUE”

4. [REDACTED]

AS TO “TRIAL BY JURY”

5. [REDACTED]

AS TO “PARTIES”

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the complaint.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the complaint, except admit that the City of New York is a municipality duly organized under the laws of the State of New York, the City of New York maintains a police department, consistent with all applicable laws, and respectfully refer the Court to the New York City Charter and the Administrative Code for a recitation of the relationship between defendant City and the New York City Police Department (“NYPD”).

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the complaint, except admit that Paul Rivera, P.O. #C0084, and P.O. #C0241 were employed by the City of New York as police officers at the time of the incident, deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the complaint as to the “JOHN DOE” officers, and state that the allegation that the individual defendants were “acting under color of state law” is a conclusion of law, rather than an averment of fact, to which no response is required.

9. Paragraph “9” of the complaint sets forth conclusions of law, rather than averments of fact, and thus no response is required.

10. Paragraph “10” of the complaint sets forth conclusions of law, rather than averments of fact, and thus no response is required.

AS TO “FACTS”

11. Deny the allegations set forth in paragraph “11” of the complaint.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth paragraph “12” of the complaint.

13. Deny the allegations set forth in the second paragraph “13” of the complaint.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the complaint

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the complaint.

16. Deny the allegations set forth in paragraph “16” of the complaint.

17. Deny the allegations set forth in paragraph “17” of the complaint.

18. Deny the allegations set forth in paragraph “18” of the complaint.

19. Admit the allegations set forth in paragraph “19” of the complaint.

20. Deny the allegations set forth in paragraph “20” of the complaint.

21. Deny the allegations set forth in paragraph “21” of the complaint.

22. Deny the allegations set forth in paragraph “22” of the complaint.

23. Deny the allegations set forth in paragraph “23” of the complaint, and respectfully refer the court to the article cited therein for a full and accurate account of its contents.

24. Deny the allegations set forth in paragraph “24” of the complaint.

25. Deny the allegations set forth in paragraph “25” of the complaint.

26. Deny the allegations set forth in paragraph “26” of the complaint, except admit that on or about January 3, 2013, the charges against plaintiff were dismissed by Motion of the DA.

AS TO “FIRST CLAIM FOR RELIEF: DEPRIVATION OF FEDERAL CIVIL RIGHTS”

27. In response to the allegations set forth in paragraph “27” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of their answer as if fully set forth herein.

28. Paragraph “28” of the complaint sets forth conclusions of law, rather than averments of fact, and thus no response is required.

29. Deny the allegations set forth in paragraph “29” of the complaint.

30. Deny the allegations set forth in paragraph “30” of the complaint insofar as it sets forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

31. Deny the allegations set forth in paragraph “31” of the complaint insofar as it sets forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

32. Deny the allegations set forth in paragraph “32” of the complaint insofar as it sets forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

33. Deny the allegations set forth in paragraph “33” of the complaint.

AS TO “SECOND CLAIM FOR RELIEF: FALSE ARREST UNDER 42 U.S.C. § 1983”

34. In response to the allegations set forth in paragraph “34” of the complaint, defendants repeat and reallege the responses set forth in preceding paragraphs inclusive of their answer as if fully set forth herein.

35. Deny the allegations set forth in paragraph “35” of the complaint.

36. Deny the allegations set forth in paragraph “36” of the complaint.

37. Deny the allegations set forth in paragraph “37” of the complaint.

38. Deny the allegations set forth in paragraph “38” of the complaint.

AS TO “THIRD CLAIM FOR RELIEF: MALICIOUS ABUSE OF PROCESS UNDER 42 U.S.C. § 1983”

39. In response to the allegations set forth in paragraph “39” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of their answer as if fully set forth herein.

40. Deny the allegations set forth in paragraph “40” of the complaint.

41. Deny the allegations set forth in paragraph “41” of the complaint.

42. Deny the allegations set forth in paragraph “42” of the complaint.

43. Deny the allegations set forth in paragraph “43” of the complaint.

44. Deny the allegations set forth in paragraph “44” of the complaint.

AS TO “FOURTH CLAIM FOR RELIEF: MALICIOUS PROSECUTION UNDER 42 U.S.C. § 1983”

45. In response to the allegations set forth in paragraph “45” of the complaint, defendants repeat and reallege the responses set forth in preceding paragraphs inclusive of their answer as if fully set forth herein.

46. Deny the allegations set forth in paragraph “46” of the complaint.

47. Deny the allegations set forth in paragraph “47” of the complaint.

48. Deny the allegations set forth in paragraph “ 48” of the complaint insofar as it sets forth averments of fact; insofar as it sets forth conclusions of law, no response is required.

49. Deny the allegations set forth in paragraph “49” of the complaint.

50. Deny the allegations set forth in paragraph “50” of the complaint.

AS TO “FIFTH CLAIM FOR RELIEF: FAILURE TO INTERVENE UNDER 42 U.S.C. § 1983”

51. In response to the allegations set forth in paragraph “51” of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of their answer as if fully set forth herein.

52. Deny the allegations set forth in paragraph “52” of the complaint.

53. Deny the allegations set forth in paragraph “53” of the complaint.

54. Deny the allegations set forth in paragraph “54” of the complaint.

AS TO “SIXTH CLAIM FOR RELIEF: MUNICIPAL LIABILITY UNDER 42 U.S.C. § 1983”

55. [REDACTED]

[REDACTED]

[REDACTED]

56. [REDACTED]

57. [REDACTED]

[REDACTED]

[REDACTED]

58. [REDACTED]

59. [REDACTED]

60. [REDACTED]

61. [REDACTED]

62. [REDACTED]

63. [REDACTED]

64. [REDACTED]

65. [REDACTED]

66. [REDACTED]

[REDACTED]

AS TO “PRAYER FOR RELIEF”

It is not an averment of fact to which a response is required.

AS TO “AFFIRMATIVE DEFENSES”

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

1. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

2. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have any defendants violated any act of Congress.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

3. At all times relevant to the acts alleged in the Complaint, the duties and functions of the individual defendant officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City has governmental immunity from liability for plaintiff’s state law claims.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

4. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct or the culpable or negligent conduct of others and was not the proximate result of any act of the defendant.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

5. Plaintiff cannot obtain punitive damages against the City of New York. Punitive damages cannot be received against any other defendants and, if available, the amount of such damages shall be limited by applicable state and federal law, including due process and other provisions of any law.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

6. Plaintiff provoked any incident that occurred.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

7. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with all conditions precedent to suit, including the requirements of New York General Municipal Law §§ 50(e), 50(h) and/or 50(i).

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

8. Plaintiff's claims may be barred, in part, by the applicable statute of limitations.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

9. There was reasonable suspicion for any detention and/or seizure of plaintiff.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

10. There was probable cause for plaintiff's arrest, detention, and/or subsequent prosecution.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE:

11. The individual defendants did not violate any clearly established constitutional or statutory right of which a reasonable person would have known, and, therefore, are protected by qualified immunity.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE:

12. At all times relevant to the acts alleged in the Complaint, the individual defendants acted reasonably in the proper and lawful exercise of their discretion.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE:

13. Plaintiff failed to mitigate damages.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE:

14. To the extent any force was used, such force was reasonable, necessary, and justified to accomplish official duties and to protect their own physical safety and the safety of others.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE:

15. Plaintiff's claims are barred, in whole or in part, by the doctrine of res judicata and collateral estoppel.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE:

16. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches, waiver, and estoppel.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE:

17. Plaintiff's claims are barred, in whole or part, by plaintiff's contributory or comparative negligence and by his assumption of risk.

WHEREFORE, defendants City of New York, Paul Rivera, P.O. #C0084, and P.O. #C0241 request judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September 6, 2015

Zachary W. Carter
Corporation Counsel of the
City of New York
*Attorney for Defendants City of New York, Paul
Rivera, P.O. #C0084, and P.O. #C0241*
100 Church Street, Room 3-228
New York, New York 10007
(212) 356-2332

By: _____ /S
Suvarna Sampale
Senior Counsel

cc: **BY ECF**
Kim E. Richman, Esq.
Joe Stancati, Esq.
THE RICHMAN LAW GROUP
195 Plymouth Street
Brooklyn, NY 11201
212-687-8291 (telephone)
212-687-8292 (facsimile)
Attorney for the Plaintiff



Affidavit of Service

United States District Court Southern District, NEW YORK County, New York
CASE NO.: **15-CV-4498**
Plaintiff / Petitioner: KEVIN WRIGHT
Defendant / Respondent: UNDERCOVER OFFICER #84

Network Provided
Time - 12:12 PM
Date - June 11, 2015
GPS
40.711945 -74.001671

State of New York: County of Nassau:

I **Mitchell Raider** being duly sworn deposes and says: that deponent is not a party to this action, is over 18 years of age and resides in NASSAU County in the state of New York.

That on **June 11, 2015** at **12:12 PM** at **ONE POLICE PLAZA, NEW YORK, NY 10038**, deponent served the within **Summons and Complaint** on **UNDERCOVER POLICE OFFICER #84** (Defendant/Respondent) herein known as Recipient.

Said service was effected in the following manner;


SUITABLE AGE PERSON

By delivering thereat a true copy of each to Cynthia Busby, CO-WORKER (), a person of suitable age and discretion. That person was also asked by deponent whether said premises was the recipient's work place and their reply was affirmative.

Deponent also enclosed a copy of the same in a postpaid sealed envelope, properly addressed to recipient's place of work at ONE POLICE PLAZA, NEW YORK, NY 10038 by regular mail and deposited said envelope in an official depository under the exclusive care and custody of the United States Postal Service within State of New York on 6/12/15

Deponent describes the individual served to the best of deponent's ability at the time and circumstances of service as follows: **Black, Female, 5' 4", 140 - 150 lbs, Black hair, Dark eyes, glasses, 50 - 55 years**

Server Comments



Mitchell Raider

Your File/Reference Number: **FILE#23681**
License#1450036
Notary Section

Subscribed and affirmed, or sworn to before me this 19th day of June, 2017.

Notary Public: Sandra Ferrari
Commission Expires: 11-15-17
Prepared by:
Phone: Fax:

SANDRA FERRARI
NOTARY PUBLIC, State of New York
No. 01FE6033290
Qualified in Kings County
Commission Expires November 15, 2017 Fraser 005906



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

KEVIN WRIGHT,

Plaintiff,

-against-

UNDERCOVER OFFICER #84
(Individually and in his Official Capacity)

Defendant.

**ANSWER TO THE
AMENDED
COMPLAINT ON
BEHALF OF UC 84**

15-CV-4498 (VSB)

JURY TRIAL
DEMANDED

-----x

Defendant Undercover Officer (“UC”) 84, by his attorney, Zachary W. Carter, Corporation Counsel for the City of New York, for his Answer to Plaintiff’s Amended Complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph “1” of the Amended Complaint, except admits that plaintiff purports to proceed and to seek relief as stated therein.

2. Denies the allegations set forth in paragraph “2” of the Amended Complaint, except admits that plaintiff purports to proceed as stated therein.

3. Denies the allegations set forth in paragraph “3” of the Amended Complaint, except admits that plaintiff purports to invoke the Court’s jurisdiction as stated therein.

4. Denies the allegations set forth in paragraph “4” of the Amended Complaint except admits that plaintiff purports to base venue as stated therein.

5. States that the allegations set forth in paragraph “5” of the Amended Complaint are not averments of fact which require a response.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the Amended Complaint.

7. Admits the allegations set forth in paragraph “7” of the Amended Complaint.

8. Denies the allegations set forth in paragraph “8” of the Amended Complaint and respectfully refer the Court to the New York City Charter and the Administrative Code for a recitation of the relationship between defendant City and the New York City Police Department.

9. Denies the allegations set forth in paragraph “9” of the Amended Complaint, except admits that, on November 12, 2014, defendant UC 84 was employed by the New York City Police Department as an undercover officer, and remains so-employed. Defendant further states that the allegations concerning whether UC 84 acted under the supervision of the department and according to his official duties constitute legal conclusions which require no response.

10. Denies the allegations set forth in paragraph “10” of the Amended Complaint, except states that the allegations concerning whether UC 84 acted under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State or City of New York constitute legal conclusions which require no response.

11. Denies the allegations set forth in paragraph “11” of the Amended Complaint, except states that whether UC 84 acted within the scope of his employment constitutes a legal conclusion which requires no response.

12. Denies the allegations set forth in paragraph “12” of the Amended Complaint, except states that whether UC 84 acted in furtherance of his employment constitutes a legal conclusion which requires no response.

13. Denies the allegations set forth in paragraph “13” of the Amended Complaint, except admits that, on November 12, 2014, at approximately 4:30 p.m., plaintiff was present in the vicinity of Avenue D and East 6th Street in Manhattan.

14. Denies the allegations set forth in paragraph “14” of the Amended Complaint.

15. Denies the allegations set forth in paragraph “15” of the Amended Complaint, except admits that, in the course of his interaction with plaintiff and Robert Joiner, UC 84 indicated that he wanted to purchase heroin.

16. Denies the allegations set forth in paragraph “16” of the Amended Complaint, except denies knowledge or information as to the truth of the allegations concerning whether plaintiff informed Mr. Joiner that he believed UC 84 to be an undercover officer.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of the Amended Complaint, except states that Mr. Joiner subsequently handed UC 84 crack cocaine.

18. Denies the allegations set forth in paragraph “18” of the Amended Complaint, except admits that plaintiff was approached by other officers and placed under arrest.

19. Denies the allegations set forth in paragraph “19” of the Amended Complaint.

20. Denies the allegations set forth in paragraph “20” of the Amended Complaint.

21. Denies the allegations set forth in paragraph “21” of the Amended Complaint.

22. Denies the allegations set forth in paragraph “22” of the Amended Complaint, except admits that plaintiff was taken into custody and charged with criminal sale of a controlled substance.

23. Denies the allegations set forth in paragraph “23” of the Amended Complaint, except admits that plaintiff was transported to a police precinct.

24. Denies the allegations set forth in paragraph “24” of the Amended Complaint.

25. Denies the allegations set forth in paragraph “25” of the Amended Complaint.

26. Denies the allegations set forth in paragraph “26” of the Amended Complaint.

27. Denies the allegations set forth in paragraph “27” of the Amended Complaint.

28. Denies the allegations set forth in paragraph “28” of the Amended Complaint.

29. Denies the allegations set forth in paragraph “29” of the Amended Complaint.

30. Denies the allegations set forth in paragraph “30” of the Amended Complaint.

31. Denies the allegations set forth in paragraph “31” of the Amended Complaint.

32. Denies the allegations set forth in paragraph “32” of the Amended Complaint.

33. Denies the allegations set forth in paragraph “33” of the Amended Complaint.

34. Denies the allegations set forth in paragraph “34” of the Amended Complaint.

35. Denies the allegations set forth in paragraph “35” of the Amended Complaint.

36. Denies the allegations set forth in paragraph “36” of the Amended Complaint.

37. Denies the allegations set forth in paragraph “37” of the Amended Complaint.

38. Denies the allegations set forth in paragraph “38” of the Amended Complaint.

39. Denies the allegations set forth in paragraph “39” of the Amended Complaint.

40. Denies the allegations set forth in paragraph “40” of the Amended Complaint.

41. Denies the allegations set forth in paragraph “41” of the Amended Complaint.

42. Denies the allegations set forth in paragraph “42” of the Amended Complaint.

43. Denies the allegations set forth in paragraph “43” of the Amended Complaint.

44. Denies the allegations set forth in paragraph “44” of the Amended Complaint.

45. Denies the allegations set forth in paragraph “45” of the Amended Complaint.

46. Denies the allegations set forth in paragraph “46” of the Amended Complaint.

47. Denies the allegations set forth in paragraph “47” of the Amended Complaint.

48. Denies the allegations set forth in paragraph “48” of the Amended Complaint to the extent that they rely upon the allegation that UC 84 made false allegations, but, admits that UC 84 did not indicate that he had made false allegations to the New York County District Attorney.

49. Denies the allegations set forth in paragraph “49” of the Amended Complaint to the extent that they rely upon the allegation that UC 84 fabricated allegations, but, admits that UC 84 did not indicate that he had fabricated allegations to the New York County District Attorney.

50. Denies the allegations set forth in paragraph “50” of the Amended Complaint to the extent that they rely upon the allegation that UC 84 lied, but, admits that UC 84 did not indicate that he had lied to the New York County District Attorney.

51. Denies the allegations set forth in paragraph “51” of the Amended Complaint.

52. Denies the allegations set forth in paragraph “52” of the Amended Complaint.

53. Denies the allegations set forth in paragraph “53” of the Amended Complaint, except admits that UC 84 was on duty during his interaction with plaintiff, and states that whether UC 84 acted within the scope of his employment constitutes a legal conclusion which requires no response.

54. Denies the allegations set forth in paragraph “54” of the Amended Complaint.

55. States that the allegations set forth in paragraph “55” of the Amended Complaint are legal conclusions which require no response.

56. Denies the allegations set forth in paragraph “56” of the Amended Complaint.

57. Denies the allegations set forth in paragraph “57” of the Amended Complaint.

58. In response to the allegations set forth in paragraph “58” of the Amended Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs of this answer, as if fully set forth herein.

59. Denies the allegations set forth in paragraph “59” of the Amended Complaint.

60. Denies the allegations set forth in paragraph “60” of the Amended Complaint.

61. In response to the allegations set forth in paragraph “61” of the Amended Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs of this answer, as if fully set forth herein.

62. Denies the allegations set forth in paragraph “62” of the Amended Complaint.

63. Denies the allegations set forth in paragraph “63” of the Amended Complaint.

64. Denies the allegations set forth in paragraph “64” of the Amended Complaint.

65. Denies the allegations set forth in paragraph “65” of the Amended Complaint.

66. Denies the allegations set forth in paragraph “66” of the Amended Complaint.

67. Denies the allegations set forth in paragraph “67” of the Amended Complaint.

68. Denies the allegations set forth in paragraph “68” of the Amended Complaint.

69. Denies the allegations set forth in paragraph “69” of the Amended Complaint.

70. Denies the allegations set forth in paragraph “70” of the Amended Complaint.

71. Denies the allegations set forth in paragraph “71” of the Amended Complaint, except admits that charges against plaintiff were dismissed.

72. Denies the allegations set forth in paragraph “72” of the Amended Complaint.

73. In response to the allegations set forth in paragraph “73” of the Amended Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs of this answer, as if fully set forth herein.

74. Denies the allegations set forth in paragraph “74” of the Amended Complaint.

75. Denies the allegations set forth in paragraph “75” of the Amended Complaint, except admits that plaintiff was acquitted after a jury trial.

76. Denies the allegations set forth in paragraph “76” of the Amended Complaint.

77. Denies the allegations set forth in paragraph “77” of the Amended Complaint.

78. Denies the allegations set forth in paragraph “78” of the Amended Complaint.

79. Denies the allegations set forth in paragraph “79” of the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE:

80. The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE:

81. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct and was not the proximate result of any act of UC 84.

THIRD AFFIRMATIVE DEFENSE:

82. There was reasonable suspicion, probable cause, and/or exigent circumstances for any alleged stop or search.

FOURTH AFFIRMATIVE DEFENSE:

83. UC 84 has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

FIFTH AFFIRMATIVE DEFENSE:

84. There was probable cause for plaintiff's arrest, detention, and prosecution.

SIXTH AFFIRMATIVE DEFENSE:

85. UC 84 has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, is protected by qualified immunity.

SEVENTH AFFIRMATIVE DEFENSE:

86. Plaintiff has failed to mitigate his alleged damages.

EIGHTH AFFIRMATIVE DEFENSE:

87. Plaintiff provoked any incident.

NINTH AFFIRMATIVE DEFENSE:

88. Discovery of two open warrants for plaintiff's arrest provided an independent basis of probable cause for his arrest and prosecution.

TENTH AFFIRMATIVE DEFENSE:

89. Plaintiff's Grand Jury indictment gives rise to a presumption of probable cause for his prosecution.

WHEREFORE, defendant UC 84 requests judgment dismissing the Amended Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 1, 2017

ZACHARY W. CARTER
Corporation Counsel of the City of New York
Attorney for Defendant UC 84
100 Church Street, 3rd Floor
New York, New York 10007
(212) 356-2425

By: */s/*
Melanie Speight
Senior Counsel

CC: VIA ECF
Jessica Massimi
Plaintiff's Counsel
Law Offices of Michael S. Lamonsoff, PLLC
32 Old Slip, 8th Floor
New York, New York 10005

September 2, 2014

Jawaun Fraser
911 FDR Drive-Apt 4D
New York, NY 10009

RE: Pre-75 Pre-Apprentice Program Acceptance Letter

Dear Mr. Fraser,

Congratulations on your acceptance into the 75th Pre-Apprentice Program ("Pre-75") beginning on **Thursday, September 4, 2014**. You have been selected to participate in the unique and much sought after Sheet Metal Workers Local 28 Pre-Apprentice Program. Each year we receive over 1,000 applications, so please do not take this opportunity lightly.

You are to report to the **Sheet Metal Workers Training Center** located at **139-20 Jamaica Avenue, Jamaica, New York 11435**. Class will begin at **7:30 a.m. sharp**, so plan your affairs to arrive early. In addition, for your safety, the following clothing is deemed appropriate for school:

- **Work boots or leather work shoes must be worn at all times.**
- **Work pants and work shirts (denim or khaki); NO sweat suits or exercise suits.**

Once again, congratulations on your acceptance into the pre-apprentice program, and we will see you on **Thursday, September 4, 2014**.

Very truly yours,

Leah Rambo

Leah Rambo
JAC Administrator

LR:lt

4844 14

SUPREME COURT OF THE STATE OF NEW YORK
County of New York **CRIMINAL TERM**

ROB 2ND

TOP CHARGE
DATE FILED

10-29-2014

B	41	321	10/29/14	41	B2	(41)

DEFENDANT	BAIL COND	INTERP	ATTORNEY TEL. NUMBER	SUBSTITUTING ATTORNEY TEL. NUMBER	DISPOSITION	DISPOSITION DATE	DATE SENTENCED IMPOSED	Y O
also 4097-12 JAWAWN FRASER 2014NY080532	B		J. MCQUEENEY LAS 298-5091	<i>Geoffrey Stewart</i> 212-625-9696	PLEA <input type="checkbox"/> VERDICT <input checked="" type="checkbox"/> DISMISS <input checked="" type="checkbox"/>	<i>PT 41 NOV 24 2015</i>	<i>PT 41 JAN 13 2015</i>	
					PLEA <input type="checkbox"/> VERDICT <input type="checkbox"/> DISMISS <input type="checkbox"/>			

RECEIVED
MAR 15 2016
ah

RILNYAK E-40

ADA PHONE *[Signature]* ADA PHONE **9. Sangermano (3521)**

PLAINTIFF'S EXHIBIT
PX-141

CF

PART	DATE	JUSTICE	ADJOURNED TO PART DATE	REASON FOR ADJOURNMENT/REMARKS	COURT REPORTER	COURT CLERK
41	11/20/14	HON. RONALD A. ZWEIBEL	41 1-29	<i>off - PNG</i>	AMALIA HUDSON	ANDREA CLARKE SENIOR COURT CLERK
PT 41	JAN 29 2015	HON. RONALD A. ZWEIBEL	41 3-05	<i>Dec.</i>	R. BERKOWITZ	ANDREA CLARKE SENIOR COURT CLERK
PT 41	MAR 05 2015	HON. RONALD A. ZWEIBEL	41 5-4	<i>HIT Parken</i>	SARAH HALEY	LAUREN HOLZ
PT 41	MAY 04 2015	HON. RONALD A. ZWEIBEL	41 6-29	<i>Do. Consent</i>	CASTELLANO	ANDREA CLARKE SENIOR COURT CLERK <i>Fraser 006723</i>

PART	DATE	JUSTICE	ADJOURNED TO PART DATE	REASON FOR ADJOURNMENT/REMARKS	COURT REPORTER	COURT CLERK
PT 41	JUN 29 2015	HON. RONALD A. ZWEIBEL	41 8-06		E. CHAN	ANDREA CLARKE SENIOR COURT CLERK
PART 41	AUG 06 2005	HON. RONALD A. ZWEIBEL	41 9-17	H&T - Parkenized	S. SINGH	ANDREA CLARKE SENIOR COURT CLERK
PART 41	SEP 17 2005	HON. RONALD A. ZWEIBEL	41 10-21	H&T		ANDREA CLARKE SENIOR COURT CLERK
PT 41	OCT 20 2015	HON. RONALD A. ZWEIBEL	41 10-27	H&T	THEREJA MAGNICARRI	ANDREA CLARKE SENIOR COURT CLERK
PT 41	OCT 27 2015	HON. RONALD A. ZWEIBEL	41 11-13	PNB	THEREJA MAGNICARRI	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 13 2015	HON. RONALD A. ZWEIBEL	41 11-16	Hrg camp. For trial	AMALIA HUDSON	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 16 2015	HON. RONALD A. ZWEIBEL	41 11-17	Jury sel begins	AMALIA HUDSON	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 17 2015	HON. RONALD A. ZWEIBEL	41 11-18	T/C	AMALIA HUDSON	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 18 2015	HON. RONALD A. ZWEIBEL	41 11-20	T/C	AMALIA HUDSON / S. Maxey	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 20 2015	HON. RONALD A. ZWEIBEL	41 11-23	T/C	AMALIA HUDSON / S. Maxey	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 23 2015	HON. RONALD A. ZWEIBEL	41 11-24	T/C	AMALIA HUDSON	ANDREA CLARKE SENIOR COURT CLERK
PT 41	NOV 24 2015	HON. RONALD A. ZWEIBEL	41 12-10	Tried to jury. x Bail \$600. I & S Nb. Renad.	AMALIA HUDSON	ANDREA CLARKE SENIOR COURT CLERK
PT 41	DEC 09 2015	HON. RONALD A. ZWEIBEL	41 1-13	For Sech.	B. Whitaker	ANDREA CLARKE SENIOR COURT CLERK
PT 41	JAN 13 2016	HON. RONALD A. ZWEIBEL		S I	L. EISENBERG	ANDREA CLARKE SENIOR COURT CLERK

08-JUL-20 11:14 Inmate Movement History Log (QHMOVS)

3491808721 Name: FRASER, JAWAUN A. NYSID: 11875722P
 Admit - Location: CNC1 Date: 07-DEC-18 Time: 19:29:36
 Disch - Location: MDC Date: 09-DEC-18 Time: 20:09:43

Branch	Date	Time	From	To	Reason Code	Housing Facility	Housing Area
	07-DEC-18	19:31:46	CNC1	MDC	CRTADM		
	08-DEC-18	00:38:40	CNC1	MDC	XFER	MDC	RR
	08-DEC-18	12:30:50			HOUSING	MDC	6E
	09-DEC-18	20:09:48	MDC		DISC		

08-JUL-20 11:15 Inmate Movement History Log (QHMOVS)

3101501024 Name: FRASER, JAWAWN NYSID: 11875722P
 Admit - Location: SNC1 Date: 24-NOV-15 Time: 15:12:10
 Disch - Location: GMDC Date: 22-JAN-16 Time: 01:35:46

Branch	Date	Time	From	To	Reason Code	Housing Facility	Housing Area
	24-NOV-15	16:38:43	SNC1	MDC	CRTXFER		
	24-NOV-15	18:14:48	SNC1	MDC	XFER	MDC	RR
	25-NOV-15	04:30:30			HOUSING	MDC	6S
	09-DEC-15	01:05:43	MDC	SNC1	CRT	MDC	6S
	09-DEC-15	06:51:11	MDC	SNC1	CRT	MDC	6S
	09-DEC-15	14:05:12	SNC1	MDC	CRTRET	MDC	6S
	09-DEC-15	15:01:41	SNC1	MDC	CRTRET	MDC	6S
	11-DEC-15	12:55:01	MDC	GMDC	XFER	MDC	RR
	11-DEC-15	16:51:36	MDC	GMDC	XFER	GMDC	RR
	11-DEC-15	22:00:03			HOUSING	GMDC	M12B
	13-JAN-16	02:16:10	GMDC	SNC1	CRT	GMDC	M12B

Press <NEXT> for more movement activity history on this Inmate.

08-JUL-20 11:15 Inmate Movement History Log (QHMOVS)

3101501024 Name: FRASER, JAWAWN NYSID: 11875722P
 Admit - Location: SNC1 Date: 24-NOV-15 Time: 15:12:10
 Disch - Location: GMDC Date: 22-JAN-16 Time: 01:35:46

Branch	Date	Time	From	To	Reason Code	Housing Facility	Housing Area
	13-JAN-16	10:58:08	GMDC	SNC1	CRT	GMDC	M12B
	13-JAN-16	14:43:20	SNC1	GMDC	CRTRET	GMDC	M12B
	13-JAN-16	14:45:14	SNC1	GMDC	CRTRET	GMDC	M12B
	18-JAN-16	12:09:24			HOUSING	GMDC	M2A-U
	22-JAN-16	01:35:50	GMDC		DISC		

08-JUL-20 11:15 Inmate Movement History Log (QHMOVS)

3491414540 Name: FRASER, JAWAWN NYSID: 11875722P
 Admit - Location: CNC1 Date: 22-OCT-14 Time: 22:28:00
 Disch - Location: ARDC Date: 23-OCT-14 Time: 21:05:47

Branch	Date	Time	From	To	Reason Code	Housing Facility	Housing Area
	22-OCT-14	22:28:43	CNC1	ARDC	CRTXFER		
	23-OCT-14	03:29:09	CNC1	ARDC	XFER	ARDC	RR
	23-OCT-14	13:03:57			HOUSING	ARDC	M4NL
	23-OCT-14	21:05:49	ARDC		DISC		

09/01/20
10:40:52

RECEPTION/CLASSIFICATION SYSTEM

LEGAL DATE COMPUTATION BY: SRCL030

COMP DATE/TIME: 11/26/2018 11:41P

TYPE U06 UPDATE MEPS / PRSME / PAROLE DISCHARGE / LCTA

DIN: 16R0176 NAME: MODIFIED, RECORD

NYSID: 11875722P

DATE RECEIVED: 01/22/2016

CURRENT LOCATION:

- PAR PAROLE

HEARING DATE	2018 05	TIME ALLOWANCE COMM DATE	2019 07
HEARING TYPE	APOD	TIME ALLOWANCE COMM TYPE	INIT
TENTATIVE RELEASE DATE	2017 11 20	POST-RELEASE SUPERVISION	
GRADUATION DATE		PRS MAXIMUM EXPIRATION DT	
PAROLE ELIGIBILITY DATE	2017 11 19	MAXIMUM EXPIRATION DATE	2021 11 19
MERIT ELIGIBILITY DATE	2017 07 17	ORIGINAL GOOD TIME	
SUPP MERIT ELIG DATE		GOOD TIME RESTORED	+
PAROLE DISCHARGE DATE	2018 11 20	GOOD TIME LOST	-
MAX EXP PAR SUPER (MEPS)		GOOD TIME POSSIBLE	=0002 00 00
LIMITED CREDIT TIME POSS		CONDITIONAL RELEASE DATE	2019 11 19
LIMITED CREDIT TIME DATE			

COMMENTS:

DIST: IRC (1), GUID & COUNS UNIT (1), INST PAROLE (1), INMATE (1)

PLAINTIFF'S
EXHIBIT

PX-143

CHRONOLOGICAL HISTORY DISPLAY

99 CENTRAL OFF

DIN 16R0176 NYSID 11875722P FACILITY OFF COUNTS LOCATION
 NAME MODIFIED, RECORD DOB 02/24/96 SEX M E/R NB

EFFECTIVE DATE	DATE ENTERED	SENDING FACILITY	RECEIVING FAC/ OUTCOUNT LOCATION	TRANSACTION TYPE	CELL
01/22/16	01/22/16		ULSTER REC	NEW COMMIT	0A-01-36B
02/09/16	02/09/16	ULSTER REC	LAKEVW TRANS	TRANSFER OUT	0A-01-36B
02/09/16	02/09/16	ULSTER REC	LAKEVW TRANS	TRANSFER IN	0A-01-19B
02/22/16	02/22/16	LAKEVW TRANS	LAKEVIEW SHK	INTRANS REC V	0B-01-020
03/07/16	03/07/16	LAKEVW TRANS	LAKEVIEW SHK	TRANSFER IN	0D-02-006
09/01/16	09/01/16	LAKEVIEW SHK	LAKEVW TRANS	INTRANS REC V	0A-02-16B
09/02/16	09/02/16	LAKEVW TRANS	LAKEVIEW SHK	INTRANS SENT	0A-02-16B
09/02/16	09/02/16	LAKEVW TRANS	LAKEVIEW SHK	INTRANS REC V	0B-01-019
09/15/16	09/15/16	LAKEVIEW SHK	GREENE	TRANSFER OUT	0B-01-019
09/15/16	09/15/16	LAKEVIEW SHK	ULSTER REC	INTRANS REC V	0F-01-15B
09/16/16	09/16/16	ULSTER REC	GREENE	INTRANS SENT	0F-01-15B
09/16/16	09/16/16	LAKEVIEW SHK	GREENE	TRANSFER IN	0F-01-09B
04/04/17	04/04/17	GREENE	LINCOLN	TRANSFER OUT	0H-01-37B
04/04/17	04/04/17	GREENE	ULSTER REC	INTRANS REC V	0C-01-37B
04/06/17	04/06/17	ULSTER REC	LINCOLN	INTRANS SENT	0C-01-37B
04/06/17	04/06/17	GREENE	LINCOLN	TRANSFER IN	05-SB-36T
05/13/17	05/13/17	LINCOLN		FURLOUGH	06-SB-33T
05/14/17	05/14/17		LINCOLN	OUTCOUNT RET	06-SB-33T
05/20/17	05/20/17	LINCOLN		FURLOUGH	06-SB-33T
05/21/17	05/21/17		LINCOLN	OUTCOUNT RET	06-SB-33T
05/27/17	05/27/17	LINCOLN		FURLOUGH	06-SB-33T
05/28/17	05/28/17		LINCOLN	OUTCOUNT RET	06-SB-33T
06/03/17	06/03/17	LINCOLN		FURLOUGH	06-SB-33T
06/04/17	06/04/17		LINCOLN	OUTCOUNT RET	06-SB-33T
06/10/17	06/10/17	LINCOLN		FURLOUGH	06-SB-33T
06/11/17	06/11/17		LINCOLN	OUTCOUNT RET	06-SB-33T
06/16/17	06/16/17	LINCOLN		FURLOUGH	06-SB-33T
06/18/17	06/18/17		LINCOLN	OUTCOUNT RET	06-SB-33T
06/23/17	06/23/17	LINCOLN		FURLOUGH	06-SB-33T
06/25/17	06/25/17		LINCOLN	OUTCOUNT RET	06-SB-33T
06/30/17	06/30/17	LINCOLN		FURLOUGH	06-SB-33T
07/02/17	07/02/17		LINCOLN	OUTCOUNT RET	06-SB-33T
07/07/17	07/07/17	LINCOLN		FURLOUGH	06-SB-33T
07/09/17	07/09/17		LINCOLN	OUTCOUNT RET	06-SB-33T
07/14/17	07/14/17	LINCOLN		FURLOUGH	06-SB-33T
07/17/17	07/17/17		LINCOLN	OUTCOUNT RET	06-SB-33T
07/21/17	07/21/17	LINCOLN		FURLOUGH	06-SB-33T
07/24/17	07/24/17		LINCOLN	OUTCOUNT RET	06-SB-33T
07/28/17	07/28/17	LINCOLN		FURLOUGH	06-SB-33T
07/31/17	07/31/17		LINCOLN	OUTCOUNT RET	06-SB-33T
08/04/17	08/04/17	LINCOLN		FURLOUGH	06-SB-33T
08/07/17	08/07/17		LINCOLN	OUTCOUNT RET	06-SB-33T
08/11/17	08/11/17	LINCOLN		FURLOUGH	06-SB-33T
08/14/17	08/14/17		LINCOLN	OUTCOUNT RET	06-SB-33T
08/16/17	08/16/17	LINCOLN		FURLOUGH	06-SB-33T
08/21/17	08/21/17		LINCOLN	OUTCOUNT RET	06-SB-33T
08/23/17	08/23/17	LINCOLN		FURLOUGH	06-SB-33T
08/28/17	08/28/17		LINCOLN	OUTCOUNT RET	06-SB-33T
08/30/17	08/30/17	LINCOLN		FURLOUGH	06-SB-33T
09/04/17	09/04/17		LINCOLN	OUTCOUNT RET	06-SB-33T

NOTE: THIS REPORT WAS RECONSTRUCTED USING HISTORICAL INMATE MOVEMENT DATA FROM COMPUTER RECORDS, AND IS ONLY AS ACCURATE AS IT WAS MAINTAINED BY THE FACILITY FOR THIS TIME PERIOD.

CHRONOLOGICAL HISTORY DISPLAY

99 CENTRAL OFF

DIN 16R0176 NYSID 11875722P FACILITY OFF COUNTS LOCATION
 NAME MODIFIED, RECORD DOB 02/24/96 SEX M E/R NB

EFFECTIVE DATE	DATE ENTERED	SENDING FACILITY	RECEIVING FAC/ OUTCOUNT LOCATION	TRANSACTION TYPE	CELL
09/06/17	09/06/17	LINCOLN		FURLOUGH	06-SB-33T
09/11/17	09/11/17		LINCOLN	OUTCOUNT RET	06-SB-33T
09/13/17	09/13/17	LINCOLN		FURLOUGH	06-SB-33T
09/18/17	09/18/17		LINCOLN	OUTCOUNT RET	06-SB-33T
09/20/17	09/20/17	LINCOLN		FURLOUGH	06-SB-33T
09/25/17	09/25/17		LINCOLN	OUTCOUNT RET	06-SB-33T
09/27/17	09/27/17	LINCOLN		FURLOUGH	06-SB-33T
10/02/17	10/02/17		LINCOLN	OUTCOUNT RET	06-SB-33T
10/04/17	10/04/17	LINCOLN		FURLOUGH	06-SB-33T
10/09/17	10/09/17		LINCOLN	OUTCOUNT RET	06-SB-33T
10/11/17	10/11/17	LINCOLN		FURLOUGH	06-SB-33T
10/16/17	10/16/17		LINCOLN	OUTCOUNT RET	06-SB-33T
10/18/17	10/18/17	LINCOLN		FURLOUGH	06-SB-33T
10/23/17	10/23/17		LINCOLN	OUTCOUNT RET	06-SB-33T
10/25/17	10/25/17	LINCOLN		FURLOUGH	06-SB-33T
10/30/17	10/30/17		LINCOLN	OUTCOUNT RET	06-SB-33T
11/01/17	11/01/17	LINCOLN		FURLOUGH	06-SB-33T
11/06/17	11/06/17		LINCOLN	OUTCOUNT RET	06-SB-33T
11/08/17	11/08/17	LINCOLN		FURLOUGH	06-SB-33T
11/13/17	11/13/17		LINCOLN	OUTCOUNT RET	06-SB-33T
11/15/17	11/15/17	LINCOLN		FURLOUGH	06-SB-33T
11/20/17	11/20/17		LINCOLN	OUTCOUNT RET	06-SB-33T
11/20/17	11/20/17	LINCOLN		PAR PAROLE	06-SB-33T

NOTE: THIS REPORT WAS RECONSTRUCTED USING HISTORICAL INMATE MOVEMENT DATA FROM COMPUTER RECORDS, AND IS ONLY AS ACCURATE AS IT WAS MAINTAINED BY THE FACILITY FOR THIS TIME PERIOD.



Prisoner Property Envelope Sheet
PD 544-090(11-91)

2014-9-005693 M14692369N

waiver
prone: S/P

PLAINTIFF'S
EXHIBIT
PX-151

Subject # _____
TOB _____
TOA ~~1815~~ 2018
TOI _____

Robbery

Date of Arrest 10/21/14 Charges 220.03, 220.16, 220.39, 220.44

Loc. Of Arrest ORP #65 B 1054 220.31(pills) 220.34(Meth)

Deft's Name Fraser, Jawuan 221.05 221.10 221.40

Deft's Addr 911 EDR Drive #4D phone 917-808 1047
- Janice Robinson

Description: M/F White / Black / W. Hisp / B. Hisp / Other

Age 18 DOB 2/24/96 Height 5'8 Weight 135 Soc Sec 128-84-8284
Clothing ^{mother}

Hat N/A Drugs recovered _____

Jacket/Coat Black Hoodie _____

Shirt Blk T-shirt USC recovered _____

Pants Grey Sweat Pan _____

Shoes/Sneakers Grey Sneakers UC # _____

Tattoos/Scars Rt Arm my brothers keeper Buy Location R/o 108 Ave D

Other Lt Arm laugh now arg letter Drug bought _____

Place of birth NYC Cost of buy _____

Citizen Y/N Marital Status (S) M D Sep ID location R/o 108 Ave D

Hair type: afro color Blk lgth short Eyes Brown facial hair: beard / mustache / goatee

AO: DET. REGINA Shield: 2389 Tax: _____



PATROL GUIDE

Section: Court and Agency Appearances		Procedure No: 211-21	
OBTAINING ASSISTANCE OF CORPORATION COUNSEL			
DATE ISSUED: 03/13/14	DATE EFFECTIVE: 03/13/14	REVISION NUMBER:	PAGE: 1 of 5

PURPOSE

To ensure that legal representation is provided to a member of the service (uniformed or civilian) who is served with a summons and complaint or who otherwise becomes aware that he/she is a defendant in a civil lawsuit arising from an alleged act or omission that occurred in the performance of duty. Timeliness is essential to prepare a response. Failure to complete and forward **REQUEST FOR LEGAL ASSISTANCE (PD411-160)** in a timely manner may result in a default judgment being entered against the member named as a defendant.

PROCEDURE

When a member of the service is served with a summons and complaint or otherwise becomes aware that he/she is a defendant in a civil lawsuit:

WHEN SUMMONS AND COMPLAINT IS PERSONALLY SERVED UPON A MEMBER OF THE SERVICE AT THEIR COMMAND

**DESK OFFICER/
SUPERVISOR
AT COMMAND**

1. Accept service of summons and complaint for a member assigned to the command.

NOTE

Any summons and complaint served at a satellite location of an overhead command, will be accepted by that satellite command and processed as per this procedure. This includes, but is not limited to, a precinct detective squad, any Medical Division command, Warrant Division command or any other satellite location in which there are no police officer safety concerns. If there are any police officer safety concerns (i.e., narcotics, vice enforcement or other command with undercover officers assigned), refer the server and the summons and complaint to the overhead command.

2. Make Command Log entry including date and time of service at command.
3. Notify member concerned immediately.
4. Deliver papers to member.
 - a. Give papers to commanding officer, without delay, if member is unavailable (e.g., sick leave, vacation, etc.).

NOTE

If commanding officer is unavailable, give papers to executive officer. The executive officer will assume responsibility for completing the steps designated for the commanding officer.

5. Make Command Log entry including date and time member actually received summons and complaint.

NOTE

A summons and complaint WILL NOT be accepted from a process server for a member who is no longer assigned to the command on the date of service. The process server will be directed to the member's new command.

WHEN SUMMONS AND COMPLAINT IS SERVED BY MAIL UPON A MEMBER OF THE SERVICE AT THEIR COMMAND

**OPERATIONS
COORDINATOR**

6. Attach mailing envelope to the summons and complaint.



PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
211-21	03/13/14		2 of 5

**OPERATIONS
COORDINATOR
(continued)**

7. Make Command Log entry indicating receipt via US Mail or other carrier.
 - a. Include date and time of service at command.
8. Notify member concerned immediately.
9. Deliver papers to member.
 - a. Give papers to commanding officer without delay if member is unavailable (e.g., sick leave, vacation, etc.).

NOTE

If commanding officer is unavailable, give papers to executive officer. The executive officer will assume responsibility for completing the steps designated for the commanding officer.

10. Make Command Log entry including date and time member actually received summons and complaint.
11. Mail summons and complaint back to sender if member is no longer assigned to command or has retired.
 - a. Forward a letter on **OFFICIAL LETTERHEAD (PD158-151)** to sender indicating member's present command or retired status (see APPENDIX "A").

NOTE

*Service may be made in certain circumstances by sending two (2) copies of the summons and complaint along with an "Acknowledgement of Service" or "Waiver of Service" by mail to the member's command. The operations coordinator will ensure to attach the mailing envelope to the summons and complaint. An "Acknowledgement of Service" or a "Waiver of Service" is a request by the plaintiff to avoid the cost of personal service. If the member wishes to waive personal service by signing the "Acknowledgement of Service" or "Waiver of Service," a process server will not be sent to the member's home or command. If the member does not agree to waive personal service, certain costs (e.g., plaintiff's cost to have summons served, etc.) may be assessed against the member at a later date. If the member decides to sign the "Acknowledgement of Service" or "Waiver of Service," a copy will be sent to the Legal Bureau with the envelope, summons and complaint, and **REQUEST FOR LEGAL ASSISTANCE (PD411-160)**. Should the member of the service need further guidance, the Legal Bureau, Civil Section should be contacted.*

**MEMBER
CONCERNED**

12. Prepare "Part A" of **REQUEST FOR LEGAL ASSISTANCE (PD411-160)**.
13. Retain "PINK" copy and a copy of the summons and complaint for personal records.
14. Deliver "BLUE" and "WHITE" copies of **REQUEST FOR LEGAL ASSISTANCE** with original summons and complaint (if served), and envelope (if served by mail), to current commanding officer immediately.

**MEMBER'S
CURRENT
COMMANDING
OFFICER**

15. Prepare "Part B" of **REQUEST FOR LEGAL ASSISTANCE**.
 - a. Contact Internal Affairs Bureau's Records Unit to determine if an investigation was conducted regarding the incident and provide name and tax registry number of the individual contacted
 - b. Contact Department Advocate's Office to determine if there are charges and specifications regarding the incident and provide name and tax registry number of the individual contacted
 - c. Determine whether recommendation should be made to have Corporation Counsel represent the member based on information available.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
211-21	03/13/14		3 of 5

**MEMBER'S
CURRENT
COMMANDING
OFFICER
(continued)**

16. Distribute as follows:
 - a. "WHITE" copy of **REQUEST FOR LEGAL ASSISTANCE** form, with original summons and complaint (if served) and envelope (if served by mail), immediately and without delay, **DIRECT** to: Legal Bureau, Room 1406, One Police Plaza, Monday through Friday, 0900 to 1700 hours
 - b. "BLUE" copy of **REQUEST FOR LEGAL ASSISTANCE** form, with duplicated copies of summons and complaint (if served) will be **FILED** at the command
 - c. Copy of the fully executed **REQUEST FOR LEGAL ASSISTANCE** to the member concerned.

**COMMANDING
OFFICER,
LEGAL BUREAU**

17. Review all documents received in connection with request for legal assistance and forward completed **REQUEST FOR LEGAL ASSISTANCE** to Corporation Counsel.
18. Contact the Corporation Counsel on a quarterly basis to determine the names of all members of the service and the names of any cases for which **REQUESTS FOR LEGAL ASSISTANCE** have been declined by the Corporation Counsel during the preceding ninety day period.

**MEMBER
CONCERNED**

19. Contact the Legal Bureau ten business days after commanding officer has forwarded **REQUEST FOR LEGAL ASSISTANCE** to ensure it has been received.
 - a. Notify commanding officer if **REQUEST FOR LEGAL ASSISTANCE** has not been received by the Legal bureau.
20. Contact private counsel and/or union to obtain legal representation, when Corporation Counsel has declined representation in the legal case.

NOTE

*All sections of the **REQUEST FOR LEGAL ASSISTANCE** must be completed in full. Failure to complete the form will result in it being returned to the command and will delay a representation determination by the Corporation Counsel. Members of the service may contact the Legal Bureau, Civil Section with any questions.*

**ADDITIONAL
DATA**

When serving process upon active members of the service, a process server will respond to the command where the individual is assigned or to the parent command if the command where the individual is assigned is confidential. Service at the command need not be made directly on the member named as a defendant.

A member of the service who is served with a summons and complaint or who otherwise becomes aware that he/she is a defendant in a civil lawsuit arising from an alleged act or omission that occurred in the performance of duty will be defended by the Corporation Counsel and the City will pay any resulting judgment, if it is determined in accordance with the General Municipal Law (Section 50-k) that at the time of occurrence, the member of the service was acting in the proper discharge of duty. Notice of representation by the Corporation Counsel will be forwarded to the member concerned by the Corporation Counsel. The member concerned must cooperate and assist the Corporation Counsel in defending the action. Failure to cooperate with the Corporation Counsel may result in withdrawal of representation.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
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**ADDITIONAL
DATA
(continued)**

A "Notice of Claim" is required before commencement of a tort action against the City of New York. However, service of a "Notice of Claim" on the Police Department is considered IMPROPER service and may provide the basis for dismissal of a complaint. A "Notice of Claim" should NOT be accepted by any member of the Department and the process server should instead be directed to the Office of the Comptroller. Any "Notice of Claim" mailed to the Department should be returned to sender.

*A **REQUEST FOR LEGAL ASSISTANCE** should NOT be prepared for a subpoena. If a subpoena is received, members of the service will comply with P.G. 211-15, "Processing Subpoenas for Police Department Records and for Testimony by Members of the Service" or P.G. 211-16, "Subpoenas Issued by Courts Outside New York City."*

**RELATED
PROCEDURES**

*Processing Subpoenas for Police Department Records and for Testimony by Members of the Service (P.G. 211-15)
Subpoenas Issued by Courts Outside New York City (P.G. 211-16)*

**FORMS AND
REPORTS**

REQUEST FOR LEGAL ASSISTANCE (PD411-160)
OFFICIAL LETTERHEAD (PD158-151)



PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
211-21	03/13/14		5 of 5

APPENDIX "A"

(SAMPLE LETTER)

(Command Communication Log Serial Number) _____

Date _____

Name of Plaintiff
Address of Plaintiff

Re: CASE NAME

Dear _____:

The attached papers are being returned to you. This office is not authorized to accept service on behalf of *(name of member of the service)*. As such, the attempted service is not effective. Members of the New York City Police Department must be served at their current command of assignment. The command to which an employee of the New York City Police Department is assigned to may be ascertained by calling the Verification Unit at (646) 610-5529.



Sincerely,

Name
Rank

JROBINSON4D Posts



jrobinson4d



Liked by trenchgod_o and 9 others

jrobinson4d Me and my mechanic..funny dude

October 17, 2014



jrobinson4d





Woods

Woods

FERRY

FERRY

FERRY

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108 AVENUE D

PLAINTIFF'S
EXHIBIT

PX-156



PLAINTIFF'S
EXHIBIT
PX-157









Supreme Court of the City of New York
County of New York

THE PEOPLE OF THE STATE OF NEW YORK

Indictment Number:
4844/2014

v.

JAWAWN FRASER,

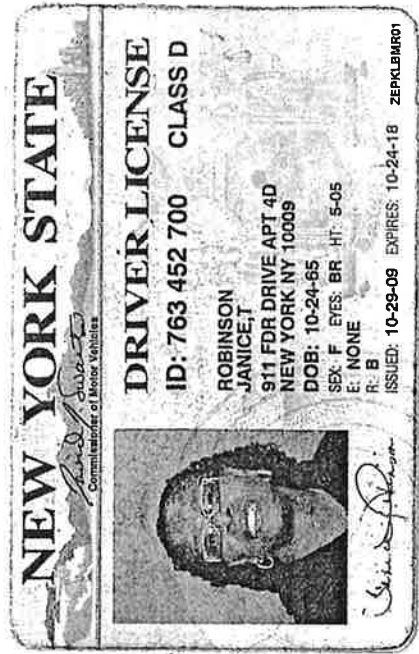
Defendant(s)

List of Witnesses and Names Likely to be Mentioned at Trial

1. UC #84
2. Detective Matthew Regina
3. Detective Jason Deltoro
4. Lt. John Patane
5. Borislav Vestfrid – D.A.N.Y. Forensic Analyst
6. Det Hoi Lee

Locations

1. Vicinity of 8th Street and Avenue D
2. Opposite 465 East 10th Street



I Janice Robinson received the following items

from Det Regina \$100 USC belonging to my
SON JAWAWN FRASER

Samia Fraser 10/22/14
12:50 AM

PLAINTIFF'S
EXHIBIT
PX-162

**SHEET METAL WORKERS LOCAL UNION 28 APPRENTICE WAGE AND FRINGE BENEFITS
10-29-2020 to 7-28-2021**

	Journeyman	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$51.36	\$17.76	\$18.00	\$23.14	\$28.28	\$35.98	\$41.11
Vacation Fund	\$6.25	\$0.00	\$2.20	\$2.82	\$3.44	\$4.39	\$5.00
National Pension Fund	\$16.62	\$0.83	\$5.82	\$7.48	\$9.14	\$11.63	\$13.30
Annuity Fund	\$8.00	\$0.00	\$2.65	\$3.48	\$4.29	\$5.52	\$6.35
Health & Welfare Fund	\$12.63	\$4.56	\$4.59	\$5.68	\$6.95	\$8.85	\$10.10
SUB Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$3.01	\$0.00	\$1.05	\$1.41	\$1.70	\$2.14	\$2.43
Local Education Fund	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18
ITI/NEMI Fund	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
JLM/Equality Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
TOTAL HOURLY RATE	\$107.06	\$24.52	\$38.73	\$51.15	\$61.33	\$76.58	\$86.76
Total Taxable Wages	\$57.61	\$17.76	\$20.20	\$25.96	\$31.72	\$40.37	\$46.11
Total Fringe	\$49.45	\$6.76	\$18.53	\$25.19	\$29.61	\$36.21	\$40.65
Total Hourly Rate	\$107.06	\$24.52	\$38.73	\$51.15	\$61.33	\$76.58	\$86.76
<i>Working Assessments</i>	\$2.94	\$0.18	\$1.17	\$1.48	\$1.76	\$2.14	\$2.42
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$3.01	\$0.18	\$1.24	\$1.55	\$1.83	\$2.21	\$2.49

**SHEET METAL WORKERS
APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE JULY 29, 2021 TO OCTOBER 27, 2021**

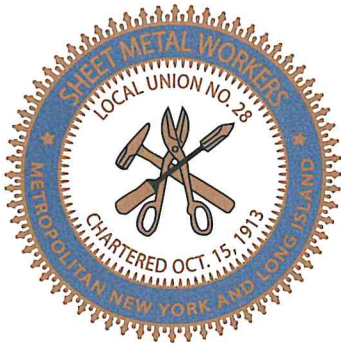
	Journeyperson	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$51.35	\$17.82	\$17.99	\$23.14	\$28.27	\$35.98	\$41.10
Vacation Fund	\$6.25	\$0.00	\$2.20	\$2.82	\$3.44	\$4.39	\$5.00
National Pension Fund	\$16.95	\$0.85	\$5.93	\$7.63	\$9.32	\$11.87	\$13.56
Annuity Fund	\$8.00	\$0.00	\$2.65	\$3.48	\$4.29	\$5.52	\$6.35
Health and Welfare Fund	\$12.63	\$4.56	\$4.59	\$5.68	\$6.95	\$8.85	\$10.10
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$3.02	\$0.00	\$1.06	\$1.41	\$1.71	\$2.14	\$2.44
Local Education Fund	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$107.39	\$24.60	\$38.84	\$51.30	\$61.51	\$76.82	\$87.02
Total Taxable Wages	\$57.60	\$17.82	\$20.19	\$25.96	\$31.71	\$40.37	\$46.10
Total Fringe	\$49.79	\$6.78	\$18.65	\$25.34	\$29.80	\$36.45	\$40.92
Total Hourly Rate	\$107.39	\$24.60	\$38.84	\$51.30	\$61.51	\$76.82	\$87.02
<i>Working Assessments/BT</i>	\$2.93	\$0.18	\$1.16	\$1.48	\$1.75	\$2.14	\$2.41
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
Total UNION deductions from wages	\$3.00	\$0.18	\$1.23	\$1.55	\$1.82	\$2.21	\$2.48

SHEET METAL WORKERS LOCAL UNION 28
APPRENTICE WAGE AND FRINGE BENEFITS EFFECTIVE OCTOBER 28, 2021 TO JULY 27, 2022

	Journeyman	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
	100%	25%	35%	45%	55%	70%	80%
Wages	\$52.10	\$18.32	\$18.25	\$23.47	\$28.68	\$36.50	\$41.70
Vacation Fund	\$6.75	\$0.00	\$2.38	\$3.05	\$3.72	\$4.74	\$5.40
National Pension Fund	\$16.95	\$0.85	\$5.93	\$7.63	\$9.32	\$11.87	\$13.56
Annuity Fund	\$8.69	\$0.00	\$2.89	\$3.79	\$4.67	\$6.00	\$6.90
Health and Welfare Fund	\$12.88	\$4.62	\$4.68	\$5.79	\$7.09	\$9.03	\$10.30
Supplemental Unemployment Fund	\$0.99	\$0.00	\$0.29	\$0.39	\$0.50	\$0.65	\$0.77
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$3.08	\$0.00	\$1.08	\$1.44	\$1.74	\$2.19	\$2.49
Local Education Fund	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$109.64	\$25.16	\$39.63	\$52.31	\$62.75	\$78.40	\$88.82
Total Taxable Wages	\$58.85	\$18.32	\$20.63	\$26.52	\$32.40	\$41.24	\$47.10
Total Fringe	\$50.79	\$6.84	\$19.00	\$25.79	\$30.35	\$37.16	\$41.72
Total Hourly Rate	\$109.64	\$25.16	\$39.63	\$52.31	\$62.75	\$78.40	\$88.82
<i>Working Assessments/BT</i>	<i>\$2.97</i>	<i>\$0.18</i>	<i>\$1.19</i>	<i>\$1.51</i>	<i>\$1.78</i>	<i>\$2.17</i>	<i>\$2.44</i>
<i>Building</i>	<i>\$0.02</i>	<i>\$0.00</i>	<i>\$0.02</i>	<i>\$0.02</i>	<i>\$0.02</i>	<i>\$0.02</i>	<i>\$0.02</i>
<i>PAL Fund</i>	<i>\$0.05</i>	<i>\$0.00</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>	<i>\$0.05</i>
Total UNION deductions from wages	\$3.04	\$0.18	\$1.26	\$1.58	\$1.85	\$2.24	\$2.51

APPRENTICE WAGE AND FRINGE BENEFITS INCREASE EFFECTIVE NOVEMBER 03, 2022 TO NOVEMBER 1, 2023

	Journey person	Pre-Apprentice	First Year	Second Year	Third Year	Fourth Year	Fifth Year
		6 Mo. Term	1st & 2nd Term	3rd & 4th Term	5th & 6th Term	7th & 8th Term	(6 mos.) 9th Term
Wages	\$52.60	\$18.53	\$18.26	\$23.55	\$28.85	\$36.79	\$42.06
Vacation Fund	\$7.34	\$0.00	\$2.59	\$3.32	\$4.04	\$5.15	\$5.87
National Pension Fund	\$17.29	\$0.86	\$6.05	\$7.78	\$9.51	\$12.10	\$13.83
Annuity Fund	\$8.85	\$0.00	\$2.95	\$3.87	\$4.76	\$6.12	\$7.03
Health and Welfare Fund	\$13.23	\$4.71	\$4.80	\$5.95	\$7.28	\$9.28	\$10.58
Supplemental Unemployment Fund	\$0.79	\$0.00	\$0.09	\$0.19	\$0.30	\$0.45	\$0.57
Local Pension Fund	\$4.47	\$0.00	\$1.58	\$4.02	\$4.11	\$4.23	\$4.33
SASMI Fund	\$3.14	\$0.00	\$1.10	\$1.46	\$1.77	\$2.22	\$2.53
Local Education Fund	\$1.63	\$1.43	\$1.63	\$1.63	\$1.63	\$1.63	\$1.63
ITI / N.E.M.I.	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17	\$0.17
Joint Labor Management Fund	\$1.81	\$0.00	\$0.63	\$0.81	\$1.00	\$1.27	\$1.45
Industry Promotion Fund	\$0.55	\$0.00	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
Scholarship Fund	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
Total Hourly Rate	\$111.89	\$25.72	\$40.42	\$53.32	\$63.99	\$79.98	\$90.62
Total Taxable Wages	\$59.94	\$18.53	\$20.85	\$26.87	\$32.89	\$41.94	\$47.93
Total Fringe	\$51.95	\$7.19	\$19.57	\$26.45	\$31.10	\$38.04	\$42.69
Total Hourly Rate	\$111.89	\$25.72	\$40.42	\$53.32	\$63.99	\$79.98	\$90.62
<i>Working Assessments/BT</i>	\$3.02	\$0.18	\$1.21	\$1.53	\$1.80	\$2.20	\$2.47
<i>Building</i>	\$0.02	\$0.00	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
<i>PAL Fund</i>	\$0.05	\$0.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05
<i>Total UNION deductions from wages</i>	<i>\$3.09</i>	<i>\$0.18</i>	<i>\$1.28</i>	<i>\$1.60</i>	<i>\$1.87</i>	<i>\$2.27</i>	<i>\$2.54</i>



LOCAL UNION 28

METROPOLITAN NEW YORK AND LONG ISLAND

SALVATORE STARACE
Financial Secretary-Treasurer/Recording Secretary

JOURNEYPERSONS WAGE AND FRINGE BENEFITS 10/28/2021 TO 07/27/2022

Dear Sir/Madam:

In accordance with the newly negotiated Collective Bargaining Agreement, an increase of two dollars and twenty-five cents (\$2.25) per hour is effective with the payroll week beginning Thursday, October 28, 2021. The increase has been allocated in the following manner:

\$0.75 Wages **\$0.50 Vacation** **\$0.69 Annuity** **\$0.25 Health & Welfare**
\$0.06 SASMI

Listed below are the hourly wage and fringe benefit rates for Journeyman Sheet Metal Worker:

* Wages	\$52.10
*Vacation Fund	6.75
National Pension Fund	16.95
Annuity Fund	8.69
Health & Welfare Fund	12.88
SUB Fund	.99
Local Pension Fund	4.47
SASMI Fund	3.08
Local Education Fund	1.18
ITT/NEMI Fund	.17
JLM/Equality Fund	1.81
Industry Promotion Fund	.55
Scholarship Fund	.02
TOTAL HOURLY RATE	\$109.64

**The amount of taxable wage is the base rate of \$52.10 and vacation of \$6.75:*

Hourly: 52.10 + 6.75 = \$58.85

Daily (x8 hours): 416.80 + 54.00 = \$470.80

Payments for the various Funds are to be made in the following manner:

[A] FUNDS AND PLANS: \$39.83 send weekly one check payable to SMWIA Local Union 28 Funds and Plans and forward to SMWIA Local Union No. 28 Funds Office, 195 Mineola Blvd, Mineola, NY 11501.

Vacation Fund	6.75
Health & Welfare Fund	12.88
SUB Fund	.99
Annuity Fund	8.69
Local Pension Fund	4.47
JLM/Equality Fund	1.81
Local Education Fund	1.18
Scholarship Fund	.02
	<hr/>
	36.79
Working Assessment	2.97
Building Fund	.02
PAL (Political Action) Fund	.05
	<hr/>
<i>Union deductions from wages</i>	<i>3.04</i>
TOTAL to Funds & Plans	\$39.83

[B] NATIONAL BENEFIT FUND: National Pension Fund \$16.95, SASMI \$3.08 and ITI/NEMI \$0.17. Submit monthly to Sheet Metal Workers' National Pension Fund, PO Box 79321, Baltimore, MD 21279. For any questions on remittance, please call (703) 739-7000 or email info@smwnpf.org.

[C] INDUSTRY PROMOTION FUND \$0.55 per hour: Send weekly to the Sheet Metal Industry Promotion Fund of NYC, 16 Court St, Suite 2100, Brooklyn, NY 11241 or SM Industry Promotion Fund of Nassau/Suffolk Counties, One Corporate Drive, Suite GL-2 Bohemia, NY 11716.

Apprentices are to be paid in accordance with the enclosed schedule.

If there are any questions concerning this correspondence, please contact this office at 212-941-7700 or the Funds and Plans Office at 516-742-9478.

Sincerely,

Salvatore Starace

Salvatore Starace
Financial Secretary-Treasurer
Recording Secretary



LOCAL UNION 28

METROPOLITAN NEW YORK AND LONG ISLAND

SALVATORE STARACE
Financial Secretary-Treasurer/Recording Secretary

JOURNEYPERSONS WAGE AND FRINGE BENEFITS **7/28/2022 TO 11/2/2022**

Dear Sir/Madam:

Please be advised, there is a \$0.34 mandatory contribution rate to the National Pension Fund. The Union has reduced the Annuity Fund rate from \$8.69 to \$8.35 and added the difference to the National Pension Fund.

Effective with the payroll week commencing Thursday, July 28, 2022 the wage and fringe benefit schedule for Journeyman Sheet Metal Worker will be as follows.

* Wages	\$52.10
*Vacation Fund	6.75
National Pension Fund	17.29
Annuity Fund	8.35
Health & Welfare Fund	12.88
SUB Fund	.79
Local Pension Fund	4.47
SASMI Fund	3.08
Local Education Fund	1.38
ITT/NEMI Fund	.17
JLM/Equality Fund	1.81
Industry Promotion Fund	.55
Scholarship Fund	.02
TOTAL HOURLY RATE	\$109.64

**The amount of taxable wage is the base rate of \$52.10 and vacation of \$6.75:
Hourly: $52.10 + 6.75 = \$58.85$ Daily (x8 hours): $416.80 + 54.00 = \$470.80$*

Payments for the various Funds are to be made in the following manner:

[A] FUNDS AND PLANS: \$39.49 send weekly one check payable to SMWIA Local Union 28 Funds and Plans and forward to SMWIA Local Union No. 28 Funds Office, 195 Mineola Blvd, Mineola, NY 11501.

Vacation Fund	6.75
Health & Welfare Fund	12.88
SUB Fund	.79
Annuity Fund	8.35
Local Pension Fund	4.47
JLM/Equality Fund	1.81
Local Education Fund	1.38
Scholarship Fund	.02
	<hr/>
	36.45
Working Assessment	2.97
Building Fund	.02
PAL (Political Action) Fund	.05
	<hr/>
<i>Union deductions from wages</i>	<i>3.04</i>
TOTAL to Funds & Plans	\$39.49

[B] NATIONAL BENEFIT FUND: National Pension Fund \$17.29, SASMI \$3.08 and ITI/NEMI \$0.17. Submit monthly to Sheet Metal Workers' National Pension Fund, PO Box 79321, Baltimore, MD 21279. For any questions on remittance, please call (703) 739-7000 or email info@smwnpf.org.

[C] INDUSTRY PROMOTION FUND \$0.55 per hour: Send weekly to the Sheet Metal Industry Promotion Fund of NYC, 16 Court St, Suite 2100, Brooklyn, NY 11241 or SM Industry Promotion Fund of Nassau/Suffolk Counties, One Corporate Drive, Suite GL-2 Bohemia, NY 11716.

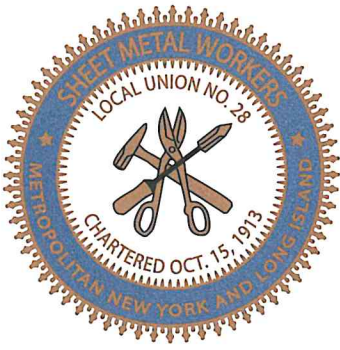
APPRENTICES ARE TO BE PAID IN ACCORDANCE WITH THE ENCLOSED SCHEDULE.

If there are any questions concerning this correspondence, please contact this office at 212-941-7700 or the Funds and Plans Office at 516-742-9478.

Sincerely,

Salvatore Starace

Salvatore Starace
Financial Secretary-Treasurer
Recording Secretary



LOCAL UNION 28

METROPOLITAN NEW YORK AND LONG ISLAND

SALVATORE STARACE
Financial Secretary-Treasurer/Recording Secretary

JOURNEY PERSON WAGE AND FRINGE BENEFITS **11/3/2022 TO 11/1/2023**

Dear Sir/Madam:

Pursuant to the Collective Bargaining Agreement, an increase of \$2.25 per hour will take effect with the payroll week commencing Thursday, November 3, 2022. The increase is to be allocated in the following manner:

\$0.50 Wages	\$0.59 Vacation	\$0.50 Annuity	\$0.35 Health & Welfare
\$0.25 Education	\$0.06 SASMI		

Listed below are the hourly wage and fringe benefit rates for Journey person Sheet Metal Worker.

* Wages	\$52.60
*Vacation Fund	7.34
National Pension Fund	17.29
Annuity Fund	8.85
Health & Welfare Fund	13.23
SUB Fund	.79
Local Pension Fund	4.47
SASMI Fund	3.14
Local Education Fund	1.63
ITT/NEMI Fund	.17
JLM/Equality Fund	1.81
Industry Promotion Fund	.55
Scholarship Fund	.02
TOTAL HOURLY RATE	\$111.89

**The amount of taxable wage is the base rate of \$52.60 and vacation of \$7.34*
Hourly: 52.60 + 7.34 = \$59.94 Daily (8 hours): 420.80 + 58.72 = \$479.52

Payments for the various Funds are to be made in the following manner:

[A] FUNDS AND PLANS: \$41.23 send weekly one check payable to SMWIA Local Union 28 Funds and Plans and forward to SMWIA Local Union No. 28 Funds Office, 195 Mineola Blvd, Mineola, NY 11501.

Vacation Fund	7.34
Health & Welfare Fund	13.23
SUB Fund	.79
Annuity Fund	8.85
Local Pension Fund	4.47
JLM/Equality Fund	1.81
Local Education Fund	1.63
Scholarship Fund	.02
	<hr/>
	38.14
Working Assessment	3.02
Building Fund	.02
PAL (Political Action) Fund	.05
	<hr/>
<i>Union deductions from wages</i>	<i>3.09</i>
TOTAL to Funds & Plans	\$41.23

[B] NATIONAL BENEFIT FUND: National Pension Fund \$17.29, SASMI \$3.14 and ITI/NEMI \$0.17. Submit monthly to Sheet Metal Workers' National Pension Fund, PO Box 79321, Baltimore, MD 21279. For any questions on remittance, please call (703) 739-7000 or email info@smwnpf.org.

[C] INDUSTRY PROMOTION FUND \$0.55 per hour: Send weekly to the Sheet Metal Industry Promotion Fund of NYC, 16 Court St, Suite 2100, Brooklyn, NY 11241 or SM Industry Promotion Fund of Nassau/Suffolk Counties, One Corporate Drive, Suite GL-2 Bohemia, NY 11716.

APPRENTICES ARE TO BE PAID IN ACCORDANCE WITH THE ENCLOSED SCHEDULE.

If there are any questions concerning this correspondence, please contact this office at 212-941-7700 or the Funds and Plans Office at 516-742-9478.

Sincerely,

Salvatore Starace

Salvatore Starace
Financial Secretary-Treasurer
Recording Secretary

2020 W-2 and EARNINGS SUMMARY



This blue section is your Earnings Summary which provides more detailed information on the generation of your W-2 statement. The reverse side includes instructions and other general information.

PLAINTIFF'S EXHIBIT

PX-164

W-2		Employee Reference Copy Wage and Tax Statement		2020	
Copy C for employee's records OMB No. 1545-0008					
d Control number	Dept.	Corp.	Employer use only		
095965 LONG/ZBQ	000104		A 73		
c Employer's name, address, and ZIP code					
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11561					
Batch #00679					
ef Employee's name, address, and ZIP code					
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018					
b Employer's FED ID number			a Employee's SSA number		
11-2836932			XXX-XX-8284		
1 Wages, tips, other comp.		2 Federal income tax withheld			
53235.14		6753.15			
3 Social security wages		4 Social security tax withheld			
53235.14		3300.58			
5 Medicare wages and tips		6 Medicare tax withheld			
53235.14		771.91			
7 Social security tips		8 Allocated tips			
9		10 Dependent care benefits			
11 Nonqualified plans		12a See instructions for box 12			
14 Other		12b			
24.00 SDI					
143.73 NY PFL		12c			
		12d			
		13 Stat emp		Ret. plan 3rd party sick pay	
15 State	Employer's state ID no.	16 State wages, tips, etc.			
NY	11-2836932	53235.14			
17 State income tax		18 Local wages, tips, etc.			
2631.42		53235.14			
19 Local income tax		20 Locality name			
		NYC RES			

1. Your Gross Pay was adjusted as follows to produce your W-2 Statement.

	Wages, Tips, other Compensation Box 1 of W-2	Social Security Wages Box 3 of W-2	Medicare Wages Box 5 of W-2	NY State Wages, Tips, Etc. Box 16 of W-2	NYC RES Local Wages, Tips, Etc. Box 18 of W-2
Gross Pay	53,235.14	53,235.14	53,235.14	53,235.14	53,235.14
Reported W-2 Wages	53,235.14	53,235.14	53,235.14	53,235.14	53,235.14

2. Employee Name and Address.

JAWAUN A FRASER
144 SOUTH HARRISON STREET
APT 508
EAST ORANGE NJ 07018

© 2020 ADP, Inc.

1 Wages, tips, other comp.		2 Federal income tax withheld			
53235.14		6753.15			
3 Social security wages		4 Social security tax withheld			
53235.14		3300.58			
5 Medicare wages and tips		6 Medicare tax withheld			
53235.14		771.91			
d Control number	Dept.	Corp.	Employer use only		
095965 LONG/ZBQ	000104		A 73		
c Employer's name, address, and ZIP code					
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11561					
b Employer's FED ID number			a Employee's SSA number		
11-2836932			XXX-XX-8284		
7 Social security tips		8 Allocated tips			
9		10 Dependent care benefits			
11 Nonqualified plans		12a See instructions for box 12			
14 Other		12b			
24.00 SDI					
143.73 NY PFL		12c			
		12d			
		13 Stat emp		Ret. plan 3rd party sick pay	
ef Employee's name, address and ZIP code					
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018					
15 State	Employer's state ID no.	16 State wages, tips, etc.			
NY	11-2836932	53235.14			
17 State income tax		18 Local wages, tips, etc.			
2631.42		53235.14			
19 Local income tax		20 Locality name			
		NYC RES			
Federal Filing Copy W-2 Wage and Tax Statement 2020					
Copy B to be filed with employee's Federal Income Tax Return. OMB No. 1545-0008					

1 Wages, tips, other comp.		2 Federal income tax withheld			
53235.14		6753.15			
3 Social security wages		4 Social security tax withheld			
53235.14		3300.58			
5 Medicare wages and tips		6 Medicare tax withheld			
53235.14		771.91			
d Control number	Dept.	Corp.	Employer use only		
095965 LONG/ZBQ	000104		A 73		
c Employer's name, address, and ZIP code					
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11561					
b Employer's FED ID number			a Employee's SSA number		
11-2836932			XXX-XX-8284		
7 Social security tips		8 Allocated tips			
9		10 Dependent care benefits			
11 Nonqualified plans		12a See instructions for box 12			
14 Other		12b			
24.00 SDI					
143.73 NY PFL		12c			
		12d			
		13 Stat emp		Ret. plan 3rd party sick pay	
ef Employee's name, address and ZIP code					
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018					
15 State	Employer's state ID no.	16 State wages, tips, etc.			
NY	11-2836932	53235.14			
17 State income tax		18 Local wages, tips, etc.			
2631.42		53235.14			
19 Local income tax		20 Locality name			
		NYC RES			
NY State Filing Copy W-2 Wage and Tax Statement 2020					
Copy 2 to be filed with employee's State Income Tax Return. OMB No. 1545-0008					

1 Wages, tips, other comp.		2 Federal income tax withheld			
53235.14		6753.15			
3 Social security wages		4 Social security tax withheld			
53235.14		3300.58			
5 Medicare wages and tips		6 Medicare tax withheld			
53235.14		771.91			
d Control number	Dept.	Corp.	Employer use only		
095965 LONG/ZBQ	000104		A 73		
c Employer's name, address, and ZIP code					
NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11561					
b Employer's FED ID number			a Employee's SSA number		
11-2836932			XXX-XX-8284		
7 Social security tips		8 Allocated tips			
9		10 Dependent care benefits			
11 Nonqualified plans		12a See instructions for box 12			
14 Other		12b			
24.00 SDI					
143.73 NY PFL		12c			
		12d			
		13 Stat emp		Ret. plan 3rd party sick pay	
ef Employee's name, address and ZIP code					
JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018					
15 State	Employer's state ID no.	16 State wages, tips, etc.			
NY	11-2836932	53235.14			
17 State income tax		18 Local wages, tips, etc.			
2631.42		53235.14			
19 Local income tax		20 Locality name			
		NYC RES			
City or Local Filing Copy W-2 Wage and Tax Statement 2020					
Copy 2 to be filed with employee's State Income Tax Return. OMB No. 1545-0008					

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	HV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015	02/24/1996		APT 508					
EAST ORANGE						NJ 07018		

PAY DETAILS			HOURS UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept	Rate									State	MED	SUI/DI	MLI					
01	01/07/2020	01/08/2020	28.00					780.36		72.85	54.11		2.36	547.97	W	52.36	ASS	
000104		27.8700								37.45	12.66	0.60		92.40	VAC			000000020101
02	01/14/2020	01/15/2020	32.00	8.00	O			891.84		168.30	85.04		3.70	798.99	W	82.32	ASS	
000104		41.8100								67.49	19.88	0.60		145.20	VAC			000000030101
03	01/21/2020	01/22/2020	35.00					975.45		106.59	67.63		2.95	666.00	W	65.45	ASS	
000104		27.8700								50.41	15.82	0.60		115.50	VAC			000000040099
04	01/28/2020	01/29/2020	40.00					1114.80		140.87	77.31		3.37	739.87	W	74.80	ASS	
000104		27.8700								59.90	18.08	0.60		132.00	VAC			000000050096
05	02/04/2020	02/05/2020	40.00					1114.80		140.87	77.30		3.37	739.88	W	74.80	ASS	
000104		27.8700								59.90	18.08	0.60		132.00	VAC			000000060092
06	02/11/2020	02/12/2020	20.00					557.40		42.39	38.65		1.68	405.71	W	37.40	ASS	
000104		27.8700								21.93	9.04	0.60		66.00	VAC			000000070081
07	02/18/2020	02/19/2020	24.00					668.88		57.36	46.38		2.02	477.27	W	44.88	ASS	
000104		27.8700								29.53	10.84	0.60		79.20	VAC			000000080086
08	02/25/2020	02/26/2020	32.00					891.84		87.28	61.84		2.69	620.41	W	59.84	ASS	
000104		27.8700								44.71	14.47	0.60		105.60	VAC			000000090090
09	03/03/2020	03/04/2020	40.00					1114.80		140.87	77.30		3.37	739.88	W	74.80	ASS	
000104		27.8700								59.90	18.08	0.60		132.00	VAC			000000100092
10	03/10/2020	03/11/2020	32.00	8.00	O			891.84		168.30	85.04		3.71	798.98	W	82.32	ASS	
000104		41.8100								67.49	19.88	0.60		145.20	VAC			000000110086
11	03/17/2020	03/18/2020	32.00	8.00	O			891.84		168.30	85.03		3.70	798.99	W	82.32	ASS	
000104		27.8700								67.49	19.89	0.60		145.20	VAC			000000120089
12	03/24/2020	03/25/2020	24.00	8.00	O			668.88		113.44	69.57		3.03	680.79	W	67.36	ASS	
000104		41.8100								52.30	16.27	0.60		118.80	VAC			000000130081

TOTALS														
	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
										STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY
QTR														
YTD														

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS				
CONTINUED ON NEXT PAGE														

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	HV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
EAST ORANGE						NJ 07018			

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/DI	FLI MLJ	Amount CD	Amount CD	Check #
01	03/31/2020	04/01/2020	24.00			668.88		79.20 VAC	748.08	57.36	46.39		2.02	477.25 W	44.88 ASS	
000104		27.8700								29.53	10.85	0.60		79.20 VAC		00000140056

TOTALS														
QTR	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
									MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLJ	NET PAY
	24.00	0.00	0.00	0.00	668.88	0.00	0.00	79.20	748.08	57.36	46.39	0.00	2.02	601.33
YTD									0.00	29.53	10.85	0.60	0.00	0.00
									14057.83	1464.78	871.59	0.00	37.97	
									0.00	648.03	203.84	7.80	0.00	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS											
				79.20	VAC			29.53	01NY			477.25	W	44.88	ASS	79.20	VAC						

EER

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	JV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015	02/24/1996		APT 508					
EAST ORANGE						NJ 07018		

PAY DETAILS			HOURS UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount	CD	Amount	CD	Check #
01	06/30/2020	07/01/2020	56.00					1560.72		250.59	108.22		4.71	976.26	W	104.72	ASS	
000104		27.8700							1745.52	90.31	25.31	0.60		184.80	VAC			000000270074
02	07/07/2020	07/08/2020	32.00					891.84		87.28	61.84		2.69	620.42	W	59.84	ASS	
000104		27.8700							997.44	44.71	14.46	0.60		105.60	VAC			000000280074
03	07/14/2020	07/15/2020	40.00	6.00	O			1114.80		202.59	94.70		4.12	872.40	W	92.12	ASS	
000104		41.8100							1527.36	76.98	22.15	0.60		161.70	VAC			000000290079
04	07/21/2020	07/22/2020	40.00	14.00	O			1114.80		285.24	117.88		5.13	1048.74	W	114.68	ASS	
000104		41.8100							1901.44	100.30	27.57	0.60		201.30	VAC			000000300082
05	07/28/2020	07/29/2020	40.00	8.00	O			1114.80		223.16	100.50		4.38	952.06	W	62.40	ASS	
000104		41.8100							1620.88	82.68	23.50	0.60		171.60	VAC			000000310082
06	08/04/2020	08/05/2020	24.00					850.80		81.81	59.01		2.57	613.88	W	37.20	ASS	
000104		35.4500							951.84	41.93	13.80	0.60		101.04	VAC			000000324083
07	08/11/2020	08/12/2020	32.00	12.00	O			1134.40		304.85	122.96		5.35	1126.95	W	77.58	ASS	
000104		35.4500							1983.12	105.53	28.76	0.60		210.56	VAC			000000330084
08	08/18/2020	08/19/2020	36.00	10.00	O			1276.20		314.36	125.41		5.46	1120.73	W	104.04	ASS	
000104		53.1800							2022.76	108.07	29.33	0.60		214.76	VAC			000000340083
09	08/25/2020	08/26/2020	35.00	14.00	O			1240.75		361.96	137.71		6.00	1209.90	W	114.24	ASS	
000104		35.4500							2221.10	122.66	32.20	0.60		235.83	VAC			000000350084
10	09/01/2020	09/02/2020	40.00	18.00	O			1418.00		466.67	164.75		7.17	1403.64	W	136.68	ASS	
000104		35.4500							2657.40	157.19	38.54	0.60		282.16	VAC			000000360082
11	09/08/2020	09/09/2020	32.00	14.00	O			1134.40		696.76	220.53		9.60	1861.86	W	160.14	ASS	
000104		79.2500		17.00	DT				3556.81	225.11	51.57	0.60		330.64	VAC			000000370081
12	09/15/2020	09/16/2020	24.00	4.00	O			850.80		128.34	73.77		3.21	722.72	W	61.20	ASS	
000104		35.4500							1189.84	56.43	17.25	0.60		126.32	VAC			000000380085

TOTALS																
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX STATE TAX	SOC. SEC. TAX MEDICARE TAX	LOCAL SUI/SDI	FLI MLI	TOT. VOL. DED.	NET PAY		

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS				LOCAL ANALYSIS				VOLUNTARY DEDUCTIONS ANALYSIS							

CONTINUED ON NEXT PAGE

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	JV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
EAST ORANGE						NJ 07018			

PAY DETAILS		HOURS UNITS		EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY				
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4, & 5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept.		Rate								State	MED	SUI/DI	MLI					
13	09/22/2020	09/23/2020	40.00			1418.00		168.40 VAC	1586.40	215.59	98.35		4.29	913.98	W	81.60	ASS	
000104		35.4500								80.58	23.01	0.60		168.40	VAC			000000390083
14	09/29/2020	09/30/2020	40.00			1418.00		168.40 VAC	1586.40	215.59	98.36		4.29	913.98	W	81.60	ASS	
000104		35.4500								80.58	23.00	0.60		168.40	VAC			000000400083

TOTALS											GROSS PAY				FEDERAL TAX		SOC. SEC. TAX		LOCAL		FLI		TOT. VOL. DED.	
QTR	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY										
	511.00	0.00	0.00	117.00	16538.31	0.00	0.00	9010.00	0.00	1373.06	370.45	8.40	0.00	18308.65							0.00			
YTD										39606.14	5299.57	2455.58	0.00	106.94										
										0.00	2021.09	574.29	16.20	0.00										

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS									
REG	O	DT		REG	O	DT		STATE	LOCAL	FEDERAL	SS	LOCAL	FLI	ASS	VAC						
100.00				4999.64				1373.06	01NY												
				2663.11																	
										14357.52	W	1288.02	ASS	2663.11	VAC						

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	JV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET					
02/12/2015	02/24/1996		APT 508					
EAST ORANGE						NJ 07018		

PAY DETAILS			HOURS/UNITS		EARNINGS		GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount CD	Amount CD	Check #	
01	10/06/2020	10/07/2020	16.00					567.20	67.36	VAC				417.37	W	32.64	ASS
000104		35.4500							634.56				1.71	67.36	VAC		000000410082
02	10/13/2020	10/14/2020	24.00					850.80	101.04	VAC			2.57	602.11	W	48.96	ASS
000104		35.4500							951.84			0.60	2.57	101.04	VAC		000000420080
03	10/20/2020	10/21/2020	40.00					1418.00	168.40	VAC			4.29	913.99	W	81.60	ASS
000104		35.4500							1586.40			0.60	4.29	168.40	VAC		000000430083
04	10/27/2020	10/28/2020	24.00					850.80	101.04	VAC			2.57	602.10	W	48.96	ASS
000104		35.4500							951.84			0.60	2.57	101.04	VAC		000000440087
05	11/03/2020	11/04/2020	16.00					575.68	70.24	VAC			1.74	420.17	W	35.36	ASS
000104		35.9800							645.92			0.60	1.74	70.24	VAC		000000450087
06	11/10/2020	11/10/2020	32.00					1151.36	140.48	VAC			3.49	764.31	W	70.72	ASS
000104		35.9800							1291.84			0.60	3.49	140.48	VAC		000000460087
07	11/17/2020	11/18/2020	12.00					431.76	52.68	VAC			1.31	326.87	W	26.52	ASS
000104		35.9800							484.44			0.60	1.31	52.68	VAC		000000470088
08	11/24/2020	11/25/2020	40.00					1439.20	175.60	VAC			4.36	918.17	W	88.40	ASS
000104		35.9800							1614.80			0.60	4.36	175.60	VAC		000000480088
09	12/01/2020	12/02/2020	16.00					575.68	70.24	VAC			1.74	420.16	W	35.36	ASS
000104		35.9800							645.92			0.60	1.74	70.24	VAC		000000490088
10	12/08/2020	12/09/2020	40.00					1439.20	175.60	VAC			4.36	918.17	W	88.40	ASS
000104		35.9800							1614.80			0.60	4.36	175.60	VAC		000000500088
11	12/15/2020	12/16/2020	40.00					1439.20	175.60	VAC			4.36	918.17	W	88.40	ASS
000104		35.9800							1614.80			0.60	4.36	175.60	VAC		000000510088
12	12/22/2020	12/23/2020	8.00					287.84	35.12	VAC			.87	229.84	W	17.68	ASS
000104		35.9800							322.96			0.60	.87	35.12	VAC		000000520172
13	12/22/2020	12/23/2020						300.00	B				.81	265.32	W		
000104		35.9800							300.00				.81				000000520173

TOTALS														
QTR	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC SEC TAX	LOCAL	FLI	TOT VOL DED
	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY									
YTD														

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS				
CONTINUED ON NEXT PAGE														

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	JV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
					EAST ORANGE	NJ 07018			

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS				NET PAY
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/DI	MLI					
14	12/29/2020	12/30/2020	24.00			863.52		105.36 VAC	968.88	83.85	60.07		2.61	606.33	W	53.04	ASS	
000104		35.9800								42.97	14.05	0.60		105.36	VAC			000000530084

TOTALS														
	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
QTR	332.00	0.00	0.00	0.00	11890.24	0.00	300.00	1438.76	MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY
									13629.00	1453.58	845.00	0.00	36.79	10477.88
									0.00	610.33	197.62	7.80	0.00	0.00
YTD									53235.14	6753.15	3300.58	0.00	143.73	
									0.00	2631.42	771.91	24.00	0.00	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS													
				300.00	B	1438.76	VAC	610.33	01NY			8323.08	W	716.04	ASS	1438.76	VAC								

EER

2021 W-2 and EARNINGS SUMMARY



This blue section is your Earnings Summary which provides more detailed information on the generation of your W-2 statement. The reverse side includes instructions and other general information.

Employee Reference Copy W-2 Wage and Tax Statement 2021 OMB No. 1545-0008	
d Control number	Dept. Corp. Employer use only
095965 LONG/ZBQ	000104 A 68
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545 Batch #00668	
e/f Employee's name, address, and ZIP code JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018	
b Employer's FED ID number	a Employee's SSA number
11-2836932	XXX-XX-8284
1 Wages, tips, other comp.	2 Federal income tax withheld
71364.69	8906.29
3 Social security wages	4 Social security tax withheld
71364.69	4424.61
5 Medicare wages and tips	6 Medicare tax withheld
71364.69	1034.79
7 Social security tips	8 Allocated tips
9	10 Dependent care benefits
11 Nonqualified plans	12a See instructions for box 12
14 Other	12b
30.60 SDI 364.64 NY PFL	12c
	12d
	13 Stat emp Ret. plan 3rd party sick pay
15 State	Employer's state ID no.
NY	11-2836932
16 State wages, tips, etc.	
	71364.69
17 State income tax	18 Local wages, tips, etc.
3440.78	71364.69
19 Local income tax	20 Locality name
	NYC RES

1. Your Gross Pay was adjusted as follows to produce your W-2 Statement.

	Wages, Tips, other Compensation Box 1 of W-2	Social Security Wages Box 3 of W-2	Medicare Wages Box 5 of W-2	NY State Wages, Tips, Etc. Box 16 of W-2	NYC RES Local Wages, Tips, Etc. Box 18 of W-2
Gross Pay	71,364.69	71,364.69	71,364.69	71,364.69	71,364.69
Reported W-2 Wages	71,364.69	71,364.69	71,364.69	71,364.69	71,364.69

2. Employee Name and Address.

JAWAUN A FRASER
144 SOUTH HARRISON STREET
APT 508
EAST ORANGE NJ 07018

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1 Wages, tips, other comp.	2 Federal income tax withheld
71364.69	8906.29
3 Social security wages	4 Social security tax withheld
71364.69	4424.61
5 Medicare wages and tips	6 Medicare tax withheld
71364.69	1034.79
d Control number	Dept. Corp. Employer use only
095965 LONG/ZBQ	000104 A 68
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545	
b Employer's FED ID number	a Employee's SSA number
11-2836932	XXX-XX-8284
7 Social security tips	8 Allocated tips
9	10 Dependent care benefits
11 Nonqualified plans	12a See instructions for box 12
14 Other	12b
30.60 SDI 364.64 NY PFL	12c
	12d
	13 Stat emp Ret. plan 3rd party sick pay
e/f Employee's name, address and ZIP code JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018	
15 State	Employer's state ID no.
NY	11-2836932
16 State wages, tips, etc.	
	71364.69
17 State income tax	18 Local wages, tips, etc.
3440.78	71364.69
19 Local income tax	20 Locality name
	NYC RES
Federal Filing Copy W-2 Wage and Tax Statement 2021 OMB No. 1545-0008	
Copy B to be filed with employee's Federal Income Tax Return.	

1 Wages, tips, other comp.	2 Federal income tax withheld
71364.69	8906.29
3 Social security wages	4 Social security tax withheld
71364.69	4424.61
5 Medicare wages and tips	6 Medicare tax withheld
71364.69	1034.79
d Control number	Dept. Corp. Employer use only
095965 LONG/ZBQ	000104 A 68
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545	
b Employer's FED ID number	a Employee's SSA number
11-2836932	XXX-XX-8284
7 Social security tips	8 Allocated tips
9	10 Dependent care benefits
11 Nonqualified plans	12a See instructions for box 12
14 Other	12b
30.60 SDI 364.64 NY PFL	12c
	12d
	13 Stat emp Ret. plan 3rd party sick pay
e/f Employee's name, address and ZIP code JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018	
15 State	Employer's state ID no.
NY	11-2836932
16 State wages, tips, etc.	
	71364.69
17 State income tax	18 Local wages, tips, etc.
3440.78	71364.69
19 Local income tax	20 Locality name
	NYC RES
NY State Filing Copy W-2 Wage and Tax Statement 2021 OMB No. 1545-0008	
Copy 2 to be filed with employee's State Income Tax Return.	

1 Wages, tips, other comp.	2 Federal income tax withheld
71364.69	8906.29
3 Social security wages	4 Social security tax withheld
71364.69	4424.61
5 Medicare wages and tips	6 Medicare tax withheld
71364.69	1034.79
d Control number	Dept. Corp. Employer use only
095965 LONG/ZBQ	000104 A 68
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545	
b Employer's FED ID number	a Employee's SSA number
11-2836932	XXX-XX-8284
7 Social security tips	8 Allocated tips
9	10 Dependent care benefits
11 Nonqualified plans	12a See instructions for box 12
14 Other	12b
30.60 SDI 364.64 NY PFL	12c
	12d
	13 Stat emp Ret. plan 3rd party sick pay
e/f Employee's name, address and ZIP code JAWAUN A FRASER 144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018	
15 State	Employer's state ID no.
NY	11-2836932
16 State wages, tips, etc.	
	71364.69
17 State income tax	18 Local wages, tips, etc.
3440.78	71364.69
19 Local income tax	20 Locality name
	NYC RES
City or Local Filing Copy W-2 Wage and Tax Statement 2021 OMB No. 1545-0008	
Copy 2 to be filed with employee's State Income Tax Return.	

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	JV	FRASER,JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
					EAST ORANGE	NJ 07018			

PAY DETAILS			HOURS/UNITS		EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount	CD	Amount	CD	Check #
01	01/05/2021	01/06/2021	24.00					863.52		83.48	60.07		4.95	604.81	W	53.04	ASS	
000104		35.9800						105.36	968.88	42.52	14.05	0.60		105.36	VAC			000000010081
02	01/12/2021	01/13/2021	40.00					1439.20	1614.80	220.40	100.12		8.25	916.94	W	88.40	ASS	
000104		35.9800						175.60		81.08	23.41	0.60		175.60	VAC			000000020084
03	01/19/2021	01/20/2021	32.00					1151.36	1291.84	149.35	80.09		6.60	763.46	W	70.72	ASS	
000104		35.9800						140.48		61.80	18.74	0.60		140.48	VAC			000000030083
04	01/26/2021	01/27/2021	20.00					719.60	807.40	64.10	50.06		4.13	511.93	W	44.20	ASS	
000104		35.9800						87.80		32.88	11.70	0.60		87.80	VAC			000000040084
05	02/09/2021	02/10/2021	8.00					287.84	322.96	8.16	20.02		1.65	229.35	W	17.68	ASS	
000104		35.9800						35.12		5.69	4.69	0.60		35.12	VAC			000000060027
06	02/23/2021	02/24/2021	8.00					287.84	322.96	8.16	20.03		1.65	229.35	W	17.68	ASS	
000104		35.9800						35.12		5.69	4.68	0.60		35.12	VAC			000000080055
07	03/02/2021	03/03/2021	24.00					863.52	968.88	83.48	60.07		4.95	604.81	W	53.04	ASS	
000104		35.9800						105.36		42.52	14.05	0.60		105.36	VAC			000000090066
08	03/09/2021	03/10/2021	40.00					1439.20	1614.80	220.40	100.12		8.25	916.94	W	88.40	ASS	
000104		35.9800						175.60		81.08	23.41	0.60		175.60	VAC			000000100085
09	03/16/2021	03/17/2021	32.00					1151.36	1291.84	149.35	80.09		6.60	763.47	W	70.72	ASS	
000104		35.9800						140.48		61.80	18.73	0.60		140.48	VAC			000000110085
10	03/23/2021	03/24/2021	24.00					863.52	968.88	83.48	60.07		4.95	604.81	W	53.04	ASS	
000104		35.9800						105.36		42.52	14.05	0.60		105.36	VAC			000000120083
11	03/30/2021	03/31/2021	32.00					1151.36	1291.84	149.35	80.09		6.60	763.47	W	70.72	ASS	
000104		35.9800						140.48		61.80	18.73	0.60		140.48	VAC			000000130086

TOTALS													
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
284.00	0.00	0.00	0.00	10218.32	0.00	0.00	1246.76	11465.08	1219.71	710.83	0.00	58.58	8783.74
								0.00	519.38	166.24	6.60	0.00	0.00
								11465.08	1219.71	710.83	0.00	58.58	
								0.00	519.38	166.24	6.60	0.00	

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS											
				1246.76	VAC			519.38	01NY			6909.34	W	627.64	ASS	1246.76	VAC						

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	JV	FRASER,JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3						
02/12/2015	02/24/1996			144 SOUTH HARRISON STREET APT 508 EAST ORANGE NJ 07018				

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS			NET PAY	
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount	CD	Amount	CD	Check #
01	04/06/2021	04/07/2021	8.00					287.84	35.12 VAC	322.96	8.16	20.03	1.65	229.34	W	17.68	ASS	
000104		35.9800									5.69	4.69	0.60	35.12	VAC			000000140085
02	04/13/2021	04/14/2021	32.00					1151.36	140.48 VAC	1291.84	149.35	80.09	6.60	70.72	ASS	140.48	VAC	763.47
000104		35.9800									61.80	18.73	0.60					
03	04/13/2021	04/14/2021	31.00					1115.38	136.09 VAC	1251.47	140.47	77.59	6.39	744.29	W	68.51	ASS	
000104		35.9800									59.39	18.14	0.60	136.09	VAC			000000150087
04	04/20/2021	04/21/2021	32.00					1151.36	140.48 VAC	1291.84	149.35	80.10	6.60	763.45	W	70.72	ASS	
000104		35.9800									61.80	18.74	0.60	140.48	VAC			000000160085
05	04/27/2021	04/28/2021	32.00					1151.36	140.48 VAC	1291.84	149.35	80.09	6.60	763.47	W	70.72	ASS	
000104		35.9800									61.80	18.73	0.60	140.48	VAC			000000170087
06	05/04/2021	05/05/2021	32.00					1151.36	140.48 VAC	1291.84	149.35	80.10	6.60	763.46	W	70.72	ASS	
000104		35.9800									61.80	18.73	0.60	140.48	VAC			000000180092
07	05/11/2021	05/12/2021	24.00					863.52	105.36 VAC	968.88	83.48	60.07	4.95	604.81	W	53.04	ASS	
000104		35.9800									42.52	14.05	0.60	105.36	VAC			000000190092
08	05/18/2021	05/19/2021	32.00					1151.36	140.48 VAC	1291.84	149.35	80.09	6.60	763.47	W	70.72	ASS	
000104		35.9800									61.80	18.73	0.60	140.48	VAC			000000200096
09	05/25/2021	05/26/2021	40.00		8.00 O			1439.20	431.76 O	2099.28	330.92	130.16	10.73	1141.21	W	114.96	ASS	
000104		53.9700									111.94	30.44	0.60	228.32	VAC			000000210096
10	06/01/2021	06/02/2021	24.00					863.52	105.36 VAC	968.88	83.48	60.07	4.95	604.81	W	53.04	ASS	
000104		35.9800									42.52	14.05	0.60	105.36	VAC			000000220096
11	06/08/2021	06/09/2021	34.00		8.00 O			1223.32	431.76 O	1857.06	273.70	115.13	9.49	1031.54	W	101.70	ASS	
000104		35.9800									95.99	26.93	0.60	201.98	VAC			000000230097
12	06/15/2021	06/16/2021	32.00					1151.36	140.48 VAC	1291.84	149.35	80.10	6.60	763.46	W	70.72	ASS	
000104		35.9800									61.80	18.73	0.60	140.48	VAC			000000240102

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC SEC TAX	LOCAL	FLI	TOT VOL DED
QTR										STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY
YTD														

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS			STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS									

CONTINUED ON NEXT PAGE

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	JV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
					EAST ORANGE	NJ 07018			

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/SDI	MLI					
13	06/22/2021	06/23/2021	32.00			1151.36		140.48 VAC	1291.84	149.35	80.09		6.60	763.47	W	70.72	ASS	
000104		35.9800								61.80	18.73	0.60		140.48	VAC			000000250099
14	06/29/2021	06/30/2021	40.00			1439.20		175.60 VAC	1614.80	220.40	100.12		8.25	916.94	W	88.40	ASS	
000104		35.9800								81.08	23.41	0.60		175.60	VAC			000000260107
15	06/30/2021	06/30/2021																
000104		35.9800																

TOTALS										GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL.	DED.
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY			
425.00	0.00	0.00	16.00	15291.50	0.00	0.00	2834.71	18126.21	2186.06	1123.83	0.00	92.61	12817.28			
								0.00	871.73	262.83	8.40	0.00	763.47			
YTD								29591.29	3405.77	1834.66	0.00	151.19				
								0.00	1391.11	429.07	15.00	0.00				

HOURS/UNITS ANALYSIS		EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS								
REG	O/T	REG	O/T	VAC	REG	O/T	REG	O/T	REG	O/T	ASS	VAC	REG	O/T	VAC	REG	O/T	VAC
16.00	O	863.52	O	1971.19	VAC	871.73	01NY			9853.72	W	992.37	ASS	1971.19	VAC			

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	KV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
EAST ORANGE						NJ 07018			

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY								
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount	CD	Amount	CD	Check #						
01	07/06/2021	07/07/2021	16.00					575.68	70.24	VAC				645.92	44.72	40.05		3.30	419.04	W	35.36	ASS		
000104		35.9800													23.24	9.37	0.60		70.24	VAC			000000270106	
02	07/13/2021	07/14/2021	38.00					1367.24	166.82	VAC				1534.06	202.64	95.11		7.84	878.57	W	83.98	ASS		
000104		35.9800													76.26	22.24	0.60		166.82	VAC			000000280105	
03	07/20/2021	07/21/2021	38.00					1367.24	166.82	VAC				1534.06	202.64	95.11		7.84	878.56	W	83.98	ASS		
000104		35.9800													76.26	22.25	0.60		166.82	VAC			000000290104	
04	07/27/2021	07/28/2021	39.00	8.00	O			1403.22	431.76	O				2058.91	321.23	127.65		10.52	1123.42	W	112.75	ASS		
000104		35.9800													108.96	29.85	0.60		223.93	VAC			000000300103	
05	08/03/2021	08/04/2021	40.00					1644.40	200.00	VAC				1844.40	270.91	114.36		9.42	1027.57	W	99.60	ASS		
000104		41.1100													95.19	26.75	0.60		200.00	VAC			000000310109	
06	08/10/2021	08/11/2021	40.00					1644.40	200.00	VAC				1844.40	270.91	114.35		9.42	1027.59	W	99.60	ASS		
000104		41.1100													95.19	26.74	0.60		200.00	VAC			000000320115	
07	08/17/2021	08/18/2021	38.00					1562.18	190.00	VAC				1752.18	250.62	108.63		8.95	984.00	W	94.62	ASS		
000104		41.1100													89.35	25.41	0.60		190.00	VAC			000000330109	
08	08/24/2021	08/25/2021	24.00					986.64	120.00	VAC				1106.64	108.61	68.62		5.65	676.62	W	59.76	ASS		
000104		41.1100													50.74	16.04	0.60		120.00	VAC			000000340114	
09	08/24/2021	08/25/2021		8.00	SIC			328.88	328.88	SIC				328.88	8.75	20.39		1.68	287.37	W				
000104		41.1100													5.92	4.77								000000340115
10	08/31/2021	09/01/2021	34.00					1397.74	170.00	VAC				1567.74	210.05	97.20		8.01	896.22	W	84.66	ASS		
000104		41.1100													78.27	22.73	0.60		170.00	VAC			000000350110	
11	09/07/2021	09/08/2021	16.00					657.76	80.00	VAC				737.76	55.74	45.74		3.77	472.65	W	39.84	ASS		
000104		41.1100													28.72	10.70	0.60		80.00	VAC			000000360111	
12	09/14/2021	09/15/2021	22.50					924.98	112.50	VAC				1037.48	93.39	64.32		5.30	643.68	W	56.03	ASS		
000104		41.1100													46.62	15.04	0.60		112.50	VAC			000000370108	
13	09/14/2021	09/15/2021		8.00	SIC			328.88	328.88	SIC				328.88	8.75	20.39		1.68	287.37	W				
000104		41.1100													5.92	4.77								000000370109

TOTALS	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
										STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY
QTR														
YTD														

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS					
CONTINUED ON NEXT PAGE																	

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	KV	FRASER,JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3	144 SOUTH HARRISON STREET						
02/12/2015	02/24/1996		APT 508						
					EAST ORANGE	NJ 07018			

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/SDI	MLI					
14	09/21/2021	09/22/2021	40.00					1644.40		270.91	114.35		9.42	1027.58	W	99.60	ASS	
000104		41.1100							1844.40	95.19	26.75	0.60		200.00	VAC			000000380104
15	09/28/2021	09/29/2021	24.00					986.64		108.61	68.62		5.65	676.62	W	59.76	ASS	
000104		41.1100							1106.64	50.74	16.04	0.60		120.00	VAC			000000390117
16	09/30/2021	09/30/2021																
000104		41.1100																

TOTALS										GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY		
QTR	409.50	0.00	0.00	24.00	16162.52	0.00	0.00	3109.83	19272.35	2428.48	1194.89	0.00	98.45	14336.71	
YTD									0.00	926.57	279.45	7.80	0.00	0.00	
									48863.64	5834.25	3029.55	0.00	249.64		
									0.00	2317.68	708.52	22.80	0.00		

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS					
REG	O/T	HOURS	SIC	REG	O/T	EARNINGS	SIC	TAX	CD	TAX	CD	TAX	CD	TAX	CD	TAX	CD
8.00	O	16.00		431.76	O	657.76		926.57	01NY			11306.86	W	1009.54	ASS	2020.31	VAC
				2020.31	VAC												

EER

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	KV	FRASER,JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3							
02/12/2015	02/24/1996		1301 WALL STREET WEST APT 2310 LYNDHURST NJ 07071						

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS				NET PAY			
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal State	SS MED	Local SUI/SDI	FLI MLI	Amount	CD	Amount	CD	Check #			
01	10/05/2021	10/06/2021	45.00					1849.95	225.00	VAC		2074.95	325.08	128.64		10.60	1132.75	W	112.05	ASS	
000104		41.1100											110.14	30.09	0.60			225.00	VAC		000000400102
02	10/12/2021	10/13/2021	32.00					1315.52	160.00	VAC		1475.52	189.76	91.48		7.53	852.31	W	79.68	ASS	
000104		41.1100											72.77	21.39	0.60			160.00	VAC		000000410102
03	10/12/2021	10/13/2021			8.00	SIC		328.88	328.88	SIC		328.88	8.75	20.40		1.68	287.36	W			
000104		41.1100											5.92	4.77							000000410103
04	10/19/2021	10/20/2021	40.00					1644.40	200.00	VAC		1844.40	270.91	114.35		9.42	1027.58	W	99.60	ASS	
000104		41.1100											95.19	26.75	0.60			200.00	VAC		000000420109
05	10/26/2021	10/27/2021	19.50					801.65	97.50	VAC		899.15	75.11	55.75		4.59	565.65	W	48.56	ASS	
000104		41.1100											38.36	13.03	0.60			97.50	VAC		000000430106
06	11/02/2021	11/03/2021	46.50					1939.05	251.10	VAC		2190.15	352.73	135.78		11.20	1171.62	W	116.72	ASS	
000104		41.7000											118.64	31.76	0.60			251.10	VAC		000000440105
07	11/09/2021	11/10/2021	40.00					1668.00	216.00	VAC		1884.00	279.62	116.81		9.63	1035.92	W	100.40	ASS	
000104		41.7000											97.70	27.32	0.60			216.00	VAC		000000450114
08	11/16/2021	11/17/2021	24.00					1000.80	129.60	VAC		1130.40	113.83	70.09		5.78	681.71	W	60.24	ASS	
000104		41.7000											52.16	16.39	0.60			129.60	VAC		000000460110
09	11/23/2021	11/24/2021	40.00					1668.00	216.00	VAC		1884.00	279.62	116.81		9.63	1035.92	W	100.40	ASS	
000104		41.7000											97.70	27.32	0.60			216.00	VAC		000000470113
10	11/30/2021	12/01/2021	24.00					1000.80	129.60	VAC		1130.40	113.83	70.08		5.78	681.72	W	60.24	ASS	
000104		41.7000											52.16	16.39	0.60			129.60	VAC		000000480102
11	12/07/2021	12/08/2021	40.00					1668.00	216.00	VAC		1884.00	279.62	116.81		9.63	1035.92	W	100.40	ASS	
000104		41.7000											97.70	27.32	0.60			216.00	VAC		000000490101
12	12/14/2021	12/15/2021	40.00					1668.00	216.00	VAC		1884.00	279.62	116.81		9.63	1035.92	W	100.40	ASS	
000104		41.7000											97.70	27.32	0.60			216.00	VAC		000000500101
13	12/21/2021	12/22/2021	40.00					1668.00	216.00	VAC		1884.00	279.62	116.80		9.63	1035.94	W	100.40	ASS	
000104		41.7000											97.70	27.31	0.60			216.00	VAC		000000510199

EER

TOTALS														
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC SEC TAX	LOCAL	FLI	TOT VOL	DED
									STATE TAX	MEDICARE TAX	SUI/SDI	MLI		NET PAY
QTR														
YTD														

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS						
CONTINUED ON NEXT PAGE																		

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	KV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3						
02/12/2015	02/24/1996		1301 WALL STREET WEST APT 2310 LYNDHURST NJ 07071					

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/SDI	MLI					
14	12/21/2021	12/22/2021						500.00 B	500.00	27.21	31.00		2.56	417.38	W			
000104		41.7000								14.60	7.25							000000510200
15	12/28/2021	12/29/2021	32.00					1334.40	172.80 VAC	196.73	93.45		7.71	859.07	W	80.32	ASS	
000104		41.7000								74.66	21.86	0.60		172.80	VAC			000000520098

TOTALS													GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5			MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY			
QTR	463.00	0.00	0.00	8.00	19226.57	0.00	500.00	2774.48		22501.05	3072.04	1395.06	0.00	115.00	16461.78			
YTD										0.00	1123.10	326.27	7.80	0.00	0.00			
										71364.69	8906.29	4424.61	0.00	364.64				
										0.00	3440.78	1034.79	30.60	0.00				

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS							
		8.00	SIC	500.00	B	328.88	SIC	1123.10	01NY			12856.77	W	1159.41	ASS	2445.60	VAC		
				2445.60	VAC														

EER

2022 W-2 and EARNINGS SUMMARY



This blue section is your Earnings Summary which provides more detailed information on the generation of your W-2 statement. The reverse side includes instructions and other general information.

Employee Reference Copy W-2 Wage and Tax Statement 2022 OMB No. 1545-0008	
Copy C for employee's records.	
d Control number 095965 LONG/ZBQ	Dept. 000104 Corp. T Employer use only 47
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545 Batch #00570	
e/f Employee's name, address, and ZIP code JAWAUN A FRASER 1301 WALL STREET WEST APT 2310 LYNDHURST NJ 07071	
b Employer's FED ID number 11-2836932	a Employee's SSA number XXX-XX-8284
1 Wages, tips, other comp. 39613.75	2 Federal income tax withheld 5606.82
3 Social security wages 39613.75	4 Social security tax withheld 2456.05
5 Medicare wages and tips 39613.75	6 Medicare tax withheld 574.40
7 Social security tips	8 Allocated tips
9	10 Dependent care benefits
11 Nonqualified plans	12a See instructions for box 12
14 Other 13.80 SDI 202.47 NY PFL	12b
	12c
	12d
	13 Stat emp Ret. plan 3rd party sick pay
15 State NY Employer's state ID no. 11-2836932	16 State wages, tips, etc. 39613.75
17 State income tax 2010.44	18 Local wages, tips, etc. 39613.75
19 Local income tax	20 Locality name NYC RES

1. Your Gross Pay was adjusted as follows to produce your W-2 Statement.

	Wages, Tips, other Compensation Box 1 of W-2	Social Security Wages Box 3 of W-2	Medicare Wages Box 5 of W-2	NY State Wages, Tips, Etc. Box 16 of W-2	NYC RES Local Wages, Tips, Etc. Box 18 of W-2
Gross Pay	39,613.75	39,613.75	39,613.75	39,613.75	39,613.75
Reported W-2 Wages	39,613.75	39,613.75	39,613.75	39,613.75	39,613.75

2. Employee Name and Address.

JAWAUN A FRASER
1301 WALL STREET WEST
APT 2310
LYNDHURST NJ 07071

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1 Wages, tips, other comp. 39613.75	2 Federal income tax withheld 5606.82
3 Social security wages 39613.75	4 Social security tax withheld 2456.05
5 Medicare wages and tips 39613.75	6 Medicare tax withheld 574.40
d Control number 095965 LONG/ZBQ	Dept. 000104 Corp. T Employer use only 47
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b Employer's FED ID number 11-2836932	a Employee's SSA number XXX-XX-8284
7 Social security tips	8 Allocated tips
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15 State NY Employer's state ID no. 11-2836932	16 State wages, tips, etc. 39613.75
17 State income tax 2010.44	18 Local wages, tips, etc. 39613.75
19 Local income tax	20 Locality name NYC RES

Federal Filing Copy
W-2 Wage and Tax Statement
2022
OMB No. 1545-0008
Copy B to be filed with employee's Federal Income Tax Return.

1 Wages, tips, other comp. 39613.75	2 Federal income tax withheld 5606.82
3 Social security wages 39613.75	4 Social security tax withheld 2456.05
5 Medicare wages and tips 39613.75	6 Medicare tax withheld 574.40
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	12c
	12d
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e/f Employee's name, address and ZIP code JAWAUN A FRASER 1301 WALL STREET WEST APT 2310 LYNDHURST NJ 07071	
15 State NY Employer's state ID no. 11-2836932	16 State wages, tips, etc. 39613.75
17 State income tax 2010.44	18 Local wages, tips, etc. 39613.75
19 Local income tax	20 Locality name NYC RES

NY State Filing Copy
W-2 Wage and Tax Statement
2022
OMB No. 1545-0008
Copy 2 to be filed with employee's State Income Tax Return.

1 Wages, tips, other comp. 39613.75	2 Federal income tax withheld 5606.82
3 Social security wages 39613.75	4 Social security tax withheld 2456.05
5 Medicare wages and tips 39613.75	6 Medicare tax withheld 574.40
d Control number 095965 LONG/ZBQ	Dept. 000104 Corp. T Employer use only 47
c Employer's name, address, and ZIP code NICHOLSON & GALLOWAY INC 261 GLEN HEAD ROAD GLEN HEAD NY 11545	
b Employer's FED ID number 11-2836932	a Employee's SSA number XXX-XX-8284
7 Social security tips	8 Allocated tips
9	10 Dependent care benefits
11 Nonqualified plans	12a
14 Other 13.80 SDI 202.47 NY PFL	12b
	12c
	12d
	13 Stat emp Ret. plan 3rd party sick pay
e/f Employee's name, address and ZIP code JAWAUN A FRASER 1301 WALL STREET WEST APT 2310 LYNDHURST NJ 07071	
15 State NY Employer's state ID no. 11-2836932	16 State wages, tips, etc. 39613.75
17 State income tax 2010.44	18 Local wages, tips, etc. 39613.75
19 Local income tax	20 Locality name NYC RES

City or Local Filing Copy
W-2 Wage and Tax Statement
2022
OMB No. 1545-0008
Copy 2 to be filed with employee's City or Local Income Tax Return.

FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL
95965	On File		M	AV	FRASER, JAWAUN A	NY	19	0022
Date 1	Date 2	Date 3	1301 WALL STREET WEST					
02/12/2015	02/24/1996		APT 2310					
LYNDHURST						NJ 07071		

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS		NET PAY		
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept	Rate	Rate								State	MED	SUI/SDI	MLI					
01	04/05/2022	04/06/2022	40.00		6.00 O			2084.00		519.18	178.79		14.74	1477.97	W	330.78	V	
000104	78.1500								2883.68	170.79	41.81	0.60		145.56	ASS	0.98	BLD	000000140076
								276.78						2.48	PAC			
02	04/12/2022	04/13/2022	18.00					937.80		98.19	65.68		5.41	650.54	W	121.50	V	
000104	52.1000								1059.30	47.30	15.36	0.60		53.46	ASS	0.36	BLD	000000150081
														0.90	PAC			
03	04/19/2022	04/20/2022	24.00					1250.40		175.87	87.57		7.22	817.75	W	162.00	V	
000104	52.1000								1412.40	67.95	20.48	0.60		71.28	ASS	0.48	BLD	000000160078
														1.20	PAC			
04	04/26/2022	04/27/2022	40.00					2084.00		392.06	145.94		12.03	1248.27	W	270.00	V	
000104	52.1000								2354.00	129.37	34.13	0.60		118.80	ASS	0.80	BLD	000000170073
														2.00	PAC			
05	05/03/2022	05/04/2022	24.00					1250.40		175.87	87.57		7.22	817.75	W	162.00	V	
000104	52.1000								1412.40	67.95	20.48	0.60		71.28	ASS	0.48	BLD	000000180078
														1.20	PAC			
06	05/10/2022	05/11/2022	24.00					1250.40		175.87	87.57		7.22	817.75	W	162.00	V	
000104	52.1000								1412.40	67.95	20.48	0.60		71.28	ASS	0.48	BLD	000000190075
														1.20	PAC			
07	05/17/2022	05/18/2022	40.00					2084.00		392.06	145.95		12.03	1248.25	W	270.00	V	
000104	52.1000								2354.00	129.37	34.14	0.60		118.80	ASS	0.80	BLD	000000200086
														2.00	PAC			
08	05/24/2022	05/25/2022	32.00					1667.20		279.45	116.76		9.62	1040.11	W	216.00	V	
000104	52.1000								1883.20	96.08	27.30	0.60		95.04	ASS	0.64	BLD	000000210086
														1.60	PAC			
09	05/24/2022	05/25/2022			8.00 SIC			416.80 SIC		17.55	25.84		2.13	355.34	W			
000104	52.1000								416.80	9.89	6.05							000000210087

EER

TOTALS																
QTR	REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL.	DED.	
										STATE TAX	MEDICARE TAX	SUI/SDI	MLI		NET PAY	
YTD																

HOURS/UNITS ANALYSIS				EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS						
CONTINUED ON NEXT PAGE																		

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FILE	SSN	DATA CONTROL	SEX	CLOCK	EMPLOYEE NAME AND ADDRESS	STATE	SUI/SDI	LOCAL	
95965	On File		M	AV	FRASER, JAWAUN A	NY	19	0022	
Date 1	Date 2	Date 3							
02/12/2015	02/24/1996		1301 WALL STREET WEST APT 2310 LYNDHURST NJ 07071						

PAY DETAILS			HOURS/UNITS			EARNINGS			GROSS	STATUTORY DEDUCTIONS				VOLUNTARY DEDUCTIONS				NET PAY
Pay #	P/E Date	Pay Date	Reg	O/T	Hours 3 & 4	Reg	O/T	Earnings 3,4,&5	Med Surtax	Federal	SS	Local	FLI	Amount	CD	Amount	CD	Check #
Dept		Rate								State	MED	SUI/SDI	MLI					
10	05/31/2022	06/01/2022	31.00					1615.10		266.50	113.11		9.32	1012.48	W	209.25	V	
000104		52.1000								92.40	26.45	0.60		92.07	ASS	0.62	BLD	000000220088
11	06/07/2022	06/08/2022	36.00					1875.60		335.56	131.35		10.83	243.00	V	106.92	ASS	
000104		52.1000								111.62	30.72	0.60		0.72	BLD	1.80	PAC	1145.48

TOTALS										GROSS PAY	FEDERAL TAX	SOC. SEC. TAX	LOCAL	FLI	TOT. VOL. DED.
REG HOURS 1	O/T HOUR 2	HOURS 3	HOURS 4	REG EARNINGS 1	O/T EARN 2	EARNINGS 3	EARNINGS 4&5	MEDICARE SURTAX	STATE TAX	MEDICARE TAX	SUI/SDI	MLI	NET PAY		
QTR	309.00	0.00	0.00	14.00	16098.90	0.00	243.00	2789.23	19131.13	2828.16	1186.13	0.00	97.77	12599.52	
YTD									0.00	990.67	277.40	6.00	0.00	1145.48	
									39613.75	5606.82	2456.05	0.00	202.47		
									0.00	2010.44	574.40	13.80	0.00		

HOURS/UNITS ANALYSIS			EARNINGS ANALYSIS				STATE ANALYSIS		LOCAL ANALYSIS		VOLUNTARY DEDUCTIONS ANALYSIS						
REG	O	SIC	REG	O	SIC	REG	O	REG	O	REG	O	ASS	BLD	PAC			
6.00	O		468.90	O		2146.53	V	990.67	01NY			944.49	ASS	6.36	BLD	15.93	PAC
8.00	SIC		416.80	SIC						2146.53	V	9486.21	W				

EER

From: **Local 28 Apprenticeship** <lrambo@local28edfund.org>
Date: Fri, Feb 4, 2022 at 11:01 AM
Subject: Student has been upgraded
To: <jfraser0103@gmail.com>



On 2/2/2022, Apprentice Jawaun Fraser was upgraded to JourneyPerson - \$58.85 (100.00%)

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SUPREME COURT OF THE STATE OF NEW YORK

PART 41

DATE 11/23

JUSTICE R. ZWEIBEL

TIME 1:57 pm

We the jury request What is the standard for Robbery
in the second degree ~~is~~ in terms of the assistance
of the other people.

Michelle Toledo

JURY FOREPERSON

COURT EXHIBIT NO.

15

SUPREME COURT OF THE STATE OF NEW YORK

PART 41

JUSTICE R. ZWEIBEL

DATE 11/23/15

TIME 2:25 pm.

We the jury request Can we get a definition of robbery
in the 3d degree. ^{including but not limited to} ~~Specifically~~ the definition
of a forcible taking.

Michelle J. Tol
JURY FOREPERSON

COURT EXHIBIT NO.	<u>11</u>
-------------------	-----------

SUPREME COURT OF THE STATE OF NEW YORK

PART 41

DATE 11/23

JUSTICE R. ZWEIBEL

TIME 2:27 p.m.

We the jury request Can we please get a read back
of UC 84's testimony regarding when the id. left
his control and went to the defendant's control
and his entire testimony from when Diane
left and the ~~de~~ cops came running.

~~to~~ under direct, cross and recross examination.

Michelle J. Toll
JURY FOREPERSON

COURT EXHIBIT NO. III

SUPREME COURT OF THE STATE OF NEW YORK

PART 41

JUSTICE R. ZWEIBEL

DATE 1/23/15

TIME 4:23 PM

direct

of the events of the night

We the jury request Can we hear UC 84's testimony
beginning when the defendant first approaches
UC 84 until ~~the~~ the point where UC 84
gave the id. to the defendant

Mi chelle J. Tolp
JURY FOREPERSON

COURT EXHIBIT NO. 2

SUPREME COURT OF THE STATE OF NEW YORK

PART 41
JUSTICE Zweibel

DATE 11/24/15
TIME 2:10 pm

We the jury request We have reached a verdict.

Michelle A. Top

JURY FOREPERSON

COURT EXHIBIT NO. VII



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

KEVIN WRIGHT,

Plaintiff,

-against-

THE CITY OF NEW YORK, UNDERCOVER OFFICER #84, Individually and in his Official Capacity and NEW YORK CITY POLICE OFFICERS "JOHN DOE" 1-2, the true names being currently unknown, Individually and in their Official Capacities,

Defendants.

----- x

**ANSWER ON BEHALF OF
DEFENDANTS CITY OF
NEW YORK AND
UNDERCOVER OFFICER
#84**

1:15-CV-04498-VSB

JURY TRIAL DEMANDED

Defendants City of New York ("City") and Undercover Officer #84 ("UC84") by their attorney, Zachary W. Carter, Corporation Counsel of the City of New York, for their Answer to the Complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "1" of the Complaint, except admit that plaintiff purports to bring this action and seeks relief as stated therein.

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “6” of the Complaint.

7. In response to the allegations set forth in paragraph “7” of the Complaint, admit only that the City of New York is a municipal corporation existing under the laws of the State of New York.

8. In response to the allegations set forth in paragraph “8” of the Complaint, admit only that the City of New York is a municipal corporation existing under the laws of the State of New York and maintains a Police Department and respectfully refer the Court to the New York City Charter and Administrative Code for a recitation of the relationship between the City of New York and the New York City Police Department.

9. In response to the allegations set forth in paragraph “9” of the Complaint, admit only that, on or about November 12, 2014, defendant UC84 was employed by the New York City Police Department.

10. Paragraph “10” of the Complaint sets forth conclusions of law to which no response is required.

11. Paragraph “11” of the Complaint sets forth conclusions of law to which no response is required.

12. Paragraph “12” of the Complaint sets forth conclusions of law to which no response is required.

13. In response to the allegations set forth in paragraph “13” of the Complaint, admit only that, on or about November 12, 2014 at approximately 4:30 p.m., plaintiff was in the vicinity of 83 Avenue D in New York, New York.

14. In response to the allegations set forth in paragraph “14” of the Complaint, admit only that, on or about November 12, 2014, defendant UC84 approached the plaintiff and Robert Joiner.

15. In response to the allegations set forth in paragraph “15” of the Complaint, admit only that defendant UC84 told the plaintiff that he wanted heroin and that plaintiff stated that he could get heroin for defendant UC84 at a later time.

16. Deny the allegations set forth in paragraph “16” of the Complaint.

17. In response to the allegations set forth in paragraph “17” of the Complaint, admit only that Robert Joined retrieved crack cocaine and handed it to defendant UC84 while plaintiff looked back and forth as a lookout.

18. In response to the allegations set forth in paragraph “18” of the Complaint, admit only that plaintiff was lawfully arrested.

19. Deny the allegations set forth in paragraph “19” of the Complaint.

20. Deny the allegations set forth in paragraph “20” of the Complaint.

21. Deny the allegations set forth in paragraph “21” of the Complaint.

22. Deny the allegations set forth in paragraph “22” of the Complaint.

23. In response to the allegations set forth in paragraph “23” of the Complaint, admit only that plaintiff was lawfully arrested and charged with criminal sale of a controlled substance.

24. In response to the allegations set forth in paragraph “24” of the Complaint, admit only that plaintiff was transported to a New York City Police Department precinct.

25. Deny the allegations set forth in paragraph “25” of the Complaint.

26. Deny the allegations set forth in paragraph “26” of the Complaint.

27. Deny the allegations set forth in paragraph “27” of the Complaint.

28. Deny the allegations set forth in paragraph “28” of the Complaint.

29. Deny the allegations set forth in paragraph “29” of the Complaint; to the extent that the Complaint sets forth conclusions of law, no response is required.

30. Deny the allegations set forth in paragraph “30” of the Complaint.

31. Deny the allegations set forth in paragraph “31” of the Complaint; to the extent that the Complaint sets forth conclusions of law, no response is required.

32. Deny the allegations set forth in paragraph “32” of the Complaint.

33. Deny the allegations set forth in paragraph “33” of the Complaint; to the extent that the Complaint sets forth conclusions of law, no response is required.

34. In response to the allegations set forth in paragraph “34” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “33” inclusive of their Answer as if fully set forth herein.

35. Deny the allegations set forth in paragraph “35” of the Complaint.

36. Deny the allegations set forth in paragraph “36” of the Complaint.

37. In response to the allegations set forth in paragraph “37” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “36” inclusive of their Answer as if fully set forth herein.

38. Deny the allegations set forth in paragraph “38” of the Complaint.

39. Deny the allegations set forth in paragraph “39” of the Complaint.

40. Deny the allegations set forth in paragraph “40” of the Complaint.

41. Deny the allegations set forth in paragraph “41” of the Complaint.

42. Deny the allegations set forth in paragraph “42” of the Complaint.

- 43. Deny the allegations set forth in paragraph “43” of the Complaint.
- 44. Deny the allegations set forth in paragraph “44” of the Complaint.
- 45. Deny the allegations set forth in paragraph “45” of the Complaint.
- 46. Deny the allegations set forth in paragraph “46” of the Complaint.
- 47. Deny the allegations set forth in paragraph “47” of the Complaint.
- 48. Deny the allegations set forth in paragraph “48” of the Complaint.

49. [REDACTED]

[REDACTED]

[REDACTED]

50. [REDACTED]

51. [REDACTED]

[REDACTED]

52. [REDACTED]

53. [REDACTED]

[REDACTED]

54. [REDACTED]

[REDACTED]

55. [REDACTED]

56. [REDACTED]

57. [REDACTED]

58. [REDACTED]

59. [REDACTED]

60. [REDACTED]

61. [REDACTED]

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

62. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

63. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of others and was not the proximate result of any act of defendant City or UC84.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

64. There was reasonable suspicion, probable cause, and/or exigent circumstances for any alleged stop or search.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

65. There was probable cause for plaintiff's arrest, detention, and prosecution.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

66. Defendants City and UC84 have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, or any act of Congress providing the protection of civil rights.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

67. Defendant UC84 has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, is protected by qualified immunity.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

68. This action may be barred, in whole or in part, by the applicable statute of limitations period.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

69. Plaintiff failed to mitigate his damages, if any.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

70. Plaintiff's claims may be barred, in whole or in part, because plaintiff has failed to comply with all conditions precedent to suit.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

71. Punitive damages cannot be awarded against the City of New York.

WHEREFORE, defendants request judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 31, 2015

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By: /s/ Kavin Thadani
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Special Federal Litigation Division

BY ECF
Matthew Shroyer, Esq.
Attorney for Plaintiff

Index No. 1:15-CV-04498-VSB

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN WRIGHT,

Plaintiff,

-against-

THE CITY OF NEW YORK, UNDERCOVER
OFFICER #84, Individually and in his Official
Capacity and NEW YORK CITY POLICE
OFFICERS "JOHN DOE" 1-2, the true names
being currently unknown, Individually and in their
Official Capacities,

Defendants.

**ANSWER TO THE COMPLAINT ON
BEHALF OF DEFENDANTS CITY OF NEW
YORK AND UNDERCOVER OFFICER #84**

ZACHARY W. CARTER
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New York
Attorney for Defendants City of New
York and Undercover Officer #84
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New York, New York 10007*

*Of Counsel: Kavin Thadani
Tel: (212) 356-2351*

Due and timely service is hereby admitted.

New York, N.Y., 2015

..... Esq.

Attorney for