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ATTORNEY GENERAL

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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

June 2, 2017

VIA ELECTRONIC MAIL

VTDigger.org

Attn: Morgan True
mtrue@vtdigger.org

Re: May 30, 2017 Public Records Request.

Dear Mr. True:

The Attorney General's Office ("AGO") has reviewed your May 30, 2017 public records request, in which you ask for two sets of records. First, all written and electronic communications regarding Christopher Lopez from February 2017 to the present and between AGO employees and either Lisa Shelkrot or employees of Langrock, Sperry, & Wool, LLP. Second, all written or electronic communications regarding Christopher Lopez from February 2017 to the present and amongst AGO employees.

The AGO has identified several email strings that fall within the scope of your request. I have enclosed redacted copies of two of those email strings with this letter. For the following reasons, the redacted information and the remaining email strings are exempt from inspection under Vermont's Public Records Law, 1 V.S.A. §§ 315-320.

The AGO is presently investigating allegations that Mr. Lopez willfully made false statements in an October 25, 2016 Affidavit of Probable Cause filed with the Vermont Superior Court, Chittenden Criminal Division. Because this investigation is ongoing and may result in criminal charges, the Vermont Rules of Professional Conduct limit the information the AGO may provide. *See* Rules of Professional Conduct 3.6 and 3.8. When appropriate, the AGO may release the following information:

1. The offense under investigation.
2. The identity, residence, age, and occupation of the person being investigated.
3. Information contained in a public record.
4. A statement that the offense is currently under investigation.
5. The scheduling or result of any step in litigation.

6. A request for assistance in obtaining evidence or information about the investigation.
7. Warnings regarding danger to the public or any individual.
8. Information necessary to apprehend the accused.
9. The fact, time and place of arrest.
10. The identity of investigating officers and the length of the investigation.

These restrictions exist to ensure the integrity of the investigation, preserve a defendant's right to a fair trial, and minimize the likelihood of heightened public condemnation of the accused. Records, the disclosure of which would cause the AGO to violate its ethical obligations under these rules, are exempt from public inspection. 1 V.S.A. § 317(c)(3). Many of the email strings that fall within your request pertain to the scope, progress, and nature of the AGO's investigation, the existence (if any) of negotiations with Mr. Lopez's attorney, and the responses or lack of responses Mr. Lopez has made to the allegations. The disclosure of these records would constitute statements beyond those permissible under Rules 3.6 and 3.8. Consequently, they are exempt from public inspection.

These emails also pertain to the AGO's internal communications about: how to conduct its investigation; whether to file any criminal charges; whether, when, and how to communicate with Mr. Lopez's attorney; and how to respond to public records requests concerning its investigation. These emails constitute attorney work product and attorney client communications and are exempt from public inspection under 1 V.S.A. § 317(c)(4).

Finally, the emails that contain substantive information about the allegations against Mr. Lopez and his responses, if any, to those allegations and which are not already in the public record are exempt from public disclosure under 1 V.S.A. § 317(c)(5)(A)(ii). This is because their disclosure may prejudice his right to a fair trial or an impartial adjudication of the allegations should the AGO file criminal charges.

To the extent that this letter constitutes a denial of your request, you may appeal to the Deputy Attorney General. Any appeal should be in writing and addressed to:

Joshua Diamond
Deputy Attorney General
109 State Street
Montpelier, VT 05609-1001

Sincerely,



Evan Meenan
Assistant Attorney General

Enc.

Meenan, Evan

From: Treadwell, John
Sent: Wednesday, February 22, 2017 6:26 PM
To: Donovan, Thomas
Cc: Diamond, Joshua
Subject: RE: Brady Disclosure; Officer Christopher Lopez

[REDACTED]

John

From: Donovan, Thomas
Sent: Wednesday, February 22, 2017 6:24 PM
To: George, Sarah
Cc: Diamond, Joshua; Silver, Natalie; Treadwell, John
Subject: Re: Brady Disclosure; Officer Christopher Lopez

Thanks
Tjd

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On Wed, Feb 22, 2017 at 4:59 PM -0500, "George, Sarah" <Sarah.George@vermont.gov> wrote:

Hey TJ,

Below is my email to the defense bar with attached documents referenced. Wanted to make sure your have everything that the media and defense now has.

Hope you are well!

Best,

Sarah F. George

Begin forwarded message:

From: "George, Sarah" <Sarah.George@vermont.gov>
Date: February 22, 2017 at 15:58:14 EST
To: "Bouffard, Jennifer" <Jennifer.Bouffard@vermont.gov>
Subject: Brady Disclosure; Officer Christopher Lopez

Greetings:

Please note the following potentially exculpatory information regarding the credibility of former Officer Christopher Lopez of the Burlington Police Department:

As indicated in the attached letter from the Chittenden County State's Attorney's Office to Burlington Chief of Police, Brandon del Pozo, the State believes Officer Lopez to have made patently false statements in a sworn affidavit. This office reviewed Officer Lopez' actions in *State v. Michael Mullen*; 3980-10-16 Cncr and determined it would no longer rely on him as a witness in any case. This determination was based on those actions, as well as his misrepresentation to the State's Attorney's Office regarding his failure to appear at a related motion hearing on Monday, February 13, 2017. Officer Lopez told this office that he was unable to attend the hearing due to inclement weather. It was later learned that at the time he made that statement he was at the Burlington Police Department.

On February 22, 2017, the Burlington Police Department (BPD) announced the resignation of Officer Christopher Lopez. As described in the attached press release, the resignation occurred prior to an announcement by BPD that it intended to terminate his employment as a result of the State's determination not to use him as a witness.

Any currently pending case in which Officer Lopez was the arresting officer, which cannot be prosecuted without him as a witness, will be dismissed. This office is not aware of, nor has any reason to suspect, misconduct on the part of Officer Lopez in any other case, closed or open.

If you have any questions, please contact Sarah George or Justin Jiron at (802) 863-2865.

Best,
Sarah F. George
State's Attorney

Sarah F. George
State's Attorney

Justin Jiron
Chief Deputy



32 Cherry Street, Suite 305
Burlington, VT 05401
Phone: (802) 863-2865
Fax: (802) 863-7440

STATE OF VERMONT
OFFICE OF THE CHITTENDEN COUNTY STATE'S ATTORNEY

February 16, 2017

Brandon del Pozo
Chief of Police
Burlington Police Department
1 North Avenue
Burlington Vermont 05401

Re: *Officer Christopher Lopez*

Dear Chief del Pozo,

On October 25, 2016, this office received a sworn and notarized affidavit of Officer Christopher Lopez in the matter of *State v. Michael Mullen* (16BU031483). I believe he made patently false statements in that affidavit.

In this document, Officer Lopez indicated that he "...observed what I know based on my knowledge, training, and experience to be the odor of fresh marijuana emitting from the vehicle." However, our review of Officer Lopez's Axon video indicates that this statement was not true. The pertinent portion of the video shows Officer Lopez attempting to deactivate his camera, while asking Officer Nicholas Rienzi, "you're off right?" Axon video at: 4:51, to which Officer Rienzi responds in the affirmative. Officer Lopez then tells Officer Rienzi that he did not smell marijuana, but states that he "...could if he needs to but I don't like going that way if I can't back it up." Axon video at: 4:57.

The defendant filed a Motion to Suppress which was scheduled for hearing on February 13, 2017. On the morning of the hearing, Officer Lopez advised Chief Deputy Justin Jiron that he could not be present at the proceeding due to the weather. Upon further inquiry by the Chief Deputy, Officer Lopez added that upon viewing the Axon video he had "concerns" about going forward with the hearing. Officer Lopez did not elaborate on what those "concerns" were. It was later learned that Officer Lopez was not stranded due to the weather, but in fact was at the Burlington Police Department when he made the call to Chief Deputy Jiron.

Please be advised that my office will be taking appropriate responsive measures in all cases in which Officer Lopez is currently a witness. We will also be providing notification to Defense bar regarding our concerns about Officer Lopez's credibility so they can consider any impact this decision may have on pending and closed matters in which he served as a witness. Please be further advised that, based on his actions, my office will no longer rely on Officer Lopez as a witness in any criminal cases, both retroactively and going forward. Thank you for your attention to this matter.

Please let me know if you have any questions.

Best,

A handwritten signature in cursive script that reads "Sarah F. George".

Sarah F. George
State's Attorney



POLICE DEPARTMENT
CITY OF BURLINGTON

FOR IMMEDIATE RELEASE

February 22nd, 2017

OFFICER RESIGNS UNDER INVESTIGATION FOR PERJURY

On Monday, February 20th, Police Officer Christopher Lopez resigned from the Burlington Police Department. His resignation was in advance of a disciplinary hearing scheduled for the morning of the 21st where he was to be informed of the department's intent to terminate him. This proposed discipline was the result of a preliminary investigation into an allegation that Lopez had committed perjury. The allegation was relation to statements made in a sworn affidavit about an arrest for narcotics possession in Burlington on October 25th, 2016.

On the morning of Monday, February 13th, a Burlington police lieutenant was contacted by a Deputy State's Attorney with concerns they had about a pending criminal case that was set for a motion hearing earlier that same morning. The lieutenant brought these concerns to the chief of police through department channels, and the department conducted a preliminary investigation. As a result of the investigation, Lopez had his shield and firearm taken from him and was placed on administrative leave that evening.

On February 15th, the chief of police requested that the Vermont State Police and the Chittenden County State's Attorney conduct a criminal investigation into the arrest in question as well as "an investigation into the approximately 32 prior arrests Officer Lopez has made for possession of narcotics and contraband, many of the fact patterns of which are similar."

On February 16th, after also assessing the facts of the case, State's Attorney Sarah George concluded that her office would no longer be able to rely on Lopez as a witness in any criminal cases, "both retroactively and going forward," because she believed he had made "patently false statements" in his October 25th affidavit. With this knowledge, the Burlington Police intended to terminate Lopez's employment without further delay. Regardless of the results of any future criminal or internal investigations, he will no longer be able to perform the duties of a police officer in Chittenden County.

"There is no place for dishonesty within the Burlington Police Department," said Mayor Miro Weinberger. "I welcome Chief del Pozo's prompt action to root out such corrosive officer conduct."



POLICE DEPARTMENT
CITY OF BURLINGTON

“The Burlington Police Department is committed to the highest standards of integrity,” said Chief Brandon del Pozo in his request to the state police and state’s attorney for a criminal investigation. We have no tolerance for an act that, if proven, will erode the public’s trust in the official statements of our police. [This incident]... and others by the subject officer need a thorough, impartial and fair investigation that leads wherever it ought to. We feel our commitment to these ideals and needs is best demonstrated by an investigation conducted by external authorities.”

The Vermont State Police and the Chittenden County State's attorney have begun their investigations. The results of these investigations will be disclosed to the public by the respective agencies at the appropriate time. The Burlington Police are conducting a parallel internal investigation into the non-criminal aspects of the incident. Members of the Burlington Police Commission have been briefed on the incident and are assisting the department in measures to ensure the public is offered a thorough and fair accounting of it that also comports with the due process rights of the people involved.

Christopher Lopez served with the Burlington Police Department since September of 2014. He was hired out of the Baltimore Police Department, where he began service in August of 2012.

Meenan, Evan

From: Treadwell, John
Sent: Wednesday, February 22, 2017 4:18 PM
To: Anderson, Elizabeth; Barkus, Paul; Chaulk, Andrew; Chen, Zachary; Doyle, Ultan; Hanson, Carolyn; Levine, Matthew; Meenan, Evan; Raymond, Matthew; Krauss, Jefferson; Merriam, Virginia; Monde, Steven; Sawyer, Jesse; Turner, Jason
Subject: FW: Brady Disclosure; Officer Christopher Lopez
Attachments: Letter to Chief del Pozo.pdf; BPD Press Release.pdf

[REDACTED]

John

From: George, Sarah
Sent: Wednesday, February 22, 2017 4:15 PM
To: Treadwell, John <john.treadwell@vermont.gov>
Cc: Jiron, Justin <Justin.Jiron@vermont.gov>; Campbell, John <John.Campbell@vermont.gov>
Subject: FW: Brady Disclosure; Officer Christopher Lopez

From: Bouffard, Jennifer
Sent: Wednesday, February 22, 2017 4:13 PM
To: Adams, Sally <sally.adams@state.vt.us>; Allen, Bud <budallenlaw@aol.com>; Almeleh, Naomi <maomi.almeleh@state.vt.us>; Amanda Paulino <apaulino@gravelshea.com>; Blais, Norman <blaislaw@burlingtontelecom.net>; Bouffard, Jennifer <jennifer.bouffard@state.vt.us>; Brown, Harley <harleybrown@madriver.com>; Brown, Jessica <jessica.brown@state.vt.us>; Burke, Jessica <jessicaburkel@gmail.com>; Carter, David <dcarter@usa.net>; Collins, Lucas <lucas.collins@state.vt.us>; Dodge, Bryan <bryan.dodge@state.vt.us>; Donovan, Thomas <thomas.donovan@state.vt.us>; Finlay, John <john.finlay@state.vt.us>; Fitzpatrick, Paul <efitzpatrick@bpflegal.com>; Gilbertson, Andrew <andrew.gilbertson@state.vt.us>; Glennon, Gregory <gglennon@vtlawfirm.com>; Goldsborough, Richard <mg@vtlawfirm.com>; Hughes, Kurt <khughes@mhtpc.com>; Jansch, Margaret <margaret.jansch@state.vt.us>; Jarvis, Paul <pjarvis@jarvismcarthur.com>; Jasdeep Pannu <jpannu@stowesq.com> <jpannu@stowesq.com>; Jerome O'Neill <joneill@gravelshea.com>; Jiron, Justin <justin.jiron@state.vt.us>; Johnson, Stacie <stacie.johnson@state.vt.us>; Kallen, Doug <dkallen@burlington.bpflegal.com>; Kampman, Maryanne <kampmannlaw@aol.com>; Kaplan, Mark <mkaplan@jarvisandkaplan.com>; Kaplan, Robert <rkaplan@kaplanlawvt.com>; Katims, Bob <rkatims@hoffcurtis.com>; Kenney, Ted <tkenney@vermontattys.com>; Kittell, Vanessa <vkittell@kissanelaw.com>; Lee, Sandra <sandra.lee@state.vt.us>; Little, Matt <mlittle@islandlaw.net>; McArthur, Brooks <bmcarthur@jarvismcarthur.com>; Messina, Jeffrey <jmessina@bpflegal.com>; Morrissey, Mary <mary.morrissey@state.vt.us>; Murdoch, James <jmurdoch@mhtpc.com>; Murphy, Brenda <brenda.murphy@state.vt.us>; Norful, William <wnorful@vtlaw.net>; Pacht, John <jpacht@hoffcurtis.com>; Powell, Sarah <sarahmpowell@msn.com>; Reed, Sarah <sarah.reed@state.vt.us>; Robert Hemley <rhemley@gravelshea.com>; Robert O'Neill <roneill@gravelshea.com>; Sawyer, Jason <jason@sawyerlegal.com>; Shingler, Karen <shinglerk@aol.com>; St. Francis, John <johnstfrancis@yahoo.com>; Stetler, Brad <stetlerlaw@aol.com>; Strahm, Kathy <skstrahm@yahoo.com>; Straub, Michael <mjstraub@innevi.com>; Thibault, Debbie <debbie.thibault@state.vt.us>; Twarog, Frank <ftwarog@mhtpc.com>; Volk, Paul <pvolk@bwvlaw.net>; Westropp, Rachael <rachael.westropp@state.vt.us>; Yoder, Leroy <leroy.yoder@state.vt.us>
Cc: George, Sarah <Sarah.George@vermont.gov>
Subject: FW: Brady Disclosure; Officer Christopher Lopez

Dear Attorneys,

Chittenden County State's Attorney, Sarah George, has requested that I forward this to you.

Thank you,

Jennifer J. Bouffard
Administrative Coordinator
Chittenden County State's Attorney's Office
32 Cherry Street, Suite 305
Burlington, VT 05401
Phone: 802-863-2865
Fax: 802-863-7440
Email: Jennifer.Bouffard@vermont.gov

From: George, Sarah
Sent: Wednesday, February 22, 2017 3:58 PM
To: Bouffard, Jennifer <Jennifer.Bouffard@vermont.gov>
Subject: Brady Disclosure; Officer Christopher Lopez

Greetings:

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If you have any questions, please contact Sarah George or Justin Jiron at (802) 863-2865.

Best,
Sarah F. George
State's Attorney

Sarah F. George
State's Attorney

Justin Jiron
Chief Deputy



32 Cherry Street, Suite 305
Burlington, VT 05401
Phone: (802) 863-2865
Fax: (802) 863-7440

STATE OF VERMONT
OFFICE OF THE CHITTENDEN COUNTY STATE'S ATTORNEY

February 16, 2017

Brandon del Pozo
Chief of Police
Burlington Police Department
1 North Avenue
Burlington Vermont 05401

Re: *Officer Christopher Lopez*

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Please let me know if you have any questions.

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Sarah F. George
State's Attorney



POLICE DEPARTMENT
CITY OF BURLINGTON

FOR IMMEDIATE RELEASE

February 22nd, 2017

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POLICE DEPARTMENT
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