



Aug 19<sup>th</sup>  
Received  
By town  
clerk

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August 14, 2020

David VanLuven, Supervisor  
Town Hall, Room 106  
445 Delaware Avenue  
Delmar, New York 12054

Dear Mr. VanLuven:

I hope you and your family are well. I write to address the attention your town and police department have recently received in reference to the personnel files of certain members of the department. While I would normally be contacting the Chief of Police to discuss these matters, it is my understanding that there is currently no Acting Chief. As I'm sure you are aware, on August 7<sup>th</sup>, the Spotlight News ran an article wherein there were several references to the personnel records of Det./Sgt. Cocchiara. Four days later, the Times Union newspaper wrote a similar story.

In preparation for the many changes in the law that occurred as a result of the 2020 Criminal Justice Reforms, our office met with leadership in each police department within Albany County several times before the beginning of this year. The purpose of those meeting was to help the departments develop a strategy for complying with specific changes in the law with respect to allegations of misconduct and other impeachment materials contained within the personnel records of officers. As part of that strategy we asked each department to compile any impeachment materials and in the meantime we created a questionnaire that we have been using to comply with our obligations. The questionnaire asks several pointed questions designed to elicit information with respect to disciplinary issues in the officer's record. The inquiry is required pursuant to CPL§245.20(1)(k) and is a prerequisite to any case moving forward. Failure to comply with this requirement can result in the dismissal of criminal charges.

On February 13, 2020, Det./Sgt. Cocchiara was asked if she had ever been the subject of an internal affairs, administrative, personnel, or civilian complaint implicating her honesty or integrity. In response, she indicated that she had been the subject of personnel complaints, but that they did not implicate her honesty and integrity. The Assistant District Attorney handling several prosecutions that included Det./Sgt. Cocchiara requested clarification and was subsequently provided with an indication by the Det./Sgt. that she had nothing to report.

David VanLuven, Supervisor  
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Due to recent changes in Civil Rights Law §50-a, records previously unavailable to the public are now available. According to the Spotlight News and the Times Union, they obtained voluminous disciplinary records pertaining to Det./Sgt. Cocchiara from the Bethlehem Police Department as part of a FOIL request. This presents a serious problem for our office in that we have relied on previous representations regarding personnel records when certifying discovery compliance with the court. While I understand that some matters may be subject to interpretation, and I certainly am not in a position to pass judgment on the specific facts of any disciplinary proceeding, we have made it clear with each department from the beginning, that we must be erring on the side of caution and being as forthright as possible with respect to any materials that could arguably be impeaching in nature. A failure to comply puts several criminal prosecutions at risk. My office has now been put in the untenable position of having to explain to the court why we reported no impeaching information with respect to Det./Sgt. Cocchiara, yet two local newspapers were able to obtain records describing several disciplinary incidents that resulted in suspensions and other punishments. I am now requesting a copy of the entire personnel file of Det./Sgt. Cocchiara to be sure that we are complying with our statutory obligations.

As I previously stated, these matters are usually handled by the Police Chief or the highest ranked officer in the department, but that does not appear to be an option here. In addition to clarification on Det./Sgt. Cocchiara's file, it is vital that a process be developed as soon as possible to ensure that the impeachment materials of any officers in the police department are provided to my office in a timely manner. If there is another appropriate person within the police department who you feel this should be directed to, please advise.

As I'm sure you know, transparency is vital to maintaining a trusting relationship between law enforcement and the people we serve. Please don't hesitate to reach out to me directly so that my office may assist in any way.

Very truly yours,

A handwritten signature in black ink, appearing to read "P. David Soares", written over a horizontal line.

**P. DAVID SOARES**  
**DISTRICT ATTORNEY**