



**NEW HAVEN
DEPARTMENT OF POLICE SERVICE
Internal Affairs**
One Union Avenue • New Haven • Connecticut • 06519



To: Sergeant C. Fennessy
From: Sergeant Ryan Macuirzynski
Date Received: February 3rd, 2021
Date Submitted: September 10th, 2021
RE: Internal Affairs Case: 21I-010

Complainant: Chief O. Reyes
Date of Incident: January 29th, 2021
Allegations: Excessive Use of Force and Rules of Conduct Violations
Case Number: 21-003481
Subject Officer(s): Officers Justin Cole, Ashley McKernan and David DeRubeis

Summary:

On January 29th, 2021, Mr. Shawn Marshall was arrested by the New Haven Police Department. His arrest was documented under NHPD Case Number 21-003481. The incident occurred at 157 Church Street, New Haven, Connecticut. During Marshall's arrest, force was used by those Officers to gain custody/control of Marshall.

Following this incident, a video recording of Marshall's arrest surfaced on social media. Allegations of excessive use of force were made to NHPD Chief O. Reyes, who subsequently ordered the Office of Internal Affairs to investigate this incident.

Therefore, on February 3rd, 2021, this investigation was assigned to Detective Ryan Macuirzynski under the supervision of Sergeant V. Rawlinson. Those Investigators determined that the Officers involved in the incident were identified as Justin Cole, Ashley McKernan and David DeRubeis. Said Officers were notified of the active Internal Affairs investigation and notification letters were sent to them within five days of the complaint, therefore fulfilling contractual obligations.

Involved Parties:

Officers

- *Officer Justin Cole, Officer Ashley McKernan, Officer Jason Jackson, Officer David DeRubeis, Officer Monique Moore, Officer Eric Aviles, and Sergeant Martin Feliciano.*

Arrestee

- Shawn Marshall ([REDACTED]
Connecticut 06511. [REDACTED]

Witnesses / Other

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Location

- 157 Church Street, 19th Floor and Lobby area, New Haven, Connecticut

Incident Report:

21-003309

This incident occurred on January 28th, 2021, the day prior to the January 29th, 2021 arrest of Shawn Marshall. The report was authored by Officer Monique Moore, who was assisted in this investigation by Officer Eric Aviles.

Officer Cole referenced this incident in his arrest report of Shawn Marshall. The following is a summary of that report. For further details please refer to Officer Moore's incident report under the above case number.

On January 28th, 2021, at approximately 1549 hours, Officers Moore and Aviles responded to a trespass complaint at 157 Church Street. Upon their arrival, they met with the Security Operations Manager [REDACTED] reported that the Sales Manager of "Regis", identified as [REDACTED], wanted to evict a "former tenant". This "former tenant" was identified as Shawn Marshall. "Regis" is a company that rents out office space for consultants. According to [REDACTED] Marshall's leasing agreement had been terminated and

his access to the building was denied. [REDACTED] reported that Marshall was refusing to leave the premises.

While on scene, Marshall spoke with Officers and wished to make a counter complaint against [REDACTED]. Marshall alleged that [REDACTED] was harassing him. Marshall provided a statement to Officers about the situation which led them to respond to the building. Marshall said that he rents an office space on the 19th floor and he's been attempting to "expand" his space for approximately one month. Marshall said on the morning of 01/28/2021, at 1000 hours, he left a note in his office to "have his merchandise moved from one office to another office". Marshall believed he was authorized to use multiple rooms in the facility and directed "personnel" to charge him for any extra time he may have used.

Marshall said that [REDACTED] approached him (prior to the Officers arrival) in an "intimidating" manner and began yelling at Marshall that he was not supposed to be there. According to Marshall, as he was exiting the office with a "colleague", [REDACTED] began chasing after him and yelling at him. Marshall said [REDACTED] was yelling for him "not" to leave and followed him into the lobby. Marshall stated that he returned to his office space at approximately 1530 hours, and [REDACTED] refused to allow Marshall access to the room where Marshall's merchandise is located.

Officer Moore spoke with [REDACTED] and [REDACTED], whose title is "Area Vice President". [REDACTED] provided Officer Moore with a statement about the events which occurred between herself, [REDACTED] and Marshall.

According to [REDACTED] Marshall agreed to a contract with her company to rent one single office space. [REDACTED] said Marshall gained access to a second office space, without the permission from her company. [REDACTED] stated on the date of the incident, 01/28/2021, Marshall gained access to a third office space. She confirmed to Officer Moore that Marshall did not have a contract for either of the two additional unauthorized office spaces, and Marshall refused to inform management of how he gained access to these areas.

[REDACTED] said on 01/27/2021, Marshall was informed his lease (on Marshall's originally authorized single office space) would not be renewed for the following month (February of 2021). Once Marshall invaded the second unauthorized office space on 01/28/2021, Regis terminated his agreement immediately. [REDACTED] informed Officer Moore that she was advised by Regis' attorney to lock all office spaces which Marshall invaded immediately. Paitchel said that Marshall would be able to contact her to make arrangements to gather his belongings from the offices.

[REDACTED] was interviewed, and stated he attempted to stop Marshall so [REDACTED] could speak with him over the telephone. Officer Moore instructed Marshall to contact [REDACTED] tomorrow (01/29/2021) on the telephone and arrange a time to gather his belongings. Officer Moore documented that her Axon body worn camera was activated and provided all parties with the incident case number.

21-003481 (2nd Incident and Arrest of Shawn Marshall)

This incident occurred one day after Officer Moore and Aviles responded to 157 Church Street. The incident report was authored by Officer Cole. The following paragraphs summarized the arrest of Marshall. For further details please refer to the incident report documented under the above case number.

21-003481

On January 29th, 2021, at approximately 1614 hours, Officers DeRubeis, Mckernan, and Cole were dispatched to 157 Church Street, 19th floor, New Haven, Connecticut for a harassment complaint.

Upon their arrival, those Officers located both parties in the elevator area of the 19th floor. Officer Cole spoke with [REDACTED] who identified herself as "Vice President of Operations of Regus Office Space Service Provider." [REDACTED] explained that two days prior, the Regus "in-house legal team" issued a notice to Shawn Marshall (the second party involved in the incident). This notice to Marshall said he was banned from the "business".

[REDACTED] further explained that up until January 27th, 2021, Marshall had a "service agreement" with Regus to use an office space. [REDACTED] said that agreement was "voided" by herself and "other business officials" because of Marshall's disruptive behavior. According to [REDACTED] Marshall was seen going into other "office spaces" which he did not sign a lease to enter. [REDACTED] said Marshall was "very demanding of other patrons" of Regus. Furthermore, the agreement did not allow Marshall to use this office space for living quarters.

Officer Cole conducted an interview with Marshall about this incident. Marshall denied ever receiving a notice of being banned from Regus or checked his email (in which he was allegedly sent a notice of the ban). Marshall was upset that [REDACTED] and representatives from Regus were not allowing him access to the business to retrieve his belongings.

Present on scene was SSC Regional Security Director [REDACTED] who was called by Regus to assist because Marshall refused to leave.

Officer Cole documented that [REDACTED] agreed to allow Marshall to retrieve his belongings from his "former office". After approximately twenty minutes, those Officers assisted Marshall in pushing carts/cases filled with Marshall's clothes and office supplies out of the business and into the elevator. Officer Cole documented that approximately forty-five minutes was spent "accommodating" Marshall in gathering his belongings.

After approximately one hour, and now located in the first-floor lobby of 157 Church Street, Officer Cole documented that Marshall wanted to speak further about the incident. Officer Cole wrote that Marshall spoke about his business and did not provide any further information about his version of the incident. Officer Cole documented "Approximately twenty-minutes was allotted to Marshall to tell us about any possible criminal wrongdoing

done to him, but he failed to mention any". This also included Marshall completing a telephone call to "Pastor [REDACTED] who assisted by "saying a prayer over the phone".

Officer Cole documented that while speaking with Marshall in the ground floor lobby, SSC Regional Security Director [REDACTED] was present as well as other security guards and cleaning service personnel.

Officer Cole reiterated that Marshall refused to provide any further details about criminal activity made against him. Officer Cole documented "Marshall began to yell and scream "someone go get that white man's license"". Officer Cole believed Marshall was referring to a possible involved party in the incident, which was not mentioned at all by Marshall during the investigation. Officer Cole stated to Marshall that he would investigate to determine if that party was involved. Marshall continued to yell that the white male's identification must be recorded.

Officer Cole documented that "Marshall was warned about enforcement action being taken against him". Officer Cole then looked to Security Director [REDACTED] who told Officer Cole that Marshall "must leave the entire building". Marshall responded by refusing to leave and threatening to sue the city.

Officer Cole documented that the Officers walked to the area where Marshall's belongings were located in order to leave the building. Marshall said he would leave until Officer Cole retrieved the white male's license.

At this time Officer Cole withdrew his handcuffs and instructed Marshall to turn around so that he may place him in the handcuffs. Marshall responded by quickly running away from those Officers. Those Officers pushed him up against the wall but he "swung away from us". Marshall continued to swing his arms away from the Officers and tried to run away. Marshall was taken to the ground by the Officers.

As Officer Cole attempted to gain control of Marshall he was "violently kicked" in the area of his thighs. This action caused Officer Cole to fall several feet backwards. Officer Cole's body worn camera to fall off of his jacket as well.

After kicking Officer Cole, Marshall attempted to kick Officer McKernan from the ground position. Officer DeRubeis attempted to handcuff Marshall, who continued to kick and yell. Officer Cole noticed Officer DeRubeis' prescription glasses and department issued winter hat fall off of his person. Officer Cole documented that Marshall made a spitting noise and Officer Cole "attempted to get my hand near his face to prevent him" from spitting. Marshall was instructed by Officers to roll onto his back and be handcuffed, which he refused. Officer Cole punched Marshall three times in the head area to gain control. Marshall's response was "I'm not resisting arrest".

Officer Cole wrote that "Marshall kept his hands clenched to his chest and would swing away his arms when Officer DeRubeis attempted to place him in handcuffs". Marshall then attempted to stand up on his feet and run away. Officer Cole grabbed Marshall on his

shoulder area and "threw him back onto the ground". Officer McKernan attempted to sit on Marshall's legs to prevent him from trying to flee again. Marshall continued to refuse to be handcuffed as Officer DeRubeis attempted to place Marshall's hands in the front of his person.

Officer Cole then withdrew his department issued OC Spray and dispersed one to two bursts to Marshall's face. Seconds later, Officers Cole and DeRubeis were able to handcuff Marshall in the front area of his body.

Marshall refused to stand, and AMR arrived on scene to provide Marshall with medical treatment for his eyes.

Due to the actions of Marshall, all three Officers body worn cameras fell off of their person. They were remounted once the scene was safe. Sergeant Conceicao arrived on scene to assist.

Officer Cole documented that Security Director [REDACTED] witnessed the incident and observed Marshall kick Officer Cole prior to Officer Cole striking Marshall. Security Director [REDACTED] said that "Pastor [REDACTED]" would be retrieving all of Marshall's belongings.

Officer Cole documented that Marshall was involved in a previous incident on January 28th, 2021 at Regus, which was documented under NHPD Case Number 21-003309.

Officer Cole placed Marshall under arrest for violation of Connecticut General Statutes 53a-167c, Assault on a Police Officer, 53a-167a, Interfering with a Police Officer, 53a-107, Criminal Trespass in the 1st Degree, and 53a-182 Disorderly Conduct.

Marshall was transported via Prisoner Conveyance Van #171 to the NHPD Detention Facility at 1 Union Avenue for processing.

Officer Cole documented that he would complete a Use of Force form for this incident and that the incident was recorded via body worn camera "except for the aforementioned sequence when my camera fell off".

Supplemental Reports:

Officer Ashley McKernan

On January 29th, 2021, at approximately 1624 hours, Officer McKernan was dispatched to the 19th floor of 157 Church Street to assist Officers Cole and DeRubeis on a harassment complaint. Officer McKernan noted in her supplemental report that NHPD Officers were at this location on January 28th, 2021 for the same complaint.

Upon her arrival, Officers Cole and DeRubeis were speaking with Shawn Marshall. Officer McKernan documented that "management" allowed Marshall to retrieve his belongings, including his computer, as long as he was accompanied by Police and a member of the staff.

Marshall refused to collect his belongings unless he was alone. Marshall made demands to McKernan and attempted to explain what was criminal and what was not criminal. Officer McKernan said Marshall interrupted Officers and would talk over them.

Officer McKernan documented that the dispute between Marshall and management was over a "breach of contract". Marshall informed Officers that the matter was civil, which Officer McKernan agreed. She encouraged Marshall to contact an attorney. Marshall changed his mind and said the situation was criminal, and then stated it did not apply because he was not living in the office (residential). Occasionally, Marshall would mention that the staff was "harassing him".

Officer McKernan documented that eventually Marshall agreed to enter his office with Officer McKernan and a staff member [REDACTED]. Officer McKernan informed Marshall that he would be allotted approximately 15 minutes to retrieve his belongings from Office 1978. Officer McKernan observed Office 1978 "packed with clothing and suits".

Marshall spoke about a document "management" sent him which told him to immediately vacate the premises. Marshall alerted Officer McKernan that the document was not on his desk or underneath clothing. Marshall believed he never received such notice and therefore never had to leave. Officer McKernan advised Marshall that he only had fifteen minutes to gather his belongings and advised him not to argue a "civil matter". Marshall gathered clothing and the group moved into Office 1911.

In Office 1911, Officer McKernan noticed Marshall's computer was set up on a table with multiple sticky notes. Marshall retrieved his computer and insisted that Officer McKernan take a cart full of clothing in the room as well. Officer McKernan documented that Marshall did not assist her and [REDACTED] in carrying the items. According to Officer McKernan, Marshall "instructed Officers to carry them for him".

Officer McKernan described Marshall as talking to her about unrelated topics, to include "a moment we met in passing before my Police interview two years ago". Marshall told Officer McKernan that he should run for Mayor of the City of New Haven and have Chief O. Reyes as his running mate. Officer McKernan said Marshall continued to tell her how great of advice he gave to her the day they met.

Officer McKernan said Marshall's moods changed suddenly, and he became upset when she attempted to keep track of him while he removed his belongings. Officer McKernan documented "In an attempt to complete this call and finish the issue, the Officers assisted in carrying the items down to the lobby for Mr. Marshall".

Once downstairs, Marshall wished to report a harassment complaint to Officers. This complaint was after he contacted [REDACTED] and a prayer was conducted for the Officers. Officer McKernan documented that Officer Cole informed Marshall he would take his complaint, but only after he left the building because this investigation had lasted over one hour. Officer Cole encouraged Marshall to provide details of his complaint. Marshall explained that he emailed members of Regus and agreed to a contract. Marshall also

informed Officers about his relationship with radio personalities and when he emailed President Biden. Officer McKernan said Marshall would interact with persons walking by him in the lobby as well. Marshall would not provide those Officers with further details of his harassment complaint.

Marshall screamed at Officers to obtain a white staff members identification because he was subjected to show his identification and he was black. Officer McKernan said at this point Marshall was screaming and "causing a public disturbance". Marshall demanded to be present when Officers identified the white staff member. His request was denied by Officers. Officers informed Marshall that he was no longer allowed inside of the building and needed to gather his belongings and exit.

At this time, Marshall became "increasingly upset and irate". Officer McKernan documented that Officers warned Marshall that "he could be arrested if he continued this behavior". Officer McKernan documented that Marshall stated, "if we were going to arrest him then we should at that moment and put his hands out".

At this point, Officer Cole attempted to secure Marshall in handcuffs and advised him that he was under arrest. Marshall jerked away from Officers and attempted to flee. Officers Cole and DeRubeis gave Marshall multiple commands to place his hands behind his back and stop resisting. Marshall continued to resist Officers orders. Officer McKernan said Marshall fell onto the ground and tried to kick Officers.

Officers Cole and DeRubeis managed to get on top of Marshall and gain control of his arms while Marshall actively resisted. Officer McKernan attempted to gain control of Marshall's legs by putting her bodyweight on them. This action caused Officer McKernan's body worn camera to fall off by Marshall's kicks.

Officer McKernan said Officers continued to give commands to stop resisting, which Marshall refused to obey. Officer Cole deployed his OC Spray which was effective, and Marshall was handcuffed. Staff members supplied Marshall with water for his [REDACTED]. Officer McKernan poured water onto Marshall's face in an attempt to keep him calm.

AMR arrived on scene and treated Marshall. Officer McKernan spoke with Pastor [REDACTED] who arrived on scene and coordinated Marshall's belongings. According to Officer McKernan, Pastor [REDACTED] stated "[REDACTED]". Officer McKernan documented that "although his (Marshall's) swings were a [REDACTED] he did not meet the requirements for an emergency evaluation".

Officer McKernan documented that her body worn camera was activated.

Officer Christina Altieri

On the date of this incident, Officer Altieri was assigned to the Union Avenue Detention Center. Her supplemental report is written about her interaction with Marshall post his arrest and inside the UADC.

On January 29th, 2021, at approximately 1945 hours, Officer Altieri attempted to fingerprint and photograph Shawn Marshall. Upon entering the booking area, Marshall refused to be fingerprinted until notified of his charges. Officer Altieri documented that she would so advise Marshall as soon as they were finished fingerprinting.

While attempting to be photographed, Marshall became “very uncooperative and refused to stand still for his booking photo”. Marshall stated he would not take his photograph until he was provided saline for his eyes. Marshall continued to sing, put his hands up and move around after being instructed to remain still.

After several attempts, it was clear Marshall would not consent to being fingerprinted. He was additionally charged in violation of Connecticut General Statute 29-17, Failure to Submit to Fingerprints.

Officers attempted to escort Marshall back to his cell. Marshall “threw himself on the ground and had to be carried the rest of the way”.

Officer David Vega

Officer Vega was also assigned to the UADC and submitted a supplemental report regarding Marshall uncooperating during processing.

Officer Vega documented in his supplemental report that Marshall refused to sign a Criminal Appearance Bond form. Officer Vega photographed the document on his department issued cellular phone and uploaded the image to www.evidence.com.

Statements:

Shawn Marshall

On February 22nd, 2021, at approximately 1617 hours, Sergeant Rawlinson and I met with Shawn Marshall at the New Haven Union Station (Train Station). Marshall contacted Internal Affairs shortly prior to our arrival at the Train Station and requested we meet him at this location. Sergeant Rawlinson and I were equipped with our Axon body worn cameras, which captured our interaction with Marshall.

It should be noted the purpose of our meeting with Marshall was to arrange an interview at a later date. I had been attempting to contact Marshall through telephone, Certified Mail, emails, and a door knock at his residence which were all unsuccessful. Therefore, when Marshall called the Office of Internal Affairs unexpectedly, these Investigators ceased the opportunity to meet with him at the location of his choosing. Our intent was to inform him an Internal Affairs investigation was opened on his behalf (since he did not make a formal Civilian Complaint), ensure a method of quality communication with Marshall, and make arrangements for him to meet these Investigators at a date of his choosing so a proper interview could be conducted. Furthermore, these Investigators requested Marshall provide

documentation which would be relevant to this investigation, including emails and letters provided to him by Regus.

During the course of Detective Macuirzynski's interview with Marshall it was apparent that he was trying to be confrontational and difficult. During the next few paragraphs, summaries of the conversation are memorialized. For further details please refer to Sergeant Rawlinson's and Detective Macuirzynski's Axon body worn camera footage.

09:40- When Marshall was introduced to Sergeant Rawlinson, Marshall stated "I know Mr. Rawlinson, he's not too thorough".

Detective Macuirzynski informed Marshall that Chief Reyes ordered an Internal Affairs investigation into allegations of excessive use of force used on Marshall during his arrest.

Marshall asked Investigators when his charges would be dropped because he was not allowed to leave the State of Connecticut. Detective Macuirzynski explained that Internal Affairs investigates Officer misconduct and cannot eliminate his criminal charges since that can only be done through the Judicial system. Marshall appeared not to accept that explanation. Marshall said he would not go to court and demanded we drop the charges.

Marshall felt that "people" were harassing him and Pastor [REDACTED] and his safety was jeopardized. Detective Macuirzynski ensured that Marshall completed a Police report about these incidents. Marshall wanted NHPD Officers stationed outside of Pastor [REDACTED]'s house, which he was told was not possible.

Marshall did not wish to provide IA with a statement and instructed these Investigators to transcribe the video footage. He said the transcription would be his statement. Marshall continued that he was illegally evicted, and he would sign the transcription of the incident if provided.

Marshall continued asking Detective Macuirzynski details of the incident, and Detective Macuirzynski informed Marshall that the purpose of the meeting was to establish communication, not to take a formal statement.

Marshall confirmed that he was aware Internal Affairs was investigating his arrest. He was provided with Detective Macuirzynski's business card, which contained his email and telephone number to the Office of Internal Affairs.

Marshall said the Officers who arrested him were "cupcake kids" and he allowed them to "mop the floor" with him. Marshall provided Investigators with an email and confirmed his telephone number with IA.

Detective Macuirzynski asked Marshall if Pastor [REDACTED] notified him that Investigators went to his residence seeking him. He said that Pastor [REDACTED] had not notified him. Marshall was confused why no one had called him. Detective Macuirzynski continually informed Marshall that efforts were made to contact Marshall and that his voicemail was full. Therefore, USPS Certified Mail and an in-person house visit had been completed with negative results.

Marshall said that when he is in New Haven, he needs Police Protection. Marshall said he would give Detective Macuirzynski a statement if IA would provide him a transcribed statement of the Axon body worn camera footage of his arrest. Detective Macuirzynski attempted to explain to Marshall that he would have follow up questions and again requested if Marshall would be interviewed formally. Marshall responded that "I'm a boss and I'll tell you how I wanna do it".

Detective Macuirzynski informed Marshall that his request was not within IA protocol and stated that it was reasonable for IA to ask Marshall to cooperate in a statement with IA. Marshall said Detective Macuirzynski's request was unreasonable. Furthermore, Detective Macuirzynski requested that Marshall produce any pertinent documentation which would support his position, and he told Detective Macuirzynski "you produce the documentation".

Marshall then stated that he would pay for the transcription of the body worn camera footage. Detective Macuirzynski said that if Marshall wished to have the transcription done, then he would be willing to interview him about the incident. Marshall stated he would bring Detective Macuirzynski the bill for the transcription.

After informing Marshall that IA was not required to pay for a transcription for Marshall, he stated "You're not required to do anything but stay white and die". Detective Macuirzynski requested that all racially inappropriate comments about the color of his skin cease and that the remark was unprofessional. Marshall apologized to Detective Macuirzynski.

Marshall was aggravated because he felt that this issue was racial and that he was beaten by white "cops". When asked by Detective Macuirzynski if Marshall would provide any documentation, he stated "I don't know what your job is why am I helping you". Detective Macuirzynski again explained that if Marshall was in possession of any documentation which was in his possession that could be useful for the investigation, he would request to be provided copies. Marshall ultimately did not produce any documentation for Detective Macuirzynski.

Marshall seemed upset that the body worn camera footage was released to the media by Chief Reyes and felt his safety was in jeopardy. Marshall said he was being threatened by "crack pots" and likened his situation to the "insurrection" in Washington D.C. Marshall said he did not know where his wife and children were because he told them to "disappear" because the Police stole his wallet.

Marshall felt that this was a racial and eviction related incident and called his arrest a "gang beating". Marshall described Officer McKernan as a "little scared little girl" whom he "coached" prior to being hired by the New Haven Police Department. Marshall said he told Officer McKernan that she was a "jewel" and could not recall the rest of the conversation on that date.

Detective Macuirzynski asked Marshall if Officer McKernan hired him for the instruction. Marshall responded, "Did you hire me for the coaching I've given you?" **(It should be noted**

that Detective Macuirzynski had never received "coaching" from Marshall). Marshall felt that his interaction with Detective Macuirzynski was a teaching session.

Detective Macuirzynski asked Marshall if a transcription of the incident would provide different facts than reviewing the audio/video evidence captured during his arrest. Marshall spoke about the Police report and did not answer the question.

Marshall recommended that Detective Macuirzynski be "innovative" in the investigation. Detective Macuirzynski responded that he wished to "find facts" about the incident.

Marshall said that his shoulder [REDACTED] Detective Macuirzynski informed Marshall that he would speak with Lieutenant Zannielli and see if IA could accommodate Marshall's request for a transcription.

Marshall said he was a "marketing guy" and wanted to do a "word smith" of the words which were used during the incident. He said it would provide "insight" to what events lead to his arrest. Detective Macuirzynski informed Marshall that he was a Detective not a marketing consultant.

Detective Macuirzynski stated to Marshall that he met the obligation to inform Marshall about the investigation, arrange for a formal statement, and confirm a correct method of communication. Detective Macuirzynski said the next step would be to confirm with the OIC of Internal Affairs if the Police Department would provide him with a transcribed copy of the Axon body worn camera footage. Marshall responded that the cost was cheap and that the Police spend more on donuts. Detective Macuirzynski responded to Marshall that his comment was not constructive to the investigation.

Marshall asked Sergeant Rawlinson how his previous Internal Affairs (which was closed) could be re-opened. Detective Macuirzynski and Marshall agreed that Detective Macuirzynski would email Marshall with the transcription answer by Friday (February 26th).

Marshall began asking Detective Macuirzynski multiple questions, including why the Officers placed their knee on him which "stopped his heart". Detective Macuirzynski asked Marshall if he would sign a Medical Record release form so IA could determine the nature of his injuries. Marshall clarified that his h[REDACTED] did not confirm that he would sign said waiver.

Marshall then asked Detective Macuirzynski if he could be provided with the medical records of the Office [REDACTED]. He was informed that Detective Macuirzynski was inquiring about Marshall's injuries.

The conversation ended by Marshall hoping that this incident would produce more dialog and appreciated these Investigators professionalism. He called the Officers who arrested him "soft" and said he was "pledged by eighty brothers". Marshall believed the force used against him was excessive and wanted this investigation conclude within one week.

Sergeant Rawlinson and Detective Macuirzynski then left the train station.

[REDACTED]

On Monday, March 1st, 2021, at approximately 1600 hours, Detective Macuirzynski conducted a telephone interview with [REDACTED] was interviewed regarding his interaction with Marshall on January 28th, 2021 at 157 Church Street which was documented under NHPD Case Number 21-003309. The interview was audio recorded, and a transcription and copy of the audio recording were later placed in this Internal Affairs file.

[REDACTED] was aware that Marshall was arrested on January 29th, 2021 at 157 Church Street. Detective Macuirzynski requested that [REDACTED] provide him a statement about Marshall's actions on 01/28/2021.

[REDACTED] stated on that date, Marshall had "taken over" one of the meeting rooms, and his boss [REDACTED], wanted to drive to the office to meet Marshall. [REDACTED] said Marshall filled the conference room with "stuff" and left a note on the door which stated, "Don't Open". This action prevented any other clients from utilizing the conference room. Furthermore, [REDACTED] stated Marshall entered another office space without permission and placed his belongings inside of that as well.

[REDACTED] said [REDACTED] wanted to speak with Marshall about his action of taking over the conference room. [REDACTED] said Marshall's actions were outside of normal business functions and he did not have the consent or permission of the company. According to [REDACTED] Marshall did not have time to talk to [REDACTED] or [REDACTED] and left the building.

Later that day, [REDACTED] stated Marshall came back to the office and [REDACTED] attempted to facilitate a telephone conversation between Marshall and [REDACTED]. [REDACTED] stated Marshall was not cooperating with the discussion. [REDACTED] tried to explain to Marshall that he was not allowed to enter these spaces, and Marshall was being difficult in communicating with the staff at Regus. [REDACTED] stated employees of Regus ultimately removed Marshall's belongings from the conference room back into his rented office. [REDACTED] said individuals are allotted two hours per day in the conference room, and Marshall's actions were atypical.

Marshall stated he contacted the Police Department on that Thursday afternoon because Marshall was not listening to their reasoning and being irrational. According to [REDACTED] Marshall was making demands of Regus "outside our normal scope". [REDACTED] stated in his (17) years of employment in that business, he had never been forced to call the Police on any of his clients except Marshall.

[REDACTED] denied yelling or intimidating Marshall during this incident. [REDACTED] stated that he was trying to facilitate a phone conversation between [REDACTED] (who was not on scene) and Marshall. [REDACTED] stated "I had my boss on the phone and this was during the morning time and that...like I said, this was a very unusual circumstance that somebody took over an office that they didn't have rights to, and agreement on, and they commandeered a

community meeting room without our knowledge". [REDACTED] stated Marshall refused to discuss the matter and [REDACTED] attempted to get his attention.

Marshall told [REDACTED] that he was leaving on a train for New York and if [REDACTED] wanted to discuss the matter he could "walk and talk" with him. [REDACTED] stated he did not follow Marshall and the conversation ended. [REDACTED] described Marshall's behavior as "loud and disturbing" to other businesses in the common areas. [REDACTED] stated the interaction between himself and Marshall was not in anyway a physical confrontation.

[REDACTED] concluded the interview by explaining that he viewed the video footage of Marshall's arrest. He expressed his view that the Police have a hard job, the Officers on scene were "good" and that he did not know "what's going on with Mr. Marshall".

The interview concluded at approximately 1613 hours.

[REDACTED]

On Friday, February 12th, 2021, at approximately 1305 hours, Sergeant V. Rawlinson and Detective Macuirzynski interviewed [REDACTED] at the Office of Internal Affairs. Accompanying [REDACTED] was [REDACTED] Vice President of Human Resources for Security Services of Connecticut. The interview was audio recorded, and a transcription as well as DVD copy of the interview were later placed in this Internal Affairs file. [REDACTED] signed the False Statement form and the Voluntary Interview form, which were also placed in the IA file.

[REDACTED] stated he is the Operations Manager for Security Services and oversees the security at 157 Church Street amongst other sites. [REDACTED] said his responsibilities in his position were hiring, disciplinary action, training, and supervising the security officers that work at the sites assigned to him. [REDACTED] began his career as a security officer and had been in this line of work for approximately (17) years.

[REDACTED] stated prior to these two incidents, he had never met Marshall. [REDACTED] knew that [REDACTED] was a sales manager for Regus and [REDACTED] was the regional Vice President for Regus. [REDACTED] was asked to provide his version of the events which occurred on January 28th and 29th.

[REDACTED] said his boss, [REDACTED] who is the Vice President of Operations, received a telephone call from [REDACTED] who is the property manager at the Connecticut Financial Center at 157 Church Street. [REDACTED] received a call from [REDACTED], who stated that Regus was having difficulty with a tenant of theirs and requested additional security. [REDACTED] responded to Regus because "of the sensitivity of the situation".

[REDACTED] responded to the 19th floor and encountered Marshall and [REDACTED]. [REDACTED] explained to [REDACTED] that Marshall had a service agreement for one office and he subsequently entered another office without permission. Furthermore, [REDACTED] was shown the conference

room, where Marshall's property was spread throughout. [REDACTED] was informed by [REDACTED] that Regus policy allowed any client to use the conference room for a two-hour period. [REDACTED] told [REDACTED] that due to Marshall's belongings, no other client could use the space.

Marshall spoke with [REDACTED] and informed him that [REDACTED] was demanding he leave. [REDACTED] stated Marshall originally agreed to remove his belongings then refused. According to [REDACTED] Marshall accused [REDACTED] of "harassing" him which [REDACTED] did not witness. Based on the impasse of Marshall and [REDACTED] arguing, [REDACTED] requested [REDACTED] contact the Police Department.

NHPD Officers arrived on scene and spoke with Marshall who subsequently left the building. [REDACTED] could not comment about the service agreement between Marshall and Regus. [REDACTED] said his responsibilities during the incident were to de-escalate, defuse the situation, protect persons and property, and escort an individual who has been requested to leave. [REDACTED] recalled that after everything calmed down, Marshall agreed to contact [REDACTED] and make an appointment to collect his belongings. [REDACTED] requested Regus contact him when Marshall returned the following day so he could be present and de-escalate if possible.

Detective Macuirzynski then spoke with [REDACTED] about the second incident involving Marshall and the Regus staff. [REDACTED] was present for the second incident, including the arrest of Marshall by New Haven Police Officers. [REDACTED] stated upon his arrival at 157 Church Street, Marshall was speaking with [REDACTED] (Property Manager for 157 Church Street). [REDACTED] informed [REDACTED] that Marshall agreed to collect his belongings from the 19th floor, and asked Ryba to escort him. Marshall did not object to [REDACTED] accompanying him on the elevator.

Upon their arrival at the 19th floor [REDACTED] stated Marshall hired a photographer who was supposed to do a "photo shoot". The photographer was "running out of time" and left without taking photographs. According to [REDACTED] [REDACTED] was on scene and denied the photographer access to the Regus office. Marshall appeared to be aggravated because he paid for the photographer.

[REDACTED] stated Marshall initially agreed that [REDACTED] would accompany Marshall to his office to gather his belongings with several Regus staff. Then Marshall changed his mind and said that he did not want "that big guy" following them. [REDACTED] re-directed and solved the problem by agreeing that she would accompany Marshall. Marshall agreed, however halfway down the hallway he turned and demanded "Sean" stand in the hallway because "Sean" was harassing Marshall. [REDACTED] stated "Sean" did not say a single word to Marshall and it did not make sense why Marshall would make that demand.

Next, Marshall changed his demands and said [REDACTED] was unallowed to assist him in gathering his belongings. [REDACTED] explained to Marshall that [REDACTED] was the Vice President and could move freely around her office space. Marshall became argumentative and spoke louder to all parties involved. All further efforts by [REDACTED] and Regus staff to accommodate Marshall were met with negative results, and all parties went back to the lobby.

Once in the lobby [REDACTED] stated the argument over who sent Marshall emails or if he had been properly "served" continued. It was at this time, [REDACTED] requested [REDACTED] contact the Police Department for assistance because Marshall was refusing to leave. Marshall claimed that he (Marshall) already contacted the Police because of "harassment" [REDACTED] denied that anyone harassed Marshall, and he described it as "three adults arguing" in a verbal manner with no threats being made to Marshall.

[REDACTED] stated he continued to calm the situation down [REDACTED] said at one point prior to Police arrival Marshall agreed to go down to the lobby. Marshall entered the elevator, followed by [REDACTED] [REDACTED] stated Marshall got off the elevator and refused to re-enter the elevator unless [REDACTED] left him alone. [REDACTED] was accused of harassment by Marshall. [REDACTED] informed Marshall that he was instructed by the building Manager that he [REDACTED] accompany Marshall wherever Marshall went. Therefore, [REDACTED] would hold the elevator door open which prevented Marshall from freely moving about in the building alone. Marshall then laid down on the ground in defiance of [REDACTED]s instruction.

[REDACTED] then spoke with Detective Macuirzynski about the arrival of the NHPD Officers and their interaction with Marshall. [REDACTED] stated the Officers interviewed Marshall and [REDACTED] and tried to defuse the situation. [REDACTED] said the Officers were "professional and very accommodating" [REDACTED] produced the email sent to Marshall which informed him that he needed to evacuate the building. Marshall contested that he was never "served" and the discussion lasted over an hour.

[REDACTED] believed the Officers were trying to facilitate a solution to allow Marshall to retrieve his belongings. Marshall would continue to change the agreed upon plan, which was frustrating to Regus staff. [REDACTED] believed Marshall had "multiple opportunities for this whole situation to end peacefully, gather his stuff, take all the time he needed to get his stuff and leave". [REDACTED] refused to allow his subordinate security officer to gather Marshall's computer on Marshall's behalf because said security officer did not have the training and experience to handle electronics. [REDACTED] said this would be a liability if the computer was damaged.

It should be noted that [REDACTED] did not have a personal relationship with any of the NHPD Officers, however; he later recalled that Officer Cole worked as a security officer for SSC approximately 10 years prior.

[REDACTED] recounted how Officer McKernan assisted Marshall in collecting his belongings. [REDACTED] believed Marshall took approximately one-half hour to collect his things. [REDACTED] stated he overheard Marshall talking to Officer McKernan about how he (Marshall) helped her become a Police Officer. [REDACTED] also felt that Marshall's behavior and interactions with the staff took extreme shifts during the incident. [REDACTED] stated Marshall would be very nice then suddenly very angry.

[REDACTED] stated he did not know if Marshall was armed and did not conduct an outer garment pat-down per his protocol. He believed the Officers conduct with Marshall was reasonable because they "kept their cool" and tried to accommodate Marshall's demands while still informing him (Marshall) that he had to leave.

██████████ said that Marshall eventually gathered all of his belongings and rode the elevator to the lobby with Officer McKernan. ██████████ followed the group in a separate elevator until the Officer ██████████ and Marshall were in the lobby of 157 Church Street. Marshall sat down in the common area on a chair.

██████████ stated the Officers continued to try and convince Marshall to leave the building. Marshall was not cooperating with their requests. ██████████ stated at this point Marshall was trespassing in the lobby because he was told to leave Regus and now did not have business in the lobby area. ██████████ stated 157 Church Street is not a public building and the lobby area is limited to official business only.

Marshall continued to make his claims of harassment against ██████████ and ██████████ stated the Officers were listening to his statement. At one point ██████████ told Officer Cole that Marshall needed to leave the building. ██████████ stated to Detective Macuirzynski that Marshall could not stay in the building because he was "evicted" and that is building manager policies. ██████████ said Marshall may have left, however; it had been a long enough time that he spent in the lobby and it was time to leave the building.

██████████ said he witnessed the subsequent arrest of Marshall and the force used therein. He stated Marshall stood to his feet, yelled at Officers and demanded to see the "white" guy's license. ██████████ stated he heard Officer Cole telling Marshall that if he did not leave, he would be arrested. ██████████ said Marshall responded by putting his hands behind his back and stated, "Go ahead, arrest me, please arrest me". Officer Cole responded by telling Marshall that he was under arrest and reached out to grab Marshall's arm.

██████████ stated at that moment Marshall screamed "Get off me. Get off me" and a subsequent physical altercation occurred between Marshall and the Officers. Marshall and the Officers were on the ground and ██████████ observed Marshall kick Officer Cole in the face twice. ██████████ said the first kick struck Officer Cole in the cheek and the second kick grazed Officer Cole's face. ██████████ stated Marshall continued to resist arrest and after a prolonged period of time Officer Cole struck Marshall three times in the head.

██████████ said Officers continued fighting with Marshall as they were trying to secure him in handcuffs. ██████████ observed Marshall fighting and kicking, refusing to cooperate with the arrest. He recalled Officer Cole telling Marshall to stop fighting or he (Officer Cole) would spray him with OC spray. Once Officer Cole sprayed Marshall, ██████████ stated Marshall calmed down and they were able to handcuff him. ██████████ stated two of the Officers had their body worn cameras kicked off during the altercation.

██████████ stated the Officers contacted AMR to treat ██████████. Marshall requested ██████████ security officer Ms. ██████████ make telephone calls to Fire Chief Alston and Pastor ██████████ Human Resources Representative. ██████████ said that it was not SSC policy for one of their security guards ██████████ to film a Police incident. Detective Macuirzynski asked what the proper actions of ██████████ should have been during this

incident ██████ said her job would have been to observe the incident and write a report about what occurred.

█████ stated that since this incident, Marshall was not allowed inside of the building.

The statement concluded at approximately 1348 hours.

█████
On Friday, March 5th, 2021, at approximately 1458 hours, Detective Macuirzynski conducted a recorded telephone interview with ██████. A DVD copy of the recorded conversation as well as a transcript was placed in this Internal Affairs file.

Detective Macuirzynski explained to ██████ that an active Internal Affairs investigation was ongoing to investigate allegations of excessive use of force against Shawn Marshall. ██████ explained that Marshall was a full-time office client of Regus, who was on a month to month agreement with her company. ██████ called Marshall's agreement a "service agreement" not a lease. ██████ said Marshall was "not in line with our standards so we came to a point where we gave him a notice of non-renewal for his agreement".

█████ said Marshall was requesting accommodations which was not within Regus' agreement with him such as additional administrative support, three meeting room times built into his agreement, and additional products and services. Furthermore, ██████ said several other clients of Regus made complaints about Marshall. Those clients felt that Marshall had "unwelcomed conversations" and described Marshall as "aggressive" to ██████. ██████ said Marshall was pressuring those clients to invest in his business. She believed that Marshall's presence at Regus wasn't "a good fit". Therefore, Regus gave Marshall a "notice of non-renewal" which would end his "service agreement" on February 28th, 2021.

█████ said the "notice of non-renewal" was sent to Marshall via e-mail. ██████ stated that Marshall did not initially challenge the notice, and she wished to inform Detective Macuirzynski that Marshall was behind on his rent payment. ██████ also said that she spoke with Marshall on the telephone as well and informed him of the "notice of non-renewal". She stated Marshall was not happy and additionally, Regus provided Marshall with a "termination agreement".

█████ said Regus decided to provide Marshall with a "termination agreement" because Marshall took over one of the meeting rooms and another office. ██████ stated Marshall did not have permission to enter these offices and she did not know how he was able to make entry into these locked premises. ██████ clarified that the community meeting room was only permitted for client use for a two-hour maximum, and Marshall had taken over said room, leaving his clothing unattended. Marshall was occupying the community meeting room for more than the two-hour period.

█████ spoke with Detective Macuirzynski about the first incident involving Marshall which occurred on January 28th, 2021. ██████ was not present for this incident, and she

attempted to speak with Marshall over the telephone. [REDACTED] said the Regus staff informed Marshall that he needed to remove his belongings from the community room because other clients wished to use that space. [REDACTED] stated Marshall would not speak with her and he subsequently left 157 Church Street prior to their conversation. [REDACTED] decided to visit Regus on the following day (January 29th) to check in on her team.

On January 29th, 2021 [REDACTED] was contacted by a separate property manager on another separate floor of 157 Church Street. He wished to inform her that Marshall was in his office and Marshall was inquiring about renting office space. [REDACTED] used this opportunity to speak with Marshall in the other property manager's office since she had not previously met Marshall.

[REDACTED] described her conversation with Marshall as "going in circles" and not productive. She advised him in person of the "notices of no-renewal" and "termination of agreement". [REDACTED] said she ended the conversation because "it just wasn't going anywhere" and returned to Regus on the 19th floor.

Regus then received a telephone call from a security guard at SSC who said Marshall was in the lobby and wanted to retrieve his computer from Regus. [REDACTED] agreed that the security guard had permission to retrieve the computer, however; she did not want Marshall to enter the office. Marshall arrived on the 19th floor with the security officer and [REDACTED] said she tried to mitigate the situation by allowing Marshall to enter the office with an escort.

Marshall started making demands of Regus about who he would allow accompany him into the common office area and [REDACTED] was concerned about letting him walk around without an escort because his agreement was terminated. This was prior to Police arrival, and Marshall ultimately told the security officers and [REDACTED] that he was leaving the building.

Marshall wanted to leave by himself and the security officer wouldn't allow it. Marshall and the security officer kept entering and exiting the elevator and [REDACTED] said at one-point Marshall laid down on the floor between the elevator doors. [REDACTED] felt that the Regus staff was at risk because of Marshall's behavior and she had the Regus team contact the Police Department.


[REDACTED] stated prior to Police arrival, no one made any threats or harassed Marshall. [REDACTED] provided further details about the "service agreement" Regus signed with Marshall. She described it as Regus providing a furnished office space, reception services, meeting rooms, internet, telephone, and administrative services. [REDACTED] confirmed that Regus was not served through the State of Connecticut Marshall's Office.

[REDACTED] said that once the Police arrival on the 19th floor they were "professional and calm". She believed everyone's goal was to have Marshall vacate the office "peacefully". [REDACTED] said that Marshall voluntarily grabbed his items and took them out of the Regus space with the assistance of the Police. She did not observe any force used on Marshall while on the 19th floor and felt the Officers on scene did not discriminate against him.

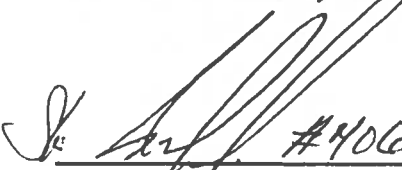
██████████ informed Detective Macuirzynski that Marshall did not collect all of his belongings that day, and they asked Marshall to make arrangements to remove his possessions. At the time of the interview, Marshall still had not contacted Regus to arrange a pickup of his items.

██████████ agreed to send Detective Macuirzynski all relative documents which Regus sent to Marshall. ██████████ said that Marshall was officially banned from 157 Church Street and she had not interacted with him since this incident.

The interview concluded at approximately 1531 hours.

 #457

Sergeant Christopher Fennessy, Internal Affairs Unit 9/10/21
DATE

 #406

Sergeant Ryan Macuirzynski 9/10/21
DATE



NEW HAVEN
DEPARTMENT OF POLICE SERVICE
 One Union Avenue • New Haven • Connecticut • 06519



Renee Dominguez
 Acting Chief of Police

Justin Elicker
 Mayor

To: Sergeant Fennessy
From: Detective Kealyn Nivakoff
Date: September 9, 2021
RE: Internal Affairs Case: 21I-010 (continuation)

On March 25, 2021 I was re-assigned this investigation that was originally assigned to Detective Macuirzynski, after he was promoted to the rank of Sergeant and transferred to the Uniform Services Division. My investigation encompassed the review of Axon body worn camera footage, the interviews with the subject officers, the interview with the Certified Use of Force Instructor Officer Hwang, and a conclusion on the investigation's findings.

Axon Body Worn Camera Footage:

It should be noted, audio is heard when an Officer manually activates their camera. After activation, the first thirty (30) seconds recorded beforehand has no audio due to the body camera's buffering phase. The following is not a full transcription of body worn camera footage. Please refer to actual footage for exact details.

Officer Justin Cole; (1) Hour (55) Minutes and (33) Seconds

Officer Cole activated his Axon body worn camera while still within his patrol cruiser parked in front of 157 Church Street. Officer DeRubeis was with Officer Cole and both Officers exited their vehicle. Officer Cole gives Officer DeRubeis instructions such as making sure his radio is on, etc. due to his role as Officer DeRubeis' Field Training Officer.

01:09- Officer Cole entered the main floor of the building and spoke with an unidentified security guard who informed Officers that Marshall was on the 19th Floor.

Officers entered the elevator and went to the 19th Floor.

02:11- Officers Cole and DeRubeis exited the elevator and met with [REDACTED] and Marshall.

Marshall asked if Officer Cole (who was fully clad in a police uniform) was an Officer and said, "Do you have a name Sir?" At that time, Officer Cole elected to speak with a representative of Regus, [REDACTED]. Marshall informed Officer Cole that he was the person who called the police.

02:32- Officer Cole and [REDACTED] entered the office lobby and spoke about the incident.

[REDACTED] said the following: Marshall was a tenant in the office. Regus leased the entire floor space and rented out space to different companies. Officer Cole clarified that Marshall was not living in the rented space and that the space was commercial. [REDACTED] said Marshall breached his contract and his lease was terminated. [REDACTED] stated Marshall had committed "additional behaviors" which led to them contacting the Police.

03:02- Officer Cole asked if Marshall was served with proper eviction paperwork. [REDACTED] stated Marshall was served a "termination letter" and told to go. The termination letter was served by her company on Wednesday. [REDACTED] states Marshall has already been told he needs to leave and has not complied.

Officer Cole then went into the 19th floor lobby area and spoke with Marshall.

03:14- Officer Cole asked Marshall "What's your first name man?" Marshall responded, "I'm not your man". Officer Cole asked again "What's your first name?" Marshall responded, "What's your first name?".

Marshall began recording Officer Cole with his cellular phone. Officer Cole informed Marshall that he was told Marshall was provided with an eviction letter and it was time to leave and that he is now trespassing. Marshall responded that he was asked by the Manager (Regus) to collect his belongings in the presence of a security guard. Officer Cole said that Marshall would be arrested if he did not comply. Marshall responded that he would "love" to be arrested. Marshall told Officer Cole that he (Marshall) knew the law better than Officer Cole.

Marshall told Officer Cole what the "manual" said about investigating this incident, including "separating the parties" and obtaining two statements. Marshall wanted Officer Cole to ask him (Marshall) what occurred because he called the police as a complainant. Officer Cole asked Marshall to provide a statement about what occurred.

Marshall said he was being "harassed" by an unknown gentleman during a "meeting downstairs". Officer Cole asks Marshall if he was served with a letter stating he needed to vacate. Marshall denied receiving any correspondence from Regus which informed him that his lease was terminated. Furthermore, Marshall said he was not "served" through any official capacity by an individual representing Regus.

04:44- Officer Cole requested NHPD Dispatch provide them another officer to assist with the investigation. Marshall asked why Officer Cole requested another officer, and Officer Cole

responded that Officer DeRubeis was an Officer in Training. Marshall said, "Since he's an Officer in Training let's train him properly" and began explaining his version of proper investigative steps to Officer DeRubeis.

Officer Cole approached Marshall to intercede, and Marshall told Officer Cole "do not approach me Sir". Marshall re-positioned himself in the corner near the elevators. Officer Cole did not advance towards Marshall.

Officer Cole approached [REDACTED] and another male representative of Regus and requested they provide paperwork for the lease termination. Regus employees went into the office and Officer Cole went back to speak with Marshall. Marshall continued to speak with Officer DeRubeis and again informed him that he was not served. He stated the reason police were called to the building was because of his harassment complaint against staff members. Marshall said he wanted to retrieve his computer and personal belongings from within the office, and Regus did not allow him access. Officer Cole informed Marshall that he would assist him to gather his belongings.

06:45 [REDACTED] showed Officer Cole the termination emails sent to Marshall. [REDACTED] informed Officer Cole that she "was happy to give him all of his personal belongings as long as he leaves".

Marshall maintained that he was illegally locked out of his office and Regus was not allowing him to remove his belongings. Officer Cole verified that [REDACTED] told Marshall to leave and Officer Cole was provided with paperwork confirming [REDACTED]'s claims. Marshall claimed to have an email from Regus Vice President which allowed him to remain on the premises [REDACTED] and Marshall begin to debate if Marshall received paperwork [REDACTED] tells Officer Cole that she is the area Vice President for Regus. Officer Cole asks if her simply telling Marshall he needs to leave is sufficient to force him to leave [REDACTED] indicates that it is sufficient.

08:51- Marshall stated that the only thing he came to retrieve was his computer. Officer Cole stated he would allow Marshall to retrieve his computer, and Marshall would need to arrange another date/time to collect his belongings. Marshall wanted to know who would be documenting his complaint. Officer Cole responded that he would "figure it out" but for the present time, he would arrange for Marshall to collect his computer.

Marshall said that he would not allow anyone to escort him into the Regus office and demanded that only he would touch the computer. Marshall threatened to call Chief Reyes if the officers would not comply with his demands.

10:10- Marshall continued to inform officers how to separate parties and conduct an investigation. Officer Cole told Marshall not to explain to him how to investigate and stated he (Officer Cole) was trying to keep the incident "civil". Marshall then agreed to voluntarily retrieve his computer with another office manager (not [REDACTED]).

Marshall said that this dispute had been on-going for two days, and that he set up his computer in a common area. Marshall stated that [REDACTED] told him he would only be able to use the common area office space for two hours. Marshall said he told [REDACTED] to "just bill me".

Marshall then spoke about one hundred and fifty thousand dollars he lost, clothing and food which was not delivered, and that the document Officer Cole was reading did not reflect his.

11:25- Officer Cole agreed with Marshall that he (Officer Cole) was aware Marshall needed to be properly served. Officer Cole stated to Marshall that he was trying to mitigate the situation and make arrangements for Marshall to safely retrieve his computer which was Marshall's request.

11:50- Marshall said that he would go to the first-floor lobby of 157 Church Street, by himself, and wait for the security guard [REDACTED] (unknown security guard who first escorted Officers into the building) to bring his computer down to him.

Marshall began entering the elevator to leave for the first floor. Officer Cole clarified if Marshall wanted to remain on the 19th Floor to retrieve his computer. Officer Cole says he is confused because Marshall initially said he wanted to get his computer with [REDACTED]. Then Marshall said he wanted [REDACTED] to bring it down. Then Marshall said he was going to go sit in the lobby. Marshall confronted Officer Cole and asked if he was free to leave or under arrest. Officer Cole informed Marshall that he was not under arrest and Officer Cole tried to determine if Marshall wanted to remain on scene.

Officer Cole informed Marshall that once he went down the elevator that he would not be allowed to come back up to the 19th Floor. Officer Cole informs Marshall that we are not going to play the game of going up and down the elevator and asks Marshall if he wants his computer or not.

12:57- Officer McKernan arrived on scene on the 19th Floor.

Officer Cole informed Marshall that the more he read the paperwork, it appeared to be a civil matter. Marshall agreed and told Officer Cole that he "had no jurisdiction" for this investigation.

Marshall informed Officer Cole not to call him dude, and he must refer to Marshall as "Mr. Marshall or Sir". Officer Cole told Marshall that he was not in control of the investigation, and Marshall responded in the affirmative that he "was" in control of the investigation. Officer Cole said he was trying to "work" with him and Marshall responded that officers were "not" working with him.

13:35- Marshall said that if officers were trying to work with him, they would ask for any documentation in his possession. Officer Cole said he did ask, including Marshall's name, and Marshall was not cooperating. Marshall said he did tell the officers his name, and then informed Officer Cole that he was not required to provide that information.

Officer Cole addressed Marshall and asked him clearly if he wanted to retrieve his computer or leave the building. Marshall responded that "we're following police protocol" (not answering the question).

14:34- Officer Cole asked Marshall if he was in possession of the paperwork terminating the agreement. Marshall said he did not have said paperwork and did not see what Regus sent him because his computer was locked. Officer Cole asked if Marshall received the email on his phone. Marshall said he did not check and also that his computer was locked. Marshall said his additional computer was "at the hotel" and he did not check it because he was presently at 157 Church Street.

15:30 Officer Cole spoke with [REDACTED] and another manager about concerns he had with the termination notice. It was Officer Cole's belief that he would not be able to enforce the notice because it was only a (30) day notice. [REDACTED] said that she was in possession of a second notice. [REDACTED] said the letter was "served" and "hand delivered in his office" to Marshall. Officer Cole told [REDACTED] that if he was able to view and confirm this notice, that Marshall would be trespassing.

Officer Cole expressed to [REDACTED] that if the notice was served to Marshall, whether the investigation was civil or not, Marshall was no longer allowed in the building. [REDACTED] stated that Marshall requested that on the previous date (01/28/2021), she forward the notice to his Attorney which she confirmed was sent.

[REDACTED] said that prior to Police arrival, she and representatives met with Marshall to confirm he received the termination letter. [REDACTED] stated Marshall refused to confirm his email address.

17:47- Officer Cole was told by employees that Marshall caused a month of stress for them, and Officer Cole responded that it was his belief Marshall was "looking for something to happen here".

[REDACTED] explained that Marshall's lease was not a "real-estate lease" and that it was a "service agreement." [REDACTED] said their Corporate Attorney verified with a "Connecticut" Attorney that the termination agreement was sent to Marshall.

18:55- Officer Cole attempted to provide Marshall with a copy of the termination agreement, which Marshall declined to receive. Marshall told Officer Cole that the document needed to be forwarded to his attorney. Marshall said he did not need to look at anything and he was not told to vacate the office. Officer Cole told him that he was informing him at that time.

19:47- Officer Cole told Officers McKernan and DeRubeis that this investigation was not a "landlord-tenant" issue. Marshall objected and said it was his belief that it was a landlord-tenant issue.

Officer McKernan said Marshall appeared to be correct that this investigation was a civil matter and he needs to sue civilly through his lawyer to gain access to his office. Officer

McKernan said that this investigation was not a police matter and they would be unable to "breach" the office for Marshall.

Marshall responded that he was not asking Officers to enter his office or enforce landlord tenant laws, he merely wished for [REDACTED] (security guard) to retrieve the computer while he sat downstairs.

Officer Cole and Marshall again disagreed over the validity of Marshall's contract and whether he was served. Marshall reminded Officer Cole that the criminality portion of the investigation was his complaint of "harassment" which Marshall would explain once all parties were in the lobby of 157 Church Street. Officer Cole responded that he would "gladly" speak with Marshall about his complaint, however at the moment, Officer Cole wanted to find a solution so Marshall could retrieve his computer.

Marshall again wanted [REDACTED] to get his computer, and Marshall be allowed to take the elevator to the first floor alone. Officer Cole and Marshall continued to debate the validity of the paperwork served to Marshall, and Officer Cole encouraged Marshall to make a decision on whether he wanted to collect his belongings or leave.

22:30 Marshall was insistent that the only paperwork which was valid was his rental contract, not the termination letter.

22:47 Officer McKernan's explanation to Marshall was that the property within the Regus Office was a civil matter, and officers were enforcing the request of Regus to escort Marshall from the premises.

23:25 Marshall appeared frustrated that [REDACTED] (Security Manager tasked with escorting Marshall throughout the building) was not allowing Marshall to ride the elevator by himself. Officer Cole explained that [REDACTED] was "doing his job" by accompanying Marshall throughout the building.

[REDACTED] interjected and stated [REDACTED] would not retrieve the computer, due to liability in handling the device, and [REDACTED] would not allow it. Officer Cole suggested to Marshall that NHPD Officers could escort him into his office to retrieve the computer. Marshall agreed to go with an officer (he pointed in the direction of Officer McKernan). Officer Cole said he needed to check with Regus staff prior to Marshall entering their office.

24:1 [REDACTED] agreed to allow Marshall to retrieve his computer as long as [REDACTED] (a member of the Regus team) would accompany him so they could verify he did not enter any other office space.

25:28 Marshall agreed to allow Officer McKernan to accompany him to get his belongings, but not [REDACTED]. Marshall said that he would allow [REDACTED] to assist him. They told Marshall that he had fifteen minutes to retrieve his belongings.

25:40 [REDACTED] agreed to accompany the parties and requested [REDACTED] to assist because she knew exactly which offices were rented by Marshall.

26:00 Officer McKernan asked Marshall what exact property they would be retrieving, and Marshall stated "computer". Marshall then entered the Regus office space from the common area elevator area.

26:55 Marshall then said to the officers that he needed to retrieve additional items. Ultimately, Marshall and the officers agreed that whatever Marshall could retrieve in the agreed upon (15) minute timeframe he could take.

27:28 Officer Cole tells Officer McKernan to call him via radio if she needs assistance. Officer Cole and Officer DeRubeis stood by the entrance because Marshall was demanding about who he would allow to come back and help grab his belongings. Marshall refuses to walk down the hallway because he doesn't trust anyone. He does not want anyone walking behind him either.

Officers Cole and DeRubeis waited in the Regus office common area.

Officer Cole spoke with [REDACTED] and a member of Regus, who explained that Marshall violated the contract by entering unauthorized offices and now the company wanted him to leave the premises. Officer Cole related this investigation to a "preventive breach" where one party would be escorted by the police to retrieve their belongings.

Officer Cole explained to Regus management that he would document the incident, and he was informed that a police report was generated the day prior for the same incident with Marshall. Officer Cole said that he would reviewed that report and determined that Marshall was told by Regus management that he was not allowed on the property the day prior.

33:40 [REDACTED] explained that Marshall had been "harassing" members of the Regus team by texting and calling at all hours of the night.

36:40 [REDACTED] states Marshall has been harassing the team and clients in the office. [REDACTED] states the in-house counsel wrote a letter to Marshall.

37:00 Officer Cole states he doesn't expect this situation with Marshall to "take a turn". [REDACTED] states she doesn't know how Marshall gained access to the unauthorized second space.

38:30 [REDACTED] tells Officer Cole that there is a service agreement in place with Marshall which specifically stipulates the space cannot be utilized for living or sleeping quarters. [REDACTED] states Marshall has been found sleeping in the space on a few occasions.

39:25 Officer Cole has a discussion with [REDACTED] and office staff about whether Marshall has a substance abuse problem because his behavior is so erratic.

40:27 [REDACTED] tells Officer Cole that Marshall had a conversation with her where he cited information that was false.

41:20 Officer Cole checks with [REDACTED] to see if Officer McKernan is okay. Officer Cole states that he doesn't want to go back to Marshall's office and get Marshall all worked up. Donna asks Officer Cole to back to Marshall's office regardless.

41:40 Officer Cole and Officer DeRubeis go back to Marshall's office and standby outside quietly. Officer Cole whispers so Marshall isn't alerted to him being outside of the door. Marshall is heard speaking nonstop from within the office. Marshall indicates that he is running for Mayor and Chief Reyes could be his running mate. Marshall refers to Chief Reyes as "Tony"

45:09 Marshall spots Officer Cole and Officer Cole responds, "Hi Mr. Marshall". Marshall continues to speak continuously on a variety of topics to include the difficulties of being a police officer in this current environment. Marshall discusses Blue Lives Matter and the Capital Insurrection.

47:02 Marshall appears to be delaying getting his belongings. Officers state that they will help him bring everything downstairs. Officer Cole tells Marshall that he has five more minutes, and that the office is trying to close. At this point in the incident, Marshall has been collecting his belongings from his office for over twenty minutes. Marshall asks the officers advice on an attorney that he could use for the civil matter with Regus.

48:00 Officers begin assisting Marshall by wheeling carts full of clothing out of his office. Officer Cole and Officer McKernan encourage Marshall to hurry up (in a very courteous manner).

49:48 Marshall asks Officer Cole if he would mind grabbing his coat for him. Officer Cole says he will. Marshall thanks Officer Cole. Officer Cole also grabs Marshall's phone for him.

50:25 Marshall asks if "we should call Tony" and Officer Cole says no, because he is on vacation prior to his retirement. Marshall said he's not retiring, and Marshall is going to assist the officer's with their contract.

50:50 Marshall then says he has food in the office kitchen. Officer Cole allows him to get the food. Marshall states the food is for the homeless. Officer Cole encourages him to get the food and hurry along. Officer Cole informs Marshall that when they get downstairs, he will listen to his complaint.

52:23 Marshall insists that Officer Cole go lock his office for him. Officer Cole says he will take care of it, seemingly to appease Marshall.

54:50 The officers are pushing large carts full of clothing, as well as carrying bags for Marshall. Marshall refuses to get onto the elevator because office staff are standing near the elevator. Marshall directs officers to carry his belongings. The officers don't verbally

respond and continue to carry his belongings while also encouraging Marshall to keep moving along.

57:30 Marshall states that he will only ride the elevator with Officer McKernan. Officer McKernan agrees. Officer Cole tells Officer McKernan to call him via radio if there are any issues. Officer Cole and Officer DeRubeis ride the elevator down with several of Marshall's belongings separately.

59:57 Marshall and Officer McKernan exit elevator. Officer Cole advises Marshall that he is now going to take his complaint. Marshall then sits down in a chair and calls Pastor [REDACTED] on speaker phone. Marshall asks Pastor [REDACTED] to say a prayer. Pastor [REDACTED] does so. The officers all participate in the prayer. The prayer ends. Officer Cole then asks to take Marshall's complaint. Marshall insists that the officers sit down in chairs and begins dragging furniture over for the officers to sit. Officer Cole tells Marshall that he needs to explain his complaint so that the officers can move onto other calls as there are several holding in the city.

1:04:00 Marshall continues to speak in circles about matters he was discussing within the Regus office. Officers encourage Marshall to focus on the harassment complaint he is alleging. Marshall begins talking about a photo shoot. Officer Cole again encourages Marshall to stay on topic and focus on the criminal portion of his complaint. Marshall speaks about an email correspondence between him and the Vice President of Regus. Marshall rambles and it is difficult to understand what his complaint is. Marshall's story is incoherent and he discusses how several different people have harassed him.

1:11:00 Marshall continues to be unclear in what his complaint is. Officers encourage Marshall to explain his chief complaint. The officers indicate that they are needed on other calls. Officer Cole states that Marshall has one or two more minutes to try and explain his complaint.

1:13:00 Officer McKernan states that "we are running in circles". Officer Cole says "We gotta go". Marshall continues to ramble on with a very unclear story.

1:14 Officer Cole advises Marshall to speak with his attorney about the civil matter with Regus and again advises Marshall that the officers need to get going. Marshall says "you are missing the point". Officer Cole responds that they are not missing the point. Marshall continues to ramble on.

1:15:00 Marshall begins walking around the lobby and continues to ramble. Officer Cole states "We have to go. We have accommodated you. We have listened to you. None of this is criminal." Marshall begins reenacting someone chasing him down a hallway and asks "That's not criminal?" Officer McKernan and Officer Cole tell Marshall that he needs to get to the point. Officer Cole states, "You are rambling about other things" and then Officer Cole asks Marshall specifically who chased him. Marshall states "[REDACTED]". Officer Cole states he will document everything. Marshall reenacts [REDACTED] chasing him and begins

running around the lobby. Marshall states that this is the first harassment and cites that there are three harassments that occurred.

1:17:00 Officer Cole tells Marshall that officers have to go as there is something going on in another district. Marshall says he will write the report. Officer Cole says that the officers have been there for an hour and half. The officers still allow Marshall to try and get his story out but encourage him to hurry up.

1:18:00 Marshall suddenly becomes irate and pulls his mask down and demands officers go retrieve a license from a person he describes as a white man. Marshall then sits down. Officer Cole says, "Stop yelling or you will be arrested." Marshall responds, "You want to arrest me, arrest me." Marshall continues to yell "arrest me" and Officer Cole explains that the officers have accommodated him and have been there for over an hour.

1:19:00 Officer Cole tells Marshall that he has to leave now and states "You have to leave the entire building." Marshall responds that he does not. Officer Cole explains "Yes you do. You are causing a disturbance. Security is saying you now have to leave the building. Let's go, now." Marshall continues to stall. Officer Cole says, "Do I have to count to 3 like you are a kid?" Marshall argues back that he is not a child. Officer McKernan says "We don't want to treat you like a child."

1:20:00 Marshall yells about the officers taking the report and getting a license from a white man. Marshall begins walking and Officer Cole advises him "If you raise your voice one more time, I'm putting you in handcuffs. That is your last warning." Marshall then puts his hands behind his back and says, "Please put me in handcuffs."

1:21:00 Officer Cole continues to tell Marshall to leave. Marshall says that he is not leaving until the officers go upstairs and get the man's license. Officer Cole says we are not going upstairs, and we are not doing that. Officer Cole asks Marshall what exit he is walking to. Marshall continues to ramble. Officer Cole tells Marshall to turn around and Officer Cole takes his handcuffs out. Marshall says "Hold up man. Get off me. Get off me. Get off me." Marshall begins pulling away from Officer Cole and tries to run away. Officer Cole is trying to gain control of Marshall's right arm as Officer DeRubeis presses Marshall against the wall. Officer Cole continuously tells Marshall to turn around and Marshall yells "Get off me." Marshall falls to the ground while he is still yelling.

*From this point in the struggle forward, you cannot view the struggle on Officer Cole BWC because the struggle between the officers and Marshall is close contact. However, the audio on Officer Cole's BWC is still audible despite being able to not view the struggle.

1:21:00 (continued) Marshall says "motherfucker are you crazy? What are you hitting me for?" Officer Cole says "Stop. Roll him over on his back." Officer McKernan tells Marshall to roll over. Officer Cole continuously tells Marshall "stop". A female security guard [REDACTED] is heard yelling in the background "that's not fair". Officer Cole says, "roll over". Marshall says, "I'm not resisting arrest". Officer Cole says "Yes you are. You just kicked a police officer". Marshall says, "You punched me in the face". Officer Cole keeps

telling Marshall to roll over and instructs Officer DeRubeis or Officer McKernan to get their handcuffs out.

1:22:00 A male security guard is heard saying, "Come on Shawn. Just work with them." Officer Cole instructs Officer DeRubeis or Officer McKernan to put handcuffs on Marshall as the struggle continues. [REDACTED] continues to yell in the background that "it's wrong". Officer Cole continues to tell Marshall to "stop". Marshall states, "I'm not getting arrested. I didn't do anything". Officer McKernan says, "Sir, please. Sir, please. Roll over". Officer Cole again says "stop" several more times and states "or you are going to keep getting hit". A male security guard encourages Marshall to comply. Officer Cole tells Officer DeRubeis or Officer McKernan to "get him in handcuffs now". Officer McKernan continues to say, "Sir, please. Just stop. It's unnecessary". Marshall says, "I can't breathe. I can't breathe". Officer McKernan says, "Please, please. Just roll over. Please just give him your arm". [REDACTED] yells that she will call Pastor [REDACTED] for Marshall. Marshall says, "Call him now". Marshall says, "You should all get off". Officer McKernan says, "We just want you to roll over. You are resisting arrest". Officer Cole instructs Officer McKernan and states, "Ashley hold his legs". Officer McKernan responds and says, "What do you need?" Officer Cole responds, "Hold his legs". Marshall yells "Ouch! I don't need to stop. Let me go. Let me go home".

1:23:00 Officer Cole says, "Give us your hands and we will put you in handcuffs and this all stops". Marshall says, "All I'm saying is you don't need to be doing this". Officer Cole says, "Okay, give us your hands". Marshall continues to yell "ouch". Officer Cole says, "Stop, you're going to get sprayed. Stop". Marshall says, "I can't breathe" and then proceeds to make coughing sounds. Marshall says again, "I can't breathe brother". Officer Cole then says "stop" (from the sound of the audio, this is when OC Spray may have been deployed).

1:24:00 Officer Cole says "All you had to do. Stand him up. Get up. Get up". Marshall says, "Wait, let me get up. I can get up by myself". Officer Cole says, "Get up". Officer McKernan says, "They are trying to help you up. Please just stand up". Marshall says, "I need something for my eyes". Officer Cole says, "Secure everyone's stuff. Cameras came off and everything (cameras were dislodged from the officer's uniforms during the struggle)." Marshall says, "Can I get something for my eyes?" Officer Cole responds, "I'm going to get an ambulance here for you." Marshall says "Get me some water. Pour some water on my eyes please." Officer Cole says over the police radio "Start a signal one, OC spray. Start a signal three here as well."

1:25:00 Officer McKernan gives Marshall water for his eyes and consoles him. Officer Cole's BWC is placed back on his jacket, allowing for full view again. Officer DeRubeis and Officer McKernan are kneeling next to Marshall consoling him. Officer Cole picks up Officer DeRubeis' glasses and hands them back to him. Officer McKernan pours water over Marshall's eyes. Officer DeRubeis sits next to Marshall, placing his hand on his back and consoling him.

1:26:00 [REDACTED] asks if she can call one of Marshall's family members. Officer Cole says, "If he says you can take his phone, then you can take his phone." Officer Cole gives [REDACTED] Marshall's phone, and she contacts Marshall's family. Officer Cole locates a

broken watch on the ground and asks if it belongs to Marshall. Officer Cole then says, "It's all going with you." As Officer McKernan pours water on Marshall's eyes, she says "When AMR gets here, they will have a saline wash. This is just temporary relief." Marshall asks for more water on his eyes and to sit in a chair. Officer McKernan indicates AMR will likely put Marshall on a stretcher when they arrive. Officer Cole advises Marshall that AMR will utilize a particular solution for his eyes.

1:27:00 Marshall says "Sweetie, why did that happen?" Officer McKernan says "Because we asked you to leave and you were not leaving and that's a criminal offense." Officer McKernan continued to try and explain to Marshall why the situation escalated. Marshall asks if he is under arrest and officers advise him that he is. Marshall then asks if the officers can un-arrest him, to which they say no.

1:28:00 Officer Cole speaks with security. Marshall is heard yelling in the background stating that he (Marshall) kicked Officer Cole because Officer Cole punched him in the face. Marshall states that he would do it again as well if Officer Cole punched him in the face. Marshall stated he was resisting someone "beating his ass". Officer Cole says, "You kicked me long before I punched you." Marshall continues to discuss why he kicked Officer Cole in the face and states "You guys are so stupid. How did you do this? You know better."

1:29:00 Officer Cole says to Marshall "You resisted arrest. You kicked a police officer. Everything that happened after that..." Marshall interrupts and says "No. You punched me in the face and I kicked you dead in your face. You punch me again, I'll kick you dead in your face again." Officer Cole says "That's fine. That's not what happened, but okay."

1:30:00 Marshall asks the male security guard for ice for his face. Officer Cole says, "The ambulance will help you out with that."

1:31:00 Marshall asks [REDACTED] to make additional calls on his phone. [REDACTED] asks for Marshall to unlock his phone. Officer Cole says "No. We are not doing this. You are detained. You will have an opportunity to make whatever phone call you need after you get processed."

1:32:00 Marshall asks Officer Cole to call Chief Reyes. Officer Cole says no.

1:33:00 Officer Cole asks dispatch the status of the signal one. Marshall asks for water again. Officer Cole advises him that the ambulance will be arriving shortly.

1:35:00 Marshall asks for water. Officer Cole advises him that the ambulance has arrived and is walking in.

1:36:00 AMR arrives and walks into the building. Officer Cole advises them that Marshall was OC sprayed. AMR performs eye flush.

1:37:00 Sgt. Conceicao arrives. Officer Cole advises him that this began as a civil dispute and that officers tried to be very accommodating, spending over an hour with Marshall.

Officer Cole went on to explain that that they took their time with Marshall, and when they got him down to the lobby he continued to ramble. Officer Cole stated that Marshall was warned several times that it was time to go and that Marshall began raising his voice. Officer Cole stated that he advised Marshall that he was now trespassing, and the head of the building's security stated Marshall had to leave. Officer Cole stated when Marshall was advised that he was getting arrested, Marshall started to fight, rolling around on the ground with the officers and kicked Officer Cole.

1:40:00 Marshall demands to know his criminal charges. Officer Cole states that he is being arrested for Assault on a Police Officer, Interfering with an Officer, Trespassing, and Disorderly Conduct. Officer Cole then requests a prisoner conveyance wagon via the police radio.

1:41:00 Officer McKernan retrieves Marshall's hat and coat. Marshall is refusing to allow people to touch him. Marshall tries to get his phone from [REDACTED]. Sgt. Conceicao advises Marshall that he "is under arrest and not in control anymore". Sgt. Conceicao advises Marshall that officers will get his belongings for him and says, "You are not going to dictate what we are going to do and what we are not going to do." Marshall asks Sgt. Conceicao for his name. Sgt. Conceicao provides his name and badge number.

1:42:00 Officer DeRubeis and Officer Cole escort Marshall outside. Marshall asks for his face mask because of Covid-19. Officers advise Marshall that they aren't going to give him a mask from the ground. Marshall says he needs to go to the hospital to get his medicine. Marshall asks if the officers can stop by his house to get his medicine. Officer Cole states that they will figure it out.

1:43:00 A pat down is conducted on Marshall. A clean face mask is provided and placed on Marshall. During the pat down, Officer Cole says that money is dropping. Marshall says, "You can have it." Officer Cole says "No." Officer Cole advises someone to "Grab the money that fell." Officer Cole speaks with Sgt. Conceicao about transporting Marshall, but they opt for the prisoner conveyance wagon. Officer Cole confirms that there is no more money on the ground and indicates that "a penny fell".

1:45:00 Officers confirm they have Marshall's phone and property. Sgt. Conceicao asks Officer Cole for a rundown of the incident again. Officer Cole says that when officers came downstairs with Marshall, they spent twenty minutes listening to his concerns in the lobby. The officers explained to Marshall that it was time to go, it was a busy night in the city, and what's criminal in his complaint and what is not. Then Marshall got upset because he believed the officers were taking sides with another party in the incident. Marshall then began yelling [REDACTED] indicated that Marshall had to leave. Officer Cole states "I go to grab him and put him in handcuffs and he just starts fighting." Officer Cole continues to explain that Marshall tried running, pushing and when the officers got him to the ground, he kicked Officer Cole in the legs (Marshall is heard in the background stating he kicked Officer Cole in the face). Officer Cole explains further that Marshall refused to give officers his hands so Officer Cole OC Sprayed him. Officer Cole stated that [REDACTED] witnessed Marshall kicking Officer Cole prior to Cole striking Marshall.

1:47:00 Pastor [REDACTED] arrives.

1:48:00 Officer Cole does a Records check while Marshall screams from the backseat of the patrol cruiser regarding his license.

1:52:00 Pastor [REDACTED] tells Officer Cole that Marshall has [REDACTED] and asks Officer Cole to take him to the hospital. Officer Cole says "As of right now, we don't have a reason to. If there was a reason to take him to the hospital, then I would. I appreciate you telling me he is [REDACTED] because that actually makes a lot of sense with everything that we dealt with."

1:53:00 Marshall is escorted from the patrol cruiser to the prisoner conveyance wagon. Marshall rambles and refuses to get inside. Pastor [REDACTED] come over to try and coax Marshall into the prisoner conveyance wagon.

1:54:00 Marshall successfully goes into the prisoner conveyance wagon.

Officer McKernan body worn camera footage; 1 hour, 43 minutes

Officer A. McKernan arrives, and Officer Cole is speaking with Marshall near the elevators outside of the Regus Office. The incident is summarized under Officer Cole's body worn camera footage account up until 14 minutes, 30 second marker on Officer McKernan's BWC.

14:30 Officer McKernan escorts Marshall back to Marshall's former office to retrieve his belongings. Marshall doesn't want anyone walking behind him. Marshall refuses to walk to the office and must be coaxed. [REDACTED] comes too.

16:27 Officer McKernan, [REDACTED] and Marshall are in the office space with Marshall's belongings. Marshall argues with office staff and then demands [REDACTED] get a document out of his former office.

17:10 [REDACTED] tries to locate the document but indicates she cannot because there are piles of things everywhere. Marshall demands a list of items that were touched without gloves.

18:25 Officer McKernan asks Marshall if he would like her to assist in recording with Marshall's phone.

18:50 Officer McKernan reminds Marshall he has fifteen minutes because he is stalling.

19:45 Marshall continues to demand a document.

20:40 Marshall again asks [REDACTED] if the items in his office were handled without gloves.

21:15 Marshall offers [REDACTED] cookies and asks for the address of where he the \$150k production bill can be sent. Officer McKernan encourages Marshall to move along.

22:30 Marshall requests a cart. Officer McKernan explains that there is no time to try and locate a cart.

25:15 Marshall goes to the next office space where more of his belongings are.

26:08 Marshall says Officer McKernan looks familiar.

27:00 Officer McKernan encourages Marshall to move along.

28:23 Officer McKernan and Marshall discuss when they may have met previously and that it was likely around the time Officer McKernan was in the background process with the New Haven Police Department.

29:16 [REDACTED] says "They are ringing the time clock."

29:35 Marshall tells [REDACTED] that he and Officer McKernan knew each other. Officer McKernan responds "Yes. We met in passing."

30:07 Marshall asks for Officer McKernan's name and she provides it.

(From this point until 45:05 is captured and summarized under Officer Cole's BWC account)

45:05 Marshall claims he got Officer McKernan hired on New Haven Police Department.

45:50 Marshall speaks to Pastor [REDACTED] via speaker on his cell phone and advises her that he got Officer McKernan on NHPD.

47:00 Marshall rides the elevator down with Officer McKernan and security.

(From this point up until 1:08:35 marker is captured and previously summarized under Officer Cole's BWC account)

1:08:35 Marshall is walking and continues to ramble. Officer Cole takes his handcuffs out and tells Marshall to turn around. Marshall says, "hold up man" and begins to run away. Officer DeRubeis presses Marshall up against a wall. Marshall yells "Get off me. Officer Get off me. Get off me." Marshall continues to yell "get off" as Officer Cole and Officer DeRubeis take Marshall to the ground. Officer Cole and Officer DeRubeis struggle with Marshall as he refuses to comply. Both Officer Cole and Officer DeRubeis are on top of Marshall's back trying to secure him. Marshall turns onto his back and yells "Motherfucker, are you crazy?" Marshall then kicks Officer Cole and appears to try and kick Officer McKernan.

1:09:00 Marshall asks, "What are you hitting me for?" Officer McKernan says "Mr. Marshall". Officer DeRubeis tries to gain control of Marshall and is partially on top of Marshall's upper body. Officer Cole recovers, drops his handcuffs on the ground and assists Officer DeRubeis in trying to control Marshall. Officer Cole places his hand over Marshall's

face and instructs Officer DeRubeis to "get him over on his back". Officer McKernan (standing nearby) instructs Marshall to roll over. Marshall does not comply, does not roll over and continues to struggle. Officer Cole places his left hand around Marshall's throat briefly. Marshall makes a spitting or coughing sound. Officer Cole strikes Marshall three times in the head with a closed right fist. [REDACTED] is heard yelling "Hey! Hey!" in the background. Officer McKernan says "Woah, woah, woah, woah" and runs over, pressing her hands against Officer Cole's right arm and chest. Officer McKernan says "stop" several times. This is the first instance of when Officer McKernan involves herself in the struggle with Marshall. Officer Cole tells Marshall "stop, stop" and then tells [REDACTED] to "mind your business". Officer DeRubeis and Officer Cole are still struggling with Marshall and have not successfully detained him.

1:09:19 Marshall is still not detained but becomes less combative after being struck in the head by Officer Cole. Marshall states "I'm not resisting arrest." Officer Cole says "Yes you are. You kicked a police officer." Marshall says, "You punched me in the face." Troutman continues to yell in the background "that's not fair".

1:09:26 Officer McKernan has not involved herself in physically detaining Marshall yet. Officer McKernan provides verbal commands and says "Mr. Marshall, please roll over. I'm only going to ask you once nicely. Please roll over." Officer Cole tells Marshall "roll over" and asks "Where are the handcuffs? Get your handcuffs out." Officer DeRubeis takes his handcuffs out. Officer Cole says, "Put the handcuffs on him." Officer Cole has control of Marshall's right arm, which is pressed up against Marshall's body. Marshall tries to pull away and says "I'm not getting arrested. I didn't do anything."

1:09:44 Officer McKernan holds Marshall's right wrist and says "Sir, please. Sir, please. Just roll over." Marshall says, "Are you guys filming?" Then a struggle ensues again. The struggle is not visible because of close contact between Marshall and Officer McKernan's body worn camera.

1:09:55 Officer McKernan's body worn camera appears like it fell on the ground. Very little video can be seen. Audio is picked up and this account is captured under Officer Cole's body worn camera account.

1:10:11 Video is picked up again slightly and Officer McKernan can be seen holding onto Marshall's ankle as he says "I can't breathe. I can't breathe."

1:10:19 Officer McKernan continues to plead with Marshall "Please just give him your arm. Please just give him your arm." Video is now completely out of view and pointed at the ceiling. All further audio is documented under Officer Cole's body worn camera account.

1:11:57 Officer McKernan picks up her body worn camera off the ground after Marshall is secured.

(From this point until 1:20:09 is captured on Officer Cole's body worn camera account)

1:20:09 Officer McKernan approaches [REDACTED] and indicates to [REDACTED] that she is “not telling you what to do” but asks if she could refrain from calling unnecessary people to the location because it has the potential to make the situation more volatile. [REDACTED] states that she only called Pastor [REDACTED]. [REDACTED] indicates that she captured the incident on camera and that an officer did punch Marshall in the face, and Marshall did kick an officer. [REDACTED] says the officers gave Marshall “one too many chances” and they had an opportunity to get Marshall out of the building but failed to do so. Officer McKernan explains that officers have been in the building for close to two hours for a property retrieval. Officer McKernan explains that Marshall is not in a “good state of mind” and [REDACTED] agrees. Officer McKernan explains that officers don’t want to go “hands on” because they know that the moment they do, it’s going to be a struggle. [REDACTED] says, “Right and now he’s resisting arrest.” Officer McKernan again asks [REDACTED] to try and refrain from calling unnecessary people to the scene on Marshall’s request.

(The remainder of the incident is captured under Officer Coles’ body worn camera summarization).

Officer DeRubeis body worn camera footage; 1 hour, 21 minutes, 26 seconds

Officer DeRubeis body worn camera footage is all captured under Officer Cole’s body worn camera summarization. As Officer DeRubeis is Officer Cole’s Officer in Training, he accompanied Officer Cole throughout the entirety of the incident. I reviewed Officer DeRubeis’ BWC footage in its entirety, but it did not provide any additional information not already detailed in this report.

Officer DeRubeis body worn camera captured the onset of the struggle with Marshall at the 1:21:10 marker. It was within very close contact and the video is unviewable. Officer DeRubeis’ body worn camera became deactivated during the struggle with Marshall at the 1:21:26, likely due to the close contact of the struggle.

Officer Cole 1st Interview

On May 26, 2021 I conducted an audio recorded interview with Officer Cole in the Internal Affairs office. Present in the room was Elm City Local Union President Florencio Cotto. Officer Cole read, signed and acknowledged he understood the False Statement Form, as well as the Administrative Warnings Form. Officer Cole was afforded the opportunity to review all incident reports and body worn camera footage associated with the incident. Officer Cole stated the following:

Officer Cole stated he responded to the Financial Center located at 157 Church Street for a harassment complaint. Upon arrival, Officer Cole met and spoke with both parties on scene. Officer Cole spoke with [REDACTED] (Vice President for Regus) and she explained that this business rents office space to small businesses. [REDACTED] explained to Officer Cole that they were trying to ban Marshall from the office spaces and enlisted their legal team’s

assistance who voided the service agreement that was in place due to Marshall's disruptive behavior, going into other office spaces, and utilizing the space as his personal living quarters. [REDACTED] provided Officer Cole with paperwork that she indicated was given to Marshall. Marshall claimed he had never received the paperwork.

Officer Cole was the primary officer on the call. Officer DeRubeis was in his first week of the Field Training program and was assigned to Officer Cole as his officer in training. Officer Cole explained that the first week of the Field Training program is called the "limbo week" and Officer DeRubeis is instructed to just observe their FTO (Officer Cole), barring something happening where the officer in training would need to assist.

Officer Cole stated he has never had any interaction with Marshall other than this incident. Officer Cole described Marshall's demeanor as emotional and inconsistent. Officer Cole explained that at times he was irate and at other times he was polite. Officer Cole stated the officers spent a great deal of time with Marshall, working with him and speaking with him, physically helping him move his belongings. Upon getting downstairs to the lobby, the officers prayed with Marshall, spoke with him, and overall spent a great deal of time in assisting him to leave the building in a manner that worked for everyone. Officer Cole indicated that in his experience he would not assist someone in moving their belongings out of a space. However in this incident Officer Cole felt like he had some time to do so, he was teaching a new officer, and lastly Officer Cole could tell Marshall was upset and he was sympathetic to that.

Officer Cole stated that he ultimately arrested Marshall because after getting back downstairs to the lobby, the officers had been there for an over an hour and explained to him repeatedly that the officers could only assist him with a criminal complaint. However, Marshall kept rambling about matters that wouldn't be considered criminal. Officers tried to explain to him that they had been there for a long time, but Marshall did not get to the point of his complaint. At one point, Officer Cole looked at the regional security director for SSC who provides security for the entire building, and the director stated that Marshall needed to leave the ground floor level. At this point, officers really tried to tell Marshall he had to leave. Marshall became irate and was yelling something about getting the white man's license upstairs. Officer Cole made the decision to arrest him. Marshall was arrested and charged with Interfering with an Officer, Assault on a Public Safety, Criminal Trespass in 1st degree, and Disorderly Conduct. Officer Cole stated he charged Marshall with Disorderly Conduct mainly due to his behavior in the lobby. Officer Cole stated there were several people in the lobby, and Marshall's language and yelling lead to his decision to charge him with Disorderly Conduct. Officer Cole chose to charge Marshall with Criminal Trespass in the 1st degree because the security director requested Marshall leave the building and he didn't. The decision to charge him with Interfering with an Officer and Assault on a Public Safety, was due to the physical altercation with Marshall.

Officer Cole was not sure if it was Officer DeRubeis or himself who ultimately handcuffed Marshall, but that he and Officer DeRubeis tried to initially handcuff Marshall, however he did not comply. When asked what he did to get Marshall to comply, Officer Cole stated when he made the decision to arrest Marshall, Officer Cole withdrew his handcuffs and Marshall

ran away. Officer DeRubeis tried to push him up against a nearby wall and gain control of him. Marshall swung his arms away from the officers and tried to run away again. Officer Cole, Officer DeRubeis and Marshall then all went to the ground. At this point, Marshall violently kicked Officer Cole in the front of his body causing him to fall several feet backwards. Officer Cole stated he remembered feeling like he had never been kicked like that before. Officer Cole stated the kick caused his department issued body camera to fall from his jacket. Then Marshall tried to kick Officer McKernan. Officer DeRubeis attempted to handcuff Marshall, but he continued to yell and kick, and Officer DeRubeis prescription eyeglasses fell off. Then Marshall started making a spitting noise. Officer Cole stated that he tried to put his hand up by Marshall's face to try and control this so he was not spit upon. Officer Cole stated Marshall continued to not comply. Officer Cole told Marshall to roll over on his back, but Marshall refused. The struggle continued. Officer Cole's hand was still "up in that area" and to try and gain compliance, Officer Cole punched Marshall three times in the area of his head. The struggle continued, Marshall continued to not comply, would not roll over on his back and refused to be handcuffed, and kept his hands clenched to his chest. Officer DeRubeis tried to get the handcuffs on Marshall but was unsuccessful. At this point, Marshall escaped control from Officer Cole and Officer DeRubeis. Marshall got back up and tried to run away again. Officer Cole caught up with him, took him by the shoulder area and brought him back down to the ground. Officer McKernan tried to sit on Marshall's legs at this point. Marshall continued to struggle as Officer DeRubeis tried to place handcuffs on him. Officers tried to place handcuffs in a frontal position, because they were unsuccessful in handcuffing Marshall behind his back. At this time, Officer Cole withdrew his department issued OC spray and dispersed one to two sprays in Marshall's face. A few seconds later, Officer Cole and Officer DeRubeis were able to handcuff Marshall in the front of his body. Officer Cole stated the OC spray was effective. Officer Cole stated after the struggle, the officers located all three of their body worn cameras scattered on the ground around where the struggle took place. Officer Cole stated Officer DeRubeis also lost his hat during the struggle. Officer Cole could not recall if he lost his own handcuffs during the struggle.

When asked if he could elaborate on the spitting sound Marshall made, Officer Cole stated he distinctly remembers Marshall making a spitting sound. Officer Cole stated in his experience as a police officer he has been spit on previously and was familiar with the sound. Officer Cole did not see Marshall spit. Officer Cole stated when he heard this spitting sound, he put his left hand up in "that area". I asked Officer Cole if he remembered grabbing Marshall at any point. Officer Cole stated that yes, he did. Officer Cole stated he put his hand up near Marshall's upper shoulder area and face and put his hand down near Marshall's shoulders. Officer Cole then struck Marshall three times in the head. I advised Officer Cole that it appeared that he placed his left hand around Marshall's neck before striking him three times. Officer Cole stated he didn't recall placing his hand around Marshall's neck, but believes it was near his upper chest, shoulder, and head area. Officer Cole stated he struck Marshall with a closed fist. I asked Officer Cole what his intent was in utilizing this force. Officer Cole stated it was to gain control of Marshall and that this was after Marshall had already assaulted Officer Cole, refused to be handcuffed, and his hands remained clenched to his chest. I asked Officer Cole if this particular force was effective, and he stated it was not. I asked Officer Cole if he recalled Officer McKernan placing her hands on his arm and chest and stated "woah" several times. Officer Cole stated he did not recall Officer McKernan

doing this. Officer Cole stated he saw this on body worn camera footage and other video footage after the incident concluded, but he did not recall it occurring while the struggle was underway.

I asked Officer Cole if the level of force of he utilized was influenced by the level of force the other two officers utilized, or the level of force the other two officers did not utilize. President Cotto requested a break at this point in the interview.

Upon returning, I asked Officer Cole the same question. Officer Cole responded that it would be due to the level of force that the officers did not utilize. Officer Cole went on to explain that Officer DeRubeis was on his fifth day of the FTO program and that "it wasn't so much his (Officer DeRubeis) decision to execute commands to use force, that's why I was telling him to get him in handcuffs several times, and also at that time, at that point of the altercation, Officer McKernan was doing nothing. So I felt like at that time I was in this altercation by myself."

Officer Cole was asked if he recalled when Officer McKernan did get involved in trying to detain Marshall. Officer Cole stated that at one point, Officer McKernan did try and sit on Marshall's legs while he (Officer Cole) and Officer DeRubeis were trying to handcuff Marshall. Officer Cole stated this was after Marshall had gotten up and tried to run away for the second time. Officer Cole stated Officer McKernan's participation was not effective. Officer Cole stated he did not recall giving Officer McKernan instructions during the struggle.

Officer Cole was asked if he ever spoke with Officer McKernan after the incident regarding the struggle. Officer Cole stated he and the officers went to the Police Substation in District 1 to review body worn camera footage and he briefly spoke to Officer McKernan then, but he could not recall what he spoke to her about.

Officer Cole stated AMR responded and treated Marshall for OC Spray. Officer Cole stated he (Officer Cole) sustained a knee injury during the struggle. Officer Cole stated a few days after the incident, he was treated at Occupational Health for the injury.

Officer Cole noted that the female security guard's (██████████) actions made it more difficult while they were trying to gain control of a very irate subject who was trying to resist arrest.

Officer Cole 2nd Interview

On August 3, 2021 I conducted a follow up interview with Officer J. Cole in the Internal Affairs office. Present in the room was Elm City Local Union President Florencio Cotto. Officer Cole read, signed and acknowledged he understood the False Statement Form, as well as the Administrative Warnings Form. Officer Cole was afforded the opportunity to review all incident reports and body worn camera footage associated with the incident. The objective of the second interview was to follow up on Officer Cole's first statement where he described placing his hand up near Marshall's face and shoulder area. Body worn camera

footage depicts a different perspective. Officer Cole stated he further reviewed the footage and stated the following:

During the struggle and prior to striking Marshall, and in order to gain control and compliance from Marshall, Officer Cole stated he placed his hand near the lower area of Marshall's neck. Officer Cole stated he didn't place it anywhere else on his neck, and he did not restrict Marshall's airway. Officer Cole stated his intention in placing his hand on Marshall's neck area was after Officer Cole heard a spitting noise, because Marshall continued to struggle, and it was to gain control of him. Officer Cole indicated that placing his hand on Marshall's neck and striking him in the head were ultimately ineffective in gaining control of him. I advised Officer Cole that based on body worn camera it sounded as though the spitting noise he heard was simultaneous to Officer Cole placing his hands on Marshall's neck. I asked Officer J. Cole if he heard a spitting noise prior to this point that was inaudible on body worn camera footage. Officer Cole stated he didn't recall specifically, and just remembered hearing a spitting noise.

At this point, I reviewed the body worn camera footage with Officer J. Cole and again advised Officer Cole that it sounded like it was simultaneous to him placing his hand on Marshall's neck. Officer Cole reiterated that everything happened quickly during the struggle, so he did not recall specifics regarding when the spitting noise occurred. I asked Officer Cole why during our first interview, did he describe placing his hand up near Marshall's face and in his shoulder area. Officer Cole stated he didn't recall placing his hand around his neck because he had no intention of putting his hand on his windpipe or restrict any intake of air, and that he was just simply trying to reach to that area to gain his compliance. Officer Cole explained further that as the video details, Officer Cole and Officer D. DeRubeis were involved in a struggle where a lot was going on with an individual who assaulted officers and was difficult to gain control of. Officer Cole stated it was a long and stressful event, so he couldn't recall specifics of the "immense struggle" when trying to recount the totality of the incident during his initial interview.

Officer DeRubeis Interview

On July 23, 2021 I conducted an audio recorded interview with Officer DeRubeis in the Internal Affairs office. Present in the room was Elm City Local Union Representative Christian Bruckhart. Officer DeRubeis read, signed and acknowledged he understood the False Statement Form, as well as the Administrative Warnings Form. Officer DeRubeis was afforded the opportunity to review body worn camera footage and incident reports relative to this investigation. Officer DeRubeis stated the following:

Officers were dispatched to the 19th floor of 157 Church Street because there was a disagreement over whether Marshall's contract was terminated for his rental space. Marshall felt that his contract wasn't terminated. Officer DeRubeis described the incident as a cross between a landlord tenant issue and a trespassing incident. Officer DeRubeis stated officers assisted Marshall with gathering his belongings. Once Marshall was downstairs in the lobby of the building, he was instructed that he needed to leave the premises, but he continued to cause a scene. Officer DeRubeis stated a security guard told Officer Cole that Marshall had

to leave the premises. Eventually Marshall was arrested. Officer DeRubeis stated Officer Cole was the primary officer on the call (Officer DeRubeis was in his first week of the FTO Program).

Officer DeRubeis described Marshall's behavior as defensive, mood swings, and Marshall couldn't comprehend why officers were speaking with Regus personnel first when Marshall was the one who contacted police. Officer DeRubeis stated officers tried to gain control of Marshall's behavior throughout the call. Officer DeRubeis stated Marshall stated many times that he (Marshall) was in control and tried to dictate the officer's actions. Officer DeRubeis stated Marshall referred to Officer DeRubeis as a rookie several times throughout the call and tried to dominate the situation.

Officer DeRubeis stated the decision to make an arrest came after Marshall refused to leave the lobby and caused a disturbance. Officer DeRubeis stated Regus personnel provided Officer Cole with paperwork that stated Marshall's contract was terminated and he was no longer permitted access to the office spaces he had his belongings in. Officer DeRubeis stated Officer Cole initially tried to handcuff Marshall, but he did not comply. Officer DeRubeis stated he (Officer DeRubeis) ultimately handcuffed Marshall.

Officer DeRubeis stated Officer Cole and he struggled with Marshall on the ground to get him to comply. At some point, Marshall kicked or threw Officer Cole off him. Officer DeRubeis stated he (Officer DeRubeis) was on the side of Marshall trying to hold him down and noted that "I was still pretty new to this." After being kicked, Officer Cole reentered the struggle, and he attempted to gain control and punched Marshall two to three times in the head. Officer DeRubeis stated there were lulls within the struggle and the officers would ask Marshall to comply while still trying to gain control of him. Marshall told officers that he wasn't resisting arrest, although he continued to tense up to avoid being handcuffed. Officer DeRubeis stated he wanted to try and flip Marshall over to try and handcuff him behind his back, but it was not possible. Officer DeRubeis stated Officer Cole deployed OC spray and it was effective in gaining control of Marshall. Officer DeRubeis stated Marshall did not assault him (Officer DeRubeis) aside from the struggle that occurred while trying to handcuff him, but Marshall did either kick or attempt to kick Officer Cole. Officer DeRubeis stated his body worn camera, glasses and hat all flew off during the struggle with Marshall.

Officer DeRubeis stated he did not know during the struggle that Officer McKernan said "Woah" several times and placed her hands on Officer Cole's arm and chest, and then said "Stop". Officer DeRubeis stated he learned that this occurred after the incident concluded when he reviewed body worn camera footage. Officer DeRubeis stated he knew that Officer Cole struck Marshall a few times and that Officer McKernan "came to" Officer Cole, but everything happened so fast that he didn't know what transpired. Officer DeRubeis stated he did not witness any unreasonable force from Officer Cole or Officer McKernan where he felt that he needed to intervene.

Officer McKernan Interview

On June 18, 2021 I conducted an audio recorded interview with Officer McKernan in the Internal Affairs office. Present in the room was Elm City Local Union President Florencio Cotto. Officer McKernan read, signed and acknowledged she understood the False Statement Form, as well as the Administrative Warnings Form. Officer McKernan was afforded the opportunity to review body worn camera footage and incident reports relative to this investigation. Officer McKernan stated the following:

Officer McKernan responded to a property retrieval after Officer Cole requested a backup unit. Officer McKernan stated upon her arrival, Officer Cole and his OIT Officer DeRubeis were on the 19th floor of 157 Church Street. Officer McKernan stated there was a disagreement about a breach of contract between Marshall and members of Regus, and Regus wanted Marshall out. The officers and the involved parties came to an agreement to have Marshall gather his belongings, and the officers assisted him in retrieving them. Officer McKernan stated Marshall gathered more belongings than she expected him to. Once the officers and Marshall were downstairs in the lobby of the building, Marshall wanted to file an additional harassment complaint regarding employees of Regus. Officer McKernan stated Officer Cole was willing to take the complaint. She stated that at this point, officers had been at the call for over an hour. Officer McKernan stated she was aware that different officers had been at the location the day prior trying to resolve the same issue.

Officer McKernan stated while Officer Cole was trying to take his complaint, Marshall kept getting sidetracked and brought up irrelevant topics and had several mood swings. Officer McKernan stated she tried to navigate his behavior as best as she could. Officer McKernan stated she, Officer Cole and Officer DeRubeis prayed with Marshall, however he became extremely sidetracked and things escalated. Officer McKernan stated officers wanted to leave and were trying to get Marshall to get to the point of his complaint. Officer McKernan stated at some point, Officer Cole decided Marshall should leave the building and that Officer Cole felt it "wasn't conducive to leave him there" inside of the building. Officer McKernan stated the officers tried to get Marshall to "freely" leave the building. Marshall was screaming and making demands. Officer McKernan stated Officer Cole made the decision to handcuff him and arrest him for trespassing. It was at this point that a physical altercation ensued and Marshall began kicking officers while he was on the ground. Officer McKernan stated the officers were able to get him secured.

I asked Officer McKernan why she stated Officer Cole was the one who thought Marshall should leave the building and then made the decision to arrest him, and furthermore if she agreed with his decision. Officer McKernan stated she "did not think it was absolutely necessary to make him (Marshall) leave the building" and didn't know if security told Officer Cole that they wanted Marshall out of the building. Officer McKernan stated she felt that officers could have left Marshall in the lobby of the building and he could have "left in the timeframe he so chooses". Officer McKernan stated Officer Cole "made the decision to go hands on" and that she was his cover officer, and she supported his decision. Officer McKernan stated she was not sure if she agreed with the decision to arrest Marshall. She stated she looked at the incident as an emotionally disturbed incident, and that she didn't

know if it should be handled criminally. I asked Officer McKernan to break the incident down into two parts: the incident prior to the struggle and then the incident after Marshall struggled with the officers. Officer McKernan indicated she did not feel an arrest was necessary prior to the struggle, however, did feel an arrest was necessary after the struggle occurred. Officer McKernan stated she felt the police's presence at the call was the catalyst behind Marshall's escalated behavior. Officer McKernan stated she felt it would have been appropriate to leave Marshall in the lobby of the building prior to his behavior escalating and if she was the primary officer taking the complaint, she would have. Officer McKernan reiterated that she saw this incident as an individual with a mental health issue. I asked Officer McKernan if she did in fact believe that Marshall was experiencing a mental health crisis, if leaving him in the lobby of the building would have been the best course of action. Officer McKernan stated Marshall was never a danger to himself or others, he was just exhibiting signs of mental illness. She elaborated on his mood swings and described it as yelling, narcissistic, agreeable and then disagreeable. Officer McKernan stated not every person who is dealing with a mental illness needs to be treated with a Peer Form. Officer McKernan stated she deals with a lot of mentally ill people and that not everyone needs emergency intervention. She went on to say that she felt it can be best to "remove ourselves" because people go through life with mental illness and that it's best to just keep them deescalated. I again asked Officer McKernan if she believed Marshall would have left on his own accord if officers left him in the lobby of the building. Officer McKernan stated she believed Marshall would have.

Officer McKernan made a point to note on more than one occasion that Marshall was the complainant on the call, and that officers were called there on his request. I asked Officer McKernan if she understood that simply because an individual contacts the police, it does not preclude officers from providing police service to other individuals on scene. Officer McKernan stated she understood this.

Officer McKernan stated she felt like an arrest was necessary after the struggle occurred because he was actively resisting arrest, he was trying to pull away from officers, was kicking officers, throwing hands, and needed to be arrested. Officer McKernan stated she did not prefer to use the term resisting arrest because it is overly used in the media and some people have a connotation that in order to resist arrest you have to "throw punches and it doesn't always look like that". She went on to describe that in this instance, Marshall was pulling away and refusing to be handcuffed, and then it escalated to Marshall kicking officers.

I read an excerpt from Officer McKernan's supplemental report where she stated, "Mr. Marshall immediately panicked and jerked away from officers, trying to flee." I asked Officer McKernan if Marshall told her that he "panicked" and that was the reason he "jerked away from officers, trying to flee". She stated that Marshall did not relay this to her, and she used this terminology because of the "explosiveness of the reaction" from Marshall. She explained that when officers put hands on him, he was screaming and was trying to run away to the point that he threw himself onto the ground and acted irrational.

Officer McKernan stated she believed Officer Cole was the officer who initially tried to handcuff Marshall, but Marshall did not comply. Officer McKernan stated Marshall did comply after he was OC sprayed by Officer Cole. Officer McKernan was asked what officers did to try and gain compliance. Officer McKernan stated officers attempted to gain control of Marshall's arms and legs, and Officer Cole gave Marshall a few strikes to the head, and finally deployed OC spray.

I asked Officer McKernan if she could explain the actions that she took during the struggle. She explained that it was difficult because she couldn't get onto Marshall's legs because due to her stature, she thought Marshall would kick her off. She stated she attempted to get one of Marshall's arms, but Officer Cole and Officer DeRubeis were both on his arms at the time. Officer McKernan stated once she was able to get in and get one of his arms, she tried to get control of his arm. She stated Marshall was "surprisingly strong". Officer McKernan stated at one point she believed she laid down on his legs so that he would stop kicking. I asked Officer McKernan if she could explain her thought process on physically intervening while Officer Cole and Officer DeRubeis struggled with Marshall, and why she maintained the position that she had. She explained that it was difficult because she couldn't find a spot to get in and assist, and she didn't want to be anywhere near his legs because she felt that she would be "kicked across the room". Officer McKernan described Marshall's legs as a "bicycle" and "flailing". She stated once she saw an opening, she assisted.

I asked Officer McKernan if she recalled saying anything to Officer Cole during the struggle. She stated, "at one point I know I told him to stop." I asked her to elaborate on this point. She stated her telling him to "stop" was a "gut, knee jerk reaction. It wasn't necessarily something that was calculated. It was just I had seen him using his level of force, and I felt it wasn't necessary at that time. That's all I can personally remember thinking at that split moment, we don't need to be doing that, and that's why I said stop". Officer McKernan was maintaining a standing position next to the struggle when she initially observed the force that led her to say "stop". Officer McKernan stated she placed her hands on Officer Cole during the point that he was striking Marshall in the head. I asked Officer McKernan if Marshall was actively fighting at the point when she told Officer Cole to "stop". Officer McKernan stated Marshall was actively fighting and was on the ground trying to kick officers. Officer McKernan stated at the time she didn't realize that Marshall had already kicked Officer Cole. I asked Officer McKernan what specific force utilized by Officer Cole was unnecessary in her opinion. Officer McKernan stated the placement of Officer Cole's hand on Marshall's neck. I asked Officer McKernan what force she thinks should have been utilized to get Marshall to comply. Officer McKernan stated that she thinks more officers should have been requested. I asked Officer McKernan if she called for more units. She stated she did not. I asked Officer McKernan if she felt that she was in the best position to call for additional units because of the standing position she maintained at this point in the struggle, and she responded "absolutely". I asked Officer McKernan why she didn't request additional units and she stated "I just was trying to find out how I was going to work my way into the fight. I just wasn't thinking about it. Honestly, it was just a mistake." I asked Officer McKernan if she thought there was anything else unnecessary aside from Officer Cole's placement of his hand on Marshall's neck. Officer McKernan stated no, but when Officer Cole performed this maneuver, she began to question Officer Cole's judgement. I asked Officer McKernan what

actions she took as a result and she stated that "I ran over and intervened. I just grabbed his (Officer Cole) arm and told him to stop." I asked Officer McKernan if Marshall's behavior dissipated after Officer Cole placed his hand on Marshall's neck and struck him in the head three times. Officer McKernan stated yes. I asked Officer McKernan if she thought that this technique by Officer Cole was effective. She stated "Yes, it was effective." I again asked Officer McKernan if she thought Officer Cole's actions were unnecessary given that she had just stated it was effective, and she maintained that she still thought it was unnecessary. I asked Officer McKernan if she knew what Officer Cole's intent was by placing his hand on Marshall's neck. She stated she did not. I asked Officer McKernan if she had any thoughts on what methods should have been utilized. She again stated that she would have called for additional units and she thought deploying OC spray was effective on Marshall. I asked Officer McKernan if while maintaining the position of standing next to the struggle if she deployed her OC spray. She stated she did not.

I asked Officer McKernan if she brought her concerns about Officer Cole's force, and that she had to "intervene", to the attention of a supervisor. She stated she didn't remember. I asked Officer McKernan if she documented her concerns in her supplemental report. She stated she did not. I asked her why and she stated "Probably because at the time I was very unsure of myself and I was very unsure of what happened on the call. A lot had happened. It was a lot for me to take in." I asked Officer McKernan what she was unsure about. She stated that she questioned if she was right to intervene and if excessive force was used or not used.

I asked Officer McKernan if she and Officer Cole or Officer DeRubeis discussed the struggle and the force used. She stated she did not, aside from simply reviewing body worn camera footage after the incident ended.

Officer McKernan stated Marshall kicked her body worn camera off of her uniform during the struggle.

I asked Officer McKernan if she has utilized force prior to this incident, in her capacity as a police officer and she stated she had. She could not recall how many times.

Officer McKernan stated she assisted Marshall by pouring water on his face because of the OC spray, prior to AMR's arrival.

I asked Officer McKernan if she was aware that Regus and/or security was making a counter complaint against Marshall while officers were on scene. She stated she wasn't aware of a specific complaint, but it was apparent that Regus and security were not happy with Marshall. I asked Officer McKernan if she was aware that security advised officers that Marshall was no longer permitted in the building. Officer McKernan stated she did not remember being personally told that. She stated she remembered Officer Cole saying that Marshall was no longer permitted in the building, but she didn't know if he used this as a tactic to try and convey to Marshall that he had to leave the building. I asked Officer McKernan if she thought the incident was deescalated properly and she indicated it was not, and that it could have been handled differently. I asked Officer McKernan if she observed Officer Cole attempt to deescalate the situation with Marshall, and she stated she did. Officer

McKernan stated Officer Cole was very polite throughout the entire incident, tried to mediate between both parties, spoke to Marshall in a very respectful manner, tried very hard to accommodate Marshall, and all the officers prayed with Marshall.

Officer McKernan stated she was aware that Officer DeRubeis was an Officer in Training. I asked Officer McKernan if there was any other reason other than her "trying to find a place to get in" that led to her maintaining the position during the first part of the struggle, and furthermore asked if bystanders made her uncomfortable participating in the struggle. She stated there were bystanders and that added pressure, but it did not contribute to her judgement in participating in the struggle.

Use of Force Instructor Officer Hwang Interview

On August 4, 2021 I conducted an audio recorded interview with Officer Hwang in the Internal Affairs office. Officer Hwang is certified through the State of Connecticut as a Use of Force instructor and has trained over 300 people. Officer Hwang stated he has been a certified instructor with New Haven Police Department for approximately five years. Officer Hwang has spent most of his career assigned to the Uniform Service Division and has been assigned to the Training Academy for the last few years. Officer Hwang was afforded the opportunity to review the incident reports and body worn camera footage relevant to this incident and was informed of the officer's accounts discussed in their interviews with Internal Affairs.

Officer Hwang stated Officer Cole, Officer DeRubeis, and Officer McKernan have all received use of force training. Officer Hwang and I reviewed the body worn camera footage together beginning at approximately the 1 hour, 8-minute marker on Officer McKernan's footage. This is the point in the footage where the struggle between Marshall and the officers ensues.

Officer Hwang stated Marshall's behavior changed from passive resistance to active resistance when he did not comply with Officer Cole attempting to handcuff him. Officer Hwang noted that Marshall pulled away as Officer Cole attempted to handcuff him and Officer DeRubeis then grabbed onto Marshall. Officer Hwang stated Marshall's body angle demonstrated that he was trying to escape their grasp. Officer Hwang stated force became necessary when Officer Cole attempted to handcuff Marshall and he pulled away. Officer Hwang stated Marshall violently kicked Officer Cole and knocked him back several feet. Officer Hwang stated the takedown that officers utilized on Marshall prior to the kick was effective, even though he continued to struggle with them. Officer Hwang stated that typically during a struggle where you are trying to handcuff a subject, "The very first thing you should try to do is get them off of their feet. While they are on their feet, they pose the most danger. They can run to a weapon, they can escape, they can generate power behind their strikes. So, in that their takedown was effective in that it accomplished, it was one step closer to their purpose, which was ultimately handcuffing him."

At the 1 hour, 9-minute mark, Officer Cole places his hand over Marshall's neck. Officer Hwang described this maneuver as an attempt to gain compliance. Officer Hwang stated it was not a choke hold and elaborated that if Officer's Cole intention was a choke hold, it could render Marshall unconscious and Officer Cole would not have removed his hand from Marshall's neck. Officer Hwang described the length of time that Officer Cole held his hand on Marshall's neck as less than 1 second. I advised Officer Hwang that during Officer Cole's statement with Internal Affairs, he stated his intention in placing his hand on Marshall's neck was to gain control of him. I asked Officer Hwang if this was a trained technique. Officer Hwang stated it was not a trained technique, but that NHPD officers are taught that if you control the head of a combatant, you control the body. Officer Hwang stated he believes Officer Cole was trying to control Marshall's head and restrain him. Officer Hwang also indicated that the use of an untrained technique does not designate the technique as unreasonable. Officer Hwang stated that when Officer Cole struck Marshall in the head (three times), it was effective in gaining compliance overall. Officer Hwang stated when officers are taught striking, they are taught to look for a change in behavior, and although Marshall continued to struggle, the strikes to the head helped to accomplish the goal of getting Marshall to comply.

Officer Hwang stated that the use of deploying OC spray was effective. Officer Hwang stated the officers attempted to deescalate the situation with Marshall while being there for over an hour appeasing him and getting him to comply, and even during the struggle the officers tried to reason with Marshall. Officer Hwang stated Officer McKernan gave several verbal commands asking Marshall to comply. Officer Hwang stated Marshall was not compliant. Officer Hwang stated the use of force utilized by Officer Cole, Officer DeRubeis, and Officer McKernan's were all reasonable and not excessive.

Conclusion

On January 29, 2021, Shawn Marshall was arrested by the New Haven Police Department. His arrest was documented under NHPD Case Number 21-003481. The incident occurred at 157 Church Street, New Haven, Connecticut. During Marshall's arrest, force was used by those Officers to gain custody/control of Marshall.

Following this incident, a video recording of Marshall's arrest surfaced on social media. Allegations of excessive use of force were made to New Haven Police Department Chief O. Reyes (now retired), who subsequently ordered the Office of Internal Affairs to investigate this incident.

Therefore, on February 3, 2021, this investigation was assigned to Detective Macuirzynski. He determined that the officers involved in the incident were identified as Officer Justin Cole, Officer Ashley McKernan, and Officer David DeRubeis. On March 25, 2021, the investigation was transferred to me after Detective Macuirzynski was promoted to the rank of Sergeant and was transferred to the Uniform Services Division (Sergeant Macuirzynski will be referred to by the rank of Detective, that he held at the time he conducted this investigation).

Shawn Marshall

- Detective Macuirzynski made several attempts at contacting Marshall through telephone, Certified Mail, emails, and a door knock at his residence which were all unsuccessful. It wasn't until Captain Zannelli solicited the assistance of the Civilian Review Board, that Marshall reached out to Detective Macuirzynski via phone. Ultimately On February 22, 2021, Detective Macuirzynski and Sergeant Rawlinson met with Marshall at the New Haven Union Station (train station), at his request (captured on BWC). The meeting was not productive. Marshall confirmed that he was aware Internal Affairs was investigating his arrest. Marshall stated he did not wish to provide Internal Affairs with a statement. Marshall made unreasonable demands such as having body worn camera footage transcribed for him and indicated that would serve as his statement. Marshall asked when his charges would be dropped because he was not allowed to leave the State of Connecticut. Detective Macuirzynski explained that Internal Affairs investigates officer misconduct and cannot eliminate his criminal charges since that can only be done through the Judicial system.

Marshall said the Officers who arrested him were “cupcake kids” and he allowed them to “mop the floor” with him. Marshall asked Detective Macuirzynski multiple questions, including why the Officers placed their knee on him which “stopped his heart”. Detective Macuirzynski asked Marshall if he would sign a Medical Record release form so Internal Affairs could determine the nature of his injuries. Marshall clarified that his heart “felt” like it stopped and would not sign a waiver. Marshall then asked Detective Macuirzynski if he could be provided with the medical records of the officer he kicked in the jaw. That request was denied.

Marshall recommended that Detective Macuirzynski be “innovative” in the investigation. Detective Macuirzynski advised Marshall that he wished to “find facts” about the incident. The meeting concluded.

On March 1st, 2021, Detective Macuirzynski was conducting an interview in the Internal Affairs office when he heard several loud bangs on the front door of the Internal Affairs office. Detective Macuirzynski realized the individual banging on the door was Marshall who was pacing back and forth and ringing the Internal Affairs doorbell. Detective Macuirzynski attempted to answer Marshall's questions about the Internal Affairs investigation. During the discussion, Marshall was confrontational, not listening to statements, and generally in a state of confusion. He refused to accept any explanations or instructions on how he may contact Lieutenant Zannelli. Marshall demanded to speak with the Chief of Police, the Mayor, and then the Governor. Detective Macuirzynski decided to discontinue the interaction. Prior to re-entering the Office of Internal Affairs, Sergeant Rawlinson directly told Marshall not to strike the front door with his cane or he would be arrested. Marshall responded by looking at Sergeant Rawlinson and asking him if he (Sergeant Rawlinson) knew

what an "Uncle Tom" was. These Investigators went back into the Internal Affairs Office to avoid further contact with Marshall and de-escalate his behavior.

Marshall continued his erratic behavior by walking around the lobby of the Police Department, yelling loudly, and ringing the doorbell of Internal Affairs incessantly. Again, Sergeant Rawlinson and Detective Macuirzynski tried to speak with Marshall about his concerns. Marshall made several demands including removing his arrest video on the New Haven Independent, providing him all video footage of his arrest, immediately provide him all background information on all Internal Affairs Investigators, and provide him with the "Supplier" of the video of his arrest. After speaking with Marshall again for an extended period of time, Detective Macuirzynski felt that Marshall was being unreasonable and attempting to "bait" him into saying something inappropriate or using force against him. As Sergeant Rawlinson and Detective Macuirzynski ended the discussion and closed the front door of Internal Affairs, Marshall again banged loudly on the door. Sergeant Rawlinson and Detective Macuirzynski went back into the lobby and detained Marshall. No force was used in placing Marshall in handcuffs and he was subsequently transported to the hospital for evaluation. An arret warrant was later submitted by Officer E. Kelly for Marshall and was approved (case number 21-007560).

After an unproductive statement with Marshall at the train station, and an unfavorable and impromptu meeting in the lobby of New Haven Police Department, no further communication was arranged with Marshall.

Since January 29, 2021, Marshall has been involved in the following incidents with New Haven Police Department:

1)	AR	ARRESTEE	CRIMINAL TRESPASS 1ST DEG. M (2)	05/04/2021	NHPD
			1) CRIMINAL TRESPASS 1ST DEG. M (21016490, 05/04/2021, LOZADA, M)		
			2) INTERFERE WITH OFFCR.RESISTING M (21016490, 05/04/2021, LOZADA, M)		
			3) REFUSAL TO BE FINGERPRINTED M (21016490, LOZADA, M)		
2)	AR	ARRESTEE	ASSLT PB SFTY EMT/TRANST/HLTH	05/04/2021	NHPD
			1) ASSLT PB SFTY/EMT/TRANST/HLTH F Dkt N (21011511, 03/30/2021, VAKOS, P)		
			2) DISORDERLY CONDUCT, M (21011511, 03/30/2021, VAKOS, P)		
3)	AR	ARRESTEE	BREACH OF PEACE 2ND DEG	04/08/2021	NHPD
			1) BREACH OF PEACE 2ND DEG, M Dkt N (21007570, 02/13/2021, ROMANO, S)		
			2) CRIMINAL TRESPASS 1ST DEG, M Dkt N (21007570, 02/13/2021, ROMANO, S)		
4)	AR	ARRESTEE	THREATENING 2ND DEG	04/08/2021	NHPD
			1) THREATENING 2ND DEG, M, Dkt N (21007560, 03/01/2021, ROMANO, S)		
			2) CRIMINAL MISCHIEF 3RD DEG, M Dkt N (21007560, 03/01/2021, ROMANO, S)		
			3) DISORDERLY CONDUCT, M, Dkt N (21007560, 03/01/2021, ROMANO, S)		
			4) CRIMINAL TRESPASS 1ST DEG, M Dkt N (21007560, 03/01/2021, ROMANO, S)		
			5) CRIMINAL ATTEMPT, M, Dkt N (21007560, 03/01/2021, ROMANO, S)		
			6) INTERFERE WITH OFFCR.RESISTING, M, Dkt N (21007560, 03/01/2021, ROMANO, S)		
5)	AR	ARRESTEE	ASSLT PB SFTY EMT/TRANST/HLTH, F	01/29/2021	
			1) ASSLT PB SFTY/EMT/TRANST/HLTH, F (21003481, 01/29/2021, COLE, J)		
			2) DISORDERLY CONDUCT, M (21003481, 01/29/2021, COLE, J)		
			3) CRIMINAL TRESPASS 1ST DEG, M (21003481, 01/29/2021, COLE, J)		
			4) INTERFERE WITH OFFCR.RESISTING, M (21003481, 01/29/2021, COLE, J)		
			5) REFUSAL TO BE FINGERPRINTED, F (21003481, 01/29/2021, COLE, J)		
6)	WA	SRVD	(F) ASSLT PB SFTY.EMT/TRANST/HLTH	04/27/2021	NHPD
7)	WA	SRVD	(M) BREACH OF PEACE 2ND DEG	03/09/2021	NHPD

Witness Interviews

- Detective Macuirzynski conducted a recorded interview with [REDACTED], a sales manager for Regus, contacted police on January 29, 2021. According to [REDACTED] Marshall was making demands of Regus "outside our normal scope". [REDACTED] stated in his (17) years of employment in that business, he had never been forced to call the Police on any of his clients except Marshall. [REDACTED] noted that the officers on scene were "good" and that he did not know "what's going on with Mr. Marshall".

Detective Macuirzynski conducted an audio recorded interview with [REDACTED] (Operations Manager for Security Services and oversees the security at 157 Church Street). [REDACTED] stated the Officers interviewed Marshall and [REDACTED] and tried to defuse the situation. [REDACTED] said the Officers were "professional and very accommodating". [REDACTED] produced the email sent to Marshall which informed him that he needed to evacuate the building. Marshall contested that he was never "served" and the discussion lasted over an hour.

[REDACTED] believed the Officers were trying to facilitate a solution to allow Marshall to retrieve his belongings. [REDACTED] believed Marshall had "multiple opportunities for this whole situation to end peacefully, gather his stuff, take all the time he needed to get his stuff and leave".

[REDACTED] stated the Officers continued to try and convince Marshall to leave the building. Marshall was not cooperating with their requests. [REDACTED] stated at this point Marshall was trespassing in the lobby because he was told to leave Regus and now did not have business in the lobby area. [REDACTED] stated 157 Church Street is not a public building and the lobby area is limited to official business only. [REDACTED] told Officer Cole that Marshall needed to leave the building.

[REDACTED] said he witnessed the subsequent arrest of Marshall and the force used therein. He also witnessed Marshall assault officers. He stated Marshall stood to his feet and yelled at officers. [REDACTED] stated he heard Officer Cole telling Marshall that if he did not leave, he would be arrested. [REDACTED] said Marshall responded by putting his hands behind his back and stated, "Go ahead, arrest me, please arrest me". Officer Cole responded by telling Marshall that he was under arrest and reached out to grab Marshall's arm. [REDACTED] stated at that moment Marshall screamed "Get off me. Get off me" and a subsequent physical altercation occurred between Marshall and the Officers. Marshall and the officers were on the ground and [REDACTED] observed Marshall kick Officer Cole in the face twice. [REDACTED] stated Marshall continued to resist arrest and after a prolonged period of time Officer Cole struck Marshall three times in the head. [REDACTED] said Officers continued fighting with Marshall as they were trying to secure him in handcuffs. [REDACTED] observed Marshall fighting and kicking, refusing to cooperate with the arrest. He recalled Officer Cole telling Marshall to stop fighting or he (Officer Cole) would spray him with OC spray. Once Officer Cole sprayed Marshall, [REDACTED] stated Marshall calmed down and they were able to handcuff him.

██████████ stated two of the officers had their body worn cameras kicked off during the altercation.

██████████ spoke with Detective Macuirzynski about the first incident involving Marshall which occurred on January 28th, 2021. The interview was recorded. ██████████ was not present for this incident, and she attempted to speak with Marshall over the telephone regarding it. ██████████ said the Regus staff informed Marshall that he needed to remove his belongings from the community room because other clients wished to use that space. ██████████ stated Marshall would not speak with her. ██████████ decided to visit Regus on the following day (January 29th) to check in on her team.

On January 29th, 2021, ██████████ was contacted by a separate property manager on another separate floor of 157 Church Street. He wished to inform her that Marshall was in his office and Marshall was inquiring about renting office space. ██████████ used this opportunity to speak with Marshall in the other property manager's office since she had not previously met Marshall.

██████████ described her conversation with Marshall as "going in circles" and not productive. She advised him in person of the "notices of no-renewal" and "termination of agreement". ██████████ said she ended the conversation because "it just wasn't going anywhere" and returned to Regus on the 19th floor. Regus then received a telephone call from a security guard at SSC who said Marshall was in the lobby and wanted to retrieve his computer from Regus. ██████████ agreed that the security guard had permission to retrieve the computer, however; she did not want Marshall to enter the office. Marshall arrived on the 19th floor with the security officer and ██████████ said she tried to mitigate the situation by allowing Marshall to enter the office with an escort. Marshall started making demands of Regus and became generally disruptive. ██████████ was concerned about Marshall's behavior and she had the Regus team contact the Police Department.

██████████ described the officers as "professional and calm". She believed everyone's goal was to have Marshall vacate the office "peacefully". ██████████ said that Marshall voluntarily grabbed his items and took them out of the Regus space with the assistance of the officers. She did not observe any force used on Marshall while on the 19th floor and felt the officers on scene did not discriminate against him.

Officer Interviews

- I conducted interviews with Officer Cole, Officer McKernan, and Officer DeRubeis. Please refer to the comprehensive account detailed earlier in this memorandum. Each officer expressed that they tirelessly tried to accommodate Marshall and mediate a peaceful resolution between Marshall and Regus. According to the officers, Marshall's behavior was erratic, making it extremely difficult to bring about any sort of real solution.

Once in the lobby of 157 Church Street, the officers continued to try and reason with Marshall, but it was unproductive. Officers even took the time to pray with him, as Pastor [REDACTED] offered a prayer via speaker phone. Officers assisted with carrying Marshall's belongings as a de-escalation tactic.

In Officer Cole's interview he stated that he made the decision to arrest Marshall after officers had been there for an over an hour and repeatedly tried to reason with him. Officer Cole was told by [REDACTED] that Marshall needed to leave the entire building, including the lobby. Officers continued to plead with Marshall that he had to leave, but he would not comply. Marshall became irate and was yelling, causing a disturbance, when Officer Cole made the decision to make an arrest. Officer Cole stated when he made the decision to arrest Marshall, Officer Cole withdrew his handcuffs and Marshall ran away. Officer DeRubeis tried to push him up against a nearby wall and gain control of him. Marshall swung his arms away from the officers and tried to run away again. Officer Cole, Officer DeRubeis and Marshall then all went to the ground. At this point, Marshall violently kicked Officer Cole in the front of his body causing him to fall several feet backwards. Officer Cole stated he remembered feeling like he had never been kicked like that before.

I asked Officer Cole if the level of force of he utilized was influenced by the level of force the other two officers utilized, or the level of force the other two officers did not utilize. President Cotto requested a break at this point in the interview. Upon returning, I asked Officer Cole the same question. Officer Cole responded that it would be due to the level of force that the officers did not utilize. Officer Cole went on to explain that Officer DeRubeis was on his fifth day of the FTO program and that "it wasn't so much his (Officer DeRubeis) decision to execute commands to use force, that's why I was telling him to get him in handcuffs several times, and also at that time, at that point of the altercation, Officer McKernan was doing nothing. So I felt like at that time I was in this altercation by myself."

Officer Cole was asked if he recalled when Officer McKernan did get involved in trying to detain Marshall. Officer Cole stated that at one point, Officer McKernan did try and sit on Marshall's legs while he (Officer Cole) and Officer DeRubeis were trying to handcuff Marshall. Officer Cole stated this was after Marshall had gotten up and tried to run away for the second time. Officer Cole stated Officer McKernan's participation was not effective.

In Officer McKernan's interview, she indicated that she had a different perspective from Officer Cole and felt it would have been appropriate to leave Marshall in the lobby of the building prior to his behavior escalating and if she was the primary officer taking the complaint, she would have. Officer McKernan stated that she saw this incident as an individual with a mental health issue. Officer McKernan stated Marshall was never a danger to himself or others, he was just exhibiting signs of mental illness. Officer McKernan reiterated that she believed Marshall would have left the building on his own accord had the officers left.

Officer McKernan explained her thought process on physically intervening while Officer Cole and Officer DeRubeis struggled with Marshall, and why she maintained the position that she had. She explained that it was difficult because she couldn't find a spot to get in and assist, and she didn't want to be anywhere near his legs because she felt that she would be "kicked across the room". Officer McKernan described Marshall's legs as a "bicycle" and "flailing". She stated once she saw an opening, she assisted. Officer McKernan stated she did not see Marshall kick Officer Cole during the struggle.

Officer McKernan stated that during the struggle with Marshall, she told Officer Cole to "stop", and that it was a "gut, knee jerk reaction. It wasn't necessarily something that was calculated. It was just I had seen him using his level of force, and I felt it wasn't necessary at that time. That's all I can personally remember thinking at that split moment, we don't need to be doing that, and that's why I said stop". Officer McKernan was maintaining a standing position next to the struggle when she initially observed the force that led her to say "stop". Officer McKernan stated she placed her hands on Officer Cole during the point that he was striking Marshall in the head. Officer McKernan stated Marshall was actively fighting and was on the ground trying to kick officers when she told Officer Cole to "stop". Officer McKernan stated the placement of Officer Cole's hand on Marshall's neck was the specific technique that she felt was unnecessary. I asked Officer McKernan what force she thinks should have been utilized to get Marshall to comply. Officer McKernan stated that she thinks more officers should have been requested. I asked Officer McKernan if she called for more units. She stated she did not. I asked Officer McKernan if she felt that she was in the best position to call for additional units because of the standing position she maintained at this point in the struggle, and she responded "absolutely". I asked Officer McKernan why she didn't request additional units and she stated "I just was trying to find out how I was going to work my way into the fight. I just wasn't thinking about it. Honestly, it was just a mistake." I asked Officer McKernan if she thought there was anything else unnecessary aside from Officer Cole's placement of his hand on Marshall's neck. Officer McKernan stated no, but when Officer Cole performed this maneuver, she began to question Officer Cole's judgement. I asked Officer McKernan what actions she took as a result and she stated that "I ran over and intervened. I just grabbed his (Officer Cole) arm and told him to stop." I asked Officer McKernan if Marshall's behavior subsided after Officer Cole placed his hand on Marshall's neck and struck him in the head three times. Officer McKernan stated yes. I asked Officer McKernan if she thought that this technique by Officer Cole was effective. She stated "Yes, it was effective." I again asked Officer McKernan if she thought Officer Cole's actions were unnecessary given that she had just stated it was effective, and she maintained that she still thought it was unnecessary. I asked Officer McKernan if she knew what Officer Cole's intent was by placing his hand on Marshall's neck. She stated she did not. I asked Officer McKernan if she had any thoughts on what methods should have been utilized. She again stated that she would have called for additional units and she thought deploying OC spray was effective on

Marshall. I asked Officer McKernan if while maintaining the position of standing next to the struggle if she deployed her OC spray. She stated she did not.

I asked Officer McKernan if she brought her concerns about Officer Cole's force, and that she had to "intervene", to the attention of a supervisor. She stated she didn't remember. I asked Officer McKernan if she documented her concerns in her supplemental report. She stated she did not. I asked her why and she stated "Probably because at the time I was very unsure of myself and I was very unsure of what happened on the call. A lot had happened. It was a lot for me to take in." I asked Officer McKernan what she was unsure about. She stated that she questioned if she was right to intervene and if excessive force was used or not used.

Officer DeRubeis stated he did not witness any unreasonable force from Officer Cole or Officer McKernan where he felt that he needed to intervene. Officer DeRubeis noted that "I was still pretty new to this," when describing his perspective during the struggle. Officer DeRubeis shared the same sentiments as Officer Cole and Officer McKernan, that Marshall's behavior was unpredictable, and he was non-compliant.

Officer Hwang -Use of Force Certified Instructor

- Officer Hwang stated the officers attempted to deescalate the situation with Marshall while being at the location for over an hour appeasing him and try to get him to comply, and even during the struggle the officers tried to reason with Marshall. Officer Hwang stated Officer McKernan gave several verbal commands asking Marshall to comply. Officer Hwang stated Marshall's behavior changed from passive resistance to active resistance when he did not comply with Officer Cole attempting to handcuff him.

Officer Hwang stated it was not a choke hold when Officer Cole placed his hand on Marshall's neck. Officer Hwang elaborated that if Officer's Cole intention was a choke hold, it could render Marshall unconscious and Officer Cole would not have removed his hand from Marshall's neck, which he estimated as being on Marshall's neck for less than a second.

Officer Hwang stated the use of force utilized by Officer Cole, Officer DeRubeis, and Officer McKernan's were all reasonable and not excessive.

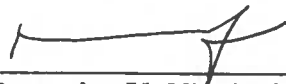
Body Worn Camera Footage

- Body worn camera footage substantiated all the officer's claims, as well as witness accounts, that Marshall's behavior was unstable, and he was non-compliant. It also supported that the involved officers were professional, patient, and courteous with Marshall. Body worn camera footage corroborated the officer's account that Marshall

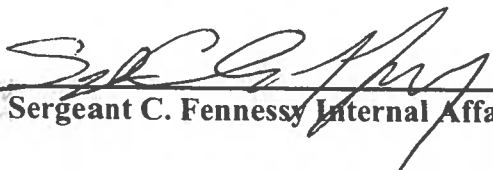
was non-compliant and actively resisting when Officer Cole attempted to handcuff him and continued to be non-compliant during the struggle until he was OC sprayed and handcuffed. Body worn camera footage showed Marshall assault Officer Cole and commit a felony while resisting arrest, and prior to Officer Cole striking Marshall. Body worn camera footage did not reveal any excessive use of force by any of the involved officers, and this allegation was formally reviewed and ruled out by Officer Hwang.

Conclusion

The investigation determined by a preponderance of the evidence that the alleged act did occur, but the officers engaged in no misconduct because the act was lawful, justified, and proper. Therefore, the investigation into Officer Cole, Officer McKernan, and Officer DeRubeis was determined to be **EXONERATED.**

 515/712 9/9/21

Detective K. Nivakoff DATE

 #407 9/9/21

Sergeant C. Fennessy Internal Affairs Unit DATE