IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY

INVESTIGATING GRAND JURY

GRAND JURY 16 : INVESTIGATION C-48

REPORT

This matter was presented to the Bucks County Investigating Grand Jury, number 16, under Investigation C-48 by District Attorney David Heckler on January 22, 2015. This grand jury investigation began as an investigation that was initiated originally by Bristol Township Manager William McCauley into allegations of a police cover-up by several Bristol Township Police Officers, including the then Acting Chief of Police and members of his leadership staff. William McCauley alleged that the cover-up concerned an off-duty Bristol Township Police Officer who was alleged to have been driving under the influence of alcohol on November 29, 2014.

The need for this Grand Jury investigation arose from the following circumstances:

1. During the early morning hours of November 29, 2014, Sergeant Kevin Burns of the Bristol Township Police Department was off duty and driving his personal vehicle.
2. Kevin Burns drove his vehicle into legally parked vehicle just a few blocks from his home in Bristol Township.
3. Kevin Burns remained with his disabled vehicle as police were summoned by a nearby neighbor who had heard the crash.
4. Immediately after the crash, Kevin Burns had knocked on doors attempting to locate the owner of the struck vehicle.
5. While Burns had consumed some alcohol during the course of the preceding hours, none of the officers on the scene observed anything about his demeanor or behavior which led them to believe that he was under the influence of alcohol.
6. During the course of the accident investigation, because the driver of the striking vehicle was a police officer who out-ranked the initial responding officers, the entire

on-duty chain of command was notified. Additionally, Acting Chief of Police Lt. John Godzieba was notified, and directed that the Shift Supervisor, one Sgt. Thomas Gaffney make the determination whether there was reasonable suspicion to believe that Kevin Burns was under the influence of alcohol.

7. Lt. Godzieba directed that if the determination was made that Kevin Burns was under the influence of alcohol, Sgt. Gaffney was to proceed with a normal DUI investigation and if appropriate, make the arrest.
8. Sgt. Gaffney determined that there was no basis upon which it would have been appropriate to require Kevin Burns to perform field sobriety tests as no indicia of alcohol intoxication was present to indicate that Burns was intoxicated, and that the likely cause of the crash was Burns' having fallen asleep on his way home after a long day.
9. Some days after this incident, Bristol Township Manager William McCauley was informed of the incident by Sgt. Ralph Johnson. Without the benefit of investigation, McCauley advised Acting Chief Godzieba that he believed that Godzieba and other officers had covered up for Sgt. Burns.
10. McCauley advised Acting Chief Godzieba to not investigate the matter further, as he was going to begin his own "investigation."
11. The Bucks County District Attorney's Office was informed of this series of events and, having determined that the Manager had neither the legal authority nor the required skills to perform such an investigation, determined that the question of whether anyone in the Bristol Township Police Department had criminally concealed alleged criminal misconduct by Sgt. Burns, was a proper matter for the investigative tools available through submission to this Grand Jury.
12. After having heard testimony from every individual having any knowledge relevant to this matter, as more fully detailed herein, we have concluded that there is no reason to believe that Sgt. Burns was driving under the influence on the night in question, that none of the Bristol Township Police Officers misconducted themselves in any way in connection with the investigation of this accident, that the actions of the Township Manager were beyond his authority and not motivated by a sincere belief that crimes have been committed but rather by a desire to cause the discharge or retirement of various experienced members of the police department and to bring about the installation of a less experienced and arguably unqualified member of the department who was favored by McCauley for the position of Acting Chief for reasons driven by McCauley's personal objectives rather than appropriate public policy considerations.

After hearing from fifteen witnesses over a period of four days of testimony, this grand jury specifically finds that off-duty Sergeant Kevin Burns, though he had consumed some alcohol on November 29, 2014, was not unlawfully driving under the influence of alcohol that rendered him incapable of safely operating a motor vehicle. We based our specific finding on the following facts: 1) the opinion of Sergeant Thomas Gaffney, the on-scene investigator who was in the best position to observe Kevin Burns and make the determination that Burns was not unlawfully DUI based upon his personal observation of Burns on-scene. According to Sgt. Gaffney's superiors, including the acting Chief of Police Ralph Johnson, if Kevin Burns was intoxicated, Sgt. Gaffney would have, without question, arrested him and taken him for chemical testing. 2) Sgt. Gaffney's decision not to request Kevin Burns to perform Standardized Field Sobriety Tests is corroborated by the evidence of record, including the testimony of Sgt. Gaffney detailing his personal observations of Kevin Burns on the night in question and the testimony and statements of independent witnesses who also had made observations of Kevin Burns after the crash. Specifically, Carolina Yepes, who, apart from Sgt. Gaffney, had the most one on one contact with Kevin Burns post crash, testified under oath that Kevin Burns, in her opinion, was not drunk. Ms. Yepes testified that when Kevin Burns knocked on her door post crash, she smelled no alcohol on Kevin Burns, and that he did not slur his words while she conversed with him at her doorstep. Ms. Yepes further observed Kevin Burns walking from her doorstep to the street, and stated that Burns did not have any difficulty walking. Significantly, Ms. Yepes, as the owner of the truck struck by Kevin Burns and the victim in this matter, was not acquainted with Kevin Burns, and would therefore have no reason to favorably color her opinion of Kevin Burns' actions or behavior that early morning.

In addition to Ms. Yepes, another witness named Mrs. Reaney made observations of Kevin Burns. Mrs. Reaney was interviewed by Frank D. Wallace, the private investigator hired by the Township Manager William McCauley. Mrs. Reaney told the investigator that though she had no conversation with Kevin Burns, she observed her husband speaking to him, and that she did not notice anything unusual about his conduct.

Another witness, George McKale, had called 911 after the crash. Mr. McKale did not witness the crash, but went outside after the crash and made contact with Kevin Burns to see if whether he was injured. Mr. McKale told Bucks County Detective Eric Landamia that after he heard the crash, he went to see if Burns was okay. When McKale made contact, he initially believed Burns to be drunk. When asked to explain, Mr. McKale told Detective Landamia that he originally believed Burns to be drunk because Burns smelled of alcohol. However, Mr. McKale also told Detective Landamia that he did not notice or observe anything else about Kevin Burns that would indicate to him that Burns was intoxicated, besides the odor of alcohol. Mr. McKale was asked if Burns slurred his words, had bloodshot or glassy eyes, had difficulty with his motor skills or dexterity, to which Mr. McKale replied that Burns did not exhibit any other indicia of intoxication besides having an odor of alcohol about him.

Based upon the testimony before this investigating grand jury, it appears that the ill-advised rush to judgment that Burns must have been intoxicated, was based on two things: 1) Burns was involved in a late night crash after he had consumed alcoholic beverages; and 2) an apparent dislike of Burns by the Township Manager, based in part upon rumor and unsubstantiated claims regarding Burns' long past behavior.

We the grand jurors found Sgt. Gaffney's testimony to be completely and wholly credible, and corroborated by credible observations of independent on-scene witnesses. We believe Sgt. Gaffney's character and integrity has been unfairly and unjustly attacked by Township Manager William McCauley.

Many witnesses testifying before this grand jury discussed the process of how a DUI investigation is initiated and furthered by the gathering of evidence. Witnesses testified concerning methods for gathering evidence of a subject's intoxication by police officer observations to determine whether the subject of the investigation was under the influence of alcohol. This gathering of evidence by observation is done in order to further a DUI investigation. These observation by a police officer seek to identify what are called the indicia of intoxication, and include the following: odor of alcohol; red, bloodshot, glassy eyes; slurred speech or speaking with a thick tongue; walking with a staggered gait; having difficulty with dexterity or motor skills; having difficulty following instructions and gathering the requested documents. The evidence of record reveals that not one witness who had contact with Kevin Burns post crash on the morning of November 29, 2014 had observed anything other than a slight odor of alcohol about his person.

It is unquestioned that the circumstances of Kevin Burns' crash, including an admission to drinking and the time of night were sufficient reason for police to detain Burns in order to make observations of him in order to gather additional evidence to determine whether Burns was intoxicated. However, Kevin Burns did not exhibit any other indicia of intoxication, and accordingly, Sergeant Thomas Gaffney made the correct, lawful, and just call on this matter, based upon the evidence he observed, not rumors or the so-called reputation of Kevin Burns relied upon by the Township Manager in his own rush to judgment.

The grand jury finds that because Kevin Burns did not exhibit any indicia of being intoxicated besides the odor of alcohol, Sgt. Gaffney was clearly within his discretion to not ask Kevin Burns to perform field sobriety tests. This decision by Sgt. Gaffney is further supported by acting Chief Ralph Johnson, who testified that if Sgt. Gaffney did not observe any of the typical signs of intoxication, and therefore did not believe Kevin Burns to be drunk, then there would be no reason for Sgt. Gaffney to ask Kevin Burns to do Standard Field Sobriety Tests, because an officer must have reasonable suspicion to believe the subject to be intoxicated before carrying the DUI investigation forward. Acting Chief Johnson testified that Sgt. Gaffney made the right decision in this case based upon the evidence gathered.

We the grand jury specifically find that there is absolutely no evidence whatsoever of any cover-up by any of the involved Bristol Township Police Officers, and that all of these officers should be fully exonerated, not only pursuant to this criminal investigation, but also as it relates to any possible administrative action by Township Manager William McCauley or acting Chief of Police Ralph Johnson. In fact, the acting Chief of Police himself (Johnson) testified under oath that it was unfair that Lt. John Godzieba was accused of a cover-up in this matter, and that he does not believe that any of the involved accused officers would cover-up this alleged DUI crime. We the grand jury agree. We find that the testimony of Lt. John Godzieba, Lt. Terry Hughes, Lt. Guy Sava, Officer John Rink, and Officer Erik Barros to be completely credible. We find that the police officers from Bristol Township, all of whom appeared before us without counsel, acted professionally under extreme circumstances intentionally created by Township Manager William McCauley.

We also find the testimony of acting Chief of Police Ralph Johnson to be politically sensitive to Township Manager William McCauley. We find that Johnson did not fully answer

questions regarding his own qualifications to hold the position as Acting Chief of Police; rather he danced around the issue. It is clear from the testimony that Sgt. Ralph Johnson has always been McCauley's candidate for the position of Chief of Police. We believe that Mr. McCauley may have used this incident to unfairly and unjustly impugn the character and integrity of Lt. John Godzieba, Lt. Terry Hughes, and Lt. Guy Sava in order to pave the way for his own hand-selected candidate for Chief of Police to be appointed while the Township seeks to appoint a full-time replacement for former Chief of Police James McAndrew.

We the grand jury find the testimony of Township Manager William McCauley was utterly without credibility. We specifically find that Mr. McCauley wishes to control the Bristol Township Police Department, and intends to appoint a leader within the department who will act as his yes man. We also find that Mr. McCauley had personal disagreements with Sgt. Kevin Burns prior to this incident. Rather than rely on the police department to properly investigate and make its findings in this incident based upon the evidence of the case, McCauley instead chose to allege that Kevin Burns unlawfully drove under the influence of alcohol and to unfairly, unjustly, and without a shred of evidence, accuse senior members of the police department, and other career police officers of covering up a crime allegedly committed by an off-duty police officer.

One of the reasons the grand jury rejects McCauley's credibility was that McCauley was untruthful when he advised the grand jury that he never sought the police reports from Lt. Godzieba. McCauley thereafter had to agree that he did in fact demand the reports, but only after he was confronted with a memorandum and an email that clearly set forth his demands for the reports in writing. To the great surprise of the grand jurors, Mr. McCauley then claimed that he did not read these police reports he had demanded from Lt. Godzieba. McCauley then, later

in his testimony, told the grand jury that he only glanced over or scanned the reports. Before McCauley implied that the police officers that he oversees as Township Manager were criminals, he himself had read no incident reports and had conducted no witness interviews. In other words, McCauley had no facts to support his baseless assertions. Instead of calling the District Attorney's Office or the Attorney General's Office, Mr. McCauley had hired his long-time friend Neil A. Morris, Esquire to conduct a private investigation at taxpayer expense.

Mr. McCauley had no satisfactory explanation as to why he failed to notify any independent law enforcement agency of these serious allegations of police corruption. We are left with the following question: Why would any township manager, believing there was a police cover-up of a crime committed by an off-duty police officer, not notify the District Attorney's Office or the Attorney General's Office so that one of them could investigate these very serious allegations of police corruption? The evidence leads to the only reasonable conclusion...no crimes were committed or covered up by any police personnel.

I. WHY THIS INVESTIGATION WAS INITIATED

This grand jury investigation was initiated by the Bucks County District Attorney's Office after it had learned that Bristol Township Manager William McCauley was conducting an internal investigation involving allegations of a police cover-up of criminal activity by an off-duty police officer. It was learned that in early December of 2014, Bristol Township Manager William McCauley had directed the acting chief of the Bristol Township Police Department, Lt. John Godzieba, not to investigate allegations of criminal conduct by police officers in connection with the alleged cover-up. Rather, Township Manager McCauley had hired a lawyer, Neil Morris, Esquire, to conduct an internal investigation into the alleged police misconduct.

Testimony and evidence revealed that William McCauley demanded all reports and information related to the Burns accident by the end of the day, December 5, 2014. Lt. Godzieba provided all of the requested documents that had been completed to date both by hand delivery and by email as directed. William McCauley told the grand jury that he never actually read the reports that he received, but that he had scanned some of them.

The District Attorney's Office first learned of this investigation on or about December 7, 2014 after Lt. John Godzieba called Chief County Detective Chris McAteer to advise that the Township Manager William McCauley was accusing him (Godzieba) of covering up criminal conduct of the police officers under his charge. In a December 7, 2014 email to Lt. Godzieba, William McCauley, McCauley wrote "since the determining factor that you did not inform me about Sergeant Burns' accident was that he was not taken into custody for DUI, you are hereby directed to inform me immediately of any crimes committed by members of your Department that are covered up by you and/or your subordinates." (December 7th 2014 email from William McCauley to Lt. John Godzieba). William McCauley, in both his testimony and in a letter to the District Attorney, accused Lt. Godzieba of running to his friends in the District Attorney's Office only after he was removed as acting chief of police. We the grand jury find that Lt. Godzieba reported to the District Attorney's Office immediately after being accused of being involved in a cover-up of criminal activity. We find William McCauley's assertions baseless, especially after McCauley himself had failed to report serious allegations of criminal activity by police personnel to any independent law enforcement agency for independent investigation.

On December 18, 2014 Lt. John Godzieba was removed as acting Chief of Police by William McCauley. According to the December 18, 2014 Memorandum from William McCauley to Lt. John Godzieba, William McCauley was removing Lt. Godzieba as acting chief

for two reasons: 1) his appointment to acting chief by prior Chief of Police James McAndrew was unlawful, and 2) "[a]fter the recent accident of Sergeant Kevin Burns and your failure to supervise your subordinates, I no longer have the confidence to leave you in the position as Acting Chief and cannot justify your remaining in this position for one more day." (Exhibit C-10, Memo from McCauley to Lt. Godzieba). In that same memo, McCauley informed Lt. Godzieba that he is no longer under consideration for the position of Director of Public Safety because "I could never hire anyone that does not have the integrity and courage to take the appropriate action in an incident such as Sergeant Burns' accident to lead a police department." (Exhibit C-10). We the grand jury wholly disagree with the opinions expressed by Mr. McCauley. We find that Lt. Godzieba is wholly qualified to lead the Bristol Township Police Department, as he had for the fourteen months prior to his removal in December 2014. Lt. Godzieba's thirty-six years of experience, his character, and his integrity appear to be exactly what such a position demands.

Chief County Detective Chris McAteer appointed County Detective Lt. David Kemmerer to lead and supervise the investigation and be the office's point of contact for all investigative questions related to the investigation, thereby removing himself from the matter due to his long-term friendship with Lt. John Godzieba. Chief McAteer wanted to remove any appearance of a conflict of interest during the District Attorney's investigation. County Detectives Mark Zielinski and Eric Landamia were appointed to investigate the matter, and assist Deputy District Attorney Robert James, who is assigned to the investigation, and also to assist the grand jury with their investigation.

On December 23, 2014, Lt. Kemmerer and Detective Martin McDonough of the Bucks County District Attorney's Office served letters from the District Attorney on members of the

Bristol Township Police Department and Township Manager William McCauley advising "you are directed not to start or continue any internal investigation…regarding criminal activity in Bristol Township." Persons to be served this letter were Acting Chief Ralph Johnson, Township Manager William McCauley; Robert Lewis, Bristol Township Council President; Lt. John Godzieba; Lt. Terry Hughes; Lt. Gaetano Sava; Sgt. Sean Cosgrove; Sgt. Thomas Gaffney; Sgt. Kevin Burns; Officer John Rink; and Officer Eric Barros.

Lt. Kemmerer and Detective Timothy Perkins of the Bucks County District Attorney's Office served a copy of the letter on William McCauley on that same date. In response to receiving the letter from District Attorney David Heckler, William McCauley advised Lt. Kemmerer and Detective Perkins that he would not comply with the District Attorney's direction that he cease his investigation. When being served with the letter, William McCauley questioned Lt. Kemmerer as to how the District Attorney's Office could "oversee an independent investigation as [Chief County Detective Chris McAteer] was friends with the target of the [his] investigation," clearly indicating that Lt. John Godzieba was the target of McCauley's "independent" investigation. McCauley again reiterated that he would not comply with the District Attorney's directive that he cease his investigation, saying that "they had every right to conduct an internal investigation" and that they would continue doing so. McCauley then told the County Detectives to tell their boss Chief McAteer that he was not going to take Mr. McCauley out of his office in handcuffs. (Exhibit C-14). All other members of the police department that were served with the letters, including Acting Chief of Police Ralph Johnson, advised the county detectives that they would comply with the District Attorney's letter. Acting Chief Ralph Johnson advised the grand jury that he was relieved when he learned that the District Attorney's Office was going to handle this investigation.

On January 6, 2015, District Attorney David Heckler received a five-page letter from Bristol Township Manager William McCauley. (Exhibit C-13). In that letter, McCauley advises that he believes that the District Attorney has been provided with incorrect information regarding his investigation, stating his objective was "to make sure there was no cover-up and if crimes were committed and/or covered-up, to have them prosecuted to the fullest extent of the law." McCauley states that as soon as he "learned of what appeared to me to be a cover-up of a DUI crime, which involved several Bristol Township Officers who responded and dealt with it, including Acting Chief John Godzieba, I immediately brought in Special Counsel Neil A. Morris, Esquire, and a former Philadelphia Police Inspector as a private investigator to conduct an outside, independent investigation."

It is not clear how Mr. McCauley believes that his investigation could be considered an outside independent investigation. McCauley goes on to say in his letter that he did not believe that the District Attorney's Office would act on the investigation unless provided with credible information because of the "Bristol Township Connection within your office." (January 6, 2015 McCauley Letter, C-13). McCauley then questions the timing of the District Attorney's interest in the case, stating "it appears that Lt. Godzieba may have reached out to his contacts in your office to stop our investigation, to try and protect himself or others." (C-13). Again, McCauley clearly indicates that Lt. John Godzieba was targeted by him.

It was later determined, through testimony, that William McCauley had not written the January 6, 2014 letter; rather it had been written by Neil A. Morris Esquire, and then adopted and signed by Township Manager William McCauley. It was clear to the grand jury that McCauley was familiar with some of the content within the letter bearing his name. Prior to the grand jury hearing from witnesses, attorney Neil A. Morris reached out to the District Attorney's Office and

advised he would provide all materials gathered by him and his investigator up to that point. A grand jury subpoena was prepared and the materials were picked up by Bucks County Detective Mark Zielinski from attorney Morris' law office.

The allegations brought by the Township Manager are as follows: that on November 29, 2014, off-duty Bristol Township Police Sergeant Kevin Burns, was unlawfully driving under the influence of alcohol when he crashed his privately owned vehicle into a parked pick-up truck some time after midnight, and that responding patrol officers and other involved members of the police department, including the then-acting Police Chief, Lt. John Godzieba; the on-call lieutenant, Lt. Terry Hughes; administrative officer Lt. Gaetano Sava; the on-scene supervisor Sgt. Thomas Gaffney; and on-scene officers Officer John Rink and Officer Erik Barros had colluded to cover-up Sgt. Burns' alleged crime of driving under the influence of alcohol to a degree that he was incapable of safely operating a motor vehicle.

II. Allegations of Kevin Burns Unlawfully Driving Under the Influence

We the grand jury find that the evidence presented does not support a finding that Kevin Burns was unlawfully operating his vehicle under the influence of alcohol. The Grand jury looked into whether there is evidence supporting the allegation that off-duty Sergeant Kevin Burns was unlawfully driving under the influence of alcohol to a degree that rendered him incapable of safe driving. In order to get honest and direct answers from Sgt. Burns related to the amount of alcohol he had consumed prior to driving November 29, 2014, and his intoxication

levels, Kevin Burns was offered by the District Attorney's Office, use immunity from prosecution as it pertains only to driving under the influence based upon the evidence and information he provided during his grand jury testimony in order to get all of the facts necessary to fully investigate the most serious allegations of a police cover-up.

Kevin Burns testified before the grand jury on January 29, 2015. Sgt. Burns appeared before the grand jury without counsel. He stated that he is a Sergeant with the Bristol Township Police Department and has been a police officer in Bristol Township for 26 years, and a sergeant for the department since March of 2007.

Kevin Burns testified that on November 28, 2014, the day after Thanksgiving, he had worked day shift from 7:00 AM to 3:30 PM. After work he returned home and had something to eat. Later that night, he attended a private family style Christmas party at Lieutenant Terry Hughes' house for a few hours, then went to the Hibernia Club in Bristol, and then to the Fraternal Order of Police Lodge on Carolina Road in Philadelphia, and that he had been drinking alcohol throughout the night. According to Kevin Burns, he arrived at the Hughes residence at approximately 7:30 and left between 9:30 and 9:40 PM. He stated he had consumed three twelve ounce beers and had eaten two hot dogs and some pretzel bites while at the party before leaving. According to Lt. Hughes, other officers at his party had walked Kevin Burns out to his vehicle that night and had advised Lt. Hughes that Burns was fine.

From there, Kevin Burns went to the Hibernia Club located in Bristol Borough, about ten to fifteen minutes from the Hughes residence, where he consumed two or three beers, and ate a piece of a hoagie before leaving at approximately 11:30 PM. Kevin Burns next went to the Fraternal Order of Police (FOP) which is located in Philadelphia, approximately twenty minutes away from the Hibernia Club. While at the FOP, Burns stated that he had consumed one beer.

Kevin Burns told the grand jury that he was not intoxicated after having consumed six or seven beers that evening. Kevin Burns, who testified that he is "five foot eight and 260 pounds" did not feel himself to be intoxicated upon leaving the FOP, but that he was tired because he had been awake since 5:30 AM – 6:00 AM that day. Kevin Burns testified that when driving home from the FOP, he came up Interstate 95, got onto Route 13 to Haines Road and made a right into the section of Bristol Township where he resides, which is on Kenwood Drive South where the crash occurred. Burns stated that he believes that he "dozed off a second…I mean that's the only explanation I have for it." Burns also testified that he owner of the truck he had hit asked him if he had been drinking, and that he told her that he had been.

Kevin Burns told the grand jury that a photo of an empty beer can next to his vehicle at the scene was his, and that it had fallen out of the truck when he opened the door.

Kevin Burns testified that when he was asked by Sgt. Gaffney at the time of the incident if the beer can was his, that he had lied to Sgt. Gaffney, telling him that the beer can was not his. The beer can in question was photographed (Exhibit C-4) by Sgt. Gaffney and collected in evidence. Sgt. Gaffney testified that the presence of the beer can "did not change the fact that I didn't think he arose to the next level (for DUI investigation) with regards to his behavior and demeanor."

Officer Erik Barros, a police officer with eight years experience, testified that he has been on scene of over a hundred DUI investigations and has made over thirty DUI arrests. Officer Barros was working the midnight shift of November 28 into November 29, 2014 when he responded to a call of an accident on South Kenwood Drive. Officer Barros was the first to arrive on-scene. Upon arrival, he observed that that the accident involved two vehicles, one occupied vehicle into a parked truck. Barros observed the striking vehicle to be occupied by off-

duty Bristol Township Police Sergeant Kevin Burns. Barros first confirmed that Kevin Burns was not injured. Kevin Burns immediately provided Officer Barros with his documents. Officer Barros was standing just two feet away from Burns and testified that he did not smell an odor of alcohol on Burns' breath. Officer Barros stated that although Burns looked tired, he was not slurring his words, he did not have bloodshot or glassy eyes, and that he "didn't perceive him to be under the influence at all." According to Officer Barros, when he asked Kevin Burns what had happened, Burns immediately responded by saying "I turned onto Kenwood Drive South, I think I fell asleep, and I hit the car."

When Officer Rink arrived on Scene, Officer Barros asked Officer Rink whether Sergeant Gaffney should be called to the scene because Kevin Burns was an officer from the department, and he would not feel comfortable issuing a citation to someone from the department who was a higher rank than he. Both officers agreed that Sgt. Gaffney should have been called to the scene of the accident to lead the accident investigation.

While on scene, Officer Barros also spoke to the female owner of the vehicle damaged by Kevin Burns and received her information for documentation and entry into the police computer. According to Officer Barros, the victim, Ms. Yepes, did not say anything to him about Burns being intoxicated, and he would have absolutely expected her to if she believed that to be the case.

Officer Barros testified that he did not canvass the neighborhood for witnesses because it was late and most of the houses were dark. Police witnesses agreed that in a case such as this, neighborhood canvasses are not typically conducted unless a death or serious injury is involved. Officer Barros stated that once he called his supervisor, he waited for him to respond as he had nothing left to investigate at that point.

Officer Barros agreed that when conducting a DUI investigation, he will want to make observations of the subject to determine whether the person may be intoxicated before asking the subject to perform field sobriety tests. Barros testified that he will not arrest someone and have them submit to a blood test unless probable cause to arrest exists. To reiterate, Officer Barros had testified that he "didn't perceive him (Burns) to be under the influence at all" that early morning.

When asked whether this incident was handled differently than any other civilian involved incident was handled, Officer Barros testified that this incident was handled differently in a couple of ways. One, he called a supervisor to the scene because the accident involved an off-duty police officer. And two, that he was requested to write a report on an incident where a report would not typically be written by him. We find Officer Barros' testimony to be credible.

Officer John Rink has been a Bristol Township police officer for twenty-five years. He arrived on scene after Officer Barros and decided it was a good idea to call his supervisor Sergeant Gaffney to the accident scene. Officer Rink had no contact with Kevin Burns that morning. Officer Rink did not interview any witnesses or conduct any investigations related to this accident involving Kevin Burns. Officer Rink testified that he has made hundreds of DUI arrests during his career. Officer Rink had conversations with a couple of people on-scene including the victim owner of the struck vehicle, and a man across the street who had incorrectly believed that Burns had hit a light pole. Officer Rink stated that no one on-scene had told him that they believed Kevin Burns was drunk, and that if Kevin Burns had been intoxicated, it would be, in his experience, very common for victims and/or witnesses to advise him if they believed the driver of the striking vehicle to be drunk.

Although Officer Rink would not normally create a report for his limited involvement for this type of accident, he did prepare a report at the direction of Sgt. Gaffney. Officer Rink believed he was asked to prepare a report because "somebody believed [Burns] was probably intoxicated" and that the DUI was being covered-up. Officer Rink denies both allegations.

Officer Rink testified that if he is conducting a DUI investigation based upon an odor of alcohol, he is going to look for other indicia of intoxication, such as slurred speech, red, glassy eyes, the subject's having difficulty getting their driver's license from their wallet. Officer Rink testified that he would observe how the subject is walking, looking to see whether the subject walked with an unsteady gait. Officer Rink stated that if the subject does not exhibit signs of intoxication, "it stops there, I have nothing, I don't think I can go any further." Officer Rink testified that going further includes having the subject perform field sobriety tests. Based upon his limited observations of Kevin Burns that night, Officer Rink does not believe that Burns was intoxicated. We find the testimony of Officer John Rink to be credible.

Sergeant Thomas Gaffney has been a police officer in Bristol Township for nearly twenty-two years. He was promoted to sergeant in March of 2007. As a sergeant, Gaffney is responsible for the management and supervision of a squad of 12 police officers, eight of whom can be working at one time. He stated that he is responsible for managing their duty-calls, reviewing their incident reports, providing guidance on criminal matters or arrests, and ensuring that his squad follows procedures.

Sergeant Gaffney testified that he was working the midnight shift on November 29, 2014 when he received a call from Officer John Rink regarding the involvement of an off-duty police officer from Bristol Township in a motor vehicle accident a little after one in the morning. Sgt.

Gaffney stated that Officer Rink did what he should have done by calling his supervisor to the scene, especially where the involved off-duty officer was of a higher rank than Rink or Barros.

Before his arrival on-scene, Sgt. Gaffney called the on-call Lieutenant Terry Hughes to advise him of the nature of the incident. According to Sgt. Gaffney, Lt. Hughes told him to go to the scene, assess the situation and then call him back. Upon his arrival on-scene, Sgt. Gaffney was met by Officer Barros, who advised him of the situation. Sgt. Gaffney then went to Burns' truck where he made contact with Burns outside of his truck. Sgt. Gaffney made sure that Burns was not injured and then asked him what had happened. Burns responded that he was not sure, but that he has been working a lot lately, was tired and believed he fell asleep while heading home.

Sgt. Gaffney could smell a slight odor of alcohol in the air between him and Kevin Burns. He asked Burns if he had been drinking, and Burns said that he had been. According to Sgt. Gaffney, Kevin Burns did not slur his words, rather he sounded "the same that he always sounds to me." Sgt. Gaffney did not observe Burns to have red, blood shot or glassy eyes and that he seemed fine when he was walking. According to Sgt. Gaffney, he did not see anything wrong with Burns' dexterity or his movements, and "felt that he was fine" after watching him several times while at the scene and even from a distance when he was returning the lieutenant's call.

After making his on-scene observations, Sgt. Gaffney called Lt. Hughes. Sgt. Gaffney told Lt. Hughes that Burns had wrecked his truck, and that he had been drinking, but that things were not as bad as he first thought because he did not believe Burns to be DUI. He told Lt. Hughes that nobody was injured, but that Burns' vehicle would have to be towed. According to Sgt. Gaffney, Lt. Hughes told him that he was calling the Chief (Lt. Godzieba) and that he would get back to him. When Lt. Hughes called him back, he told Sgt. Gaffney that he was the

supervisor on-scene, and that it was his call. Lt. Hughes told Sgt. Gaffney that they (Lt. Hughes and the acting Chief) decided that it would be Sgt. Gaffney's call, which Sgt. Gaffney interpreted to mean that if Sgt. Burns is drunk, he should arrest him. Lt. Hughes also advised Sgt. Gaffney to indicate alcohol on the AA500 reporting form, which Sgt. Gaffney did, and to indicate any motor vehicle code violations on the AA500 form as well, which Sgt. Gaffney also did.

Sgt. Gaffney testified that although it was on his mind, the fact that Kevin Burns was a police officer had nothing to do with his decision-making that morning. He did not ask Kevin Burns to perform field sobriety tests because, based upon the totality of the circumstances and his contact and observations of Kevin Burns, he did not have reason to believe that Kevin Burns was under the influence of alcohol to a degree that rendered him incapable of safe driving that morning.

Sgt. Gaffney did complete the required AA500, (Exhibit C-6), which is the state-mandated crash reporting form mandatory in crashes where towing an involved vehicle from the scene is required, as it was in this case. On that AA-500 crash reporting form, Sgt. Gaffney indicated the presence of alcohol, he held Kevin Burns to be liable for the crash and damage caused to the victim's truck, and suggested a violation of a motor vehicle code violation of careless driving.

Sgt. Gaffney testified that if he had reason to believe, based upon the evidence, that Burns was DUI, he would have had him perform field sobriety tests, and arrest him if probable cause existed that Burns was under the influence of alcohol to a degree that he was incapable of safely operating a motor vehicle consistent with the laws of this Commonwealth. Sgt. Gaffney testified that nobody within his chain of command influenced his decision not to arrest Kevin Burns, and that he made his decision solely on the law, his training, education and experience

with DUI investigations, and the evidence he gathered at the scene of the incident. We find that if Sgt. Gaffney had probable cause to believe that Kevin Burns was under the influence of alcohol to a degree that rendered him incapable of safely operating his motor vehicle that Sgt. Gaffney would have arrested Kevin Burns.

Sgt. Gaffney later discussed with Lt. Hughes whether a citation would be issued to Kevin Burns, and according to Sgt. Gaffney, he was advised that the department would issue the citation, taking the matter out of his hands, though Sgt. Gaffney did not have a problem issuing the citation himself had he been requested to do so.

We the grand jury were at first skeptical as to why no field sobriety tests were administered in this case, but after hearing from witnesses as to how a DUI investigation is conducted, we support Sgt. Gaffney's decision not to subject Kevin Burns to field sobriety tests. Many witnesses advised the grand jury of the process of investigating a DUI offense. These witnesses, who included Detective Eric Landamia of the Bucks County District Attorney's Office, described that the decision to further detain a subject for continued DUI investigation (including field sobriety testing) and eventually arrest that subject, was discretionary based upon the evidence at the scene and specifically, the observations of the subject by the officer in charge of the investigation.

Detective Landamia is a certified crash reconstructionist and has made over one hundred DUI arrests in his career with the Lower Southampton Police Department. Detective Landamia had been an officer who led his department in DUI convictions before becoming a detective. Detective Landamia reviewed the reports of this case and all of the surrounding facts and circumstances of Kevin Burns' alleged DUI and determined that the case was appropriately handled by Sgt. Gaffney. Detective Landamia testified that a police officer investigating DUI

offenses must look at the totality of the circumstances based upon the evidence at the scene. First and foremost, officers should look at whether the subject of the DUI investigation exhibits what is referred to as the "Indicia of Intoxication" which would include the circumstances of police involvement, or the reason for police to investigate, such as driving behavior, DUI checkpoint, or a motor vehicle crash. The investigating officer would then concentrate on gathering evidence of intoxication by questioning and observing the subject of the DUI investigation, such as: evidence of consumption of alcohol, speaking with a thick tongue or slurred speech, confused or incoherent speech, bloodshot and glassy eyes, difficulty following instructions, difficulty with motor skills and dexterity, staggered gait or difficulty walking, impaired judgment, having issues with their balance, or having other abnormal mental or physical condition which tends to deprive someone of the clearness of intellect and control that he would otherwise possess, that would indicate that the person was intoxicated. According to Detective Landamia, the facts that Kevin Burns was involved in a crash and admitted to drinking alcohol, were sufficient for Sgt. Gaffney to hold or detain Kevin Burns at the scene of the crash in order to make further observations of him. Sgt. Gaffney clearly took the time to interact with Kevin Burns while waiting for Lt. Hughes to return his call, and according to his testimony, watched and observed him for additional signs of intoxication. According to the evidence in this case, he found none. According to Detective Landamia, Sgt. Gaffney, who knows Kevin Burns from working with him for over twenty years would be in an excellent position to determine whether Burns was in fact intoxicated because of his vast experiences with Burns in a sober state.

Based upon the testimony of Sgt. Gaffney, and the testimony and statements of independent witnesses who also had contact with Kevin Burns that morning, Detective Landamia opined that Sgt. Gaffney clearly made the correct decision in not asking Kevin Burns to perform

field sobriety tests, and that probable cause did not exist for Sgt. Gaffney to arrest Kevin Burns for DUI and subject him to chemical testing. According to Detective Landamia, Sgt. Gaffney should not have requested that Burns perform field sobriety tests or submit him to chemical testing just to cover himself, or just because it would have "looked bad" by not moving the investigation forward.

Detective Landamia specifically stated that it would have been unlawful for Sgt. Gaffney to further the investigation of Kevin Burns simply because of some alleged reputation alluded to by William McCauley in a December 5, 2014 meeting with Lt. Godzieba. As Sgt. Gaffney testified, just because Kevin Burns is an off-duty police officer, "it does not mean that he does not possess the rights under the law" as anyone else in a similar situation that must be adhered to.

In conclusion, as to the allegation of DUI, though Kevin Burns had been drinking before he drove and involved himself in an accident, the totality of the evidence in this case does not support a finding that he was under the influence of alcohol to a degree that rendered him incapable of safe driving a motor vehicle, as is required by the law to support an arrest for DUI and subject Kevin Burns to chemical testing. We also believe that the observations made by Sgt. Gaffney of Kevin Burns did not support a request by Sgt. Gaffney to subject Kevin Burns to field sobriety testing. We find the testimony of Detective Landamia and Sgt. Gaffney to be credible.

III. Actions by Police Department Leadership Personnel

We the grand jury can find absolutely no evidence of a police cover-up as alleged by William McCauley. Because Kevin Burns was not driving under the influence on November 29, 2014, there can be no cover-up by those involved Bristol Township Police Officers. There is

absolutely no evidence whatsoever that Lt. John Godzieba, Lt. Terry Hughes, Lt. Guy Sava, Sgt, Gaffney, Officer Erik Barros, and or Officer John Rink had acted in any way that is contrary to the high standards and the professional performance of their duties as law enforcement officers. We the grand jury, find the Bristol Township police officers present at the accident scene and later involved in reviewing the facts and circumstances of this case to have acted professionally and with the integrity that is expected of our law enforcement officers.

All of the police witnesses in this case, Lt. John Godzieba, Lt. Terry Hughes, Lt. Guy Sava, Sgt. Thomas Gaffney, Sgt, Kevin Burns, and Officers Rink and Barros testified under oath before the grand jury without the presence of counsel. Acting Chief of Police Ralph Johnson, and Township Manager William McCauley both had counsel present for their testimony. It should be noted that both Johnson and McCauley had used the same attorney for their presence before the grand jury.

It is clear from the evidence before this grand jury that the chain of command properly functioned in this case. First, the on-scene officers made the immediate decision to call Sgt. Gaffney, their on-duty supervisor, to the scene. Prior to arriving at the accident scene, Sgt. Gaffney was advised that the accident involved an off-duty police sergeant, and that alcohol may have been involved. Sgt. Gaffney acted accordingly by calling the on-call lieutenant, Lt. Terry Hughes to advise and receive advice as to whether another agency should be called in to handle the matter. Lt. Hughes advised Sgt. Gaffney that he was in charge, and for him to go to the scene, and advised that they will continue their communications once Lt. Hughes had notified the Acting Chief of Police Lt. John Godzieba.

Lt. Hughes then immediately called Lt. Godzieba and advised him of the situation. According to both Lieutenants, the decision was made that should Kevin Burns be intoxicated,

he should be arrested. We the grand jury find that these actions by the chain of command were appropriate and were in no way intended to benefit Kevin Burns. Lt. Hughes then advised Sgt. Gaffney that he was in charge of the scene, and it was his call to make; if Kevin Burns was drunk, arrest him. As we discussed above, Kevin Burns was determined by Sgt. Gaffney to be sober, and thus he was not arrested or subjected to further testing.

Current Acting Chief of Police, Ralph Johnson, testified that the actions by Lt. Godzieba and Lt. Hughes on the early morning hours of November 29, 2014 were appropriate. Sgt. Johnson did however tell the grand jury that if it were him, he would have gone to the accident scene in order to CYA (cover your ass).

We the grand jury are left with the following question: How does the Township Manager William McCauley come to the conclusion that Kevin Burns was drunk when he was not present at the accident scene, he conducted no interviews of witnesses, and did not read any reports related to the accident? How does William McCauley come to the conclusion that Kevin Burns was drunk when there is no evidence in the reports supporting the claim? It appears that McCauley simply believed because Burns was not arrested after being involved in an accident and admitting to drinking before driving, that all of the senior leadership of the police department was involved in a cover-up?

Lt. Godzieba testified that before McCauley had been made aware of the Burns accident, McCauley had made disparaging comments about Burns in a December 1, 2014 interview Godzieba had with McCauley and Tom Scott for the position of Public Safety Director. According to Lt. Godzieba, McCauley made comments that made him believe that McCauley had a particular dislike for Burns which pre-dates this accident because Burns has long been an outspoken member of the police department.

On December 5, 2014, after McCauley learned of the incident from Sgt. Ralph Johnson, McCauley demanded a meeting with Lt. Godzieba, where he told Lt. Godzieba that he "failed to get the hint" about Kevin Burns in his last interview. McCauley repeated several times to Lt. Godzieba that he "failed to get the hint" about Kevin Burns. During that meeting, before McCauley had possession of any investigative reports on the incident, McCauley alleged that Kevin Burns was drunk, and then began to allege that the involved police officers were involved in a cover-up of Burns' DUI. McCauley directed Lt. Godzieba that he was not to conduct an internal investigation, rather McCauley demanded all of the reports related to the incident to be turned over to him by the end of the day. McCauley testified under oath that he never demanded or requested reports from Lt. Godzieba. After McCauley was shown the December 5, 2014 memorandum by Tom Scott, McCauley then agreed that he requested the reports, and then testified that he never read the reports he demanded. McCauley testified that at that point, he initiated his own "independent" investigation by hiring "Special Counsel" Neil Morris, Esquire. It was learned from McCauley that Neil Morris is a longtime friend of the Township Manager. McCauley stated that he hired outside counsel to conduct an independent investigation because he wanted to find out what had happened, even though it is clear from the facts and circumstances of this investigation that McCauley had already jumped to his own conclusions, without facts or evidence to support them, that Burns was drunk and that the police department had covered it up.

During that December 5th meeting between Lt. Godzieba and William McCauley, which was memorialized in a memorandum by Human Resources Officer Tom Scott, McCauley told Lt. Godzieba that Burns should have been tested based on the fact that he was drinking. We the

grand jury find this assumption by McCauley not only contrary to the evidence in this case, but also to be contrary to the law as outlined by law enforcement officers during this investigation.

McCauley also told Lt. Godzieba that it looks suspicious that Burns was not tested, like there was a cover-up, especially given Burns' reputation. We the grand jury specifically find that it would have been a violation of the law and of Burns' rights to arrest Burns or subject him to further testing or investigation based upon reputation, as suggested by the Township manager. McCauley, who is not a law enforcement officer, told the grand jury that he did not know if police were allowed to arrest someone on their reputation.

We the grand jury agree with the statements of Lt. Godzieba, then Acting Chief, that he would not have done anything to put the police department's reputation in a bad light, or put the public at risk by not arresting Kevin Burns had he been intoxicated.

On December 7, 2014, even though Lt. Godzieba had turned over all documents completed on the incident to date, McCauley again demanded reports from Lt. Godzieba in an email. Incredibly, within the same email, McCauley further accused Lt. Godzieba of being involved in additional cover-ups of police criminal activity by him and the officers under his supervision. It is clear from the testimony that William McCauley had not read any of the police reports or the AA-500 crash reporting form prior to making any allegations of misconduct by police personnel, and had absolutely no basis in which to further attack the character of Lt. Godzieba or the police department by suggesting they were involved in additional criminal behavior.

Shocked that he was being accused of covering up a crime, Lt. Godzieba went to see Mr. McCauley in his office. According to Lt. Godzieba, he wanted to remove any cloud over the department regarding the alleged cover-up and to make sure that McCauley knew that the police

department operations were on the "up and up." When Lt. Godzieba again offered to conduct an internal investigation to clear up the allegations, McCauley advised that he would handle the investigation himself. At this point, Lt. Godzieba called Chief County Detective Chris McAteer to inform him of these allegations.

On December 18, 2014 William McCauley placed a memo in the file of Lt. Godzieba informing him that he was no longer Acting Chief of Police. On Friday December 19, 2014, Lt. Godzieba met with McCauley in McCauley's office regarding the Memorandum. During that meeting, McCauley told Lt. Godzieba that he should have directed Sgt. Gaffney to give Burns field sobriety tests, and that he did not like the way things were handled by the lieutenant. Lt. Godzieba testified that he advised McCauley that he made an ethical, legal decision, and that he stood by what he did that morning. The evidence clearly supports the finding that Lt. Godzieba ordered the arrest of Kevin Burns if the evidence supported an arrest. According to Lt. Godzieba, McCauley kept snickering and smiling during this discussion, and again suggested that he believed Lt. Godzieba to be involved in some sort of cover-up. McCauley then advised Lt. Godzieba that he, Lt. Hughes and Sgt. Gaffney should start packing their bags and retire.

During that same meeting, McCauley informed Lt. Godzieba that though he could apply for the position of Director of Public Safety, he would not get the job for two reasons: 1) McCauley claimed that Lt. Godzieba never worked for a good boss, referring to former Chief of Police James McAndrew, and 2) because Lt. Godzieba was friends with Chief of the County Detectives Chris McAteer, the guy that was trying to put him (McCauley) in jail.

When asked by the grand jury why McCauley himself did not call the District Attorney's Office if he believed that the police department had been involved in criminal activity, McCauley said he had no reason to, that he could conduct an independent investigation himself.

We the grand jury find Mr. McCauley's arrogance during his testimony before the grand jury to be unprofessional and undisciplined.

As stated above, on December 23, 2014, Lt. Kemmerer of the District Attorney's Office informed the Township Manager that the District Attorney's Office was directing the Township to stop their investigation. Mr. McCauley was again undisciplined and unprofessional, informing Lt. Kemmerer that he would not comply with the letter from the District Attorney David Heckler. During that conversation, McCauley continued to identify Lt. John Godzieba as the target of "his investigation." McCauley advised that he would continue his investigation, and told Lt. Kemmerer to tell Chief Chris McAteer that he "would not be taken out of his office in handcuffs." It is important to note that, according to Chief McAteer, he has never had a conversation with William McCauley. It is unclear why William McCauley appears to have issue with the Chief of the Bucks County Detectives.

However, in the January 6, 2015 letter to the District Attorney, McCauley advised that he was going to cooperate with the District attorney's Office in its investigation, and suspend his investigation, for a reasonable amount of time. McCauley again confirmed his belief, without any evidence or proof, that he believed the police department was involved in covering up criminal activity. McCauley laments that it was only after Lt. Godzieba was removed as acting Chief did the District Attorney's Office become interested in this matter. We disagree. We believe the testimony of Chief County Detective Chris McAteer, where he testified that he was notified in early December, well before Lt. Godzieba was removed as Acting Chief, of the allegations of police misconduct. According to Chief McAteer, he thereafter had discussions with the District Attorney as to how the District Attorney's Office should proceed.

It is clear that William McCauley has no authority under the law to investigate and prosecute crimes. McCauley advised the grand jury that he believed he had the authority under the Township code, but failed to provide the grand jury with that code, even when asked specifically to do so by our counsel. McCauley testified that he was conducting an after the fact administrative investigation of his employees to see if any township rules or policies had been violated. The Township Manager then contradicted himself, in both his testimony and in the January 6, 2015 letter to the District Attorney, by saying his intent was to gather evidence of crimes and/or a cover-up of criminal activity and turn it over to the District Attorney's Office in order to have those responsible prosecuted to the fullest extent of the law.

McCauley testified that he did not demote Lt. Godzieba, that he simply removed him as Acting Chief because he had been unlawfully appointed. We find Mr. McCauley's timing for the removal of Lt. Godzieba quite peculiar. Lt. Godzieba had been in the position of Acting Chief for fourteen months prior to his removal. McCauley testified that Lt. Godzieba's removal as Acting Chief had nothing to do with the Kevin Burns incident. This statement by McCauley is clearly contradicted by McCauley's December 18, 2014 memorandum to Lt. John Godzieba where, McCauley states that Godzieba is being removed because he was "unlawfully" appointed, McCauley further writes that he "no longer [has] the confidence to leave you in the position of Acting Chief of Police and cannot justify your remaining in this leadership position for one more day."

McCauley also advises Lt. Godzieba that because of the manner in which Lt. Godzieba had handled the Burns incident, that Godzieba was no longer under consideration for the position of Director of Public Safety stating "I could never hire anyone that does not have the integrity

and courage to take the appropriate action in an incident such as Sergeant Burns' accident to lead the police department."

The above quotes by McCauley emphasize two things: 1) that William McCauley still believes, without any evidence supporting his allegations, that Burns was intoxicated on November 29, 2014 and the involved police officers covered it up, and 2) that McCauley was untruthful in his testimony as to why he removed Lt. John Godzieba from the position of Acting Chief. McCauley himself testified that he could have either removed Lt. Godzieba as Acting Chief or had his appointment made "lawful" at any time during those fourteen months that Lt. Godzieba held that position. He stated that he never wanted to correct the appointment at any time, because Lt. Godzieba was not his candidate for the position, Sgt. Ralph Johnson was.

We believe that William McCauley wanted to appoint his "candidate" Sergeant Ralph Johnson to the position of Acting Chief of Police, and saw the "Kevin Burns incident" as his opportunity to accomplish this goal. Not only did McCauley tarnish the career, character and integrity of Lt. John Godzieba, but he also set out to assassinate the character and integrity of Lt. Terry Hughes and Lt. Guy Sava as well, thus removing others in the department who were qualified to be potential candidates worthy of consideration for the position of Acting Chief of Police.

The grand jurors do find it interesting to note that even though the police department has policies against police officers meeting the Township Manager and other politicians while on duty, Sgt. Johnson would often meet with Bill McCauley while Sgt. Johnson was on duty, while working the three to eleven shift.

We find much of the testimony of Acting Chief Johnson to be self-serving. We believe Sgt. Johnson seemed to be either colluding with McCauley in order to be appointed Acting Chief

of Police, or at least politically sensitive to him. Ralph Johnson was the officer who had advised the Township Manager of the Kevin Burns incident. William McCauley had admonished Lt. Godzieba for failing to advise him of this incident, but could not point to any township policy or procedure that required such notifications to be made.

According to Ralph Johnson, he and McCauley had a conversation about a pin map in the detective's area at the police station that was related to places where Kevin Burns was alleged to have had on-duty and off-duty incidents. According to Johnson, this pin map was only up in the detective's area of the police department for a period of a couple of weeks approximately eight to ten years ago. Johnson testified that the map did not relate to Burns and the consumption of alcohol. Yet William McCauley testified that the map, which existed eight to ten years ago, related to "various drinking establishments where Sergeant Burns had exhibited conduct that may or may not be unbecoming a professional police officer." Though McCauley had never seen this pin map, it is clear from his testimony that he used the prior existence of this pin map some eight to ten years in the past, many years before William McCauley even became Township Manager, to develop and support his negative view of Kevin Burns. Acting Chief Johnson actually testified that the pin map had nothing to do with drinking spots or conduct unbecoming a professional police officer.

We find it very difficult to believe that Acting Chief Johnson did nothing during the five day period he was in command, prior to the cease and desist letter from the District Attorney December 18 through December 23, 2014, to verify the unsubstantiated "rumors" he heard about Kevin Burns being intoxicated on the morning in question. Sgt. Johnson told the grand jurors that he had heard rumors that Kevin Burns had been drunk. He further testified that one of these rumors involved the MDT transmissions made during and after the incident indicating that Kevin

Burns was "blitzed" and was about to be arrested by Sgt. Gaffney. The MDT transmissions could have easily been pulled by Sgt. Johnson to determine if the rumors were accurate. County Detective Eric Landamia testified that after Sgt. Johnson's testimony the week prior, he investigated these rumors and pulled all of the MDT transmissions for that date and found that there were no such transmissions made involving allegations that Kevin Burns was blitzed, drunk, or about to be arrested.

Questions arose as to whether Ralph Johnson, McCauley's candidate for the position of Acting Chief of Police, was qualified for the position of Acting Chief of Police in Bristol Township. According to Lt. John Godzieba, current Acting Chief Johnson is not qualified to hold the position of Chief of Police, because he does not have the required ten years of command experience, which is the rank of lieutenant and above, and that he has not attend an appropriate command school, such as the FBI National Academy or the Northwestern Institute School of Police Staff and Command. Sgt. Johnson failed to directly answer the grand jurors question as to whether he maintains the qualifications to hold the position of Acting Chief.

William McCauley testified that this incident has left him with so little faith in his police officers that he believes that they lack fundamental integrity. We believe that William McCauley maintains a low opinion of police in general. We the grand jury find that if William McCauley is able to make allegations of police misconduct without having a shred of evidence to support his false claims, he lacks that fundamental integrity necessary to serve as Township Manager overseeing the personnel of the Bristol Township Police Department.

Lt. Gaetano Sava testified that he has been with the Bristol Township Police Department for twenty tears, and that he is retiring this month. Lt. Sava became a detective just after six years, and was promoted to the rank of lieutenant in 2007, just after twelve years on the job. Lt.

Sava testified that he was promoted as quickly as it is possible under civil service rules. Lt. Sava testified that his department is not a very pleasant environment to work in. Lt. Sava became involved in this matter when Sgt. Gaffney asked him to act as union representative when Sgt. Gaffney was to testify before the Township Manager's investigator. Lt. Sava stated that he has worked with Sgt. Gaffney for twenty years, and closely for the last eight years, and that he would trust Sgt. Gaffney with the lives of his family. Lt. Sava stated that Sgt. Gaffney's integrity, character and judgment are beyond reproach, and that not only would Sgt. Gaffney not fix a DUI for Kevin Burns, he would not even do it for his own mother.

Lt. Sava was not involved in the review of this incident and was not working the morning it occurred. He did agree that Lt. Godzieba made the correct call by placing Sgt. Gaffney in charge of the scene and directing Sgt. Gaffney, through Lt. Hughes, that if Burns was drunk, to arrest him. Lt. Sava testified that had Burns been drunk, Sgt. Gaffney would have locked him up.

Lt. Sava testified that he took pride in being an active part of managing and running a professional police department and was surprised that the shifts for the lieutenants were being changed. He stated these changes went into place after the Burns incident. Lt. Sava discussed the shift changes with Acting Chief Johnson, and was told by Johnson that a big part of the decision to change the shifts of the lieutenants was punitive, because of the handling of the Burns incident. It is clear from the testimony that the shift changes were directed by William McCauley, which leads this grand jury to question who is in charge of the police department, Ralph Johnson or William McCauley.

In a phone conversation the Friday before Christmas with William McCauley, McCauley told Lt. Sava that he was sorry about the shift changes, but that even though he had no culpability

in the Burns matter, Lt. Sava was to consider himself "collateral damage." McCauley then told Sava to "buckle up, it's going to be a wild ride." When asked what he meant by that, McCauley told Lt. Sava that it would be easier if Godzieba, Hughes and Kevin [Burns] packed their bags and left.

Lt. Sava testified that he had testified many times in his career after having arrested many bad criminals, but "today I was worried about being seen...about sitting up here, about testifying, and about it getting back to the manager." Lt. Sava stated in his experience in working for the Township Manager for the past three years, he has never run into the amount of sheer bullying, of a magnitude he has never seen, as he has experienced with William McCauley.

IV. CONCLUSION

Accordingly, based upon the testimony of the police officers in this matter, who all testified without legal counsel, and in a manner that we believe to be truthful, professional, and credible, we specifically find that there is absolutely no evidence of a police cover-up. We have heard testimony from several long-standing officers of the Bristol Township Police Department, that until now have had commendable careers serving the public. It is not acceptable that these officers now face suspension or other administrative penalties based upon unfounded ethics allegations. The most important attribute of a law enforcement officer is that officer's reputation within the department and in the community.

It appears that Mr. McCauley used his unfettered power to degrade the reputation of the involved police officers to forward his own agenda. We find that William McCauley bullied his way into getting his candidate, Ralph Johnson appointed as Acting Chief of Police, even though Ralph Johnson may not qualified to hold that position under the department rules. We believe that William McCauley jumped to conclusions, by labeling Kevin Burns intoxicated before reading any reports or talking to any witnesses. And because he labeled Kevin Burns intoxicated, William McCauley, without a shred of evidence supporting his claims, accused the professional leadership staff of the Bristol Township Police Department of involving themselves in a cover-up of criminal activity, of committing serious career ending crimes. We believe that William McCauley saw the Kevin Burns incident as an opportunity to shamefully discredit more experienced, more qualified officers and thus to prevent them from attaining or being considered for the position of Chief of Police in order to put into place "his candidate" Ralph Johnson.

We the grand jury find Lt. John Godzieba, Lt. Terry Hughes, Lt, Guy Sava, Sgt. Thomas Gaffney, Officer Erik Barros, and Officer John Rink to have acted ethically in all stages of this incident and subsequent investigation. We find these officers to be innocent of any criminal wrongdoing related to the November 29, 2014 accident involving Kevin Burns, who we find was not unlawfully driving under the influence of alcohol. We find the behavior of William McCauley to be unethical.