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Agency #8800308

August 3, 2020

Chief Tracy Frazzano
Marco Island Police Department
51 Bald Eagle Dr.
Marco Island, FL 34145

**Re: Complaint by Mr. Howard Denham against the Marco Island Police Department
Franklin Investigations Case No. F.I. 20-21**

Dear Chief Frazzano:

As per your request and authorization, the undersigned (writer) conducted an independent fact-finding relative to a complaint made against the Marco Island Police Department by Mr. Howard Denham concerning the arrest of his daughter, Taliya Denham.

On June 3, 2020, Ms. Taliya Denham was arrested by Marco Island Police while participating in a Black Lives Matter ("BLM") protest rally.¹ According to the Collier County Sheriff's Office, she was charged with robbery or attempted robbery (sudden snatching) and battery when it was alleged that she grabbed the cellphone of an individual named Jason Beal and threw it on the ground causing it to break. These charges have been formally filed on by the Collier County State Attorney's Office and the case is pending in circuit court. Ms. Denham is currently listed as a defendant before the court and is represented by counsel. She will not be interviewed as part of this fact-finding during the pendency of the case.

Subsequent to her arrest, Ms. Denham's father, Mr. Howard Denham, issued a complaint via email against the Marco Island Police Department in which Mr. Denham enumerated specific items of concern regarding his daughter's arrest.²

¹ See DVD marked Marco Island F. I. 20-21 for Marco Island Police Reports.

² See DVD marked Marco Island F. I. 20-21 for Mr. Denham's complaint.

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On Tuesday, June 30, 2020, at approximately 3:20 pm, Mr. Howard Denham provided the undersigned with a formal (sworn) digitally recorded audio statement taken telephonically.³ Mr. Denham stated that he authored the emailed complaint about his daughter's arrest.

Mr. Denham indicated that his daughter, Taliya Denham, was staying at her aunt's house located in the City of Marco Island (the "City") since March 2020. Due to the current pandemic, Ms. Denham planned to quarantine in the City for an unspecified time with her aunt, Vanessa Maya. According to Mr. Denham, Ms. Denham has no prior criminal record. He went on to say that Ms. Denham is not a protest organizer, nor is she part of Antifa.⁴ Mr. Denham indicated that his daughter only became aware of the BLM protest rally in Marco Island through her aunt by way of social media and decided to join in. According to Mr. Denham, he first became aware of his daughter's arrest when her mother, Jessica Maya, who was also present during the protest rally, called Mr. Denham and told him about it.

Mr. Denham stated that a woman named Michele (LNU), who was also a participant in the BLM protest rally, informed Mr. Denham that Mr. Jason Beal, the alleged victim of the cellphone snatching and destruction, was a known hater and agitator with expressions of violence written throughout his Facebook page. Mr. Denham added that an individual named Steven Peterson was arrested at the protest rally for carrying a loaded AR-15 the same day his daughter was arrested, and that Mr. Peterson followed Mr. Beal on Facebook. According to Mr. Denham, when Mr. Peterson learned of the protest he (Mr. Peterson) decided to show up armed with an AR-15 and 30 rounds of ammo.

It was also brought to Mr. Denham's attention by Michele (LNU) that Richard Stoltenborg, a captain with the Marco Island Police Department, was aware of Mr. Peterson's presence beforehand and did nothing to protect the protesters from a man who was intending to be armed with an AR-15. Mr. Denham added that the Marco Island Police were aware of Jason Beal's activities as an agitator and allowed him to be present during the protest. Mr. Denham feels that the Department's failure in preemptively handling Mr. Beal and Mr. Peterson put all of the protesters, including his daughter, in harm's way as both of them should have been kept away from the protesters.

Mr. Denham alleged disparate treatment as Ms. Taliya Denham's actions led to her being charged with a felony offense, while Mr. Peterson, in possession of a loaded AR-15, was only charged with a misdemeanor.⁵ He feels the disparity in treatment is sizable. Mr. Denham added that his daughter in no way was trying to steal Mr. Beal's phone – she has her own phone and she had it with her during the protest. Mr. Denham referred to video clips he's seen and feels it is clear from the videos that his daughter merely slapped the phone out of Mr. Beal's hands with no intention

³See DVD marked Marco Island F. I. 20-21 for Mr. Denham's full audio recorded statement.

⁴ Antifa is an anti-fascist protest organization, and it was rumored that the group was part of the protest.

⁵ This investigation determined Mr. Peterson is not a convicted felon nor does he have any history of domestic violence. Therefore, being charged with a misdemeanor for his alleged act of open-carry possession of a firearm appears to be consistent with the law. See DVD marked Marco Island F. I. 20-21 Steven Peterson Criminal Report.

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of keeping it for herself. According to Mr. Denham, his daughter acted out of fear for herself and the other protesters knowing of Mr. Beal's expressions of hate and potential violence.

Mr. Denham stated that prior to Ms. Denham's arrest he never knew, nor has he ever had any prior dealings with Jason Beal or Steven Peterson – either online or otherwise - nor any members of the Marco Island Police Department.⁶

Asked what he'd like to see come about as a result of his complaint, Mr. Denham stated that he'd like the police to revisit the felony charge of robbery against his daughter and reduce the charge down from a felony. He claims that the police know she was not really trying to rob Mr. Beal of his phone. Mr. Denham added that he feels the police department should re-examine their practices in dealing with protests and crowd control in light of the fact that they allowed Mr. Peterson to show up armed with an AR-15. Mr. Denham went on to say that any Department staff who was aware that Mr. Beal had criminal record and was known to agitate protesters should have done something to better control the crowd (e.g., by keeping Mr. Beal away, this could have prevented his daughter's arrest).

According to Mr. Denham's sworn statement, and in stark contrast to his initial emailed complaint, no longer does he take issue with or questions his daughter's arrest by Marco Island Police. His formal complaint now centers on his daughter having been, in his view, unnecessarily charged with a felony (robbery); Mr. Denham does not take issue with his daughter having been placed under arrest in and of itself. Nor does Mr. Denham at any time make a complaint about any unnecessary or excessive use of force employed while his daughter was being placed under arrest. Furthermore, Mr. Denham makes no claim of any injury suffered by his daughter as a result of her arrest.

It should be noted that extant YouTube and various Facebook⁷ videos regarding the BLM protest rally in Marco Island and the arrest of Ms. Taliya Denham speak for themselves. The Marco Island Police Department does not employ the use of body-cams. Ms. Denham can be seen somewhat passively resisting arrest, very briefly struggling with a police officer while being taken into custody. She appears uninjured and was quickly taken into custody. There is clearly no evidence of any excessive use of force in the arrest of Ms. Denham. There is no indication that Ms. Denham requested fire rescue, nor was she treated on-scene for any injury. There is no indication Ms. Denham was subsequently treated or admitted to the hospital. Mr. Denham makes no mention of his daughter seeking medical care after her arrest in his formal statement.

According to Mr. Denham, Michelle was his primary source of information regarding the arrest of his daughter. Specifically, Michelle is the source of Mr. Denham's claim that Captain Stoltenborg had knowledge or "intel" regarding impending Steven Peterson's presence at the protest rally with a loaded AR-15. Michelle also alleged that Captain Stoltenborg was aware in advance of Mr. Beal's presence. Mr. Beal, according to Mr. Denham, has been identified as a

⁶ Mr. Denham, formerly a corrections officer, is a Cook County deputy sheriff assigned to serve civil process.

⁷ See attached DVD marked Grifoni Video F. I. 20-21.

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known hater and agitator having a criminal record which includes violence, as well as espouser of violent rhetoric among his followers on Facebook. One of these followers was alleged to be Steven Peterson Mr. Denham said that he learned this from Michelle who, according to Mr. Denham, was there at the protest rally.

On Wednesday, July 1, 2020, at approximately 1:30 pm, this writer contacted Michelle (LNU) at the telephone number provided by Mr. Howard Denham. Michelle identified herself as Ms. Michelle McCormick, a resident of Naples, FL, and a self-described stay-at-home mom and social justice advocate, though she stated she also works at home for a global travel agency. Ms. McCormick stated she was aware an investigator wanted to speak with her, but that she checked with City administration to confirm this (this writer's) investigation was authorized. Ms. McCormick said that after verifying with the city that the investigation was authorized, she was happy to cooperate.

During this preliminary interview Ms. McCormick explained that she was present at not only the June 3, 2020, BLM protest rally in Marco Island, but was present at recent rallies having occurred on June 1 and 2, 2020, at the Collier County Courthouse. Asked how she became aware of these protest rallies, and specifically the one having occurred in Marco Island, Ms. McCormick said that she is part of a "sort of network" who look out for the protesters since they're "kids" and have little or no experience regarding putting on protests. Ms. McCormick stated that she is 42 years old and a mother and has experience participating in protests and the things you should bring as far as items of clothing meant for personal protection. When asked to explain this "network," Ms. McCormick said that it's a sort of loose-knit organization and she frequently used the term "council of elders" when referring to her group.

Ms. McCormick explained her awareness of Jason Beal through forwarded Facebook comments and, in her view, Mr. Beal's social media posting would likely attract persons with malicious intent to appear at these protest rallies. Ms. McCormick added that she spotted Jason Beal at the previous two protest rallies she had attended in Collier County. She then mentioned the likes of Steven Peterson showing up with an AR-15 as an example of her concern relative to Mr. Beal's online influence. Ms. McCormick acknowledged providing her name and phone number to members of Ms. Denham's family, some of whom were present at the protest rally when Ms. Denham was arrested. That, according to Ms. McCormick, is how Howard Denham was able to get in touch with her to discuss the arrest of Ms. Denham. When speaking to Mr. Denham, Ms. McCormick expressed her disapproval of his daughter's arrest and specifically her being charged with robbery, a crime of violence. Ms. McCormick added that damaging property is not an act of violence. Ms. Denham in Ms. McCormick's view, did not direct any violence at Mr. Beal but at his phone. She did not consider the alleged conduct an act of violence.

Ms. McCormick stated that she spoke in person with Captain Stoltenborg just prior to Ms. Denham's arrest and warned him about the presence of Jason Beal, which she described as a "provocateur". Ms. McCormick was asked if she would mind attempting to locate any video recordings that might show her in conversation with Captain Stoltenborg. She agreed to try to

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find any video recordings that might document her in communication with Captain Stoltenborg. Ms. McCormick agreed to provide a formal (sworn) recorded statement as a witness regarding the complaint by Mr. Howard Denham filed against the Marco Island Police Department.⁸

On Thursday, July 2, 2020, at approximately 10:07 am, a digitally recorded formal (sworn) statement of Ms. Michelle McCormick was taken telephonically.⁹

Ms. McCormick confirmed that she was present and participated in support of the BLM protest rally in Marco Island on June 3, 2020, and was onsite where Ms. Denham was arrested, though she did not actually witness it. Ms. McCormick explained that the catalyst for Ms. Denham's arrest was a known provocateur and instigator named Jason Beal. She went on to say that Mr. Beal was also present at the June 1 and June 2, 2020, protest rallies at the Collier County Courthouse. Ms. McCormick claimed that Mr. Beal's Facebook live feeds appeared to be fomenting fear and violence against the protesters. Ms. McCormick added that she saw certain followers on Mr. Beal's Facebook page making remarks like "lock and load" and "target practice" that were incendiary and meant to encourage violence against the protesters.

Ms. McCormick, claiming she is not a protest organizer, stated that shortly after her arrival along with the protesters, she observed a line of Marco Island police officers with some distance between the police and protesters as the protesters began to gather together. As the gap between police and protesters began to close, Ms. McCormick said that she approached the Marco Island police officers who were on the line asking for the officer in command. Getting no response, Ms. McCormick spotted behind the line an older looking gentleman with gray hair who appeared to be in charge and called him over to speak with her. The gentleman, according to Ms. McCormick, came over to speak with her. Although he was uniform, Ms. McCormick said that she did not notice any insignia denoting the rank, nor did she know his name at that point in time. Ms. McCormick stated that it was only later that she did some research online and learned that the gentleman she was speaking with was Captain Rich Stoltenborg.

Ms. McCormick said that she introduced herself to Captain Stoltenborg and told him directly about the potential threat of violence posed by Jason Beal's presence at the protest and pointed out Mr. Beal on-scene. She told Captain Stoltenborg about Mr. Beal's online activities and his claim that he may have a penchant for provoking potential violence towards the protesters. Ms. McCormick recommended putting officers on the perimeter to watch not just the actions of the protesters but others who may mean to harm the protesters. Ms. McCormick estimated the crowd of protesters to be around 50 persons. Ms. McCormick said that Taliya Denham was arrested at around 7:00 pm at the area of the Marco Island city hall parking lot.

Ms. McCormick indicated that later that same evening she learned that a Facebook follower of Jason Beal, Steven Peterson, was arrested for open-carry of an AR-15. Mr. Peterson's arrest occurred well after Ms. Denham's arrest *and was at a different location*. Ms. McCormick was

⁸ On Friday, July 10, 2020, Ms. McCormick produced a video depicting herself and Capt. Stoltenborg together.

⁹ See DVD marked Marco Island F.I. 20-21 for Ms. McCormick's full audio recorded statement.

clear that although she warned Captain Stoltenborg about Jason Beal and the potential threat of violence he posed, she never told Captain Stoltenborg about Steven Peterson. Moreover, she was **unaware of Mr. Peterson's** existence at that time during her conversation with Captain Stoltenborg.

Ms. McCormick stated that, as requested by this writer, she did look for video recordings that may have shown her speaking with Capt. Stoltenborg but was unable to find any. However, Ms. McCormick indicated that she saw herself on a video recording posted on Facebook by Jared Grifoni, a Marco Island city councilman. She went on to say that she could hear herself on the video making comments that were directed at Capt. Stoltenborg, which she paraphrased as follows: "I told you this would happen..."; "I warned you this was going to happen..."; and "When I got here sir, what did I tell you?" During this discourse Ms. McCormick said that although you can hear her on a megaphone directing her remarks at Capt. Stoltenborg, neither she nor Capt. Stoltenborg can be seen on the video speaking together. Ms. McCormick added that she admonished Capt. Stoltenborg for being responsible for allowing the peace to be broken for the first time in three days of protests. She attributes this to Capt. Stoltenborg's failure to act upon her information regarding Jason Beal, as she believed Mr. Beal was there to incite violence and Capt. Stoltenborg failed in his leadership role.¹⁰

Ms. McCormick was clear to explain that she first learned of Jason Beal's criminal record after the June 3, 2020, protest and, therefore, never informed Capt. Stoltenborg of his criminal history since she didn't know about it at that time. Asked how she learned of Mr. Beal's criminal record, Ms. McCormick said that various people online sent her information about it. She said that Mr. Beal's arrest record includes aggravated assault and domestic violence. She remarked that this did not surprise her.¹¹

Asked how she came into communication with Mr. Howard Denham, Ms. McCormick explained that she is "loosely affiliated with some social justice based communities" that have put together a bail fund for protesters, and that she wrote down her name and number for Ms. Denham to contact her. Ms. McCormick stated that she was able to help arrange for Ms. Denham's bail. According to Ms. McCormick, Ms. Denham must have provided her phone number to her father, Howard Denham, who subsequently contacted Ms. McCormick and they spoke about the protest rally and the arrest.¹²

¹⁰ While the remarks Ms. McCormick testified were made by her directed at Capt. Stoltenborg can be heard on the audio portion of the Grifoni video, there is no voice heard responding to her remarks. See DVD marked Grifoni Video F. I. 20-21.

¹¹ Jason Beal's criminal history from both FDLE and Collier Co. verifies charges consistent with those described by Ms. McCormick. See DVD marked Marco Island F. I. 20-21, Jason Beal FDLE Criminal History, for details.

¹² Although she denied being a protest organizer, Ms. McCormick's presence at all three consecutive protest rallies, megaphone in hand and giving her phone number and arranging bail for Ms. Denham, a complete stranger, appears to be more than happenstance. The reader can draw their own conclusion.

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Based upon the sworn statements of Mr. Howard Denham and the witness he provided, Ms. Michelle McCormick, the allegations Mr. Denham put forth in his emailed complaint against the Marco Island Police Department can be specifically addressed and fairly put to rest at this juncture. The below synthesizes the findings.

1. During his sworn statement, Mr. Denham at no point mentions, much less complains about, excessive force used in his daughter's arrest. Ms. Michelle McCormick, the witness Mr. Denham offers, testified that she did not witness Ms. Denham's arrest;
2. Ms. Denham was at no point in time interrogated after her arrest since her actions were witnessed by police. Since she was never interrogated post-arrest there was no constitutional requirement she be read Miranda warnings;
3. The charge of robbery is a felony as dictated by Florida statute. As to the legitimacy of the charge, the State Attorney's Office has formally filed the robbery charge and the case is pending. As to the question of Ms. Denham's intent or whether or not charging her with robbery was somehow "discriminatory", these are likely questions for a judge or jury;
4. Mr. Steven Peterson, contrary to Mr. Denham's complaint, was not arrested for being in possession of an AR-15 at the protest attended by his daughter. Therefore, Mr. Peterson at no time posed an armed threat to Ms. Denham. Mr. Peterson was arrested at a different time and different place well after Ms. Denham's own arrest. As to Mr. Peterson being charged with a misdemeanor for open-carry of that firearm, again, this is dictated by Florida statute;
5. Mr. Denham alleges in his emailed complaint that Captain Stoltenborg was given "intel" about Steven Peterson beforehand about his possible threat to the protesters, but failed to act. In his sworn statement Mr. Denham indicated having learned about this from Ms. Michelle McCormick. However, Ms. McCormick, in her own sworn statement, denies ever mentioning Steven Peterson to Captain Stoltenborg. According to Ms. McCormick, she only learned of Steven Peterson later on via the evening news and only after Mr. Peterson's arrest. Prior to that, she never knew who Steven Peterson was; and
6. Mr. Denham alleges in his emailed complaint that Jason Beal's Facebook live feed is filled with threats and hate messages aimed at his daughter and the protesters. There is no evidence that Mr. Beal knew Ms. Denham by name or who she was at all prior to her arrest. There is no evidence that Jason Beal ever aimed any threats or hate messages at Ms. Denham.

On Wednesday, July 9, 2020, at approximately 9:30 pm, this writer received a text message from Ms. Michelle McCormick requesting a callback. At 9:38 pm, same date, this writer called Ms. McCormick and was told that she has "information" concerning Jason Beal, Steven Peterson, and other individuals that were together at the June 2, 2020 Black Lives Matter protest rally held at the Collier County Courthouse. Ms. McCormick went on to describe these individuals as neo-Nazis, and that they pose a genuine threat to protesters. She went on to explain that another BLM protest rally to be held in Collier County is in its planning stages for the near future. She expressed

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concern about these individuals who she claims have already demonstrated that they're armed, and that they may incite violence at what would otherwise be a peaceful protest. Ms. McCormick felt that her "intel" should be shared with law enforcement. She was advised by this writer to contact the Collier County Sheriff's Office or the Federal Bureau of Investigation ("FBI") with her stated concerns. Ms. McCormick stated that she would first notify the Collier County Sheriff's Office and, depending on their response, would maybe take it up with the FBI if necessary. Ms. McCormick was asked again if she would be able to produce a witness who can attest to her having a conversation with Capt. Stoltenborg and the nature of that conversation. She indicated being doubtful in locating or identifying a witness who could corroborate her testimony.

On Friday, July 10, 2020, at approximately 11:34 am, Ms. McCormick called this writer to report that she located a video recording of herself standing in a crosswalk, megaphone in hand, speaking with Captain Stoltenborg during the June 3, 2020, BLM protest rally. Ms. McCormick was asked to forward the video recording to be included as part of the investigative report and evidence. Upon receipt and review, it was discovered that the audio portion of the video recording is inaudible. However, the video does support Ms. McCormick's statement that she spoke with Captain Stoltenborg on the day of the BLM protest rally held in Marco Island. According to her testimony, Ms. McCormick warned Capt. Stoltenborg of potential violence at the outset of the protest rally and, specifically, identified Jason Beal to Stoltenborg as posing a threat to the protesters. Because the audio is inaudible, the evidence is insufficient to prove the substance of their discussion.

However, even if Ms. McCormick shared her concerns with Captain Stoltenborg about Mr. Beal perpetuating physical conflict, the video shows that the only physical conflict appeared to be initiated by Ms. Denham's snatching of the phone, which ironically led to Mr. Beal, himself, becoming the victim of a crime - robbery. In fact, Jason Beal, as seen on video, is present among the protesters filming the protest and does not appear to have done anything unlawful.

In the final analysis, it does not appear that there was any failure to act on the part of Marco Island Police and, specifically, Capt. Stoltenborg relative to his preventing Jason Beal from committing a crime. Mr. Beal was not violent and, based on the record evidence, at no time took any aggressive action against the protesters. The police cannot be held accountable for failing to act in preventing someone from committing a crime he never committed in the first place. Furthermore, placing the blame for Ms Denham's arrest on Ms. Beal is not supported by the evidence and appears to be a thinly veiled strategy of shifting the blame to the victim of the crime. No longer does society tolerate blaming the victim for the crime committed against him or her. This is especially true of all manner of violence and other crimes that violate a person's right to be safe from physical assault.

This investigation is hereby considered concluded.

A handwritten signature in blue ink, appearing to be the initials 'R.H.' followed by a stylized flourish.

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Enclosure: DVD Marco Island F. I. 20-21
cc. Mike McNees, City Manager
Milton Collins, Labor Counsel