

To: Michael A. Cox, Police Commissioner *mac*
Boston Police Department

From: Richard Dahill, Deputy Superintendent
Chief Administrative Hearings Officer

Date: March 7, 2023

Subject: Boston Police Department v. Officer Joseph Abasciano, ID No. 103590
IAD Case No. 2021-0021

Sir,

I respectfully report that a pre-hearing conference call was held on December 30, 2022, in the matter of Boston Police Department v. Officer Joseph Abasciano. After formal notification, a hearing was held at Boston Police Headquarters on January 30 and February 15, 2023, in accordance with M.G.L. Chapter 31 § 41, and Rule 108 of the Boston Police Department Rules and Procedures. Because neither party requested a public hearing, the hearing was held privately. The hearing was stenographically recorded, and the resulting transcript (Tr. 1 Vol. I and Tr. 1 Vol. II) is the official hearing record.

Attorneys Joseph McClellan and David Fredette represented the Department and Attorneys Kenneth Anderson and William Gens represented Officer Joseph Abasciano

The Department charged Officer Abasciano with violating Department Rule 102 § 03, Conduct (2 Counts) and Rule 113, §05, Canon of Ethics (Canon Eight).

SPECIFICATION I

On January 6, 2021, Officer Abasciano traveled to Washington D.C. to attend the rally protesting the certification of the 2020 presidential election. Officer Abasciano was previously granted leave through the Family Leave Medical Act ("FMLA") between the period of November 25, 2020 and January 21, 2021 [REDACTED] Officer Abasciano traveled to Washington D.C., [REDACTED]

[REDACTED] Officer Abasciano would have been scheduled to work on January 5th and 6th when he traveled to Washington DC. It would have been more appropriate for him to request another type of day off rather than use the time he requested through FMLA to attend the protest. Officer Abasciano misused his granted FMLA outside of its intended scope. Such conduct violates Rule 102 § 03, Conduct Unbecoming.

SPECIFICATION II

On January 6, 2021, Officer Abasciano posted the following statements on twitter both prior to and after the capital riots in Washington D.C.:

5:53 AM- I can't wait to see you dragged away in handcuffs (Officer Abaciano's response to a tweet from Gabriel Sterling regarding the lawful counting of votes in Chatham County).

8: 14 AM- Hey @sentemajldr look out your window. Millions of Patriots are on your doorstep and we are watching. It is a time for choosing. Are you a traitor or are you a Patriot?

MarchForTrump

StopTheSteal

PatriotParty

8: 14 AM. MAGA Millions of Patriots here in DC. Today is a day for choosing. Today there will be only two parties in America. Traitor and Patriots!

January6

MAGA

MarchForTrump

12:40 PM- Everything that happens going forward @ VP is now on your conscience.

1776 Again

March for Trump

WeThePeople

5:22 PM- What I saw today frankly made me weep for our once great nation. The Political Elitist Class has successfully turned Americans against each other. Patriots v Law Enforcement trying to do their jobs in a no win position. I fear this Treasonous election has killed the republic

6:54 PM- I hope you never sleep well again @VP your Treasonous Act led to the murder of an innocent girl and the death of America. You are not a Godly man. I guess @ LLinwood was right about you all along.

The above tweets were visible to members of the public. Officer's Abasciano's tweets reflect most unfavorably on the Department, as they support the capital riots and the insurrection of the United States government. Moreover, the tweets call into question Officer Abasciano's fitness to hold the role of police officer, as his tweets support the arrest of elected officials and divides individuals into "traitors" and "patriots". Such conduct violates Rule 102 § 03, Conduct Unbecoming.

SPECIFICATION III

On January 6, 2021, Officer Abasciano posted the following statements on twitter both prior to and after the capital riots in Washington D.C.:

5:53 AM- I can't wait to see you dragged away in handcuffs (Officer Abasciano's response to a tweet from Gabriel Sterling regarding the lawful counting of votes in Chatham County).

8: 14 AM- Hey @sentemajldr look out your window. Millions of Patriots are on your doorstep and we are watching. It is a time for choosing. Are you a traitor or are you a Patriot?

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Officer Abasciano made statements during his Anti-Corruption interview that indicate that he was in close proximity to the violence occurring at the Capitol Building. In his own words Officer Abasciano stated that he observed agitators involved in a tug of war with law enforcement at the door of the Capitol. He further stated he also observed people pushing their way into the Capitol Building. The tweets were visible to members of the public. Officer Abasciano's tweets reflect most unfavorably on the Department, as they support the capital riots and the insurrection of the United States government. Moreover, the tweets call into question Officer Abasciano ability to perform his duties fairly, and without bias, as his tweets support the arrest of election officials and divides individuals into "traitors" and "patriots." Such conduct violates Rule 113 § 05, Canon of Ethics (Canon Eight).

EXHIBITS

Department's Exhibit List

1. IAD Compliant from @B. Rosa 617 Twitter Account

2. @B.Rosa617 Twitter Account Status
3. @Mailbox Joe Twitter Account Status
4. Email to Media Relations from WCVB News
5. @Mailbox Joe January 6, 2021 5:53 a.m. Tweet
6. @Mailbox Joe January 6, 2021 6:44 a.m. Tweet
7. @Mailbox Joe January 6, 2021 8:14 a.m. Tweet
8. @Mailbox Joe January 6, 2021 12:40 p.m. Tweet
9. @Mailbox Joe January 6, 2021 5:22 p.m. Tweet
10. @Mailbox Joe January 6, 2021 6:45 p.m. Tweet
11. Media Relations Administrative Form 26 written by Sergeant Detective John Boyle
12. Anti-Corruption Division Case File Memorandum
13. WCVB News Report
14. Boston Globe January 14, 2021 Article
15. Boston Globe May 17 Article
16. Anti-Corruption Social Media Screenshot
17. U.S. Capital Riot Timeline
18. Transcript of Officer Abasciano Anti-Corruption Interview February 9, 2021
19. Transcript of Officer Jose Diaz Anti-Corruption Interview February 18, 2021
20. Transcript of Officer Abasciano Anti-Corruption Interview April 21, 2021
21. Transcript of Officer Jose Diaz Anti-Corruption Interview April 21, 2021
22. Transcript of Officer Abasciano IAD Interview May 25, 2021
23. Lieutenant Detective Daly Anti-Corruption Closeout Report
24. Lieutenant Detective Michael Connolly Anti-Corruption Close-Out Report
25. Sergeant Detective Antunez IAD Investigative Report
26. Lieutenant Detective Lima IAD Findings Report
27. IAD Case No. 2021-0021 Cover Sheet
28. Deputy Superintendent Phillip Owens Non-Concurrence Letter
29. November 23, 2021 FMLA Letter to Officer Abasciano
30. Oracle TimeSheet
31. D-14 First Half Roster for January 5, 2021
32. D-14 First Half Roster for January 6, 2021
33. Officer Abasciano Time and Attendance Card
34. Officer Abasciano FMLA Approval Letter
35. Officer Abasciano FMLA Application

Employee's Exhibit List

1. Tasks for Citizens Complaint IAD Case No. 2021-0021
2. Letter Dated November 11, 2020 to Officer Abasciano
3. CNBC News Article
4. Litigation in the 2020 Election Article
5. Rule 102
6. Mass General Law 6E § 12
7. Screenshots from Deputy Superintendent Owens' Phone
8. News Article
9. News Article

10. City of Boston Human Resources Medical Leave Policy
11. Family Medical Leave Sample Policy
12. Karlotis v. Navistar (CITE)
13. Smith v. Chrysler Corp (CITE)
14. DaPrato v MWRA (CITE)
15. Ulysses Grant Quote
16. Tweets liked by Officer Abasciano
17. Email Exchange between Deputy Superintendent Owens and Boston HR Nicole Reed dated October 31, 2022
18. Digital Evidence - Video

TESTIMONY

Deputy Superintendent Phillip Owens and Sergeant Detective Raphael Antunez, both assigned to the Internal Affairs Division, were called to testify by the Department.

Officer Joseph Abasciano testified on his own behalf. The employee also called Superintendent Sharon Dottin, Chief, Bureau of Professional Standards and Deputy Superintendent Eddy Chrispin, Bureau of Fields Services, to testify.

APPLICABLE RULES

Rule 102 § 02, General Considerations:

"Police officers are more visible to the community than most other persons in government or public service. Public scrutiny, and sometimes public criticism, is directed not only at police performance but also at the behavior of those who deliver police services. The establishment of proper standards for police behavior must take into account not only the expectations of the citizen but also the importance of respecting the individual rights of police employees. The Boston Police Department recognizes that its employees have certain basic personal rights and restricts those rights only where necessary to ensure the integrity of the Department and the highest quality of police service are maintained."

Rule 102 § 03, Conduct:

"Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department. Conduct unbecoming an employee shall include that which tends to indicate that the employee is unable or unfit to continue as a member of the Department, or tends to impair the operation of the Department or its employees."

Rule 113 § 01, Public Integrity Policy Purpose:

The purpose of this policy is to set forth the standards of ethics which will guide both the Boston Police Department, as an organization, and its officers and employees in the conduct of their private and professional affairs.

Rule 112 § 02, Public Integrity Policy Background:

Policing in America today, especially in a major urban area, is a complex and, for many, a stressful occupation. Naturally, the police role has evolved greatly over the years. Officers now face enormous dangers to their physical and mental health. The increased level of violence and the increased level of sophistication of today's criminals present unprecedented challenges for the criminal justice system, especially for those in law enforcement.

Additionally, the temptations that they face have created an added stress for the men and women who are on the front lines in the battle against crime and disorder. These temptations not only include possibilities of personal gain, monetary and otherwise, they also encompass overzealousness in the investigation and prosecution of criminal suspects.

In order to maintain the highest standards of honesty and integrity—as a Department and as individuals—we need to attract and retain persons of outstanding character who are qualified and willing to meet the challenges of policing a diverse urban center such as Boston.

Additionally, we need to correct and retrain those who have acted in a manner inconsistent with the values of the Boston Police Department and punish and/or terminate those who are unable or unwilling to act in accordance with established standards of ethical behavior.

The necessity of such a course of action—and the need to establish and articulate a public integrity policy—is undeniable given the history of problems encountered in most American police departments, especially those in large urban areas. Boston certainly has not been immune to those problems. Corruption, brutality, falsifying evidence, and bias cannot be tolerated among individuals sworn to uphold the law. Nor can hypocrisy, unfairness, deceit and discrimination be tolerated in an organization dedicated to the highest ideals of justice and the rule of law.

The Boston Police Department, mindful of its crucial role in a democratic society, has embraced those principles and values that reflect its commitment to preserving life and property while respecting the rights and dignity of all those with whom it may become involved. Accordingly, we rededicate ourselves to those principles and values by formally adopting ethical standards that will enable us to uphold the public trust. Through the adoption of this policy statement, we reaffirm our responsibility to be accountable for our actions and the conduct of our employees. By doing so, we hope to continue to merit the trust and support of the people that we have sworn to serve.

Rule 113 § 03, Public Integrity Policy:

It is the policy of the Boston Police Department that every action of the Department as an organization, and those of the individuals who act on its behalf, will reflect the highest standards of honesty and integrity. In all of our dealings, whether with the public, other elements of the

criminal justice system, or with each other, we will act in accordance with the ethical standards that are set forth below. Additionally, it is the responsibility of each and every member of the Boston Police Department to adhere to those standards and to take all necessary and prudent actions to expose those who knowingly violate the public trust. It is the responsibility of the Department to prevent, detect and correct instances of misconduct, administrative or criminal, within the organization.

Rule 113 § 05, Canons of Ethics:

General Statement – In furtherance of this policy, the following Canons of Ethics are adopted. They are not meant to be exclusive, but are presented because history and sound judgment indicate that violations of these canons severely undermine the ability of the Department to gain the confidence of both its employees and the public, and also negatively affect its ability to fulfill its essential mission. They are not meant to replace or supersede existing laws, special orders, rules or regulations, but to supplement them; they also serve as a reminder of the public trust that has been conferred upon the Boston Police Department by the citizens of Boston, and the need for constant vigilance in support of that trust.

Rule 113 § 05, Canon Eight:

Employees shall conduct their private affairs so as not to reflect unfavorably on the Boston Police Department; or in such a manner as to affect their ability to perform their duties honestly, effectively, fairly, and without impairment.

FINDINGS OF FACT

Based on the testimony and documentary evidence presented at the hearing, I make the following findings of fact:

1. Officer Joseph Abasciano has been a member of the Department since June 25, 2007. Officer Abasciano is currently out injured (MIS) pending medical retirement. (Tr. 1 Vol. I pgs. 108 & 113, Testimony of Officer Abasciano; Administrative Notice)
2. [REDACTED]
[REDACTED] (Tr. 1 Vol. I pgs. 121-123, Testimony of Officer Abasciano)
3. [REDACTED] he applied for and was approved for intermittent FMLA. Officer Abasciano used FMLA a few days to [REDACTED] (Tr. 1 Vol. I pgs. 122-123, Testimony of Officer Abasciano)
4. [REDACTED] At that point, Officer Abasciano requested to move from intermittent FMLA leave to

continuous FMLA leave. Officer Abasciano was approved for continuous leave under FMLA effective November 15, 2020 through January 21, 2021 for [REDACTED]

[REDACTED] (Tr. I Vol. II pgs. 126-127, Testimony of Officer Abasciano; Department Exhibit 34, Officer Abasciano FMLA Approval Letter; Department Exhibit 35, Officer Abasciano FMLA Application)

5. There are no distinctive FMLA guidelines or restrictions that dictate what a person on paternity leave can and cannot do. The City of Boston Paid Parental Leave Policy states only that employees may be granted up to 12 weeks of compensated time off for the care and bonding with a child added to their family. (Department Exhibits 34, 35; Employee Exhibit 10, 11)
6. Officer Abasciano is an active member of the Massachusetts Republican Party. He was elected to the Ward 20 Republican Committee of West Roxbury and is the Chair of the Massachusetts Law Enforcement and Families. Officer Abasciano was a vocal support of President Trump and described himself as "pro-Trump, pro-law enforcement, and pro-life." (Tr. I Vol I. pgs. 116-117 & 123; See also Employee Exhibit 21, Mass GOP Press Release)
7. Officer Abasciano had a personal social media account on twitter with the handle of Mailbox Joe. The profile picture was a character from the movie, "Team America: World Police," and the profile described a *"beer-drinking, Marine Vet, constitutional conservative who believes in peace through strength"* from "Title Town" Boston. Officer Abasciano did not use his last name or have any information identifying himself as a member of the Boston Police Department. Officer Abasciano used his twitter account to comment mostly on national politics. (Tr. I Vol II, p. 126, Testimony of Officer Abasciano; Department Exhibit 13, WCVB News Report, "Controversial tweets raise questions over line between free speech, law enforcement duty")
8. Officer Abasciano and Officer Jose Diaz both worked at District 2 at one point and both served on the local Republican Ward Committee. Both shared concerns about the election and made tentative plans to attend the January 6, 2021 rally in Washington DC. (Tr. I Vol. II p. 128, Testimony of Officer Abasciano)
9. Officer Abasciano believed that four states had violated election related laws. Officer Abasciano specifically believed Georgia's Secretary of State Gabriel Sterling had made changes to election laws without going through the legislative process. (Tr. I Vol. II pgs. 131-132, Testimony of Officer Abasciano)
10. On January 5, 2021, Officer Abasciano and Officer Diaz rented a vehicle and drove to Washington D.C to attend a *"Stop the Steal Rally"* and to listen to President Donald Trump speak. (Department Exhibit 18, Transcript of Officer Abasciano ACD Interview; Department Exhibit 19, Transcript of Officer Diaz ACD Interview)

11. Neither Officer Abasciano and Officer Diaz had any department equipment, department issued firearm, or department issued phone with them.(Department Exhibit 18, Transcript of Officer Abasciano ACD Interview; Department Exhibit 19, Transcript of Officer Diaz ACD Interview)
12. Officer Abasciano was out on continuous FMLA leave using his sick time. Officer Diaz was on a day off. (Department Exhibit 18, Transcript of Officer Abasciano ACD Interview; Department Exhibit 19, Transcript of Officer Diaz ACD Interview)
13. The Officers stayed at the Residence Inn by Marriott in the Foggy Bottom neighborhood and parked the rental vehicle at the George Washington University parking garage. (Department Exhibit 18, Transcript of Officer Abasciano ACD Interview; Department Exhibit 19, Transcript of Officer Diaz ACD Interview)
14. On January 6, 2021 at about 5:53 am, Officer Abasciano tweeted, "*@GarbrielStering I can't wait to see you dragged away in handcuffs.*" (Department Exhibit 5)
15. On January 6, 2021 at about 6:44 am, Officer Abasciano tweeted, "*MAGA Millions Patriots here in DC. Today is a day for choosing. Today there will only be two parties in America. Traitors and Patriots!*" (Department Exhibit 6)
16. This tweet was in reference to a quote made by Ulysses S Grant, Union Army General and 18th President of the United States of America. The full quote is "There are but two parties now: traitors and patriots. And I want hereafter to be ranked with the latter and, I trust, the stronger party." (Tr. 1 Vol. II pgs. 132-134, Testimony of Officer Abasciano; Employee Exhibit 15; Administrative Notice)
17. At about 8:14am, Officer Abasciano posted on his twitter account, "*Hey Senate Majority Leader, look out your window, millions of patriots are here on the doorstep, and we are watching. It's time for choosing. Are you a traitor or are you a patriot? #March for Trump, #Stop the Steal, #Patriot Party.*" (Tr. 1 Vol. II pgs. 132-134, Testimony of Officer Abasciano, See also Department Exhibit 7)
18. Officer Abasciano also posted at 8:14am, "*MAGA Millions of Patriots here in DC. Today is a day for choosing. Today there will be only two parties in America, traitor and patriot. #January 6th, #MAGA, #March for Trump.*" (Tr 1 Vol. II pgs. 132-134, Testimony of Officer Abasciano, See also Department Exhibit 8)
19. Officer Abasciano did not specifically recall making the tweets but believed he posted them while in the hotel room. (Department Exhibit 18, Transcript of Officer Abasciano ACD Interview)
20. Officer Abasciano reported that those posts also reference the Ulysses Grant quote. (Tr. 1 Vol II pgs. 132-134, Testimony of Officer Abasciano)

21. Officer Abasciano and Officer Diaz had breakfast in the hotel room. Sometime between 8 and 9 am, Officer Abasciano and Officer Diaz checked out of the hotel and packed their bags in their rental car. The Officers then began to make their way to the rally being held at the Ellipse Park that abuts the South Lawn of the White House. (Department Exhibit p. 9, Transcript of Officer Abasciano Anti-Corruption Interview dated February 9, 2021)
22. Officer Abasciano and Officer Diaz had to go through secret service check points that included metal detectors. This process took some time. (Tr. 1 Vol. II pgs. 129-130, Testimony of Officer Abasciano; See also ACD Transcripts Abasciano and Diaz)
23. The Officers remained at the park for most of the day and listened to most of the speakers including President Trump. (Department Exhibit 9 p. 8, Transcript of Officer Abasciano Anti-Corruption Interview dated February 9, 2021)
24. President Trump spoke at the rally sometime around 1:00 pm. In his speech Trump said, "We will never give up. We will never concede...Mike Pence, I hope you're going to stand up for the good of our Constitution and for the good of our country." (Department Exhibit NPR TimeLine pgs 2 & 3 Timeline; See also Employee Exhibit 8 NY Times January 6, 2021 Timeline)
25. At about 12:40pm, Officer Abasciano posted, *"Everything that happens going forward @ VP [Pence] is now on your conscience. #1776 again. #MarchforTrump. #Wethepeople."* (Department Exhibit 8)
26. At this point, Officer Abasciano was hoping that Vice President Pence would not certify the election results for four states and send them back for further review. (Tr. 1 Vol II p. 134)
27. At about 12:45pm, the first large group of people arrived at the US Capitol. The first munitions were launched by the United States Capitol Police. By 1:48 pm, the Lower West Terrace, the East Side and Upper West Terrace of the Capitol Building were breached by the crowd. At about 2:15pm, the first group of people made entry into the Capitol Building (Department Exhibit pg. 9 Lt Det Connolly ACD Close Out Report - Timeline provided by US Capitol Police [REDACTED])
28. After President Trump spoke the rally ended, and Officer Abasciano and Officer Diaz exited. Because of the crowd, it took the Officers about 30 minutes to exit the Ellipse Park. They then made their way down Constitutional Ave but because of the crowds, cut off to a parallel street with the Smithsonian on their left hand side. (Department Exhibit 9 p. 10, Transcript of Officer Abasciano Anti-Corruption Interview dated February 9, 2021)
29. Officers Abasciano and Diaz continued down the mall to the Capitol Building. The Officers did not pass any barriers and did not enter any areas marked off. The Officers did not enter the Capitol Building or Capitol grounds at any time. (Department Exhibit 9 pgs. 10-12, Transcript of Officer Abasciano Anti-Corruption Interview dated February 9, 2021)

30.

Department Exhibit 24, pgs. 7-12, Lieutenant Detective Michael Connolly Anti-Corruption Close-Out Report)

31. Roughly estimated at about 3:30 pm, Officer Abasciano and Officer Diaz did see the crowd in a tug of war with some Captial Police Officers and observed some agitators and violence from the crowd on the stairs. At about this time, Officers Abasciano and Diaz began to make their way back to their car. Officers wanted to get on the road before the 6pm curfew. The walk took about an hour and half. The Officers were on the road back to Boston at about 6:00 pm. (Department Exhibit 9 pgs. 15-17, Transcript of Officer Abasciano Anti-Corruption Interview dated February 9, 2021)
32. Officer Absciano had received several calls indicating that the events at the Captaital had turned violent and that at least one person had been shot. Officer Absciano reported that from his vantage point he did not see any violence or even a large police presence. (Department Exhibit 9 pgs. 16-17, Transcript of Officer Abasciano Anti-Corruption Interview dated February 9, 2021)
33. At about 5:22 pm, Officer Abasciano tweeted, *"What I saw today frankly made me weep for our once great nation. The Political Elitist Class has successfully turned Amaericans against each other. Patriots v Law Enforcement trying to do their jobs in a no win position. I fear this Treasonous election has killed the republic."* (Department Exhibit 9)
34. At about 6:45 pm, Officer Abasciano tweeted, *"I hope you never sleep well again @VP [Pence] your Treasonous Act led to the murder of an innocent girl and the death of America. You are not a Godly man. I guess @LLwood was right about you all along."* (Department Exhibit 10)
35. Later, @BRosa617 posted at the @bostonpolice, the official Boston Police Department twitter account, a complaint, *"Just a heads up. A couple of your off duty officers were at the Capitol taking pics and here's Abasciano threatening VP and members of Congress. He and others, have no removed their social media."* @BRosa also posted three screenshots of Officer Abasciano's tweets: 1. *"MAGA Millions Patriots here in DC. Today is a day for choosing. Today there will only be two parties in America. Traitors and Patriots!"* 2. *"MAGA Millions of Patriots here in DC. Today is a day for choosing. Today there will be only two parties in America, traitor and patriot. #January 6th, #MAGA, #March for Trump."* and 3. *"I hope you never sleep well again @VP [Pence] your Treasonous Act led to the murder of an innocent girl and the death of America. You are not a Godly man. I guess @LLwood was right about you all along."* (Department Exhibit 1)

ANALYSIS

There is no dispute that, on January 6, 2021, Officer Joseph Abasciano, while on continuous FMLA leave [REDACTED], attended a 'Stop the Steal' Rally at the in Washington DC.. The Department charged Officer Abasciano with violating Department Rule 102 § 03, Conduct, arguing that the Department had an "honest belief"¹ that Officer Abasciano misused FMLA leave parameters by going to Washington DC on that day. I was not persuaded. Officer Abasciano [REDACTED] and did not obtain the FMLA leave fraudulently. He was also granted continuous leave over a 12 week period to [REDACTED] There are no guidelines requiring that on any particular day and time a person on parental leave must be bonding with his child. I find the Department has not proven by the preponderance of the evidence that Officer Abasciano misused his FMLA leave to an extent that he violated Rule 102 § 03, Conduct.

It is also undisputed that Officer Abasciano, using his personal Twitter account under a pseudonym, posted comments concerning the activity at the US Capitol Building on January 6, 2021 as well as the certification of the Presidential Election of 2020. Officer Abasciano's post and comments were visible to the general public. While Officer Abasciano did not have any information or pictures on his twitter account associating him with the Department, he was subsequently identified as a Boston Police Officer by at least two individuals. Complaints about both posts were made to Internal Affairs Division and subsequently heavily reported by local media².

I find Officer Abasciano's twitter posts, individually and collectively, violate Department Rule 102 § 03, Conduct. I find the posts, taken at face value, indicate that Officer Abasciano is unable to impartially and without bias perform his duties as a sworn member of the Department. Officer Abasciano post suggests he views the members of the community as either patriots or traitors. The comments indicate a rigid viewpoint that does not recognize the duty to protect the rights of all individuals, rather it divides people as traitors or patriots. Even after Officer Abasciano was aware that the rally had degenerated into a criminal riot resulting in a least one death and the destruction of property in the US Capitol, Officer Abasciano continued to use incendiary language and blamed Vice President Pence for the events rather than the criminal rioters showing a lack of a commitment to preserving life and property, or respect for our law enforcement partners. I find that Officer Abasciano twitter posts indicate that he is unable or unfit to continue as a member of the Department as a result of his violations of both Rule 102 § 03, Conduct and Rule 113 § 05, Canon Eight.

Officer Abasciano argued that he was merely engaged in political hyperbole. I was not persuaded. Officer Abasciano used violent and loaded language suggesting a civil war or a violent revolution. Even his use of the Ulysses S Grant quote or the #1776 suggests the use of violence is appropriate to address political disagreements. Such comments run contrary to the philosophy and

¹ Whether or not an employer's "honest belief" is a viable defense of an FMLA claim is an issue that has divided the Federal Court. The Massachusetts Supreme Judicial Court is not bound by the federal courts other than the United States Supreme Court. In *Deprato V Massachusetts Water Resource Authority*, 482 Mass. 375 (2019), the SJC held that a good faith or honest belief is pertinent only to the question of the amount of damages under FMLA, not to liability.

²Department Exhibits 13, 14, &15 (Various media reports concerning Officer Abasciano)

mission of the Boston Police Department to treat all members of the community as worthy of police protection and police services.

Officer Abasciano also argued that he was signaled out because of his beliefs in comparison to Officers who “bent the knee,” during the 2021 George Floyd protests and riots. I did not find the comparison appropriate. I find the Officers who took a knee during the George Floyd protest were symbolically recognizing the public’s outrage against police brutality rather than condoning violent rioting or looting. I find that the video produced by Officer Abasciano was disingenuous and conflated two separate events; the lawful protest versus criminal riots and treated them as the same. A more apt comparison would be while a criminal riot was occurring, an Officer posting comments encouraging or condoning the criminal acts, which I believe, would also be in violation of Department Rule 102 § 03, Conduct.

Officer Abasciano also argued that he was just expressing his First Amendment rights as a private citizen. Department Rule 102 states, *“The Boston Police Department recognizes that its employees have certain basic personal rights and restricts those rights only where necessary to ensure the integrity of the Department and the highest quality of police service are maintained.”*³ I find the twitter posts made by Officer Abasciano impaired the working relationships among members of the Department, damaged the Department’s reputation, and interfered with the Department operations as evidenced by the numerous media reports concerning Officer Abasciano’s conduct and post. The Department, as an employer, does have the right to limit the speech of their employees and, if necessary, issue discipline.

I find Officer Abasciano’s comments hindered the Department’s continued efforts to build a trusting relationship with all members of the community at a time when policing is under intense scrutiny. Officer Abasciano’s twitter posts, regardless of his intentions to speak only for himself, are a reflection on the Department. *“Public scrutiny, and sometimes public criticism, is directed not only at police performance but also at the behavior of those who deliver police services.”*⁴ Officer Abasciano’s post could be, and as shown by numerous media reports, construed by the public as indicative that the certain employees of the Department fail to exercise their duties impartially or without bias. I find the posts made by Officer Abasciano negatively impacted the Department’s relationship with the community and damaged the Departments reputation..

Officer Abasciano noted that the political discourse today has been increasingly extreme and that Twitter is a cesspool. While I agree with that sentiment, I find it does not have any bearing on the case at hand. Officer Abasciano is a sworn member of the Boston Police Department and as a sworn police officer, he is held to a higher standard as he is entrusted with the authority to seize property, take a person’s freedom, and use force, deadly if necessary, for lawful purposes.

³ Rule 102 § 02, General Considerations

⁴ Rule 102 § 02, General Considerations

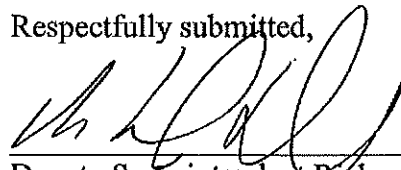
CONCLUSION

Accordingly, for the reasons stated above, I find, based on the preponderance of the evidence, that the Department has not met its burden of proof and recommend the charge in SPECIFICATION I, Rule 102 § 03, Conduct, be **NOT SUSTAINED**.

For the reasons stated above, I find, based on the preponderance of the evidence, that the Department has met its burden of proof and recommend the charge in SPECIFICATION II, Rule 102 § 03, Conduct Unbecoming, be **SUSTAINED**.

For the reasons stated above, I find, based on the preponderance of the evidence, that the Department has met its burden of proof and recommend the charge in SPECIFICATION III, Rule 113 § 05, Canon Eight,, be **SUSTAINED**

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard J. Dahill', written over a horizontal line.

Deputy Superintendent Richard J. Dahill
Chief Administrative Hearings Officer