

To: Michael Cox, Police Commissioner *MC*  
Boston Police Department

From: Richard Dahill, Deputy Superintendent  
Chief Administrative Hearings Officer

Date: October 4, 2022

Subject: Boston Police Department v. Officer Michael Geary, ID No. 135954  
IAD Case No. 2020-0379 & IAD Case No. 2021-0009

---

Sir,

I respectfully report that a pre-hearing conference call was held on May 18, 2022, in the matter of Boston Police Department v. Officer Michael Geary. After formal notification was made, the full hearing was scheduled to be held at Boston Police Headquarters on July 19, 2022. On July 8, 2022, Attorney Kenneth Anderson indicated that he was unable to make contact with Officer Geary. On July 15, 2022, Attorney Kenneth Anderson again reported that numerous attempts to contact Officer Geary were unsuccessful and formally requested a delay for the Hearing.

A second pre-hearing conference call was held on July 19, 2022, and the hearing was rescheduled to August 9, 2022. Officer Geary was formally served with notice of the new date. On August 9, 2022, Officer Michael Geary again failed to appear at the hearing and did not make any communications to either the Department or his union attorney concerning his absence. Additionally, I offered to hold the record open until this report was submitted to the Commissioner should Officer Geary decide he wanted to participate in a hearing or to offer any evidence, however Officer Geary did not make any such request.

Nevertheless, on August 9, 2022, a hearing was held 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) is the official hearing record.

Attorney Joseph McClellan represented the Department and Attorney Kenneth Anderson represented Officer Geary. Ms. Jessica Betancourt presided as the Hearings Clerk. Boston Police Department Assistant Corporate Counsel Omar Bennani was also present.

In relation to IAD Case No. 2021-0009, the Department charged Officer Geary with violating Rule 102 § 03, Conduct Unbecoming. Concerning IAD Case No. 2020-0379, Officer Geary was charged with violating Rule 102 § 04, Neglect of Duty/Unreasonable Judgment.

### **SPECIFICATION I (IAD Case No. 2020-0379)**

*"On or about September 11, 2020, Officer Geary wrote a comment on a Facebook Post made by NBC news regarding the death of Breonna Taylor. Officer Geary wrote, "Don't be a drug trafficker and you won't get shot by police. Believe it or not it really is that simple." Officer Geary also wrote on the same post, 'She got exactly what she deserved. It's too bad her career criminal boyfriend didn't catch a few rounds too. They both chose to spend their lives dumping tons of heroin in the street and destroying thousands of lives. I know that's not something you're used to dealing with in your wealthy suburban neighborhood, but out here in the real world actions have consequences. If you're going to start a gun fight you have to be ready for people to shoot back at you.' Officer Geary's Facebook comments were visible to members of the public. Such conduct violates Rule 102 § 4, Neglect of Duty/Unreasonable Judgment."*

### **SPECIFICATION II (IAD Case No. 2021-0009)**

*"On or about January 8, 2021, Officer Geary wrote of comment on a Facebook post made by the Federal Bureau of Investigations asking the public for assistance in identifying individuals that incited violence around the US Capital on January 6, 2021. Officer Geary wrote, 'rats get bats.' Officer Geary's Facebook comment was visible to members of the public. Such conduct violates Rule 102 § 3, Conduct Unbecoming."*

### **EXHIBITS**

#### **Department's Exhibit List**

1. September 2020 Facebook Post, BPD 001-003
2. January 2020 Facebook Post, BPD 004
3. IAD Case File No. 2020-0379, BPD 005-047
4. IAD Case File No 2021-0009, BPD 048-082
5. Facebook Privacy Setting Explanation Guide, BPD 083-085
6. Quincy Police Report dated March 20, 2022
7. Transcript of Officer Geary IAD Interview IAD Case No. 2021-0009
8. Transcript of Officer Geary IAD Interview IAD Case No. 2020-0379

### **TESTIMONY**

No witnesses were called to testify by either party.

### **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 102 § 4, Neglect of Duty:**

*"This includes any conduct or omission which is not in accordance with established and ordinary duties or procedures as to such employees or which constitutes use of unreasonable judgment in the exercising of any discretion granted to an employee."*

**FINDINGS OF FACT**

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

1. Officer Michael Geary has been a member of the Department since December 8, 2014. (Administrative Notice)
2. Officer Geary was placed on administrative leave on March 24, 2022. (Administrative Notice)
3. Officer Geary has a personal Facebook account and it is restricted to the highest privacy setting. Officer Geary's Facebook account does not indicate that he is a Boston Police Officer in his profile, posting or photos. (Department Exhibit 8, pgs. 10 & 12, Officer Geary IAD Interview Transcript dated March 2, 2021; See also Department Exhibit 7, p. 8, Officer Geary IAD Interview Transcript dated June 25, 2021)
4. Public Information on Facebook is something that can be seen by anyone, including people who are not your friend, people not on Facebook and people who use different media such as print, broadcast and other sites on the internet. One's Facebook Profile, including name, gender, profile photo and cover photo are also public. (Department Exhibit 5, p. BPD 083, Facebook Help Center, *What is public information on Facebook*)
5. Information from a Facebook Account can be shared to the public through the audience selector. Information shared to an individual can also be shared to the public by that individual even if that information was not originally shared to the public. (Department Exhibit 5, p. BPD 084, Facebook Help Center, *What is public information on Facebook*)

6. Facebook pages or public groups are public spaces. Anyone who can see the page or group can see your post or comment. Generally, when you post or comment on a page or to a public group, a story can be published in the feed as well as other places on or off Facebook. (Department Exhibit 5, p. BPD 084, Facebook Help Center, *What is public information on Facebook*)

**IAD Case No. 2020-0379**

7. At some point, NBCNews.com posted an article on its public Facebook page titled, *"Breonna Taylor's death': How a 26 year-old black woman was killed by police."* (Department Exhibit 1 p. BPD 002)
8. Officer Michael Geary commented on the article, writing, *"Don't be a drug trafficker and you won't get shot by the police. Believe it or not, it really is that simple."* (Department Exhibit 1 p. BPD 002)
9. Officer Geary wrote, *"Good riddance. How many family members did this drug trafficker take away from other people? Zero sympathy for this garbage."* (Department Exhibit 4 p. BPD 073, IAD Case File No 2021-0009, BPD 083-085)
9. Officer Geary acknowledged making a Facebook comment on the Breanna Taylor article stating that it was his personal opinion that if you are a drug trafficker or member of an organized drug cartel, you may get shot by the police. (Department Exhibit 8, p. 9, Officer Geary IAD Interview Transcript dated March 2, 2022)
10. Ms. Shanlea Kernen replied to Officer Geary's comment, writing, *"Michael Geary she was shot in her own home, and she was unarmed. How does that warrant being shot? Even if she or her boyfriend were trafficking drugs, you think she deserved to be shot and killed??? Police do not get to play the judge and jury. We have court systems for a reason. Breonna Taylor was MURDERED. Police are not hired to be executionists [sic]."* (Department Exhibit 1 p. BPD 002)
11. Officer Geary replied to Ms. Kernen's comment writing, *"[Breonna Taylor] got exactly what she deserved. It's too bad her career criminal boyfriend didn't catch a few rounds too. They both chose to spend their lives dumping tons of heroin on the street and destroying thousands of lives. I know that's not something you're used to dealing with in your wealthy suburban neighborhood, but out here in the real world actions have consequences. If you're going to start a gun fight you have to be ready for people to shoot back at you."* (Department Exhibit 1 p. BPD 003)
12. Officer Geary admitted to making the second comments and said the comments were made to 'troll' his cousin, Ms. Kerman. He said, *"...She hates cops. She hates military. She's very, very much anti-anybody in uniform, and so I figured since she got mad, so*

---

<sup>1</sup> The death of Breonna Taylor, along with the death of George Floyd by police, were the subject of many sustained protest across the nation, including Boston, against police brutality in the spring and summer of 2020.

*mad over my simple opinion, I would troll her a little bit.*" (Department Exhibit 8, p. 9, Officer Geary IAD Interview Transcript dated March 2, 2022)

13. Ms. Kernen replied, "**Michael Geary** [link to Officer Geary's Facebook Profile] *Not going to make this about me because it's not, but we're actually related so you should know I don't live in a 'wealthy suburban neighborhood' nor did I have a 'wealthy suburban' upbringing really lol. It disgust me that someone serving on the force (hey, Boston Police Department (Official)) [link to the Boston Police Facebook Page] would say such disgusting things. Your job is to protect and serve, not to take the 'justice system into your own hands. See you at the next family dinner!!! I'm sure it'll be a good one.*" (Department Exhibit 1 p. BPD 003)
14. On September 11, 2020, an anonymous complainant notified the Internal Affairs Division of Officer Geary's Facebook comments about the death of Breonna Taylor. (Department Exhibit 4 p. BPD 43, IAD Case File No. 2020-0379)
15. Lieutenant Detective Gaughan wrote, "*I am able to prove by a preponderance of the evidence that allegation of Neglect of Duty/Unreasonable Judgment occurred. Boston Police Rule 102 § 4 Neglect of Duty states, "this included any conduct or omission which in not in accordance with established and ordinary duties or procedures as to such employees or which constitutes use of unreasonable judgment in the exercising of any discretion granted to an employee."* Even though Officer Geary did not identify himself as a Boston Police Officer, his defamatory post of the death of Ms. Taylor caused a person close to him to respond in a negative light and identify him as a member of the Boston Police Department. Officer Geary's decision to make such commentary, which was available to any member of the public, does not reflect most favorably on the Department."

#### **IAD Case No. 2021-0009**

16. On or about January 7<sup>th</sup>, 2021, the FBI posted on their Facebook Page, "*The FBI is seeking to identify individuals instigating violence in Washington, D.C. We are accepting tips and digital media depicting rioting or violence in and around the U.S. Capital on January 6. If you have information, visit fbi.gov/USCaptial. TIPS.FBI.GOV. FBI- FBI Seeking Information Related to Violent Activity at the U.S. Capital Building.*" (Department Exhibit 1 p. BPD 001)
17. Officer Geary commented on the FBI post, writing, "*rats get bats.*" (Department Exhibit 1 p. BPD 001)
18. Officer Geary acknowledge making the post and explained, "*I was taking a satirical jab at the FBI. I wanted to make fun of them a little bit.*" (Department Exhibit 7 p. 7, Officer Geary IAD Interview Transcript dated June 25, 2021)

19. Officer Geary also stated that he was not advocating for violence against anyone including FBI agents or the people protesting at the Capital. (Department Exhibit 7 p. 10, Officer Geary IAD Interview Transcript dated June 25, 2021)
20. Lieutenant Detective Henry Staines wrote, *"The written remark which was found on the FBI Facebook page indicates a negative remark towards viewers in assisting the agency with investigating this crime. The remark made is also one that indicated the use of violence as written, and then during the interview Officer Geary acknowledged making this remark puts the following recommendations forward for consideration. The actions taken and made by Officer Michael Geary show he used, 'unreasonable judgment in the exercising of any discretion granted to an employee.' I recommend a Sustained violation of Rule 102 § 3 – Conduct Unbecoming."* (Department Exhibit 4, p. BPD 056)

## ANALYSIS

It is undisputed that Officer Geary, using his personal Facebook account, posted comments concerning the death of Breonna Taylor and on another occasion, made a post concerning the FBI's investigation into the criminal activity at the US Capital Building on January 6, 2021. Even though Officer Geary's Facebook page is set at the highest privacy setting, his comments on public posts in both instances were visible to the general public. While Officer Geary did not have any information or pictures on his Facebook account associating him with the Department, he was subsequently identified as a Boston Police Officer. Complaints about both posts were made to Internal Affairs Division and subsequently reported by local media<sup>2</sup>.

There appears to be some confusion about the Department Rules used to charge Officer Geary. In relation to Officer Geary's comments about the death of Breonna Taylor, the Department charged Officer Geary with violating Boston Police Rule 102 § 04, Neglect of Duty/Unreasonable Judgment. While I agree that it is fair to say Officer Geary used unreasonable judgment in making the Facebook post, this Rule specifically applies to the use of unreasonable judgment in the exercising of any discretion granted to an employee. In this case, posting on Facebook is not related to any discretion granted by the Department to Officer Geary, consequently I find Rule 102 § 04, Neglect of Duty/Unreasonable Judgment is not applicable.

Also adding to the confusion, in both IAD finding reports, the Department Rules that were applied were different than the Rules charged against Officer Geary. For his comments about Ms. Taylor's death, Officer Geary was charged with Neglect of Duty/Unreasonable Judgment, however in the IAD findings report, the Rule concerning Conduct Unbecoming was applied as it states, *"Officer Geary's decision to make such commentary, which was available to any member of the public, does not reflect most favorably on the Department."* For his comment on the FBI Facebook page, Officer Geary was charged with Conduct Unbecoming however in the IAD findings report the Rule concerning Neglect of Duty was applied as it states, *"The actions taken and made by Officer Michael Geary show he used, 'unreasonable judgment in the exercising of any discretion granted to an employee.'"*

---

<sup>2</sup> NBC10 Boston, 'Rats Get Bats': Boston Police Investigating if Officers Made Capitol Riot Post, Dated June 18, 2021

Nevertheless, I find Officer Geary's statements concerning about the death of Breonna Taylor at the hands of the police to be dehumanizing and demeaning. I find Officer Geary's proposition that Ms. Taylor deserved her death, by the police, because she was a "*drug dealer*" and "*garbage*," is in stark contrast to the principles of due process, fair trial, and that the punishment for criminal offenses rest with courts of law. I also find Officer Geary showed a callous disregard for concept embraced by the Department that the life, dignity and worth of all individuals should be respected.

Officer Geary also made a comment, '*rats get bats*,' in response to the FBI request on Facebook to the public for assistance in holding accountable those who committed violent acts at the U.S Capital Building. I find Officer Geary's comments, at minimum, were a warning of potential violence against people who assist the FBI in their investigation. I find that the comment has a chilling effect on cooperation between the community and law enforcement. I also find the comment, especially coming from a Boston Police Officer, erodes the community's trust in law enforcement including the Boston Police Department.

The Department also submitted a Quincy police report that alleged that Officer Geary, while off-duty, used a baseball bat to break the window of a tow truck as connected to his "*rats get bats*" comment. I find little connection between the two incidents. "*Rats get bats*", along with "*snitches get stitches*," are common expressions that warn of the consequences, potentially violent, of cooperating or working law enforcement. I find Officer Geary's comment was a generalized warning rather than a direct threat that he was going to use a bat in retribution to anyone who aided the FBI. For these reasons, I gave the Quincy police incident report concerning Officer Geary little weight.

I find Officer Geary's posts, individually and collectively, violate Department Rule 102 § 03, Conduct. I find the posts, taken at face value, indicate that Officer Geary is unable to impartially and without bias perform his duties as a sworn member of the Department. The comments also suggests he does not recognize his duty to protect the rights of all individuals, a commitment to preserving life and property, or respect of our law enforcement partners. Officer Geary's post tends to indicate that he is unable or unfit to continue as a member of the Department in violation Rule 102 § 03, Conduct.

Additionally, I find Officer Geary's comments hindered the Department's continued efforts to build a trusting relationship with all members of community at a time when policing is under intense scrutiny. Officer Geary's 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.*"<sup>3</sup> Officer Geary's post could be construed by the public as indicative that the Department fails to exercise its duties impartially or without bias. I find the posts made by Officer Geary negatively impacted the Department's relationship with the community.

Attorney Anderson noted that the political discourse today has been increasingly extreme and highlighted several inflammatory statements with violent imagery made by local politicians. While I agree the statements were problematic, I find it does not have any bearing on the case at

---

<sup>3</sup> Rule 102 § 02, General Considerations

hand. Officer Geary is a sworn member of the Boston Police Department while the politicians are not. Furthermore, unlike politicians, sworn police officers are held to a higher standard as they are entrusted with the authority to seize property, take a person's freedom, and use force, deadly if necessary, for lawful purposes.

It should be noted that when one becomes a member of the Department they do not forfeit their First Amendment right to free speech. *"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."*<sup>4</sup> I find the public post made by Officer Geary impaired the working relationships of the Department, impeded the performance of duties, interfered with the Department operations and, most importantly, undermined public accountability. Here, the Department, as an employer, does have the right to limit the speech of their employees and, if necessary, issue discipline.

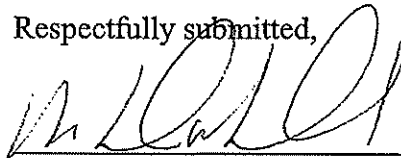
Lastly, I find it concerning that Officer Geary failed to show up for either of his scheduled hearings without communicating to either the Department or his union attorney. Officer Geary missed an opportunity to be heard on the allegation and provide a defense or explanation. Officer Geary also missed an opportunity to weigh in on any possible disciplinary action that may be taken by the Department on the matter. I can only find that Officer Geary does not take the allegation seriously or is indifferent about any disciplinary action.

### 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 § 04, Neglect of Duty/Unreasonable Judgment, 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**

Respectfully submitted,



Deputy Superintendent Richard J. Dahill  
Chief Administrative Hearings Officer

---

<sup>4</sup> Rule 102 § 02, General Considerations