



State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
MECKLENBURG COUNTY

SPENCER B. MERRIWEATHER III
DISTRICT ATTORNEY

700 EAST TRADE STREET
CHARLOTTE, NC 28202
TELEPHONE: 704-686-0700
FAX: 704-686-0716

September 21, 2020

Special Agent in Charge Kevin Canty
North Carolina State Bureau of Investigation
5994 Caldwell Park Dr.
Harrisburg, North Carolina 28075

Re: Harold Easter Death Investigation

Dear SAC Canty:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the overdose death of Harold Easter on January 26, 2020. The case was investigated under case number 2020-00301. The documentation considered for the purposes of this review was provided by the North Carolina State Bureau of Investigation between April 29, 2020 and June 11, 2020.¹ The purpose of this review was to examine whether the inaction of Charlotte-Mecklenburg Police Department Officer Michael Benfield, Officer Michael Joseph, Officer Shon Sheffield, Officer Brentley Vinson, and Sgt. Nicholas Vincent was unlawful in the incident leading to the death of Harold Easter.

A review of the evidence in this matter reveals that on the afternoon of January 23, 2020, Officer Michael Benfield, Officer Michael Joseph, Officer Shon Sheffield, and Officer Brentley Vinson were conducting a narcotics investigation into the decedent, Harold Easter. These officers were supervised by Sgt. Nicholas Vincent. Shortly before 11:30 a.m., Officers Joseph and Sheffield, who were riding together in a marked patrol vehicle, activated their blue lights and siren and attempted to conduct a traffic stop on the decedent, who was the driver of a Dodge Durango occupied by two additional passengers. After officers activated their lights and siren, the decedent drove off while refusing to stop his vehicle. In accordance with their policy, Officers Joseph and Sheffield disengaged their lights and siren and proceeded to follow the decedent's vehicle. Evidence suggests that during a low-speed pursuit, the decedent ate a large amount of crack cocaine and then pulled over and was arrested for possession of cocaine; resist,

¹ The North Carolina State Bureau of Investigation does not routinely provide transcripts of interviews as part of the investigative file; therefore, transcripts are not included as attachments to this review. For purposes of these reviews, however, this office reviews the actual underlying recorded video or audio interviews provided by the SBI.

delay or obstruct; possession of drug paraphernalia, as well as citations for driving with a revoked license and failure to heed blue lights and siren. During the arrest of the decedent, there was a brief struggle between Officer Sheffield and the decedent during which the decedent either continued to eat, or tried to eat, cocaine. After officers managed to take the decedent into custody, he was briefly placed in a patrol vehicle and then transported to the CMPD Metro Division Office at 1118 Beatties Ford Road, where he was searched and allowed to drink water. Officers placed the decedent in an interview room at approximately 12:19 p.m. and checked on him periodically. The decedent was not continually monitored, nor did any officer remain with him in the interview room. At 1:06 p.m., tragic surveillance video shows the decedent fall to the floor of the interview room, experiencing periodic seizures, where he remained until his condition was discovered by Sgt. Vincent at approximately 1:13 p.m. Officers then began providing medical aid and requested Medic. This was the first time the decedent received medical attention during this encounter with law enforcement. Medic provided additional medical treatment and transported the decedent to Novant Health Presbyterian Medical Center, where he was determined to have suffered cardiac arrest due to cocaine overdose.

The Medical Examiner determined Harold Easter's death to be accidental. The cause of death was determined to be cocaine toxicity due to the greatly elevated levels of parent cocaine and cocaine metabolite present in his blood.

As you know, this letter specifically does not address issues relating to tactics, or whether officers followed correct police procedures or CMPD Directives. This letter does not address whether officers may be civilly liable for their actions or inactions. This letter only addresses whether there is evidence of a violation of criminal law and, if so, whether that evidence is sufficient to meet the State's burden of proving a criminal violation to a unanimous jury beyond a reasonable doubt.

I monitored this investigation along with other senior Assistant District Attorneys (ADAs). I have reviewed the investigative file as provided by the SBI. Finally, although the cause of death in this case was ruled to be an overdose, this case was presented for review to the District Attorney's Officer-Involved Shooting Review Team because this team is comprised of the office's most experienced prosecutors with knowledge of the laws surrounding fatal incidents that involve officers.

A. The role of the District Attorney under North Carolina law

The District Attorney (DA) for the 26th Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The District Attorney is the chief law enforcement official of the 26th Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of CMPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

Pursuant to North Carolina statute, one of the District Attorney's obligations is to advise law enforcement agencies within the prosecutorial district. The DA does not arrest people or charge people with crimes. When the police charge a person with a crime, the DA decides whether or not to prosecute the charged crime. However, in a situation such as this when both

the CMPD and this office request an external investigation into the circumstances surrounding a death, the DA reviews the complete investigative file of the investigating agency. The DA then decides whether the evidence and law would support submitting the case to a Grand Jury for consideration.

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory authority in these matters. The fact that a death may be controversial does not mean that criminal prosecution is warranted. Even if the District Attorney believes a death was avoidable or an officer did not follow expected procedures or norms, this does not necessarily amount to a violation of criminal law. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The District Attorney has no administrative or civil authority in these matters. Those remedies are primarily in the purview of city and county governments, police departments, and private civil attorneys.

B. Legal standards

A charge of involuntary manslaughter requires the State to present substantial evidence that:

The defendant committed the unlawful and unintentional killing of another human being without malice and which proximately results from the commission of an unlawful act not amounting to a felony or not naturally dangerous to human life, or from the commission of some act done in an unlawful or culpably negligent manner, or from the culpable omission to perform some legal duty.

State v. Fritsch, 351 N.C. 373, 456 (2000). Thus, a charge of involuntary manslaughter in a case such as this would require the State to present substantial evidence that the defendant had a legal duty to protect the decedent by obtaining medical attention for the decedent, that the defendant's failure to obtain medical attention was a culpably or criminally negligent omission, and that the defendant's failure to obtain medical attention was a proximate cause of the decedent's death.

North Carolina case law suggests custodial agencies have a legal duty to obtain medical care for those in their custody. "The prisoner by his arrest is deprived of his liberty for the protection of the public; it is but just that the public be required to care for the prisoner, who cannot by reason of the deprivation of his liberty, care for himself." Spicer v. Williamson, 191 N.C. 487, 490 (1926).

With regard to culpable or criminal negligence, juries in North Carolina are instructed that "criminal negligence is more than mere carelessness. The defendant's act was criminally negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as amount to a heedless indifference to the safety and rights of others." N.C.P.I. 206.50.

Furthermore, even if a defendant's failure to act was criminally negligent, his action must be a proximate cause of the decedent's death for him to be guilty of involuntary manslaughter. A proximate cause is a cause without which the victim's death would not have occurred. State v. Bethea, 164 N.C. App. 215 (2014).

The State has the burden of proving the existence of each of these elements to a jury beyond a reasonable doubt. A review of the death of Mr. Easter thus centers on whether officers knew or should have known that the decedent had ingested a dangerous amount of contraband and, if so, whether their failure to call for immediate medical attention for Mr. Easter proximately resulted in his death. After a thorough review of the evidence, the answer to the first question is unclear. However, as will be discussed in detail below, the State cannot proceed with charges in the death of Mr. Easter regardless of the answer to the first question because it cannot prove that Mr. Easter, after having voluntarily eaten a large amount of crack cocaine, would have lived had he received immediate medical attention. In fact, none of the medical experts consulted about the evidence in this matter would be able to testify to a degree of medical certainty that Mr. Easter would have lived after having ingested that amount of cocaine, even if officers had called for medical attention at the time of the initial traffic stop.

C. Relevant CMPD policies

As noted above, because this office's authority is limited to criminal prosecution, this review does not center on issues relating to tactics, or whether officers followed correct police procedures or CMPD Directives; however, an understanding of the relevant and applicable CMPD policies in effect on the date of this incident is necessary for a thorough understanding of this review.

CMPD Directive 500-007 "Use of Interview Rooms" states in part:

Officers are authorized to use Interview rooms only in accordance with this policy. Officers are responsible for the safety and security of individuals in the officer's custody and control and will not leave an individual for any reason unless the officer is relieved by another sworn CMPD officer, or custody of the individual is transferred to another law enforcement officer or agency. Interview rooms shall not be used as a temporary holding facility for suspects....

Individuals who are under arrest will remain within the view and control of the responsible arresting officer at all times unless that officer is relieved by another sworn CMPD officer or custody is transferred to another law enforcement officer or agency....

If the arrestee is intoxicated, under the influence of drugs or exhibiting behavior that indicates that he/she is a danger to him or herself, the arrestee will not be left alone. Medical personnel will be requested as necessary....

When an arrestee is secured inside an interview room without another officer inside the same area with the arrestee, then an officer must be

posted outside the interview room. The officer must monitor the arrestee at least every fifteen minutes to maintain a safe and secure environment for employees, the general public and the arrestee....

CMPD Directive 500-008 “Prisoner Transport” states in part:

A search of a person’s mouth is permissible when there is probable cause to believe that the person has placed an illegal substance in their mouth. Exigency is created because of the potential harm to the person and the destruction of evidence....

If the person is believed to have swallowed the illegal substance, officers will immediately call Medic and a supervisor. A person who has ingested illegal substances needs to be immediately evaluated by medical personnel before they are transported to jail....

CMPD Directive 500-004-A “Conducting Person Searches” states in part:

If the person is believed to have swallowed the illegal substance, officers will immediately call Medic and a CMPD supervisor. A person who has ingested illegal substances must be immediately evaluated by medical personnel before they are transported to jail....

D. The overdose death of Harold Easter

Officer Shon Sheffield

Officer Shon Sheffield was interviewed by SBI agents on February 5, 2020, at the SBI District Office in Harrisburg, North Carolina. In that interview, Officer Sheffield stated that he has been employed with CMPD seven and a half years and is currently assigned to the Crime Reduction Unit (“CRU”). On the afternoon of January 23, 2020, Officer Sheffield was partnered with Officer Michael Joseph. They were both in uniform and were operating in a marked patrol vehicle. Officers Vinson and Benfield were not in uniform and were operating in a surveillance capacity.

Officer Sheffield stated that the decedent was the subject of a narcotics investigation conducted by Officers Vinson, Benfield, Joseph, and himself. During the investigation, officers identified the decedent driving a Dodge Durango with two passengers. Officer Sheffield recalled that Officer Joseph confirmed the decedent’s driver’s license was revoked. When the decedent pulled over to the side of the road and stopped, Officers Sheffield and Joseph attempted to conduct a traffic stop on the decedent and activated the lights on their patrol car. Officer Sheffield recounted that the decedent then turned the wheels to the Durango hard left and drove back out on the roadway to get around a vehicle in front of the decedent. The decedent then continued driving approximately 25-35 mph and made no evasive maneuvers. Officer Sheffield recounted that when the decedent ran a stop sign, he discontinued the use of his lights in accordance with CMPD pursuit policy. He then observed the windows to the Durango being rolled down but did not observe anything being thrown out of the car. At some point, Officer Sheffield reactivated his lights and siren to again attempt a traffic stop on the

decedent. When he did this, he could see the decedent talking to him through the side-view mirror but could not understand what the decedent was saying. Officer Sheffield recalled that he could see a lot of reaching around in the vehicle, but at no time did he see the decedent put his hands toward his mouth.

Officer Sheffield recounted that the decedent stopped approximately a block and a half from the decedent's house on Burton Street after 45 seconds to a minute. He and Officer Joseph exited their marked patrol unit with their weapons drawn and approached the Durango. Officer Sheffield stated that he could not see into the middle passenger area of the car because the windows were tinted. Officer Sheffield recalled that he tried to open the rear Durango door, but it was locked, and he heard Officer Joseph begin to give commands. According to Officer Sheffield, the decedent began throwing cups and baggies out the window of the Durango. He said he was uncomfortable with the decedent's behavior because his head and left hand were outside of the window, but his right hand was still inside the vehicle. Officer Sheffield stated that he could not see where the decedent's hand was inside the Durango. He obtained control of the decedent's left hand and asked him to stop moving. Officer Sheffield stated that the decedent's right hand stayed in the vehicle and Mr. Easter kept telling him that he just got his friend out of prison, and they were going to smoke some weed. During this struggle, the decedent threw a Big Gulp cup out of the driver's window of the car.

At this point, Officer Sheffield stated, he was watching Mr. Easter and the front passenger with his gun out. On the center console, Officer Sheffield observed the corner of a baggie with a knot tied in the top containing a white rock-like substance consistent with crack cocaine. When Officer Sheffield's eyes locked on the crack cocaine, the decedent looked down at the crack, pulled his left hand away from Officer Sheffield and then used both hands to start untying the knotted baggie. Officer Sheffield recalled that he said, "Don't eat it," and "He's trying to eat it." Officer Sheffield said he smacked the crack cocaine out of the decedent's hand, and it fell down into the change holder on the center console. Officer Sheffield stated that at no point did he see the crack cocaine go into the decedent's mouth. Later in the interview, Officer Sheffield stated that due to his proximity to Mr. Easter, Officer Sheffield did not feel like Mr. Easter ingested cocaine because Officer Sheffield stopped Mr. Easter from eating it. Officer Sheffield further stated that he "knew without a doubt" that Mr. Easter did not ingest crack cocaine because Officer Sheffield physically prevented Mr. Easter from doing so.

Officer Sheffield recalled that the decedent had torn the baggie open, not undone the knot on top of the baggie. He got control of the decedent's left hand, but the decedent used his right hand to start smashing the crack cocaine into the center console. Officer Sheffield stated he grabbed the decedent's head to get "head control" and pulled him closer. This worked, and Officer Sheffield was able to pull the decedent's head and both arms out of the driver's side window. Officer Sheffield recalled that a crack rock was stuck to the decedent's finger, and the rest of the crack fell somewhere else in the Durango. The decedent looked back and tried to get his right hand back into the Durango. Officer Sheffield recounted that Mr. Easter repeated that they just wanted to go smoke some weed. Officer Sheffield stated he went back to "head control," and the decedent's right hand went back inside the Durango. Officer Sheffield told Mr. Easter to grab the side view mirror with his right hand and the decedent eventually complied. Officer Sheffield could not recall whether anyone called for backup, but he knew Officers Benfield and Vinson were on their way to assist.

Officer Sheffield heard Officer Joseph get the rear passenger out of the vehicle and heard Officer Vinson approaching. Officer Sheffield stated he told Officer Vinson to pay attention to the front passenger as he did not know whether the front seat passenger was secured. Officer Sheffield maintained control of Mr. Easter and saw Officer Benfield responding as well. Officer Sheffield asked Officer Benfield for help with the decedent, and Officer Benfield took control of Mr. Easter while Officer Sheffield placed Mr. Easter into handcuffs. Officer Sheffield then passed Mr. Easter off to Officer Benfield and told Officer Benfield that he could conduct a probable cause search of Mr. Easter due to the narcotics and paraphernalia being thrown out of the window. Officer Sheffield did not know whether Officer Benfield conducted the search or not. Officer Benfield walked the decedent back to Officer Sheffield's patrol vehicle, and Officer Sheffield stayed at the Durango, picking up the suspected narcotics and drug paraphernalia the decedent had thrown out of the window.

While Officer Sheffield stated that at no point did he see the crack cocaine go into the decedent's mouth, Officer Sheffield's body-worn camera ("BWC") recorded this interaction with the decedent. Officer Sheffield's BWC reflects that Officer Sheffield at one point said, "He's eating it," but a number of his statements recorded on BWC reference the decedent trying to crush the substance up while Officer Sheffield was fighting for his hands. At one point, the BWC recorded Officer Vinson, who arrived later to assist, approach Officer Sheffield and state, "I mean, he ate whatever he had" to which Officer Sheffield responded, "No, he didn't get all of it. I mean when I was fighting him, he was crushing part of it." Officer Sheffield then referenced suspected crack that he could see in the car and said, "Probably got an 8-ball right there."

Officer Sheffield stated that spectators began to arrive at the scene, and Sgt. Vincent arrived and asked for more units to assist with crowd control. Officer Sheffield then conducted a search of the Durango.

Once he finished the search of the Durango, Officer Sheffield and his partner, Officer Joseph, transported the decedent to the Metro Division Office. Officer Sheffield recalled that Mr. Easter was acting his normal self during the transport. Officer Sheffield stated he talked with Mr. Easter, never saw objects in Mr. Easter's mouth, and never heard Mr. Easter speak as though he had contraband in his mouth. Officer Sheffield estimated that he had at least 12 people swallow contraband in the past, and he knew what it sounded like when someone talked with contraband or packaging in their mouth. He stated Mr. Easter did not sound like that. Officer Sheffield recalled that he never saw any crumbs or residue on the decedent's mouth while interacting with him, and there was no white or green residue or marijuana smell on his breath.

Officer Sheffield advised he conducted a strip search on the decedent once back at the division office. No contraband was found on Mr. Easter. While at the district office, the decedent stated he needed to urinate and asked for water before he urinated. Officer Sheffield stated he examined the inside of the decedent's mouth before he was allowed to get water. Officer Sheffield stated he saw nothing in the decedent's mouth or on his tongue, and Mr. Easter was allowed to get water. Officer Sheffield stated that he stayed with Mr. Easter for 15-20 minutes while Mr. Easter tried to urinate but could not. Officer Sheffield stated that he and Officer Joseph then took the decedent to the interview room. Officer Joseph took the decedent

in and shackled his legs to the floor, and Officer Sheffield stayed outside. The decedent was not wearing handcuffs. Officer Vinson then came to the interview room, and Officer Joseph exited. Officer Sheffield told Officer Vinson that the decedent wanted more water, and Officer Sheffield went to the office to work on the paperwork.

Officer Sheffield estimated that the CRU Office was 40 feet from the interview room in which the decedent was placed. Officer Sheffield stated that he and Officer Joseph got to the CRU Office and were then joined by Officer Vinson. Officer Sheffield stated that Mr. Easter remained secured into the interview room.

Officer Sheffield stated that the decedent was Officer Vinson's arrest, and Officer Sheffield started helping Officer Vinson prepare the case. Officer Sheffield recalled that Officer Vinson left to go get the decedent more water. Officer Sheffield remembered seeing Officer Vinson go in and out several times.

Officer Sheffield recalled that at some point, Sgt. Vincent ran into the CRU Office and said, "I need some help, Easter is seizing," or words to that effect. Sgt. Vincent grabbed the NARCAN, a medication used in opioid emergencies, and Officer Sheffield ran to the interview room. Officers then began providing CPR to Mr. Easter and called for Medic. Officer Sheffield recalled that Sgt. Vincent administered a second dose of NARCAN to Mr. Easter with no response from Mr. Easter. Officer Sheffield continued CPR until firefighters arrived and relieved Officer Sheffield. This effectively ended Officer Sheffield's interaction with Mr. Easter.

When questioned on his understanding of CMPD policy in reference to monitoring a person in custody in an interview room, Officer Sheffield stated that it was his understanding that if someone was arrested and in custody in the interview room, the prisoner needed to be in view and under control of the arresting officer and should be checked on every 15 minutes. If the arresting officer left the prisoner, the arresting officer should be relieved by another officer. Officer Sheffield stated that remote viewing of the interview room was only possible in the report writing room.

Officer Michael Joseph

Officer Michael Joseph was interviewed by SBI agents on February 10, 2020, at the SBI District Office in Harrisburg, North Carolina. In that interview, Officer Joseph stated that he has worked as a law enforcement officer since 2009 and has been with CMPD since 2018. He was assigned to the Metro Division CRU on January 14, 2020. Officer Joseph works as a marked officer and rides in a marked patrol car.

Officer Joseph advised on January 23, 2020, he was riding with Officer Shon Sheffield, and the CRU team was investigating a Crime Stoppers tip relating to the decedent. Officer Joseph stated that Officer Vinson potentially observed the decedent at a restaurant conducting drug activity. Officer Joseph stated that he had never dealt with Mr. Easter prior to January 23, 2020. Officer Joseph indicated that while responding to the area of the restaurant, he pulled up Mr. Easter's information on the computer in the patrol car to view a photograph and learn about Mr. Easter's history. He researched the decedent and learned that the decedent's license was suspended.

Officer Joseph recalled that Officer Vinson was aware that the decedent's normal mode of operation was to sell narcotics in the restaurant parking lot and then drive home to get more narcotics. Officer Joseph recalled that Officers Vinson and Benfield observed this occur a few times. On one of the occasions, Officer Vinson observed the decedent driving a vehicle on Burton Street. Knowing that the decedent was driving with a suspended license, Officers Joseph and Sheffield planned to conduct a traffic stop on the decedent. Officer Joseph said he was aware, based upon his review of decedent's information on the data terminal, that the decedent had a criminal history involving weapons, along with the current investigation into drug activity.

Officer Joseph stated that after Officer Vinson had observed the decedent driving, Officers Joseph and Sheffield saw the decedent parked in front of a house with his brake lights still on. Officer Joseph recounted that he pulled in behind Mr. Easter and activated the blue lights on the patrol car. At that point, the decedent pulled out and began traveling down Fontana Street without stopping for their blue lights or siren. Pursuant to CMPD policy, Officer Joseph stated that he and Officer Sheffield disengaged their emergency lights and siren but continued to follow the decedent's vehicle. Officer Joseph recalled that the decedent was not speeding but was not stopping and was driving around the neighborhood. Officer Joseph estimated that the decedent never drove faster than 45 mph. When the decedent's vehicle turned back onto Burton Street, Officer Sheffield again attempted to initiate a traffic stop on the decedent's vehicle by utilizing the blue lights and siren. At this time, Mr. Easter pulled over to the curb and stopped his vehicle. Officer Joseph described that the basis for the traffic stop were the charges of driving with a revoked license and failure to heed blue lights and siren.

Officer Joseph advised he approached the passenger side of the decedent's vehicle with his issued firearm drawn because he was unsure as to why the decedent did not stop when they initially tried to stop him. Officer Joseph recalled that the rear passenger door had dark tinted windows. He banged on the door, and the back passenger opened the door. Officer Joseph said he observed a large black male wearing all black sitting in the rear passenger seat.

While he was dealing with the passengers, Officer Joseph recalled that he could hear Officer Sheffield on the driver's side giving commands for the driver to put his hands up. Officer Joseph said both passengers in the vehicle had their hands up. Officer Joseph heard Officer Sheffield saying, "Stop, stop." Officer Joseph looked across the vehicle from the back seat to the driver's seat and observed Officer Sheffield holding one of the decedent's hands through the driver's window and the decedent was bent over toward the vehicle center console. Officer Joseph described that he observed the decedent resisting Officer Sheffield's initial commands, so Officer Joseph began yelling the same command, "Stop," to Mr. Easter. Officer Joseph recalled that the decedent was trying to put something in his mouth, but he could not tell what the decedent was trying to put in his mouth. Officer Joseph said it appeared to him as though the decedent was holding loose crack rocks in his hand. Officer Joseph said he heard Officer Sheffield state, "He's trying to eat it man." Officer Joseph said he believed Officer Sheffield was referring to the crack cocaine. Officer Joseph said he observed Officer Sheffield slap something out of the decedent's hand.

Officer Joseph recalled that he decided to get the passengers secured so he could attempt to assist Officer Sheffield. He advised he removed both passengers from the vehicle

and secured them outside the vehicle on the ground. At this point, Officer Vinson was arriving at the traffic stop. Officer Joseph said Officer Vinson started coming over toward his location, but Officer Joseph directed Officer Vinson to go assist Officer Sheffield with the driver. Officer Joseph said both passengers were cooperative and complying with his commands. Officer Joseph stated he also saw that Officer Benfield had arrived and was on the driver's side helping Officer Sheffield.

Officer Joseph said he began searching the front seat passenger. Officer Vinson came back to the passenger side of the vehicle and started searching the rear seat passenger. Officer Joseph advised that he escorted the front seat passenger to the marked unit and put him in the back seat. Officer Joseph said that once he had the front seat passenger secured in the patrol vehicle, he went back up to the decedent's vehicle to look for work. He said Sgt. Vincent had arrived on scene at this time and was parked in front of the decedent's vehicle.

Officer Joseph said he began to walk back to the marked patrol vehicle to run the names of the passengers and observed Officer Benfield standing on the driver's side of the patrol vehicle with the decedent. Officer Joseph said Officer Benfield was searching the decedent's person and looking inside the decedent's mouth. Officer Joseph said Officer Benfield then opened the rear passenger door of the patrol vehicle to secure the decedent inside. The front seat passenger who had originally been placed in the patrol vehicle was removed so that the decedent could be placed in the patrol vehicle. Officer Joseph took the front seat passenger back to the area where Officer Vinson was standing with the back seat passenger and then returned to the patrol vehicle to conduct the positive identification and wanted person checks on the passengers.

Officer Joseph said once he got in the patrol car, the decedent began asking for water because his mouth was dry. Officer Joseph said he had just recently completed CMPD Interview and Interrogation school and decided to use "tactical humor" as a de-escalation technique to the decedent's request for water and made the statement to the decedent that "his lips were probably going numb because he had cocaine on them." Officer Joseph claimed he was just joking with the decedent.

A review of Officer Joseph's BWC shows that Officer Joseph made this comment to the decedent before the decedent was placed into the patrol car. After placing the front seat passenger in the patrol car, Officer Joseph walked back to where Officer Benfield was with the decedent. As Officer Joseph was approaching them, Officer Benfield, in front of the decedent, told Officer Joseph that the decedent has "crack all over his tongue." Officer Joseph responded to Officer Benfield, "Yeah, he was trying to eat it." Officer Joseph and the decedent then talk over each other with the decedent stating, "cause I didn't want to get him in trouble officer" and Officer Joseph stating, "your lips are going numb aren't they?" Although Officer Joseph stated he used this comment as a de-escalation technique, at the time of the exchange between Officer Benfield and Officer Joseph, the decedent was not saying anything and was standing handcuffed next to the patrol car. There does not appear to be anything to de-escalate. Officer Joseph then walked back to where Officer Sheffield was searching the Durango. Officer Joseph stated to Officer Sheffield, "he was trying to eat it hard." Officer Sheffield replied, "he was crushing it when I was trying to fight his hands." Officer Joseph responded, "I wanted to lean over there and grab him, but I didn't want to go over the other two."

The BWC also recorded an exchange between the decedent and Officer Joseph after the decedent had been placed in the patrol car and Officer Joseph entered the car. In this exchange, the decedent can be heard yelling from the car as Officer Joseph approaches the car. As Officer Joseph entered the car, the decedent asked him if he could get some water. Officer Joseph responded, "no." The decedent asked, "Can I get some air?" Officer Joseph responded, "no." The decedent then said, "I'm dehydrated officer." Officer Joseph responded, "You've got cocaine on your tongue. It's going to happen when you try to eat cocaine."

Officer Joseph told investigators that when he made the comment about Mr. Easter's lips going numb, which Officer Joseph had previously described as "tactical humor," Officer Joseph did observe a white mark on the outside of Mr. Easter's lip. Officer Joseph said seeing the white mark is what prompted him to make the statement. Officer Joseph stated he believed the white mark on Mr. Easter's lip came from the crack cocaine getting slapped out of Mr. Easter's hand by Officer Sheffield. Officer Joseph described the white mark as looking like someone took a piece of chalk and drew a dash mark below Mr. Easter's lip. Officer Joseph stated he first observed this white residue mark when Mr. Easter was sitting in the back of the patrol vehicle; however, his statement to Mr. Easter regarding Mr. Easter's lips being numb was made before Mr. Easter was placed into the back of the patrol vehicle.

Officer Joseph stated that while in the patrol car, the decedent continued to request water and then stated that he needed to urinate and that he needed air. Officer Joseph said he told the decedent that he could not give the decedent water at the moment and he could not let him urinate on the side of the road. Officer Joseph told Mr. Easter he would roll the window down for him to get some air.

Officer Joseph recalled that patrol officers had arrived during the stop and were forming a loose perimeter around the stop location where a crowd of spectators had begun to form. Officer Joseph recounted that he completed the positive identification and warrant checks on the passengers and attached them to the traffic stop call at which point the decedent began asking to speak with the sergeant. Officer Joseph stated he told the decedent that the sergeant would speak with him when he had a chance. Officer Joseph said none of the decedent's requests were unusual and were common requests by people.

Officer Joseph stated that based upon his training and experience, it was common for people who do not want to get caught with drugs to store the drugs in their anus. Officer Joseph said he believed the decedent was asking to go urinate because he wanted to try to get rid of narcotics that could be secreted in his anus and that the decedent wanted Officer Joseph to roll the window down so that the decedent could throw narcotics out when no one was looking. Officer Joseph said he rolled the back window down slightly for the decedent to get some air, but he only slightly rolled the window down because he had previously had an arrestee stand up on the back seat and throw something out the window. Officer Joseph said he wanted to prevent the decedent from doing the same.

Officer Joseph said he then walked over to Officer Sheffield, who explained to Officer Joseph that he slapped crack cocaine out of the decedent's hand. Officer Sheffield showed him a plastic container that had what Officer Joseph described as a decent amount of crack cocaine

in it. Officer Sheffield told Officer Joseph that the decedent had put something in a Styrofoam cup that turned the liquid black. Officer Joseph said no one knew what was in the cup.

Officer Joseph recalled that at this point, the decedent started yelling from the back seat of the patrol car. Officers Joseph and Sheffield decided to take the decedent back to the Metro Division, so they could perform a strip search and let him urinate. Officer Joseph said he and Officer Sheffield left the traffic stop scene while the other officers (Sgt. Vincent, Officer Benfield, and Officer Vinson) finished their work at the scene of the traffic stop. Officer Joseph estimated the length of the traffic stop was between 20 and 25 minutes.

Officer Joseph said his first indication that the decedent could have potentially swallowed something was during the initial approach of the vehicle when he observed the decedent sitting in the driver's seat of the vehicle and leaning toward the center console. At this point, Officer Sheffield had control of one of the decedent's hands through the driver's window. Officer Joseph said he did not physically see the decedent put anything in his mouth. Officer Joseph indicated that he never noticed the decedent behave in any way (such as coughing or choking) which would have led him to believe that the decedent swallowed narcotics. Officer Joseph stated that he never heard any other officers on the scene state the decedent had swallowed anything during the traffic stop, and the decedent never mentioned to him that he swallowed any narcotics. He recalled the decedent was very articulate and knew what he wanted because the decedent kept repeating the three things he wanted.

Officer Joseph advised that, during the search of the decedent's vehicle, Officer Sheffield located several suspected crack rocks, which were seized as evidence. Officer Joseph said he and Officer Sheffield took the evidence and transported the decedent to the Metro Division office. Officer Joseph said the traffic stop location was less than 1 mile and only a couple of minutes away from the office. He described the decedent as acting the same during transport as he was during the traffic stop. He stated that the decedent continued to ask for water, air, and to urinate. Officer Joseph said the decedent was asking for water because his mouth was dry, and Officer Joseph stated that once back to the Metro Division office, he allowed the decedent to get water from the water fountain.

Officer Joseph advised that when they arrived at the office, Officer Sheffield escorted Mr. Easter inside while Officer Joseph searched the back seat of the patrol vehicle for additional evidence. When he entered the office, he could hear the decedent because Mr. Easter was loud. Officer Joseph stated that is how he understood the decedent normally behaved.

Officer Joseph recalled that he and Officer Sheffield were going to conduct the strip search of the decedent. The decedent kept asking for water, and Officer Sheffield told the decedent he would let him get water if Mr. Easter let Officer Sheffield search his mouth. Officer Joseph recounted that Mr. Easter showed Officer Sheffield the inside of his mouth. Officer Joseph was present when Officer Sheffield searched Mr. Easter's mouth and Officer Joseph said he did not see anything in the decedent's mouth, including residue or any sort of discoloration. Officer Joseph said Officer Sheffield then walked Mr. Easter over to the water fountain to get some water.

Officer Joseph advised he and Officer Sheffield then took Mr. Easter into the restroom to conduct the strip search. Officer Joseph said they followed CMPD procedure, and Officer

Sheffield took his BWC into the restroom to document the condition of the bathroom before the strip search was conducted. Officer Joseph described how he and Officer Sheffield went into the bathroom to conduct the strip search of the decedent. Nothing was located during the strip search. Officer Joseph advised that during the process of the strip search, the decedent never made any comments about ingesting cocaine or that he had anything secreted in his anus. Officers Sheffield and Joseph then allowed Mr. Easter the opportunity to urinate while they were in the restroom. Officer Joseph said he took handcuffs off the decedent's left hand so he could urinate. Mr. Easter was having trouble urinating and never used the restroom. Officer Joseph informed Mr. Easter they would take him into the interview room, take off the handcuffs, get him a cup of water, and give him 10 minutes; then he could go back into the restroom and try again. Mr. Easter agreed with Officer Joseph. Officer Joseph advised the decedent drank more water from the water fountain after leaving the restroom.

Officer Joseph advised that he, Officer Sheffield, and the decedent then went to an interview room. Officer Joseph noted that once in the interview room, they are required to shackle arrestees to the floor. Officer Joseph stated he removed the handcuffs from Mr. Easter and conducted another pat down search of his person. Officer Joseph removed the decedent's jewelry and belt because he did not know if they could be used as tools to remove the shackles. Officer Joseph said he allowed Mr. Easter to keep his sweatshirt because it was cold in the interview room and he told Mr. Easter he could have a cup of water. Officers Joseph and Sheffield then left the interview room.

Officer Joseph described Officer Vinson as the arresting officer and the case officer since it was Officer Vinson's tip that was acted upon. Officer Joseph said when they arrived back at the office, he asked Officer Vinson about what charges Mr. Easter would face. Officer Vinson informed Officer Joseph that Mr. Easter would be charged with felony possession of cocaine, resist delay and/or obstruct, possession of drug paraphernalia, and citations for driving with a revoked license and failure to heed blue lights/siren.

Officer Joseph advised the way arrestees are monitored on the CRU team is different from how he monitored arrestees while working on patrol. Officer Joseph stated that at the patrol work stations, there was a video monitor that allowed the officer to keep check on an arrestee; however, he stated the CRU team does not have the interview room monitors in their office, which is where Officers Joseph, Sheffield, and Vinson were doing paperwork while Mr. Easter was in the interview room. Officer Joseph advised, according to CMPD policy, the arresting officer is responsible for maintaining security over arrestees. Officer Joseph stated Officer Vinson was the arresting officer in this case because he was the one doing the reports and taking out the warrants on Mr. Easter. Officer Joseph said it was agreed that this was Officer Vinson's case and arrest and that he and Officer Sheffield were just helping Officer Vinson out with the paperwork while at the office.

Officer Joseph advised that once he and Officer Sheffield left Mr. Easter in the interview room, they went to the CRU office and began working on paperwork. Officer Joseph recalled that he, Officer Sheffield, and Officer Vinson were the only ones in the CRU office doing paperwork. Officer Vinson was sitting behind Officer Joseph in the office. Officer Joseph said that Officer Vinson kept getting up and leaving the office. Officer Joseph said

Officer Vinson never asked Officer Joseph or Officer Sheffield to check on Mr. Easter while he was in the interview room.

Officer Joseph stated that CMPD policy requires the arresting officer or his designee to keep a 15-minute check on arrestees. Officer Joseph described this was the first arrest he had been a part of since joining the CRU team, and he was under the assumption that the arresting officer, in this case Officer Vinson, would keep a check on the arrestee while at the office.

Officer Joseph described the CRU office as approximately 10 yards from the interview room Mr. Easter was in. Officer Joseph said every time the CRU office door was opened, he could hear Mr. Easter talking but could not make out what he was saying. Officer Joseph said he could tell Mr. Easter sounded the same as he did in the bathroom, which was very loud.

Officer Joseph stated that Officer Vinson said he was going to take Mr. Easter some water, and then he would get up and leave the CRU office every so often. Officer Joseph said he believed Officer Vinson was going to check on Mr. Easter when he left the office. Officer Joseph said there was never any conversation with Officer Vinson about keeping a check on Mr. Easter. Officer Joseph stated the only conversation that took place was on one occasion when Officer Joseph asked what Mr. Easter was saying, and Officer Vinson said Mr. Easter was singing.

Officer Joseph estimated that approximately one hour passed from the time Mr. Easter was secured in the interview room until Sgt. Vincent came running into the CRU office stating that Mr. Easter was having a seizure in the interview room. Officer Joseph said that during that approximately one-hour time frame, he was not aware whether anyone else went into the interview room to check on Mr. Easter. Officer Joseph said neither he nor Officer Sheffield ever left the CRU office after he and Officer Sheffield secured Mr. Easter in the interview room. Officer Joseph recounted that once Sgt. Vincent came running in the office saying Mr. Easter was having a seizure, they all ran out to the interview room and began providing medical aid to Mr. Easter.

Officer Joseph recalled that the only time during the incident involving Mr. Easter in which Medic was called was when Mr. Easter was found unresponsive in the interview room. Officer Joseph said this was the only time, in his opinion, that Mr. Easter exhibited any medical issues.

When asked about the statement Officer Joseph made on BWC that Mr. Easter was "trying to eat it hard," Officer Joseph stated that when he made that statement, he was referring to the effort Mr. Easter was putting forth to eat crack cocaine while not listening to Officer Sheffield's commands. Officer Joseph said he never observed or heard anything that caused him to believe Mr. Easter needed medical attention. Officer Joseph said he did not see Mr. Easter swallow anything, and based on Mr. Easter's alert and articulate behavior, he did not think Mr. Easter was high. Officer Joseph said he has seen arrestees who have swallowed narcotics, mostly opiates, and they act as though they are slow to speak, lethargic, and about to pass out. Officer Joseph said Mr. Easter's behavior was the complete opposite. Officer Joseph said if he had dealt with a subject whom he believed ingested narcotics, he would call Medic immediately. Officer Joseph reiterated he had never encountered Mr. Easter before this traffic

stop incident; however, he had learned over time that Mr. Easter was loud, boisterous, and known to sell narcotics.

Officer Joseph said that, right after Mr. Easter was transported from the Metro Division, other officers started asking whether Mr. Easter had ingested something. Officer Joseph said he told people who asked that Mr. Easter did not ingest anything when he was with them. Officer Joseph said none of the team members, at any point, ever believed Mr. Easter swallowed anything.

Officer Michael Benfield

Officer Michael Benfield was interviewed by SBI agents on February 6, 2020, at the SBI District Office in Harrisburg, North Carolina. In that interview, Officer Benfield stated that he has been employed by CMPD for approximately six years and currently works as a police officer on the Metro Division CRU.

Officer Benfield recalled that on January 23, 2020, he was working with the CRU on a narcotics investigation into Harold Easter. He was wearing plain clothes and was driving a CMPD undercover vehicle. Officer Benfield stated he was familiar with the decedent's name, but that he would not be able to recognize his face. He stated that other members of the Crime Reduction Unit were familiar with Mr. Easter.

Officer Benfield stated that other officers attempted to conduct a traffic stop on the decedent after he was seen driving a vehicle and it was confirmed that the decedent did not have an active driver's license. When Mr. Easter initially refused to stop, Officer Benfield listened to radio traffic and drove to where other officers were following the decedent. Officer Benfield then attempted to pass both the marked police car and the decedent's vehicle in order to get into a better position. Officer Benfield recalled that he had his passenger side window down when he began to pass the marked unit and Mr. Easter. While passing Mr. Easter's vehicle, Officer Benfield stated Mr. Easter looked at him, held both of his hands up, and said, "I don't have anything." Officer Benfield stated he passed Mr. Easter, and Mr. Easter stopped his vehicle on Burton Street. Officer Benfield recalled he looked back at Mr. Easter's vehicle and observed a set of hands held out of the driver's side window and clear plastic baggies being thrown from the vehicle. Officer Benfield reported that he saw Officer Joseph and Officer Sheffield approaching the vehicle while yelling, "Let me see your hands." Officer Benfield recalled he told Sgt. Vincent over the radio he needed to "step it up" because he believed the occupants of Mr. Easter's vehicle were not being compliant. Officer Benfield put on his CMPD-issued vest and began running to where the vehicle was located.

Officer Benfield stated that as he approached Mr. Easter's vehicle, he observed Officer Joseph detaining a passenger of the vehicle and Officer Sheffield detaining Mr. Easter. Officer Benfield also heard someone say, "it looks like he is trying to eat it," but he did not know who made this statement. Officer Benfield recalled he was told to assist Officer Sheffield with detaining Mr. Easter, and he assisted in removing Mr. Easter from the vehicle. Officer Sheffield placed Mr. Easter in handcuffs, and Officer Benfield walked Mr. Easter to a marked police car, away from Mr. Easter's vehicle. Officer Benfield reported he then began conducting a search of Mr. Easter's person for contraband.

Officer Benfield reported that he asked Mr. Easter to open his mouth due to the comment he heard earlier about someone “trying to eat” something. Mr. Easter refused and stuck his tongue out. Officer Benfield said he again told Mr. Easter he needed to see in his mouth and Mr. Easter stated, “That’s gay.” Mr. Easter then opened his mouth for Officer Benfield, and Officer Benfield said to Mr. Easter, “you have crack on your tongue.” Officer Benfield recalled that Mr. Easter replied by saying “No” several times in a row.

When asked about this statement to Mr. Easter, Officer Benfield said he made the statement to Mr. Easter to elicit some type of response. Officer Benfield said he was trying to see whether Mr. Easter would admit to possessing any narcotics. Officer Benfield reported that he did not know what he saw on Mr. Easter’s tongue but was trying to get Mr. Easter to make any type of statement. Officer Benfield said making statements to illicit a response during investigations is a common tactic he uses.

Although Officer Benfield denies knowing that Mr. Easter had crack on his tongue, Officer Benfield’s stated rationale for making this statement to Mr. Easter constitutes a violation of an in-custody defendant’s rights under Miranda v. Arizona, 384 U.S. 436 (1966).

[T]he Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term “interrogation” under Miranda refers not only to express questioning, but also to any words or actions on the part of the police . . . that the police should know are reasonably likely to elicit an incriminating response from the suspect.

State v. Young, 65 N.C. App. 346, 348 (1983).

Officer Benfield went on to say that he sees narcotics every day at work and can recognize them when he sees them. Officer Benfield reported that his typical immediate reaction when he sees a narcotic in someone’s mouth is to tell them to spit it out. Officer Benfield recalled that he saw two or three small off-colored items on the decedent’s tongue which he believed could have even been a dried taste bud. Officer Benfield reported that none of the small items were immediately apparent as contraband to him, and it never crossed his mind that what he saw on Mr. Easter’s tongue was narcotics. This interaction between Mr. Easter and Officer Benfield was recorded on BWC, and while the decedent’s tongue is only very briefly visible on the recording, there do not appear to be any obvious narcotics in the decedent’s mouth.

Officer Benfield reported that when he completed his search of Mr. Easter, Officer Joseph walked to where Officer Benfield and Mr. Easter were standing. Officer Benfield recalled that Officer Joseph made a comment to Mr. Easter about Mr. Easter’s lips being numb to which Officer Benfield responded by telling Officer Joseph that Mr. Easter had “crack on his tongue.” Officer Joseph replied by saying, “Yeah, he was trying to eat it.” Officer Benfield stated, again, that he made this statement to Officer Joseph in order to illicit a response from Mr. Easter. Again, Officer Benfield’s stated rationale for making this statement constitutes a violation of an in-custody defendant’s rights under Miranda v. Arizona, 384 U.S. 436 (1966).

Officer Benfield recalled that he continued to speak with Mr. Easter at the scene after searching him. He reported that Mr. Easter spoke normally and did not make any statements about swallowing narcotics or give any indication he had previously swallowed a narcotic such as coughing, gagging, keeping his mouth closed, or not swallowing. Officer Benfield stated that Mr. Easter did not raise any medical complaints to him. Due to these circumstances, Officer Benfield reported that it did not ever cross his mind that what he saw on Mr. Easter's tongue could have been narcotics and or that he needed to contact medical personnel.

Officer Benfield recounted that he placed the decedent in the back seat of a marked patrol car at the scene and walked away from the vehicle in order to assist with scene security and other tasks. Officer Benfield stated that while he was doing scene security, Mr. Easter was transported from the scene. He did not know who transported Mr. Easter. Officer Benfield then received a call from another officer requesting assistance with another case, and he left the scene of Mr. Easter's traffic stop.

Officer Benfield recounted that he later received a telephone call from Officer Vinson, who told him he needed to return to the Metro Division. When he returned, he saw several fire trucks located at the building. Officer Benfield reported that he went inside and went to the Crime Reduction Unit office, where he was told by someone that "something happened in the interview room" and that Mr. Easter "was taken to the hospital with no pulse." Officer Benfield stated he was not told any other specifics about the incident and did not remember who told him this information.

Officer Brentley Vinson

Officer Brentley Vinson was interviewed by SBI agents on February 5, 2020, at the SBI District Office in Harrisburg, North Carolina. In that interview, Officer Vinson stated that he has been employed with CMPD since July 25, 2014 and has been assigned to the CRU at the Metro Division for the past three and a half years. Officer Vinson reported that on the morning of January 23, 2020, he was in charge of a narcotics investigation into Harold Easter.

Officer Vinson reported that during the course of this investigation, other officers observed Mr. Easter engaging in suspected drug sales. Officer Vinson further stated that he identified Mr. Easter as driving a vehicle and, having determined that his driver's license was revoked, Officers Sheffield and Joseph attempted to conduct a traffic stop on Mr. Easter. Officer Vinson reported that Mr. Easter refused to stop and drove off. Officers Sheffield and Joseph advised over the radio that Mr. Easter was going the speed limit and would not pull over. Officer Vinson recalled that Mr. Easter finally stopped at the 1200 block of Burton Street. Officer Vinson stated he drove by the traffic stop and parked his vehicle further down the street. When Officer Sheffield or Joseph asked for additional units, Officer Vinson put on his tactical vest, which was affixed with a CMPD patch and an identification panel with the word "POLICE," and activated his BWC. Officer Vinson's BWC was not stored in the "on" mode, and as a result, did not have a 30-second buffer like the patrol officers had in their videos.

Officer Vinson recalled that he saw Officer Sheffield struggling with Mr. Easter in the driver's seat of the car. Mr. Easter threw out a pitcher of juice and spit out juice while wrestling with Officer Sheffield. Officer Vinson stated he moved over to the passenger's side of the Durango. Officer Vinson recounted that Officer Joseph had the back passenger lying prone on

the ground and in handcuffs. Officer Vinson drew his weapon on the front passenger of the Durango until Officer Joseph came up and handcuffed him.

Officer Vinson reported that he saw Officer Benfield, wearing a tactical vest with identification panels, arrive and assist Officer Sheffield with Mr. Easter. Mr. Easter was detained and put in handcuffs. Officer Vinson recalled that he walked around to Officer Sheffield and said, "He might have ate it," because he'd seen Mr. Easter spitting juice out the window. Officer Sheffield replied, "He did not, I knocked a crack rock out, he was trying to get into his mouth," or words to that effect.

A review of the BWC from this portion of the traffic stop reflects the actual wording used by Officers Vinson and Sheffield was different. The BWC recorded Officer Vinson say, "I mean he ate whatever he had" to which Officer Sheffield replied, "No, he didn't get all of it. I mean when I was fighting him, he was crushing part of it. Probably got an 8-ball right there."

Officer Vinson stated that he then conducted a search on the rear seat passenger and put the two passengers of the Durango together. Officer Vinson did not see Mr. Easter at the scene of the traffic stop any more after that point. Officer Vinson stated that he assumed Mr. Easter was in the back of the patrol unit operated by Officers Sheffield and Joseph. Officer Vinson stated that Sgt. Vincent arrived at the scene. Officer Vinson stated that he had no reason to believe Mr. Easter had eaten contraband, and he did not mention to Sgt. Vincent the possibility that Mr. Easter had ingested contraband.

Officer Vinson said he heard Mr. Easter saying that he had to go to the bathroom, and Officers Sheffield and Joseph took Mr. Easter to the division office to use the bathroom. Officer Vinson reported that he remained on scene and worked on issues related to the ownership of the Dodge Durango until he eventually went back to the division office. Officer Vinson reported that when he arrived at the office, Mr. Easter was not in the interview room. He walked to the bathroom and saw Officers Joseph and Sheffield with Mr. Easter in the bathroom where they had conducted the strip search. Officer Joseph then walked Mr. Easter to the interview room door. Officer Vinson assumed Officer Joseph shackled Mr. Easter to the floor.

Officer Vinson reported that he then began to determine whether a search warrant was needed for the cellphones that were seized as evidence. Officer Vinson stated that he was in the CRU office. Mr. Easter was in Interview Room #125, which was 10-15 yards away from the CRU office and was in the busiest part of the Metro office. Officer Vinson estimated that the interview room was 2-3 yards away from detectives' offices.

When asked to describe what the policy or practice was for having an unattended prisoner in an interview room, Officer Vinson said their policy was to check on the prisoner every 15 minutes. Officer Vinson reported that there was a computer room camera that could be used for remote viewing of the interview room, but that neither he nor anyone on his team had a log-on for remote viewing. Officer Vinson said if someone had log-on information for remote viewing, it could only be remotely viewed in the report writing room. Officer Vinson reported that he was not logged on to remote viewing of Mr. Easter while Mr. Easter was in the interview room.

Officer Vinson stated that he never asked anyone else to check on Mr. Easter because he was under the impression that another officer was monitoring Mr. Easter. Officer Vinson recalled that he checked on Mr. Easter twice, in addition to the officers who took Easter into custody. Officer Vinson reported that he had no reason to believe Mr. Easter was not being watched or monitored.

Officer Vinson reported that Mr. Easter was “audio monitored” continuously in the busiest part of the station. Officer Vinson stated that he could hear Mr. Easter from the CRU office. Officer Vinson knew Mr. Easter’s nickname was “Mouth.” Officer Vinson thought Mr. Easter was acting normally. Officer Vinson reported that Mr. Easter asked for water, and Officer Vinson got a plastic cup filled with water and brought it to Mr. Easter. Mr. Easter told Officer Vinson that Mr. Easter would not interview with him.

When investigators questioned Officer Vinson with regard to whether he noticed when Mr. Easter got quiet and was no longer being “audibly monitored” in the interview room, Officer Vinson said that he was not always in the CRU office and stepped out to make a phone call regarding a search warrant for the cellphones seized as evidence. He reported that he was moving around and never in the same spot.

Officer Vinson stated that he started writing his probable cause statement. He recalled that Sgt. Vincent was in an office about 3 yards away from Mr. Easter. Officer Vinson stated that at some point, Sgt. Vincent ran in and said, “Hey, we need NARCAN,” or words to that effect. He recalled that Sgt. Vincent said Mr. Easter was overdosing or seizing, and he grabbed the NARCAN off the wall and ran to the interview room. Sgt. Vincent applied the NARCAN to Mr. Easter with no effect and began to provide aid to Mr. Easter. Officer Vinson retrieved NARCAN from the CRU office, and Sgt. Vincent administered a second round of the medication. Officer Vinson reported that the fire department and Medic were already called and that officers attempted to use the automated external defibrillator (AED) device, but the device was not functioning, and officers started conducting CPR on Mr. Easter. Officer Vinson reported that firefighters arrived first. Mr. Easter had a pulse, was breathing, and was transported to the hospital.

During the interview, Officer Vinson was asked whether he had any conversation with anyone else about Mr. Easter eating any contraband. Officer Vinson recalled a conversation with Sgt. Vincent at the scene of the traffic stop in which Sgt. Vincent said, “Hey, he might have taken drugs.” Officer Vinson said he gave no information to Sgt. Vincent in return during that conversation. Officer Vinson stated that he did not talk to anyone else on the team about the possibility of Mr. Easter ingesting any controlled substances. When asked if he had any further conversation with Officers Benfield or Joseph about Mr. Easter ingesting anything, Officer Vinson replied, “Not sure.”

He reported that he had no reason to believe Mr. Easter had taken drugs until Sgt. Vincent told Officer Vinson that Mr. Easter was possibly overdosing. Officer Vinson stated that he never saw anything in Mr. Easter’s mouth during his interaction with Mr. Easter. Officer Vinson stated that he had never arrested Mr. Easter, and Mr. Easter had never previously swallowed drugs during an encounter with Officer Vinson. Officer Vinson said he

had never heard any stories about Mr. Easter swallowing drugs and did not know of Mr. Easter having a reputation for swallowing drugs.

Sgt. Nicholas Vincent

Sgt. Nicholas Vincent was interviewed by SBI agents on February 7, 2020, at the SBI District Office in Harrisburg, North Carolina. In that interview, Sgt. Vincent stated that he had worked for CMPD for 12 years and has worked for the Metro Division as a sergeant over the Crime Reduction Unit since 2016. Sgt. Vincent reported that he supervised seven individuals.

Sgt. Vincent advised on January 23, 2020, he and his team were working a modified shift. They were working 8 a.m.-6 p.m. Vincent said the incident began at approximately 11:40 a.m., after a Crime Stoppers tip came in as a complaint at the 1500 block of Burton Street. Sgt. Vincent reported that Officer Vinson was the officer in charge of these complaints. Sgt. Vincent advised Officer Vinson had previously identified Harold Easter as the primary drug dealer in that area in 2019. Sgt. Vincent had never had personal contact with Mr. Easter and did not know whether the CRU had previously had any contact with Mr. Easter.

Sgt. Vincent advised he was in his office when he heard over the radio that the CRU team had Mr. Easter in a car, and he went to the scene to assist. When he arrived at the scene, Sgt. Vincent saw the vehicle stopped and two individuals outside of the vehicle on the passenger side in the prone position. Officers Benfield and Sheffield were at the driver's side of the vehicle holding Mr. Easter's hands and then got Mr. Easter out of the vehicle.

Sgt. Vincent reported that he was told by Officer Sheffield that officers had probable cause to search the car, so Sgt. Vincent got an evidence collection kit from his car. Sgt. Vincent advised he collected a suspected crack rock that Officer Sheffield had observed in the driver's side floorboard. Officer Sheffield told Sgt. Vincent afterward that Mr. Easter was crushing the crack rock. There were additional fragments collected from in front of the center console of the vehicle. Marijuana was also located in the vehicle.

Sgt. Vincent advised that he heard Mr. Easter yelling, "Sarge, Sarge." Mr. Easter told Sgt. Vincent he had to use the bathroom, and Sgt. Vincent told him he could wait. Mr. Easter then said he needed water, and Sgt. Vincent asked him why he wanted water if he needed to use the bathroom. Sgt. Vincent reported that Mr. Easter told him that he had tried to swallow marijuana and a little bit of the crack rock because he was "going to smoke a fly later on." Sgt. Vincent said he told Officer Vinson that Mr. Easter said he had tried to swallow marijuana and crack.

Sgt. Vincent stated that he did not believe Mr. Easter swallowed any crack because they had recovered a crack rock and the fragments of crack. Sgt. Vincent reported that no one else on his team told him they believed Mr. Easter had ingested crack.

Sgt. Vincent stated that he left the scene and went back to his office at the division. Officers Joseph and Sheffield transported Mr. Easter. Sgt. Vincent said Officer Vinson was in charge of Mr. Easter because Officer Vinson was the arresting officer. Since Officer Vinson was not present at the time Mr. Easter was brought into the office, Sgt. Vincent assumed Officers Sheffield and Joseph were responsible for Mr. Easter. Sgt. Vincent advised there is a

policy to check on individuals in custody every 15 minutes. Sgt. Vincent advised that the officers in his unit were supposed to be able to operate under limited supervision.

Sgt. Vincent advised he recalled a conversation with Officer Vinson about not having sufficient probable cause for a search warrant for Mr. Easter's phone. This conversation took place in the CRU report writing area. Officer Vinson told Sgt. Vincent he had given Mr. Easter water. Sgt. Vincent then went back to his office and then to Sgt. Riddle's office. While in Sgt. Riddle's office, he could hear Mr. Easter yelling, although he could not hear what was being said. Sgt. Vincent reported that he had heard Mr. Easter was typically loud and boisterous in interviews.

Sgt. Vincent recalled that he noticed he did not have his phones and noticed he did not hear Mr. Easter yelling anymore. He walked outside the precinct and then walked back inside. When he walked back inside, he opened the door to the interview room to check on Mr. Easter and saw him on the floor having a seizure. Sgt. Vincent reported that he was the first one to see Mr. Easter having the seizure in the interview room. Sgt. Vincent reported that he told officers standing in the hall to call Medic. Sgt. Vincent then went to get NARCAN and advised he administered one dose of nasal NARCAN to Mr. Easter. He then went to his car to get more NARCAN. When he came back in, Mr. Easter was still having a seizure but was now outside of the interview room. Sgt. Vincent then gave Mr. Easter a second dose of NARCAN, and he believed Officer Sheffield started chest compressions.

Sgt. Vincent recalled that Officer Joseph told him he had seen white stuff on Mr. Easter's mouth and Officer Benfield told Sgt. Vincent that Mr. Easter had white stuff on his tongue. Sgt. Vincent stated he did not observe any possible narcotics on Easter.

Sgt. Vincent stated after knowing how this incident concluded, he felt he had too much faith in his officers.

Civilian witness A.B.²

A.B. was interviewed by CMPD detectives on January 29, 2020 and by SBI agents on February 5, 2020. A.B. reported that he was with J.M. on Thursday, January 23, 2020 after having picked J.M. up from the Lincoln Correctional Center after J.M. was released from custody. A.B. reported that they encountered Mr. Easter at J.M.'s mother's house. A.B. knew Mr. Easter to go by the nickname "Mouth." The decedent, who was driving a Dodge Durango, offered to take J.M. to the store to buy him some shoes.

A.B. reported that he did not know what the decedent did for a living or how he earned income. A.B. had known the decedent for approximately seven to eight years. A.B. reported that he and J.M. got into the Durango with the decedent and went to the restaurant and then back to J.M.'s house. A.B. stated that the decedent was driving, J.M. was in the front passenger seat, and A.B. was in the rear passenger seat. A.B. reported that as they were pulling up to park on the street in front of J.M.'s house, police officers pulled up behind the decedent and turned

² Witnesses who did not identify themselves publicly in media interviews or otherwise are not identified by name in this document. To name those who did not publicly identify themselves could have a chilling effect on witness cooperation in other cases.

their lights and siren on. A.B. reported that after the officers turned the siren on, the decedent immediately took off. A.B. stated that he started asking what was going on and was trying to get out of the car by talking to the decedent. A.B. stated that the decedent kept on driving. A.B. estimated that the decedent continued to drive for approximately four to five more minutes. The decedent drove in a circle and wound up stopping at some basketball courts.

When investigators asked what was occurring in the car while the decedent was driving, A.B. reported that an undercover car tried to cut them off. A.B. reported that he could not remember what the decedent was doing or what the decedent was saying about the police trying to stop him. When asked directly whether the decedent was trying to eat anything, A.B. stated that he could not remember. When asked if he recalled the decedent making any hand movements toward his own mouth, A.B. said he remembered a juice container from which the decedent was drinking. A.B. stated that the decedent could have put something in the container or took something out of it, but that he did not know. In the interview with CMPD detectives, A.B. stated that when the police pulled the decedent out of the car, he heard the decedent say something about eating some weed. A.B. stated the he did not know whether the decedent ate anything, but he did not see him eat anything and never saw any drugs in the car except some marijuana. As to the marijuana in the car, he did not know where it came from or who produced it. He described it as a small bag of marijuana and estimated it to be “about a gram or two.”

When investigators asked A.B. if he ever saw any powder or green substance around the decedent’s mouth during the time of the traffic stop, A.B. said he was looking out his passenger’s window, watching the police approach him while the traffic stop was taking place. When investigators inquired whether A.B. had any reason to believe the decedent ingested anything before the police completed the traffic stop, A.B. said that the talk in the neighborhood was that the decedent was known to ingest stuff to avoid arrest. A.B. said he had no firsthand knowledge that the decedent ingested controlled substances to avoid arrest by law enforcement.

When asked whether A.B. heard the decedent make any statements about calling Medic, feeling bad, or needing medical attention, A.B. said he heard the decedent yelling that he needed to urinate. The decedent yelled that he needed to urinate for about 30 seconds to a minute.

When asked if he had any reason to believe the decedent was in any kind of medical distress while A.B. was at the scene of the traffic stop, A.B. said no. A.B. reported that he did not hear any officers say anything about Mr. Easter ingesting anything at the traffic stop or before the traffic stop. He recalled that the traffic stop seemed pretty routine and that everything seemed okay. He reported that officers were joking with everyone and that everyone seemed relaxed and that everything seemed normal. A.B. said everything seemed cool, calm and relaxed after the “chase” and officers had finished checking their names.

Civilian witness J.M.

J.M. said he was released from the state prison in Lincolnton on Thursday, January 23, 2020. J.M. stated he knows the decedent as “Mouth” because he talks very loudly. J.M. said he has known the decedent since J.M. was 6 or 7 years old.

J.M. stated that he saw the decedent at the restaurant, and the decedent was going to buy him some shoes. J.M. was in the front passenger seat. J.M. reported that he was in the car with the decedent when they saw a marked CMPD patrol car, and the decedent said, "let me get right." J.M. reported that he interpreted this to mean that the decedent wanted to get rid of the little bit of weed and stuff he had in the vehicle. J.M. reported that this began a slow-speed chase around the neighborhood. They drove to the basketball courts, and an undercover vehicle cut them off. J.M. reported that during the slow-speed chase, Mr. Easter was eating weed and a little bit of cocaine or something. J.M. estimated that the decedent ate an "eight ball," or 3.5 grams of crack cocaine. J.M. did not see from where the decedent retrieved the crack cocaine but that it was in a sandwich bag. He remembered seeing the baggie in the decedent's hand. J.M. said the baggie contained marijuana and crack cocaine. J.M. estimated that the decedent consumed approximately a gram of marijuana. He said the marijuana was separate from the crack cocaine, but both substances were in plastic baggies.

J.M. recalled that they were cut off at the basketball court by an undercover vehicle. J.M. reported that the police got out with their guns at their window. J.M. said they pulled him and A.B. out of the passenger side of the Durango, and the decedent was pulled out of the driver's side.

J.M. reported that an officer hit the decedent on his mouth area two or three times as they were trying to get the decedent out of the vehicle. J.M. stated that the decedent was telling the officers, "I just ate some weed, I just swallowed weed," or words to that effect. J.M. stated that he was not sure why the officer was hitting the decedent in the mouth. J.M. said the decedent told officers he just wanted to smoke some weed and that J.M. and A.B. had nothing to do with it.

A review of the BWCs from officers involved in getting Mr. Easter out of the vehicle revealed no recording that would support J.M.'s assertion that Mr. Easter stated, "I just ate some weed" or "I just swallowed some weed."

J.M. said the police put the decedent in a marked vehicle and that the police officers ran his and A.B.'s identification and then let them go. The decedent was in the back seat of the marked vehicle, yelling that he needed to urinate.

When investigators asked J.M. whether he ever heard the decedent ask for medical attention or an ambulance during the traffic stop, J.M. stated that all he heard was the decedent saying that he needed to urinate, and the officers just laughed it off.

D. Video evidence

The relevant video evidence in this matter consists of the body-worn camera recordings from officers involved in the traffic stop of the decedent, as well as the surveillance video from interview room where the decedent was placed. The videos show the officers first made physical contact with Mr. Easter at approximately 11:29 a.m., that Mr. Easter was transported to the division office at approximately 11:52 a.m., and that officers conducted a strip search of Mr. Easter at approximately 11:58 a.m. Mr. Easter was placed in the interview room at approximately 12:19 p.m. Mr. Easter had periodic interaction with officers while he was in the interview room, and he was first discovered experiencing a medical emergency at 1:13 p.m.

A thorough review of the relevant BWC recordings in this matter revealed no recordings which contained footage of the decedent ingesting any contraband in the presence of officers. Additionally, there is no footage containing indisputable admissions by Mr. Easter to officers to having eaten contraband. Similarly, while there are multiple recordings containing statements by the officers that would conclusively prove that they knew the decedent had *tried* to ingest contraband, there are no recordings that contain footage that would conclusively prove that the involved officers knew the decedent had succeeded in *actually* ingesting contraband. Although some statements made by officers recorded on BWC could arguably suggest that officers may have seen the decedent ingesting contraband, those statements were also coupled with statements suggesting officers only saw the decedent *trying* to ingest contraband. Therefore, these statements alone cannot prove that officers saw the decedent ingesting contraband beyond a reasonable doubt.

As the officer who initially made contact with Mr. Easter, Officer Sheffield was the person most likely to be in a position to see Mr. Easter ingesting contraband. Officer Sheffield's BWC shows him approach the driver's side of the stopped vehicle. It captures a struggle in which Officer Sheffield can be heard telling the decedent to keep his hands up and then exclaiming, "Don't eat it! He's eating it!" Moments later, as they were pulling Mr. Easter from the Durango, Officer Sheffield told Officer Benfield, "He was crushing up his crack, he didn't get all of it." Officer Sheffield's BWC then captures an exchange between Officer Sheffield and Officer Vinson in which Officer Vinson states, "I mean, he ate whatever he had" and Officer Sheffield replies, "No, he didn't get all of it. When I was fighting him, he was crushing part of it." In numerous instances from that point on, Officer Sheffield refers to the decedent as crushing crack cocaine as Officer Sheffield approached and "trying" to eat crack cocaine, but Officer Sheffield did not state conclusively that he observed the decedent eating crack cocaine and, taken as a whole, the video evidence cannot conclusively establish that Officer Sheffield observed the decedent actually ingesting crack cocaine.

As previously discussed, Officer Benfield's BWC recording captured an interaction with the decedent in which Officer Benfield searched the decedent's mouth and told the decedent, "you've got crack all over your tongue." Officer Benfield stated that he did not, in fact, see crack on the decedent's tongue but was instead attempting to elicit an incriminating statement from the decedent.³ In a similar interaction with Officer Joseph, Officer Benfield stated to Officer Joseph in front of the decedent that "he's got crack all over his tongue." Officer Joseph responded, "yeah, he was trying to eat it," and the decedent interjected, "cause I didn't want him to get in trouble man." It could be argued that this is an admission by Mr. Easter to eating crack cocaine. It could be equally argued as only an admission to *trying* to eat crack cocaine. Again, this video evidence does not conclusively prove that officers knew the decedent had eaten crack cocaine, but, when all the video evidence is viewed in sum, it at least suggests officers should have known it was a real possibility that Mr. Easter had eaten crack cocaine.

³ As previously discussed, Officer Benfield's statement and his stated rationale for making it constitute the functional equivalent of an "interrogation" and is therefore a violation of the decedent's rights under Miranda v. Arizona, 384 U.S. 436 (1966).

Officer Joseph's BWC twice recorded him making statements suggesting he knew the decedent had ingested contraband. Officer Joseph reported that his statements were a use of "tactical humor" to de-escalate the situation. In the first instance, Officer Joseph asked the decedent if his lips were going numb. As discussed earlier, when this statement was made, the decedent was not saying anything and was handcuffed next to a patrol car, and there appears to be nothing to de-escalate. When the second statement was made, the BWC shows Officer Joseph was attempting to use the computer in the patrol car, and the decedent continued to talk. The decedent told Officer Joseph, "I'm dehydrated officer" to which Officer Joseph responded, "You've got cocaine on your tongue. It's going to happen when you try to eat cocaine." While the defendant's behavior at this point appears to be something to de-escalate, an objective viewer of this recorded interaction would struggle to find any levity in the exchange.

Officer Joseph's BWC recorded much of the decedent's behavior while the decedent was being held in the patrol car and transported to the division office. Officer Joseph's BWC recorded the decedent repeatedly and continuously asking for water, for air, and to urinate. In his interview, Officer Joseph explained that he let Mr. Easter get water at the division office once Officer Sheffield had searched his mouth. The BWC recorded a single instance in which the decedent asked Officer Joseph for water and, when Officer Joseph said no, the decedent replied, "So you're gonna let me die of dehydration?" Officer Joseph responded, "you're not gonna die of dehydration." As previously discussed, Officer Joseph explained that in response to Mr. Easter's request for air, he rolled Mr. Easter's window down slightly for the decedent to get some fresh air, but he only slightly rolled the window down because he had previously had an arrestee stand up on the back seat and throw something out the window. Officer Joseph said he wanted to prevent the decedent from doing the same. As to the request to use the restroom, both Officer Joseph and Sgt. Vincent explained to Mr. Easter that they could not let him urinate on the side of the road and they would allow Mr. Easter to use the restroom at the office.

The surveillance video of the interview room shows officers place Mr. Easter in the room at approximately 12:19 p.m. and leave the decedent alone at 12:22 p.m. An officer listened at the door at 12:26 p.m. At 12:31 p.m., the surveillance video shows Officer Vinson visit with the decedent for approximately two minutes and, at 12:37 p.m., shows Officer Vinson take the decedent a cup of water. Another officer checked on the decedent at 12:52 p.m. No officers physically checked on the decedent between 12:52 p.m. and 1:13 p.m. when Sgt. Vincent discovered the decedent experiencing a medical emergency. As no officers were consistently in the room or monitoring the video feed from the interview room remotely, the officers would not have been aware of the events recorded by the surveillance video except for those times when officers were actually visiting with the decedent.

The interview room surveillance video shows the decedent loudly talking almost continuously from the time he was placed in the interview room until he begins experiencing the medical emergency. It is unclear whether Mr. Easter's behavior is usual for him or due to being under the influence of an impairing substance, although officers and civilian witnesses noted that Mr. Easter had a reputation for being loud and boisterous. Within minutes of being placed in the interview room, Mr. Easter complains that it is hot, which is a sign of cocaine overdose, and takes his sweatshirt and T-shirt off, leaving himself bare-chested on multiple occasions. Prior to being brought water by Officer Vinson at 12:37 p.m., the decedent, while talking to himself, makes several references to needing to urinate, wanting some water, dying

of dehydration and swallowing a “little piece of weed” and “rock,” although what he is actually saying is not entirely clear given his animated state. When Officer Vinson visited with the decedent at 12:31 p.m., he told Officer Vinson he needed to use the restroom and asked for water. Officer Vinson returned with a cup of water at 12:37 p.m. after which Mr. Easter sips the water, begins singing, then continues talking to himself extremely loudly and unintelligibly about multiple topics, through the time another officer checks in on him at 12:52 p.m.

Within minutes, there is a notable change in Mr. Easter’s behavior. At 1:01:38 p.m., the recording shows Mr. Easter lean on the table in the interview room and begin trembling. Mr. Easter yells, “You think I’m going to die, but I’m not.” Had any officers been monitoring Mr. Easter at this point, in person or on video, it would have been reasonably obvious he was experiencing a medical issue and needed immediate medical attention. The video shows Mr. Easter continuing to tremble and talk loudly, although his speech is almost completely unintelligible. At 1:04 p.m., he begins to flail, apparently involuntarily, at the table while moaning. Mr. Easter then lies face down on the table, gradually getting quieter until he is silent. At 1:06 p.m., he experiences a seizure and is flung to the floor. He remains on the floor, experiencing periodic seizures, until he is discovered by Sergeant Vincent at 1:13 p.m.

E. Medical evidence

Mr. Easter’s medical records show he suffered cardiac arrest while at the division office and again upon arrival to the hospital. His urine tested positive for cocaine and cannabinoids. He showed evidence of brain damage, eventually developing severe coagulopathy and acute liver and kidney injury. When Mr. Easter showed no signs of recovery with further deterioration, his family stated that they did not wish for CPR or Advanced Cardiovascular Life Support measures, and Mr. Easter died at 9:20 a.m. on January 26, 2020.

The Mecklenburg County Medical Examiner’s Office did not perform a full autopsy on Mr. Easter. According to the Medical Examiner, it is their normal protocol that a full autopsy is not conducted on an overdose victim when the victim has been in the hospital for an extended period because hospital records would sufficiently document medical issues and the cause of death. Mr. Easter was in the hospital from January 23, 2020 until he was pronounced deceased on January 26, 2020. The toxicology report on Mr. Easter’s blood showed a significant amount of cocaine and cocaine metabolites.⁴

In conducting this review, my office consulted with medical experts with regard to the evidence: Medical Examiner Jonathan Privette, Mr. Easter’s admitting physician, and at least one state certified toxicologist. These experts opined that cocaine is absorbed into the bloodstream quickly and, while immediate medical attention would have improved Mr. Easter’s chances of survival, none of these experts would be able to testify to a degree of medical certainty that Mr. Easter would have lived after having voluntarily ingested that amount of cocaine even if officers had called for medical attention at the time of the initial traffic stop.

⁴ A copy of the autopsy and toxicology reports are attached to this letter as Exhibit A.

G. Conclusion

On behalf of the State, the obligation of the District Attorney, when confronted with circumstances described above, is to assess the legal viability of a potential criminal charge, considering both the available evidence and the applicable criminal law. In conducting this evaluation, the State must determine whether it can produce evidence that will affirmatively prove two elements beyond a reasonable doubt: 1) that the relevant officers knew or should have known about what Mr. Easter ingested and that their failure to obtain medical attention for him amounted to criminal negligence; and 2) that the officers' failure to obtain medical attention for Mr. Easter was a proximate cause of his death. To arrive at this legal determination, we must determine what we believe the evidence shows and apply the appropriate law.

There is certainly some evidence to suggest that officers knew or should have known that the decedent could have ingested contraband despite their contentions to the contrary. Officer Joseph's explanation relating to his use of "tactical humor" when he asked the decedent whether his lips were going numb and his statement to the decedent about having "cocaine on his tongue," and the suggestion from Officer Benfield that he was only trying to "elicit an incriminating statement" when he said the decedent had "crack on his tongue" are both unsatisfying. Nevertheless, those questionable statements alone are insufficient to prove beyond a reasonable doubt that the officers knew or should have known the decedent had ingested contraband when considered with other evidence. The decedent was not recorded on video ingesting contraband in front of the officers, did not tell officers he had ingested contraband, and stated multiple times he had "*tried*" to ingest contraband while only once arguably implying that he had *actually* ingested contraband. Furthermore, the civilian witnesses who were with the decedent at the time of the traffic stop did not convey to officers that any of them believed the decedent had ingested contraband and, while on the scene, body-worn camera footage does not show the decedent clearly acting as if he were under the influence of a narcotic. And yet, the totality of the evidence certainly suggests the officers at least should have been aware of the real possibility that Mr. Easter had eaten contraband.

The most applicable criminal charge contemplated, involuntary manslaughter, would require the State to prove that an officer culpably failed to obtain medical attention for Mr. Easter and that such failure to obtain medical attention proximately caused Mr. Easter's death. Mr. Easter's voluntary ingestion of crack cocaine is a proximate cause of his death, and, while there legally may be more than one proximate cause for a death, a proximate cause is defined as a cause without which the death would not have occurred. Regardless of whether officers should have known that the decedent had ingested contraband, the fact of the matter is that the State could not prove beyond a reasonable doubt that the decedent would have lived had officers sought medical attention immediately upon stopping Mr. Easter. Not one of the three independent experts consulted by this office would be able to testify to a degree of medical certainty that Mr. Easter would have lived after having ingested that amount of cocaine even if officers had called for medical attention at the time of the initial traffic stop. A criminal prosecution differs from a civil complaint or administrative proceeding in that the State must prove each and every element of the crime in satisfaction of the highest burden in our law: proof beyond a reasonable doubt. With these three experts proving unable to provide decisive evidence that the officers' inaction led to Mr. Easter's death, the State would face an

insurmountable hurdle in establishing beyond a reasonable doubt a necessary element of involuntary manslaughter. Accordingly, it is the determination of this office that the available evidence is insufficient to proceed with criminal prosecution.

While the decision on whether to pursue criminal charges is our sole legal obligation in reviewing this case, it is important to note just how unmistakably grave the circumstances were surrounding Mr. Easter's death. This office's most senior prosecutors brought many years of experience in examining disturbing subject matter to our review of this case, but the video image of Mr. Easter slowly beginning to perish, unattended, for over 15 minutes has left an indelible mark upon each of us. Admittedly, this office determined that evidence did not allow for a definitive conclusion that the officers' failure to seek early medical attention for Mr. Easter *did*, in fact, cause his death. Nevertheless, we also acknowledge that a person certainly might reasonably—and justifiably—infer that different actions by the officers *could* have saved Mr. Easter's life. That inference alone is insufficient to sustain a criminal prosecution, but it is wholly appropriate to deem what occurred on January 23, 2020 to be an abject failure of operating procedure and general standards of custodial care. Since that date, the Charlotte-Mecklenburg Police Department has already announced some changes to its directives with the purpose of avoiding another unnecessary tragedy like Mr. Easter's death. It will be especially important for individual law enforcement officers and their supervisors to make sure they adhere to these precautionary standards, for, as the law suggests, providing necessary care for those in the custody of our government is a public safety priority as well.⁵

If you have any questions, please contact me directly.

Sincerely,



Spencer B. Merriweather III
District Attorney

CC: Chief Johnny Jennings, Charlotte-Mecklenburg Police Department

⁵ See Spicer v. Williamson, 191 N.C. 487, 490 (1926).

Exhibit A

No Reply: OCME Toxicology F202000103

SBI Case # 2020-00301

noreply@dhhs.nc.gov <noreply@dhhs.nc.gov>

Attachment # 1038-41

Fri 3/13/2020 3:09 PM

Page 1 of 2

To: Carter, Cameron (Charles) <CCCarter@ncsbi.gov>

TOXICOLOGY REPORT

Office of the Chief Medical Examiner
Raleigh, NC 27699-3025

Toxicology Folder: T202000906

Case Folder: F202000103

Date of Report: 06-mar-2020

Page: 1

Cameron Carter
5994 Caldwell Park Drive
Harrisburg, NC 28075

DECEDENT: Harold P. Easter

Status of Report: Approved

Report Electronically Approved By: Sandra Bishop-Freeman, Ph.D,F-ABFT

* * *

=====

SPECIMENS received from Jonathan Privette on 30-jan-2020

S200002818: 0.2 ml Blood
SOURCE: Peripheral

CONDITION: Antemortem
OBTAINED: 23-jan-2020

Benzoyllecgonine -----	4.5 mg/L	03/06/2020
Cocaethylene -----	None Detected	03/06/2020
Cocaine -----	1.4 mg/L	03/06/2020
Fentanyl -----	None Detected	03/06/2020

S200002819: 11.0 ml Blood

CONDITION: Postmortem

SOURCE: Subclavian Vessel

OBTAINED: 27-jan-2020

Benzodiazepines -----	None Detected LCMS	03/06/2020
Cocaine metabolite -----	Present LCMS	03/06/2020
Ethanol -----	None Detected	03/06/2020
Gabapentin/Pregabalin -----	None Detected LCMS	03/06/2020
Levamisole -----	Present	03/06/2020
Lidocaine -----	Present	03/06/2020
Opiates/Opioids -----	Present LCMS	03/06/2020
Other Organic Bases -----	None Detected	03/06/2020

S200002820: 4.0 ml Vitreous Humor CONDITION: Postmortem
 SOURCE: Eye OBTAINED: 27-jan-2020

TOXICOLOGY REPORT

Office of the Chief Medical Examiner Toxicology Folder: T202000906
 Raleigh, NC 27699-3025 Case Folder: F202000103
 Date of Report: 06-mar-2020
 Page: 2

Decedent: Harold P. Easter
 * * *

Accredited by the American Board of Forensic Toxicology, Inc.

031320 15:09 * * * END OF REPORT * * * B202000118

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

OCME USE ONLY

Case Number
2020-00103

Date Received
2/16/2020

Res NR

DECEDENT: Harold ^{P.} Easter
 First Middle Last
 RESIDENCE: 925 Clairmont Rd Charlotte, NC Mecklenburg
 Number and Street City, State County
 AGE: 41 years SEX: Male Female Unknown
 RACE: Asian Black Native American White Other
 HISPANIC ORIGIN: Yes No Unknown

INFORMATION ABOUT OCCURRENCE

	DATE	TIME	ADDRESS OR FACILITY	COUNTY
ONSET OF INJURY OR ILLNESS	1/23/2020	bef 1314	1118 Beatties Ford Rd, Charlotte	Mecklenburg
DEATH	1/26/2020	0920	Novant Main Inpatient, Charlotte	Mecklenburg
VIEW OF BODY	1/27/2020	9:30	<input type="checkbox"/> Scene of Death <input type="checkbox"/> Hospital <input type="checkbox"/> Funeral Home <input checked="" type="checkbox"/> Morgue MCMEO <input type="checkbox"/> Not Viewed	
ME NOTIFIED	1/26/2020	0952	LAW ENFORCEMENT AGENCY: CMPD	
LAST KNOWN TO BE ALIVE	1/26/2020	0919	OFFICER: TELEPHONE:	

AUTOPSY: None M.E. Authorized Non-M.E./Private-Facility Name:

BLOOD SAMPLE: Mailed by: ME after External Pathologist after Autopsy Reason not obtained:

IF CLINICAL ALCOHOL PERFORMED, RESULT:

PROBABLE CAUSE OF DEATH: Pending

- DUE TO
- DUE TO
- DUE TO
- DUE TO

CONTRIBUTING CONDITIONS

MANNER OF DEATH: Natural Accident Homicide Suicide Pending

I hereby certify that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Article 16 of Chapter 130A of the N.C. General Statutes and the information contained herein regarding such death is true and correct to the best of my knowledge and belief.

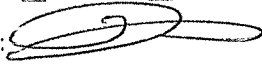
Where:

This section "OCME REVIEW ONLY" **SDC**


- Cocaine Toxicity None
DUE TO
- AL
DUE TO
- Dictated
DUE TO
- COG

CONTRIBUTING CONDITIONS

MANNER OF DEATH: Natural Accident Homicide Suicide Undetermined

Reviewer:  Date: 3/13/2020

Information in this block supersedes that contained in space at left.


Signature of Medical Examiner

Jonathan Privette MD

Print Name of Medical Examiner

1/27/2020
Date

MECKLENBURG
County of Appointment

MEDICAL HISTORY

- Alcoholism Cancer Depression Diabetes Hypertension
- Ischemic Heart Disease Seizure Disorder Smoking Substance Abuse
- Other Physician _____ City _____

MEANS OF DEATH

- VEHICLE: Type of vehicle associated with this decedent: *Number of Units Involved:*
 - ATV Bicycle Farm Equipment Moped Motorcycle Passenger Car
 - Pickup Truck Truck - more than 2 axle SUV Other
- Position: Driver Passenger Pedestrian Unknown
- Devices: Seat Restraints Airbag Helmet Child Restraint None Unknown
- GUN: Rifle - Caliber Handgun - Caliber Shotgun - Gauge Unknown
- INSTRUMENT: Asphyxial Blunt Sharp Description: _____
- TOXIC AGENT(S) SUSPECTED: Alcohol Others: _____ Noted in Summary (Pg 4)
- DROWNING: Bathtub Lake Ocean Pond Pool River Other
- Life Preserver: Yes No Unknown Able to Swim: Yes No Unknown
- Activity: _____
- FIRE: Suspected Cause: _____ Smoke Detector: Yes No Unknown
- FALL: From: Sitting Standing Other Approximate Distance: _____ (Feet)

ACTIVITY OF DECEDENT AND PREMISES

Work Related:

- Fatal Injury or Illness Occurred on a Job*: Yes No Unknown
- If Yes, was employment: Primary Job Secondary Job Volunteer Work Unknown
- Name of this employing firm or agency: _____
- Type of business or industry: _____ Decedent's occupation: _____

*activity on a job that is income generating regardless of age of decedent including farming or part-time work; also include non-income generating volunteer or charity work.

Non-Work Related: (See Examples Below)

- FATAL INJURY OR ILLNESS: Activity: _____ Unknown
- Type of Place: Police station Specific location: Interview room
- DEATH: Type of place: Hospital Specific location: Inpatient
- Death occurred while in custody: Yes No Unknown
- If yes, was in: County Jail State Prison Federal Prison Police Presence
- Death occurred in State Operated Facility: Yes No

DESCRIPTION OF BODY

For Pathologists Only: Refer to Autopsy Report

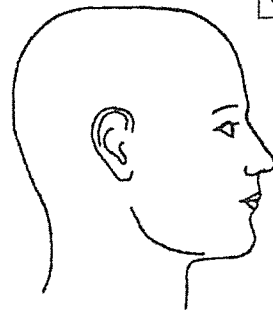
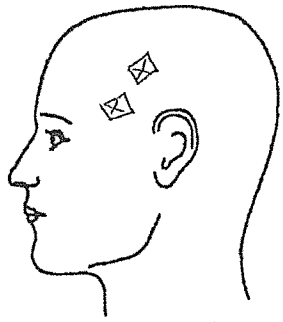
CONDITION:

- Intact Decomposed Fragmented Skeletonized Embalmed Charred Prolonged Immersion
- RIGOR: None 1+ 2+ 3+
- LIVOR: None Anterior Posterior Lateral Color: _____
- LENGTH: 73 Estimate WEIGHT: 238 Estimate
- BODY TEMPERATURE: Warm Cool Cold HAIR: Color: Black stubble Facial: Mustache/Beard
- EYES: Color: Brown Abnormalities: _____
- TEETH: LOWER: Natural Dentures None UPPER: Natural Dentures None
- PHOTOGRAPHS: Yes No RADIOGRAPHS: Yes No
- CLOTHING: _____ Not Clothed
- VALUABLES: _____ No Valuables

B# 20-118

BODY DIAGRAMS

Legend:	
A= Abrasion	G= Gunshot
B= Burn	L= Laceration
C= Contusion	S= Stab



multi leads

et/TEE

RT NG

IV

multi
Tattoos
arm, chest
abd

multi
tattoos

Easter Harold
DNA
Fall Risk
Easter
Harold

Foley

Date: 1-27-2020
 Time: 9:30
 Place: MC MED
 By: JDP/LB
 Blood: Fem/UD
 Photograph: Yes

*
purple top
Easter Harold
1-23-20

Easter Harold

Indicate nature, location and measurements of wounds and other lesions (scars, tattoos, medical therapy, etc.) on these diagrams
(Not to scale)

41 YOM who was arrested for possession of drugs and taken to the station and placed in an interview room. He reportedly exhibited AMS and subsequently fell out and exhibited seizure activity. He was admitted briefly with severe cardiac dysfunction. Reported UDS positive for cocaine. Suspected crack cocaine was found in his vehicle. The clinical impression is intentional oral cocaine ingestion. Imaging studies do not reveal any injuries. This is all reportedly captured on CC video. Admission specimens collected for testing.

Subsequent toxicology testing is confirmatory for extremely elevated levels of parent cocaine and metabolite.

PURPOSE: To document the findings of a Medical Examiner Investigation. *This is not an autopsy report. When completed, this form constitutes a report to the Chief Medical Examiner as required by G.S. 130A-385(a); within fourteen (14) days of Medical Examiner's examination.

PREPARATION: The investigating Medical Examiner completes all appropriate information, and signs the certification statement on the front of this form.

DISTRIBUTION: Mail original copy to the Office of the Chief Medical Examiner, 3025 Mail Service Center, Raleigh, NC 27699-3025

DISPOSITION: This form is maintained by the Chief Medical Examiner in accordance with the current records disposition schedule published by the N.C. Division of Archives and History.

COPIES: Additional copies may be ordered from the Office of the Chief Medical Examiner, Raleigh, NC 27699-3025