



Somerset County Law Enforcement Newsletter



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Message from the Prosecutor



Prosecutor Robertson with the N.J. Judiciary Committee

On December 19, 2016, I was confirmed by the Senate Judiciary Committee to be the Somerset County Prosecutor. I am extremely honored to be the Somerset County Prosecutor for the next five years. I would like to thank Governor Chris Christie for giving me this opportunity and having the confidence in me to lead this Office as we move forward. I would also like to



Michael H. Robertson

thank Senator Christopher Bateman, Senator Bob Smith and Senator Kevin O'Toole for their support and advice as I went through the confirmation process. Last but not least, I would like to thank my family, especially my wife and my two children. My successes and accomplishments are a result of your love and support and I would not be where I am today if it were not for all of you.

Over the next five years I plan on working diligently to make the Somerset County Prosecutor's Office the best it can be and continuing the tradition of providing outstanding service to our community. As part of that process, I promoted Lt. John Fodor to Chief of Detectives. Chief Fodor has a wealth of law enforcement experience; he is smart; he is progressive; he is trustworthy; he is fair and has all the qualities of a great leader. I am confident in Chief Fodor's ability to lead the Detective Bureau. He will be an outstanding representative for this Office. This past year we also added three detectives, who all come with a wealth of experience and knowledge and who are great additions to our already outstanding Detective Bureau. Kathryn Kutepow joined our office in September 2016; she was previously a detective with the Morris County Prosecutor's Office and is currently assigned to our Sex Crimes Unit. Kenneth Drews, a police officer with Raritan Borough Police Department also joined us in September 2016 and is currently

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assigned to our Narcotics Unit. In November 2016, Sean Fraser joined our office, also a former detective with the Morris County Prosecutor's Office and is currently assigned to our Special Investigations Unit. I welcome Kathryn, Kenneth and Sean to our Detective Bureau and anticipate great work from all of them.

I also hired three talented attorneys who likewise are a great addition to the pool of outstanding Assistant Prosecutors in this Office. Perry Farhat joined the Office in September 2016 and was previously the law clerk for the Honorable Deborah Silverman Katz, Assignment Judge of Camden County. Lauren Casale joined us in October 2016 and was previously at the law firm of Carey and Grossi. Paul Heinzl, joined us in December 2016 and is currently the Chief of the Appellate Section. Paul has more than 20 years of experience as a prosecutor, where he served as Bureau Chief of the Appellate Bureau for the Division of Criminal Justice and more recently, as Senior Litigation Counsel in the Appellate Bureau at the Monmouth County Prosecutor's Office. He has appeared before the New Jersey Supreme Court over twenty times as counsel on behalf of the State of New Jersey. Paul has won awards for excellence in litigation, outstanding advocacy and national appellate advocacy. We are looking forward to Perry, Lauren and Paul being an integral part of this Office and are excited to have them on board.

On January 1, 2017, Criminal Justice Reform took effect and I am proud to say that due to the efforts of this Office, along with our law enforcement partners, the Courts, Pre-Trial Services, the Public Defender's office and the Defense Bar, Somerset County was well-prepared and will continue to work toward implementing and improving all of the new changes to the criminal justice process moving forward. I would like to especially thank the Somerset County Chiefs of Police Association for all of their efforts and hard work in preparing for Criminal Justice Reform. The Chiefs of each municipality worked tirelessly to prepare their respective police departments for this monumental change.

Somerset County was consistently number one in the State for being compliant with the new bail reform changes and related criminal justice reforms and we continue to be number one. This is in large part due to all of the Chiefs and all of the police officers in the County who helped make this transition as smooth as possible. Thank you to all the Chiefs and the officers for their efforts.

In anticipation of Criminal Justice Reform and the introduction of the Honorable Robert A. Ballard, Jr., as a fourth criminal judge to Somerset County, I formed trial teams, consisting of three to four Assistant Prosecutors assigned to a specific Judge. Much like Criminal Justice Reform, this is a new concept being introduced here in Somerset County; however, my experience has shown that this will further streamline the day-to-day functioning of the criminal justice process and better serve our citizens. My focus will always be on how we can best serve the citizens of this County and I am committed to working with not only my Office but the Courts, the Public Defender's Office and the Defense Bar to achieve that goal.

As I have stated previously, one of my top priorities has been and will continue to be combating the drug problem and in particular the opioid/heroin epidemic that exists in every corner of this County. The Somerset County Prosecutor's Office along with Robert Wood Johnson Hospital – Somerset, Safe Communities Coalition of Somerset County, the Somerset County Association of Chiefs of Police and the Somerset County Sheriff's Office have teamed up and formed the START program (Steps to Action Recovery Treatment) an initiative that was started by my counterparts in Hunterdon County and is proving to be a useful resource in fighting this battle. Contained in this packet are resources available for those dealing with addiction, such as who to call, where to go, and how to get help. It is in both English and Spanish and contains information about prescription pill safety and disposal. All of this information can also be found on the Safe Coalition of Somerset County website at www.safecoalition.org/ under the tab

“Somerset County START.”

The START packets are going to be distributed by police, first-responders, hospital emergency rooms, and at the jail by the Somerset County Sheriff for those with addiction related issues. The officers will be trained on what is in the packet and how to relay this information to someone who is suffering from addiction. The key here is that this packet is a “start” in the right direction, a way to help those in need, to provide them resources and to tell them how to get help. It is anticipated that the next phase of the START initiative will be the introduction of recovery coaches at Robert Wood Johnson Hospital – Somerset to further help those suffering from addiction. Again, in order to combat this problem it is going to take multiple people from multiple

backgrounds, but I am confident that by working together and forming the types of partnerships we have through the START initiative, we will be successful in helping those suffering from addiction and saving lives.

I look forward to serving as the Prosecutor of Somerset County for the next five years and working with the community of this great County. •

Sincerely,

Michael H. Robertson
Prosecutor



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VERDICTS OF INTEREST



State v. Abhinaba Barthakur

Ind. No. 14-12-797-I

Edited By: Chief Assistant

Prosecutor Kathleen P. Holly

On June 22, 2016, following a one-day bench trial in this matter, the Honorable Robert B. Reed, P.J.Cr., returned a verdict of guilty on the sole count of this indictment convicting defendant Abhinaba Barthakur of Third Degree Terroristic Threats, in violation of N.J.S.A. 2C:12-3a. The trial was prosecuted by Assistant Prosecutor William A. Guhl. Mr. Barthakur was represented by Marcia Munoz, A.D.P.D.

On October 12, 2014, the Hillsborough Township Police were called by a neighbor of defendant Abhinaba Barthakur. The neighbor reported to police that the defendant had been firing a gun on his property, and that this concerned him as there were children in the area. Hillsborough Township Police Officers Robert Fariello and Jason Beverett went to Mr. Barthakur's house as a result of that report. As the officers exited their patrol vehicle to question Mr. Barthakur about the incident he approached the officers in an aggressive manner while his dog was barking and roaming the perimeter of the house. Both officers testified at the trial that the defendant appeared agitated by the appearance of police at his residence and stepped close enough to the face of Officer Beverett that the officer had to use his hand to move Mr. Barthakur back and create space between the two of them. Mr. Barthakur continued screaming threats at the officers even after Fariello and Beverett made a number of attempts to calm him down. At that point Mr. Barthakur told the officers he was going to get them off his property and he threatened to let his dog loose on them. He then told them he was going back to his house to get his gun and turned to do so. Both officers, fearing for their personal safety from either a dog attack or Mr.

Barthakur's threat to retrieve his firearm, placed the defendant under arrest. His verbal threats to officers continued once he was back at police headquarters.

On September 19, 2016 Judge Reed sentenced Barthakur to two years of probation with a condition that he first serve 180 days in the Somerset County Jail.

State v. Timma Kalidindi

Ind. No. 14-01-00065-I

Edited By: Assistant Prosecutor William Guhl

On April 14, 2016, a jury convicted Bridgewater resident, Timma Kalidindi, of first degree murder and third degree possession of a weapon for an unlawful purpose. The charges stemmed from an incident on November 14, 2013, where the defendant murdered his wife by strangulation with a rope. Defendant was 48 years-old at the time of the crime. The Honorable Angela Borkowski, J.S.C. presided over the trial. The State was represented at trial by Chief Assistant Prosecutor Merrill Mezzacappa.

During the time period of November 2013, the defendant's wife was in the process of divorcing the defendant. Defendant was restrained by a civil order from entering the marital home located in Bridgewater and from having contact with his wife and their 16 year-old daughter. Defendant had relocated to the State of Oregon; however, he returned to New Jersey in November 2013 to sign divorce documents and to collect his belongings from the marital home, at an arranged time.

Instead of abiding by the restraining order, the defendant deliberately and secretly went to the marital home on November 14, 2013 with the intent of confronting and murdering his wife. He traveled to the residence in a rental car, which he parked approximately ½ mile away from the home so that nobody would be alerted to his presence. Defendant entered the house before his wife came

home from work and before his daughter came home from an after-school activity. Defendant brought to the house a rope, knotted on both ends. He also kept another identical rope inside his rental car, along with two wooden stakes that were each three feet long.

After defendant entered the Bridgewater home on November 14, 2013, the next person to arrive there was the defendant's 16 year-old daughter. Defendant met the daughter at the garage door entrance to the house, angrily yelling at her and declaring that only one parent would survive that night. Defendant ushered his daughter upstairs, where he told her to remain even if she heard screaming or fighting coming from downstairs. The victim, defendant's wife, indeed came home at about 7:45 p.m. on November 14, 2013. Defendant rushed to confront his wife at the garage entrance into the house. The victim began screaming at the sight of defendant. The teenage daughter called 911. The daughter also remained upstairs in a bedroom, as defendant had directed her to do. She did not witness the murder of her mother although she did hear her mother screaming.

Police arrived at the Bridgewater residence shortly before 8:00 p.m. By that time, the defendant had strangled his wife with the rope that was knotted at each end. He had dragged her into the garage and placed her on the garage floor, near the rear passenger door of her motor vehicle. The backseat passenger door to that motor vehicle was open. It was so observed and photographed by police upon their arrival. Defendant was found by the police, sitting in the dark garage.

The victim was legally dead at the murder scene, however resuscitating lifesaving measures were employed by members of the Bridgewater Police Department and paramedics. The victim regained a pulse by the time she arrived at Robert Wood Johnson Medical Center in Somerville. Notwithstanding her pulse, the victim was unresponsive to all stimuli. She was pronounced dead at the hospital in the early morning hours of November 16, 2013. A physician from the State

Medical Examiner's Office declared the victim's cause and manner of death to be homicide by asphyxiation due to near strangulation.

Defendant admitted to law enforcement officers from the Bridgewater Township Police Department and the Somerset County Prosecutor's Office in a recorded statement that he strangled his wife with his hands. He stated he went to the residence to convince his wife to drop the divorce and to allow him back into the marriage. He said that when his wife began screaming, he placed his hands around her neck and squeezed to keep her quiet. Defendant did not admit to the police to bringing a rope to the residence. At trial, defendant interposed a diminished capacity defense. An expert in the field of psychiatry testified for the defendant, explaining that defendant did not act knowingly or purposefully at the time of the crime because defendant was suffering from a mental disease called "Psychosis, Not Otherwise Specified." The defendant's attorney argued at trial that defendant should be convicted of manslaughter - not murder - due to defendant's diminished mental state. An expert for the State testified that defendant had a personality disorder which did not rise to the level of legal diminished capacity and did not impact defendant's ability to act knowingly or purposely at the time of the crime. Defendant did not testify at trial. The jury deliberated for less than one day before reaching its verdict. The following witnesses testified for the State and assisted in the investigation: Sgt. Justin Berger of the Somerset County Prosecutor's Office; Detective Jamie Edwards, Detective Cliff Delaney, Lt. Sean O'Neill, Sgt. Tom Rice, and Officers Anthony DiGraziano, Art Akins, Kevin Lamey, and John Doesburgh from the Bridgewater Township Police Department; paramedic Jamie Baker of Somerset Medical Center; Dr. Abraham Philip; and Dr. Howard Gilman. Somerset County Prosecutor's Office paralegal Amy Vandergoot and victim-witness advocates Debbie McGowan, Bobbi Mowery, and Melissa Underwood also helped with the trial.

Verdicts of Interest - continued from previous page

Defendant was sentenced in June 2016 to 55 years in state prison, 85 percent to be served without parole on the murder conviction.

State v. Christopher Krafsky Indictment No. 14-11-769-I

Edited By: Assistant Prosecutor William Guhl

Defendant was indicted for the first degree crime of Strict Liability for Drug Induced Death in violation of N.J.S.A. 2C:35-9. On December 10, 2015, a Somerset County jury returned a guilty verdict against Christopher Krafsky for committing the first degree crime of Strict Liability for a Drug Induced Death, whereby on December 23, 2013, Krafsky sold the heroin that killed John Doe of Hillsborough, New Jersey. The thirty-three year old Krafsky, who has numerous prior criminal convictions including a 2012 conviction for possession of heroin with intent to distribute, was sentenced in February 2016 by the Honorable Bruce A. Jones, J.S.C., to 12-years incarceration with 85 percent of that sentence to be served without parole pursuant to the No Early Release Act.

At approximately 6:00 a.m. on December 24, 2013, the victim's mother found her twenty-two year old son dead in the basement of their home in Hillsborough Township. Various items of narcotics paraphernalia near the victim at the time of his death suggested that he had died of a heroin overdose. The mother knew that her son had been battling a drug addiction for some months preceding his death. The cause of death was later confirmed to be heroin toxicity by an autopsy conducted at the Office of the State Medical Examiner and by a toxicology analysis performed at the State Toxicology Laboratory. Expert testimony presented at trial confirmed that fatal heroin ingestion was recent, within no more than hours before the victim's death.

The victim's mother last saw her son alive the previous evening on December 23, 2013, before she went to bed for the night. Investigation revealed that after she went to bed, late in the evening her son left their house and contacted his father. The victim was requesting a ride from his

father who picked him up before midnight on the evening on December 23rd as he was walking on Auten Road in Hillsborough Township.

The victim told his father that he owed "a guy" money, and that he needed a ride to Cliff Street in Somerville to meet this person to give him money. At his son's direction, the father drove his son to Cliff Street in Somerville, where he pulled over on the side of the road on Cliff Street near Gaston Avenue, in front of a brick apartment complex. The father then watched his son meet a male outside of the brick apartments on Cliff Street and engage in a brief encounter where his son and the anonymous male appeared to shake hands and then part ways. The encounter lasted no more than thirty seconds. The father, who knew his son had been battling a drug addiction for several months preceding his death, believed the exchange appeared suspicious.

Text messages found on the victim's cell phone, which was in his pocket at the time of his death, revealed that on the evening of December 23, 2013, he had been reaching out via texts to a contact listed as "Mat". During the texts, it was apparent to law enforcement that the victim was attempting to meet "Mat" on the night of December 23rd and that he was asking "Mat" to sell him narcotics. It was also apparent to law enforcement that "Mat", in response, was agreeing to sell the victim drugs where "Mat" communicated the price of the drugs and a quantity.

Police obtained subscriber information associated with the cellular telephone number belonging to "Mat" in the victim's phone. Subscriber information revealed that this telephone number was registered to a P.O. Box in California, under the name Christopher Krafsky. Further police investigation revealed that an individual named Christopher Krafsky lived locally in Bridgewater, Somerset County.

In January 2014, a detective from the Hillsborough Township Police Department met Christopher Krafsky where he worked at the Bridgewater Mall. The detective told Krafsky that he was investigating the Christmas Eve death of

the victim and that he knew that Krafsky sold the victim heroin the night before he died. Krafsky, who did not know the victim by name but who recognized a picture of him, admitted to the detective that he sold the victim three bags of heroin for \$15.00 per bag on the night of December 23, 2013 on Cliff Street in Somerville, outside of an apartment complex. At trial, Krafsky testified to a version of events that differed from what he told the detective and from what the victim's father saw on Cliff Street on the night of December 23, 2013.

State v. Brian Niziolek

Ind. No. 15-02-111-I

Edited By: Assistant Prosecutor William Guhl

On Wednesday, June 1, 2016, a Somerset County Jury found Brian Niziolek, age 29, of Basking Ridge, N.J., guilty of second degree Unlawful Possession of a Handgun following a five-day trial. The State was represented by Chief Assistant Prosecutor W. Brian Stack. Mr. Niziolek was represented by Edward Heyburn, Esq.

At 3:30 a.m. on March 8, 2014, Hillsborough Police Officers Andrew Chudy and John Carney responded to a single car motor vehicle accident with injuries in the area of New Center Road and Orchard Drive in Hillsborough. Upon their arrival, they observed a vehicle with heavy front end damage, and found the vehicle's three occupants (including Niziolek) seated outside the vehicle. EMS personnel from the Hillsborough Rescue Squad responded and treated the occupants. While investigating the accident, Officer Chudy observed a handgun on the ground near the passenger door of the damaged vehicle (ultimately determined to be a .25 caliber semi-automatic handgun). Immediately upon finding the handgun, Officer Chudy placed Niziolek in handcuffs, and Officer Carney secured the handgun. Niziolek was later transported by ambulance to Robert Wood Johnson Hospital in New Brunswick for treatment, but attempted to remove himself from the stretcher twice during the trip.

The gun was processed for fingerprints and DNA evidence by the Hillsborough Township Police Department, the Somerset County Prosecutor's Office, and DNA Laboratory of the New Jersey State Police Office of Forensic Sciences. Forensic Scientist Christopher Szymkowiak analyzed the evidence and determined that Niziolek's DNA was present at four locations on the handgun.

Following his conviction by the jury on the Unlawful Possession of a Handgun indictment, Niziolek waived his right to be tried by a jury and agreed to a bench trial on a related indictment charging second degree Certain Persons Not to Possess Firearms. At the second trial, the State introduced into evidence Niziolek's prior convictions for sexual assault, aggravated assault, possession of a weapon for an unlawful purpose, unlawful possession of a weapon, aggravated assault on a law enforcement officer, burglary, possession with intent to distribute a controlled dangerous substance, possession with intent to distribute a controlled dangerous substance within 1000 feet of a school, possession with intent to distribute a controlled dangerous substance within 500 feet of a public park and possession of a controlled dangerous substance. Defendant was found guilty of the second degree Certain Persons Not to Possess Firearms indictment by the Hon. Angela F. Borkowski, J.S.C., following the bench trial.

On August 9, 2016, the Hon. Angela F. Borkowski granted the State's motion to sentence Niziolek to an extended term of incarceration as a persistent offender, and sentenced Niziolek to 14 years in New Jersey State Prison, with a 7-year period of parole ineligibility. •

MUNICIPAL PROSECUTION UPDATE

New Jersey Supreme Court Denies Jury Trial to Fourth-Time DWI Offender

By: Brian Bona, Legal Intern, Somerset County Prosecutor's Office

Due to changes in the underlying statute, the New Jersey Supreme Court re-considered the frequently contested issue of whether a defendant facing a third or subsequent driving while intoxicated (DWI) charge is entitled to a jury trial in State v. Denelsbeck, 225 N.J. 103 (2016). In so doing, the Court was forced to examine where exactly the line between "serious" and "petty" offenses lies. The Court concluded that the punishments created by the Legislature for a third DWI inconsequential enough to render the offense petty. Accordingly, the Court held a defendant facing a third or subsequent DWI charge continues to lack the right to a trial by jury.

The facts of Denelsbeck are all too familiar. An officer of the Ventnor City Police Department pulled over defendant James Denelsbeck in the early morning hours of October 5, 2011 when defendant did not stop at a red light. After he failed a series of field sobriety tests, defendant was arrested. Defendant then blew a .12 on an Alcotest machine, and was issued motor-vehicle summons for DWI, Careless Driving, and Failure to Observe a Traffic Signal.

Defendant demanded a jury trial. Due to his three prior DWI convictions, the consequences of defendant's DWI charge included a mandatory 180-day jail term, various fines and fees, and the suspension of his license for 10 years followed by the requirement that he install an ignition interlock device thereafter. The other two motor-vehicle summonses carried a maximum jail term of 15 days each. The penalties were severe enough, defendant contended, to make the DWI charge "serious" and permit him a jury trial. The municipal court disagreed, and, at a bench trial, defendant was convicted of DWI and Failure to Observe a Traffic Signal.

Defendant appealed his case to the Law Division, which upheld the denial of a jury trial and affirmed the conviction. Unsatisfied,

defendant again appealed. The Appellate Division affirmed the unavailability of a jury trial, holding the issue was "well settled." Finally, defendant petitioned the New Jersey Supreme Court for certification on the issue, which was granted.

As the United States Constitution and the New Jersey Constitution both create trial by jury rights, in deciding the case, the Denelsbeck Court first had to determine which standard to apply. Since New Jersey had never before granted a jury trial in a DWI case, the Court applied the potentially more inclusive federal standard. The U.S. Supreme Court's interpretation of the U.S. Constitution has long been that "petty" offenses may be tried without a jury. Unfortunately, the U.S. Supreme Court has only provided one black and white line separating "petty" and "serious" offenses; if the offense allows for more than 180 days of incarceration, it is "serious." On the other hand, if the offense carries less than 180 days of incarceration, it is presumed to be "petty," but that alone is not determinative. If the additional penalties are harsh enough, the offense can be deemed "serious" even though it carries a maximum incarceration period of less than 180 days.

The New Jersey Supreme Court ran through the same "petty" or "serious" analysis in State v. Hamm, 121 N.J. 109 (1991), when it decided largely the same issue – a DWI defendant's right to a jury trial – under New Jersey's old DWI punishment scheme. The punishment guidelines considered under Hamm, which were enacted in 1986, are similar to the current version. The differences include making the 180-day incarceration period mandatory where the 1986 edition did not, an increase in some of the fines and fees, and the requirement that defendant install an ignition interlock device on his vehicle after his license has been reinstated. Additionally,

the 1986 guidelines allowed a defendant to do up to 90 days of the 180-day confinement in outpatient treatment and up to 90 days through community service, whereas the current version only allows a defendant to do 90 days in inpatient treatment. The Denelsbeck Court interpreted these changes to represent a shift in the Legislature's approach to preventing DWIs, going from a treatment based approach to a confinement focused solution.

Though the new punishments are more extreme than the 1986 version, the Court acknowledged that the new guidelines still did not provide for more than 180 days incarceration. The presumption then, is that the offense is petty. Next, the Court examined the other aspects of the statute's punishment to determine if that presumption could be overcome. Though the Court noted that the license suspension was a "consequence of magnitude," they determined this did not reflect the Legislature's views on the seriousness of the offense, but rather how to best prevent repeat DWIs. The Court then contemplated the requirement of the ignition interlock device, but found this to be far less burdensome than the license suspension because it only prevents a defendant from driving if they have a certain BAC.

Finally, the Court considered the fines and fees associated with a third or subsequent DWI. Federal law provides that if the penalty is over \$5,000.00, the offense is serious. New Jersey courts, however, are not bound by this law and have not treated it as dispositive. Moreover, the Denelsbeck Court concluded that most of the fines and fees associated with a third DWI are civil penalties, and that the only criminal fine associated with the offense totals \$1,000.00. The fines for the offense, therefore, were not enough to overcome the presumption that the offense be considered "petty."

In fact, the Denelsbeck Court held that all the penalties associated with a third or subsequent DWI were not enough to overcome the presumption that the offense be considered "petty." As such, defendants facing a third or subsequent DWI offense still do not have a right to

a jury trial. The denial of a jury trial in Denelsbeck was accordingly affirmed. The Denelsbeck Court did note though that the Legislature had reached the "outer limit" of punishments that could result in such a characterization. Any additional penalties that may be created by the Legislature likely will make the offense "serious" and create a jury trial right.

Appellate Court Addresses Notice Requirements for DWI Refusal and Who Holds the Burden of Incapability to Complete a Breath Test

Whether a refusal conviction is valid when a defendant is not notified of all the consequences of the offense was considered in State v. Monaco, 444 N.J. Super. 539 (App. Div. 2016). Also, addressed in the case was who bears the burden to prove a defendant's inability to take the breath test. The Monaco Court held that an officer's failure to notify defendant of the consequence that she install an ignition interlock device should she refuse a breath test could not vacate her refusal conviction, and that defendant had the burden to establish she was physically unable to take a breath test.

The facts in Monaco are that on April 14, 2012, defendant approached a "T" intersection in East Hanover. Because the road she was on ended at the "T," defendant needed to make a turn at the intersection. She failed to do so. Instead, she continued on, hopped the curb, and stalled out in a resident's front yard. Officer Michael Filippone arrived on scene, and immediately noticed that defendant smelled of alcohol and was slurring her speech. After defendant failed a series of field sobriety tests, Officer Filippone arrested her and transported her to the police station.

At the station, defendant was held in a processing room for half an hour, where she was read a statement about chemical breath tests. Though the statement warned about the consequences of refusing to provide a breath test, the statement did not include anything about the requirement that defendant would have to install an ignition interlock device. Defendant stated she

SEARCH & SEIZURE UPDATE

State v. Chad Bivins, 226 N.J. 1 (2016)

In this case the New Jersey Supreme Court considered whether a warrant, authorizing the search of a residence suspected to be involved in drug-trafficking, and “all persons present reasonably believed to be connected to [the] property and investigation,” supported the off-premises search of two individuals found in a car down the street from the target residence.

The facts of the case are that on March 29, 2011, State Police planned to execute a no-knock search warrant at a Camden residence, which permitted the police to search the residence for drugs and related contraband as well as “all persons present reasonably believed to be connected to said property and investigation.” According to State Trooper Matthew Moore, police were aware that people were moving “in and out of the house at all times,” and that the residence might contain “a lot more occupants [] than what [the officers] had seen.” Trooper Moore testified that, “almost immediately” after receiving word that “entry was being made” into the residence, he received further communication from an officer at the scene that “[t]wo guys were leaving the residence” and were “approaching” a grey Pontiac. As Trooper Moore arrived at his designated location, he observed a grey Pontiac several houses down the street from the target residence, but he did not personally see the occupants leave the target residence and enter the grey Pontiac. Moore and his partner removed two men from the vehicle, later identified as defendant and his cousin, searched them and found thirty-five bags of cocaine on each of them.

At the suppression hearing, Trooper Moore and defendant offered differing descriptions of events on the date in question. The Court ultimately denied the suppression motion on the grounds that the search was lawfully executed pursuant to a warrant because “[m]ost individuals would believe it’s more probable than not” that defendant and his cousin were the same individuals reported as being “inside the house moments before.” Defendant pled guilty to third-degree Possession of Cocaine with Intent to Distribute within 1,000 feet of a School and was sentenced to three years of probation.

The Appellate Division reversed the decision. Relying on Bailey v. United States, 133 S.Ct. 1031 (2013), the Court concluded that the probable cause supporting the search warrant could not support the search of defendant, because the search did not take place in the “immediate vicinity” as described.

The Supreme Court agreed with the Appellate Court and held “that the State did not provide an adequate evidential basis linking defendant’s presence to the location for which the all-persons-present search warrant was issued.” The Court determined that the warrant did not specifically describe the location within which to search defendant’s vehicle, and therefore the search of defendant did not include “anyone present at the anticipated scene.” The Court departed from reliance on Bailey, and instead turned to State v. DeSimone, 60 N.J. 319 (1972), which requires execution of a warrant on the subject of a search to identify the subject “by physical nexus to

SEIZURE DATE



By: **Stilianos M. Cambilis**
Legal Intern
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the on-going criminal event itself." The Court found that because defendant was not found and searched at the target residence, the search was not based on the warrant and therefore the incident constituted a warrantless search. The State was unable to present any evidence linking the defendant and his cousin to the two men departing the target residence, and for this reason the search of defendant fell outside the reach of the all-persons-present warrant.

State v. Ryan Sutherland, 445 N.J. Super. 358 (App. Div. 2016)

In this case the Appellate Division considered whether a traffic stop of a car was objectively reasonable where the vehicle had one non-functioning tail light out of four and the officer made a mistake of law in establishing reasonable suspicion to justify the traffic stop.

The facts of the case are that on February 3, 2014, Mount Olive Township Police Officer Michael Carletta was on patrol when he observed a Toyota Camry travelling with one of its tail lights not illuminated. Officer Carletta observed that the Camry had four tail lights, two on each side, and while both tail lights on the driver's side were illuminated, the upper tail light on the passenger's side was not functioning. Officer Carletta initiated a motor vehicle stop of the Camry.

When Officer Carletta requested defendant's driving credentials, defendant responded that his license was "not on [him] right now." Officer Carletta returned to his vehicle and contacted dispatch to verify that defendant had a license, at which point he was informed that defendant's license was suspended. Officer Carletta returned

to the Camry and told defendant that his license was suspended and that he could not continue driving. Officer Carletta explained to defendant that his "main reason for pulling [him] over was [his] maintenance of [his] tail light," and issued traffic summonses for driving with a suspended license and for maintenance of lamps.

At the suppression hearing, Officer Carletta testified that his reason for stopping defendant was that his understanding of N.J.S.A. 39:3-66 required "that all lamps must be in good working order." Officer Carletta explained that but for the one non-functioning tail light, he would not have executed a motor vehicle stop of defendant's vehicle because "the vehicle was not driving erratically, was within the speed limit, maintained its lane, and Carletta had no concern that anything was wrong with the driver." In the Court's decision to grant defendant's motion to suppress, the Court emphasized that the statute required only "two properly functioning rear lights, one on each side" and determined that Officer Carletta's "suspicion was not objectively reasonable" and "could not justify his warrantless stop of defendant's vehicle."

The Appellate Division disagreed and reversed. The Court held that "even if the officer was mistaken that the inoperable tail light constituted a Title 39 violation, he had an objectively reasonable basis for stopping defendant's vehicle." The Court relied on the United States Supreme Court decision in Heien v. North Carolina, 135 S. Ct. 530, 190 L. Ed. 2d 475 (2014), which held that "[a police officer's] mistake of law can nonetheless give rise to the reasonable suspicion necessary

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Search & Seizure Update - continued from previous page

to uphold the seizure [of a vehicle] under the Fourth Amendment." The Court concluded, in agreement with the Supreme Court, "that so long as such a mistake is objectively reasonable, it may give rise to reasonable suspicion." The Court ultimately determined that "Officer Carletta's stop of defendant's vehicle was lawful, reasonable, done in good faith, non-pretextual, and was based on malfunctioning safety equipment," and that "defendant's constitutional rights were not violated.

State v. Al-Sharif Scriven, 226 N.J. 20 (2016)

In this case the New Jersey Supreme Court considered whether police were justified in stopping a vehicle traveling with its high beams on when no on-coming vehicles were approaching.

The facts of the case are that on November 3, 2013, Essex County Sheriff's Officer David Cohen and his partner, Officer Eric Overheely, parked behind an unoccupied vehicle "with a fictitious temp tag" in Newark. After determining that the vehicle was unregistered, Officer Cohen called for a tow truck and waited on foot for its arrival. While on foot, Officer Cohen observed a vehicle approaching "with its high beams on at a normal speed in this well-lit residential area." Officer Cohen signaled the driver to pull over using the strobe light attachment on his flashlight, with the intent to educate the driver on the proper use of high beams.

Officer Cohen requested the driver's credentials, and with the driver's side window down he could smell burnt marijuana. When asked, the two occupants both denied having any drugs. Officer Cohen observed a hollowed-out cigar during the course of this exchange, and he told defendant, the front passenger, to step out of the vehicle. Defendant indicated that he had a gun under his jacket, at which point Officer Cohen retrieved the weapon and placed defendant under arrest.

At the suppression hearing, the Court granted the defendant's motion to suppress a .40 caliber handgun, hollow-nose bullets, and a large-capacity magazine because the high-beam statute,

N.J.S.A. 39:3-60, "presupposes that the offending driver's high beams [are] on when his vehicle approaches an on-coming vehicle." State v. Witt, 435 N.J. Super. 608, 615 (App. Div. 2014). The Court reasoned that absent a violation of the statute, Officer Cohen did not have a reasonable and articulable suspicion to justify a motor-vehicle stop. The Appellate Division agreed with the trial Court and affirmed the suppression order and rejected the State's argument that Officer Cohen made a good faith mistake of law that justified the motor vehicle stop.

The Supreme Court agreed with the trial Court and Appellate Division, and held that because the language of the high-beam statute is unambiguous, drivers are only required to dim their high beams when approaching an on-coming vehicle. The Court reasoned that the plain language of the statute is the best indicator of its meaning, and neither the public nor the police would consider Officer Cohen to be an "on-coming vehicle" with respect to the car in which defendant was a passenger. Officer Cohen, who was on foot waiting for a tow truck, was not an "on-coming vehicle" to the car in which defendant was a passenger. The Court explained that it was not an objectively reasonable mistake of law for Officer Cohen to believe the subject car was operating in violation of the headlight statute, and therefore Officer Cohen could not justify the stop based on that reasonable and articulable suspicion. The Court also rejected the State's argument that Officer Cohen could justify the stop under the community-caretaking exception to the warrant requirement, because he did not have evidence to suggest that "the driver of the car was 'impaired' or that the vehicle had a 'problem.'" The Court concluded that an on-foot police officer does not count as an on-coming vehicle, and therefore suppression of the evidence was affirmed.

State v. Aaron Jessup, 441 N.J. Super. 386
(App. Div. 2015)

In this case the Appellate Division considered whether individuals have an “expectation of privacy in a bag containing [controlled dangerous substances] that the police saw him place on top of a car’s rear tire.”

The facts of the case are that on April 2, 2014, Jersey City Police Officer Burgess set up surveillance outside an abandoned boarded up residence with broken windows. Shortly thereafter Officer Burgess observed defendant enter the driveway of the residence and approach a red Corolla with no license plates. Through binoculars Officer Burgess saw defendant remove a zip-lock bag from the top of the rear driver’s side tire and remove items from the bag. Defendant then replaced the bag on top of the same tire and exchanged what he had retrieved from the bag for money given to him by another man.

After witnessing the transaction between defendant and the buyer, Officer Burgess radioed perimeter officers to apprehend the buyer, who was found to have two glassine bags of heroin, stamped with the logo “crazy,” and two vials with a yellow cap containing cocaine on his person. Subsequently, police recovered thirty-four bags containing heroin, stamped with the logo “crazy,” and six vials with yellow caps containing cocaine from the zip-lock bag on top of the rear tire of the red Corolla. Defendant was arrested.

At the suppression hearing, the Court found that the State had not demonstrated that the residence was abandoned, in spite of stipulation to the contrary, and because no exigent circumstances existed sufficient to justify the search of the red Corolla without a warrant, the evidence was suppressed.

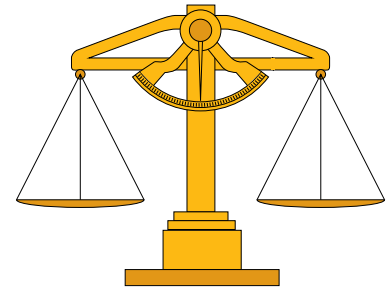
The Appellate Division disagreed and reversed. The Court concluded that defendant had no reasonable expectation of privacy in the area on top of the rear tire on the exterior of the car. The Court hinged its analysis on State v. Burgos, 185 N.J. Super. 424, 426 (App. Div. 1982),

analogizing the Corolla tire to a tin hidden under a car, where the Court “held that a defendant who put [controlled dangerous substances] in such a tin ‘had no protected Fourth Amendment rights in the narcotics stash maintained remotely from his person.’” Since defendant had no privacy interest in the rear tire of the red Corolla, the “automobile exception” and “exigent circumstances” exceptions to the warrant requirement did not apply. However, the Court reasoned that because the exterior of the car tire was easily accessible and visible to the public, the exceptions need not apply because defendant’s privacy interest was already non-existent. The Court ultimately held that “seizing the zip-lock bag of [controlled dangerous substances] from the top of the rear tire of the red Corolla without a warrant constituted appropriate law enforcement action.” •

VICTIM-WITNESS UPDATE

What Not to Say to a Victim Survivor and What They Want to Hear

By: Deborah McGowan, Coordinator
Somerset County Prosecutor's Office
Office of Victim-Witness Advocacy



On July 12, 2016 Governor Chris Christie signed into law a bill expanding the definition of a crime victim in cases of a homicide:

“As used in this act, ‘victim’ means a person who suffers personal, physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed by an adult or an act of delinquency that would constitute a crime if committed by an adult, committed against that person.” “Victim” also includes the spouse, parent, legal guardian, grandparent, child, sibling, **domestic partner or civil union partner** of the decedent in the case of a criminal homicide or act of juvenile delinquency.” Changes are in bold.

The expanded definition of family members of a homicide victim or victim survivors as they are commonly referred to provides more individuals impacted by a violent death with legal protection under the Crime Victims’ Bill of Rights (N.J.S.A. 52:4B-36) and the Victim’s Rights Constitutional Amendment (Art. I, par. 22) and the right to receive victim compensation under N.J.S.A. 52:4B-1, et seq.

This recent change in the definition of a crime victim provides an opportunity to consider how we might improve our communication with victim survivors.

For example, **closure** is a word often used in conversation with victim survivors. Perhaps it is our desire to end the family member’s sadness with the hope of a some-day end to their sadness.

In the October 2011 interview with author Christopher Hitchens, CNN correspondent Anderson Cooper characterized the word ‘closure’ as a “ridiculous word” explaining “there is no such thing.”* Mr. Cooper and Mr. Hitchens

were discussing the deaths of family members to suicide.

Anderson Cooper is correct ‘there is no such thing’ as closure. This is especially true after an unexpected, violent death. For some victim survivors ‘closure’ implies they no longer grieve, that their grief has ended. Victim survivors want the intense pain in the immediate aftermath of the death to ease. Many victim survivors describe this pain as overwhelming, unbearable and unpredictable. Over time most people will experience a lessening of the intense immediate pain and sadness. The easing of emotions does not imply the sadness is over. When memories are discussed or the victim’s name is mentioned the sadness may return. The revisiting of sadness does not imply that victim survivors seek an end to their grief.

In the criminal justice process ‘closure’ is sometimes referred to in the context of the court system. For example, during the protracted court process an assistant prosecutor may implore the court on a family’s behalf stating: ‘the family needs closure to this court process.’ What the family truly seeks is an end to the court process and justice and to stop hearing from this office.

The following are phrases to avoid when speaking with victim survivors after a violent death:

- It’s not your fault
- I understand
- I know how you feel
- Time heals all wounds
- You must go on with your life
- It must have been his/her time
- You shouldn’t feel that way

These phrases discount the victim survivor's feelings about the death by placing the speaker in the role of assuming the victim's feelings.

I was once asked to assist at the scene of an infant death. The mother and infant were sleeping together and tragically the mother rolled over on to her child. When interviewing the mother about the circumstances of her child's death, a Medical Examiner's Office investigator said "it's good you have two other children." Perhaps the investigator was at a loss for what to say in this particularly tragic situation and felt the need to say something. Unfortunately, and I'm sure unintentionally, her comment implied the child who died could easily and quickly be replaced by the mother's other children. This is an extreme example of a professional using the wrong words in an effort to convey her sympathy.

As professionals working in the criminal justice system we have all experienced those difficult conversations with victim survivors where we are at a loss for what to say. Simply saying 'I'm sorry' is enough, at least enough to start the conversation.

Victim survivors also like to hear the victim's name. This may seem counterintuitive given our fear to cause sadness by stating the victim's name. Ironically victim survivors often fear a time may come when they will no longer hear their loved one's name. Hearing the name can reassure the victim survivor that their loved one is not forgotten. •

* 10/26/2015 CNN Interview Anderson Cooper with Christopher Hitchens



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- New Jersey State Elder Abuse Hotline
1-800-792-8820
- New Jersey State Parole Victim Unit
1-609-633-0595
- New Jersey Sex Offender Registry
www.nj.gov/oag/njsp
- Rape Crisis Services
1-888-601-7200

Municipal Prosecution Update - continued from page 9

had asthma, so officers allowed her to use her inhaler. Over twenty minutes after she used the inhaler, Officer Fillippone administered a breath test on defendant. Officer Fillippone instructed defendant to breathe in deeply and blow in one long, continuous breath until he instructed her to stop. Defendant breathed into the mouthpiece, but did not produce a large enough sample for the machine to test. Defendant unsuccessfully tried breathing into the mouthpiece two more times. At that point, Officer Fillippone ceased the test and charged defendant with refusal to submit to a chemical test.

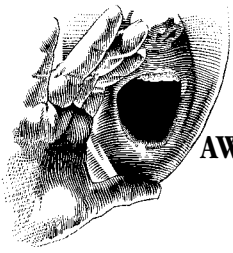
During her municipal court trial, defendant was found guilty of refusal. On appeal, she argued that her refusal charge should be dismissed for various reasons. Among them, defendant contended she was not adequately informed about the consequences of refusal because Officer Fillippone did not inform her that one of the punishments of refusal would be that defendant install an ignition interlock device on her vehicle. Defendant also argued that her asthma prevented her from completing the breath test. The Law Division Judge rejected her arguments and upheld her refusal conviction. Defendant again appealed. The Appellate Division reviewed only the above arguments.

In deciding the case, the Appellate Division first considered defendant's contention that she was not adequately informed about the consequences of refusal. Previously, the New Jersey Supreme Court held that a defendant being read an outdated version of the standard refusal form was subject to a materiality test. That is, whether the officer reading the outdated form actually affected the defendant's decision to not take the test. If the differences between the version read to the defendant and the proper version would not have affected a reasonable driver's choice in declining the test, the error would not be considered material. Whether the differences between the proper statement and the statement actually read to the defendant are

material are considered on a case-by-case basis.

The Monaco Court concluded that failing to mention the requirement that defendant install an ignition interlock device was not material. This conclusion was based on the fact that defendant offered no testimony at trial that she would have submitted to the breath test had she been warned of the consequence. Additionally, the Court reasoned that the requirement that defendant install an ignition interlock device paled in comparison to suspension of her driver's license, which is another consequence of refusal and one about which defendant had been informed. Thus, the Court held defendant would have refused to take the breath test regardless of whether Officer Fillippone had warned her about the ignition interlock.

The Monaco Court next moved to the issue of who has the burden to show a defendant was physically unable to take the breath test. Though the Monaco Court found no case law directly on point, they likened the case to a few prior New Jersey opinions. Some similar cases include State v. Marquez, 202 N.J. 485 (2010) – which established it was defendant's burden to show he refused to take the breath test because he did not understand English – and State v. Sherwin, 236 N.J. Super. 510 (App. Div. 1989) – which held it was defendant's burden to show he was too confused to refuse the test. The Monaco Court also considered out-of-state case law, which consistently gave defendant the burden to show the defendant was somehow unable to take a breath test. The Monaco Court accordingly held it was defendant's burden to show her asthma prevented her from taking the breath test, and affirmed her conviction. •



ROLL CALL

AWARDS - RECOGNITIONS - RETIREMENTS - PROMOTIONS - NEW HIRES - GRADUATIONS

BERNARDS TOWNSHIP POLICE DEPARTMENT

Retirements:

Lieutenant Stephen Elder retired on August 1st, 2016 following 25 years of service to pursue a second career in private industry security and **Lieutenant Edward Reese** retired on April 1st, 2016 following 25 years of service to pursue a second career in private weapons/tactical training.

Promotions and Appointments:

The department also announced several promotions and appointments. **Lieutenant Eric Geleta** was promoted from Patrol Sergeant on August 1st, 2016 and is assigned as the Patrol Division Commander. **Detective Sergeant Michael Sweeney** was promoted from Detective-Shift Commander on August 10th, 2016. **Sergeant Margaret Corsentino** was promoted from Patrol-Shift Commander on August 10th, 2016 and is assigned as a Patrol Squad Supervisor. **Lieutenant Scott Ward** was promoted from Detective Sergeant on April 1st, 2016 and is assigned as the Traffic Services Division Commander, and **Sergeant Kevin Little** was also promoted from Patrol-Shift Commander on April 1st, 2016 and is assigned as a Patrol Squad Supervisor.

Officer Brian Fallon was recently appointed as a Detective, Traffic Services **Officer Steven Matthews** was appointed as a Shift Commander in the Patrol Division, and **Officer Alex McKnight** was appointed as a Shift Commander in the Patrol Division.

BERNARDSVILLE BOROUGH POLICE DEPARTMENT

Bernardsville **Chief of Police Kevin Valentine** has announced that **Christopher Santangelo** and **Christopher Luckenbach** were recently appointed as Probationary Police Officers for the

Bernardsville Police Department. Both officers started their employment with the Borough on Monday August 11, 2016. The officers who were ceremoniously sworn in at the Borough Council Meeting held on August 8, 2016 have already begun their required agency training with the Department.

Christopher Santangelo, 26, of Belle Mead was formerly employed as a Special Law Enforcement Officer Class II at the Point Pleasant Beach N.J. Police Department. He graduated from the Ocean County Police Academy Training Class for Special Law Enforcement Officers and is a current member of both the Montgomery Twp. and Rocky Hill Fire Departments. Santangelo recently concluded 6 years of service with the N.J. National Guard.

Christopher Luckenbach, 24 of Edison was also formerly employed as a Special Law Enforcement Officer Class II at the Point Pleasant Beach N.J. Police Department. He recently graduated from the Ocean County Police Academy Training Class for Special Law Enforcement Officers and previously served four years with the United States Marine Corps.

The appointment of Santangelo and Luckenbach brings the total number of police officers in the Borough back to full strength at 19 officers. In recent months the Police Department has been operating below regular staffing levels as the result of recent officer turnover.

HILLSBOROUGH TOWNSHIP POLICE DEPARTMENT

Lieutenant Darren Powell was promoted to Chief of Police on February 1, 2016. Chief Powell was hired on July 28, 1994 and has served in the Patrol Division, Services Division, Administrative Division and the Investigative Division. He was appointed Corporal in 1999, promoted to Sergeant in 2002 and promoted to

continued on next page

Roll Call - *continued from previous page*

Lieutenant in 2009.

Lieutenant Fran Mozgai was promoted to Captain on January 12, 2016. Captain Mozgai was hired on January 13, 1992 and has served in the Patrol Division, Investigative Division and the Services Division. He was appointed Corporal in 2000, promoted to Sergeant in 2002 and promoted to Lieutenant in 2007.

Sergeant Charles Boyle was promoted to Lieutenant on February 9, 2016. Lt. Boyle was hired on August 1, 1994 and has served in the Patrol Division and Services Division. He was appointed Corporal in 2002 and promoted to Sergeant in 2007.

Sergeant Michael Fitzpatrick was promoted to Lieutenant on February 9, 2016. Lt. Fitzpatrick was hired August 1, 1994 and has served in the Patrol Division, Services Division and the Investigative Division. He was appointed Corporal in 2002 and promoted to Sergeant in 2007.

Corporal David Fisher was promoted to Sergeant on March 9, 2016. Sgt. Fisher was hired January 13, 1993 and has served in the Patrol Division and Investigative Division. He was appointed Corporal in 2007.

Corporal Richard Evans was promoted to Sergeant on March 9, 2016. Sgt. Evans was hired December 20, 1996 and has served in the Patrol Division and the Investigative Division as School Resource Officer. He was appointed Corporal in 2014.

Officer John Carney was promoted to Sergeant on March 9, 2016. Sgt. Carney was hired June 16, 1997 and has served in the Patrol Division, Services Division and Investigative Division.

Corporal Frederick Wacker was promoted to Sergeant on March 9, 2016. Sgt. Wacker was hired on June 1, 1998 and has served in Patrol Division and Services Division/Traffic Bureau. He was appointed Corporal in 2010.

Officer Patrick Murphy was appointed Corporal on March 14, 2016.

Officer Thomas McLain was appointed Corporal on March 14, 2016.

Officer Robert Meszaros was appointed Corporal on March 14, 2016.

New Hires:

Brian Hollenbach was hired on November 16, 2015 as a Police Officer. He graduated the Mercer County Police Academy in April 2016.

Carly Valentino was hired on November 16, 2015 as a Police Officer. She graduated the Mercer County Police Academy in April 2016.

Dennis Rivera was hired on April 27, 2016 as a Police Officer. He was previously an officer with the Princeton University Department of Public Safety.

Bryan d'Anunciacao was hired on April 27, 2016 as a Police Officer. He graduated the Morris County Police Academy in May 2016.

**SOUTH BOUND BROOK BOROUGH
POLICE DEPARTMENT**

After serving several months as the Officer-in-Charge of the South Bound Brook Police Department, **Jeffrey Titus** has been promoted to the position of Chief of the Department. In 1984 Chief Titus was hired by the Somerset County Sheriff's Department as a Corrections Officer, and in 1986 was hired as a Sheriff's Officer. The Chief attended the Union County Police Academy, graduating in 1987 before being hired by the South Bound Brook Police Department in December 1987. Chief Titus served as a Patrolman, Sergeant, Lieutenant and Internal Affairs Commander. Chief Titus was made Officer-in-Charge in January prior to being promoted to the Chief of Police on September 13 of this year. Chief Titus has received numerous awards and commendations over more than his three decades in law enforcement.

SOMERSET COUNTY SHERIFF'S OFFICE

The Somerset County Sheriff's Office announced a number of personnel changes. This included the hiring of two new officers, Corrections Officer **Mark Kulick** and Corrections Officer **Nicholas Levendusky**. The Office announced the retirements of Sergeant **Robert Miller**, Corrections Officer **Myra Caldwell**, and Corrections Officer **Kenneth Leach**. Also,

the Office announced that Lieutenant **Frank Apisa** was promoted to the rank of Captain and Sergeant **Dean Picone** was promoted to the rank of Lieutenant.

WELCOME PROSECUTOR ROBERTSON

In March of 2016 Michael H. Robertson was sworn in as Acting Somerset County Prosecutor taking on the role of the Chief Law Enforcement Officer for the County of Somerset with his family, friends and various dignitaries in attendance. He was confirmed by the New Jersey Senate on December 19, 2016 and sworn into office as the Somerset County Prosecutor on December 22, 2016. A ceremonial swearing-in was held on February 23, 2017 in the Historic Court House where Mr. Robertson took the oath of office as the Somerset County Prosecutor before a court room filled with family, friends, and dignitaries who praised Prosecutor Robertson’s accomplishments and wished him well in his new role. Prosecutor Robertson comes to us from a law enforcement family of longstanding and with rich experience in the prosecution of criminal matters. Prosecutor Robertson began his career initially in Somerset County as a law clerk to Superior Court Judge Victor Ashrafi in September of 2002 until August of 2003. Thereafter for several years he was in private practice dealing with complex multi-party litigation. From 2005 to 2008 he served as an Assistant Essex County Prosecutor assigned to the trial division handling a variety of cases to include armed robberies, burglaries, assaults, drug distribution, weapons offenses and homicides. From March of 2008 until March

of 2016 when he joined the Somerset County Prosecutor’s Office he served as an Assistant United States Attorney; in that role he furthered his prosecutorial expertise working multiple federal jury trials. He had a dedicated emphasis on complex white collar cases, including health care fraud, government fraud and financial fraud. In addition he supervised and managed several federal law enforcement agencies including the FBI and HHS-OIG. Mr. Robertson investigated and oversaw Qui Tam cases filed in the District of New Jersey and worked directly with civil division attorneys from the Department of Justice. Mr. Robertson was assigned to various organized crime cases involving RICO, narcotics trafficking, bank fraud, mail and wire fraud and money laundering. Additionally, he prosecuted cases involving identity theft and federal tax violations. Prosecutor Robertson had received awards from the FBI, ATF, DEA and the Department of Homeland Security and state and local law enforcement agencies for his dedication and work on various prosecutions. Prosecutor Robertson received his Bachelor’s Degree in the Administration of Justice from Pennsylvania State University in May of 1999 and thereafter attended Hofstra University School of Law where he received his Juris Doctor in May of 2002. It is our honor and privilege to receive Prosecutor Robertson as the Prosecutor of Somerset County. We welcome his enthusiasm, dedication and prosecutorial expertise as we join him in continuing in the tradition of justly serving the citizens of Somerset County. •

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JOHN W. FODOR SWORN-IN AS NEW SCPO CHIEF OF DETECTIVES

By: Kathleen P. Holly, Chief Assistant Prosecutor



John W. Fodor and family

After Michael H. Robertson was sworn in as Acting Somerset County Prosecutor in March of 2016, John W. Fodor was selected and sworn in as Acting Somerset County Chief of Detectives on September 9, 2016. Family members, friends, colleagues and various dignitaries attended the ceremonies for Michael H. Robertson and John W. Fodor and wished them well. Prosecutor Michael H. Robertson was confirmed and sworn in as the Prosecutor of Somerset County on December 22, 2016. At that time John W. Fodor took the oath of office and became the Chief of Detectives of the Somerset County Prosecutor's Office.

Chief Fodor obtained a Bachelor of Science degree in the Administration of Justice in 1997 from Rutgers University and thereafter received his Masters Degree in Public Administration from Rutgers University in 2005. He has specialized training from various agencies to include the Federal Bureau of Investigation and the State Police. Chief Fodor received training in Advanced Homicide Investigations and Internal Affairs. He is a member of several professional associations to include the Federal Bureau of Investigation National Academy and Law Enforcement Executive Development Association, the American Society of Industrial Security, Association of Certified Fraud Examiners, the New Jersey Security Association, the Pi Alpha Alpha, Rutgers University – National Honor

Society for Public Affairs and Administration and the Society of Investigators of Greater Newark. Chief Fodor is the Law Enforcement Liaison for the National Healthcare Anti-Fraud Association and has been a treasurer for the New Jersey Polygraphists, Inc. Chief Fodor is certified as an instructor with the New Jersey Police Training Commission, has a certification from the National Center of Polygraph Science and has testified as an expert; he has been certified by the Division of Criminal Justice Training Academy in the Basic Course for Investigators. Chief Fodor has been the recipient of several awards to include the New Jersey Security Association Leadership Award, the American Society of Industrial Security Leadership Award, the Somerset County Prosecutor's Office Educational Achievement Award, the Director's Award from the Federal Bureau of Investigation and an Honorable Service Award from the Somerset County Prosecutor's Office.

Since beginning his career at the Somerset County Prosecutor's Office in 2002, Chief Fodor served in a variety of positions at the Somerset County Prosecutor's Office to include County Detective, Sergeant, Lieutenant and Accreditation Manager. As Accreditation Manager he was responsible for establishing policies, programs and monitoring those in an effort to standardize and improve the organizational performance of the office. Chief Fodor was involved in the training for office personnel as well as conducting the execution of a full audit of the evidentiary items in the Somerset County Prosecutor's Office evidence vaults. Chief Fodor coordinated and scheduled the office interns to support our accreditation goals and objectives that involve the Evidence Unit and our Records Unit.

It is our honor to have John W. Fodor as the Chief of Detectives of Somerset County and we all look forward to working with him to achieve our mutual goals in law enforcement. •