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Subject: Supplemental report
Oak Bluffs Police Department, missing M4 patrol rifle
Bushmaster Model XM15-E2S M-4 (Serial #L470289)

Missing patrol rifle investigation:

During the month of November 2021 I conducted an independent investigation into a missing patrol rifle from the Oak Bluffs Police Department. I wrote a report with findings which was dated November 18, 2021. At the time the initial report was written and submitted the patrol rifle in question was still missing from the department.

On Thursday, December 16, 2021 I received a call from Chief Erik Blake of the Oak Bluffs Police Department. During the call Chief Blake informed me that the missing patrol rifle had been found on the lower level of the department. The rifle was found under some large bags in a room which had been searched in October 2021 when the rifle was first reported missing. The rifle was discovered by Officer Seth Harlow inside a rifle case and the rifle was coated with rust, dirt and mold. There was a strap attached to the rifle with the name "Maliff" written on the strap. Officer Michael Maliff has been employed by the Oak Bluffs Police Department since 2018 and became a full-time officer following his academy training in 2019.

Following the discovery of the patrol rifle both Officers Harlow and Maliff wrote memorandums to Chief Blake. Officer Harlow's memorandum outlined the circumstances which lead to the discovery of the rifle. Officer Maliff's memorandum outlined the circumstances in which he was issued and returned a department patrol rifle for his academy training during 2019. A copy of the memorandums from Officers

Harlow and Maliff are attached hereto as **EXHIBIT #10**. (**Note:** Exhibits 1-9 were part of the first case jacket associated with this investigation).

During my discussion with Chief Blake on December 16, 2021 it was agreed that I would continue my investigative efforts regarding the new information associated with this matter.

Continued investigation:

On Monday, December 20, 2021 I traveled to the island of Martha's Vineyard and met with Chief Erik Blake at the Oak Bluffs Police Department. Chief Blake informed me that saved surveillance video for entry to the department was **not** available. During my visit he brought me to the lower level of the department to show me the floor plan including the locker room and training room (also referred to as the "specials room" ie., locker room) where the patrol rifle was found on December 16, 2021.

The training room is at the east end of the building. The room has a cement floor and there are exposed pipes along the outer wall which is the foundation of the building. There is a de-humidifier in the room and the room is best described as dark, dusty and humid. There were large bags on the floor along the east wall which contained portable walls for tactical training scenarios. The bags were long and bulky and would not be easy to lift or move. I took photographs of the area where the bags with portable walls were located as the rifle was found beneath these items.

Chief Blake next showed me the patrol rifle which had been found on the lower level of the building on December 16, 2021. The rifle was secured in its case in the departments temporary evidence locker on the main floor of the building. When the case was opened I verified that the serial number matched the rifle that had been reported missing during October 2021. The serial number is L407289. It should be noted there were also three (3) magazines present in the rifle case.

The patrol rifle was found to be in poor condition with regards to its cleanliness. There was dirt, rust, mold and cobwebs or hair on the surface of the rifle. There was a rifle strap inside the case which had the name "Maliff" written on it in white lettering. There was also mold and dirt on the strap. I took photographs of the rifle and its condition including a close-up shot of the serial number. The photographs I took of the lower-level training room and the patrol rifle are marked as **EXHIBIT #11**.

On January 6, 2022 I spoke by phone with Chief Erik Blake regarding an accreditation document from an accreditation site visit on November 17, 2020. During the two-day site visit the departments "Master Firearms List" which was last updated on April 22, 2020 was presented to the assessors for the review of standard 1.3.6 (reporting uses of force). The "Master Firearms List" had the Bushmaster M4 Model

XM15-E2S (serial number L470289) as assigned to Sergeant Marchand. It is important to note that Sergeant Marchand is the accreditation manager for the department and would have been responsible for submitting this document to the assessors. A copy of the "Master Firearms List" dated April 22, 2020 is attached hereto as **EXHIBIT #12**.

Interview of Officer Seth Harlow:

On Monday, December 20, 2021 at approximately 11:45 AM I interviewed **Officer Seth Harlow** at the Oak Bluffs Police Department. Officer Harlow has been a full-time member of the department since 2011. In addition to his patrol duties he is the department armorer and a member of the Martha's Vineyard tactical response team (TRT). We reviewed the memorandum he wrote to Chief Blake on December 16, 2021 and he verified that the dates, times and information are accurate.

Officer Harlow described the events that lead to the discovery of the missing patrol rifle in the lower-level training/specials room. He stated he was in the building on December 16, 2021 for TRT training and went to the room looking for part of a "red man" suit which was being used for the training that day. He searched the area along the east wall of the room where the large duffel bag with portable walls was located. While searching the area of the bags he found the patrol rifle case. Officer Harlow then went back upstairs to inform Sergeant Steve Conley of his discovery. Within minutes Harlow and Sergeant Conley returned to the lower level, opened the rifle case and discovered the patrol rifle which had been reported missing.

I asked Officer Harlow about the dates listed in his memorandum to Chief Blake regarding prior TRT training in the training/specials room. He checked the training records on his phone calendar and verified there had been two prior occasions when he had been in the training/specials room for TRT training purposes. The first date was April 15, 2021 when he moved the portable walls from the building and brought them to a American Legion Hall in Edgartown for training. He stated he has a clear memory of that day because the moving of the bags with the portable walls was exertive work. He described how he lifted the heavy bags up onto a barrel with wheels and used the barrel to transport the bags out of the building. He is certain the patrol rifle case was not there on the date of April 15, 2021.

The next date was August 5, 2021 when the training/specials room was utilized for scenario training by the TRT. The training included the use of portable walls and simunition (non-lethal ammunition). At the conclusion of the training the room was swept and cleaned by TRT members. Officer Harlow stated that the rifle case was not in the room on that date.

My interview with Officer Harlow was approximately fifteen (15) minutes in duration. At the conclusion of the interview he stated he'd remain available for future questions if needed.

Interview of Officer Michael Maliff:

On December 20, 2021 at approximately 12:05 PM I interviewed **Officer Michael Maliff** at the Oak Bluffs Police Department. Officer Seth Harlow who was acting as his union representative was present for the entirety of the interview. Officer Maliff has been a full-time officer for the Oak Bluffs Police Department since 2019. Prior to 2019 he worked as a "Special" police officer for Oak Bluffs and had experience working for other police departments on the island of Martha's Vineyard. Officer Maliff attended the Plymouth police academy from April 2019 until he graduated on August 30, 2019. He was sworn in as a full-time officer on September 11, 2019.

Officer Maliff's last name is written in white lettering on a strap associated with the Bushmaster M4 patrol rifle (Serial #L470289) which was discovered in the lower-level training room of the police department on December 16, 2021. Following the discovery of the patrol rifle on December 16, 2021 Officer Maliff wrote a memorandum to Chief Blake which is part of Exhibit #10 associated with this report.

Officer Maliff stated that he attended the Plymouth police academy beginning in April 2019 and he graduated on August 30, 2019. The training included firearms training and it was Officer Maliff's memory that the firearms qualification occurred during the last week of July (2019) and first week of August (2019). The training occurred at a sandpit in the New Bedford or Dartmouth area. There was one week of pistol training and one week of rifle training. He couldn't specifically recall which sequential week was spent firing a pistol or a rifle. He explained that his academy class was divided into two groups and the groups alternated weeks between the pistol and rifle training. He stated he didn't commute from Martha's Vineyard during his academy training but rather lived with his family in Whitman during the training.

I referenced the memorandum he wrote to Chief Blake. He wrote in his memorandum he "believed" he was issued a patrol rifle, mags and a black case from Sergeant David Cassidy "but I'm not a hundred percent". He acknowledged in the memorandum that during the academy each student officer had to label all items with their last name. When I asked him to elaborate on the issuance of the patrol rifle he answered "*He (Sergeant Cassidy) issued majority of my equipment for the academy. So I'm assuming that it was him. I'm pretty sure it was him*". He added that he had been issued an "Ipad" for the academy from Sergeant Marchand.

I asked what his memory was of being issued the weapons for academy training. He answered *"I came to the station. I picked it up. Honestly, I'm not sure exactly how it happened"*. I asked when he would have done this and he replied *"When I picked it up, I probably would've come on the weekend to pick it up"*. I asked him if he received the pistol and rifle at the same time and he answered *"I believe so"*. I asked him how he got the weapons off island. He stated he couldn't remember but was certain he would not have carried the weapons onto the ferry and would have driven a car. He couldn't be certain if he used his own car or if he had taken a cruiser off island as part of his emergency vehicle training.

I next asked him where he had stored the weapons (pistol and rifle) when the weapons were not under his control during training. He stated he stored the weapons at his family's house during training, adding *"my dad has a gun safe. It would be in the gun safe"*. I then asked what his memory of returning the patrol rifle was. He answered *"It would've been after graduation when I came back with my car, because I, again, I wasn't going to carry the rifle on the boat. So it would've been when I came back after graduation, during that first, probably the first week after graduation"*. He later added *"The first time I came back to the island, I brought it back on the boat in my vehicle"*.

When I asked how long he had the patrol rifle off island he answered *"I'd say probably a month"*. He explained there had been two weeks of training (last week of July and first week of August 2019). He added *"I probably picked it up before that week, so, yeah, probably a month would be fair"*.

I next made reference to his memorandum to Chief Blake and asked him to elaborate more about when he returned the rifle to Sergeant Marchand. He answered *"I walked into the office. Sergeant Marchand was sitting at his desk, which is the first desk right when he turn in. He was sitting there on his cell phone. He looked at me. I had the rifle in my hand and the pistol. He pointed to the back of the room"*. He stated the rifle was in a rifle case and he *"put it on the ground"* near the safe and left. I asked if he also turned in his pistol to Sergeant Marchand and he answered *"I think I locked it in the lockers in the back because we have a locker where we have to secure them"*. He explained that "Special" officers were not authorized to take home their weapons between shifts and the weapons are secured in the blue temporary evidence lockers at the end of their shifts.

I asked about his memorandum indicating that there was an orange cable lock and key left within the rifle case and he stated that he was certain the cable lock and key were in the rifle case when he left it in the sergeant's office. I asked if he had cleaned the rifle before turning it back in and he stated he had not.

I next asked specifically if he knew how the rifle and case got to the lower-level training room and he answered *"I do not"*. I asked if there was any possibility the rifle stayed at his parent's house in Whitman longer than September (2019) and he answered *"no"*. I asked if he was certain of that and he asserted *"I'm positive of that"*.

I asked how he first became aware that the rifle was missing during the timeframe of October 2021. He stated he first heard of the missing rifle during roll call. He couldn't say with certainty that he read a text message sent out to all department members about the missing rifle. I asked if he searched for the rifle and at his home. He stated that everyone had and that he did in fact check his "*black powder gun*" which is kept in a similar box at his home. He continued "*when I went home and opened that up, I wasn't second guessing myself, but I wanted to be sure of myself. Just like everyone else, we wanted to make sure that if you had it, you wanted to get it back*".

My interview with Officer Maliff concluded at approximately 12:32 PM. The interview was recorded and later transcribed. A copy of the interview transcript is attached hereto as an exhibit to this report.

On Thursday, January 6, 2022 at approximately 2:00 PM I interviewed **Officer Michael Maliff** by Zoom. Attorney Patrick Bryant was present and represented Officer Maliff during the Zoom meeting and Officer Seth Harlow participated as an observer.

The purpose of the second interview was to clarify some points from the first interview. Officer Maliff believed the patrol rifle was issued to him by Sergeant Cassidy for his academy training but he couldn't say that with 100% certainty. I asked if it could have been one of the other sergeants (Curelli, Conley or Marchand) and he replied "*I can't say it with 100% certainty which sergeant it was*". I asked if it could have been Lieutenant Williamson and he answered "*I can't say it with 100% certainty*". I asked where he was in the building when he was issued the patrol rifle and he was certain it occurred in the sergeant's office. I asked if there was any possibility that someone left the rifle for him somewhere in the building and he simply took it without anybody present and he answered "*no*". I asked if he was certain and he answered "*yes*".

I asked if he could have taken the patrol rifle with him off island when he took the SRO cruiser with him to academy training. (Note: I informed him the EVOG training was for the week of July 8 – 12, 2021). He stated "*I don't think it was that early*". I asked if he kept the cruiser at his parent's house in Whitman during the EVOG training he explained that the training took place at Fort Devens and that he stayed in a hotel for the training which lasted the entire week (Monday – Friday).

Officer Maliff was steadfast in his previous statement that he returned the patrol rifle to Martha's Vineyard on his first trip back to the island following his academy graduation on August 30, 2019. He also maintained his statement in the way he returned the patrol rifle to Sergeant Marchand in the sergeant's office. I asked to clarify exactly where he placed the rifle when he returned it. He stated he placed it in the alcove area between the wooden door next to Sergeant Cassidy's desk and the vault door. He stated "*it was right inside the alcove, right inside the door. I took one step inside, dropped it down on the floor*". When asked, he again stated that he had not cleaned the weapon following the rifle training or before he returned it to the station.

I next asked Officer Maliff if he had gone to Whitman for a visit during Thanksgiving weekend 2019. He acknowledged he went to Whitman on Thanksgiving day and he drove his own car off island for the visit. I specifically asked if he secured the rifle from his father's gun safe in Whitman during the Thanksgiving visit and returned it to Martha's Vineyard. To this question he answered "no".

My Zoom interview with Officer Maliff concluded at approximately 2:22 PM. The interview was recorded and later transcribed. The interview transcripts for Officer Maliff for the dates of December 20, 2021 and January 6, 2022 are attached to this report as **EXHIBIT #13**.

Interview(s) of Sergeant Michael Marchand:

On Monday, December 20, 2021 at approximately 2:03 PM I interviewed **Sergeant Michael Marchand** at the Oak Bluffs Police Department. Attorney John Becker who was representing Sergeant Marchand participated by remote video.

Prior to the interview Sergeant Marchand had been made aware that the missing patrol rifle had been recovered in the training room on the lower level of the police department on December 16, 2021. I asked Sergeant Marchand if he had searched that room when he first determined that the patrol rifle was unaccounted for during the timeframe of October 2021. He acknowledged that he had searched that room in the presence of Chief Blake during the timeframe of October 2021. He couldn't say with certainty how many large bags containing the portable walls were on the floor but he did remember seeing the bags at the time the room was searched.

I asked Sergeant Marchand directly if he had any knowledge of how the patrol rifle and rifle case had arrived under the portable walls bags in the lower level training room and he answered "no, sir". I asked directly if anybody had contacted him to say they found the rifle and placed it in the lower-level training room and he again answered "no sir".

We next discussed the memorandum written by Officer Maliff as well as what he (Maliff) said during his interview regarding his return of the patrol rifle to Sergeant Marchand. I asked if he had any memory of Maliff returning the patrol rifle to him during the timeframe of September 2019. To this question he answered "*none whatsoever*". He continued that it would be "*highly unlikely*" that a recruit officer would walk into the sergeants room and interrupt the sergeants phone conversation. Sergeant Marchand also stated "*I have no remembrance whatsoever of any of this happening at all*". He continued "*for someone to walk into a senior sergeant's office and essentially interrupt the phone call, and take a gun and me just go throw it over there or whatever I allegedly said, "Go throw it over there." And with no accountability whatsoever, it's absurd*". I asked what level of certainty he had that it was **not** him that the patrol rifle was returned to and he answered "100" (%).

Sergeant Marchand continued *"I've always had a great relationship with Mike (Maliff). I think that maybe this was a different sergeant because it's not logical to turn in a weapon to me that I never gave to him to begin with. And additionally, I don't issue weapons, okay? And I don't get weapons in return. But it doesn't seem right that we would give somebody an M4 rifle and have them take it home for a month. That doesn't sound right. It doesn't sound like the accountability that we have here in this building. Usually under normal circumstances I would say an M4 goes out the week, the Sunday before training, that weekend before training and it comes back immediately afterwards. To have a weapon issued for an entire month, that is very strange for something like that to happen in this agency.*

During the interview I also asked Sergeant Marchand if he had ever used a closet in the sergeants administrative officer to store his issued patrol rifle. This this question he answered *"I don't recall that"*. I referenced that a cruiser assigned to him in the timeframe of December 2018 didn't have a trunk vault and he stated *"I'm trying to be as honest as I can. I don't recall me specifically putting an M4 or a shotgun in that closet for any period of time so I could have access to it or anything like that"*.

This interview with Sergeant Marchand concluded at approximately 2:23 PM. The interview was recorded and later transcribed. A copy of the interview transcript is part of this report.

On Tuesday, December 27, 2021 at approximately 8:30 AM I interview Sergeant Michael Marchand via Zoom. Attorney John Becker also participated in the Zoom call. The purpose of this interview was to ask about a Tisbury police officer who had attended the police academy during 2020. The officer had formerly worked for the Oak Bluffs Police Department and had been loaned an Ipad to use during her training. There was a question of whether the Tisbury officer had also been loaned a patrol rifle for her academy training.

Sergeant Marchand acknowledged he is acquainted with the Tisbury officer from his time as the School Resource Officer (SRO) at the high school. He also acknowledged that she had been loaned an Ipad from the Oak Bluffs Police Department for her academy training. He stated that he had not issued or loaned her any type of firearm for her academy training. (**Note:** It was later verified by the Tisbury Police Department that the officer in question utilized a patrol rifle during her training which had been issued by her department).

This interview with Sergeant Marchand concluded at approximately 8:40 AM. The interview was recorded and later transcribed. A copy of the interview transcript is attached as an exhibit to this report.

On December 31, 2021 at approximately 1:30 PM I interviewed **Sergeant Michael Marchand** via Zoom. Attorney John Becker was present on the Zoom call and participated in the interview. I had heard earlier in the day from Attorney Becker that

Sergeant Marchand wished to clarify some information relative to his use of a closet in the sergeant's room at the police department.

During the interview Sergeant Marchand acknowledged that he has access to the closet in the left front corner of the sergeant's room (facing the main hallway). The closet has a lock and he shares the space with Sergeant Daniel Cassidy. He acknowledged that he and Cassidy have keys to the closet but he's uncertain if anyone else has access with a master key. He stated that he uses this closet space to store such things as his dress uniform, motorcycle boots and some jackets that no longer fit him. He continued that he very seldomly goes into the closet because he puts on his uniform and gun belt at home and is assigned a "take-home" cruiser which he drives to work each day.

Sergeant Marchand stated that he was the SRO at the high school for the academic years "14-15, 15-16 and 16-17". During that time he wore a modified uniform and reported directly to the high school for his work days. He stated it was very infrequent that he went to the police station and only worked assigned shifts during the summer months when school wasn't in session. After 2017 he left the SRO assignment and returned to regular police duties. He stated that between 2017 and the timeframe of early COVID (March 2020) he did **not** routinely use the closet. He stressed that he never routinely went into the closet.

During the interview I specifically asked Sergeant Marchand if he ever stored his assigned patrol rifle in the locked closet in the sergeant's office for easy access during his patrol shift. To this question he answered "*I have no recollection of that whatsoever*". This interview was approximately fifteen (15) minutes in duration. The interview was recorded and later transcribed. A copy of the interview transcript is attached as an exhibit to this report.

On Friday January 7, 2022 at 10:00 AM I interviewed **Sergeant Michael Marchand** by Zoom. Attorney John Becker was also on the Zoom call representing Sergeant Marchand. The purpose of this interview was to inquire of Sergeant Marchand his knowledge of the department's "Master Firearms List" which was dated April 22, 2020. This document was utilized by the department during an accreditation site visit during November 2020. The document in question lists the M4 patrol rifle (Serial #L470289) as issued to Sergeant Marchand on that date. The document is exhibit #12 of this report.

During his interview Sergeant Marchand acknowledged he was the "acting accreditation manager" during the assessor site visit in November 2020. I asked Sergeant Marchand if there was an explanation of why the "Master Firearms List" (dated April 22, 2020) shows that he was still issued the rifle in question. To this question he answered "*I don't have an explanation for it*". He acknowledged that he had **not** read every document that was presented to the assessors for accreditation. He continued that he relied on the officers involved in the accreditation process to be accurate in what

they were submitting. He continued that he received the "Master Firearms List" (dated April 22, 2020) from Lieutenant Williamson.

Sergeant Marchand asserted that had he read the "Master Firearms" List" (dated April 22, 2020) during the accreditation site visit in November 2020 he would have reported to Lieutenant Williamson that the document was incorrect just as he had reported it in October 2021. My interview with Sergeant Marchand was recorded and later transcribed. A copy of the transcript is an exhibit to this report.

The transcripts for my interviews with Sergeant Marchand on December 20, 2021, December 27, 2021, December 31, 2021 and January 7, 2022 are all included in this report as **EXHIBIT #14**.

Interviews of Oak Bluffs PD supervisors:

On Monday, December 20, 2021 at approximately 11:30 AM I spoke with **Sergeant Daniel Cassidy** at the Oak Bluffs Police Department. The purpose of this conversation was to ask if it had been Sergeant Cassidy who had issued a patrol rifle to Officer Maliff for his academy training in July 2019. Sergeant Cassidy stated that he has no memory of issuing Maliff a patrol rifle for his training.

Sergeant Cassidy did have a very clear memory of issuing two patrol rifles to two new officers for their academy training during April 2021. He stated the two were Officers Burchill and Sutherland and they attended the Cape Cod Academy. He had a clear memory of giving both rifles to Officer Sutherland who brought them off island for the training. He noted that each officer would need a rifle for the training and that is why he gave two to Sutherland. He gave the rifles to Sutherland on a weekend shift prior to their training and he (Sutherland) returned both rifles to the island at the conclusion of the training. Sergeant Cassidy stated that he attended the rifle training as an observer and watched the two officers do their training in the Yarmouth area during the week of April 19, 2019.

During our conversation I asked Sergeant Cassidy if there was a possibility that another sergeant could have issued the patrol rifle to Maliff. He stated he was unsure but stated there had been an occasion when he observed a shotgun or patrol rifle in the closet he shares with Sergeant Marchand in the sergeant's administration office. He couldn't say with certainty the timeframe he made this observation. He stated that prior to COVID he kept his belongings in the locker room on the lower level of the building. Sometime during the early time of COVID he brought his belongings upstairs and began to utilize the closet in the sergeant's office. It was his memory that it was sometime during this timeframe that he observed either a shotgun or patrol rifle in the closet.

Later in the day on December 20, 2021 Sergeant Cassidy looked at the Bushmaster M4 patrol rifle that had been recovered in the training room on December 16, 2021. He stated he was certain that neither Burchill nor Sutherland had been issued this weapon for their academy training in April 2021. He stated the rifles that

were issued to them had a different front stock and lighting system than the Bushmaster M4. He stated he inspected both weapons prior to them being issued and he has a clear memory of them coming back to the department after the training.

On Tuesday, December 21, 2021 at approximately 1:00 PM I spoke to retired **Lieutenant Timothy Williamson** via Zoom. The purpose of this call was ask what the past practice of issuing firearms to new officers for recruit training would have been. He stated that it would normally have been Sergeant Cassidy who would issue the rifles as he is the departments firearms instructor.

I asked if there was a possibility that he (Williamson) had issued the patrol rifle to Officer Maliff for his academy training. Lieutenant Williamson stated he has no memory of ever issuing a patrol rifle to Maliff for training. He insisted that if he had done so he would have made an entry into the firearms journal. I informed him that Maliff has indicated that he had the patrol rifle off island from the time he qualified at the range (July 2019) until he returned to the island in September 2019. Lieutenant Williamson was adamant he would not have allowed the rifle to remain with Maliff for that length of time had he been involved with the issuance of the rifle for training. He added that had the rifle been returned uncleaned following the training, Maliff would have been directed to immediately clean the weapon.

On Wednesday, December 29, 2021 at 2:30 PM I spoke to **Sergeant Nick Currelli** via Zoom call. During the call I asked Sergeant Currelli if he had issued the Bushmaster M4 patrol rifle to Officer Maliff when he attended the academy in July 2020. Sergeant Currelli stated he did not issue the patrol rifle to Officer Maliff and he is not aware of who issued it to him.

During the interview I asked Sergeant Currelli if he had checked the training room on the lower level of the police station when the patrol rifle was first found to be missing in October 2021. He acknowledged that he had checked the room. I also asked if he ever observed a shotgun or patrol rifle in left front closet in the sergeant's administrative office. He stated that he shares the other closet in the sergeant's office (to the right when facing the main hallway) with Sergeant Conley and has never been in the closet shared by Marchand and Cassidy.

On Wednesday, December 29, 2021 at 2:30 PM I spoke to **Sergeant Steve Conley** via Zoom call. During the call I asked Sergeant Conley if he had issued the Bushmaster M4 patrol rifle to Officer Maliff when he attended the academy in July 2019. Sergeant Conley was certain he did not issue the patrol rifle stating "*that's not my purview*". He also stated he is not aware of who issued it to Maliff for his training.

During the interview we reviewed the content of Officer Harlow's memorandum to the chief when the rifle was discovered in the lower-level training room. Sergeant Conley acknowledged that everything reported by Harlow was accurate. He also stated that during the TRT training date of August 5, 2021 he and other officers moved newly

purchased SWAT vests from the training room to “storage 2” on the lower level and he was sure the patrol rifle was not in the room on that date.

I next asked Sergeant Conley if he ever observed a shotgun or patrol rifle in left front closet in the sergeant’s administrative office. He stated “no” to this question and continued that he shares the other closet in the sergeant’s office (to the right when facing the main hallway) with Sergeant Curelli and has never been in the closet shared by Marchand and Cassidy.

Interview of Mr. Michael Maliff Sr.

On Wednesday, December 22, 2021 at approximately 2:00 PM I went to the home of **Mr. Michael Maliff Sr.** which is located at [REDACTED] in Whitman. Upon arrival I spoke to a lady who was sitting in a Chevy Equinox in the driveway. I introduced myself and informed her I was an investigator working for the Oak Bluffs Police Department. I asked if she was Mrs. Maliff and she stated she was not and did not offer her name. I asked if Mr. Maliff was home and available to speak with me. She stated he was at work and usually arrives home after 4:00 PM. I informed the lady I would return after 4:00 PM and she informed me she would call him to ensure he came home directly from work.

On December 22, 2021 at approximately 4:15 PM I returned to [REDACTED] in Whitman. I knocked on the side door of the house and after a few moments a man exited the detached garage which is situated to the right of the house. I introduced myself by name, explained the purpose of my visit and asked if he was Mr. Maliff. He acknowledged he was Mr. Maliff and we greeted each other with a handshake. He invited me into the house and I asked if he would prefer I wear a mask for COVID safety reasons. Mr. Maliff was not wearing a mask and stated it was alright that I enter the house without wearing a mask.

When we got inside he invited me to sit down at the kitchen table. Once inside I explained that I had been hired by the town of Oak Bluffs to investigate a missing patrol rifle from the police department. I explained that I had spoken to his son earlier in the week and that I’d like to verify a few things with him based on what I learned from his son. I explained that Officer Maliff informed me he had been issued a patrol rifle during the summer of 2019 for his recruit firearms training and that he had stayed with his family in Whitman while he attended the police academy. Mr. Maliff confirmed that his son did stay with him at his home during the entirety of his police recruit training during 2019. He also confirmed that he had kept a patrol rifle in a gun safe in the house during the firearms portion of the recruit training.

I explained the importance of establishing a timeline for when the patrol rifle had been kept at his home. Mr. Maliff stated he remembered at least a couple of occasions when Officer Maliff brought the patrol rifle, inside a case, into the house and put it in the gun safe. He couldn’t say with certainty but believed the timeframe was toward the end of the academy training which would have been during July or August of 2019. I asked

when was the last time he had been in his gun safe and if he had observed a patrol rifle case in the safe. Mr. Maliff stated that he has a license to carry but no longer fires weapons. He stated it has been a very long time since he's been inside his gun safe and couldn't remember ever seeing a patrol rifle case inside the safe.

As we discussed his gun safe he asked if I'd like to see it. I accepted his offer to see the safe and he led me into the living room. The safe was situated in the corner of the room. It is a free standing safe which is approximately five feet in height. It is my opinion that the safe is large enough to have secured a patrol rifle and case inside. Mr. Maliff did not open the safe nor did I ask him to. I asked if Officer Maliff would have had access to the safe and he acknowledged there is a key to the safe inside the house which his son could use to enter the safe.

During our conversation as I explained the importance of the matter he stated "*I hope he isn't in trouble*". I again conveyed the importance of establishing the timeline of how long the patrol rifle had been in the safe at his home. I asked specifically if there was a possibility that the patrol rifle had been in his house for a period of time long past 2019. He answered that he only remembers the rifle being in his house when his son attended the training academy. During our conversation I asked when he last spoke to his son and he stated they had spoken that day. I asked if there was any mention by his son of him recently bringing the patrol rifle into the police station and placing it in an area in the lower level of the station. Mr. Maliff replied that his son had **not** told him anything about returning the rifle to the station and assured me "*I'd tell you if he did*".

My visit to the Maliff home was approximately fifteen (15) minutes in duration. It should be noted that Mr. Maliff and I are approximately the same age and that the content of our entire conversation was cordial. When I left the house he offered me his cell phone number and stated I could call him with any follow up questions. As I was leaving we again shook hands and offered each other holiday pleasantries.

Approximately ten (10) minutes later I called Mr. Maliff's cell phone to ask a follow up question. I asked when the last time his son was home for a visit. He gave my question some thought and then informed me he had been home for a visit at Thanksgiving. I asked if he had driven his own car or if someone had picked him up at the Steamship Authority in Falmouth. Mr. Maliff stated that his son drove his own car for the Thanksgiving visit and that was the last time he had been home.

Conclusions:

I have carefully reviewed and considered all the available documentation and information I received regarding the discovery of the Bushmaster Model XM15-E2S M-4 patrol rifle (Serial #L470289) in the lower-level training room of the police department on December 16, 2021. I've also considered the statements made by Retired Lieutenant Timothy Williamson, Sergeants Michael Marchand, Nick Curelli, Steve Conley, Daniel Cassidy, Officer Michael Maliff and Mr. Michael Maliff Sr.

Unfortunately, the answers to the questions surrounding how the patrol rifle arrived in the lower-level training room of the police department, by whom it was placed there and at what time it was placed there are all **UNDETERMINED**.

The investigation has established more questions than answers and unfortunately the new questions have not been answered. The new questions that have **not** been answered include;

- Who issued Officer Maliff the Bushmaster M4 patrol rifle for his academy training in 2019?
- On what specific date was Maliff issued the rifle for training and how did he specifically get the rifle off Martha's Vineyard?
- Exactly how long was the patrol rifle secured at the home of Maliff's family in Whitman?
- How and exactly when did Maliff return the rifle to the island?
- When and to whom did Maliff return the rifle to at the police department?
- Was the "Master Weapons List" (dated April 22, 2020) which was submitted to accreditation accessors during an accreditation site visit in November 2020 accurate or not?

Analysis: During December of 2021 I interviewed Lieutenant Timothy Williamson, Sergeants Daniel Cassidy, Nick Curelli, Steve Conley and Michael Marchand regarding the issuance and return of the patrol rifle.

Sergeants Curelli, Conley and Marchand have adamantly stated that they did **not** issue the patrol rifle to Officer Maliff for his academy training in 2019. Sergeant Cassidy stated that he has no memory of issuing the rifle to Maliff. He does however have a very clear memory of issuing two (2) patrol rifles for the academy training of Officers Burchill and Sutherland in 2021. Sergeant Cassidy also has a clear memory of the two patrol rifles being returned when Burchill and Sutherland concluded the firearms portion of their training at the police academy.

Lieutenant Williamson stated that he did **not** issue the patrol rifle to Officer Maliff for his academy training during 2019. He asserted that if it was him that issued the rifle he would have made an entry in the firearms journal reflecting that the rifle had been issued to Maliff. He added that had he issued the rifle it would have been immediately returned by Maliff to the department after he completed his firearms training. It would **not** have remained with Maliff until the conclusion of his police academy training and graduation.

In his written statement to Chief Blake on December 16, 2021, Maliff wrote *"I believe the gun was issued by Sergeant Cassidy but I am not 100% positive"*. The memorandum continued *"Once done with firearms training I returned the rifle*

to the island on an unknown date. I returned the gun on my first trip back to the island after the training". He stated during his December 20, 2020 interview that the rifle was secured in a gun safe at his family's home in Whitman from the time it was issued to him (unknown date) until it was returned to the island on his first trip back following academy graduation.

Officer Maliff has described the circumstances when he returned the rifle to Sergeant Marchand in the sergeant's office on an unknown date. Sergeant Marchand stated during his interview on December 20, 2021 that he is **100% certain** that Officer Maliff did **not** return the rifle to him as it has been described by Officer Maliff.

During the investigation I visited the home of Mr. Michael Maliff Sr. in Whitman. Mr. Maliff showed me a gun safe in his home which is large enough to store the patrol rifle and case. Mr. Maliff informed me that his son (Officer Maliff) secured the rifle in his gun safe while he was attending academy training. Mr. Maliff could not say with certainty the last time he saw the rifle at his home but only remembers seeing it there during the timeframe of the academy training.

During his first interview (December 20, 2021), Officer Maliff denied placing the Bushmaster M4 patrol rifle in the lower-level training room at anytime. He also stated he has no knowledge of how the rifle was put there. During his second interview (January 6, 2022) I asked him specifically if the rifle remained in the safe at his parent's house in Whitman past September 2019. To this question he answered "no". I also asked specifically if he had brought the rifle back to Martha's Vineyard following a Thanksgiving (2021) visit to his parent's home in Whitman and he answered "no".

Recommendations:

As written in my report dated November 18, 2021 the patrol rifle was issued to Sergeant Michael Marchand on December 3, 2016. He is the officer who is/was responsible to *"take a reasonable precaution to insure that weapons issued to them are protected from loss, misuse, or theft"*. (Oak Bluffs Police Department General Order #2002-0153, Use of Deadly Force, Section 4, Security and Maintenance of Firearms). Following the second part of this investigation my conclusions and recommendations remain the same. It is Sergeant Marchand who is/was responsible for the rifle.

It is my recommendation that this case be closed pending any new information that would merit further investigation.

Respectfully Submitted,

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