

**ATTORNEY GENERAL'S REPORT OF JENNIFER POSTERARO'S  
ALLEGATIONS AGAINST WEARE CHIEF OF POLICE JOHN  
VELLECA AND HIS CONDUCT AFTER THE FACT**

**October 16, 2014**

**I. INTRODUCTION**

On September 15, 2014, the 6<sup>th</sup> Circuit – Family Division – Hillsboro issued a Domestic Violence Temporary Order of Protection prohibiting Weare Police Chief John Velleca from having any contact with his executive assistant, Jennifer Posteraro. In her sworn petition in support of the protective order, Posteraro alleged that Velleca “has physically assaulted me, come to my home uninvited, and otherwise threatened me.” Posteraro wrote that on September 11, 2014, Velleca appeared at her residence in Hillsboro and took her work issued cell phone. Posteraro followed Velleca outside and “he pushed me away causing me to fall to the ground. I got up and he pushed me again as he opened the car door causing me to fall a second time.”<sup>1</sup>

The Attorney General’s office investigated Posteraro’s allegation. The investigation revealed that Posteraro reluctantly gave her cell phone to the Hillsboro Police on September 11<sup>th</sup> when the police went to her home. Posteraro was reluctant because she maintained that the cell phone contained “evidence.” After consulting with the Hillsborough County Attorney’s Office, the Hillsboro Police Department relinquished the phone to a Weare police officer. It was learned that the next day, Velleca took Posteraro’s cell phone, to an Apple store and had the memory “wiped” by restoring it to the original factory settings.

Posteraro’s allegations against Velleca and his later conduct with her cell phone, could give rise to two potential criminal charges: Simple Assault and Falsifying Physical Evidence. After an investigation, consisting of interviews with the relevant witnesses, reviews of text messages, e-mails, voice mails, and photographs and gathering documents from the Weare and Hillsboro Police Departments, there is insufficient evidence to support a charge for either offense. A discussion of the gathered facts and potential charges follows.

**II. INVESTIGATION**

**A. Jennifer Posteraro Interview**

Jennifer Posteraro was interviewed by Investigators Tracy and Vachon. She was present with counsel. Posteraro indicated that on the afternoon of September 11, 2014, while she was on leave from the Weare Police Department, she informed Velleca’s wife that she had a brief affair with him. Shortly thereafter, Velleca came to her house

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<sup>1</sup> In her sworn petition in support of the Domestic Violence Protective Order, Posteraro also alleged that on or about July 24, 2014, Velleca physically restrained her when she attempted to leave his apartment.

screaming about her contact with his wife and demanding the return of her department issued cell phone.

Despite her protestations, Velleca took the cell phone out of her hand and turned around and went outside to the driveway. Posteraro said that she chased Velleca outside and as he was getting into his car and reaching for his door, he “shoved into” her and she fell to her knee on the ground. Posteraro got up and she reported that she “got shoved a little bit again” and went back to the ground. After getting up the second time, Velleca gave the phone back to her and Velleca left. When questioned by investigators about the nature of the physical contact, Posteraro made clear that it “wasn’t like...he threw me to the ground” and even acknowledged that Velleca did not push her with his hands and that she did not think Velleca intentionally pushed her to the ground.<sup>2</sup> She explained that it happened as Velleca was getting into his car.

Later, members of the Hillsboro Police responded to her residence (on behalf of the Weare Police) seeking her cell phone. Posteraro was initially reluctant to turn over the phone because it had “evidence” on it. In her interview, Posteraro explained that as far as she knew the phone did not have evidence of a crime on it, but rather evidence of her relationship with Velleca. She eventually gave up the phone to the Hillsboro Police and when asked, she declined to report any criminal activity but alluded to being pushed to the ground by Velleca. In discussing the phone, Posteraro told investigators that she had a habit of routinely backing up her cell phone, an Apple, which saved pertinent data including emails and text messages.

On September 13, 2014, Velleca returned to her residence. Posteraro immediately called 911. Shortly thereafter, she reported the allegation of assault on September 11<sup>th</sup> and indicated that she wanted to start the process of obtaining an emergency Domestic Violence Protective Order against Velleca. Posteraro spoke with Captain Ian Donovan of the Hillsboro Police Department who told her that he just spoke to Velleca and Velleca had denied having an intimate relationship with her.<sup>3</sup>

## **B. Weare Police Chief John Velleca Interview**

John Velleca was interviewed by Investigators Vachon and Tracy. Velleca was present with counsel. Velleca indicated that Posteraro was the Executive Assistant to the Office of the Police Chief, which gave her access to confidential information, and access to his email and files.

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<sup>2</sup> In comparison, investigators obtained text messages sent from Posteraro on September 11, 2014, in which Posteraro wrote to others that she had been “chased, thrown to the ground and had her phone taken.” In another, she said that “John just knocked me to the ground a few times and took my phone have it back but of (sic) something happens to me John Velleca did it” and that “he tossed me around.”

<sup>3</sup> Investigators spoke with Captain Donovan who reported that he asked Velleca if he was in a relationship with Posteraro and Velleca responded “absolutely not.” Additionally, Donovan reported that after he told Velleca about Posteraro’s desire to obtain an emergency Domestic Violence Protective Order, Velleca became upset and demanded to know how Posteraro could apply for one if they were not in a relationship.

Velleca acknowledged that around the last week of July 2014, he engaged in a “brief” affair with Posteraro. Shortly thereafter, Velleca told her that he was not her boyfriend.

Velleca reported that a few days before September 11, 2014, Posteraro made it clear to Velleca that she believed that he was “setting her up” for termination.<sup>4</sup> During the discussion, Velleca reported that Posteraro said in substance that there was no way that he could fire her because she could make an allegation against him which would be credible.

Velleca told investigators that on the afternoon of September 11, 2014, he received a phone call from his wife indicating that Posteraro had just told his wife that Posteraro had an affair with him. Velleca reported that given Posteraro’s conduct, he was concerned that Posteraro would try to “sabotage” his professional life and share confidential information via her cell phone. Additionally, Velleca was aware that Posteraro’s best friend’s husband was an attorney that worked for a law firm that was representing multiple plaintiffs in civil lawsuits against the Weare Police Department.

Velleca told investigators that he went to Posteraro’s residence and asked for her cell phone and other property. He said that he grabbed the phone off the table and turned and walked outside. Posteraro followed him outside and could barely walk. Velleca believed she was impaired. Velleca reported that she was not wearing shoes and that the grass on the hill was wet. According to Velleca, as he was getting into his car, Posteraro tried to grab the phone from him and fell to the ground, got back up and fell again.<sup>5</sup> When Posteraro attempted to grab the phone, she scratched Velleca’s finger.<sup>6</sup> After getting back up the second time, he gave Posteraro the phone after she grabbed for his tactical bag, which contained his gun. When questioned by investigators, Velleca adamantly denied that he assaulted Posteraro.<sup>7</sup>

Velleca told investigators that he was aware of Posteraro’s practice of routinely backing her cell phone up to the “cloud” which saved her data and files. Velleca admitted that on September 12, 2014, he took the phone, which at the time had been released by other officers and returned to the Weare Police Department, to the Apple Store in Nashua in an effort to bypass the passcode. Velleca reported that he wanted to see if Posteraro had sent any confidential information to her friend or whether there was anything criminal in nature on the phone. Velleca reported that Apple was not able to bypass the passcode, but since Velleca was the administrator on the phone he asked that it

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<sup>4</sup> Posteraro has a pending civil suit against her former employer, in which she seeks damages related to allegations that she was discriminated against on the basis of her mental health, and subject to sexual harassment and a hostile work environment.

<sup>5</sup> Investigators also spoke to other members of the Weare Police Department who spoke to Velleca on September 11, 2014. They reported that Velleca told them that he went to Posteraro’s house to retrieve her cell-phone and that Posteraro tripped and fell when she was trying to take the phone from him.

<sup>6</sup> Velleca and his counsel provided investigators with a photograph of the scratch on his finger.

<sup>7</sup> Velleca also adamantly denied that he physically restrained Posteraro from leaving his apartment in July 2014 as she alleged in her sworn petition.

be restored to its original factory settings and the memory “wiped.”<sup>8</sup> Velleca said that he had the phone “wiped” because he intended to give the phone to an officer that he was planning on promoting to Detective the following Monday.

Velleca told investigators that he did not think that Posteraro’s cell phone constituted “evidence” because although the phone was in an evidence bag, the bag was marked “other”, “return to Weare PD” and “for safekeeping.” Moreover, the Hillsboro Police released the phone which practice would not occur if it had in fact been evidence of criminal activity.

Velleca said that on September 13, 2014, he went back to Posteraro’s house to check on the house for the homeowner. The homeowner was a friend of Velleca’s wife. He said as soon as he got to the porch he saw Posteraro pick up a phone and he assumed that she was calling the Hillsboro Police. Velleca went down the road and pulled over to wait for the Hillsboro Police to respond. There, he met with Captain Donovan of the Hillsboro Police. Donovan relayed to him that Posteraro was going to be applying for an Emergency Domestic Violence Protective Order and made an allegation that Velleca had assaulted her. Velleca denied his relationship with Posteraro to Donovan after being informed that Posteraro said in substance that they were involved.

Additionally, Velleca and his counsel provided investigators with voice mails and emails from Posteraro dating from August 2014 until the time of the incident. In one voicemail, Posteraro told Velleca that “you need to go...leave New Hampshire” and in another, she told him that “we both know that I hold all the cards here.”

### **III. LEGAL ANALYSIS**

#### **A. Simple Assault**

RSA 631:2-a (Simple Assault) provides in pertinent part that a person is guilty of simple assault if he “purposely or knowingly caused bodily injury or physical contact to another.” A person acts “purposely” with respect to a material element of an offense when his conscious object is to cause the result or engage in the conduct that comprises the element. (RSA 626:2, II(a)). A person acts “knowingly” with respect to conduct or to a circumstance that is a material element of an offense when he is aware that his conduct is of such nature or that such circumstances exist. (RSA 626:2, II(b).)

Based upon the facts and circumstances revealed during the investigation, there is insufficient evidence to support a charge of Simple Assault, primarily due to concerns surrounding Posteraro’s credibility. Most troubling are Posteraro’s inconsistent statements regarding the allegation of assault on September 11, 2014. In fact, Posteraro when questioned by this office stated, “You know, he just, kind of, like, shoved into me. It wasn’t, it wasn’t. Like, I don’t want it to be, like, he threw me to the ground.” Later, she explained that Velleca did not push her with his hands and that she did not think the

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<sup>8</sup> After an analysis of the cell phone in question, investigators were able to confirm that it was restored to its factory settings on September 12, 2014.

contact was intentional. Further, questions regarding Posteraro's credibility are compounded by her telephonic and electronic communications with Velleca leading up to the incident.

Similarly, there is insufficient evidence to support a charge for Simple Assault, or any other criminal charge, regarding Posteraro's allegation that Velleca physically restrained her when she attempted to leave his apartment on July 24, 2014. Additionally, in context, this conduct could be construed to have occurred during what began as a romantic interlude.

### **B. Falsifying Physical Evidence**

RSA 641:6 (Falsifying Physical Evidence) provides in pertinent part that "a person commits a class B felony if, believing that an official proceeding, or investigation is pending or about to be instituted, he alters, destroys, conceals or removes anything with a purpose to impair its verity or availability in such proceeding or investigation."

There is insufficient evidence to support a charge of Falsifying Physical Evidence. First, there is a lack of evidence to demonstrate that Velleca believed an investigation was pending or about to be instituted when he brought Posteraro's phone to the Apple store and had it "wiped." The investigation has determined that Velleca went to the Apple Store in Nashua on Friday, September 12, 2014. At that time, Posteraro had yet to report the allegation of assault to the Hillsboro Police or apply for an Emergency Protective Order. Therefore, there is a reasonable basis to support the notion that Velleca did not believe that an investigation was pending or about to be instituted at that time.

Lastly, Velleca explained that he was aware that Posteraro would routinely back up her phone, and the data and files on it, to the "cloud." This practice was corroborated by Posteraro. Therefore, this belief undermines Velleca's motive to destroy, conceal or remove files or data on the phone when he knew that they could be alternatively accessed via the "cloud."

## **IV. CONCLUSION**

Jennifer Posteraro made allegations of assault against Weare Chief of Police John Velleca to the Hillsboro Police and in her sworn Petition in support of a Domestic Violence Temporary Order. Investigators from the Attorney General's Office interviewed numerous witnesses and obtained relevant text messages, emails, voice mails and photographs. Based on this investigation, there is insufficient evidence to support a charge against Velleca for Simple Assault, namely due to concerns regarding Posteraro's credibility given her subsequent statements essentially denying that an assault took place on September 11<sup>th</sup>. These credibility concerns likewise weigh heavily against bringing a charge for Velleca's alleged conduct on July 24<sup>th</sup>.

Even though his motive may have been to conceal evidence of his affair with Posteraro, with respect to Velleca's actions surrounding the "wiping" of her cell phone, there is also insufficient evidence to support a charge of Falsifying Physical Evidence.

The evidence demonstrates that Velleca was not made aware of an assault allegation against him until after he had the phone restored to its original settings. Therefore, it is reasonable to conclude that Velleca did not believe that an investigation was forthcoming or pending when he had the phone reset. This is further supported by Velleca's knowledge that Posteraro routinely backed up her phone to the "cloud" so even if potential evidence was deleted off the phone it could be accessed by other means.

As in any criminal prosecution, the State would have to prove each element of a crime beyond a reasonable doubt. Given all of the facts and circumstances of this case, the State would not be able to sustain its burden for any criminal charge against Velleca based on Posteraro's allegations. However, given the inconsistencies in Velleca's responses to this office during this investigation in comparison to the statements of other witnesses, and his admitted denial of the affair to law enforcement officers, this office has significant concerns regarding Velleca's credibility. Accordingly, this office directs prosecutorial agencies to disclose this incident out of an abundance of caution and in compliance with ethical duties should Velleca be a witness in any further criminal case.