

**City of Newburyport  
Administrative  
Review**

**June 26, 2020 - Market Square Incident**

**Prepared by John G. Dristiliaris Consulting**

**August 30, 2020**

## **Table of Contents**

<b>Scope of Review</b>	<b>3</b>
<b>Introduction</b>	<b>4</b>
<b>Timeline of Events</b>	<b>5</b>
<b>Review Findings</b>	<b>6</b>
<b>Recommendations</b>	<b>10</b>
<b>Summary of Witness Interviews/Legend Key</b>	<b>11</b>
<b>Figures</b>	<b>18</b>
<b>Exhibits</b>	<b>21</b>

## **Scope of Review**

John G. Dristiliaris Consulting was contracted by the City Of Newburyport, Massachusetts to conduct an administrative review regarding the alleged actions of a Newburyport police officer prior to, and just after, an incident that occurred during a Black Lives Matter rally on the evening of June 26, 2020 in the Market Square area of Newburyport, Massachusetts. According to a newspaper report and witnesses, the police officer in question made an inappropriate remark regarding the police being “defunded” when a participant of the Black Lives Matter rally approached the officer looking for help for a person that was just assaulted. The allegation furthered implied a bias on behalf of the officer. This opinion was based on the officer’s alleged comment that resulted in a perceived delayed response time when responding to the victim and the scene of the assault.

This administrative review is not a criminal investigation but an in-depth overview. Any conclusions, findings, and recommendations are based solely on the opinion of the author after reviewing relevant reports, statements, and materials provided. Should a criminal investigation be considered based on the information in this review, that investigation would be conducted by others and they alone would be responsible for any findings. This review is not an examination of any individual or any group’s expressed opinion(s) or political ideology. This review focuses on allegations made against a Newburyport police officer in regard to his professionalism and response time to a particular incident. The department’s policies and procedures were also examined as they pertained to this incident. This review will include the interviewing of witnesses, the examining of witness statements, newspaper articles, police reports, and any police radio transmissions pertinent to this incident. Not all police personnel who may have been working on the date of this incident and who may have provided statements relating to this case were interviewed; all reports and submitted statements were reviewed. Any witness(es), if contact information was provided, were contacted or at least an attempt was made to contact them or their parent/guardian if the witness was a minor.

Should any new information surface that could possibly change the findings of this review, the City of Newburyport will decide on what, if any, further action to take. John G. Dristiliaris Consulting is not responsible for any new information related to this incident after the release of the administrative review. It is important to note that because of the sensitive nature of this incident and the fact that criminal charges are pending, in order to protect anyone who was identified as a victim, suspect or who is under the age of 18, those names/families will not be identified in the body of this review. Due to expressed concerns of retaliation, the identity of any witness(es) will not appear in the body of this review.

## **Introduction**

On July 1, 2020, John G. Dristiliaris Consulting was introduced to the Mayor of the City of Newburyport, Massachusetts by John Guilfoil Public Relations. A Zoom meeting was held on July 2, 2020 to discuss the report of an alleged incident that involved a Newburyport police officer's professionalism and response as it pertained to an incident that led to an arrest of an assaultive individual during a Black Lives Matter rally. The incident took place during the early evening in Market Square on June 26, 2020. Attending the Zoom meeting was Mayor Donna Holaday, Matt Coogan – Mayor's Chief of Staff, City Marshall Mark Murray – Newburyport Police Department and John G. Dristiliaris – John G. Dristiliaris Consulting.

According to Mayor Holaday an independent review of the incident was needed in order to help sift through what has been reported. The Mayor wanted the administrative review to look at the information or any misinformation that pertains to the facts of the incident as well as possibly recreating a timeline of events. Her concern is also whether or not any allegations made against the officer involved in the incident were true. While City Marshall Murray did conduct an initial investigation into the matter, the Mayor wanted to avoid the appearance of any bias. She believes an independent reviewer should look at the incident and then present the findings and offer any suggestions in regard to betterment as part of the review's conclusions. A request was made of City Marshall Murray by John Dristiliaris to provide any reports, recordings, and witness statements he may have up to this point that may be relative to the incident. Marshall Murray was able to immediately provide the requested material for review.

## **Timeline for Incident on 6/26/2020**

1. Officer Kevin Martin reports for the 4 p.m.-12 a.m. detail in Market Square.
2. Prior to 6:48 p.m. Officer Martin was contacted by Sgt. William Steeves to pick up the traffic cones in the Market Square area.
3. 6:48 p.m. Officer Martin sent a text message to Sgt. Steeves letting him know that he is about to pick up the traffic cones.
4. After 6:48 p.m. and before 6:50 p.m. a Black Lives Matter supporter is assaulted in the area (100-120 ft. away) of where Officer Martin was picking up traffic cones.
5. 6:50 p.m. (police radio time stamp) Officer Martin's attention is drawn to a noise/disturbance a distance away from where he was picking up traffic cones and calls dispatch via radio regarding an assault and battery in progress that he has identified. Officer Martin secures his police car and responds to the area.
6. 6:52 p.m. (police radio time stamp) suspect is placed in custody by Officer Martin and another officer.

<b>Time</b>	<b>Description of Event</b>
<b>1600 hrs.</b>	<b>Officers Martin reports for the 1600 hrs. to 2400 hrs. detail in Market Square.</b>
<b>&lt;1848 hrs.</b>	<b>Officer Martin was instructed Sgt before 1848 hrs. to pick up traffic cones in Market Square and let traffic flow normally.</b>
<b>1848 hrs.</b>	<b>Officer Martin notifies Sgt at 1848 hrs. that he is going to pick up cones and open the roadway to traffic.</b>
<b>&lt;1850 hrs.</b>	<b>BLM supporter is assaulted by a man in Market Square while holding a sign supporting BLM between 1848 hrs. and 1850 hrs.</b>
<b>1850 hrs.</b>	<b>Officer Martin hears a noise at 1850 hrs., looks, and sees what looks like a BLM supporter assaulting a man. Martin calls in the disturbance to dispatch, secures his police car, and responds to disturbance. Martin is video recorded with cell phone.</b>
<b>1852 hrs.</b>	<b>Suspect is placed under arrest by Officer Martin.</b>

>1852 hrs.	Martin is video recorded talking with Sgt. Steeves about the arrest.
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## Review Findings

An administrative review was conducted regarding allegations made by participants of a Black Lives Matter (BLM) rally against a Newburyport Police Officer (Officer Martin) on June 26, 2020. The allegations included:

1. An alleged inappropriate remark made by the officer towards an individual asking for assistance for a person that was assaulted and:
2. A Dereliction of Duty allegation saying that the officer witnessed an assault and battery against a BLM supporter and did not act in a timely manner.

Based on witness interviews, police reports and video and audio evidence this administrative review finds the following:

1. Officer making an inappropriate remark:

There is not enough evidence to determine that Officer Martin made an inappropriate remark towards a Black Lives Matter participant. The claim of hearing Officer Martin say, "If you want to defund the police so bad, why are you asking for my help?" made by witnesses 2, 3, and 4 (see summary of witnesses of page 11) cannot be substantiated based on their interviews alone. An abundance of anecdotal information does not automatically make it fact. There is no way to determine if these witnesses spoke to each other; where one relayed the story and the others accepted as factual. A video of Officer Martin was circulated showing him at the scene of where he was to have made the alleged remark, but any remark(s) does not exist on any part of that video. The video was said to have been started after the remark was made. What is heard on the video are disparaging remarks said to the officer as well as a reference of him previously saying something of "defunding" by one of the participants yelling insults at the officer. The officer denies making any remarks or saying anything to anyone. The officer's claim of not saying anything is supported by a witness (W1) who observed the situation approximately 40 ft. away from the officer and said they were close enough to the officer to hear W2 and others insulting the officer. W1 stated they would have heard any remark made by the officer if he said anything. W2 stated they were within 3-5 feet of Officer Martin when he allegedly made the "defunding" remark. W3 supported the claim of W2 but was at least 115-120 feet away and said they were able to hear Officer Martin make his alleged remark of "defunding" but was not sure what he said after that. W4 claims that they were closer than W2 was to the officer which would have placed them about 100 ft away. Without other video or audio available the review of this allegation is **INCONCLUSIVE** at this time against Officer Martin.

2. Dereliction of Duty: the officer witnessing and not responding in a timely manner to an assault and battery taking place.

Officer Martin and another officer (Falite) were assigned to Market Square for detail from 1600 hrs. to 2400 hrs. on June 26, 2020. The two officers were not positioned together. Officer Martin was positioned where Merrimack Street and Market Square merge. At some point, prior to 6:48 p.m., Officer Martin was instructed by his supervisor, Sgt. Steeves to pick up the traffic cones that Officer Martin was using to change the flow of traffic in Market Square at State Street. Based on the time stamp of a text message that Officer Martin had sent Sgt. Steeves, Officer Martin began picking up the traffic cones to open the road for traffic at or just after 6:48 p.m. A witness (W1) was able to corroborate this information and stated that they were watching Officer Martin start to pick up the traffic cones when they heard a loud noise and then saw a Black Lives Matter participant appear to be fighting and grabbing a person by the collar at the crosswalk on the other side of Market Square. (W1) stated that there was “no way the officer saw what happened. His back would have been to the incident because he was picking up cones.” Officer Martin’s police report reflects a similar account in the second paragraph of his arrest report. Officer Martin, upon hearing “something” turned to look and see what was happening. Officer Martin witnessed a man being assaulted by a Black Lives Matter rally participant and radioed in his observation to dispatch where other officers responded to the area. Officer Martin returned to his police cruiser to secure the vehicle which was open and unlocked. Some of the equipment inside the police car included a patrol rifle, medical equipment (AED), computer and a narcotic antagonist (NARCAN). Officer Martin, following department policy regarding securing his police vehicle (found on page 149 of the policy manual) secured his police car and immediately responded on foot to the area of the disturbance.

A timeline was recreated using the times that were presented on a YouTube video recording of Officer Martin, a text message from Officer Martin to Sgt. Steeves, and from police radio transmissions to determine Officer Martin’s response time to the assault and battery incident that occurred. The exact time of the assault is unknown but what is known is that the assault occurred sometime after 6:48 p.m. (the assault did not happen prior to the text) and before or at 6:50 p.m. When Officer Martin recognized there was a disturbance it was 6:50 p.m. That is when he radioed the disturbance into dispatch stating that a Black Lives Matter supporter was attacking a man. Officer Martin responded to the area after securing his police car. Once there he and other officers assessed the situation and determined that his initial observation of a Black Lives Matter participant assaulting a person was not accurate. The Black Lives Matter participant had been the victim of an assault (which Officer Martin did not observe) and what Officer Martin saw was the victim trying to control and apprehend the aggressor of the incident. Once on scene and understanding the circumstances of the disturbance, Officer Martin arrested the aggressor. It was determined based on the witness interviews that only one of the four witnesses were able to see what Officer Martin was

actually doing at the time the assault took place. Witness W2, W3, and W4 all stated they saw the victim get assaulted while W1 only heard a noise and then looked toward the area where the assault occurred. W1 stated they were watching Officer Martin picking up traffic cones when a loud noise was heard. It would be unlikely that W2, W3, and W4 would be able to watch Officer Martin and know what he was doing and watch the victim get assaulted at the same exact time from where they were standing. While some may consider Officer Martin's response to the incident based on the YouTube video as one of lack luster and indifference, others may see it as being handled methodically and with poise. As for the time it took to respond to the scene and make an arrest, the time of the custody (arrest) was 6:52 p.m. according to a radio transmission into dispatch by police at the scene. The total time elapsed starting from Officer Martin's initial radio transmission at 6:50 p.m. reporting a disturbance to the arrest of the suspect at 6:52 p.m. was 2 minutes or less. Based on the created timeline of the incident, the allegation of **Dereliction of Duty** by Officer Martin is **UNFOUNDED**.

An important point that needs to be addressed centers around the two cell phone videos that surfaced after the arrest was made in this incident. While at the scene, after the arrest was made, a cell phone video was introduced that presented a possible issue of concern regarding Officer Martin's credibility regarding what he had witnessed as it related to the assault and arrest of an individual. The content in the video challenges the officer's statement to what and when he saw the initial assault on the victim. The cell phone videos recorded a conversation between Officer Martin and Sgt. Steeves at the scene of the arrest after the suspect is in custody. The sergeant asks Officer Martin if he "witnessed" what happened. Officer Martin's response to that question was, "yes." Answering in the affirmative appears to go against what Officer Martin said in his police report. Upon listening to the video several times, the author of this report found that Officer Martin was telling the sergeant what had happened based on his observations and what others witnessed. While Officer Martin was telling the sergeant what happened, the sergeant cuts-off Officer Martin during his explanation to ask, "Did you witness it?" Officer Martin responded to the sergeant in the affirmative letting the sergeant know the events he witnessed. What needed clarification for this review was Officer Martin's statement to Sgt. Steeves when he said, "I saw the suspect walked right up to the victim and smacked her...as far as I can tell..." Officer Martin was asked about this statement during his interview. Officer Martin made it clear during his interview that he did not see the actual assault on the victim participating in the rally despite what he is heard saying on the video. Martin explained that his remarks to the sergeant were speaking in general terms and more about the totality of the entire incident. During a later interview with Sgt. Steeves, Sgt. Steeves said he understood Officer Martin's explanation of the incident as being told from a general, overall perspective and that Officer Martin told him that he did not see the initial assault that took place, only the victim's initial retaliatory actions. This is consistent with not only the original police radio call from Martin to dispatch about the disturbance and what Martin wrote in his arrest report narrative but what was observed by W1.

After hearing this explanation from both Sgt. Steeves and Officer Martin regarding the cell phone video recordings of their conversation, it is important to introduce the following point.



While on the surface, over hearing a conversation between two people, in this case Officer Martin and Sgt. Steeves, without having a contextual basis of understanding of the conversation or the question being asked could lead someone to misinterpret the discussion being had between the two parties. The conversation being heard could be interpreted one particular way when in fact, contextually, the conversation could have a totally different meaning between those involved and those listening to the discussion. This could be the case regarding the conversation that was overheard and recorded between Sgt. Steeves and Officer Martin. While this certainly does not change what is said or what is heard on the video, it must be considered.

## **RECOMMENDATIONS**

The following recommendations are suggested measures to help improve safety and security within the City of Newburyport as well as to build trust and transparency between the police and the community it serves.

1. Repair/replace the traffic cameras that currently exist and that are not functional on any traffic signal in the city: During this administrative review it was suggested by a witness that the traffic cameras be reviewed in order to observe the incident that had taken place on the evening of June 26 in Market Square. The cameras and their recordings, if operational, would have been ideal to help determine time frames as well as the actions of all involved as it related to this incident. Both sets of traffic lights in Market Square are currently equipped with non-operational cameras. The positioning and location of these cameras are ideal and should be in working order. According to the City Marshall, the cameras have not worked for some time. Working cameras are an essential security tool used for observation and deterrent.
2. Add additional security cameras that can be monitored 24/7 by the police in and around highly populated centers of city areas to include the business districts and any parking lot areas.
3. Equip the police officers with cruiser dashboard cameras and personal body cameras. This will help produce a clearer picture of what happened during an event and how it was handled. Cameras are also a tool to help develop a police officer's professionalism when engaging with the public. Cameras should also help reduce the amounts of allegations and complaints against officers along with any associated legal expenses that may be associated from these complaints and/or eventual law suits. Equally as important, these cameras could also be used to support any claim of police misconduct. This also helps in building trust between the police and the community.
4. Incorporate current and up-to-date sensitivity and cultural awareness trainings throughout the year and through yearly in-service training.
5. Continue to maintain and promote the state and national police accreditation practices to include goals and objectives and incorporate them into the day to day operation of the Newburyport Police Department, always treating it as a live document.

## **Summary of Witness Interviews and** **Legend Key for Review**

In chronological order based on interview during the review:

### **Legend Key**

Witness #1 (W1)	July 10 <sup>th</sup> and 25 <sup>th</sup> , 2020
Witness #2 (W2)	July 13 <sup>th</sup> , 2020
Victim	July 13 <sup>th</sup> , 2020
Witness #3 (W3)	July 14 <sup>th</sup> , 2020
Marshall Murray and Lt. Siemasko	July 15 <sup>th</sup> , 2020
Officer Martin	July 27 <sup>th</sup> , 2020
Sgt. Steeves	August 10 <sup>th</sup> , 2020
Witness #4 (W4)	August 14 <sup>th</sup> , 2020

### **Witness #1 (W1)**

On July 10 and on July 25, Witness 1 (W1) was interviewed in person about the incident that took place on June 26 and the written statement that W1 provided regarding that incident on June 26. *(It should be noted that W1 is a business owner in the city and is concerned, should they be identified, of retaliation to their business.)* W1 wanted to make a point by saying from their vantage point they were able to observe the entire area of the incident. *(see Exhibit #1)* W1 stated that they were able to see Officer Martin, where the Black Lives Matter rally was taking place, and the area where the assault took place. W1 said they also witnessed the verbal abuse that Officer Martin took by Black Lives Matter supporters that included Witness #2 who were running towards him. According to W1, just prior to the assault, Officer Martin had changed the position of his police car and pulled up in front of where W1 was sitting, which was in a chair on the sidewalk. As Officer Martin started to pick up the traffic cones that were blocking the road from traffic, a man in a yellow shirt walked briskly by both W1 and Officer Martin and crossed the street. The man appeared to be in a hurry. Officer Martin continued to pick up the cones to place them in his police car when all of a sudden there was a loud noise/sound coming from where the protesters were gathered. W1 stated they looked in the direction of the noise and saw a protester attacking the man in the yellow shirt in the street. W1 stated that it was the

same man that walked by both themselves and the officer just moments prior. W1 stated that it looked like one of the protesters was assaulting the man in the street. W1 said there appeared to be lot of people and confusion in that area. W1 stated that they found out after that it was the man in the yellow shirt that initiated the assault on the protester. W1 said there was no way that someone would have been able to see the man assault the protester unless you were right there to see it, it happened fast. W1 added that the amount of people and traffic that time of day and it being Friday evening and the sun being bright made it hard to see what was happening. W1 went on to say that it was busy and noisy. W1 was asked if they thought Officer Martin saw the assault happen. W1 stated "no way, he was picking up cones and his back was to the incident when it first happened. He only turned around when he heard the noise". W1 stated that the officer appeared to be looking to see what was happening when a couple of teenage girls approached the officer, yelling at him and screaming at him asking why he was not doing his job. W1 said that the girls were disrespectful towards the officer as the officer was looking in the direction of the noise to figure out what was going on. The officer then turned to his police car and rolled up the windows and locked the car and walked towards the disturbance.

W1 stated that after reading the newspaper's account of the incident they wanted to submit a witness statement. W1 was upset that what was reported in the newspaper story was not true and that the officer acted professional and did not make any statements to anyone regarding "defunding." W1 stated that the officer did not say anything to anyone and if he did, W1 said they would have been close enough to hear him say it. When asked how close W1 was to the officer, W1 stated about 25 ft. (Note: the actual measurement was 42 feet.) W1 said it would have been impossible for the officer to see what was happening. W1 said that the officer's back was to the incident and that he was picking up traffic cones.

#### Witness #2 (W2)

On July 13 Witness 2 (W2) was interviewed in person about the incident that took place on June 26. A prepared statement was presented by W2. W2 was asked what she had observed just prior to and after the assault on the victim. W2 stated that they saw a guy walk across the street and he started yelling towards the eventual assault victim (V). W2 stated the guy grabbed for the V's rally sign and kept yelling "Fuck you". W2 went on to say that V took a couple steps back while the guy was yelling in the face of V. After V backed up, he smacked V's face so hard that V's glasses flew off of V's face. W2 stated that the aggressor was then able to be apprehended by V and an unidentified bystander. W2 then said they went looking for help. W2 stated they noticed Officer Martin in the area. W2 said that Officer Martin was placing cones in his police car then had stopped and was watching the assault incident that was taking place. W2 ran over to Officer Martin and was about 3-5 ft away from Officer Martin. W2 stated their intent was to let Officer Martin know what was happening. W2 said it was at this time that they heard Officer Martin make the statement, "If you want to defund the police so bad, why are you asking for my help?" W2 said they were shocked at the officer's remark and that he was not willing to help the victim. W2 said that they started yelling at Officer Martin out of frustration for his lack of action and the fact that W2 was scared for V. W2 stated that Officer

Martin then turn away from the scene of the assault and returned to his police car and rolled up the windows. W2 said they left Officer Martin's location and returned to the area where V was holding the attacker with an unidentified person. W2 stated another officer arrived on scene and along with Officer Martin, who had now arrived in the area, placed the attacker under arrest. W2 stated she believed that Officer Martin had seen and heard the attack on V and did nothing until many minutes after the attack. W2 stated they experienced trauma on seeing the attack on V. During the interview with W2, W2 stated that there was a traffic camera on the traffic light that was close to where the assault took place and that the camera should have recorded the event. ([see exhibit #2](#))

### Victim (V)

On July 13, the victim (V) of the assault was interviewed in person about the June 26 incident in Market Square. V stated that it was about 6:45 p.m. and the Black Lives Matter rally was just about wrapping up. V stated that they were standing next to W2 and speaking to a friend (later identified in this review as Witness 3 (W3) when a man who V had never seen before came up to V and started yelling "Fuck You!" V yelled at the man and told him to get away several times. V started to back up and retreat towards the building that was behind them. V stated that the man struck V across the face with an open hand hitting the upper cheek and orbital area on V's face. The strike was hard enough to knock the prescription sunglasses off of V's face. V said that after being struck, the man turned and started to walk away. V said they responded by going after the man so that he would not get away. V said that they grabbed the man's shirt, yelling at him saying that it was not 'OK" to hit anybody. V said they let the man know that they intended to press charges against him. V said it was then that they asked W2 to go and get the police officer (Martin) who V stated was about 15-20 yards away. (Note: the actual measurement was 125 feet). V said they were surprised that the officer had not responded to the incident which was still going on. V continued on to say that the man was still trying to get away as they now were in a scuffle in the street near the sidewalk. V said they thought traffic must have stopped for them. V stated that they experienced facial pain from the man's facial strike and had skinned their knee and ripped their pants from scuffling with the man. V then said that an unidentified man appeared from out of the crowd and intervened, grabbing the man and escorting him to Vera Ristorante side of Market Square, holding him until the police arrived. V stated that a different police officer described as younger with short, dark, straight hair and without a mask came over to where the man was being held. V said that the officer said something about already knowing or seeing what had happened and he took over for the guy that was holding the man who assaulted V. V stated that it was Officer Martin who placed handcuffs on the man. According to V it was the other assisting officer who took V's information and called for an ambulance for V to be checked out. V said they declined treatment and a ride to the hospital when asked by the EMTs. V went on to share that W2 was extremely upset that V had been assaulted and that when W2 went over to Officer Martin looking for help, according to W2, Officer Martin made a remark about defunding the police to W2. V stated W2 tried to do the right thing but was shocked when the officer took his time by

rolling up his police car windows and failed to act when he saw the initial attack happen. V was asked why they thought the officer saw the attack as it happened. V stated that they have a video taken by a cell phone of Officer Martin telling another officer that he saw the attack. V was asked if they would share a copy of the video along with the contact information of anyone else they know who witnessed what had happened. V stated that they would send the video and the contact information. *(see exhibits #3 and #4)*

### Witness #3 (W3)

On July 14 Witness 3 (W3) was interviewed in person about the incident that happened during the Black Lives Matter rally that occurred on July 26. According to W3, on or around 6:00 p.m., W3 was standing next to V just prior to V getting assaulted. W3 stated that a man in a yellow shirt had crossed the street in front of them and walked toward V. W3 said the man started to swear at V and said, "Fuck You!". The man then went to grab the sign that V was holding, and V pulled away. The man then slapped V in the face and knocked V's glasses off of her face. W3 went on to say that V was able to grab the man by the collar and with the assistance of an unidentified man, was able to subdue the man. V then asked for someone to get the police. W3 stated that there was a police officer in view closer to State Street (Officer Martin). W3 stated that W2 and friends approached Officer Martin and asked for help. It was at this time that W3 heard Officer Martin state to W2, "You want to defund the police..." W3 stated they were not able to hear what else might have been said by the officer. W3 stated Officer Martin did not respond to the assault right away. W3 was able to show the location of where the assault took place in relationship to where Officer Martin was first located in relation to the assault. W3 stated that V and the unidentified man who helped subdue the assailant had crossed over to the other side of the road and that other police officers arrived on scene. W3 stated that it was not until the other two officers arrived on scene that Officer Martin got involved.

### Meeting with City Marshall

On July 15, a meeting was conducted in person with City Marshall Murray and Lt. Siemasko to give them an update on the status of the review and to get some clarification regarding the video that involved Officer Martin and his conversation with his supervisor, Sgt. Steeves, at the scene of the arrest on June 26. The video had been previously sent to City Marshall for review. After a brief meeting, A request was made to interview Officer Martin in order to get clarification regarding the conversation that he had with Sgt. Steeves that was caught on video just after the arrest as well as the events that led up to the arrest of the individual. City Marshall Murray stated that he would reach out to Officer Martin with the request.

### Officer Martin Interview

On July 27, Officer Martin was interviewed in person with his union representative, Officer Eric Andrukaitis, present. Prior to starting Officer Martin stated that he has no problem being interviewed but wanted to be clear that he was not waiving any rights he had pertaining to this incident. Officer Martin was asked what his shift was for that evening and to give a scene description of Market Square on the evening of June 26. Martin stated he was assigned along with Officer Falite to the Market Square detail from 4 p.m. to 12 a.m. Martin said the purpose of the detail was to monitor activity in the Market Square now that the restaurants were re-opening and outdoor seating was allowed. Both officers were assigned separate marked police cars. Officer Martin stated that the area was busy with foot and vehicle traffic as well as the Black Lives Matter rally that was taking place in the area of Market Square. Regarding his activity prior to the assault that took place against one of the rally participants, Officer Martin stated that he had just started to pick up traffic cones, as he was instructed to do, by his supervisor Sgt. Steeves. Officer Martin stated he had set up the traffic cones in an attempt to redirect traffic to help ease potential grid lock and congestion. The cones placed were located in the Square where the roads merge onto State Street. Officer Martin stated that he was instructed by Sgt. Steeves prior to 6:48 p.m. that he needed to pick up the traffic cones and let traffic flow. Officer Martin stated that he sent a text message to Sgt. Steeves letting him know that he was starting to pick up and remove the cones to allow traffic flow at 6:48 p.m. (*see exhibit #5*)

Officer Martin stated while starting to pick up the traffic cones to place in his police car he noticed a man in a yellow shirt out of the corner of his eye pass by him and cross the street. Officer Martin stated the man looked like he may have been late for something the way he was briskly walking. Martin went on to say that he did not think too much of the man considering many people were out that evening walking around. Martin said a short time after the man passed by him, he heard some kind of a louder noise. The noise came from a distance behind where he was picking up the traffic cones. Martin stated that he turned around and walked towards the steps of the Market Square platform area and was trying to look in the distance to see what the noise was and where it came from. Looking through the glare of the sun, traffic and people who were in the Market Square area, Officer Martin said he was able to see what looked like a Black Lives Matter participant attacking a man. Upon seeing this Officer Martin radioed in the disturbance to dispatch for assistance (6:50 p.m.)

Officer Martin went on to say that he was then approached by several people yelling at him as he was returning to secure his police car before responding to the area. Officer Martin stated that he needed to secure his police car because it had a patrol rifle, medical equipment, and a computer inside. Martin also said it is department policy to secure the vehicle when it is not attended. (*see exhibit #6*) Martin was asked if he engaged in any conversation with these individuals that were yelling at him. Martin stated he did not. He stated he was not really sure what they were saying. Martin said he was focused on what he had seen, calling into dispatch,

securing his police car, and then responding to the scene. After securing his police car Officer Martin said he responded to the area of the disturbance where other officers who had heard his original call to dispatch were responding. It was determined that the man who appeared to have been attacked was actually the man in the yellow shirt from earlier. Martin said that based on witness statements and the victim's statement, the man was determined to be the aggressor in the incident. Martin said according to witnesses and the victim, the man walked up to the victim, who was holding a rally sign supporting the Black Lives Matter movement, swore at the victim and attempted to grab the sign the victim was holding. The man then slapped the victim in the face. Martin said the man also appeared to be intoxicated. Officer Martin stated that the man was placed under arrest at 6:52 p.m.

Martin said that once the man was arrested, Sgt. Steeves arrived at the scene. Martin stated that he had a conversation with Sgt. Steeves regarding the arrest. (This conversation was captured in video by what appears to be two different cell phones.) Officer Martin was asked about the conversation he had with the sergeant that was in the video. In both videos, Sgt. Steeves, can be heard asking Officer Martin if he "witnessed" what happened. Officer Martin can be heard saying "yes". Martin went on to give the sergeant a descriptive narrative of what had happened and finishes his remarks to the sergeant by saying "as far as I can tell." Officer Martin was asked to clarify his statement to the sergeant during this interview seeing that his account to the sergeant differed from what was written in his police report. Officer Martin stated that his explanation to the sergeant was based on the "totality of the circumstances" of the incident and it was a general overview based on what was reported to him and other officers as well as what he was able to observe. Officer Martin stated that he did not witness the actual assault when it happened, he only heard it. Officer Martin reiterated that he was reporting what was told to him by witnesses as well as his own observations when informing the sergeant what had occurred. Officer Martin also stated that he again spoke with the sergeant at the police station, while in the report room, again to clarify that he did not witness the assault at the time it actually happened. When Officer Martin was asked about his response to the sergeant in the videos where he can be heard saying that he saw the incident, Martin again said he was speaking in general terms and he was talking about the totality of the situation and the entirety of the event.

#### Sgt. Steeves Interview

On August 10 Sgt. Steeves of the Newburyport Police Department was interviewed by phone. It was explained to the sergeant that some clarification was needed regarding his interaction with Officer Martin that was recorded on video after the arrest of the assaultive individual on June 26. Sgt. Steeves stated he remembered the conversation he had with Officer Martin about the arrest at the scene. Sgt. Steeves said that when he asked Martin at the scene if he "witnessed" the incident, Steeves said he was inquiring with Officer Martin whether or not Martin had probable cause for making the arrest. By using the term "witness" Sgt. Steeves said he was not referring to Officer Martin actually "seeing" the assault happen so much as asking Officer Martin whether or not there was a "right of arrest" for this particular incident. Sgt. Steeves stated there was probable cause for the arrest. Sgt. Steeves stated that he did not interpret



Officer Martin's account of what happened as literal when they were at the scene or that Martin was being deceitful in any way in regard to what had happened. Sgt. Steeves went on to say that further discussion about the incident took place at the police station, later in the evening. According to Sgt. Steeves, Officer Martin once again reiterated during their conversation that he did not see the initial assault which caused the disturbance. Officer Martin had told Sgt. Steeves that he wanted to be clear that his explanation of the incident and the arrest was based on the entirety of the event.

#### Witness #4 (W4)

On August 14, Witness 4 (W4) was interviewed by phone regarding their written statement and any observations they may have made during the evening of June 26, 2020 in Market Square. W4 stated that they had attended the Black Lives Matter rally that evening in Market Square. W4 stated that they were standing in the area of benches located in the square and across the street from where the victim was assaulted. (see figure 7) W4 stated they were standing between the first and second set of benches. W4 was asked if they were closer to the crosswalk and W4 answered "yes." W4 stated that as the rally was winding down, they saw the victim get assaulted by a man in a yellow shirt. W4 stated the man hit the victim in the face. W4 stated that they recognized the man in yellow shirt from other Black Lives Matter rallies that had been held in Market Square. W4 stated that the victim went after the man in the yellow shirt after being hit and the victim had their arm around the man's neck "in a headlock" trying to prevent him from getting away. W4 said another person stepped in to help the victim hold on to the man until the police arrived. W4 stated that it was at this time that they saw W2 run towards the officer (Officer Martin) who was picking up cones. W4 was asked where the officer was located at the time of the assault. W4 stated in the road. When asked if the officer was in the area of the triangle W4 stated "yes". W4 stated that when W2 asked the officer for help his response was, "you want to defund the police and you want my help?" W4 stated they were shocked to hear this from the officer. According to W4 this was when someone started recording the incident after the remark made by the officer. W4 was asked how close they thought W2 was to the officer when asking for his assistance. W4 stated that they were closer to the officer than the W2 was. W4 was asked in their opinion, from start to finish, how long did they think the incident lasted from the time the victim was assaulted to the time the incident ended. W4 stated maybe 20 minutes. W4 was asked if they had any questions and they stated 'no.'

## **Figures**



*Figure 1-Witness #1 View of Incident*



*Figure 2- Traffic Cameras Identified by Witness #2*

(External attachment)

*Figure 3- Officer/Sgt. YouTube Video (a)*

(External attachment)

*Figure 4 - Officer/Sgt. YouTube video (b)*

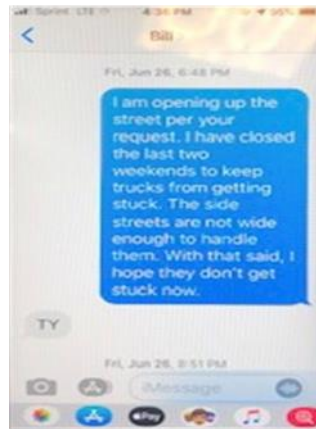


Figure 5- Officer Martin text to Sgt.

radio in line with FCC regulations and current departmental procedures.

15. Secure any vehicle, which is left unattended, and ensure that doors are locked and windows shut.

**RULE: Unattended Police Vehicles** – The operator of a department motor vehicle shall lock the ignition and remove the key when leaving the vehicle unattended and, except in an emergency he shall also lock the doors of such vehicle when it is unattended.

Figure 6- Newburyport Police Vehicle Policy



Figure 7 - Overview of the location of the witnesses

## Exhibits



*YouTube Video - Officer Martin*

(External attachment)

*Officer Martin's reporting a disturbance to dispatch*

(External attachment)

*Police radio transmission of person in custody*

(Other External attachments, including shift statements, witness statements, arrest report and victim statement)