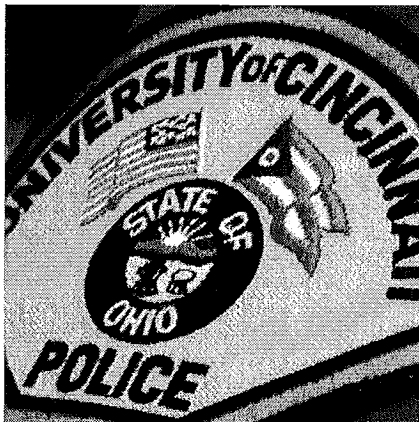


Report on Investigation of Alleged Misconduct by Chief of Police



Submitted to:
The University of Cincinnati
Office of Safety and Reform
November 20, 2017

EXIGER

Introduction and Executive Summary

The Assignment

As part of the Independent Monitorship currently being conducted by Exiger, and more specifically under the Technical Assistance provisions thereof, Exiger was, on October 24, 2017, requested by the University to investigate certain allegations of misconduct against the current UCPD Chief of Police, Anthony Carter. Specifically, Exiger was engaged to make findings of fact relative to the allegations. The adjudication of the allegations and the determination of any disciplinary consequences therefrom remains solely within the purview and discretion of the University.

Methodology

Upon receiving the assignment, the Monitor developed an investigative plan that included conducting a series of interviews during the week of October 30th, and reviewing relevant data including text and email messages and telephone call logs.

Interviews were conducted at the University of Cincinnati with the following individuals during the week of October 30th:

- Lt. David Brinker ("Brinker")
- James Whalen, Director of Public Safety ("Whalen")
- Det. Jennifer McMahon ("McMahon")
- Chief Anthony Carter ("Carter")
- Capt. Dudley Smith ("Smith")
- Husband ("Husband")¹
- Wife ("Wife")²
- Matthew Serra, Vice Provost for Academic Affairs ("Serra")

Additional interviews were conducted over the phone during the week of November 13th with the following individuals:

- Kenneth Petren, Dean of the College of Arts and Sciences ("Petren")
- Robert Probst, Dean of the College of Design, Architecture, Art, and Planning ("Probst")
- Lt. Timothy Barge ("Barge")

Also during the week of November 13th, follow up interviews were conducted over the phone with McMahon and Smith.

¹ For the purposes of this report we have anonymized the identities of the witnesses and subject involved in the police investigation.

² See footnote 1.

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Relevant emails were obtained, as was the data from Carter's cell phone including photos, text messages and call logs. The one email exchange between Carter and Wife was also obtained.³

Timeline Summary

A summary of significant events and correspondence is included as Appendix A hereto.

Summary of Facts

The allegations revolve around the actions of Carter regarding a specific case, which began with an alleged threat made by one faculty member, Husband, against another faculty member, Boyfriend ("Boyfriend")⁴. Husband made the threat upon discovering photos of Boyfriend in a sexual setting with Wife, Husband's estranged wife and fellow faculty member and co-worker at the university. When Husband reported his distress over the situation to Dean Probst, Husband threatened that if he saw Boyfriend on campus he would "kill him" for having an affair with Wife. Concerned about Husband's psychological and emotional health, Probst reported this conversation on September 1st, 2017 to Serra, the Vice Provost for Academic Affairs. Serra in turn reported the conversation to Whalen, the Director of Public Safety, who, because he was out sick as the result of a surgery, passed the matter on to Carter with instructions to follow up with Serra.

For reasons that are unclear, nothing was done relative to the threat until September 4th, Labor Day, when Carter, accompanied by Barge, traveled to the office space utilized by Husband and Wife. Neither Husband or Wife were in their office at the time of the visit, although Wife and Husband both remember seeing the two leaving the vicinity of the office as they were approaching it. Carter either assigned or instructed one of his subordinates to assign the matter directly to McMahon⁵ on September 5th, who on that day spoke to both Husband and Wife and attempted to contact Boyfriend. During the conversation with Husband, he admitted uttering the threatening words, but indicated that they were said in the heat of the moment and that he would never act on his feelings. Wife, in her conversation with McMahon, indicated that she did not have any sort of romantic relationship with Boyfriend, and that she did not believe that Husband was a threat to her or Boyfriend's safety. Shortly after the conversation, Wife, sent a text to McMahon indicating that she had not been totally truthful during their conversation. McMahon texted back to set up a second call, which did not occur. McMahon relayed this information to Carter, who noted that Wife's account didn't sound right and asked McMahon to speak with Wife again. Apart from needing to get back in touch with Wife, McMahon thought the matter was resolved.

³ All interview notes, recordings of all interviews and all other documentary evidence received, including a detailed timeline of milestones and relevant communications are being made available, as an adjunct to this report.

⁴ See footnote 1.

⁵ There are varying accounts of how the matter came to be assigned to Detective McMahon and the degree of knowledge that her immediate supervisors had of the assignment. While not completely resolved, it is clear that Detective McMahon was assigned the matter and was reporting directly to Carter.

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On September 6th, Carter was at an on-campus demonstration and counterdemonstration of the Westboro Baptist Church, which he attended in his official capacity, overseeing the police response to the demonstrations. It was during the demonstration that Carter first met Wife, who was there documenting the demonstration on video. While the meeting appears to be purely happenstance, Carter recognized Wife's name and asked for her to call him regarding the investigation. Later that evening, Carter wrote an email to Wife, asking her to call, to which Wife responded, asking if she could speak to McMahon instead. Notwithstanding the request from Wife, Carter instructed Wife to speak with him.

Beginning with that initial phone call, the ongoing conversation that ensued between Carter and Wife consisted of a dialogue of texts and calls that continued until October 12th, 2017, a total of 36 days. Over this time there were a total of 171 texts, and 11 calls that totaled over 3 hours and 20 minutes, including three separate occasions when Carter asked Wife to accompany him to a social event.

Until September 19th, when a student allegedly overheard Husband make a second threat of violence, there appeared to be no real investigative function that Carter was serving in his ongoing dialogue with Wife. Indeed, Carter indicated to Wife that the case was going to be closed on September 12th⁶. Wife characterized the conversations as "oddly personal" and indicated that the only reason she was answering the questions was because she was speaking with the Chief of Police, who seemed to be acting on behalf of the deans in trying to help Husband "get back on his A game."⁷ She reported her concerns to a friend, Samantha Krukowski ("Krukowski"), including the fact that during these conversations Carter had asked her out. Notwithstanding the fact that Krukowski told her to report Carter's behavior, Wife, did not make such a report and continued to communicate with Carter.

When, on September 19th, the student reported that he had overheard Husband make a threat, the relevant University administrators and Carter convened, and decided that Husband would be spoken to again, this time in person. In what was characterized as highly unusual by McMahon, Brinker, and Smith, Carter himself took part in the video-taped interview of Husband. During that interview, Husband denied making any such threat about Boyfriend on the second occasion. After the interview, Husband recounted the upsetting experience in a conversation with Wife, saying that he felt Carter had treated him harshly and unfairly during the interview. It was then that Wife revealed to Husband that Carter had been asking her out. The next morning Husband brought that fact to the attention of the administration, first to Probst, then to Petren, and ultimately to Serra. The information was corroborated by Wife, and on September 27th, notification was made to the Vice President of Safety and Reform, Robin Engel ("Engel"), in her role as the ultimate supervisor of Carter.

⁶ In an outgoing text message on September 12th to Wife, Carter indicated: "I think you'll be fine but I'm not the final decision maker. **We are closing ours unless there are threats or altercations.** I told UC we found no issues on your end. We did express safety concerns." [Emphasis Added]

⁷ See audio recording of interview with Wife at 19:52

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After some discussion among the administrators, the matter was referred to the Title IX office for review on advice of the General Counsel, but was determined by the Title IX Officer not to be a Title IX issue. It was then decided to have the matter investigated by an outside investigator.

On October 17th, Whalen notified Carter of the investigation and instructed him to not have any further contact with Wife.⁸ As noted above, it was ultimately determined that the investigation would be conducted by the Monitor under the Technical Assistance provision of the engagement. The assignment to the Monitor was finalized on October 24th.

Summary of Findings

While many of the facts of this matter are not in dispute, full resolution of the complaint depends on making conclusions drawn from those facts. In some cases, that means determining Carter's intent behind some of his actions. We note that Carter provided a long, detailed defense of his actions, claiming that they were not in any way meant to be predatory, but recognizing that they could be interpreted as such. In determining each of the facts and drawing relevant conclusions therefrom, including the determination of Carter's intent, we have employed a standard of proof of "preponderance of the evidence." That is, it is more likely than not that a particular fact occurred one way rather than another. Given our findings of facts and the reasonable conclusions drawn therefrom, we leave to the University the determination as to whether Carter has violated any policy of UCPD or the University and, if so, determining the appropriate disciplinary action.

In summary, we conclude the following:

- That Carter did not take the immediate steps necessary to determine if a credible, bona fide threat of physical harm to faculty or students really existed.
- That Carter unnecessarily and without precedent, injected himself into non-supervisory aspects of the investigation bypassing traditional command and control, heightening his participation only after meeting Wife face to face.
- That Carter unnecessarily and inappropriately maintained extended and extensive contact with Wife, well beyond any investigative imperative.
- That Carter, whether intentionally or unintentionally, led Wife to believe that he was acting on behalf of the University in assessing the professional standing of both her and Husband.
- That Carter unnecessarily put Wife in fear for her safety, whether intentionally or unintentionally, by overstating any danger to her.

⁸ In fact, all communication had already stopped almost one week previously after Wife had declined Carter's third social invitation and Carter asked the question: "Can I keep asking or would prefer/rather not," to which Wife responded, in essence, that she would prefer Carter no longer ask.

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- That Carter failed to officially document his interactions with Wife as would typically be required of an investigating officer dealing with a witness or complainant.
- That Carter failed to inform McMahon, his subordinate working on the case, of all of his contacts with the witness, notwithstanding that there was potentially relevant safety information contained in those conversations
- That on three separate occasions, Carter inappropriately asked Wife to attend a social activity with him. While Carter denied that any of these requests constituted a "date," irrespective of its characterization, the conduct constituted inappropriate interaction between Carter, acting as an investigating officer, and a vulnerable witness in the investigation he was conducting.

In sum, we find that while Carter may have been concerned about the overall well-being of Wife, he engaged in inappropriate conduct which was motivated, at least in part, by a desire to further his own personal interests rather than by a legitimate concern for the safety and security of Wife or other faculty or students, as called for in his role as Chief of Police. The most direct and significant evidence of this is that after Wife turned down his request for a date for the third time and indicated, in response to a question from Carter, that she wanted him to stop asking, Carter ceased communication with Wife, and never again communicated with her. Nor did Carter take any other steps relative to the investigation after October 10th. Taken together with the fact that over the entire course of the investigation Carter never aggressively pursued contacting Boyfriend to warn him of the threat against him, or, similarly, pursued staying in touch with Husband in an on-going effort to monitor his state of mind, leads to the conclusion that the threats were not his primary interest or concern, if any real concern at all.

Detailed Findings of Fact and Conclusions

Carter did not take the immediate steps necessary to determine if a credible, bona fide threat of physical harm to faculty or students really existed.

According to Serra, and corroborated by Probst, Petren, and Whalen, and as supported by Carter's phone records, Carter was apprised of the situation involving Husband, Wife, and Boyfriend on September 1st, 2017. Carter, however, stated in his interview with Exiger, after referring to his phone and his handwritten notes, that this occurred on September 2, 3 or 4 and then he repeated that it was on the 4th. Carter said he was informed that Husband threatened to kill or hurt Boyfriend, and his assignment was to ensure that Husband was not in a dangerous mental state, and that Boyfriend's personal safety was not at risk. Carter, for reasons that remain unexplained, first took action on September 4th, Labor Day, when he and Barge went to the office where Wife and Husband work. According to Barge, they knocked on the office door but no one appeared to be there so they left. Interestingly, Wife and Husband were approaching the office just as Carter and Barge were leaving. Each indicated that they saw an individual who they later realized was Carter with an unknown police officer in uniform at or near the entrance to the

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building in which their office was located, but had no idea as to why they were there. Carter omitted this detail from his account altogether.⁹ On September 5th, the day after the first attempt, Carter, apparently through Smith, assigned McMahon to the case and instructed her to contact Husband, Wife, and Boyfriend.

Carter thus waited three days after being assigned the case to make any effort to address the situation. If Carter believed that there was an actual safety threat or was unsure as to the seriousness of the threat based on the information that he was provided, then it was incumbent upon him to take immediate action in order to determine the threat level and to defuse any real threat that might exist. From the fact that Carter took no immediate action, we conclude that Carter did not believe there to be an imminent threat. In and of itself, we find this troubling, and believe that irrespective of Carter's gut evaluation of the information he was provided, immediate investigative action should have been taken by assigning the case to an appropriate investigative officer and taking appropriate investigative steps, even if simply to confirm Carter's instinct.

Carter unnecessarily and without precedent, injected himself into non-supervisory aspects of the investigation bypassing traditional command and control, heightening his participation only after meeting Wife face to face.

On September 6th, after meeting Wife at the Westboro Baptist Church demonstrations, Carter, interjected himself into an investigation, that had previously been assigned to McMahon. Indeed, through email at 2:14 PM on September 6th, Carter requested that Wife give him a call and provided his cell number indicating that he needed "to discuss a matter with [her]." Notwithstanding that, in reply to that email at 2:18 PM on that same day, Wife requested instead to speak with the "female detective who [she] spoke with [the night before]," Carter responded to her that she must call him and again provided his cell phone number. Immediately after speaking to Wife that evening over the phone, Carter sent her a text that read: "BTW, You fi [sic, should be 'do'] not need to call my investigator back unless you want to. And, I wish you all the best. If I can ever help, don't hesitate to contact me."¹⁰ During our investigation, we were unable to discern any legitimate investigative reason for this breach of protocol. First, McMahon had already spoken with Wife and established a rapport with her. Second, Wife specifically requested that she not speak with Carter, but instead speak with McMahon. At the very least, Carter's decision to ignore the wishes of a vulnerable witness to speak with an investigating officer of her own gender with whom she had established a rapport, shows extremely poor judgment. At most, it is indicative of a manipulative mindset that has historically been problematic in policing. Lastly, aside from the smallest of departments, it is highly irregular for the Chief of Police to become involved in the interviewing of witnesses in investigations. This is true for any number of reasons including maintaining appropriate supervisory control over investigations. In fact, Carter

⁹ He did potentially refer to the visit obliquely. See audio recording of the interview with Carter, (Carter 1) at 29:33, in which Carter says: "[Wife] and [Husband] both work in the same department; in fact if you go to their offices, you have one door here that says [Husband] you have one door here that says Wife. And I never went into the office, but from my understanding from talking to [Wife], it's one big office."

¹⁰ September 6th email exchange between Carter and Wife.

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bypassed three levels of supervisors in taking on the investigative role that he did. While Carter explained his reason for so doing as wanting to keep the matter as confidential as possible, we find the explanation hollow. Simply put, there was no legitimate reason for extraordinary confidentiality with respect to the investigation. Further, our interviews reveal that not only were Barge and McMahon involved before September 6th, but so too had Smith, Brinker and Captain Rodney Carter, been cognizant of the investigation.¹¹

Carter unnecessarily and inappropriately maintained extended and extensive contact with Wife, well beyond any investigative standards.

Carter's communication with Wife continued from September 6th to October 10th.¹² Most of this communication (whether it was related to Husband or explicitly social conversation,) served no legitimate investigative function relative to the matter at hand. Of particular note, at least from McMahon's point of view, she had, on September 5th, 2017, ascertained that there was no threat to either Boyfriend or Wife, and effectively closed the case at that point pending one additional conversation with Wife, who had sent a text message to McMahon that she had not been completely truthful during their phone conversation.

From the first time Wife spoke with Carter on the phone for over an hour on September 6th, she said that his questions were oddly personal,¹³ asking her about her relationship with Husband and their personal histories. While Carter did not acknowledge any inappropriately personal communication, he acknowledged that, "our conversations were more about how [Husband] had been, not what was going on,"¹⁴ further demonstrating the extraneous nature of his communication with Wife.

The extraction report from Carter's phone reveals a long exchange of text messages, many of which were purely social, and at times inherently flirtatious. For example, Carter's suggestive comments included: "Nice looking duo," and "you look like a coed," (referring to a picture of Wife and her sister)¹⁵; and "he had the company of a wonderful woman," (referring to the police officer assisting Wife after a car accident.)¹⁶ When Wife was driving back from Iowa on September 18th, Carter asked her, (in a context with no connection to Husband,) "Will you let me know you made it home safely...And call if you have any issue?"¹⁷

¹¹ Although there are somewhat conflicting accounts, we find that the case was assigned to McMahon with the knowledge of both Smith and Brinker, and that Brinker and McMahon had obtained photos of the three faculty members using Brinker's computer. McMahon said that after they obtained the photos, Chief Carter and Captain Carter entered Brinker's office and viewed the photos. McMahon indicated that either Chief Carter or Captain Carter made a comment that "she [Wife] was too hot for him [Husband]." McMahon indicated that she could not remember which of the two Carters had made the comment. (See audio recording of interview with McMahon at 26:00.)

¹² See Appendix A for a timeline summarizing all communications and significant events

¹³ See audio recording of interview with Wife at 7:25

¹⁴ See audio recording of interview with Carter (Carter 2) at 23:49

¹⁵ Excerpt from text exchange, beginning with an incoming message from Wife on September 18th at 12:06:49

¹⁶ Excerpt from text exchange, beginning with an incoming message from Wife on September 15th at 13:25:50

¹⁷ Outgoing message to Wife on September 18th at 16:19:40

In addition to these flirtatious comments, some of Carter's communication with Wife was inappropriately personal, and clearly outside the scope of the investigative work at hand, although related to Husband.¹⁸

Carter maintained that he personally engaged with Wife to such an extent because "if she feels comfortable with me, I don't want to close that line of communication."¹⁹ However, Carter's justification is at odds with Wife's narrative in which she indicated that she had felt more comfortable with McMahon,²⁰ and indicated throughout her interview that she kept responding to Carter because of fear of upsetting the Chief of Police.²¹ Wife's request to speak directly with McMahon calls into question Carter's proffered motivation for maintaining such extensive contact with Wife, as does the final communication (by text) between Carter and Wife which concludes on October 10th, approximately 19 days beyond the final resolution of the threat²²:

AC: How are you?

WIFE: I'm ok. Just constantly trying to keep up with work. Hope you are well!!

AC: I'm, like you, running like wild. Do you work late tomorrow. I have a playhouse ticket that's available

WIFE: Thank you for the offer but I'm heading to LA for a conference on Thursday so last minute scramble going on. Thanks for the thought, though!

AC: Ok. I told you if I ever had ticket(s) I'd let you know. Safe travels and have some fun.

AC: One more thing?

WIFE: Yes?

AC: Can I keep asking or would you prefer/rather I not

¹⁸ These questions had to do with Husband's alleged drug use and a question as to whether Husband purchased pornography on the dark web.

¹⁹ See audio recording of interview with Carter (Carter 1) at 19:26

²⁰ See email chain recounted in prior section.

²¹ See audio recording of interview with Wife at 17:25

²² The interview of Husband that occurred on September 21st was the last investigative step taken and from all available evidence seems to have resolved the matter.

WIFE: You're kind to ask that. I actually told [Boyfriend] a few weeks ago that I rather not hang out with anyone right now. I'm so busy that I'm still living in a house with just a mattress, barely able to keep up with the [Department] since [Husband] is pretty MIA with it all. I constantly feel like I'm drowning, so until I can get myself together (I don't even own a washer/dryer yet... good thing I own a lot of clothes!), and get to a place where I can get caught up, I don't think I should be doing anything else. Who I am deep down is a writer and it's breaking my heart that I don't have time to write, so until I can get my life in order and a routine established, I'm sorta "all hands on deck" about regaining some control over my life. That's thoughtful of you to ask that question, truly.

WIFE: Every time I go to LA there's an 50% chance I won't get back on the plane to Ohio, and the messier my life is here the higher that number goes. Especially since the Deans promised me a contract renewal in July and still haven't gotten me one.

AC: Ok. I only ask cause you say you don't get out or have things to do. I never want you to feel uncomfortable but I knew you liked the arts. If I have two I'll keep you on the list and you can find someone to go with. As for the contract, can you just ask them your status?

WIFE: Thank you, I appreciate that. It doesn't feel like it now, but that's why I need to regain control. Get some furniture and turn this into a little writing retreat. I still have movies and TV shows to sell, I am sure of that! Just gotta keep moving forward. Thank you for the kind words and for checking in on me.

AC: Well I won't bug but please call anytime you want...**no date but if you want to grab a bit (sic)** or drink or just vent, feel free. Your space and world are yours to do as you please. I've seen that smile and had the pleasure of a few conversations and you need to keep both going. Don't go Howard Hughes-ing on the world...it would be a shame. I wish you luck and much happiness. Go Hawkeyes (unless the are playing The Ohio State University!! [Emphasis Added])

WIFE: Ha to Howard Hughes. Very funny!!! My house doesn't have room for a secret swimming pool in the basement thankfully!!!²³

²³ Excerpt from text exchange, beginning with an outgoing message to Wife on October 10th at 09:53:34. The thread continued with a brief exchange late in the evening of the 11th and into the 12th: AC: You never know. Check your closets for hidden staircases. Have a great week, and safe travels. WIFE: Thanks, have a fun weekend and enjoy the Playhouse!!!!!! Carter follows up, apparently after going to the Playhouse: "Go see Mr. Joy!!!" to which Wife replies: "It was good?" AC: "One-woman show, several characters played and done well. You might see it differently." This was the last correspondence between the two.

Taken as a whole, and with specific reference to "...no date, but if you want to grab a bite...", this conversation indicates that Carter recognized that he had previously asked Wife out on "dates" and would stop doing so pursuant to her response to his question.

Of particular note is the fact that Carter never called or texted again, highlighting the fact that there was no on-going safety or investigative concern or issue requiring interaction.²⁴

Carter, whether intentionally or unintentionally, led Wife to believe that he was acting on behalf of the University in assessing the professional standing of both her and Husband.

According to Wife, Carter continually emphasized his involvement with the deans, and by implication, participation in decisions relative to the university's academic affairs.²⁵ This was upsetting for Wife, who said that she continued to communicate with Carter because she thought that he was speaking on behalf of the deans, and therefore felt that communicating with Carter was both safe and compulsory. For example, when Carter urged Wife to not see or correspond with Husband, she understood the request to be coming from the deans, not from Carter.²⁶

In a text message exchange spanning September 11th to September 12th, the following exchange takes place:

AC: Hi [Wife]. Just checking in on you.²⁷

WIFE: Thank you for checking in. Sorry, been at a funeral for a colleague's spouse all morning/afternoon. Nothing has really changed. Just still hoping my job/ new contract is not jeopardized by any of this. Hope you are well.

AC: Sorry for the loss. I think you'll be fine but I'm not the final decision maker. We are closing ours unless there are threats or altercations. I told UC we found no issues on your end. We did express safety concerns.

Rather than conveying to Wife that he is in *no* way involved in the status of her employment contract, Carter says "I'm not the final decision maker," implying that he did have some influence in the decision-making process. (Carter in the same conversation thread goes on to ask Wife to attend a Bengals football game with him upcoming that Thursday night.)

Wife said that Carter had contacted her on various occasions to discuss a meeting or upcoming meeting that he had with the deans. Wife recounted one such occasion: "I remember once was

²⁴ There was one additional call that was a "pocket dial" that occurred on the day of Carter's interview with Exiger on this matter as he was checking his texts in preparation for the interview. Carter immediately brought the call to our attention and indicated that it was an inadvertent call.

²⁵ See audio recording of interview with Wife at 11:07

²⁶ See audio recording of interview with Wife at 28:10

²⁷ Excerpt from text exchange, beginning with an outgoing message to Wife on September 11th at 21:48:02

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when I was in Chicago and he called and it was 'I have a meeting with the deans tomorrow,' and there were all these questions related to whether or not I could take over the [Department] if I had to."²⁸

Wife said that she doubted whether all the meetings that Carter called her to discuss, actually took place. It was not until Wife met in person with Petren to discuss the Department, that she suspected that Carter was not acting on behalf of the deans.²⁹

Carter in his conversations with Wife overstated any danger to her and, whether intentionally or unintentionally, put her in fear for her safety.

Carter's actions and communication with the deans and with Exiger during the investigation all indicated that he perceived Husband to be unstable, but not a serious threat to the safety of Wife or Boyfriend, as he did not take further action to warn Boyfriend or ensure his safety. However, in his communication with Wife, Carter continually warned her about Husband as a potential threat to her safety, urging her to cease all communication with Husband. On September 18th Carter sent a text to Wife that read:

AC: I think given his propensity for violence you have to tread lightly.³⁰

Days later Carter arranged for the Cincinnati Police Department to do standby when Wife needed to briefly visit Husband to pick up her dog. Carter's actions and communication regarding the threat to Wife's safety that Husband might pose simply does not square with the evidence of his actual belief. In fact, in Carter's interview with Exiger, in explaining his reasons for his communications with Wife as an effort to assess the threat he indicated:

I tried to do everything else to get her to give me the information that I needed to assess if [Husband] is a problem. And ultimately her discussion with me was, no she did not fear [Husband]. She feared him when she was living with him, but not anymore."³¹

Despite Carter maintaining regular contact with Wife for over a month, which he claimed was solely out of concern for Wife's personal safety with respect to Husband, Carter took no action to ensure the safety of Boyfriend, about whom Husband had made both the alleged threats.³² Clearly, had there been true concern about the threats being carried out, additional steps would have been taken to contact the target of those threats and, at the very least, advise the target of safety precautions to be followed.

²⁸ See audio recording of interview with Wife at 18:08

²⁹ See audio recording of interview with Wife at 20:18

³⁰ Outgoing message to Wife on September 18th at 16:13:40

³¹ See audio recording of interview with Carter (Carter 1) at 28:00

³² McMahon tried calling Boyfriend in early September, and while he never returned their calls, Carter never attempted to contact Boyfriend again, even after the second complaint, or inform him that an alleged second threat had been made.

During her interview, Wife was asked if she had ever indicated to Carter in some way that Husband caused her to feel unsafe. Wife said definitively that she had not, and emphasized that Carter had created the impression that perhaps there was something he knew about Husband that led him to act as if Husband was such an extreme danger:

I did not feel unsafe, up to the point where *he* [Carter] was making me feel unsafe. I was driving home from Chicago and finally I pulled off the side of the road with this wave of fear, and texted [Carter] and said 'is there something I don't know about? Is there some threat that I'm not aware of? Because the level of fear that you're inducing in me is so extreme and it's not lining up...' ³³

Wife's account, coupled with all the other evidence, indicates that Carter had either intentionally manipulated her to unnecessarily fear for her safety in order to benefit his own personal agenda, or that Carter had acted recklessly in his communication with her, failing to consider and appreciate the impact that he might have as an authority figure of Chief of Police.

Carter failed to officially document his interactions with Wife as would typically be required of an investigating officer dealing with a witness or complainant.

Simply put, Carter failed to document in any police report, any of his communication with Wife, with whom he communicated, by his account, purely within the context of an investigation. Carter had some notes in his possession during the interview, which apparently recounted some of the phone calls that took place between Carter and Wife, but never reduced those notes in any way into an official police report.

Carter failed to inform his subordinate working on the case, McMahon, of any of his contacts with the witness, notwithstanding that there was allegedly potentially relevant safety information contained in those conversations

After McMahon made the first attempt to contact the three faculty members, Carter did not provide any formal or informal reporting or information to McMahon, despite his constant communication with Wife. It was not until September 20th, when Carter asked McMahon to participate in the interview with Husband, that Carter made further contact with McMahon regarding the investigation. McMahon mentioned several times in her interview that she did not know the contents of Carter's conversations with Wife.

Moreover, Carter claimed that a main reason for his extensive communication with Wife was to gather information that may be useful for the investigation: "I was truly trying to get information to see can [she] give me more, is [Husband] a threat, because she alluded to, several times, that he might not be mentally stable. And so I did have a lot of follow-up, and I was trying to pull

³³ See audio recording of interview with Wife at 30:21

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information without being accusatory or trying to be overbearing; I tried to mix in levity, I tried to do everything else to get her to give me the information that I needed to assess: is [Husband] a problem.”³⁴

Irrespective of Carter’s genuine motivation for communicating with Wife to such an extent, he did gather information that would have, had there been an actual threat, served an investigative function. However, Carter failed to share any of that information with McMahon. Furthermore, as noted elsewhere in this report, after Carter’s cessation of contact with Wife, nothing relative to the state of danger that Husband presented was ever pursued.

Carter inappropriately invited a witness to three different social events on three different occasions, in what would be characterized as “dates”

During her interview, Wife recounted that Carter had first asked her out a day or two after their September 6th, 2017 conversation.³⁵ Carter invited Wife to accompany him to the Playhouse. Wife declined the offer, and recounted the incident to Boyfriend, (who was with Wife during her call with Carter) and to a friend, Samantha Krukowski, who both agreed that Carter’s behavior was concerning.

Then on September 12th, Carter sent a text message to Wife, extending to her another invitation:

AC: Are you up for the Bengals game Thursday? I got Tix today, unexpected, but I am a Bengals fan.

WIFE: That's super nice but I'm leaving for Chicago Thursday so I can take my nephews up Friday to Iowa. But have fun. Plus... Bears fan. I think they play in December so there's another rivalry!³⁶

On October 10th, 19 days after the in-person interview of Husband, Carter extended another invitation to Wife which is recounted above in full.

It should be noted that in his interview, Carter admitted to extending two out of the three invitations, the one on September 12th and the one on October 10th, which were the two invitations that Carter made over text. We credit the recollection of Wife as to the first invitation, apparently made by phone which is corroborated not only by the phone records, but by reference by Carter in a text to a prior conversation involving the playhouse:

AC: Ok. I told you if I ever had ticket(s) I'd let you know.³⁷

³⁴ See audio recording of interview with Carter (Carter 1) at 27:33

³⁵ While Wife wasn’t sure if it was through a phone call or text, there is no relevant text, but there was a call to Wife from Carter on September 8th, 2017 at 12:19 pm that lasted 13 minutes and 11 seconds.

³⁶ Excerpt from text exchange beginning with an outgoing message to Wife on September 12th at 20:43:09

³⁷ Outgoing message to Wife on October 10th at 13:54:20

Report on Investigation

While Carter was not explicitly asked about the invitation over the phone, (as Carter's interview was conducted prior to Wife's,) he did state the following during his interview:

"Never have I invited [Wife] to my place or invited [her] to hang out with me other than the two things that we talked about,"³⁸ (referring to the Bengals game and the second invitation to the Playhouse.)

Regarding the two invitations that he made via text message, Carter insisted that he did not intend them as a date, but rather as an act of kindness, as Wife did not know many people in town. Wife did mention that when Carter invited her to the Bengals game, he said something to the effect of, "oh I know you don't know a ton of people here,"³⁹ but could not recall such disclaimers in the case of the other two invitations. This in no way diminished Wife's impression that the Chief was asking her out. Indeed, Carter's first texted invitation, that to the Bengals game, came immediately after Wife had informed Carter that:

WIFE: I am launching a new business that was accepted into an incubator, so I have been meeting lots of non UC people now which is great.⁴⁰

Carter referenced, as evidence of his platonic intentions, the fact that he indicated that he would give Wife two tickets to the playhouse to go with someone other than himself. Notably, Carter only expressed this offer after she had declined to attend with him, and curiously, did not extend the offer to the two tickets he had available at the moment:

AC: If I have two I'll keep you on the list and you can find someone to go with...⁴¹

Wife was asked during her interview if Carter had indicated to Wife regarding any of the three invitations, that he had multiple tickets to these events, which she was welcome to use with someone other than him; Wife replied:

"not until recently when he asked me 'do you want me to stop asking you out' and I said 'yeah' and then he said 'okay well I'll let you know if I ever have multiple tickets and I can give them to you.' So after a bunch of no's of going with him."⁴²

³⁸ See audio recording of interview with Carter (Carter 2) at 1:17:47

³⁹ See audio recording of interview with Wife at 23:27

⁴⁰ Incoming message from Wife on September 12th at 20:40:00

⁴¹ Outgoing message to Wife on October 10th at 17:44:47

⁴² See audio recording of interview with Wife at 24:36

Conclusion

As noted above, we have found that Carter engaged in inappropriate conduct in connection with this matter. Carter's actions failed to adhere to appropriate boundaries between himself and a witness in a case. Irrespective of the ultimate determination of this complaint by the University, we believe training should be developed and delivered that reiterates the boundaries that must be scrupulously observed between officers and complainants or witnesses. Such training would hopefully prevent future transgressions and promote a culture that respects the boundaries that are vital to establishing trust in law enforcement.

Appendix A

Friday, September 1, 2017

- 1 Dean Robert Probst brings the underlying concern to Matt Serra's attention involving the couple, regarding Husband's threatening comment about Boyfriend.
- 2 Outgoing phone call from Carter to Serra (00:01:33)
- 3 Carter exchanges text messages with Serra relative to situation as it was relayed to him and to have him call Petren.
- 4 Outgoing phone call from Carter to Petren (00:14:24)

Monday, September 4, 2017

- 5 Carter and Lt. Barge visit Wife and Husband's shared office. Upon seeing that it was empty, they leave the building, passing Wife and Husband on the way out (not realizing who they were.)

Tuesday, September 5, 2017

- 6 Captain Smith enters an office with McMahon, Chief Carter and Captain R. Carter present, to explain situation with Wife/Husband/Boyfriend. He asked McMahon to get in touch with each of them
- 7 McMahon speaks to Wife on the phone, who assures McMahon that everything is fine.
- 8 McMahon speaks to Husband over the phone, who apologizes for the threatening comment, and says he would never act on his words.
- 9 McMahon leaves a message for Boyfriend informing him of the threat, but he does not return her call.

Wednesday, September 6, 2017

- 10 Carter and Wife first meet at Westboro protests and, (although accounts of Carter's behavior at this event vary,) the two exchange contact email addresses to get in touch later.
- 11 Carter exchanges emails with Wife, asking her to call him in spite of her asking if she could talk to McMahon instead.
- 12 Carter makes two phone calls to Wife (00:14:24 and 01:01:46)
- 13 Carter texts Wife after the second phone call, advising her that it is not necessary to call McMahon back.
- 14 First time that Carter asks Wife on a "date", inviting her to attend the Cincinnati Playhouse with him. Wife declined. (Wife does not recall the exact time, but thinks it was during their phone call.)

Thursday, September 7, 2017

- 15 Carter exchanges text messages with Wife to exchange pleasantries after previous night's conversation.
- 16 Outgoing phone call from Carter to Serra (00:01:16)
- 17 Carter exchanges text messages with Serra asking for Serra to call him and agreeing to have the call the following day.

Friday, September 8, 2017

- 18 Carter exchanges text messages with Wife relative to her concerns, and Husband's allegations that his devices are being hacked
- 19 Carter makes a phone call to Wife (00:13:11)
- 20 Carter texts Serra regarding his availability.
- 21 Incoming phone call from Serra to Carter (00:13:07)

Monday, September 11, 2017

- 22 Carter texts Wife to check in.

Tuesday, September 12, 2017

- 23 Carter exchanges text messages with Wife who replied to previous day's check-in, and was advised that the situation would not affect her position.
- 24 Carter tells Wife that the UCPD is closing the investigation "unless there are threats or altercations"
- 25 Second time that Carter asks Wife on a "date", (this time over text message,) inviting her to attend a Bengals game, which Wife declines.

Friday, September 15, 2017

- 26 Carter exchanges text messages with Wife about sports, and Wife having had a minor car accident. She shared a picture of her and a police officer (inferred as responding to the accident), and Carter shared a gif of a surprised ice cream cone after Wife told him that it was her birthday weekend.

Monday, September 18, 2017

- 27 Carter exchanges text messages with Wife regarding her concern over Husband's drug use. Wife shared two photos of Husband's drugs and drug paraphernalia.

28 Carter forwards a photo that Wife had sent him of herself and her sister, in text from earlier that day. The number to which Carter sends the photo appears to be his personal phone number, it is listed as "AGCarter," (the number is 5136179116.)

Tuesday, September 19, 2017

29 Student files report with the Title IX office about Husband, indicating Husband stated he wanted another UC professor dead.

30 Dean Bruce McClung sends an email to Dean Xuemao Wang, Petren, and Probst, (copying Carter,) notifying them about Title IX report regarding Husband.

31 Meeting held with Serra, Carter, Petren and McClung in Serra's office regarding the second threat that Husband made. It is determined that UCPD will have a more serious discussion with Husband.

32 Carter exchanges phone calls with Wife (4 outgoing (00:00:42, 00:01:12, 00:00:16, 00:08:55), two incoming (1 missed, 00:05:07))

33 Carter exchanges text messages with Wife, asking her to call him.

Wednesday, September 20, 2017

34 Petren provides the teaching schedules of Husband, Wife, and Boyfriend to Carter, Serra, Probst and McClung via email. It is determined that the UCPD will approach Husband after his Thursday afternoon class.

35 Carter exchanges text messages with Wife relative to him meeting with deans the next day and having to clarify some things with her. Later text messages have her agreeing to follow his rules, and her picking up her dog at Husband's residence.

36 Carter exchanges phone calls with Wife (2 outgoing (00:31:48, 00:00:25), 1 incoming (00:31:38))

37 Carter exchanges text messages with McMahon relative to her being available to talk.

38 Carter exchanges phone calls with McMahon (1 outgoing (00:07:55), 1 incoming (00:02:15))

Thursday, September 21, 2017

39 UCPD interview with Husband

40 Carter exchanges text messages with Wife, inquiring about Husband's past relationships and any potential violence/drug issues.

Friday, September 22, 2017

41 Carter exchanges text messages with Serra relative to Husband's interview with UCPD.

Sunday, September 24, 2017

42 Carter emails update to Petren, McClung, Probst, Serra, copying Detective Jennifer McMahon, in which he recounts his take-away from the interview with Husband.

Monday, September 25, 2017

43 Carter exchanges text messages with Wife relative to Husband's adherence to what Carter claims is an agreement with his superiors.

Tuesday, September 26, 2017

44 Husband meets with Petren regarding the 9/21/17 interview, and discloses to Petren that Wife had been asked out by Carter.

Wednesday, September 27, 2017

45 Petren emails Serra, copying Husband, suggesting that Husband meet with Serra. Serra meets with Husband, in which the allegation about Carter is shared again.

46 Serra contacts Robin Engel

47 Carter exchanges text messages with Wife relative to her questions about him having addressed Husband's alleged drug use with the deans, and what the outcome if any would be. She shared pictures of text messages and drugs via MMS with respect to Husband's drug use.

48 Carter exchanges messages with Serra relative to UCPD having a listing of people barred from the University.

Thursday, September 28, 2017

49 Carter exchanges text messages with Serra relative to trying to set up a phone call and about someone who evidently fell.

Friday, September 29, 2017

50 Wife puts the allegation in writing to Petren via email.

Friday, October 6, 2017

51 Carter exchanges text messages with Wife to touch base.

Tuesday, October 10, 2017

52 Third time that Carter asks Wife on a date; Carter invited her to a playhouse show, and asked whether she wanted him to stop asking her out.

Wednesday, October 11, 2017

53 Carter exchanges text messages with Wife to exchange pleasantries and discuss a show.

Thursday, October 12, 2017

54 Carter texts Wife to finish previous conversation.

Friday, October 20, 2017

55 Wife meets with Serra

Tuesday, October 31, 2017

56 Carter makes an accidental call to Wife (00:00:34)