

**District Attorney Case # 29509**



**AUGUST 23, 2020 - USE OF FORCE INVESTIGATION**

**SGT. SAMUEL M. GEDDES, UTICA POLICE DEPARTMENT**

**\*\*REPORT OF THE OFFICE OF THE ONEIDA COUNTY DISTRICT ATTORNEY\*\***

<b><u>POLICE AGENCY</u></b>	<b><u>INCIDENT DATE</u></b>	<b><u>ON DUTY</u></b>	<b><u>UNIFORM</u></b>
City of Utica Police	August 23, 2020	On-Duty	Uniformed Sergeant

**THE INVOLVED MEMBER OF SERVICE**

Sergeant Samuel M. Geddes (hereinafter, Sgt. Geddes) is a member of the uniformed force of the City of Utica Police Department (hereinafter, UPD). He is a uniformed police sergeant having been appointed as a Police Officer on October 8, 2001. He was promoted to the rank of Sergeant on June 20, 2007. His personnel file reflects several letters of commendations, but also some disciplinary actions.<sup>1</sup>

**REASON FOR POLICE AGENCY CONTACT**

On August 23, 2020, at approximately 8:30AM, UPD was called to the residence located at 920 Blandina Street, in response to a call reporting a theft. Police Officer Donald Talerico (hereinafter, PO Talerico) was the first to arrive on scene and speak to the caller, Melissa Henderson-Patterson (hereinafter, Henderson-Patterson).

**MELISSA HENDERSON-PATTERSON DOB: 11/03/1983** called the UPD complaint line on 2020-08-23 08:22:57 -04:00, reporting she had been the victim of a robbery committed “three or four days ago” by Juanita Frazier, who had allegedly stolen her medication. During that call, Henderson-Patterson complained about the lack of police response to a prior complaint she made regarding this incident. As a result, UPD dispatch routed car 56, operated by Police Officer Donald Talerico, to 920 Blandina Street, the residence of Henderson-Patterson. According to police and DCJS records, Henderson-Patterson (DOB 11/03/83) has had numerous prior contacts with law enforcement, which include at least twelve police calls for service from 920 Blandina Street since July 2019, most due to reports of neighbor and domestic disputes. RMS Police

---

<sup>1</sup> A review of Sergeant Geddes’ personnel file was conducted as a part of this inquiry. This inquiry is specific as to whether Sergeant Geddes committed a crime and does not address administrative and/or personnel issues that may exist with the City of Utica.

Reports show that Henderson-Patterson resides in the 2<sup>nd</sup> floor apartment at the residence located at 920 Blandina Street in the City of Utica.

### **AUGUST 23, 2020 INCIDENT SUMMARY**

As shown on his body worn camera footage, incorporated by reference herein, PO Talerico arrives at 920 Blandina Street at 8:34AM on August 23, 2020, and approaches Henderson-Patterson who is standing on the first floor porch. After some small talk, PO Talerico asks Henderson-Patterson “what’s going on” (BWC, 8:40). Henderson-Patterson advises PO Talerico her prescribed medication, among other items, was stolen from her at knife point by a woman she knows through her ex-boyfriend (BWC, 8:41-8:46, 9:05-9:09). When asked to produce a list of prescriptions, however, she could not produce one (BWC, 8:46-8:48). When asked basic questions, “such as time, date, place, what type of medications and how many” pills (State Incident Report, p.5), Henderson-Patterson could not recall, other than the incident occurred on “Huntington [Street]” (BWC, 8:49-8:50, 8:53). After PO Talerico advises Henderson-Patterson he cannot file a complaint without this information, she becomes irate, and accuses him of not doing his job (BWC, 8:55-9:00). After PO Talerico explains why he needs this information, Henderson-Patterson calms down, and begins providing additional information, including the dosage, pill amount and prescribing physician of the medication (BWC 9:03-9:08).

When asked how she knew the medication had been stolen, Henderson-Patterson again becomes irate, describing her observations in colorful language: “once she got in the mother fucking truck and she hit that corner, she picked the whole mother fucking bag up” (9:08-9:10). When PO Talerico asks if that was all she observed, Henderson-Patterson mumbles something, and begins walking back into the house (BWC 9:10-9:12). When PO Talerico asks who she spoke to when she had previously reported this incident to UPD, Henderson-Patterson could not recall (BWC, 9:12-9:13). PO Talerico, visibly exasperated, returns to his vehicle to begin drafting a report, but soon returns, realizing he still does not know when and where this incident took place (BWC, 9:14-9:16). Henderson-Patterson, who had since left the porch, yells out from her apartment that she would rather speak to a supervisor (BWC, 9:16-9:17). PO Talerico obliges, radioing Sgt. Geddes and requesting he respond to his location (920 Blandina Street) at 9:17AM (BWC 9:17-9:18).

Sgt. Geddes, the on-duty supervisor, arrives on scene at 9:31:18AM (BWC). After being briefed by PO Talerico, Sgt. Geddes approaches Henderson-Patterson, now on the first floor porch again, and asks how he can be of help (BWC 9:32-9:34). Henderson-Patterson reiterates her prior complaint that her medication was stolen, but refuses to answer any follow up questions by Sgt. Geddes. After Henderson-Patterson complains about his tone, Sgt. Geddes instructs PO Talerico to disengage, and both officers begin walking back to their patrol vehicles (BWC 9:35).

At 9:35AM, Sgt. Geddes and PO Talerico are approached by a black male who identifies himself as Jimmy Spratt, Henderson-Patterson’s ex-boyfriend, who at had just pulled up to the scene in a motor vehicle. After advising the officers she is “lying”, Spratt begins to explain this prior incident (BWC 9:35-9:36). According to Spratt, a few days prior to August 23, 2020, Henderson-Patterson asked and he agreed to provide her a ride to the pharmacy. Once they returned to his

home on 'Huntington Street', however, Henderson-Patterson got into a physical altercation with Spratt's current girlfriend, Juanita Frazier, who, as a result of this altercation, left in his truck, where Henderson-Patterson had left her medications. According to Spratt, Henderson-Patterson retaliated to his girlfriend leaving with her medication by forcibly taking his chain necklace (BWC 9:37). When asked for more details, Spratt described how Henderson-Patterson grabbed a small kitchen knife and threatened her, stating she would return his chain only after he returned her medication. Spratt advised the officers he returned her medication a day later (BWC 9:35), but Henderson-Patterson had still not returned his chain (BWC 9:37-9:38).

Sgt. Geddes asks Spratt if he wants Henderson-Patterson arrested for robbery (BWC 9:38). After Spratt answers in the affirmative, Sgt. Geddes places Henderson-Patterson under arrest (9:38-9:41). Henderson-Patterson, now in hand-cuffs, promises to get Spratt's chain if she is released, stating: "they don't where it's at; I'll go to jail and you'll never get it" (BWC, 9:39-9:40). After Spratt agrees to mediation, PO Talerico and Sgt. Geddes release Henderson-Patterson from restraints, and she returns to her second floor apartment (BWC 9:41), wherein she was to retrieve the chain and return with it.

Now standing on the second floor porch of 920 Blandina Street, Henderson-Patterson yells "here ya go" and throws a gold chain necklace into the middle of the road. After Spratt inspects it, he replies: "that is not my chain". Henderson-Patterson then begins taunting the officers, telling them to "go get a warrant". What then follows is an exchange between Henderson-Patterson and Sgt. Geddes, culminating in her throwing a bag of garbage from her elevated position at PO Talerico, nearly hitting him as he walks away from the residence.

**2020/08/23 09:43:47 GMT-4**  
**LE5-016397**



**2020/08/23 09:43:48 GMT-4**  
**LE5-016397**



**2020/08/23 09:43:48 GMT-4**  
**LE5-016397**



After throwing the bag of garbage at his Officer, Sergeant Geddes states that he is going to his vehicle to retrieve his pepper spray (a derivative of cayenne pepper).<sup>2</sup> When he returns, Henderson-Patterson is observed on body camera footage arming herself with what appears to be a metal wheel chair.<sup>3</sup> With chair in hand, she threatens Sgt. Geddes, stating “go right ahead,” as he approaches with the canister of pepper spray.



---

<sup>2</sup> Training records of the MVPA/DCJS indicate that use of pepper spray is a component of police academy training for Utica police officers

<sup>3</sup> Our research indicates that such an object typically weighs anywhere between fifteen (15) to fifty (50) pounds, dependent upon consumer specifications.

As Sgt. Geddes discharges the canister of pepper spray, Henderson-Patterson swings the wheel chair with such force that a piece of the metal chair falls off and nearly hits the officer, as well as cause electrical lines attached to the home to sway violently in his direction.



Despite this first discharge of pepper spray, Henderson-Patterson remains armed with the wheel chair. As a result, Sgt. Geddes approaches from a different angle and discharges a second and final burst of pepper spray, just as Henderson-Patterson is observed to swing the wheel chair in his direction.



At the time of the incident, statements made by one or more males, appearing on body worn camera behind Henderson-Patterson, appear to indicate that the pepper spray failed to make contact with them in their elevated position (see BWC 9:44:22 [male voice: “that shit can’t [inaudible][:] it can’t reach [inaudible]”).



After the second spray, Sergeant Geddes is observed to disengage. As viewed on the body worn camera of PO Talerico, Henderson-Patterson can still be seen to be armed with the wheel chair. About a minute later, both officers leave the scene without an arrest having been made. (BWC, Talerico, ends 9:45:41; BWC, Sgt. Geddes, ends 9:45:54).

Once both officers return to the station, a sworn deposition is obtained from Spratt, memorializing his complaint against Henderson-Patterson, as well as his observations on their use of force.<sup>4</sup> According to that deposition, Spratt stated he thought “the officers did their jobs”, and Henderson-Patterson “was gonna throw a wheel chair at him”, and Sgt. Geddes use of “pepper spray” was solely in response (Justin Spratt, Sworn Deposition, dated August 23, 2020). Spratt also stated in his deposition that he did not believe that the spray “had any effect, as she continued use profanities [sic] and threat[s]” after the second discharge (id.). ***Deposition of James Spratt, dated 8/23/2020 is incorporated by reference herein.***

Both Sgt. Geddes and PO Talerico reported the use of pepper spray in their post-incident reports (see SIR, #20200000031866, Narrative by Sgt. Geddes, p. 3 of 9; Narrative by PO Talerico, p. 5 of 9), without any apparent effort to conceal the circumstances surrounding its use to department administrators. ***Police reports regarding this incident are incorporated by reference herein.***

---

<sup>4</sup> To date, no charges have been filed as a result of the August 23, 2020 incident, with the investigation into the robbery complaint against Henderson-Patterson stalled, due to the lack of victim cooperation (see SIR, #20200000031870, Narrative of PO Michael Mahay, p. 10 of 11).

## **INJURIES SUSTAINED AS A RESULT OF AUGUST 23, 2020 INCIDENT**

There were no reported injuries to Sgt. Geddes, PO Talerico or Henderson-Patterson as a result of the August 23, 2020 incident. This finding is corroborated by the body worn camera and post-incident reports of both PO Talerico and Sgt. Geddes, as well as the deposition of Spratt, who observed the continued use of profanities by Henderson-Patterson as the officers withdrew. Images of the parties on the porch appear to support a belief that they had been unaffected by the two (2) bursts of spray.



About twenty (20) minutes after the incident, one individual was treated by Firefighter Tressa LaBella and Daniel Clark for burning sensation to his eyes.<sup>5</sup> It is not known how the individual was impacted by pepper spray given the video and audio evidence that the spray did not appear to make contact with anyone on the second floor porch at the time officers were on-scene.

## **UTICA POLICE DEPARTMENT ADMINISTRATIVE RESPONSE**

Following the August 23, 2020 incident at 920 Blandina Street, the use of pepper spray was documented by both police officers to their Squad Commander, Lieutenant Michael Murphy. A use of force investigation was immediately commenced by the Utica Police Department. The administrative investigation being conducted by the Professional Standards Office remains

---

<sup>5</sup> UFD Special Report, dated September 19, 2020.

pending and is separate and distinct from the inquiry being conducted by the District Attorney's Office.<sup>6</sup>

### **OFFICE OF THE DISTRICT ATTORNEY REVIEW**

District Attorney Scott McNamara assigned Executive Administrative Assistant District Attorney Grant J. Garramone, to review this incident and issue a report based upon his findings. This report is provided for the purpose of enumerating salient points regarding this Use of Force incident by a member of the Utica Police Department. Police and other governmental reports, supporting depositions, body camera footage, OC 911 calls, news media reports, etc., were reviewed as part of the preparation of this report by the District Attorney's Office and are incorporated by reference herein. Additionally, our office contacted the attorney for Sgt. Geddes for a possible interview or statement by him in connection with this incident, but this invitation was declined by Sergeant Geddes through his legal representative.

### **LEGAL STANDARD AND CONCLUSION**

This office's legal analysis as to whether the actions of Sergeant Geddes could constitute criminal acts was guided by applicable case law and legal precedent on the use of force by law enforcement.

An officer's use of force in connection with his official duties must be necessary.

As the United States Supreme Court has explained, the use of force by law enforcement "must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight." *Graham v. Connor*, 490 U.S. 386, 396 (1989).

This calculus "must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Id.*, at 396-397.

After a careful consideration of the facts and the law, this Office has concluded that Sergeant Geddes acted lawfully.

The request for police assistance required the presence of Utica Police Officer Talerico and Sergeant Geddes at 920 Blandina Street in the City of Utica on August 23, 2020. The officers made efforts to talk with Henderson-Patterson, to address her complaint. While on-scene, James Spratt appeared and reported to police officers that Henderson-Patterson had robbed him at knife-point of a gold chain that he alleged was valued at "over \$3000.00." While attempting to peacefully resolve the issue, Sergeant Geddes allowed Henderson-Patterson, who admitted to

---

<sup>6</sup> On September 25, 2020, the City of Utica issued a press release regarding the incident, announcing their intention to seek the termination of Sgt. Geddes at disciplinary proceedings under the collective bargaining agreement between the City of Utica and the John E. Creedon Police Benevolent Association, the union representing members of UPD. That press release is incorporated by reference herein.

taking the chain, an opportunity to go into her residence and retrieve the chain so that it may be returned to Mr. Spratt.

These decisions and actions reflect a conscientious and considered response on the part of Sergeant Geddes.

When Henderson was allowed to enter the residence to retrieve the gold chain, she appeared a short time later on a second floor balcony whereupon she threw a chain to the ground. This chain was retrieved by Officer Talerico and immediately determined to not be the stolen chain, per the statements of Mr. Spratt who observed the chain and stated that wasn't his chain. Ms. Henderson defiantly proclaimed that it was in-fact the chain and became increasingly agitated.

The risk of harm to the police and the public became apparent when Henderson-Patterson threw a bag of garbage at Officer Talerico who was forced to duck for cover after being warned by Sergeant Geddes to "watch out." Talerico had his back turned to Henderson at the time that she threw the bag at the officer.

Upon observing this action by Henderson-Patterson, Sergeant Geddes announced that he was retrieving his big bottle of pepper spray. A review of the police video and narratives would indicate that this action was taken to gain control over the situation and prevent any further threat of harm to Officer Talerico, Mr. Spratt and himself while there on scene addressing the complaint.

Sergeant Geddes tried to control the agitated and combative Henderson, and others on the porch, using proportionate compliance techniques. Henderson-Patterson armed herself with a metal wheelchair, a part of which dropped onto the ground near Sergeant Geddes and also violently struck wires attached to the house on the way down. A chair can be considered a dangerous instrument under Section 10.00(13) of the Penal Law of the State of New York. *See, People v. Austin, 131 A.D. 2<sup>nd</sup> 490 (Second Department 1987); citing People v. Carter 53 N.Y. 2<sup>nd</sup> 113 and People v. Rumaner, 45 A.D. 2<sup>nd</sup> 290.*<sup>7</sup>

An objective assessment of the evidence does not support that Sergeant Geddes acted maliciously when he deployed pepper spray. To the contrary, there is evidence that the defendant used the bag of garbage and metal wheel chair to threaten the police officers on-scene and Sergeant Geddes was acting in defense of himself, Officer Talerico and Mr. Spratt in conformity with Article 35<sup>8</sup> of the New York State Penal Law. Of particular concern here is Henderson-

---

<sup>7</sup> The term "dangerous instrument" is defined by Penal Law § 10.00(13), which provides "any instrument, article or substance \* \* \* which, under the circumstances in which it is used \* \* \* is readily capable of causing death or other serious physical injury." The statute makes no attempt to give an absolute definition of the term or to provide a list of items which can be considered dangerous instruments. Instead, any "instrument, article or substance", no matter how innocuous it may appear to be, is a dangerous instrument when used in a manner which renders it readily capable of causing serious physical injury. *See, People v. Carter, 53 N.Y. 2d 113 (1981)*

<sup>8</sup> Pursuant to Penal Law Section 35.15(1), which governs the use of force in self-defense, a "person may ... use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person."

Patterson's use of the metal wheelchair to threaten the Officers. Arguably, if dropped from the second floor porch, this chair was readily capable of causing serious physical injury and/or death, thus, was a "dangerous instrument" within the meaning of subdivision 13 of section 10 of the Penal Law, thus prompting the use of the pepper spray to prevent the wheelchair being thrown at Sergeant Geddes, Officer Talerico or Mr. Spratt.

Henderson-Patterson's actions were unlawful. Her conduct ranged from the minimal offense of Harassment in the Second Degree (see Penal Law § 240.26[1]) for throwing the bag of garbage at PO Talerico, to Menacing in the Second Degree (see Penal Law § 120.14[1]), Criminal Possession Weapon in the Fourth Degree (see Penal Law § 265.01[2]) and Reckless Endangerment in the Second Degree (see Penal Law § 120.20) for swinging the wheel chair at Sgt. Geddes in such a manner that it presented a substantial risk of serious physical injury to the officer, intentionally caused or not, to the more serious felony offense of Assault in the Second Degree (see Penal Law §120.05[3]), if physical injury had in fact been caused.<sup>9</sup>

After examination of all of the evidence available, this office has determined that Sergeant Samuel Geddes acted lawfully when he discharged pepper spray in response to Henderson-Patterson arming herself with a "dangerous instrument."

---

<sup>9</sup> Penal Law 120.05-3 states that "Under our law, a person is guilty of Assault in the Second Degree when, with the intent to prevent a police officer from performing a lawful duty, she causes physical injury to such person. **See, Penal Law Section 120.05-3.** "Physical Injury" is defined as impairment of physical condition or substantial pain. To establish that element, the People need only establish that a victim's injuries were more than mere "petty slaps, shoves, kicks and the like" (*Matter of Philip A.*, 49 NY2d 198, 200 [1980]). Relatively minor injuries causing moderate, but "more than slight or trivial pain" may suffice (*see People v Chiddick*, 8 NY3d 445, 447 [2007] [fingernail injury]), as may injuries that did not lead to any medical treatment (*see People v Guidice*, 83 NY2d 630, 636 [1994])." **See, People v Oree**, 58 A.D. 3<sup>rd</sup> 473 (*First Department 2009*), *lv. den.* 12 N.Y. 3<sup>rd</sup> 819 (2009); *habeas corpus denied Oree v. Conway 2011 WL 2652575 (SDNY 2011.) [Evidence Was Sufficient To Establish The Element Of "Physical Injury" To Police Detective.]*

**USE OF MACE JUSTIFIED UNDER NEW YORK STATE PENAL LAW ARTICLE 35**

Based upon the foregoing, it is recommended that no referral to the Grand Jury be made in this matter. It is the conclusion of this Office that Sgt. Samuel M. Geddes acted lawfully and in conformity with the Laws of the State of New York. We express no opinion whether such conduct was made in conformity with the policies and procedures of the Utica Police Department.

Respectfully Submitted,

Date: October 13th, 2020

---

Grant J. Garramone, Esq.  
Executive Administrative ADA  
Public Integrity and Special Investigations

---

Evan A. Esswein  
Assistant District Attorney

\*\*\*END OF REPORT\*\*\*

---