

CITY COURT  
COUNTY OF ALBANY

CITY OF ALBANY  
STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

LESLIE KLEIN, MARK LAVIOLETTE,  
DAVID GOODWIN, MARK KIRKER,  
Defendants.

**FELONY COMPLAINT**

BE IT KNOWN THAT, by this Complaint, Investigator Mitchell Paurowski, as the complainant herein, a police officer with the Office of the New York State Attorney General, Albany, New York, accuses the defendant, LESLIE KLEIN, with having committed the following crimes: 3 counts of Offering a False Instrument for Filing in the First Degree in violation of P.L. § 175.35(1), a class E felony as outlined in counts 1, 3, and 4 of this complaint; the defendants, MARK LAVIOLETTE and DAVID GOODWIN, with having committed the following crimes: 3 counts of Offering a False Instrument for Filing in the First Degree in violation of P.L. § 175.35(1), a class E felony as outlined in counts 2 through 4 of this complaint; and the defendant, MARK KIRKER, with having committed the following crimes: 1 count of Offering a False Instrument for Filing in the First Degree in violation of P.L. § 175.35(1), a class E felony as outlined in count 2 of this complaint.

**COUNT ONE**

The defendant, LESLIE KLEIN, committed the crime of OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, in violation of Penal Law § 175.35(1), a class E felony, on or about January 26, 2015, in the City of Albany, County of Albany, State of New York, when knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he offered or presented it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public

office, public servant, public authority or public benefit corporation, to wit, the defendant caused to be submitted a Supervised Field Training Orientation and Review Evaluation Summary to the Department of Criminal Justice Services (“DCJS”), which document falsely reported that Police Officer 1 successfully and properly completed 160 hours of supervised field training, and such document became an official record of DCJS.

### COUNT TWO

The defendants, MARK KIRKER, MARK LAVIOLETTE, and DAVID GOODWIN committed the crime of OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, in violation of Penal Law § 175.35(1), a class E felony, on or about October 16, 2015, in the City of Albany, County of Albany, State of New York, when knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he offered or presented it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation, to wit, the defendants caused to be submitted a Class Roster/ Notification of Completion for a Police Field Training Officer Course to the Department of Criminal Justice Services (“DCJS”), which document falsely reported that from October 1 to 9, 2015, Mark LaViolette and David Goodwin successfully and properly completed 28 hours of field training officer instruction, and such document became an official record of DCJS.

### COUNT THREE

The defendants, LESLIE KLEIN, MARK LAVIOLETTE, and DAVID GOODWIN committed the crime of OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, in violation of Penal Law § 175.35(1), a class E felony, on or about December 24, 2015, in the City of Albany, County of Albany, State of New York, when knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he offered or presented it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or

otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation, to wit, the defendants caused to be submitted a Supervised Field Training Orientation and Review Evaluation Summary to the Department of Criminal Justice Services (“DCJS”), which document falsely reported that Mark LaViolette successfully and properly completed 80 hours of supervised field training, and such document became an official record of DCJS.

#### COUNT FOUR

The defendants, LESLIE KLEIN, MARK LAVIOLETTE, and DAVID GOODWIN committed the crime of OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, in violation of Penal Law § 175.35(1), a class E felony, on or about April 1, 2016, in the City of Albany, County of Albany, State of New York, when knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he offered or presented it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation, to wit, the defendants caused to be submitted a Supervised Field Training Orientation and Review Evaluation Summary to the Department of Criminal Justice Services (“DCJS”), which document falsely reported that Police Officer 2 successfully and properly completed 160 hours of supervised field training, and such document became an official record of DCJS.

#### FACTUAL BASIS

This felony complaint is made by me on direct knowledge and upon information and belief. The source of my information and the grounds for my belief include but are not limited to the following: (a) my training, experience and participation in an investigation conducted by the New York State Office of the Attorney General; (b) interviews of several former Village of Galway police officers; (c) interviews of current and former employees of the Zone 5 Regional Law Enforcement Academy (“Zone 5”); (d) my review of various Galway Police Department and other records, including police training records; employment/ time and attendance records;

travel records, Galway Police Department patrol records; bank records; phone records, and EZpass records, (e) emails and other electronic/paper records received from DCJS and Zone 5; and (f) statements and admissions made by Leslie Klein, David Goodwin, Mark LaViolette, and Mark Kirker.

Where the actions, statements, and conversations of others are recounted herein, they are related in substance and in part, unless otherwise indicated.

### **OVERVIEW**

1. The Galway Police Department (“GPD”) is located in Galway, New York in Saratoga County. The department has one full time employee—the Galway Police Chief, LESLIE KLEIN—and several part-time police officers.

2. The Department of Criminal Justice Services (“DCJS”) is a New York State agency located at 80 South Swan St., Albany, New York 12210. DCJS oversees the administration of mandated police officer training to ensure that all trainings meet the minimum standards established by the Municipal Police training Council (“MPTC”), including but not limited to the Basic Course for Police Officers (“BCPO”), the Police Refresher Course, and the Field Training Officer Course.

3. All individuals who seek a permanent appointment as a municipal police officer in New York State are required to successfully complete an approved BCPO within one year from the date of their original appointment with a police department. The BCPO training is comprised of academic and skills training in conjunction with a supervised field training period. Any individuals who were former police officers in New York State who have been separated from service for greater than four years but less than ten years may again become certified police officers in New York State by attending an approved Police Refresher Course that also includes a supervised field training period.

4. A new police officer in New York State must complete 160 hours of supervised field training, and a former police officer in New York State seeking to become re-certified must complete 80 hours of supervised field training.

5. During a supervised field training period, a Field Training Officer (“FTO”) is assigned to a probationary officer and must physically observe, by riding with a probationary officer, and evaluate the probationary officer and document his/her findings on a Daily Observation Report (“DOR”), which includes the specific date and shift a probationary officer was observed.

6. Starting in January 2015, an individual is required to successfully complete a 28 hour Police Field Training Officer Course in order to be an FTO.

7. Once a probationary officer accumulates enough DORs to satisfy his/her required training hours, a Supervised Field Training Orientation and Review Evaluation Summary ("Final Evaluation") indicating whether the officer passed or failed is signed by the FTO, the probationary officer, the chief executive officer of the police department, and the Police Academy Director where the probationary officer completed the BCPO or Police Refresher Course. This Final Evaluation, which is based on and supported by the DORs, is filed with DCJS and causes DCJS to issue the probationary officer his/her certification.

### **COUNT ONE**

8. Police Officer 1 is a former Galway Police Department ("GPD") employee. He was first appointed to the GPD on February 5, 2014. Police Officer 1 performed his supervised field training at the GPD between October 31, 2014 and December 10, 2014. His supervised field training period is documented on twenty-two DORs. Twenty-one of the DORs indicate that Police Officer 1 performed 168 hours of his field training on the midnight shift (12 am- 8am) and that LESLIE KLEIN was his FTO.

9. The GPD patrol records indicate that Police Officer 1 worked only one shift from 12pm to 7pm for the period of time corresponding to the twenty-one DORs where LESLIE KLEIN is listed as the FTO. GPD patrol records for October 2014 through December 2014 show that Police Officer 1 is listed as only working 78.5 hours.

10. Police Officer 1 informed this investigator that he did not actually work the hours listed on these DORs and that LESLIE KLEIN never rode with or observed him during these times. Police Officer 1 informed me that he was simply instructed to fill out enough DORs to satisfy his training requirements and leave the sheets at the office for LESLIE KLEIN to sign.

11. LESLIE KLEIN admitted to this investigator that proper procedures were not followed at GPD for supervised field training. He admitted that he did not always ride with or observe officers on training, including Police Officer 1. Instead, KLEIN admitted that he simply signed paperwork left on his desk.

12. LESLIE KLEIN and Police Officer 1 both signed a Final Evaluation, which was submitted to DCJS on or about January 26, 2015, indicating that Police Officer 1 successfully and properly completed supervised field training.

### **COUNTS TWO and THREE**

13. DAVID GOODWIN is currently a sergeant in the GPD. He began working at the GPD in 2008. He began his law enforcement career in 1987, and he worked as a police officer at five different agencies between 1987 and 2007. He has completed numerous police training courses, and he is certified as a general topics instructor and a firearms instructor. As such, he is familiar with the paperwork and process used to report to DCJS that a police officer completed a training course and should be issued a certificate of completion.

14. MARK LAVIOLETTE is currently a sergeant in the GPD. He was appointed to the GPD in August 2015. He began his law enforcement career in 1989 as a correction officer. He was a police officer with the Schenectady City Police Department from 1990 to 2010. He completed numerous police training courses through his law enforcement career. As such, he is familiar with the paperwork and process used to report to DCJS that a police officer completed a training course and should be issued a certificate of completion.

15. Although LAVIOLETTE was a former police officer in New York State, the length of time he was separated from service as a police officer required him to complete a Police Refresher Course that included 80 hours of supervised field training. In order to complete his supervised field training at the GPD, the GPD needed a FTO that successfully completed the 28 hour Police Field Training Course.

16. MARK KIRKER is currently employed as a police officer/ deputy with the Schenectady County Sheriff's Office. He is a certified general topics instructor, an Advanced Reality Based Training Instructor, and an Instructor Development Course evaluator. At all times relevant to this complaint, KIRKER was employed as a police officer with the Glenville Police Department.

17. This investigator learned from a DCJS employee assigned to the training unit that during an administrative inquiry MARK KIRKER stated that he was contacted by LAVIOLETTE and asked to teach the Police Field Training Officer Course to LAVIOLETTE and GOODWIN.

18. On October 1, 2015, a request was submitted to DCJS on behalf of MARK KIRKER through the Zone 5 Regional Law Enforcement Academy to approve a course curriculum for the Police Field Training Officer Course. The request indicated that the course was going to be held on October 1, 2, 8, 9, 2015 at the Glenville Police Department located at 18 Glenridge Rd., Glenville, NY 12305. It also indicated that the course was going to be solely taught by MARK KIRKER. The

course curriculum also indicated that the class would occur from 8am to 4pm on each of the above mentioned dates.

19. The course curriculum was approved by DCJS on October 1, 2015, to be conducted in accordance with the submitted curriculum.

20. On or about October 16, 2015, a Class Roster/ Notification of Completion was submitted to DCJS stating that DAVID GOODWIN and MARK LAVIOLETTE completed the course. This form contained a certification that GOODWIN and LAVIOLETTE completed all aspects of the training and that the curriculum for the course was not substantially altered in either content or duration from that which was approved by DCJS.

21. DAVID GOODWIN told this investigator that he and LAVIOLETTE attended this entire course at the Glenville Police Department on two consecutive Thursdays and Fridays in October 2015, but he indicated the course was held from 4pm to 12am.

22. An executive officer from the Glenville Police Department informed this investigator that he did not have any record of KIRKER, LAVIOLETTE, or GOODWIN using the Glenville training room on October 1, 2, 8, or 9, 2015.

23. Records from the Glenville Police Department show that MARK KIRKER was attending mandatory department training on October 1, 2015, from 8am to 11am.

24. Time and attendance records from Schenectady County show that LAVIOLETTE was working from 7am to 3pm as the Director of Emergency Management on October 1, 2, 8, 9, 2015.

25. Based on EZ pass records, cell phone records, and travel records from Southwest Airlines, DAVID GOODWIN was not physically present in New York State on October 1, 2015, until after 12:30pm. Various travel records also show that GOODWIN was not physically present in the United States from October 6 to 13, 2015.

26. This investigator was informed by a DCJS employee assigned to the training unit that during an administrative inquiry MARK KIRKER stated that he did not teach all of the components of the Police Field Training Officer Course to LAVIOLETTE and GOODWIN. Specifically, KIRKER admitted to skipping the required four hours of video exercises, and he did not require LAVIOLETTE and GOODWIN to complete the mandatory student presentations.

27. This investigator also learned that KIRKER did not file any supporting documentation for the completion of the course with Zone 5 as required.

28. After purporting to complete the Police Field Training Officer Course, LAVIOLETTE reported his supervised field training period as occurring over the course of ten days from October 24, 2015 to November 16, 2015. GOODWIN was reported as his FTO on each of the DORs, and each DOR purports to cover an 8 hour period of time and is written in a manner to create the impression that GOODWIN personally observed LAVIOLETTE.

29. A review of the GPD patrol records shows that LAVIOLETTE was only listed as working at the GPD on one of the days corresponding to the DORs for a three-hour period. GOODWIN is not listed on the GPD patrol records as working on any of the days that LAVIOLETTE's supervised field training is reported as occurring.

30. This investigator learned by reviewing DAVID GOODWIN's EZ pass records, Southwest Airlines travel records, and cell phone records that he was not physically present in New York State from October 24, 2015 through November 7, 2015 – six of the days GOODWIN was reported as physically observing LAVIOLETTE on supervised field training.

31. LAVIOLETTE, GOODWIN, and KLEIN signed a Final Evaluation, which was submitted to DCJS on or about December 24, 2015, indicating that LAVIOLETTE successfully and properly completed his supervised field training.

#### **COUNT FOUR**

32. Police Officer 2 is a former Galway Police Department ("GPD") employee. He was first appointed to the GPD on August 20, 2015. Prior to working for the GPD, he had some law enforcement experience outside of New York State. Police Officer 2 performed his supervised field training at the GPD between February 25, 2016, and March 31, 2016. His supervised field training period is documented on nineteen DORs. Each DOR lists LAVIOLETTE as his FTO.

33. The GPD patrol records show that Police Officer 2 was working in Galway on the dates and times listed on his DORs. However, these records also show that LAVIOLETTE was working in Galway on only three of the nineteen days that comprise Police Officer 2's supervised field training, and LAVIOLETTE is listed as only working a portion of the time covered on the DORs for these three dates.

34. Time and attendance records from Schenectady County show that LAVIOLETTE worked from 7am to 3pm as the Director of Emergency Management on eighteen of the days comprising Police Officer 2's supervised field training. These work hours conflict or overlap with the hours listed on the DORs.



35. This investigator was informed by Police Officer 2 that LAVIOLETTE never rode with, observed, or supervised him during his supervised field training. Police Officer 2 stated that he was instructed by DAVID GOODWIN to fill out the DORs himself, list LAVIOLETTE as the FTO, and leave the forms for LAVIOLETTE to sign. Police Officer 2 also stated that GOODWIN was involved in his supervised field training by occasionally riding with him or being available over the phone. There are no DORs listing GOODWIN as an FTO.

36. This investigator also learned that LAVIOLETTE spoke to his supervisor and another executive in the Schenectady County government about this matter, and LAVIOLETTE stated that he signed Police Officer 2's training records, indicating his direct supervision, and that he was not in the car with Police Officer 2 because he believed it was unnecessary based on Police Officer 2's prior law enforcement experience.

37. DAVID GOODWIN also admitted to this investigator that he was involved in Police Officer 2's supervised field training. Specifically, GOODWIN stated that he would occasionally supervise Police Officer 2 from the window of the police department because the Village of Galway was only a half square mile.

38. LESLIE KLEIN admitted to this investigator that he never observed Police Officer 2; KLEIN simply signed his paperwork.

39. Police Officer 2, LESLIE KLEIN and MARK LAVIOLETTE signed a Final Evaluation, which was submitted to DCJS on or about April 1, 2016, indicating that Police Officer 2 successfully and properly completed his supervised field training.

**Notice:** Any person who knowingly makes a false statement in a written instrument such as this Felony Complaint and which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a class A misdemeanor (Penal Law § 210.45).

Dated: April 30, 2018

BY:   
Investigator Mitchell Paurowski