

Confidential Report of Independent Investigation
of Traffic Radar Trailer Message on July 8, 2020

To:

Robert Van Campen, City Solicitor
City of Melrose
Melrose City Hall
562 Main Street
Melrose, Mass. 02176

From:

Eugene J. Sullivan
jay@sullivanandreed.com
Sullivan and Reed LLP
245 First Street, 18th Floor
Cambridge, Mass. 02142

July 24, 2020

Table of Contents

I.	Background and Scope of Investigation and Report	1
II.	Phone Interview with Chief Lyle	1
III.	Phone Interview with Mayor Brodeur	2
IV.	Zoom Interview with Officer Donovan	3
V.	Zoom Interview with Sergeant Goc	4
VI.	Analysis, Findings, and Conclusion	6

Appendix: Exhibits One Through Five

I. Background and Scope of Investigation and Report

On July 16, 2020, the City of Melrose (the “City”) retained this firm to conduct an independent investigation into a message that appeared on a City traffic radar trailer message board (the “message board”) on July 8, 2020. The message appeared on two alternating screens; the first read, “Speed Limit 25 MPH Thank You;” the second: “The Safety Of All Lives Matter.” (The message on the second screen is referred to hereafter as the “second screen.”) The screens appeared alternately, and repetitively; each for approximately three seconds before switching to the next. (Pictures of the alternating screens of the message board on the morning of July 8 are attached here as Exhibit One.) The scope of our investigation was straightforward; we were asked to investigate: (1) how and why the message appeared; and (2) how the City reacted upon becoming aware of the message.

To conduct this investigation, we have interviewed: Police Chief Michael Lyle; Sergeant Jonathan Goc; Patrol Officer Joseph Donovan; and Mayor Paul Brodeur. Due to the pandemic those interviews occurred by Zoom or telephone. We have reviewed pictures of the message board, statements to Chief Lyle from Sgt. Goc, Officer Donovan, and Mayor Brodeur, and other material provided by Chief Lyle.

I have labeled this report confidential, as I have not and will not share its contents with anyone other than authorized City authorities. I leave it to the City to decide what use to make of this report and to whom to distribute the report or any part of it.¹

II. Phone Interview with Chief Lyle

On July 17, 2020, I spoke at length with Police Chief Lyle (the “Chief”) by telephone. He relays as follows:

Approximately one year ago, the police department (the “department”) purchased the message board. The department typically utilizes the message board around holidays, to share messaging, for example, during the winter holidays and Labor Day. The department typically uses the message board to emphasize traffic safety, particularly speed reduction.

Sgt. Goc, the department’s traffic supervisor, is responsible for the message board. Sgt. Goc is the only employee in the department with the training and password required to access and manage the backend of the message board and its public screens.

Sgt. Goc has been the department’s traffic supervisor for approximately 20 years. Sgt. Goc frequently interacts with City officials and members of the public concerning traffic planning and mitigation issues. The Chief describes Sgt. Goc as a “good officer” and “level-headed.”

¹ We have not been asked to provide legal guidance, nor do we do so, on what, if any, parts of this report may be subject to, or exempt from, public disclosure under the Commonwealth’s public records law.

Prior to the July 4 holiday weekend, Sgt. Goc had placed the message board on Main Street, after consultation with the Chief. As the Chief understood it, the message board would remind cars of the speed limit. The Chief describes several complaints about traffic speed on that stretch of Main Street.

On July 8, 2020, the Chief attended a meeting at City Hall with the City Solicitor on departmental business. The meeting began at approximately noon. At approximately 12:25 p.m., the mayor entered the conferenced room where the meeting was taking place, and, in a strong tone, stated: "That's it, I want the sign down."

The Chief, nonplussed, asked, "What sign?" The Mayor responded, "The sign on Main Street." The Mayor then held his cell phone toward the Chief, displaying a picture of the message board. The Chief stated, "That's the radar trailer. I'll call the sergeant and have it removed."

The Mayor left the conference room. The Chief immediately called the dispatch center at the police station and asked for Sgt. Goc to be instructed to call him. Almost immediately, Sgt. Goc called the Chief on his cell phone and the Chief instructed Sgt. Goc to have the content of the second screen removed from Main Street immediately.² Sgt. Goc asked why the Chief was issuing such a directive, and the Chief informed Sgt. Goc that the Mayor had received a complaint about the message board. Sgt. Goc stated, "Okay, I'll take care of it."

The Chief resumed his meeting with the City Solicitor, but a few minutes later the Mayor returned to the conference room. The Mayor stated, "I'm going down there myself." The Chief responded, "The trailer [message board] is opposite Main Street at Potomac." The Chief then ended his meeting with the City Solicitor and, shortly thereafter, walked back to the police station.

At approximately 1:15 p.m., the Chief met with Sgt. Goc in the police station. The Chief instructed Sgt. Goc to submit a memorandum concerning the message board and its message that morning. (The department refers to such memoranda as "To/From statements.") Sgt. Goc relayed that he had deleted the content of the second screen of the message board and that he had spoken with the Mayor when he visited the message board to complete the update. Sgt. Goc was apologetic for having, apparently, created a controversy with the message board. The Chief did not believe that Sgt. Goc, when he had programmed the screen, had acted with malicious intent.

The Chief also asked Patrol Officer Joseph Donovan, who had driven Sgt. Goc from the station to the message board, to submit a To/From Statement. Additionally, because the Mayor had interacted with Sgt. Goc at the message board, the Chief requested that the Mayor provide him a written statement concerning the matter. These statements are attached as Exhibits Two through Five.)

² Memories diverge on whether the Chief instructed Sgt. Goc to remove the content of the second screen from the message board or remove the message board from public view (i.e., tow it back to the police station). We find this issue not material.

III. Phone Interview with Mayor Brodeur

At approximately 12:25 p.m., on July 8, the Mayor received a text message indicating that the message board on Main Street bore the phrase, “the safety of all lives matter.” A picture was included with the message. This was the first notice the Mayor had of the screen on the message board.

The Mayor was aware that the Chief was in the City Hall, in fact in a conference room contiguous to the Mayor’s office. Within seconds of receiving the text message, the Mayor entered the room where the Chief was participating in a meeting and, without preface, stated sternly, “The sign comes down now.” The Mayor showed the Chief the picture he had received on his phone. The Chief informed the Mayor of the location of the message board, and he indicated that he would have the message taken down immediately. The Mayor watched the Chief make a call from his cell phone, which he assumed was to the police station, and the Mayor returned to his office.

About 15 minutes later, finding himself still upset by the picture of the message board and wanting to ensure that his directive to remove the second screen content had been complied with, the Mayor asked his Chief of Staff to drive him to the message board.

As they neared the message board, the Mayor observed Sgt. Goc and Officer Donovan. Sgt. Goc appeared to be manipulating the message board’s controls. The offending message that had appeared on second screen had been removed. The Mayor exited the car, and the Chief of Staff parked the car. (The Chief of Staff remained with the car.)

The Mayor said to Sgt. Goc, “I’m not happy about this.” Goc suggested that the Mayor did not know what text had been on the message board, and that it had been harmless. The Mayor relayed that he had seen a picture of the message board. He said (words to the effect of), “If you don’t understand why that was insensitive, then you’ve got a problem.” The Mayor emphasized that he considered the message to have been inappropriate. Sgt. Goc was not rude; however, he gently pushed back against the Mayor’s assertions. Sgt. Goc insisted that the second screen had been innocuous and uncontroversial.

The Mayor’s interaction with Sgt. Goc lasted only a couple of minutes. The Mayor did not interact with Officer Donovan. Assured that the second screen had been removed, the Mayor returned to the car to drive back to the City Hall.

IV. Zoom Interview with Officer Donovan

Officer Donovan has worked as a patrol officer with the City for approximately 22 years.³

³ Patrick Bryant, Esq., the lawyer who represents the City’s police patrol officers’ union, attended this Zoom. I note that Mr. Bryant was very prompt and proactive in scheduling this meeting, and he did not interject at any point during my questions to Officer Donovan. Said differently, Mr. Bryant was entirely cooperative and courteous.

Around midday on July 8, 2020, Sgt. Goc asked Officer Donovan to drive him to the message board. The message board was less than one minute's drive from the station. When they arrived at the message board, Sgt. Goc exited the cruiser and began to manipulate the message board's control panel.

Officer Donovan parked the cruiser, and he waited on the sidewalk for Sgt. Goc to complete the project. As he was standing on the sidewalk, Officer Donovan noticed the Mayor walking toward Sgt. Goc. Officer Donovan observed Sgt. Goc and the Mayor engage in a short discussion, but he did not hear its contents. The Mayor then walked away. Officer Donovan did not interact with the Mayor.

Officer Donovan observed the second screen when he and Sgt. Goc arrived at the message board. He and Sgt. Goc confirmed that the second screen had been removed from the message board before they returned to the station.

Officer Donovan believes that he discussed the message board with Sgt. Goc on the short drives to and from the message board, but he does not recall the substance of either conversation and he does not believe either conversation was material or detailed.

Officer Donovan notes that Sgt. Goc is a respected supervisor within the department.

V. Zoom Interview with Sergeant Goc

Sgt. Goc was hired by the City as a police patrol officer in 1996. He became a sergeant in 2002 and, simultaneously, became the "traffic supervisor" for the department.⁴

As traffic supervisor, Sgt. Goc is responsible for, among other functions, car parking in the City, motor vehicle accident reports, and traffic regulation and signage. Sgt. Goc acts as the department's community liaison on traffic and parking issues, and he routinely interacts with City residents and officials. Sgt. Goc is also the department's firearms officer. Sgt. Goc supervises on full-time patrol officer who supports him and two City employees who issue parking tickets.

Between a year and a year-and-a-half ago (approximately), the department obtained the message board. The department has utilized the message board about 8-10 times per year. Typically, the message board has relayed a warning or reminder about speeding.

The message board contains a variety of factory pre-set messages. The message board can also be programmed with customized messages. Either a pre-set or a customized message can be entered from the control panel on the message board or remotely from Sgt. Goc's department computer. Because of a quirk with the message board, if Sgt. Goc enters a new

⁴ Harold Lichten, Esq., the lawyer for the City's police superior officers' union, attended this Zoom. As I did with reference to Patrick Byant and the police patrol union, *see* footnote one, above, I note that Mr. Lichten was extremely helpful in scheduling a call on short notice and made no attempt to interfere with any of my questions to Sgt. Goc.

message remotely, he still must travel to the message board and turn the system off and on for the new message to appear.

A couple of days prior to the July 4 holiday weekend this year, Sgt. Goc had the message board towed to Main Street, and he programmed short messages to appear on two alternating screens. (The message board can handle up to three alternating screens.) The first screen referenced the speed limit; the second screen, Sgt. Goc believes, referenced fireworks or encouragement to citizens to enjoy the holiday.

On the morning of July 8, 2020, Sgt. Goc determined to change the message on the second screen, since the holiday weekend had passed. He has no memory of speaking to anyone in advance of changing the message on the second screen, concerning either the change or the potential new content of the second screen.⁵

At approximately 9:45 a.m., Sgt. Goc changed the second screen so that it read: “THE SAFETY OF ALL LIVES MATTER” (capitalization in original). Sgt. Goc states that his intent was simply to change a holiday-related message to a general traffic safety message. He states that he had no intention for the message to carry any subtext and no intention to create offense or controversy.

At some point around midday Sgt. Goc had a telephone conversation with the Chief. The Chief asked him why he had changed the July 4 message. Sgt. Goc explained that he had updated the message because the holiday weekend was over. The Chief ordered him to take down the second screen, stating that its contents were not appropriate. Sgt. Goc noted that he disagreed, and that he had intended no ulterior meaning to the text. The conversation lasted approximately one minute.

Sgt. Goc immediately went to his work computer and removed the second screen. He then arranged to get a ride to the message board (again, he needed to restart it manually for the second screen to be deleted), and within approximately 10 minutes he was on his way to the message board in Officer Donovan’s cruiser.

After they arrived at the message board, Sgt. Goc turned it off and on. As the message board powered back on and he was confirming that the second screen had been deleted, the Mayor approached him. Sgt. Goc and the Mayor had met before, most recently at a meeting

⁵ I did not ask to review Sgt. Goc’s cell phone or other communications devices or media accounts (for example, social media accounts or private e-mail). Such a request would have, undoubtedly, materially protracted this investigation (e.g., any thorough review of a cell phone would require a costly examination by a forensics examination expert), and it was the City’s desire that this investigation be conducted with all reasonable speed. More, we had no subpoena power, and I believe Sgt. Goc’s union, on principle, would have opposed any request or demand for communications and/or personal documents. Also, I believe it is unlikely that we would discover any extant communication that might shed light on the investigation, and, again, I found Sgt. Goc’s testimony on his lack of communication concerning the second screen credible.

between the Mayor's office and the union, which represents the City's police superior officer bargaining unit.

In strong terms, the Mayor expressed displeasure with the contents of the now-deleted second screen. The Mayor stated that Sgt. Goc had deliberately attempted to cause offense through the message, and the Mayor appeared "really upset." Sgt. Goc began to explain that he had not meant to cause offense, and he considered the contents of the message plain and unobjectionable, but the Mayor "didn't want to hear it." This interaction last approximately two minutes.

Sgt. Goc met with the Chief briefly later that day. The meeting was short, and Sgt. Goc does not recall in any detail what was said. During the afternoon, Sgt. Goc returned four voicemail messages to City residents concerning the second screen. Each conversation lasted about three to five minutes. Each of the callers asked "why the sign said what it said." Sgt. Goc engaged in a polite dialogue with each caller; he believed each citizen was satisfied at the end of the call.

VI. Analysis, Findings, and Conclusion

We conclude that the offending second screen appeared for the first time on the message board at approximately 9:45 on July 8, 2020. The author of the second screen was Sgt. Goc. There is no evidence or suggestion that any City official participated in the drafting or posting of the second screen. We credit Sgt. Goc's statement that he drafted the text alone, without input, on the morning of July 8. The second screen was deleted by approximately 12:40 p.m., approximately 15 minutes after City officials were first made aware of its contents.

We conclude that the Mayor's reaction was swift and decisive. Within seconds of becoming aware of the second screen, the Mayor ordered the Chief to have it deleted immediately. The Mayor found the message on the second screen offensive, an unequivocal insult to the Black Lives Matter ("BLM") movement. Minutes after he spoke to the Chief in person, continuing to find himself upset by the incident, the Mayor ordered his Chief of Staff to drive him to the message board so that he could confirm, with his own eyes, that the content of second screen had been deleted. Finding Sgt. Goc at the message board, the Mayor, in strong terms, made clear to Sgt. Goc that he found the contents of the second screen offensive and unacceptable.

We conclude that the Chief's actions on the day of July 8 were prompt and appropriate. The Chief ordered the content of the second screen to be deleted within seconds of the Mayor showing him a picture of the message board. The Chief immediately conducted a thorough internal investigation into the matter, speaking with Sgt. Goc that afternoon and asking for witness statements from the relevant personnel and the Mayor. The Chief played no part in the drafting or posting of the second screen. We have seen no evidence to suggest that the Chief perpetuates an environment in the department that would foster or encourage officers to publish volatile or controversial political statements through departmental outlets. The Chief took no steps to interfere with or undermine the Mayor's clear directive that the contents of the second screen be removed.

Whether some culpability might be assigned to Sgt. Goc is a more difficult question. We suspect there may be some members of the community who might say it is *impossible* that Sgt. Goc did not mean to cause offense with the posting and others who might say it is *impossible* that the posting should have caused anyone offense. Sgt. Goc has worked for the department for almost 25 years; he is a respected supervisor; he is articulate; for many years he has worked successfully with the community on a number of difficult traffic and parking issues. Sgt. Goc was courteous, unassuming, and forthright in our interview.

There is a spectrum of intent against which the drafting of the second screen might be placed: at one end of that spectrum might be a person who wished to spurn or insult the stated principles of the BLM movement⁶ and would have drafted the second screen with the intent to wound; somewhere in the middle might be a person who has found some of the rhetoric attributed to that movement dissimilar from ideas of social and racial justice he has long accepted⁷ and would have drafted the screen with the urge to stir civil debate; at the other far end of the spectrum might be a person who has not followed the news for the last several years and is entirely oblivious to the number of stories that BLM supporters, and detractors, have generated—his intent would have been nothing more than to draft a harmless roadway message.

Likewise, the message drafter may have anticipated a variety of reactions to his posting: there could have been an intent with such a posting to cause a large controversy (and even a casual Google search will relay that the second screen surely created one) or there could have been no intent at all – the roadway message could just have been a roadway message.

But it is impossible to place Sgt. Goc, with any reasonable degree of certainty, on any such a spectrum or scale. Sgt. Goc is plainly intelligent and thoughtful. I struggle to believe that he drafted the second screen without any inkling that some member of the community might discern in it some reference to political or social debate. Sgt. Goc also presents as genuine, honest, and proud of his long record of work with the community. Thus, I also struggle to believe that he intended to offend any member of the community with the content of the second screen, abuse police resources, or create any serious controversy.⁸

⁶ Those are articulated at: <https://blacklivesmatter.com/what-we-believe/>.

⁷ See, e.g., Dr. Martin Luther King’s Address to the 11th Annual SCLC Convention (16 August 1967) (“Let us be dissatisfied until that day when nobody will shout, ‘White Power!’ when nobody will shout, ‘Black Power!’ but everybody will talk about God’s power and human power.”)(available at: https://web.archive.org/web/20150311114437/http://mlk.kpp01.stanford.edu/index.php/encyclopedia/documentsentry/where_do_we_go_from_here_delivered_at_the_11th_annual_sclc_convention; last visited July 22, 2020).

⁸ As I made clear to Sgt. Goc and his union’s attorney, it was not in our purview to determine whether Sgt. Goc should be exposed to some departmental discipline. I raise the issue of Sgt. Goc’s potential culpable state of mind simply because when one asks “how” the second screen was drafted one must ask “why.” I make no suggestion here that Sgt. Goc should be subjected to departmental discipline. In fact, for the reasons described in the paragraphs of text

Our key finding is a simple one and it is this: we find that the City is in no way culpable for the second screen. No City official was involved in its drafting or posting. Once notified of the content of the second screen, City officials acted immediately to remove it. The Mayor himself has made crystal clear that he will not tolerate any similar incident in the future.

Eugene J. Sullivan

Eugene J. Sullivan

preceding this footnote, this investigator believes, on the facts described in this report, any departmental discipline against Sgt. Goc would likely not survive arbitral scrutiny.

EXHIBIT ONE



EXHIBIT TWO

To: Chief Lyle
From: Sgt. Jonathan Goc
RE: Police Department Message Board
Date: July 9, 2020

On July 8th at approximately 9:45AM I changed the message on the police department message board. The message board was changed as the previous message mentioned the July 4th holiday which had passed. The message was changed to the following;

Screen 1: Speed Limit	Screen 2: The Safety
25 MPH	of All
Thank You	Lives Matter

As you know the message board has multiple screens, in this case the screens changed every 3 seconds. So the full message to all motorists was "Speed Limit 25 MPH Thank You, the Safety of All Lives Matter" This message was intended to inform motorists of the speed limit, thank them for adhering to it and in turn promoting safety for all.

At approximately 12:25PM you called me on my cell phone and asked me remove the message stating that the Mayor had called telling you to have the message removed as the Mayor's office had received complaints regarding the wording used in the message, specifically the "All Lives Matter" wording. Per your direction I proceeded to the sign location on Main Street with Officer Donovan and removed the message from both screens.

It is unfortunate that anyone would interpret the message I wrote as anything but a traffic safety message as that is all it was. Please let me know if you have any other questions regarding this matter.

Respectfully Submitted,

Sgt. Jonathan Goc

EXHIBIT THREE

To: Chief Lyle
From: Sgt. Jonathan Goc
RE: Addendum to Police Department Message Board
Date: July 10, 2020

This is to be considered an addendum to the correspondence sent to you on July 9th regarding the Melrose Police message board and my direct interaction with Mayor Brodeur.

On July 8th while I was on Main Street with Officer Donovan removing the message on the police message board Mayor Brodeur approached me. (I will be paraphrasing this as the following statement is not to be construed as a direct quote of the exact conversation that occurred)

Mayor Brodeur in a hostile tone stated that I was throwing gasoline on the fire; I responded that I did not know what he was talking about. He then referenced the message board and what had been written on it stating that it was an offensive political statement etc. I told him I did not know what he meant by that comment. He then showed me his cell phone with a screen shot of the message board stating "The Safety of All Lives Matter" I attempted to explain to him that the message board had 2 screens on it with a speed limit/traffic safety message. Mayor Brodeur continued to state that the words on the board were offensive to some people in the community and that he had received complaints and that the message on the board was political. I told Mayor Brodeur that if the message on the board "Speed Limit 25 MPH Thank You the Safety of All Lives Matter" was offensive to some people in the community then that is unfortunate and perhaps he should speak with them and solve that problem. Mayor Brodeur then walked away.

To the best of my recollection that is how the conversation with Mayor Brodeur occurred.

Respectfully Submitted,

Sgt. Jonathan Goc

EXHIBIT FOUR

To: Chief Lyle

From: Ptl. Joseph Donovan

Subject: "Speed Trailer Incident"

Chief,

On July 8, 2020, I drove Sgt. Goc down to the traffic message board. This message board was parked on Main St, to the right side of the road. I observed the message board flashing the following: "25 MPH Thank You", and then "The Safety of All lives Matter". This message would then repeat.

Sgt. Goc unlocked the utility box on the message board, and then went to the far left of the board to access a switch. This switch allowed you to toggle thru preprogrammed messages. As Sgt. Goc toggled the switch, I told him what the message board was displaying. I eventually stepped back several feet away from the message board and moved to the right, eventually stepping up on the curb.

At this point, I noticed Mayor Brodeur walking up the sidewalk. He then walked out into the street and spoke to Sgt. Goc. Their conversation seemed brief. Mayor Brodeur walked away in the same direction he came from.

I had difficulty hearing their conversation. I did not speak to Mayor Brodeur.

Respectfully Submitted,

Ptl. Joseph Donovan

EXHIBIT FIVE



PAUL A. BRODEUR
Mayor

CITY OF MELROSE

OFFICE OF THE MAYOR

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 970-4440
Fax - (781) 662-2182

TO: Chief Lyle
FROM: Mayor Brodeur
DATE: July 13, 2020

RE: Request for information regarding traffic sign

On or around 12:25 on Wednesday, July 8, I became aware there was a Melrose Police message board on Main Street displaying a message that included the phrase, "the safety of all lives matter." A photo of the sign had already been posted on social media by a resident of the community.

I immediately instructed you to have the message taken down, and I understand you took immediate steps to make that happen.

Shortly thereafter, I went to the location to confirm the message had been removed. Sgt. Goc and another officer were present when I arrived. I got out of the car and approached the sign. I told Sgt. Goc I was not happy. He suggested that I did not know what the sign had said. I disagreed. He show me a small white piece of paper with text that he said was the entire message. We had a brief exchange wherein he expressed his opinion that there was nothing wrong with the message and that it was my problem to fix. I stated that if he did not understand the insensitivity of the message, we have a bigger problem. He again indicated this was my problem to fix as I returned to the car.