UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

KATERI LYNNE DAHL, Plaintiff,	)	
v.	)	No. 2:22−cv−00072−KAC−JEM
CHIEF KARL TURNER, *et al.*, Defendants.	)	

Plaintiff's Omnibus Opposition Brief to Each Defendant's Motion for Summary Judgment

I. Introduction: Summary of Argument

Special Assistant United States Attorney ("SAUSA") Kateri "Kat" Dahl was fired in retaliation for her whistleblowing on Johnson City's mishandling of multiple female sex crime victims of Sean Williams. Her allegations were later supported by Johnson City's own expert Eric Daigle's broader findings as to the City's mishandling of sex crime investigations generally, and its culture of bias and stereotypes against women. Johnson City and its former Police Chief Karl Turner have moved for summary judgment as if this was a routine employment dispute, but have not acknowledged the elephant in the room: they repeatedly retaliated against Dahl over a period of 6 ½ months every time she pushed Johnson City to investigate or seize Williams.[1] Chief Turner and his officers thwarted Dahl's attempts to build a wider case, and ginned up demonstrably false complaints that Dahl was uncommunicative. Officers sent unusual updates to Chief Turner and/or his right-hand man Cpt. Kevin Peters about Dahl and/or Williams, and

[1] The scope of Williams' depravity is stunning and even worse than Dahl suspected at the time. The Court can take judicial notice that Williams has since been indicted in this Court and in other federal and state courts on various sex and child pornography crimes, as well as drug crimes. Video evidence has emerged showing Williams taped himself sexually assaulting 52 women and two children. It appears that Johnson City likely sat on at least some of this video evidence it had seized and held in its possession for over two years, which shows Williams committing these sex crimes at his Johnson City apartment. *See* Am. Compl. Ex. 7 (Little Affidavit); Ex. 1, Sparks Dep. 122.

prepared a singly unusual list of cases that they claimed Dahl had not indicted quickly enough. The retaliation started in December 2020, days after Chief Turner incorrectly believed that Dahl had set up a meeting with the Tennessee Bureau of Investigation ("TBI") as to Williams. Dahl ultimately went to the FBI on May 11, 2021; eight days later, Chief Turner set her up with a meeting at which he falsely claims she promised to indict five cases at the June grand jury and report back to Cpt. Peters; he then unilaterally fired Dahl a month later on that pretextual basis.

Dahl had a good faith belief that Johnson City's failures as to the Williams victims were based on either corruption or plain incompetence. Daigle's report indicates that Johnson City's investigations into 325 sexual assault victims from 2018 to 2022–including Williams victims–met neither "industry standards nor legal requirements." Insofar as Daigle's report evidences illegal activities[2] as applied to Williams' victims, then Dahl refused to participate in or stay silent about them.

Dahl's employment as a SAUSA was pursuant to a longstanding annual, multi-agency Memorandum of Understanding ("MOU") that included Johnson City. Chief Turner's liability is based on his sending a letter to Dahl unilaterally declining to renew her MOU without consulting any other agency partner beforehand. Turner lacks qualified immunity under clearly established law, and there is circumstantial evidence that he had notice of protected activity coupled with proximity very close in time to his actions. A reasonable juror could disbelieve Turner's explanation that he was motivated by the claimed delayed indictment of five cases on the list under the totality of the circumstances. Further, Dahl's MOU provided her with modest due

[2] The Daigle report found that discrimination based on gender-based stereotypes and bias is responsible in part for the deficiencies in Johnson City's response to sexual assault. That's illegal activity under federal law: *e.g.,* the Equal Protection Clause of the Fourteenth Amendment, *see Whren v. United States,* 517 U.S. 806, 813 (1996); the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141; the Safe Streets Act, 42 U.S.C. § 3789(d); and Title IX of the Education Amendments of 1972.

process rights.

As to her Tennessee Public Protection Act ("TPPA") claim, (a) Dahl was either a Johnson City employee or her job was federally funded in part; (b) she was fired; (c) she refused to participate in or (d) refused to remain silent about illegal activities, (e) there is circumstantial evidence aplenty of notice of her speech, and (f) (g) the City's other causes are pretextual. As to her NDAA claim, Dahl was (a) a Johnson City employee under the MOU, (b) she complained repeatedly to her Johnson City supervisors, as well as to an FBI agent and other DOJ and federal employees, (c) there is evidence of 6 ½ months of retaliation culminating in her firing, (d) a reasonable person would believe her speech was NDAA protected, (e) Dahl's complaint is not confined to the pole camera, and in any event she filed her DOJ OIG complaint more than 210 days before first asserting her NDAA claim.

Since Dahl has made out the elements of her claims, Turner lacks qualified immunity under clearly established law, and there is sufficient disputed evidence of causation (including notice), then the Court should deny summary judgment. There is very close temporal proximity between Dahl's speech and Defendants' retaliatory actions, as well as additional "specific facts" evidencing retaliatory intent and conduct. The Court cannot say that "no reasonable juror could fail to return a verdict for the defendant." *B.H. v. Obion Cnty. Bd. of Educ.,* No. 18-cv-01086-STA-jay, at *16 (W.D. Tenn. Dec. 10, 2019).

II. Standard of Review

Summary judgment may be granted by the Court only "if the movant show[ed] that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). When deciding a motion for summary judgment, the Court must review all the evidence and draw all reasonable inferences in favor of the non-movant.

Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The Court "may not make credibility determinations or weigh the evidence." *Laster v. City of Kalamazoo,* 746 F.3d 714, 726 (6th Cir. 2014).

The moving party bears the burden of proving the absence of any genuine issue of material fact. *Celotex Corp. v. Catrett,* 477 U.S. 317, 323 (1986). If the moving party satisfies that burden, the non-moving party avoids summary judgment by designating "specific facts" that demonstrate genuine, disputed issues for trial. *Id.* at 323-24. The Court must assess the evidence, and draw inferences therefrom, in the manner most favorable to the nonmoving party. *Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 255 (1986). The Court cannot grant summary judgment if "there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party." *Id.* at 250.

III. Statement of Facts

The following facts taken from the record are either undisputed or, where disputed, are stated in the light most favorable to the plaintiff as nonmovant.

In the early morning hours of September 19, 2020, Jane Doe 1 fell from the fifth-story apartment of Sean Williams, who lived in a prominent building in downtown Johnson City. Ex. 2. She did not know Williams, but he had lured her to his downtown garage, where he kept flashy sports cars and a large rope swing, and then up to his apartment. *Id.* Not long after that, her life nearly ended as she lay on the sidewalk below. *Id.* Witnesses flagged down patrol officers, and two officers eventually gained access to Williams' building and went to the apartment to speak with him. *Id.* They noticed security cameras in the apartment and took some photos of the scene. *Id.* Nothing that was in plain view was seized or searched at the time. Ex. 1, Sparks Dep. 29. There were two cameras in the apartment that would have shown the window

from which Jane Doe 1 fell, but Williams told Investigator Toma Sparks they had not been working at the time. *Id.* at 32.

Johnson City officers apparently did not make an immediate effort to interview other witnesses to the fall. For example, one eyewitness from the street below has declared that he saw Williams and Jane Doe 1 struggling before her fall and that Jane Doe 1 was pushed. Johnson City officers rebuffed his attempts to make a report as much. Ex. 3, Harless Decl. at ¶¶ 7-8.

Sparks drove Williams to JCPD headquarters, where Williams voluntarily submitted to questioning for about 30 minutes. Ex. 1, Sparks Dep. 27, 30. Williams showed Sparks video footage from the apartment. *Id.* at 27. Sparks did not ask Williams for consent to search his apartment. *Id.* at 28. Williams was allowed to retain his phone during the interview, even though Sparks assumed that Williams had the ability to delete videos from his phone. *Id.* at 34. When Williams was about to leave, Sparks finally seized his phone (without a warrant, because there was a risk that Williams would delete evidence). *Id.* at 35. Williams' phone was dead, so Sparks plugged it in to charge while Williams walked home. *Id.* at 36. When the phone was turned back on, it displayed a message saying that it was lost. *Id.* at 50. The only step Sparks took to prevent Williams from destroying evidence was to work on obtaining a search warrant for the apartment. *Id.* at 50-51. But the imminent destruction of evidence is an exigent circumstance and creates an exception to the warrant requirement. *Id.* at 51.

When investigators returned to Williams' apartment with a search warrant suspecting attempted homicide, the security cameras had been taken down and hidden. Ex. 1, Sparks Dep. 72. But investigators made a disturbing discovery: a handwritten list of 23 names on Williams' nightstand, with the word "Raped" written at the top. Ex. 4. They also found a baggie of what was later identified as the controlled substance Eutylone, and a shotgun that was not seized. Ex.

1, Sparks Dep. 69, 133-34; Ex. 5. Investigators seized various electronic devices (including laptop computers, SIM cards, and tablets) and a large safe. Ex. 6. Williams, through his attorney, voluntarily provided the combination to open the safe. Ex. 7, Gryder Dep. 33. It contained a large amount of currency that appears on video to be in the six figures (officers did not document the amount), sex toys, and a baby doll with its crotch drilled out. *See, e.g.*, Ex. 8, Saulsbury Dep. 74-75. It also contained ammunition, which Williams could not legally possess due to a prior felony conviction. Ex. 1, Sparks Dep. 88. Officers speculated that Williams may have hidden guns in an elevator shaft, but apparently did not look there. Ex. 8, Saulsbury Dep. 57-58. Although Sparks testified he would normally look for prior complaints against a suspect when investigating a serious felony, he stated he may not have initially looked for other reports against Williams. Ex. 1, Sparks Dep. 127-28. For about a week, Sparks asked Williams' attorney for videos from the night of Jane Doe 1's fall, some of which Williams eventually provided. Ex. 66. But Williams claimed to be having trouble with the camera software and delayed in providing them. *Id.*

On October 14, 2020, nearly a month after Jane Doe 1's fall (which was being investigated as an attempted homicide), Sparks obtained a search warrant directed to Arlo Technologies, the manufacturer of Williams' security cameras. Ex. 10. He did not seek a search warrant for Williams' electronic devices that had already been seized and could have been used to access and download the camera footage. *See generally* Ex. 11 at 9, 35-38.[3] Arlo responded that Arlo has "no way to recover videos that: a) are intentionally deleted by an Arlo user from his account before we preserve the videos or b) become too old for the Arlo user's subscription plan and are automatically removed by the Arlo system before we preserve the videos or place a

[3] Defense counsel had a court reporter create a transcript of Dahl's recorded conversations. For ease of reference, Dahl refers to those unofficial transcripts rather than the recordings themselves and understands that Defendants have manually filed the recordings with the clerk's office.

litigation hold on the account." Ex. 12. Further information provided by Arlo showed that Williams' account was created on January 21, 2020 and was last accessed on Sept. 19, 2020, the day Williams had been interviewed by Sparks and Jenkins. *Id.*

On November 13, 2020, nearly two months after Jane Doe 1's fall, Sparks gave Dahl the investigative file for the Jane Doe 1 matter and asked her to consider indicting Williams for being a felon in possession of ammunition, as Williams had previously been convicted in North Carolina of manufacturing marijuana.[4] Ex. 13, Dahl Dep. 102-03. As SAUSA, Dahl's main role was to prosecute Johnson City cases in federal court, and her salary was paid by Johnson City with a combination of City funds and federal DOJ grant money. Ex. 14, Turner Dep. 20-21. At that point, Dahl had been the SAUSA for more than a year, her position had been renewed a few months earlier, and there were no documented complaints about her performance. *Id.* at 42.[5]

By the time Jane Doe 1 fell from Williams' window, JCPD had already received at least two reports from women who said they had been raped by Williams in his apartment, on November 7, 2019 (Jane Doe 9) and June 2, 2020 (Jane Doe 3).[6] Ex. 16; Ex. 17, Jane Doe 2

---

[4] Sparks' case notes indicated that he first spoke with Dahl about the case on "11/12/21," but one can surmise that this entry in the case notes was added sometime after the fact, as it clearly lists the wrong year. Ex. 2. JCPD did not produce any native electronic files, so Plaintiff cannot determine when Sparks entered this or any other notes in the Department's RMS system. Further, Johnson City's expert Eric Daigle found serious flaws with the Department's record keeping. Am. Compl. Ex. 5 at 6, 12-14, ECF No. 56-5.

[5] In fact, on February 23, 2020, Inv. Jenkins sent an email to Platoon 4 recounting a staff meeting led by Turner on February 18, in which Turner lauded that Dahl was "working on 30+ cases from our department." Ex. 15.

[6] Saulsbury falsely testified that as of November 2020, JCPD "hadn't heard about the rapes or anything like that", Ex. 8, Saulsbury Dep. 80, but at least two victims had already formally reported to JCPD about their rapes by Williams at that point. Further, the sexual assaults had a common *modus operandi* and location: Williams' apartment.

Decl.;[7] Ex. 18. JCPD had not interviewed Williams or visited the crime scene in response to either of these reports. *See* Ex. 19 (Daigle noting "[n]o contact with suspect or witnesses" of Nov. 2019 report and "[n]o mention in the report of responding officers checking the apartment to locate suspect or witnesses" with respect to the June 2020 report). In fact, just two days after Jane Doe 1's fall, a supervisor noted in Jane Doe 3's case file that "additional investigation revealed there was no actual rape." Ex. 1, Sparks Dep. 98. The November 7, 2019 victim's case had been inactivated in JCPD's system as of November 21, 2019, and had not later been reactivated despite the entry of later notes in the system. Ex. 7, Gryder Dep. 28-30. The case notes for this victim did not list the name of the investigator responsible, which was unusual. *Id.* at 41-42. Another woman reported being raped by Williams on November 24, 2020 (Jane Doe 2); again, there was "[n]o investigation. Suspect never contacted or interviewed." Ex. 19. As a supervisor overseeing sexual assault investigations, Gryder testified that he would have expected the investigator to identify and locate a suspect, secure the scene of the assault, collect evidence from the scene, and interview a known suspect. Ex. 7, Gryder Dep. 65-66. Even before Jane Doe 9's assault in November 2019, JCPD had received a report in July 2019 by a person who wished to remain anonymous that Williams was having wild parties with underage girls. Ex. 20. And unbeknownst to Dahl, Sparks was aware of yet another victim (known as Jane Doe 5 in the related *Does* litigation) who spoke to him on or around October 23, 2020. Ex. 71. He discouraged her from filing an official report and failed to follow up with her. *Id.*

Immediately after learning of the "Raped" list, on November 13, 2020, Dahl told Wayne Taylor, supervisory AUSA in charge of the Greeneville U.S. Attorney's Office, about the case. Ex. 21, Dahl Decl. ¶16; Ex. 22. Taylor remarked that the list was "disturbing" and told Dahl,

[7] Jane Doe 9 in this litigation is Jane Doe 2 in the parallel litigation by Williams' victims against Johnson City and certain officers. *Does v. Johnson City,* 2:23-cv-71-TRM-JEM (E.D. Tenn.).

"[t]hanks for taking this on." Ex. 22. Dahl expressed concerns about serious errors and omissions that had inexplicably been made in the investigation to date. Ex. 21, Dahl Decl. ¶16.

On November 24, 2020, Dahl participated in an interview of Williams' latest victim, along with Sparks and Saulsbury. Ex. 21, Dahl Decl. ¶¶22-24. The victim (Jane Doe 2) stated that she had seen guns in Williams' garage. Ex. 8, Saulsbury Dep. 58. Sparks did not interview Williams with respect to Jane Doe 2's report and did not attempt to search or seize any items from Williams' apartment. Ex. 1, Sparks Dep. 108-09. Jane Doe 2 texted Saulsbury the names of other women who would have information on Williams and may have been victims, but Saulsbury did not even attempt to contact them, or to share this information with Sparks. Ex. 23; Ex. 1, Sparks Dep. 116. Jane Doe 2 declares that she initially went to the FBI instead of JCPD because of her concerns about JCPD. Ex. 68, Jane Doe 7 Decl.[8] Nevertheless, news of her report quickly made its way back to Johnson City to Sparks, suggesting that the FBI kept Sparks and Johnson City updated as to Williams complaints. *Id.*; *see* Ex. 39, McKinney Dep. 34 (Sparks showed up at hospital as McKinney was leaving).

On December 3, Sparks sent an unusual memo to Peters, who was not his first-line supervisor, about Dahl's involvement in the Jane Doe 2 interview. Ex. 24. Sparks testified that he did not "recall who asked me to send that to him." Ex. 1, Sparks Dep. 128. Aside from this memo, he had never gone outside his chain of command and sent a memo to Peters. *Id.* He did not normally communicate his interactions with a SAUSA to a captain. *Id.* at 129-30. He was not aware of a memo like this in any other case. *Id.* at 132.

On December 4, 2020, William Saulsbury of the JCPD Special Investigation Squad ("SIS") learned through contacts at the Tennessee Bureau of Investigation ("TBI") that the U.S. Attorney's Office ("USAO") had scheduled a meeting with TBI to discuss the Williams case.

[8] Jane Doe 2 in this litigation is Jane Doe 7 in the *Does* litigation, No. 2:23-cv-71 (E.D. Tenn.).

Saulsbury emailed Cpt. Peters, Criminal Investigation Division ("CID") commander (who was not his first-line supervisor), about the meeting. Saulsbury believed Dahl had requested the TBI meeting. Ex. 8, Saulsbury Dep. 123-24. Just six minutes later, Peters responded, "This meeting will be cancelled as of right now." Ex. 25. Peters indicated that he would be meeting with TBI agent Chuck Kimbrell alone on Monday to discuss the case, without Dahl, and that he "and Chief Turner had a conversation with Wayne Taylor expressing our concerns late yesterday." *Id.*

On December 8, 2020, Dahl met with Turner about Williams and her desire to build a broader case against him. Ex. 11. At this point, Dahl was sufficiently worried about Johnson City's mishandling of the Williams investigation and arrest that she recorded the conversation. Ex. 21, Dahl Decl. ¶¶32-33. She was concerned that if she only indicted Williams on the ammunition charge, he would be released on bond and would flee. Ex. 11 at 44. She told Turner about potential ways to obtain further evidence against Williams. Ex. 13, Dahl Dep. 115. She specifically referenced "the rape charges themselves and whether or not this individual has anything on this computer." Ex. 11 at 5. "The whole baby doll in the safe makes me think that, you know, this very well could be an individual who has child porn on his computer or something of that nature. I wouldn't be surprised if there were many more victims other than the 20 on the list, you know, because the two that came forward were not on the list." *Id.* at 5-6. Turner made a number of excuses about why JCPD could not pursue further charges against Williams. *Id.* at 6-10. Dahl stated that the latest victim had seen and used cocaine in Williams' garage, and that she had overheard Williams talking about firearms he kept in his garage. *Id.* at 10. Dahl also explained that more than one victim believed she had been drugged by Williams, and that could potentially support charges under the federal date rape statute. *Id.* at 11. Turner admitted that the "Raped" list "with some statements made by victims really gives you cause for

concern." *Id.* at 17. Dahl explained that she had identified some of the individuals on the "Raped" list who had unusual names. *Id.* She also identified a house Williams owned near Western Carolina University. *Id.* at 18. Dahl told Turner, "there are people out there that could potentially correspond to people on this list . . . if, you know, they decide to reach out to." *Id.* at 19. Rather than directing his subordinates to contact the individuals Dahl had identified, Turner speculated that the rapes might have taken place in other jurisdictions. *Id.* at 20. "[I]t doesn't mean they're all in Johnson City," Turner stated, "despite the fact that he lives here, I guess." *Id.* at 20. Dahl responded, "if we could try to verify whether or not people on this list are victims, that would certainly bolster, you know, the case for a search warrant [on the devices] as well." *Id.* at 21. Turner admitted that "there's lots of red flags with this guy." *Id.* at 24. Dahl stated, "I think this guy is a clear and present danger . . . an ongoing danger to the community." *Id.* at 24-25. Turner replied, "if, in fact, he has drugged women and taken advantage of them, that's probably going to be what he does in the future." *Id.* at 25. Dahl also told Turner that she had come across a prior JCPD report from Williams alleging that someone had broken into his safe and stolen two cameras and SIM cards. *Id.* at 27-28. This suggested to Dahl that a victim was potentially trying to destroy illicit footage Williams had taken. *Id.* at 28.

Turner called Peters into the meeting and stated, "we were talking about the case," which assumes that Peters would know exactly what case he meant. *Id.* at 30. Peters stated, "the only way I can see us working this case from this point on is probably the drug angle." *Id.* at 34. Dahl suggested that the computer in JCPD's possession could contain photos of firearms, drugs, cash, or other incriminating evidence against Williams. *Id.* at 36-37. Turner suggested that Sparks work with Dahl on preparing a search warrant affidavit, *id.* at 46, but ultimately more than another month would pass before Sparks sent her a draft. Ex. 26. Peters stated, "[Williams] needs

to go back to North Carolina or somewhere . . . . He can be their problem." Ex. 11 at 61.

On December 11, 2020 – less than a month after Dahl began trying to build a larger case against Williams, one week after the cancellation of the TBI meeting, and just three days after Dahl met with Turner and Peters to discuss the Williams case – Sgt. Jeff Legault of SIS sent an email to Turner with a list of cases he claimed had been presented to Dahl for consideration but had not yet been indicted, as well as other cases he claimed SIS had not given to Dahl because of the backlog of other cases. Ex. 27. Legault did not ask Dahl why the cases had not yet been prosecuted. Ex. 28, Legault Dep. 35. Legault had already told Dahl that SIS had been sending her fewer cases because "things were slower due to COVID." Ex. 13, Dahl Dep. 15. Peters, a good friend of Turner, Ex. 14, Turner Dep. 34, had asked Legault to create the list of cases. Ex. 28, Legault Dep. 31. He had never been asked to create a similar list for any other SAUSA. *Id.* at 33, 84. Nor was Turner aware of a list of cases being created for another SAUSA. Ex. 14, Turner Dep. 63. In fact, Turner testified that he had no expectations about the number of cases that the SAUSA was bringing to the grand jury each month. *Id.* at 73. Turner also recalled receiving information from officers that "they weren't having some federal grand juries during COVID." *Id.* at 99. On the same afternoon that Legault sent the list of cases to Turner and Peters, he was joking with Dahl via text message and said nothing about the list or performance concerns. Ex. 28, Legault Dep. at 122-23. Legault testified that "Dahl was always good with communicating with me for the most part," Ex. 28, Legault Dep. 40, and "[s]he was always pretty responsive to me," *id.* at 105. Yet Legault did not question others' purported assertions that Dahl was uncommunicative with them. *Id.* at 107.

Saulsbury had been asked by Legault to compile a list of cases he wanted prosecuted federally. Ex. 8, Saulsbury Dep. 23-24. But as of December 2020, Saulsbury had never even

presented a single case to Dahl for federal prosecution. *Id.* at 65-66. Saulsbury admitted that Dahl indicted the only two cases he gave to her for federal prosecution in the spring of 2021. *Id.* at 29. Saulsbury testified that he and others were frustrated "that Kat was too distracted with other things" – specifically "Sean Williams." *Id.* at 25, 29. He stated that Dahl talked about Sean Williams "a lot." *Id.* at 30. Saulsbury, who is not a lawyer and had only worked with one other SAUSA, testified that instead of having every other case file ready to go, Dahl "was out looking for Sean Williams," and because of this, he decided she was "incompetent." *Id.* at 65. Saulsbury had sent text messages to Dahl stating, "we know [Williams] has guns and coke . . . would almost me [sic] he has child porn somewhere too." *Id.* at 81. Yet he testified that "Kat Dahl was obsessed with the Sean Williams case" and "[s]he was too personally invested in it." *Id.* at 81-82. Saulsbury testified that his primary complaint about Dahl was that she was "not prosecuting enough cases." *Id.* at 114. When asked about other complaints regarding Dahl, he testified about "her just repeatedly trying to get us to do stuff on the Sean Williams stuff that we didn't feel comfortable doing." *Id.* at 114-15.

Saulsbury unequivocally stated that he "wanted [Dahl] to lose her position as SAUSA" and that he developed that desire in the fall of 2020 – the same time period when Dahl began trying to build a case against Williams. Ex. 8, Saulsbury Dep. 115. Saulsbury admitted that he did not express any displeasure with Dahl's performance to her directly. *Id.* at 27.

Saulsbury inconsistently testified that he had very little information about Williams before the search warrant, and yet that he was excited that he might finally be able to prosecute Williams when the search warrant was executed in September 2020. *See* Ex. 8, Saulsbury Dep. 42-46. He testified that a big cocaine trafficker had recorded rap videos in Williams' garage. *Id.* at 46. Saulsbury testified that an informant had told Saulsbury that Williams had sexually

assaulted his girlfriend (who happened to be the June 2020 victim). *Id.* at 54. Saulsbury apparently made no attempt to follow up on this information. *Id.* at 54-55.

On December 15, 2020, Dahl, AUSA Tom McCauley, and Sparks met with the June 2020 victim, whom investigators had previously characterized as uncooperative. Ex. 21, Dahl Decl. ¶¶35-37. Dahl arranged this interview as part of her attempt to gather additional evidence on Williams. Ex. 13, Dahl Dep. 171. Just hours after the interview of this victim, Dahl received a call from Taylor stating that Turner had contacted him to complain about the list of cases that Legault had prepared. Ex. 13, Dahl Dep. 171. Turner did not typically contact Taylor about SAUSA cases. Ex. 14, Turner Dep. 77. Dahl "was alarmed" and "took steps to try . . . to remedy the situation, which included going to SIS individually . . . and asking them about their concerns." Ex. 13, Dahl Dep. 15. She "touched base with [the] investigators and gave them updates as to where everything was." *Id.* at 13. She also gave a verbal status report to Taylor, as was the procedure for the office. *Id.* at 36. In line with Turner's request to Taylor, Dahl believes she followed up with Turner about the listed cases when they next spoke; she recalls providing a status in either December or January. *Id.* at 14-15.

On January 12, 2021, nearly four months after Williams' devices had been seized, Sparks finally sent Dahl a draft search warrant affidavit. Ex. 13, Dahl Dep. 109; Ex. 26. Dahl found the affidavit's fact statement to be too thin and "extremely deficient." Ex. 13, Dahl Dep. 11. It was even less detailed than a different version he had previously emailed to himself, *cf.* Ex. 26 with Ex. 29, and although the suspected crime listed was possession of a firearm, the draft affidavit did not state that officers had witnessed a firearm in Williams' apartment on September 19. Dahl explained that she cannot write a search warrant herself because that would be unethical and inappropriate coaching of a police officer. Ex. 13, Dahl Dep. 11. Dahl testified that she

"attempted several times to get Johnson City Police to do anything that would help in obtaining a search warrant [by obtaining additional evidence] and was rebuffed at every point;" JCPD did not follow up on the numerous avenues she presented. *Id.* at 118-19. Between December 2020 and July 2021, Dahl told Taylor "[p]robably at least weekly" about her requests to Turner and Sparks to investigate Williams. *Id.* at 136. "I had made my concerns known thoroughly, frequently, very loudly." *Id.* at 136-37.

On January 22, 2021, another victim submitted an anonymous tip to JCPD that she had been drugged and sexually assaulted by Williams. Ex. 30. Dahl had a phone conversation with Turner about this tip in January 2021 and further discussed the planned search warrant for Williams' devices. Ex. 13, Dahl Dep. 131. At that point, Dahl believed the existing evidence from September 2020 was too stale to support a warrant, but she spent about a week and a half researching possible avenues for obtaining one. *Id.* at 133-34. Dahl initially wanted to investigate Williams' other suspected crimes before indicting and arresting him on the felon in possession of ammunition charge because she "thought there was a very good chance that evidence of other crimes, such as drug trafficking or assaults, could be hidden by Williams or his cohorts if [JCPD] arrested him first for ammunition." *Id.* at 143. But when no other evidence was developed, and after concluding that Sparks' affidavit was too stale to support a warrant for Williams' devices, Dahl decided the best course of action was to "go ahead and indict Williams on the ammo charge and . . . work it backwards in hopes that having apprehended Williams that other [victims] would come forward." *Id.* at 134.

On January 26, 2021, Sparks sent to Peters one of the emails he had sent to Dahl about the Williams search warrant, using the subject line "Kat Dahl E-mail." Ex. 1, Sparks Dep. 141; Ex. 31. This was unusual to focus on and refer to the SAUSA, not the target of the

investigation. Ex. 1, Sparks Dep. 141.

A rape kit had been collected from the November 2019 victim, and a lab report indicating the presence of male DNA was dated July 15, 2020 – well before Jane Doe 1's fall – but the victim was not contacted about the results until March 24, 2021. Ex. 32. Despite actively working to prosecute Williams, Dahl was not notified about the positive rape kit results. Ex. 21, Dahl Decl. ¶57. Similarly, the toxicology report for Jane Doe 1 came back in December 2020 or January 2021, but Sparks did not provide it to Dahl until April 1, 2021. Ex. 13, Dahl Dep. 107. On February 16, 2020, Inv. Barron (who claimed in his deposition to know very little about Williams) sent an email to others within the department describing a victim of an unidentified crime and vaguely referencing "the Sean Williams situation." Ex. 33; Ex. 34, Barron Dep. 20-28. No one shared this information with Dahl. Ex. 21, Dahl Decl. ¶47. Barron could not explain why he did not copy Dahl on this email. Ex. 34, Barron Dep. 26-27.

In his deposition, Sparks testified that he did not make any investigation into the "Raped" list aside from comparing the names to prior complaints against Williams. Ex. 1, Sparks Dep. 152. He admitted that the reports of sexual assaults could have been a basis for a search warrant on the devices. *Id.* at 153. Specifically, Sparks admitted that there would have been probable cause to search the devices based on three sexual assaults occurring in Williams' apartment, with DNA evidence as to at least one (and ultimately two) of them. Ex. 1, Sparks Dep. 157-58.

In February, 2021, JCPD installed a federally funded pole camera near Williams' garage. Ex. 62; Ex. 63. Legault testified that this was installed because of shootings and was not specifically targeted toward Williams. Ex. 28, Legault Dep. 132-134. The camera yielded nothing of value as to Williams. Ex. 45, Peters Dep. 106-07.

Dahl had been scheduled to indict Williams on March 8, 2021, but Sparks failed to

provide her with certified judgments from Williams' prior felony, so she had to delay seeking the indictment until April while she worked to obtain the judgments herself. Ex. 21, Dahl Decl. ¶¶50-51. Dahl continued to press Johnson City officers to further investigate Williams. Ex. 21, Dahl Decl. ¶57. As she pushed for further investigation and prepared to indict Williams, Legault emailed an updated version of his case list to Turner on March 23, again complaining that in his view, Dahl was not indicting cases quickly enough. Ex. 61. No one shared this list with Dahl or the USAO. Ex. 21, Dahl Decl. ¶56 .

On April 22, 2021, Legault sent an email to Peters and Turner claiming that less than 24 hours before, Dahl had agreed to find a judge to file a complaint with respect to a particular suspect whom the department considered to be dangerous, but did not follow through on doing so. Ex. 67. The email stated that Barron and Dahl had exchanged messages about the matter, *id.*, and Barron testified the same in his deposition, Ex. 34, Barron Dep. 62-69, but those alleged text messages have never been produced by the City in discovery, nor by Barron in response to a subpoena.[9] No explanation has ever been given as to why they were not produced; Dahl can only assume they do not exist. Legault admitted that Barron had never shown him the text messages. Ex. 28, Legault Dep. 93. Dahl disputes the account of Barron and Legault; she declares that she told Barron she would prefer not to use the complaint process with this defendant and would instead prefer to indict him, as that was the usual and preferred process. Ex. 21, Dahl Decl. ¶54. Legault sent another email to Peters and Turner about the same suspect on May 1, blaming Dahl for a subsequent criminal act by the suspect, despite the fact that the suspect had already been

[9] Barron testified that he believed he produced the text messages to the City's attorneys, Ex. 34, Barron Dep. 62-63, but Dahl has never received them. Dahl's counsel raised the issue both verbally and by email to defense counsel, but defense counsel never responded. Johnson City did provide exactly one page of text messages between Barron and Dahl, but they do not reference this matter. On inference, Barron's text messages do not exist, or were deleted.

charged in state court and released on bond before the incident. Ex. 35; Ex. 28, Legault Dep. 61-62. Dahl federally indicted the suspect on May 11, at the next grand jury, for possessing a firearm as a felon. *See* 2:21-CR-00040 (E.D. Tenn.). The suspect was already in state custody at Washington County. Ex. 36. Legault admitted that he did not know that a federal complaint is exceptional to the normal requirement under the Fourth Amendment for an indictment. Ex. 28, Legault Dep. 43-44.

Dahl obtained an indictment of Williams for the ammunition charge on April 13, 2021.[10] She spent the next three to four weeks begging investigators to arrest him, to no avail. Ex. 11 at 64-65, 176-77. Dahl sent Legault a copy of the indictment for Williams and had several conversations with him about going to arrest Williams, but Legault said it was Sparks' case and it was his warrant to serve. Ex. 28, Legault Dep. 140. According to Legault, officers would normally start looking for an indicted person within the week. *Id.* at 141.

On the morning of May 5, 2021, Sparks sent an email to Turner with the subject line "Kat Dahl" giving a synopsis of the Williams case. *Id.* at 162; Ex. 69. This was unusual because officers did not normally report to Chief Turner about individual cases. Ex. 14, Turner Dep. 261. Turner could not say what triggered the email. *Id.* That same day, Sparks issued a BOLO ("be on the lookout") email regarding Williams. Ex. 37. Officers are expected to issue BOLOs promptly, not three weeks after an arrest warrant is issued. Ex. 28, Legault Dep. 63-67. Contrary to best practices, the BOLO did not state any details about the charges, level of danger, or details about Williams' apartment, such as the fact that he had welded steel plates to the door and walls to thwart forced entry. *Id.* 91-92; Ex. 7, Gryder Dep. 73; Ex. 38, Tallmadge Dep. 14-15; Ex 175, Sparks Dep. Officer McKinney testified that she had never seen another BOLO that referenced the SAUSA. Ex. 39, McKinney Dep. 79.

[10] *United States of America v. Williams,* Case No. 2:21-CR-00027 (E.D. Tenn.).

That very night, Officer Jason Lewis went to Williams' apartment, purportedly to conduct reconnaissance. Ex. 40, Lewis Dep. 14-15. He claimed he knew nothing about Williams before going and had not spoken to Sparks. *Id.* at 11-13, 15. But Lewis's supervisor, Lt. Tallmadge, testified that Sparks had spoken to the patrol platoon (including Lewis) about Williams at roll call that night. Ex. 38, Tallmadge Dep. 21. Gryder testified that it would surprise him if Lewis had gone to Williams' apartment completely of his own accord, by himself. Ex. 7, Gryder Dep. 71. Typically an officer with no involvement in the case would not be the person coming up with a plan to serve an arrest warrant. *Id.* at 71-72.

Lewis saw the steel plates on and around Williams' door and gathered that "[s]omebody went to some effort to keep people out." Ex. 40, Lewis Dep. 14. But he claimed that once he was there, he figured "I might as well knock." *Id.* at 15. Lewis was at the apartment talking to its occupant for approximately four minutes before backup arrived. Ex. 41. He claimed not to remember any of his conversation with the person behind the door, although he admitted there was "a good likelihood" that Williams was inside. Ex. 40, Lewis Dep. 27, 23. Although JCPD had body-worn cameras, Ex. 28, Legault Dep. 159, Lewis was not wearing a body camera that night. Ex. 40, Lewis Dep. 38. Williams had called 911 and identified himself, but at times denied being in the apartment and claimed the officer was speaking with his roommate. Ex. 42. Lewis was eventually joined by McKinney and Tallmadge. Ex. 40, Lewis Dep. 29. Lewis provided McKinney with the door code to the building over the radio. Ex. 39, McKinney Dep. 48. Lewis was at Williams' apartment for 22 minutes. Ex. 40, Lewis Dep. 37. The person speaking to the officers from inside the apartment identified himself as Williams several times but would not open the door. Ex. 38, Tallmadge Dep. 25; Ex. 42; Ex. 43. Tallmadge ultimately directed the three to leave the premises without taking any steps to prevent Williams from fleeing. Ex. 39,

McKinney Dep. 55; Ex. 40, Lewis Dep. 37. Tallmadge admitted on a phone call with a 911 dispatcher that the officers' actions had "tipped [Williams] off" to the warrant, and the dispatcher was able to map the location of Williams' cell phone to the apartment. Ex. 44. Gryder testified that going to the door of a wanted person and knocking is not a good idea because if the person was previously unaware of the warrant, having an officer knock on the door would give them a reason to suspect that they are wanted and flee. Ex. 7, Gryder Dep. 78. Legault testified that if a 911 dispatcher was talking to the person in the residence and was able to get a name, that would be credible evidence to effectuate the arrest. Ex. 28, Legault Dep. 139. Yet Lewis recalled no discussion of forcing entry to arrest Wiliams. Ex. 40, Lewis Dep. 36. Officers could have done surveillance and waited until Williams exited, because no one is going to stay in one apartment forever. Ex. 7, Gryder Dep. 78. But there was no discussion among Lewis, McKinney, and Tallmadge about whether to surveil the exits to Williams' building. Ex. 39, McKinney Dep. 53-54. Peters testified that he is not aware of surveillance ever being done on Williams' apartment. Ex. 45, Peters Dep. 139. Gryder, then a sergeant in CID, described the May 5, 2021 encounter to Dahl as "they just threw up their hands and left, which kind of boggles my mind." Ex. 11 at 176. Williams had video recording devices outside the door to his apartment, so on inference the interaction was recorded. Ex. 40, Lewis Dep. 18-19.

Dahl complained to officers inside and outside JCPD about the fact that JCPD had allowed Williams to flee. *See, e.g.*, Ex. 11 at 176-77; Ex. 21, Dahl Decl. ¶¶70-72. She attempted to get the U.S. Marshals service to try to locate and arrest Williams. Ex. 46.

In or around May 2021, two more women contacted Dahl and provided information that Williams had sexually assaulted them. Ex. 13, Dahl Dep. 179. Dahl spoke with various other downtown bartenders and other witnesses as well in the same time period. *Id.* at 178-79. These

individuals expressed concerns about corruption in JCPD based on JCPD's handling of Williams. *Id.* at 181. Dahl relayed information about these informal interviews to Taylor. *Id.* at 180-81.

In May 2021, Dahl also reported her concerns about the Williams case to FBI agent Bianca Pearson. *Id.* at 163. She met with Pearson twice to relay her concerns about JCPD's handling of the case. *Id.* The first meeting was on May 11 at Pearson's desk in the Johnson City FBI office, which was an open-air office. *Id.* at 164. Joe Jaynes of JCPD was detailed to the local FBI office, which had fewer than ten agents and perhaps as few as four or five. Ex. 47, Jaynes Dep. 14. Jaynes knows Pearson and has interacted with her about cases. *Id.* During the relevant time period, Jaynes was supervised by Matt Gryder, who was supervised by Don Shepard, who reported to Peters, who reported to Turner. *Id.* at 17.[11] Jaynes would interact with Peters, who was in CID fairly regularly. *Id.* at 21. Jaynes sent daily or weekly reporting emails about his FBI cases and would report his FBI activities to his sergeant in CID. Ex. 14, Turner Dep. 26-27.

On May 19, 2021, Turner held a meeting with Dahl and Peters to discuss the Legault case list. Ex. 11 at 98-99. JCPD had spoken to Dahl about prioritizing violent crimes for federal prosecution. Ex. 14, Turner Dep. 32; Ex. 11 at 107. At one point, Peters checks five suspects on this list. *See* Ex. 11 at 102-03.[12] Legault did not consider one of the five individuals at issue to be a priority because "she just wasn't a dangerous person necessarily." Ex. 28, Legault Dep. 79. As to another of the five, Legault agreed that simply possessing a large quantity of methamphetamine does not make a person violent. *Id.* at 82. Turner admitted that the USAO determined which cases were appropriate for federal prosecution and that he "couldn't demand that a case be prosecuted." Ex. 14, Turner Dep. 34-36. Since the list had been generated in December 2020, Dahl had indicted several of the listed cases. Ex. 45, Peters Dep. 88. It was not

[11] Peters testified that Gryder and Legault both reported directly to him. Ex. 45, Peters Dep. 20.

[12] Three of the five were never federally indicted. Ex. 21, Dahl Decl. ¶119..

customary for the SAUSA to explain to the captain or chief why she declined to prosecute certain cases. *Id.* at 91-92. Dahl explains in the meeting that she had already indicted at least five of the people listed, Ex. 11 at 101-02, and that her indictment rate was similar if not greater than her AUSA peers during peak Covid, *id.* at 102-03, and acceptable to DOJ, ex. 48, Taylor Dep. 83, 90. She then references the five cases that Peters checked on the list, stating they "were all on my list of to go, like, for the next round *or next couple of rounds*." Ex. 11 at 102 (emphasis added). But she did not commit to present them for indictment at the June grand jury. Turner and Peters emphasize, pursuant to the MOU, the need to prioritize "our most violent offenders." *Id.* at 107. And, sex crimes involving multiple victims (such as Williams) are undisputedly "violent crimes" that are more serious (or more violent) than felon in possession cases, which lack an identifiable victim. Ex. 49, Daigle Dep. 211.

Dahl indicates relief that the federal grand jury had begun to function again starting in March 2021. Ex. 11 at 99. The Court can take judicial notice that the federal courts and DOJ changed operations following the mass roll-out of Covid-19 vaccinations in early 2021. Dahl further indicates that if SIS officers wanted her, going forward, to prioritize another case, then "that might bump someone else off the list depending on, you know, the amount of time I can get at Grand Jury." Ex. 11 at 106. She explained that the other names were "waiting in the wings" because "when we were not having Grand Jury, I was really having to fight for slots. And so any time we had a complaint or anytime SIS would call me and say, hey, this guy has got to go now, all of these that we just had kind of E-mailed to me or just, like, casually handed, like hey, can you take a look at this, got pushed further down the priority list." *Id.* She explained the shifting priorities of cases based on more urgent requests from SIS and others. She further explained that the needs of other AUSAs and their cases can also affect her ability to present cases to the grand

jury. *Id.* at 108-09. Turner suggested having Sgt. Legault prioritize SIS cases rather than individual investigators giving Dahl cases. *Id.* at 110-11.

Peters and Turner then jokingly accuse Dahl of having thrown a rock through a window at Williams' garage. *Id.* at 113. Regarding communication problems, Dahl invites Peters and Turner to call her cell phone anytime. *Id.* at 115. Turner references updating the City Commission on Dahl's work and says, "[t]here's no real formal evaluation that I do, so it's just an update for the city manager to do that." *Id.* at 116. They discuss Williams' flight, and Peters says, "we got him out of Johnson City." *Id.* at 121. Turner jokes that he will "be at the lake every day hopefully" by the time Williams gets out of jail in two or three years. *Id.* Peters responds, "I think we've achieved our desired outcome already," and Turner replies, "If he stays gone a year and then they get him, I really won't have to worry about him." *Id.* "Then he maybe gets a couple of years and I'm done with him." *Id.* In other words, Turner and Peters would be satisfied with Williams being on the lam or receiving a minimal sentence if caught.

Turner admits to Dahl, "you can only prosecute so many at a time," and Dahl responds "[u]nless you guys want to tack on a travel budget for me to go up to Knoxville and Chattanooga on a regular basis." *Id.* at 129. Turner further states that he has never been to the federal grand jury, and asks basic questions about how it works indicating his lack of knowledge, which Dahl explains in response. *Id*. at 108-09. Peters then again suggests that Dahl's communication about the cases run through Legault, *id.* at 110, contradicting his earlier request that Dahl email him about the five cases. He also jokes that some officers such as Stillwagon "wants all of his cases done right now, right this second," *id.,* suggesting that those officers were unfamiliar with the need to prioritize a limited number of cases for the federal grand jury. Peters states, "I'll talk to Jeff and just have them start -- and Jeff can go through you on which cases are the most

important." *Id.* at 111.

Turner and Peters turn the discussion to Williams again, joking that Dahl might have broken a window at his garage on which the federally funded pole camera was trained. *Id.* at 113-14. Turner frames Peters' earlier request for a June grand jury update in the context of updating the Johnson City commission on Dahl's MOU renewal. *Id.* at 114-15. Turner then reveals an intimate familiarity with details of the Williams case, indicating surprise, for example, that Williams did not take a Pantera kit car with him when he fled. *Id.* at 117. Peters also indicates a deep familiarity, referencing Williams' criminal associate Alvie. *Id.* Turner also references his familiarity with which criminal defense lawyers were representing Williams at different times. *Id.* at 118-19. And he jokes that Williams won't kill himself "because there are too many college girls out there in the world," *id.* at 119, a suggestion that Williams intended to assault more young women.

By contrast, Turner and Peters showed a lack of familiarity with other cases, not even recognizing some suspect names. *Id.* at 117-18, 120. Turner states, "I don't know who a lot of these are." *Id.* at 120. They appear confused over basic details such as names in cases. *Id.* at 124-25.

Peters again reverses his earlier request for an update email by suggesting that Dahl communicate with Sgt. Legault: "I think that's going to be a better way of doing it is just one person communicating with her on cases that we need done. Get Jeff -- get Sergeant Legault to do it." *Id.* at 122. Dahl discusses changing Covid requirements in the USAO and the federal courts, *id.* at 126-27, and Chief Turner ends the meeting by stating, "We're glad we got those indicted and some coming up." *Id.* at 127. Dahl replied "Yeah yeah. I'm relieved that we're finally kind of clawing our way back to some semblance of normalcy," and Peters adds, "Sounds

good to me. It looks like we're on the right track here." *Id.*

Dahl was scheduled to be in trial in June 2021, the first such trial for her USAO since Covid, and she was consumed with trial preparations in the preceding weeks until the defendant ultimately entered into a plea agreement on June 3, 2021. Ex. 13, Dahl Dep. 26-27; Ex. 7, Gryder Dep. 14; Ex. 21, Dahl Decl. ¶¶87-88. As a result, she was only able to present one case for indictment at the June 9, 2021 grand jury, and she informed Legault of this. Ex. 13, Dahl Dep. 48. Dahl updated Legault instead of Peters "because of the instructions of Chief Turner and Cpt. Peters," who had told her that Legault should be her main point of contact for her cases. Ex. 13, Dahl Dep. 31; Ex. 50. On June 3 or 4, 2021, Dahl called Legault to tell him she would only be presenting one case to the grand jury on June 9. Ex. 21, Dahl Decl. ¶ 90.

In a staff meeting on or around June 23, 2021, at Turner's request, Peters asked anyone who had issues with Dahl to let him know. Ex. 47, Jaynes Dep. 28; Ex. 45, Peters Dep. 94. Peters has never solicited information about performance issues for any other prosecutor. Ex. 45, Peters Dep. 95. No one raised any issues with Dahl during the staff meeting. Ex. 47, Jaynes Dep. 28. Legault (who was not in Jaynes' chain of command) had also asked Jaynes (the FBI task force officer) about his work with Dahl. *Id.* at 32. In response to Peters' request at the staff meeting, Jaynes sent an email complaining about Dahl to Peters on June 23, 2021. *Id.* at 86-87; Ex. 51. He had not raised any of the issues in the email to Dahl directly. Ex. 47, Jaynes Dep. at 87. Peters testified that by the time he received this email from Jaynes, the decision to terminate Dahl had already been made. Ex. 45, Peters Dep. 97. Jaynes testified that "it was kind of hard to communicate with" Dahl and that he "would call her and not receive an answer." Ex. 47, Jaynes Dep. 25. A review of their phone records and text messages, however, completely undercuts that assertion. *See id.* at 34-49; 52-84. Jaynes conceded that "it's hard to say" the record supports his

allegation. Ex. 47, Jaynes Dep. 88. Turner also testified that "he didn't see anything" in the records to support Jaynes's allegations about Dahl. Ex. 14, Turner Dep. 161.

On June 24, 2021, Turner issued a letter to Dahl indicating that her contract would not be renewed. Ex. 52. He told the City Attorney, Sunny Sandos, that his reason for terminating the contract was that Dahl did not obtain indictments for certain cases at the June 2021 grand jury. Ex. 53, Sandos Dep. 12. Peters told Gryder that Dahl was being terminated because she "lied to the chief and [Peters] right to our face." Ex. 7, Gryder Dep. 49-50.[13] Peters said Dahl had told them she was going to indict a certain number of people at the June grand jury and she only indicted one. *Id.* at 50. Gryder told Peters it was unreasonable for him to expect her to have indicted more people because she had been preparing for a trial. *Id.* at 50. Peters responded, "no, she lied, she lied," and walked off. *Id.* Turner admitted that he did not know how many indictments Dahl had obtained in 2019, 2020, or 2021. Ex. 14, Turner Dep. 173.

On June 25, just five days before the end of the MOU term, Turner informed Dahl of his unilateral decision that the City would not renew her contract. Answer to Am. Compl. ¶ 101, ECF No. 81. Legault told Saulsbury and others about the nonrenewal of Dahl's contract several days before Dahl herself was informed. Ex. 8, Saulsbury Dep. at 112. Saulsbury testified that he was relieved to learn this. *Id.* Legault testified that he did not learn about the nonrenewal of Dahl's contract until Dahl told him about it. Ex. 28, Legault Dep. at 93. This, however, contradicted his statement to Dahl in a recorded meeting: "I was told not to say anything or do anything until Chief spoke with you . . . ." Ex. 11 at 149.

On June 29, well after he knew Dahl had already been terminated, Peters forwarded Jaynes' June 23, 2021 email to Turner, stating "Another reason!" Ex. 45, Peters Dep. 100; Ex.

[13] Peters expressly referred to Dahl's "termination." Ex. 45, Peters Dep. 96.

54. Also on June 29, 2021, five days *after* Turner told Dahl her contract would not be renewed, Legault sent a text message to Turner attempting to bolster the decision.[14] Ex. 55. But in his deposition, Legault testified under oath that "Dahl was always good with communicating with me for the most part," and "[s]he was always pretty responsive to me." Ex. 28, Legault Dep. 40, 105. And Stillwagon did not recall the alleged conversation referenced in the June 29, 2021 text from Legault to Turner. Ex. 56, Stillwagon Dep. 57; *see* Ex. 55. Stillwagon, to the contrary, testified that he had "a good flow of communication" with Dahl and "[found] her to generally be responsive to [him]." Ex. 56, Stillwagon Dep. 19. It was abundantly clear from text message and call logs that Stillwagon was in regular communication with Dahl, and he did not identify any instance when she failed to respond to him. *Id.* at 43-50.

Supervisory AUSA Taylor described the lack of notice by Turner to other MOU agency partners to be shocking as to Dahl, that he "wasn't happy" with the "way it was done," and that he found it to be "discourteous." Ex. 21, Dahl Decl. ¶¶95, 97; Ex. 48, Taylor Dep. 132. Accordingly, Taylor forced Turner to extend Dahl's contract under the MOU by another month so that she could handle existing cases. Ex. 53, Sandos Dep. 16-17; Ex. 70. This extension was the first MOU that Turner (or any Chief) ever signed. *See* Ex. 14, Turner Dep. 167, 170.

In or around January 2022, Jane Doe 8 told Dahl that she had witnessed Turner and Peters at Williams' apartment at some point. Ex. 13, Dahl Dep. 82. Jane Doe 8 had described Turner and Peters by appearance and voice and then identified photos of them found online. *Id.* at 82-83. Jane Doe 8 had also told Dahl that Williams had abused and assaulted her. *Id.* at 86.

---

[14] The text reads: "Chief I spoke with Inv. Stillwagon and he also started [sic] at least 6 time she hasn't responded or responded much later and that's a low ball number same as mine is. Inv. Saulsbury stated at least three times that he can think of right now. Inv. Barron probably the same." Ex. 55. Legault implausibly claimed this was his only text message with Turner. Ex. 28, Legault Dep. 94-95.

Jane Doe 8 said that cops would come to Williams' door. *Id.* at 217-18. She told Dahl that she heard a conversation between Williams and officers where the officers said something to the effect of "hey, here you go," and then left. *Id.* at 218. Jane Doe 8 knew Williams was involved with illicit drugs and suspected illicit activity occurring in these interactions. *Id.* Jane Doe 8 said that officers had come to Williams' apartment multiple times but had only interacted with him at the door and had not come inside the apartment. *Id.* at 219. Jane Doe 8 had told Dahl that a person she believed was Turner had gone to the apartment and told her, "sweetie, you need to leave." *Id.* at 281.

Ashley Wright, a bartender at two Johnson City restaurants, told Dahl that "she attempted to call [JCPD] and alert them that she had heard Williams directly planning to rape and assault women there at Numan's . . . when she called [JCPD], she was told by whoever answered her call that there was nothing that they could do . . . ." Ex. 13, Dahl Dep. 91-92.

After her termination, Dahl learned that Jane Doe 7's sister had contacted JCPD on November 12, 2020, to report Williams' involvement in her sister's death. Ex. 13, Dahl Dep. 199. This was the day before Sparks approached Dahl about the Williams investigation. *Id.* Misti Crain of the TN Alcoholic Beverage Commission told Dahl that she had also reached out to JCPD regarding the death of Jane Doe 7 and received no cooperation or follow-up from JCPD. *Id.* at 242-43. Crane was investigating Watauga Brewery for possibly overserving Jane Doe 7, but she learned Jane Doe 7 had gone to Williams' apartment, and Crain quickly discovered Williams' reputation for drugging and raping women. *Id.* at 244. Crane had interviewed several people who said that Jane Doe 7 was not particularly drunk when she left the brewery. *Id.* at 247. Jane Doe 7's sister told Dahl she had spoken to a male officer or investigator at JCPD about her sister's death and Williams' involvement, but the officer told her JCPD did not have jurisdiction.

Id. at 243; *see also* Ex. 57, Female 11 Decl.[15] Jane Doe 7's sister had called Williams and recorded the conversation, and Williams admitted on the recording that Jane Doe 7 had been at his apartment before her death and he had served her alcohol. Ex. 13, Dahl Dep. 250; Ex. 57, Female 11 Decl. When Jane Doe 7 left Williams' apartment and tried to drive, she was completely incoherent and disoriented. Ex. 13, Dahl Dep. 251; Ex. 57, Female 11 Decl. Jane Doe 7 died on November 10, 2020; her sister learned of Williams' involvement on November 11; and the sister reported to JCPD on November 12. Ex. 13, Dahl Dep. 254. Peters testified that he knew about the Jane Doe 7 report but that the incident was not investigated by JCPD. Ex. 45, Peters Dep. 119-20. No one at JCPD told Dahl about Jane Doe 7. Ex. 21, Dahl Decl. ¶105.

Saulsbury absurdly testified that he "did everything in my power to bring Sean Williams to justice legally," Ex. 8, Saulsbury Dep. 83, which is patently untrue – he did next to nothing. He stated, "The only recollection I have of trying to get Sean was sitting on his garage" on one occasion. *Id.* at 85. Yet he again stated, "[T]here's nothing more we [JCPD] could have done to have arrested Sean Williams or prosecuted Sean Williams." *Id.* at 87.

Saulsbury stated he regularly spoke with Dahl in person and on the phone. *Id.* at 101, 103. Saulsbury testified that Tom McCauley, an AUSA, was also slow to respond to him about a case at one point, yet McCauley still has his job and Saulsbury did not complain to superiors about him. *Id.* at 92-93. There had been complaints within JCPD about the communication and performance of a prior SAUSA, Corey Shipley, but no list of cases was ever prepared for him and he was not terminated. Ex. 28, Legault Dep. 84; Ex. 7, Gryder Dep. 52; Ex. 14, Turner Dep. 79-80. McCauley and Shipley both told Dahl that they were never asked to brief the Chief on cases or give updates while they were in the SAUSA position. Ex. 21, Dahl Decl. ¶83.

[15] The sister of Jane Doe 7 in this litigation is Female 11 in the *Does* litigation; Jane Doe 7 in this litigation is Jane Doe 6 in the *Does* litigation.

Gryder testified that Peters is "vindictive," close with Turner, and that Peters had Turner's ear in JCPD matters. Ex. 7, Gryder Dep. 83. Gryder was concerned about retaliation after this lawsuit was filed "because I know the kind of person that Kevin Peters was." *Id.* at 81-82. "If you crossed him, he would nitpick until he found something that he didn't like. It might be something that was nothing, but it would be the biggest thing in the world to him." *Id.* at 82.

After news of this lawsuit broke, Legault sent text messages to his SIS subordinates stating that the suit made Dahl look "crazy as shit" and "like a crazy woman." Ex. 58. Saulsbury responded, "Kirt and I have a plan." *Id.* Within six months, Chief Turner and Cpt. Peters took retirement incentive packages. Ex. 59; Ex. 60. After Dahl filed her lawsuit, Johnson City retained police practices Eric P. Daigle in response to public outrage. *See* Am. Compl. Ex. 5 ("Daigle Report"); Answer to Am. Compl. ¶ 3. Mr. Daigle reviewed over 325 sex crime cases investigated by Johnson City between 2018 and 2022. Daigle Report at 6. His review did not include offering opinions on Dahl's performance, or allegations of corruption, plain incompetence, or violations of federal law. Mr. Daigle also interviewed numerous Johnson City officers including Turner and Peters. *Id.* at 4-5. In July 2023, Johnson City released Mr. Daigle's report, entitled "Audit of Sex Crimes - Johnson City Police Department." WJHL, City manager presents JCPD sexual assault audit to city commissioners, https://www.wjhl.com/news/local/sean-williams-case/city-manager-presents-jcpd-sexual-assault-audit-to-city-commissioners/. Mr. Daigle found (a) the City maintained poor record keeping as to over 325 reports of sexual assault made to the City; (b) the City conducted inconsistent, ineffective and incomplete investigations into over 325 reports of sexual assault made to the City; (c) the City had flaws with the closing of investigations into over 325 reports of sexual assault made to the City; (d) the City had insufficient training procedures as to sexual assault

investigations that did not meet industry standards and legal requirements; (e) the City had insufficient department policies and procedures as to sexual assault investigations that did not meet industry standards and legal requirements; and (f) there was an existing bias and belief of stereotypes about women within the Johnson City Police Department that hurt the quality of sexual assault investigations. *See* Daigle Report at 11-36.

By sheer coincidence, Williams was arrested by a Western Carolina University police officer in April 2023. An affidavit filed by Washington County District Attorney Investigator Mike Little stated that Williams possessed footage of himself sexually assaulting 52 women and two children in his Johnson City apartment. Am. Compl. Ex. 7 – Little Aff., ECF No. 56-7. Little further swore that Johnson City may have had some of that evidence all along in its possession from the 2021 search warrant. *Id.* But because Sparks had waited four months after the apartment search to produce a draft search warrant affidavit for Williams' digital devices, and because what he produced to Dahl was legally insufficient and less detailed than prior drafted versions, Johnson City never viewed the files on Williams' digital devices. Ex. 1, Sparks Dep. 83; Ex. 21, Dahl Decl. ¶¶44-45. Sparks testified that he eventually reviewed the footage with Little in 2023, and that it depicted sexual assaults by Williams in his apartment. Ex. 1, Sparks Dep. 101.

The Johnson City SAUSA program has existed under an MOU with the USAO and other agencies for at least fifteen years. Ex. 48, Taylor Dep. 71. Dahl's initial 2019 MOU was styled a renewal of the long-term program. Amend. Compl. Ex. 1. Taylor himself is evaluated by DOJ on how the SAUSA program proceeds. Ex. 48, Taylor Dep. 144-45. Under the facial terms of the MOU, the position is governed by the Intergovernmental Personnel Act, a federal statute that only applies to government employees. Am. Compl. Ex. 1; 5 U.S.C. § 3371 *et seq*. Turner had to give approval for Dahl to take vacation. Ex. 14, Turner Dep. 38; Ex. 21, Dahl Decl. ¶7. Turner

had a "face time" expectation of Dahl. Ex. 11 at 140. Dahl was expected to attend certain Johnson City hearings and meetings. Ex. 21, Dahl Decl. ¶8.

IV. Discussion

A. Chief Turner is not entitled to qualified immunity because retaliation law was clearly established when he fired Dahl, and there is circumstantial evidence that Chief Turner had notice of her protected speech activities

i. Dahl's *prima facie* case

Chief Turner concedes that Dahl was an employee for purposes of analyzing her First Amendment retaliation claim. To the extent that Chief Turner argues that Dahl was an independent contractor, and not an employee—an issue which Dahl disputes—this issue is ultimately irrelevant to the analysis. The Supreme Court has held that government employers are equally liable for retaliating against independent contractors based on First Amendment speech. *See O'Hare Truck Service, Inc. v. City of Northlake,* 518 U.S. 712, 720-22 (1996).

Turner then attempts to cabin Dahl's allegations of protected conduct to ¶¶162-65 and 84 of her First Amended Complaint. But, as discussed above, Dahls' allegations encompasses broader allegations than just being fired for her FBI complaint. Dahl alleges 6 ½ months of retaliatory conduct that started with the canceled TBI meeting through her June termination. There is direct evidence that other reports about Williams to TBI and FBI made it back to Johnson City within days, and caused retaliation. And, there is circumstantial evidence that Dahl's May 11 report made it back within eight days. The direct evidence of earlier reports further supports liability for Chief Turner and Johnson City's act of unilaterally firing Dahl.

Turner argues that Dahl cannot prove causation since he did not know that she had engaged in protected conduct. Although notice is not an element of this cause of action, some courts have held that causation cannot be proven without notice. The Supreme Court has

cautioned district courts, however, not to read in notice requirements to retaliation claims where no such element exists. *See, e.g., EEOC v. Abercrombie & Fitch Stores, Inc.,* 135 S. Ct. 2028, 2053 (2015) (Alito, J., concurring) (Title VII retaliation does not contain notice requirement).

An employee's burden of proof at the *prima faci*e stage is minimal; all the plaintiff must do is put forth some credible evidence that enables the court to deduce that there is a causal connection between the retaliatory action and the protected activity. *EEOC v. Avery Dennison Corp.,* 104 F.3d 858, 861 (6th Cir. 1997). Direct evidence of knowledge or awareness is not required, and a plaintiff may survive summary judgment by producing circumstantial evidence to establish this element of her claim. *Mulhall v. Ashcroft,* 287 F.3d 543, 552 (6th Cir. 2002). While causes of action are evaluated on a case-by-case basis, knowledge is typically a question to be resolved by a trier of fact. *Anderson v. City of Bessmer,* 470 U.S. 574, 577 (1985); *Crutcher v. Kentucky,* 883 F.2d 502, 504 (6th Cir. 1989); *Mulhall,* 287 F.3d at 551-54; *see also Erbel v. Johanns,* No. 3:04-CV-555, at *32 (E.D. Tenn. May 8, 2007). "[P]roof of an official's retaliatory intent rarely will be supported by direct evidence of such intent . . . Accordingly, claims involving proof of [a defendant's] intent seldom lend themselves to summary disposition." *Holzemer v. City of Memphis*, 621 F.3d 512, 525 (6th Cir. 2010) (internal citation omitted).

Previous interactions can inform whether the decisionmaker had knowledge. Here, there is direct evidence that the TBI meeting made its way back to JCPD, and that Jane Doe 2's FBI report actually made it back to Inv. Sparks at JCPD, as well as circumstantial evidence that Inv. Jaynes – an otherwise discredited witness – would have known of Dahl's FBI complaint and informed his chain of command. As such, knowledge of Dahl's protected activity by one individual within the organization who would regularly interact with the decisionmaker constitutes sufficient circumstantial evidence of knowledge of the protected activity on the part

of the decision-maker to defeat summary judgment. *Hicks v. SSP America, Inc.,* 490 F. App'x 781, 785 (6th Cir. 2012); *Mulhall*, 287 F.3d at 553; *see also Jones v. Bernanke,* 557 F.3d 670, 679 (D.C. Cir. 2009) (if evidence can support an inference of actual retaliatory motive, it necessarily can support an inference of mere knowledge); *Goldsmith v. City of Atmore,* 996 F.2d 1155, 1163 (11th Cir. 1993). The inferences need not establish a particularized direct communication. *See, e.g, CON-AG, Inc. v. Sec'y of Labor,* 897 F.3d 693, 702 (6th Cir. 2018) (knowledge inferred from prior interaction of individuals with such knowledge and those taking the adverse employment action). Other relevant factors include a cursory investigation into the defendant's proffered reason for the adverse action and not discussing the matter with the employee, *id.*, or the timing and circumstances of the action, *see Barrow v. City of Cleveland,* No. 18-3665 (6th Cir. May 7, 2019). An employer's failure to follow its normal procedures can also provide circumstantial evidence of a retaliatory motive, and thus, actual knowledge. *Boegh v. EnergySolutions, Inc.,*536 F. App'x 522 (6th Cir. 2013). That is true even where a subordinate influences the decisionmaker. *See Arendale v. City of Memphis,* 519 F.3d 587, 603-04 & n.13 (6th Cir. 2008) (recognizing "cat's paw" as a theory of imputing discriminatory bias); *Underwood v. Dynamic Sec., Inc.,* No. 18-00017 at *16 (E.D. Tenn. Sept. 30, 2020). Motive to lie can be another factor. *Henderson v. City of Flint*, No. 17-2031 at *15-16 (6th Cir. Sep. 20, 2018) (temporal proximity of report and termination, the possibly pretextual nature of the stated reasons for termination, and questions regarding employer's motivations create triable issues of fact).

Other evidence supporting a causal link "has commonly included evidence of additional discrimination occurring between the date at which the employer learned of the protected activity and the date of termination or other adverse employment action." *Mickey,* 516 F.3d at 526. A plaintiff could show increased scrutiny of her work before she was terminated, *Hamilton v. Gen.*

Elec. Co., 556 F.3d 428, 436 (6th Cir. 2009), or that he suffered verbal threats soon after the protected action, *Tuttle v. Metro. Gov't of Nashville,* 474 F.3d 307, 321 (6th Cir. 2007). There is sufficient evidence of causation where the plaintiff's supervisor treated her with "exceptional harshness" shortly after the protected activity, or gave the plaintiff "an unmanageable workload." *Brown v. Lexington-Fayette Urban Cty. Gov't,* 483 F. App'x 221, 227 (6th Cir. 2012). Causation can also be shown where "the jury could reasonably conclude that the action was so inexplicable that it was more probable than not due to retaliation." *Barrow,* No. 18-3665, at *16.

Here there is circumstantial evidence suggesting that knowledge of Dahl's May 11 complaint to the FBI and her contemporaneous complaints to DOJ colleagues got back to Chief Turner and Cpt. Peters:

1. Notice of the December TBI meeting got back quickly to Peters through a TBI contact of Saulsbury. Peters immediately canceled the meeting, and he and Turner incorrectly believed that Dahl had arranged it. Turner called Taylor at DOJ to complain as much.

2. Retaliation followed days later with the Legault list of cases, which Chief Turner sent to Taylor. The Legault list was unusual and departed from normal procedures for monitoring SAUSA case load.

3. Jane Doe 2's report to the FBI quickly got back to JCPD, and Sparks showed up at the hospital while Jane Doe 2 was being examined. The inexplicable, unusual December 3 memo prepared by Sparks for Peters about Dahl's meeting with Jane Doe 2 (another Williams victim) suggests Peters had an unusual interest not only in the Williams' case, but in Dahl's actions with respect to it.

4. Jaynes was the task force officer assigned to the FBI office when Dahl made her May 11 report to FBI agent Pearson. Jaynes testified that it was normal practice for him to communicate

within his chain of command: Gryder, then Don Shepherd, then Peters, then Turner.

5. Jaynes went outside the chain of command when he wrote his June 23 email to Peters accusing Dahl of uncommunicativeness. Jaynes conceded that Peters asked him to write the email, and Peters testified that he had done so because Turner had asked him to gather criticism of Dahl. Peters forwarded the email to Chief Turner on June 29, after Dahl's termination, stating "another reason!" Turner and Jaynes both conceded that the records of Jaynes' communications with Dahl did not support Jaynes' allegation that Dahl was uncommunicative.

6. Legault also went outside the chain of command when he texted Chief Turner on June 29 that Dahl was uncommunicative, even though he claims it was the only text he ever sent to Chief Turner, and that he otherwise respected the chain of command. Legault's statements in this text message contradict the sworn testimony of Legault and others.

7. Turner's unilateral decision to fire Dahl by not renewing her MOU departed from normal and past procedures as to renewing the multi-agency MOU for the SAUSA position. The USAO considered it "discourteous" and negotiated a one-month extension.

8. Turner never consulted with Dahl after the June grand jury about why the five cases were not indicted.

Chief Turner may deny knowledge. But given the history of unusual disciplinary conduct toward, and monitoring of, Dahl shortly after each of her efforts to pursue a broader case against Williams, ranging from December 2020 through June 2021, there is sufficient circumstantial evidence of retaliatory motive to state a *prime facie* case. His denial then becomes a credibility issue for the jury.

ii. Chief Turner lacks qualified immunity because retaliation law was clearly established when he fired Dahl, and a reasonable juror could disbelieve his proffered reason

To overcome the qualified immunity defense, Dahl must establish that (1) "based upon the applicable law, the facts viewed in the light most favorable to the plaintiffs show that a constitutional violation has occurred," and (2) "the violation involved a clearly established constitutional right of which a reasonable person would have known." *Sample v. Bailey*, 409 F.3d 689, 695-96 (6th Cir. 2005).[16] The Supreme Court has recognized that "officials can still be on notice that their conduct violates established law even in novel factual circumstances." *Hope v. Pelzer,* 536 U.S. 730, 741 666 (2002). "When a general constitutional principle 'is not tied to particularized facts,' the principle 'can clearly establish law applicable in the future to different sets of detailed facts.'" *Sample,* 409 F.3d at 699. The determinative issue is whether the official had "fair warning that his conduct deprived [the plaintiff] of a constitutional right." *Hope,* 536 U.S. at 740. The Sixth Circuit has applied the *Hope* obviousness standard to the First Amendment context. *MacIntosh v. Clous,* 69 F.4th 309, 399 (6th Cir. 2023).

The Sixth Circuit has held that adverse state action "motivated at least in part as a response to the exercise of the plaintiff's constitutional rights" presents an actionable claim of retaliation. *See Bloch v. Ribar,* 156 F.3d 673, 678 (6th Cir. 1998) (citing *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle,* 429 U.S. 274 (1977)). There can be no doubt that the freedom to express disagreement with state action, without fear of reprisal based on the expression, is unequivocally among the protections provided by the First Amendment. *Glasson v. City of Louisville,* 518 F.2d 899, 904 (6th Cir. 1975; *Bloch,* 156 F.3d at 682; *see also Barrett v. Harrington,* 130 F.3d 246, 264 (6th Cir. 1997).

"[C]ourts that have considered qualified immunity in the context of a retaliation claim have focused on the retaliatory intent of the defendant" rather than on the retaliatory action.

[16] Neither case cited by Chief Turner even mentions the words "qualified immunity." *Compare Vereecke v. Huron Valley School Dist,* 609 F.3d 392 (6th Cir. 2010) with *Smallwood v. Cocke Cnty. Gov't,* 290 F. Supp. 3d 755 (E.D. Tenn. 2018).

Bloch, 156 F.3d at 682 (collecting cases from other circuits). This is because "[t]he unlawful intent inherent in such a retaliatory action places it beyond the scope of a police officer's qualified immunity if the right retaliated against was clearly established." *Id*. The Sixth Circuit has long held that it is "settled" that retaliating against an employee for "[s]tatements exposing possible corruption in a police department are exactly the type of statements that demand strong First Amendment protections." *See v. City of Elyria,* 502 F.3d 484, 493 (6th Cir. 2007); *Handy–Clay v. City of Memphis*, 695 F.3d 531, 535-36 (6th Cir. 2012). When public employees speak on "matters of public concern" and do so separate and apart from their responsibilities as public employees, the defense of qualified immunity fails. *Garceau v. City of Flint*, 572 Fed. App'x 369, 371 (6th Cir. 2014).

iii. Complaints leading up to the May 19, 2021 meeting

Turner and Peters asked Legault to prepare a list of cases, which he sent to Turner and Peters less than a month after Dahl began trying to build a larger case against Williams, one week after the cancellation of the TBI meeting that Turner erroneously thought Dahl had organized, and just three days after Dahl met with Turner and Peters to discuss the Williams case. Legault did not ask Dahl why the cases had not yet been prosecuted. Neither Turner nor Legault were aware of any such list ever being created as to any other SAUSA. Turner testified that he had no expectations about the number of cases that the SAUSA was bringing to the grand jury each month. Turner also recalled receiving information from officers that "they weren't having some federal grand juries during COVID." Legault found Dahl to be a good communicator with him, yet did not question others' purported assertions that Dahl was uncommunicative with them. In other words, much about the Legault list was unusual or contradicted even by Legault and other's own statements about and experiences with Dahl.

As Dahl prepared to indict Williams and continued to press for broader investigation of Williams in March, and as Sparks continued to delay getting Dahl what she needed even to indict Williams on the ammunition charge, Legault updated his case list and sent it to Peters and Turner, but did not notify Dahl. Although Legault criticized Dahl for not obtaining a complaint against one individual who had been in state custody, Dahl did indict that suspect in May at the next Greeneville grand jury. She also indicted at least five others that were on the Legault list. In other words under difficult Covid grand jury conditions, Dahl was able to obtain indictments for certain violent offenders whom Sgt. Legault had identified.

iv. May 19, 2021 meeting

Eight days after Dahl went to the FBI, Turner held another meeting with Dahl, where Cpt. Peters was present. Turner argues that the recording clearly shows that Dahl would seek the indictment of five particular persons at the June grand jury and email Peters to confirm. But it doesn't. At best, Dahl loosely states that the five cases "were all on my list of to go, like, for the next round or next couple of rounds." Dahl further indicates that if SIS officers wanted her, going forward, to prioritize another case, say for a complaint before an indictment, then "that might bump someone else off the list depending on, you know, the amount of time I can get at Grand Jury." Turner and Peters emphasize, pursuant to the MOU, the need to prioritize "our most violent offenders." Nor is it clear that Dahl is to report back to Peters by email given his earlier and later statements that Dahl should instead liaise with Sgt. Legault. And, Dahl did report back to Legault. Turner argues that Dahl had "promised" to report back to Cpt. Peters on five cases she "represented" she would indict in June. But no such promise or representation clearly occurred. Turner's broken promise defense is built on a shaky foundation–or at least a reasonable juror listening to the recording could believe as much. Indeed, much of the meeting

was spent discussing Williams, the easing of Covid restrictions, providing information updates to the Johnson City commission for the renewal of Dahl's MOU, jokes and banter, and other matters. In other words, Turner's characterization of the May 19 meeting as something akin to a performance counseling with clear follow-up expectations – the typical fact pattern in an employment case – is simply misleading if not false. And the meeting's temporal proximity to the FBI complaint – coupled with other evidence of officers reporting back to Peters and Turner about Dahl's work on the Williams case and FBI reports as to the same – creates a circumstantial inference that Turner had a retaliatory motive for his decision to fire Dahl.

It is undisputed that Turner signed the non-renewal letter dated June 24, 2021 that fired Dahl without consulting any agency partners to the MOU beforehand (the USAO was shocked and found Turner's conduct "discourteous"), and did not follow the procedure otherwise followed by Johnson City for renewing (or not renewing) the MOU. It is also undisputed that Chief Turner signed the one-month extension, *see* Ex. 70, only the second time that Chief Turner signed any MOU-related document (the first being the June 24 letter). Accordingly, Chief Turner has established himself to be the decisionmaker as to Dahl's firing, notwithstanding his interactions with City Manager Peterson and City Attorney Sandos. To the extent that the Court will consider the role of Peterson, it is worth noting that he had engaged in other retaliatory employment decisions. For example, he targeted a fire prevention official for firing after the official pointed out safety issues at a building; Peterson emailed that the employee was "on [his] shit list, no need to get the state involved" and "I have no need for an employee who creates problems." Ex. 64, Peterson Dep. 31-32. For that conduct, Peterson was investigated by the Johnson City Commission, which found of Peterson's conduct, "Acceptance of this type of management will logically result in a trickle-down effect to department heads, et cetera." *Id.*;

WJHL, Report: JC city manager inappropriately berated employee, no evidence of 'undue influence' around building codes enforcement, https://www.wjhl.com/news/local/report-jc-city-manager-inappropriately-berated-employee-no-evidence-of-undue-influence-around-building-codes-enforcement/.

But the involvement of the City Attorney is helpful in another respect: qualified immunity's presumed purpose, to ensure "fair notice" before imposing liability. Unlike an officer in hot pursuit of a presumed criminal making split-second decisions, Chief Turner was in a month-long premeditated pursuit of a confirmed critic. Qualified immunity is mislaid in slow-moving First Amendment situations where officials can obtain legal counsel as Turner did here. *See Hoggard v. Rhodes,* 141 S. Ct. 2421, 2422 (2021) (Thomas, J., statement respecting denial of certiorari) ("[W]hy should university officers, who have time to make calculated choices about enacting or enforcing unconstitutional policies, receive the same protection as a police officer who makes a split-second decision to use force in a dangerous setting?").

Chief Turner tries to further justify his decision based on after-acquired evidence from Taylor about Dahl's communicativeness around the federal Probation officers. First, this evidence is irrelevant to Turner's qualified immunity because Chief Turner did not know of it until limited *Touhy* discovery from DOJ in this litigation. The Supreme Court has limited after-acquired evidence to damages. *McKennon v. Nashville Banner Publ'g Co.,* 513 U.S. 352 (1995). At least one circuit has held that after-acquired evidence is inadmissible in retaliation cases. *Medlock v. Ortho Biotech, Inc.,* 164 F.3d 545, 555 (10th Cir.), *cert. denied,* 528 U.S. 813 (1999). The Sixth Circuit has shown skepticism of allowing such evidence. *Jones v. Nissan North America, Inc.,* 438 F. App'x 388 (6th Cir. 2011). Even at Tennessee law (not applicable to Dahl under her MOU as discussed *infra*), after-acquired evidence is generally not admissible to

prove that an employee should be discharged unless it can be shown by a preponderance to be so severe that it would be independent grounds for discharge. *Teter v. Republic Parking Sys., Inc.,* 181 S.W.3d 330 (Tenn. 2005). Even then, Dahl's internal communication patterns with federal Probation officials — which Dahl disputes, *see* Ex. 21, Dahl Decl. 46 — do not even closely rise to this standard. Accordingly, Turner lacks qualified immunity.

VI. Turner is not entitled to qualified immunity on Dahl's Procedural Due Process claim

Dahl has a limited property interest in her contract under the Tennessee Public Protection Act, TCA § 50-1-304(a)(3), and has shown pretext as to Chief Turner's proffered rationale. Chief Turner argues that qualified immunity protects him because he reasonably believed that Dahl was an independent contractor under the MOU. But such a mistake would not be reasonable. The MOU clearly states, as discussed *infra*, that the agreement is governed by the Intergovernmental Personnel Act, a federal statute that only applies to government employees. 5 U.S.C. § 3371 *et seq*. Further, the "mistake of law" defense has only been recognized by the Supreme Court in the Fourth Amendment search and seizure context, and must be objectively reasonable. *Heien v. North Carolina,* 574 U.S. 54, 66 (2014). The Supreme Court held that is a wholly distinct inquiry from that of qualified immunity, *id.*, and Dahl can find no case in which qualified immunity was extended to government employers for firing employees for their speech under a mistaken assumption that the employee was a contractor. And to the extent that an official acts on pretext, then the pretext would violate the law. *Gibson, infra*, 336 F.3d at 513.

Dahl is not alleging that she was denied a name-clearing hearing. But she does allege that Chief Turner's departure from the normal MOU renewal process, motivated by Dahl's protected speech, violated procedural due process insofar as Chief Turner did not consult with any other agency partner before terminating her, nor did he report particularized case data to the

Johnson City commission or seek Commission approval of the nonrenewal. Taylor described the lack of notice to be shocking as to Dahl, that he "wasn't happy" with the "way it was done," and that he found it to be "discourteous." The abnormality of the termination is shown by DOJ forcing a one-month extension. In other words, a dispute of fact remains whether Dahl was afforded all the process she was due under the MOU. *See Young v. Township of Green Oak,* 471 F.3d 674, 684 (6th Cir. 2006); *Armstrong v. Reynolds,* 22 F.4th 1058, 1068 (9th Cir. 2022) (state statutory and common law protections create limited property interest). To the extent that Turner's retaliatory motive and unilateral termination prevented any discussion or any process at all with MOU partners, then it violated Dahl's procedural due process rights.

VII. Dahl concedes her Substantive Due Process claim fails

Dahl, based on *Howard v. Livingston Cnty., Mich.,* No. 21-1689, at *24 (6th Cir. Jan. 20, 2023), concedes that she lacks sufficient additional injury beyond her firing to state a Substantive Due Process claim or to overcome qualified immunity. Accordingly, she withdraws this claim.

VIII. Dahl has stated a TPPA claim

A. Dahl was an Employee under the IPA and Federal Employment Caselaw

Federal law applies to Dahl's employment under the MOU: it includes DOJ as a party, it was partially funded by a DOJ grant to Johnson City, and its plain language at section II states that it is governed by federal law, namely the Intergovernmental Personnel Act, 5 U.S.C. § 3371 *et seq*.[17] That federal statute applies only to government employees. *Id.* at § 3372. And such employees are to be treated as federal employees for the purpose of determining "employee" status whether they are federal employees loaned to state or local government, or state or local

[17] As discussed *infra,* the plain language of the TPPA includes those whose jobs are federally funded (such as Dahl's) in the alternative to the definition of local government employees. *Compare* TCA § 50-1-304(a)(1)(A) with (C). Further, nothing in the TPPA references that Tennessee common law applies to its statutory definitions of employees.

employees loaned to the federal government. *Compare* § 3373 and §3374(b).

Under federal law, what determines employment status is the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 202, as interpreted by Agency Rule. A mere contractual designation of "independent contractor" status is meaningless under the FLSA. *Barrantine v. Arkansas-Best Freight Sys., Inc.*, 450 U.S. 728 (1981). Under the FLSA, an employee is any individual the employer "suffer[s] or permit[s] to work." 29 U.S.C. § 203(e)(1), (g). In applying this "strikingly broad" definition, courts look to whether a worker is "as a matter of 'economic reality,' an employee," even when that worker is labeled as an "independent contractor." *Keller v. Miri Microsys. LLC,* 781 F.3d 799, 804 (6th Cir. 2015). When there is a genuine dispute of material fact on this question, summary judgment is inappropriate. At that point, the trier of fact is to review the evidence and decide the question. *Werner v. Bell Family Med. Ctr., Inc.,* 529 F. App'x 541, 543 (6th Cir. 2013); *see also Lilley v. BTM Corp.,* 958 F.2d 746, 750 n. 1 (6th Cir. 1992).

Courts look to six main factors to determine whether a worker is an employee as a matter of economic reality: (1) the permanency of the relationship between the parties; (2) the degree of skill required for the rendering of the services; (3) the worker's investment in equipment or materials for the task; (4) the worker's opportunity for profit or loss, depending upon her skill; (5) the degree of the alleged employer's right to control the manner in which the work is performed; and (6) whether the service rendered is an integral part of the alleged employer's business. *Keller,* 781 F.3d at 807 (citing *Donovan v. Brandel,* 736 F.2d 1114, 1117, 1117 n. 5 (6th Cir. 1984)). None of these factors are determinative. Notably, when weighing these factors, the central question is the extent of the worker's economic dependence on the business for which she is laboring. *Id.* (citation omitted).[18]

[18] The U.S. Department of Labor has since issued a Rule holding that a six-factor test applies to determine employee status. 29 CFR Parts 780, 788, and 795. Applied here, (1) Dahl had no opportunity for profit or loss based on managerial skill; that suggests she was an employee; (2)

Here, Dahl was wholly economically dependent on Johnson City using its and DOJ funds for her employment. As to (1), she had no other jobs for each year she worked under the MOU, nor could she ethically, 5 C.F.R. § 3801.106. As to (2), although Dahl was skilled, she did not have business-like initiative, instead working under the effective supervision of her AUSA Supervisor Taylor and Chief Turner. As to (3), Dahl had no investment in equipment or materials for her tasks. As to (4) Dahl had no opportunity for profit or loss. And as to (5) and (6), Dahl's work was integral to Johnson City's law enforcement functions under the MOU, and was subject to Johnson City control over things like her case load and case selection, her "face time" at Johnson City, and she required Chief Turner's authorization to take vacation.

Johnson City's denial that it could control Dahl's work is belied by Turner's own explanation that he fired Dahl for not indicting five cases at the June 2021 federal grand jury. To the extent that Turner thought he could monitor Dahl's performance or indictments under various versions of the Legault list, then it is undisputed that Turner believed he could direct her work. Johnson City's denial that it could terminate Dahl under the terms of the MOU is belied by the undisputed fact that Chief Turner unilaterally fired Dahl by his June 24, 2021 letter without notice to other MOU agencies. The MOU's reference to the IPA, 5 U.S.C. § 3371, and Supreme Court FLSA case law, *e.g., Barratine, supra*, makes the MOU's reference to Dahl as an "independent contractor" meaningless. Johnson City next states that it could not hire any helpers for Dahl; but nothing suggests Dahl had any authority to hire any helpers herself either. Johnson City states that it provided computer equipment and a desk for Dahl, but that the USAO provided

---

Johnson City invested DOJ grant funds into her compensation; (3) Dahl had no other jobs, nor could she ethically; (4) Johnson City had expectations and control over aspects of her caseload and selection, as well as her "face time" at Johnson City and approvals for her vacation time; (5) her work was integral to Johnson City's crime fighting under the MOU; and (6) notwithstanding her skill and initiative, she was undisputedly and effectively controlled by each of Taylor and Turner.

Dahl with a DOJ email address. But Johnson City also provided Dahl with an email. Ex. 65. It's hard to know what other tools and equipment a lawyer needs. Finally, Dahl did not control her own hours. Johnson City's assertion otherwise is belied by Johnson City's repeated false accusations around Dahl's alleged uncommunicativeness, the requirement that Dahl attend certain Johnson City hearings and meetings, and Dahl's requirement to get Turner's permission to take vacation. Dahl's employment was exclusive.

B. Chief Turner's unilateral decision not to renew Dahl's multi-agency MOU was a discharge or termination by Johnson City

Johnson City argues that not renewing an MOU is not a discharge or termination, at Tennessee law, quoting the once-cited *Howard v. Life Care Center of America, Inc.,* 2004 WL 1870067 (Tenn. Ct. App. 2004). But in the Sixth Circuit, federal district courts have more recently held that non-renewal of a contract constitutes an adverse employment action for purposes of a retaliation analysis for a TPPA claim. *Herron v. Trenton Special Sch. Dist.,* No. 1:19-cv-01034-STA-jay, 2020 WL 3003050, at *n.7, 13-15 (W.D. Tenn. June 4, 2020). The question of whether Dahl was terminated or "non-renewed" is therefore merely a semantic exercise that is not pertinent to analyzing retaliatory discrimination. Dahl's completion of performance of her 2020 MOU is also irrelevant to determining whether the adverse employment action by Chief Turner in June 2021 was legally justified. And *Howard* may not apply where, as here, the employee is working under a contract that on its face is to be construed under a federal statute, and where the employee alleges violations of federal law. *Nollner v. S. Baptist Convention, Inc.,* 852 F. Supp. 2d 986, 1000 (M.D. Tenn. 2012). Accordingly, Dahl has stated a claim based on Johnson City's non-renewal of her MOU.

C. Dahl refused to participate in, and refused to remain silent, about Illegal Activities

Dahl has alleged *both* that she (i) refused to participate in illegal activities and (ii) refused

to remain silent about illegal activities. Both are actionable. And, Dahl has alleged both that she pushed to indict Williams more broadly (thereby refusing to participate in not indicting Williams for sex crimes, or only indicting Williams for a relatively minor ammunition possession charge) and that she refused to remain silent about Johnson City's failures to investigate Williams for sex crimes or to investigate Williams more broadly based on evidence it had already seized.

Johnson City argues that the analysis of "illegal activities" is cabined by Dahl's alternative allegations of corruption or plain incompetence. But all Dahl need prove is that her allegations encompass a violation of law. TCA § 50-1-304(a)(3). Johnson City's own expert Eric Daigle has shown that systemic gender-based bias and stereotypes infected its inadequate investigations of sex crimes against women, including at least three Williams victims of whom Dahl was aware. That's sufficient to show violations of multiple clearly-established federal laws prohibiting sex-based discrimination in law enforcement.[19]

Johnson City focuses on the second prong – refusing to remain silent – in arguing that Dahl must show that she was a whistleblower to law enforcement, citing *Haynes v. Formac Stables, Inc.,* 463 S.W.3d 34 (Tenn. 2015). But Dahl can also show the first prong: that she refused to participate in illegal activities. By taking the female victims of Williams seriously, and pushing for a broader investigation, she did as much. Indicia of the first prong include Chief Turner's perception that Dahl arranged the TBI meeting; Dahl pushing for Williams' video and electronic devices to be searched for evidence; Dahl pushing for Williams to be arrested after he was indicted; and Dahl voicing her concerns to DOJ colleagues and ultimately FBI agent Bianca

---

[19] The Equal Protection Clause of the Fourteenth Amendment, *see Whren v. United States*, 517 U.S. 806, 813 (1996); the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141; the Safe Streets Act, 42 U.S.C. § 3789(d); and Title IX of the Education Amendments of 1972. Multiple DOJ consent decrees encompass as much. *See, e.g.,* Missoula, MT, available at https://www.justice.gov/opa/pr/department-justice-reaches-landmark-agreement-improve-missoula-county-attorney-s-office-s

Pierson on May 11, 2021.

Dahl concedes that she did not report her concerns about illegal activities to Turner or Peters, but that is obviously because her concerns were *about* Johnson City management. Indeed, under *Haynes,* any complaint Dahl made to the wrongdoers themselves would not be considered whistleblowing; the point of whistleblowing is to expose not just the wrongdoing, but the wrongdoers. 463 S.W.3d at 40. But Dahl did voice her concerns to other JCPD supervisors, including Legault and Gryder. Daigle's deposition puts the gender-based failures of Johnson City's sex crime investigations squarely on management. Ex. 49, Daigle Dep. 89-92, 101-02, 121-23, 146-47, 154-55, 161, 164-65, 180, 183, 224-25. *Haynes* does recognize that TPPA whistleblowing exists in multiple forms: either "the employer, 'internal whistleblowing,' and/or a third-party authority, 'external whistleblowing.'" *Id.* (internal citation omitted). Here, Dahl timely reported her concerns to other officials including colleagues at DOJ and the Federal Defender's Office. She also complained to certain Johnson City officers. Dahl's whistleblowing is best supported by her own testimony as well as officers who described Dahl as "obsessed" with pursuing Williams for his sex crimes.

Johnson City argues that there is "no evidence" that Dahl refused to participate in illegal activities. But, as discussed *supra,* Dahl has shown that she refused to participate in stonewalling the investigation of Williams' sex crime victims, that Turner perceived that she sought the TBI meeting, that Dahl pushed for Williams' devices to be searched for evidence, that Dahl pushed for Williams to be arrested after he was indicted, and that Dahl ultimately went to DOJ colleagues and ultimately FBI agent Bianca Pierson on May 11, 2021.

D. Circumstantial evidence supports notice to Chief Turner that Dahl refused to participate in or remain silent about illegal activities

Johnson City next argues that, when they fired Dahl, neither Chief Turner, nor former

City Manager Peterson, nor City Attorney Sandos knew of either illegal activities or of Dahl either refusing to participate in or remain silent about them. First, knowledge is not an element of either the statute or the cause of action. Rather, Dahl needs to show sole causation.

Dahl incorporates her arguments *supra* as to circumstantial evidence of Turner's knowledge and the pretextual nature of his proffered rationale for firing Dahl creating a jury question. Dahl also has knowledge imputed to Johnson City generally and to police supervisors specifically of her activities as to Williams. There is further circumstantial evidence that her FBI complaint made its way back to Johnson City. Finally, Johnson City's failure to follow its normal procedure for the MOU renewal is itself circumstantial evidence of a retaliatory motive and, thus, actual knowledge of protected activity. *Boegh v. EnergySolutions, Inc.,* 536 F. App'x 522, 15 (6th Cir. 2013), citing *DeFord v. Sec'y of Labor,* 700 F.2d 281, 287 (6th Cir. 1983).

E. Dahl can prove that her protected activity solely caused her firing because she has sufficient evidence that the "5 unindicted cases" reasoning was pretextual

Johnson City next argues that since it lacks knowledge of Dahl's refusal to participate in or remain silent about illegal activities, then Dahl cannot make out a *prima facie* case for a TPPA violation. But Dahl can make out a *prima facie* case for retaliation based on circumstantial evidence of notice. And Dahl can show sole cause insofar as she can show Johnson City's proffered reasoning is pretextual.

Johnson City claims that Dahl's recording from her May 19, 2021 meeting with Turner and Peters shows that it had a "clear non-retaliatory reason" to fire Dahl. But to the extent that Johnson City grounds its action on that recording, then it (1) is anything but "clear" in establishing that its proffered "5 unindicted cases" rationale was the reason to fire Dahl; (2) shows Turner had ample notice of Dahl's push to seize Williams; and (3) does not explain Johnson City's unilateral firing of Dahl without consulting its MOU agency partners.

F. Johnson City's Proffered Reasons are Pretextual

If a plaintiff has established a prima facie case of retaliatory discharge and a defendant proffers some legitimate, non-discriminatory reason for the discharge, "the [TPPA] burden-shifting framework falls away and the trier of fact is left to determine the ultimate question of retaliation." *Williams v. City of Burns,* 465 S.W.3d 96, 118 (Tenn. 2015) (quoting *Gibson v. City of Louisville,* 336 F.3d 511, 513 (6th Cir. 2003)). "The question is not whether the employer's decision was sound, but whether the employer's asserted reason for the adverse employment decision is pretextual." *Id.* at 119. "Pretext is typically shown in one of three ways: (1) by establishing that the employer's proffered reasons have no basis in fact, (2) by establishing that the proffered reasons did not actually motivate the discharge, or (3) by establishing that they were insufficient to motivate the discharge." *Id.* In other words, to establish pretext, an employee must show that "the employer lied about the reason it gave for terminating the plaintiff's employment, in order to mask its true retaliatory motive." *Id*.

Dahl can show pretext under all three ways. First, close examination of the May 19 transcript shows only that Dahl stated that the five cases "were all on my list of to go, like, for the next round or next couple of rounds." That's not the same as committing to indict the five cases at the June grand jury. Second, Dahl did follow up with Sgt. Legault as Cpt. Peters had previously instructed her to do, and the May meeting had at best ambiguous instructions to Dahl on her follow-up reporting. Third, Chief Turner admitted he could not actually determine which cases Dahl could federally indict, and Dahl did indict another case even though she had been in intensive trial prep for what would have been the USAO's first trial in Greeneville since Covid. Fourth, three of the cases at issue have never been federally indicted even after Dahl's termination and replacement, the fourth was a woman already in state custody and not a

"violent" risk under the MOU, and the fifth had since been indicted but not convicted — and even Legault did not consider him to be dangerous or violent. Fifth, no SAUSA had ever been evaluated by Johnson City based on a document like the Legault list. Sixth, Dahl's indictment rate during Covid restrictions was comparable to or exceeded that of her peer AUSAs (something that she told Chief Turner). Seventh, Chief Turner did not consult any agency partners to the MOU beforehand (the USAO was shocked and found Turner's conduct "discourteous"), and did not follow the procedure otherwise followed by Johnson City for renewing (or not renewing) the MOU. Dahl has shown sufficient evidence of pretext. Accordingly, the Court should deny summary judgment on Dahl's TPPA claim.

IX. Dahl has exhausted her administrative remedies and has sufficient evidence to support her NDAA claim

The MOU made Dahl an employee under the IPA, 5 U.S.C. § 3374(b). Johnson City argues that Dahl did not report to an "authorized official of the [DOJ] or other law enforcement agency." 41 U.S.C. § 4712(a)(2)(E). But Dahl has alleged that she reported her concerns not only to an FBI Agent, but also to DOJ colleagues. Further, Dahl made months of continued reports to supervisors within JCPD, a DOJ grantee, about its failures as to Williams. Dahl has undisputedly shown that her MOU was not renewed – which constitutes a reprisal – and shown by her timeline that there is temporal proximity and circumstantial evidence that implies that Chief Turner knew of Dahl's reports to the FBI and to DOJ colleagues.

Next, Dahl does not cabin her report in gross mismanagement or gross waste. 41 U.S.C. § 4712(a). Rather, she reasonably believed that Johnson City's failures as to Williams constituted "a substantial and specific danger to public health and safety." *Id.* She specifically stated as much to Turner in the December 8, 2020 meeting. Ex. 11 at 24-25 ("I think this guy is a clear and present danger . . . an ongoing danger to the community."). Williams has since been

indicted for videotaping himself sexually assaulted a child on December 23, 2020, after Dahl pushed to build a wider case against Williams and for Johnson City to search Williams' devices. Although Dahl did not know that at the time, it supports the reasonableness of her belief. And the consistent *modus operandi* as to Williams' sexual assaults reported by the Jane Does show that Dahl's belief that Williams had additional victims, and/or would seek to continue to predate upon women or children, further supports its reasonableness.

Johnson City argues that even Dahl and Taylor thought that there was "50/50" probable cause for a search warrant for Williams' video footage. But that was because of Sparks's delay and investigative failures, and Dahl's legal research ultimately led her to fear suppression of evidence based on its staleness. Further, Sparks' draft affidavit was too bare bones to establish probable cause. (Note, too, that Sparks was secretly sending Peters his January search warrant emails to Dahl, an unusual practice that further raises an inference that Dahl and the Williams case were being closely watched by Turner and Peters.) Second, Johnson City's refusal to adequately investigate Williams for his sex crimes is amply supported both by its failures as to the victims that Dahl knew of at the time, and subsequent findings by the City's expert Daigle as to gender bias and stereotypes infecting and undermining its sex crime investigations. Third, Johnson City's arrest attempt was undoubtedly bungled. There was the unusual email from Sparks to Chief Turner the morning of the arrest attempt. Gryder testified that issuing a BOLO in connection with a sealed federal indictment was unusual. The arrest attempt without backup or follow up made no sense to Gryder, nor did allowing Williams to flee by "tipping him off" (supervisor Tallmadge's words) then leaving (Dahl does not find the allegation that the officers did not know who the male was behind the door to be plausible given Williams' and officers' statements to dispatch). Fourth, Dahl observed that the pole camera was useless, of no

investigatory benefit and yielded no evidence against Williams. There is no evidence that anyone even watched the footage from it. By itself, the pole camera may not rise to the conduct meriting an NDAA complaint, but coupled with Johnson City's other failures as to Williams, this made Dahl further concerned.

Johnson City argues that Dahl did not exhaust her administrative remedies because she filed her DOJ OIG complaint on the same day that she filed her Complaint. But Dahl did not allege an NDAA claim in her original Complaint. She did not allege her NDAA claim until she filed her First Amended Complaint. That was more than 210 days after she made her DOJ OIG complaint. 41 U.S.C. § 4712(c)(2). True, Dahl's DOJ OIG complaint doesn't specifically reference the pole camera. But Johnson City offers no legal authority that says an NDAA administrative complaint must reference every last detail with particularity to give notice. And, DOJ OIG's lack of jurisdiction finding does not mean that Dahl cannot state a claim. Congress through the NDAA statute expressly gave this court jurisdiction to hear NDAA claims. *See generally Kokkonen v. Guardian Life Ins. Co. of Am.,* 511 U.S. 375, 377 (1994). Accordingly, Dahl has exhausted her administrative remedies to perfect her NDAA claim. And, Dahl's NDAA claim does not fail as a matter of law.

V. Conclusion

Plaintiff Kateri Lynne Dahl has marshaled sufficient evidence whereby a reasonable juror could find that Johnson City fired Dahl because of her whistleblowing, and that Chief Turner and Johnson City's proffered rationales are pretextual. Chief Turner lacks qualified immunity.

WHEREFORE Plaintiff Kateri Lynne Dahl prays the Court to DENY each of Defendants Chief Turner and Johnson City's Motions for Summary Judgment; to allow Plaintiff's claims to proceed to jury trial; and to grant such further relief as may be just, meet and reasonable.

Respectfully submitted,

Plaintiff Kateri Lynne Dahl
By Counsel

/s/ Hugh A. Eastwood
Hugh A. Eastwood, E.D. Mo. Bar No. 62058MO,
admitted pro hac vice pursuant to L.R. 83.5(b)(1)
Attorney at Law
7911 Forsyth Blvd., Ste. 300
St. Louis, Missouri 63105-3825
hugh@eastwoodlawstl.com
(314) 809 2343
(314) 228 0107 eFax

/s/ Alexis I. Tahinci
Alexis I. Tahinci, TN BPR No. 031808
Tahinci Law Firm PLLC
105 Ford Ave., Suite 3
Kingsport, TN 37663
alexis@tahincilaw.com
(423) 840-1350
(423) 815-1728 eFax

Counsel for Plaintiff Kateri Lynne Dahl