Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
Fraternal Order of Police/Metropolitan Police Department Labor Committee,	)	
Complainant,	)	PERB Case No. 10-U-03
v.	)	Opinion No. 1321
District of Columbia Metropolitan Police Department,[1]	)	
Respondent.	)	

DECISION AND ORDER

I. Statement of the Case

Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Complainant", "Union" or "FOP") has filed the instant unfair labor practice complaint ("Complaint") against the District of Columbia Metropolitan Police Department ("Respondent", "MPD" or "Agency"). The Complainant is alleging that the Respondents violated D.C. Code § 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act ("CMPA") by failing and refusing to provide information requested by the FOP. (See Complaint at p. 7).

[1] The Complainant named the Police Chief and other management personnel in the caption of the Complaint. The Respondents requested that these names be removed from the caption, claiming that the named-persons are acting as agents of the District, and not their individual capacity. The Board has removed the names from the caption consistent with the Board's case precedent. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee and Metropolitan Police Department*, _DCR_, Slip Op. No. 1118 at p. 5, PERB Case No. 08-U-19 (2011).

MPD filed an Answer to the Unfair Labor Practice Complaint ("Answer") denying the allegations set forth in the Complaint and any violation of the CMPA. (See Answer at pgs. 2-4). In addition, MPD asserted the affirmative defense that the Board has no jurisdiction over information requests and that the Board should dismiss the Complaint. (See Answer at p. 4). In a previous decision and order in this matter, the Board denied MPD's Motion to Dismiss (Slip Opinion No. 1115), and scheduled the matter for a hearing. On April 27, 2012, the Hearing Examiner issued a Report and Recommendation (R&R), recommending that the Board dismiss the Complaint. The Complainant filed exceptions to the R&R. The Union's Complaint, MPD's Answer, the Hearing Examiner's R&R and the Complainant's exceptions are before the Board for disposition.

II. Discussion

A. The FOP's Complaint and MPD's Answer

In its Complaint, FOP made the following factual allegations:

> 2. In or about June 2009, the MPD initiated an investigation of [FOP] Chairman Kristopher Baumann and [FOP] Vice Chairman Wendell Cunningham for their alleged receipt of a recorded transmission and subsequent release of that transmission to the media.
>
> 3. On October 9, 2009, Inspector Porter sent a Notice of Proposed Adverse Action and an Investigative Report to DCFOP Chairman Kristopher Baumann and DCFOP Vice Chairman Wendell Cunningham.
>
> 4. On October 9, 2009, DCFOP Executive Steward Delroy Burton sent a written request on behalf of the DCFOP to Inspector Porter requesting specific information relating to the investigation pursuant to D.C. Code Section 1-617.04.
>
> 5. DCFOP Executive Steward Burton requested information that was relevant and necessary to the DCFOP's legitimate collective bargaining duties as the exclusive representative of the DCFOP bargaining unit.[2]
>
> 6. On October 20, 2009, Inspector Porter responded by email to Executive Steward Burton's October 9, 2009 request by informing him that "[a]ttachments #9, 16, 17, 33

[2] Specific documents are listed at pgs. 3-5 in the Complaint.

> & 36 of the investigative package" were available for retrieval from her office and that a copy of these attachments was being provided to each member.
>
> 7. As of the date of this filing, Inspector Porter has failed to provide the materials listed as numbers 3 and 4 of Executive Steward's request, namely, a copy of draft or any prior versions of the investigative report bearing IS 09-002129 and all e-mails concerning the investigation bearing IS 09-002129, between IAD Agent Lieutenant Dean Welch, Chief Cathy Lanier, Assistant Chief Alfred Durham, Assistant Chief Patrick Burke, Assistant Chief Michael Anzallo, Commander James Crane, Commander Christopher Lojacono, Captain George Dixon, and Captain Jeffery Harold. This failure to respond and the unreasonable delay is [alleged to be] an unfair labor practice.

(Complaint at pgs. 3-5).

Based on these factual allegations, FOP contends that:

> the "Respondents violated D.C. Code § 1-617.04(a)(1) and (5) by interfering and restraining the DCFOP executive members' exercise of their rights guaranteed by the CMPA and by failing to bargain in good faith. Specifically, (a) the DCFOP and its executive members were engaged in activities protected by the CMPA when they made the information request pursuant to D.C. Code § 1-617.04; (b) Respondents knew of the activities and Respondents' obligations because they were expressly disclosed in the information request; (c) there was anti-union *animus* by the Respondents as evidenced by the failure to fully comply with the information request; and (d) Respondents interfered with, restrained, and failed to deal in good faith with the DCFOP and its executive members in the exercise of their rights guaranteed by the CMPA by failing and refusing to provide the DCFOP with information relevant and necessary to the Union's collective bargaining duties.
>
> Management's duty to furnish information relevant and necessary to a union's statutory role under the CMPA as the employees' exclusive representative is derived from management's obligation to bargain in good faith and the employees' right to engage in collective bargaining

> concerning terms and conditions of employment, as may be appropriate through a duly designated majority representative. D.C. Code § 1-617.04(a)(5) protects and enforces these employees' rights and employer obligations by making their violation an unfair labor practice.

(Complaint at pgs. 6-7).

The Respondent did not deny the factual allegations in the Complaint. (See Answer at pgs. 2-4). However, the Respondent claimed "that there is no evidence of the commission of an unfair labor practice as stated in the [Complaint] and, accordingly, deny . . . [they] have engaged in an unfair labor practice." (See Answer at p. 5).

B. The Hearing Examiner's Report and Recommendation

The issue before the Hearing Examiner was:

> Did the Complainant meet its burden of proof that Respondent committed any unfair labor practice (ULP) in this matter?

At the hearing, the Complainant argued that the basis for its Complaint was MPD's failure to fully comply with the Union's request for information necessary for its representation of bargaining unit members Baumann and Cunningham in a disciplinary proceeding. (R&R at p. 5). MPD argued that the Board lacked jurisdiction in this matter because the issue of a union's request for information is a contractual matter. In addition, MPD asserted that it considered FOP's request for information and responded to it. (R&R at p. 7). Moreover, MPD contends that its response did not constitute an unfair labor practice. (*Id.*). MPD claimed that the Complainants requests were "immediately complied with." (*Id.*).

The Hearing Examiner made the following pertinent findings:

> On October 9, 2009, Dierdre N. Porter, Inspector/Director, MPD Disciplinary Review Branch issued notices to Baumann and Cunningham proposing to suspend each of them for five work days based on the charge that they had released audio transmissions to the news media without prior written approval. Baumann's notice included a statement that attachments 9, 16, 17, 33 and 36 of the investigative report were not being provided to Baumann at the time but that the "documents will be provided on Tuesday, October 13, 2009, unless notified otherwise". Cunningham's notice stated that a "complete

> copy of the investigative report" was attached and did not refer to any missing documents."
>
> On October 9, 2009, Complainant submitted an "Article 10 Information Request" to Inspector Porter seeking "certain documents and information in the possession, custody or control" of MPD related to the proposed adverse actions. In the request, FOP sought the following: (1) copy of all audio recordings of interviews conducted during the Internal Affairs Division investigation; (2) copies of all transcripts of the audio recording of interviews conducted during the investigation; (3) copy of draft or any prior versions of the investigative report IS 09-003290; (4) all emails between Lt. Dean Welch, Chief Cathy Lanier, Assistant Chief Alfred Durham, Assistant Chief Patrick Burke, Assistant Chief Michael Anzallo, Commander James Crane, Commander Christopher Lojacono, Captain George Dixon and Captain Jeffrey Herold concerning the investigation; (5) copy of the audio recording and transcript of the voicemail referred to in the IR as attachment 23; (6) copy of the audio recording referred to in the IR as attachment 38 "Audio Compact Disc document twenty four interviews conducted during the investigation:"; and (7) copies of the transcribed statements that were omitted from the IR provided to Officers Cunningham and Baumann, identified as Attachments 2,-11, 13, 16, 17, 21, 22, 24-26, 29, 33 and 36. It is undisputed that by the time of this proceeding, FOP had received everything it requested, but it is also undisputed that it did not receive[] everything as a result of its initial request.

(R&R at pgs. 7-8).

In her analysis of the case, the Hearing Examiner rejected MPD's argument that the Board lacked jurisdiction in this matter. The Hearing Examiner cited the Board's reason for its denial of MPD's Motion to Dismiss, where the Board explained:

> [Materials and information relevant and necessary to its duty as a bargaining unit representative must be provided upon request...Whereas FOP has alleged facts, that if proven would violate the CMPA, the Board finds that Complainant has pleaded] a statutory cause of action under the CMP A. (Slip Op. 1115 at 5).

(R&R at p. 8).

In addition, the Hearing Examiner noted that:

> Indeed, it is well settled that an employer's obligation to provide documentation requested by a bargaining unit representative may constitute an unfair labor practice under the CMPA because it impacts on the Union's ability to represent its members. The obligation to bargain in good faith includes a requirement that an employer, furnish information needed by a union to represent its members In *NLRB v. Acme Industrial Co.*, 385 U.S. 432 (1967), the United States Supreme Court similarly concluded that an employer's duty to disclose information unquestionably applies to labor-management relations during the term of an agreement. See also, *American Federation of State, County and Municipal Employees, Council 20, AFL-CIO v. D.C General Hospital and the D.C Office of Labor Relations and Collective Bargaining*, 36 D.C. Reg. 7101, Slip Op. 227, PERB Case No. 88-U-29 (1989).
>
> In *University of the District of Columbia v. University of the District of Columbia Faculty Association*, 38 D.C. Reg. 2463, Slip Op. No. 272, PERB Case No. 90-U-10 (1991), the Board stated:
>
> > [T]he employer's duty under the CMPA includes furnishing information that is both relevant and necessary to the Union's handling of [a] grievance.
>
> See also *Teamsters, Local 639 and 730 v. D.C Public Schools*, 37 D.C. Reg. 5993, Slip Op. No. 226, PERB Case No. 88-U-l 0 (1989). This Board has declined to take the responsibility of determining the relevancy or necessity of the information requested by a union in the processing of a grievance. *Doctors' Council of the District of Columbia v. Government of the District of Columbia, et al*, 3 D.C. Reg. 5391, Slip Op. No. 353, PERB Case No. 92-U-27 (1996).

(R&R at p. 8).

As to the merits of the Complaint, the Hearing Examiner reasoned that:

> This Board does not require a union to establish that an employer acted in bad faith when it failed to provide documents. The Board's standard is one of reasonableness, *i.e.*, was the delay or refusal to provide the documents unreasonable. *Doctors' Council of the D.C. General Hospital v. D.C. General Hospital*, 46 D.C. Reg. 6268, Slip Op. No. 482, PERB Case Nos. 95-U-10and 95-U-18 (1996). However, evidence that an employer is acting unreasonably can lead to a conclusion that the employer is acting in bad faith. In this case, Agency maintains that it did not act in bad faith and that all of the documents were eventually provided. It asserts that its refusal to provide some documents was based on a legally supportable argument which it was entitled to have ruled upon. It also maintains that it does not retain emails, and had to rely on [the Office of the Chief Technology Officer] OCTO to obtain them, and that due to the quantity sought and the need to review them to ensure they were not protected by attorney client privilege, there was considerable delay.

(R&R at pgs. 9-10).

The Hearing Examiner specifically noted FOP's rejection of MPD's request for an extension of time to provide a response concerning the emails requested by FOP. (R&R at p. 10). The Hearing Examiner also noted that reasonableness has to be assessed in the context of:

> an excessive quantity of information [being] sought and that MPD did not have custody of the emails. That decision must be made on a case-by-case basis. A careful review of the record did not provide sufficient direct or circumstantial evidence that MPD acted unreasonably or that under the circumstances its responses were untimely. Further, there was insufficient evidence to establish that MPD's actions were based on anti-union *animus* or an intent to undermine the Union's relationship with its members. Pursuant to PERB Rule 520.11, Complainant has the burden of proving its allegations by a preponderance of evidence. "Preponderance of evidence" has been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not". Blacks Law Dictionary (5th Ed.). Based on the testimonial and documentary evidence as well as the legal arguments presented in this matter, the Hearing Examiner concludes

> that the Union did not meet its burden of proof in this matter.

(R&R at p. 12).

C. The Complainant's Exceptions to the R&R

The Complainant's exceptions to the Hearing Examiner's R&R are as follows:

> 1. **Hearing Examiner Hochhauser's conclusion that the MPD had not acted unreasonably and that its responses were not untimely is completely unsupported by the evidence presented at the hearing.** (Exceptions at p. 6).

The Complainant argues that there is no record evidence to support a finding that MPD's responses to FOP's information requests were reasonable or timely. In support of its argument, the Complainant claims that MPD's eventual compliance with its information request was as a result of a subpoena issued in another matter before the Board.

The Board, however, finds that the Hearing Examiner clearly explained that the delay in providing the requested information to the FOP was due to the volume of the requests and the necessity of obtaining the information from the Office of the Chief Technology Officer (OCTO). (R&R at pgs. 9-10). The Board, therefore, finds this exception to merely be a disagreement with the Hearing Examiner's assessment of the evidence. Moreover, FOP's allegations that the information was only provided as a result of the subpoena in another case before the Board is merely speculation, and provides no basis for the reversal of the Hearing Examiner's findings. This Board has held that a mere disagreement with the hearing examiner's findings is not grounds for reversal of the findings where they are fully supported by the record. See *Teamsters Local Unions 639 and 670, International Brotherhood of Teamsters, AFL-CIO v. District of Columbia Public Schools*, 54 D.C. Reg. 2609, Slip Op. No. 804, PERB Case No. 02-U-26 (2003); see also *American Federation of Government Employees, Local 874 v. D.C. Department of Public Works*, 38 D.C. Reg. 6693, Slip Op. No. 266, PERB Case Nos. 89-U-15, 89-U-18 and 90-U-04 (1991). We have also rejected challenges to the Hearing Examiner's findings based on: (1) competing evidence; (2) the probative weight accorded evidence; and (3) credibility resolutions. See *American Federation of Government Employees, Local 2741 v. D.C. Department of Recreation and Parks*, 46 D.C. Reg. 6502, Slip Op. No. 588, PERB Case No. 98-U-16 (1999); see also *American Federation of Government Employees v. District of Columbia Water and Sewer Authority*, _ D.C. Reg. _, Slip Op. 702, PERB Case No. 00-U-12 (2003). Similarly, we have held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner." *Tracy Hatton v. FOP/DOC Labor Committee*, 47 D.C. Reg. 769,

Slip Op No. 451 at p. 4, PERB Case No. 95-U-02 (1995). See also *University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia*, 35 D.C. Reg. 8594, Slip Op. No. 285, PERB Case No. 86-U-16 (1992); *Charles Bagenstose et al. v. D.C. Public Schools*, 38 D.C. Reg. 4154, Slip Op. No. 270, PERB Case No. 88-U-34 (1991).

Whereas the Board finds that the FOP's exception is merely a disagreement with the Hearing Examiner's findings and conclusions, the exception is rejected.

2. The Hearing Examiner Misconstrued the Evidence Regarding the MPD's Alleged Claim of the Deliberative Process Privilege. (Exceptions at p. 6).

FOP argues that MPD did not raise the deliberative process privilege as a defense for its refusal to provide requested information until the hearing in this matter.[3] The Union states that "[i]n similar situations, PERB has ruled that the Hearing Examiner was mistaken in addressing issues in the Report and Recommendations that were not specifically addressed in the pleadings." (Exceptions at p. 7).

At the hearing, MPD asserted the defense that the investigative reports which FOP requested were not provided based upon the "deliberative process privilege". This privilege protects "documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated." *Dep't of Interior v. Klamath Water Users Protective Ass'n,* 532 U.S. 1, 8, 121 S. Ct. 1060, 149 L.Ed.2d 87 (2001) (internal quotation marks omitted). For the deliberative process privilege to apply, the material must be "predecisional" and "deliberative." *In re Sealed Case,* 121 F.3d 729, 737 (D.C. Cir. 1997).

The Hearing Examiner determined that MPD's failure to produce the requested investigative reports was reasonable based upon MPD's assertion that the information was protected under the deliberative process privilege. The Board, however, rejects this finding where the record does not support this conclusion. A review of the record reveals that MPD did not provide any evidence supporting its assertion that the investigative reports requested by FOP in this matter were advisory opinions, recommendations or deliberations of MPD, or that the documents were predecisional.

While the Board rejects the Hearing Examiner's findings and conclusions regarding MPD's failure to provide the requested investigative reports, it does not do so based upon FOP's exceptions. Board precedent does not prohibit an issue from being raised during the hearing process. *American Federation of Government Employees, Local 872 v. District of Columbia Department of Public Works*, 38 D.C. Reg. 1627, Slip Op. No. 265, PERB Case No. 89-U-11 (1990). Fundamental principles of procedural

[3] In contradiction to its argument, FOP admits that MPD raised the deliberative process privilege in its December 13, 2009 response. (Exceptions at p. 7).

fairness call for the Board to ground its decision on the factual and legal contentions made by the parties. *Elliott v. District of Columbia Department of Corrections*, 43 D.C. Reg. 2940, Slip Op. No. 455, PERB Case No. 95-U-09 (1995). It is after a hearing is closed, that the Board will deny any additional evidence or allegations absent compelling reasons. *Id.* In the present case, FOP's exception is merely a disagreement with the weight and credibility the Hearing Examiner gave MPD's assertion of the deliberative process privilege.

However, as stated above, the Board finds that, despite MPD's assertion, the record provides no support for a conclusion that the investigative reports requested by FOP were properly withheld because of the deliberative process privilege. Therefore, the Board finds that MPD's failure to produce the requested investigative reports does constitute a violation of the CMPA.

3. Hearing Examiner Hochhauser Applied an Incorrect Legal Standard. (Exceptions at p. 8).

FOP asserts that the Hearing Examiner's reasoning concerning whether MPD acted in bad faith asserts an incorrect legal standard. Although FOP admits that the Hearing Examiner indicated that the Union was not required to show that MPD acted in bad faith, FOP argues that the Hearing Examiner should have not included a determination that there was no evidence that the delay in MPD's attempt to furnish the requested information was done in bad faith.

The Board rejects this exception, whereas the Hearing Examiner's findings were clearly about the reasonableness of MPD's response to the request for information. The Hearing Examiner's observations considered MPD's actions under the totality of the circumstances, one of which was whether MPD acted in good faith. There is no evidence in the record to suggest that the Hearing Examiner relied on an incorrect legal standard in making her determination. The proper standard, applied by the Hearing Examiner, was whether MPD attempted to comply with requests in a timely and reasonable manner.[4]

4. Hearing Examiner Hochhauser's Report Violates PERB Precedent. (Exceptions at p. 10).

FOP also contends that because of the delay in responding to its information request, it was forced to subpoena the documents in a matter before PERB (the Barricade Matter). The Union argues that it should not have been "forced to undertake a time-consuming and potentially fruitless effort to look elsewhere each time it seeks information when the information sought is in the employer's possession." (Exceptions at

[4] FOP also contends that all its requests for information were relevant and necessary to its duty as a bargaining unit representative. This assertion, however, is not supported by the record and was not an issue before the Hearing Examiner.

p. 11, citing *Psychologists Union, Local 3758 of the D.C. Department of Mental Health v. District of Columbia Department of Mental Health*, 54 D.C. Reg. 2644, Slip Op. No. 809 at p. 4, PERB Case No. 05-U-41 (2005)). The Union believes that the Hearing Examiner's holding, that the MPD's delay in responding to FOP's request for information was reasonable "is contrary to PERB precedent and erroneous as a matter of law. (Exceptions at p. 12).

FOP misconstrues the Board's decision in *Psychologists Union*. In that case, it was the agency that argued it was not responsible for providing certain information that was available online. In the present case, there is no evidence or allegation that MPD informed FOP to seek the information elsewhere, or forced the Union to file a subpoena. Moreover, the evidence, as noted by the Hearing Examiner, was that MPD informed FOP that it was attempting to comply with the requests for information and requested an extension of time to obtain and evaluate the information. MPD's request was denied without good reason and the subpoena was then initiated solely by FOP. Based upon the foregoing, the Board rejects FOP's exception as a mere disagreement with the Hearing Examiner's findings and conclusions, and is not a proper exception.

Pursuant to Rules 520.14 and 550.21 the Board may adopt the recommendation of the Hearing Examiner to the extent that the record supports the recommendation. Here, the record supports the Hearing Examiner's recommendations regarding MPD's failure to provide information requested by the union, which included the production of e-mails. Having found the Hearing Examiner's findings and conclusions to be , in part, reasonable and supported by the record and consistent with the Board's precedent, the Board finds that the Complainant has not fully met its burden of proving that the MPD's delay in providing the requested information was unreasonable.

The Hearing Examiner's recommendation regarding information not produced because of the deliberative process privilege is rejected. As to those requests, FOP has met its burden, and the Board finds that MPD has violated the CMPA in failing to provide the rquested investigative reports.

The Complainant has requested that costs be awarded. D.C. Code § 1-617.13(d) provides that "[t]he Board shall have the authority to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may determine." Further, the Board has articulated the "interest of justice" criteria in *AFSCME, D.C. Council 20, Local 2776 v. D.C. Department of Finance and Revenue*, 73 DCR 5658, Slip Op. No. 245 at pgs. 4-5, PERB Case No. 98-U-02 (1990), in which the Board addressed the criteria for determining whether, under certain circumstances, a party can be awarded costs:

> First, any such award of costs necessarily assumes that the party to whom the payment is to be made was successful in at least a significant part of the case, and that the costs in question are attributable to that part. Second, it is clear on

> the face of the statute that it is only those costs that are "reasonable" that may be ordered reimbursed. . . . Last, and this is the nub of the matter, we believe such an award must be shown to be in the interest of justice.
>
> Just what characteristics of a case will warrant the finding that an award of costs will be in the interest of justice cannot be exhaustively catalogued. . . . What we can say here is that among the situations in which such an award *is* appropriate are those in which the losing party's claim or position was wholly without merit, those in which the successfully challenged action was undertaken in bad faith and those in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union amongst the employees for whom it is the exclusive representative.

In the present case, the Union has prevailed in the part of its Complaint asserting that MPD failed to provide requested investigative reports. The Board has found that MPD's argument for its failure to provide this information lacks merit. Therefore, the Board grants the Union's reasonable costs in this case, except as to those costs associated with the Union's request for e-mails.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's Complaint is denied in part, and granted in part.

2. The District of Columbia Metropolitan Police Department, its agents and representatives, shall cease and desist violating D.C. Code § 1-617.04(a)(1) and (5) by failing to supply the investigative reports identified in the instant Complaint which are relevant and necessary to fulfill the Union's duty as exclusive bargaining unit representative.;

3. The District of Columbia Metropolitan Police Department shall conspicuously post within ten (10) days from the issuance of this Decision and Order the attached Notice where notices to employees are normally posted. The Notice shall remain posted for thirty (30) consecutive days.

4. Within fourteen (14) days from the date of this Decision and Order, the Metropolitan Police Department shall notify the Public Employee Relations Board in writing that the attached Notice has been posted accordingly.

5. The District of Columbia Metropolitan Police Department will pay the Fraternal Order of Police/Metropolitan Police Department Labor Committee's reasonable costs of litigating the part of this matter associated with the request for investigative reports.

6. Within fourteen (14) days from the issuance of this Decision and Order, the Complainant shall submit to the Public Employee Relations Board a written statement of actual costs incurred in processing this unfair labor practice complaint consistent with paragraph 5 of this Order. The statement of costs shall be filed together with supporting documentation. The District of Columbia Metropolitan Police Department may file a response to the Complainant's statement of costs within fourteen (14) days from the service of the statement of costs upon it.

7. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

August 23, 2012

CERTIFICATE OF SERVICE

This is to certify that the attached Notice in PERB Case No. 10-U-03, Slip Opinion No. 1321, is being transmitted *via* E-mail, LexisNexis File and Serve and U.S. Mail to the following parties on this the 15th day of November, 2012.

Anthony M. Conti, Esq.
Daniel J. McCartin, Esq.
CONTI FENN & LAWRENCE, LLC
36 South Charles Street, Suite 2501
Baltimore, Maryland 21201

tony@lawcfl.com
dan@lawcfl.com

E-MAIL, LEXISNEXIS FILE & SERVE & U.S. MAIL

Terrence D. Ryan, Esq.
Ronald B. Harris, Esq.
Mark Viehmeyer, Esq.
Metropolitan Police Department
300 Indiana Avenue, N.W.
Room 4126
Washington, D.C. 20001

Ronald.Harris@dc.gov
mark.viehmeyer@dc.gov
terry.ryan@dc.gov

E-MAIL, LEXISNEXIS FILE & SERVE & U.S. MAIL

Adessa Barker