

**STATE OF RHODE ISLAND  
OFFICE OF THE ATTORNEY GENERAL**

*Peter F. Neronha  
Attorney General*



**INVESTIGATIVE REPORT  
August 6, 2021**

**Incident Type:** Death Investigation of Justynian Missiuro  
**Incident Location:** 325 Washington Street, Providence, RI  
**Incident Date:** March 28-29, 2020  
**Police Dept:** Providence Police

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## **I. SUMMARY OF FINDINGS**

This report details an investigation into the death of a suspect who was being held in the Providence Police cellblock on March 28-29, 2020. At approximately 9:51 a.m. on March 28th, a call was made to Providence Police where the caller (Civilian #1) complained of a domestic disturbance at her home at [REDACTED] Amy Street. Civilian #1 told the dispatcher that her husband, Justynian Missiuro, had assaulted her and that he was intoxicated. Officers responded, spoke with Civilian #1 and took Mr. Missiuro into custody without incident.

At 10:03 a.m., Officer Anthony Hampton transported Mr. Missiuro from Amy Street to the Providence Police Central Station at 325 Washington Street. Detention Officer Jo-Ann Marcoccio booked Mr. Missiuro and escorted him to cell number 2 in the men's detention area at 10:18 a.m.. At 10:23 a.m., Marcoccio and Officer Christopher Kennedy moved Mr. Missiuro into cell number 20 without any confrontation or incident. Mr. Missiuro spent the night in that cell. At 11:28 a.m. on March 29, 2020, Mr. Missiuro was found in his cell unresponsive. Rescue responded and transported him to Rhode Island Hospital. On March 31, 2020 at 7:52 a.m., Mr. Missiuro was pronounced dead.

In the wake of Mr. Missiuro's death, a full investigation was initiated by Providence Police with the assistance of the Office of the Attorney General. The primary investigative team was led by Providence Police Major Oscar Perez and Sergeant James Mellor. Dr. Ariel Goldschmidt of the Office of the State Medical Examiners conducted the autopsy. After the investigative materials were finalized, assembled, and analyzed, this report was prepared.

The purpose of this Office's review was to determine the circumstances of Mr. Missiuro's death and ascertain whether any members of the Providence Police Department committed a criminal act. After a review of all the available evidence and relevant law, including the legal analysis set forth in this report, we conclude that no criminal laws were violated by any of the Providence Police personnel involved in this incident.

## **II. SUMMARY OF EVIDENCE REVIEWED**

- (1) Providence Police Investigative Action Report by Sgt. James Mellor, undated – 9 pages
- (2) Providence Police Incident Report with Dispatch Narrative – 6 pages
- (3) Google Map Photos of [REDACTED] Amy Street and Map Routes from [REDACTED] Amy Street to 325 Washington Street (Providence Police-Central Station) – 4 pages
- (4) Civilian #1 Witness Statement and Domestic Violence/Sexual Assault Reporting Form, dated March 28, 2020 – 3 pages

- (5) Providence Police Booking Photo and Booking Card of Justynian Missiuro, dated March 28, 2020 – 2 pages
  
- (6) Providence Police Letters of Information
  - a. Officer Anthony Hampton, dated April 8, 2020 – 1 page
  - b. Officer Dormica Waters, dated April 8, 2020 – 1 page
  - c. Sergeant John Martin, dated March 29, 2020 – 1 page
  - d. Lieutenant Dennis O'Brien, dated March 29, 2020 – 1 page
  - e. Officer Christopher Kennedy, dated April 2, 2020 – 1 page
  - f. Detective James Clift, dated April 2, 2020 – 1 page
  
- (7) Providence Fire Department – Patient Care Report, date printed March 31, 2020 – 8 pages
  
- (8) Rhode Island Office of the State Medical Examiners Law Enforcement Request for Case Information Paperwork, dated April 1, 2020 – 3 pages
  
- (9) Letter of Information by Sergeant James Mellor re: Contact with/Request from the Rhode Island Office of the State Medical Examiners, dated April 3 and 9, 2020 – 2 pages
  
- (10) Rhode Island Office of the State Medical Examiners Evidence Release Form – 1 page
  
- (11) Providence Police Bureau of Criminal Identification Photos taken by Detective Ed Regine, dated March 29, 2020 – 16 pages
  
- (12) Providence Police Detention Officers Recorded Interviews
  - a. Joann Marcoccio, dated April 1, 2020 – transcript – 29 pages
  - b. Jesus Gerez, dated April 1, 2020 – transcript – 18 pages
  - c. Tanyetta Ellis, dated April 1, 2020 – transcript – 15 pages
  - d. Tyshonda Scott, dated April 1, 2020 – transcript – 17 pages
  - e. Letisha King, dated April 1, 2020 – transcript – 12 pages
  - f. Arlette Ferreira, dated April 1, 2020 – transcript – 13 pages
  - g. Kathleen Simoneau, dated March 30, 2020 – transcript – 21 pages
  
- (13) Providence Police Photos of Men's Detention Area, undated – 15 pages
  
- (14) Evidence Audit Trail Printouts re: Axon Body Worn Cameras
  - a. Officer Anthony Hampton, dated April 27, 2020 – 2 pages
  - b. Officer Dormica Waters, dated April 27, 2020 – 1 page

- c. Sergeant John Martin, dated April 27, 2020 – 1 page
- (15) Providence Police Dispatch Recordings – March 28, 2020
- a. Channel 1 Recordings – 15 files
  - b. Civilian #1 Initial Call to Providence Police for Domestic Disturbance
  - c. Justynian Missiuoro Call to Providence Police
- (16) Providence Police Officer Body Worn Camera Footage
- a. Officer Anthony Hampton – 2 files
  - b. Officer Dormica Waters – 1 file
  - c. Sergeant John Martin – 1 file
- (17) Providence Police Cellblock Footage – March 28–29, 2020
- (18) Providence Police/Fire Dispatch Recordings – March 29, 2020
- a. Providence Police – 11 files
  - b. Providence Fire – 49 files
- (19) Providence Police Men’s Detention Area, April 8, 2020 Walk-through Video
- (20) Rhode Island Office of the State Medical Examiners Autopsy Report, dated June 10, 2020 – 5 pages
- (21) Rhode Island Department of Health, Forensic Sciences Laboratory Toxicology Report for Justynian Missiuoro dated April 16, 2020 – 2 pages
- (22) Rhode Island Office of the State Medical Examiners Photographs from the April 1, 2020 autopsy of Justynian Missiuoro

### **III. FINDINGS OF FACT**

At approximately 9:51 a.m. on Saturday, March 28, 2020, a call was made to Providence Police. The caller (Civilian #1) complained of a domestic disturbance at her home at [REDACTED] Amy Street. Civilian #1 told the dispatcher that her husband, Justynian Missiuoro, had assaulted her and that he was intoxicated. A few minutes later a man identifying himself as Justynian Missiuoro spoke to a different dispatcher at the Providence Police Department and said he did not assault his wife but admitted he had been drinking. “She’s fine...She’s just trying to get me in trouble[,]” he added.

Officers responded to [REDACTED] Amy Street and spoke with Civilian #1. She told Officers Anthony Hampton and Dormica Waters that her husband of sixteen years, Justynian Missiuoro, was intoxicated and upset that he could not get into her Facebook account. He then got belligerent and struck her with an open hand in the presence of their three children. She

completed a written statement to this effect adding that her husband “had been drinking for at least 48 hours (sleeping, drinking and going to the liquor store).”

Officer Hampton stayed with Mr. Missiuro while Civilian #1 spoke with Officer Waters. Once probable cause was established that a crime occurred and a decision to arrest Mr. Missiuro had been made, Officer Waters returned to the parlor and gave Mr. Missiuro commands to find his shoes and step outside. The Body Worn Cameras (BWC) clearly show that Mr. Missiuro was unstable on his feet, and he had some trouble finding his shoes, but he did respond to commands and engaged with the police officers when addressed. Mr. Missiuro told Officer Hampton that he did nothing wrong and “she put her hands on me.” The officer then placed Mr. Missiuro in handcuffs and walked him out to the police vehicle without incident. Officer Hampton transported Mr. Missiuro to the Providence Police Central Station at 10:03 a.m..

Officer Hampton reactivated his BWC upon arrival in the sally port of the Providence Police station at 10:11 a.m.. Mr. Missiuro remained calm as he exited the vehicle and Officer Hampton escorted him to the detention area. He was, however, unsteady on his feet as he navigated through the hallways to the booking area. Mr. Missiuro provided his name and date of birth and then was escorted to cell number 2 and placed inside at 10:18 a.m.. There was no evidence of any use of unreasonable or unnecessary force during arrest, transport or booking. On the contrary, both officers were polite, respectful and used no force other than that required to guide Mr. Missiuro to the patrol car, through the station and eventually to cell number 2.

Seven different detention officers were on-duty during Mr. Missiuro’s time in the detention area. The first one to meet him upon arrival was Joann Marcoccio. She noticed that he smelled of alcohol, but she did not think he was “fully intoxicated”. Mr. Missiuro communicated with her and repeatedly maintained his innocence, stating that he “did nothing wrong”. Once led to cell number 2 he proceeded to bang on the cell door and requested that he be allowed to call his “girlfriend”. Marcoccio explained to Mr. Missiuro that he could not call her because she was the complainant in his domestic assault case. She tried to calm him down by telling him he was charged with a misdemeanor, and he would be released shortly. When this did not quiet Mr. Missiuro down, Marcoccio had him moved to cell number 20 which is farther away from the desk where she books the incoming prisoners. Officer Kennedy facilitated the move of Mr. Missiuro from cell number 2 to cell number 20 at 10:23 a.m.. There is nothing in the cellblock footage which shows any questionable use of force by Marcoccio or Kennedy. Mr. Missiuro walked under his own power and did not stumble or fall. Shortly thereafter, Jesus Gerez took over as the detention officer from Ms. Marcoccio at approximately 11:00 a.m.

Jesus Gerez was scheduled to oversee the detention area until 3:00 p.m. and by the time he began his shift, the bail commissioner had already come and gone. Since there was not enough time to complete the necessary paperwork and process Mr. Missiuro before the bail commissioner left the station, he had to remain in the cellblock until the next day.<sup>1</sup> When Gerez heard knocking from cell number 20, he went to speak with Mr. Missiuro at approximately 12:31 p.m.. Gerez told him to get some sleep and he would be released in the morning. The banging

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<sup>1</sup> Providence Police schedule one bail commissioner response per weekend day. Those responses routinely occur on Saturday and Sunday mornings.

on the cell door stopped and this was the only interaction Gerez had with Mr. Missiuro. At 3:00 p.m. Gerez was relieved by Tanyetta Ellis.

Ellis conducted her rounds five times during her shift. She too told Mr. Missiuro that he would be getting released in the morning. At no point did Mr. Missiuro request medical attention, nor did he appear to be in distress. He was usually standing up when she passed his cell. BCI Detective Douglas Allin could also be seen on the cellblock surveillance video removing Mr. Missiuro from his cell at 5:17 p.m. for processing. There was no indication on the video nor did the witnesses recall that Mr. Missiuro was laboring under any physical stress or suffering from any physical condition. He walked under his own power and Detective Allin returned him to cell number 20 at 5:46 p.m. without incident.

Tyshonda Scott arrived for her shift at approximately 7:00 p.m. and did not interact with Mr. Missiuro. She overheard him speaking with a prisoner in a nearby cell, but neither she nor her relief, Lettisha King, had any direct contact with him. After processing another prisoner, BCI Detective James Clift was summoned by Mr. Missiuro at 8:49 p.m.. Mr. Missiuro asked Detective Clift for something to eat. Detective Clift responded by providing Mr. Missiuro with two cereal bars. Clift characterized Mr. Missiuro as “awake and alert.”

Arlett Ferreira began her shift at approximately 3:00 a.m. on Sunday, March 29, relieving King. Before King left, she did one last round because she thought she heard a noise coming from the cellblock area near cell number 20. Her search did not reveal the source of the sound as everyone in the cellblock appeared to be sleeping. King then turned over the detention area to Ferreira at 2:51 a.m. At 3:47 a.m., Ferreira had a conversation with Mr. Missiuro, who was standing in his cell and seemed disoriented. He appeared to be addressing his mother about how he forgot his key and requested that she open the door. Ferreira told him that he was at the Providence Police Department, she could not open the door and he would be there until the morning. Mr. Missiuro thanked her and sat down.

Joann Marcoccio arrived for her shift at 6:31 a.m. and spoke briefly with Ferreira. At 7:00 a.m. Marcoccio made her rounds and responded to cell number 20 where she found Mr. Missiuro banging on the doors. During the next few hours of the morning of March 29, Marcoccio engaged in three more conversations with Mr. Missiuro about arranging for the payment of his bail. Those conversations occurred at 8:08 a.m., 8:39 a.m. and 8:54 a.m.. Marcoccio spoke with Mr. Missiuro’s mother and brother about posting bail and she conveyed the latest information back to Mr. Missiuro. During the 8:54 a.m. conversation, Ms. Marcoccio told Mr. Missiuro that the bail commissioner would be arriving between 10-10:30 a.m. and his brother would be posting the bail amount.

At 10:36 a.m., Marcoccio was relieved by Kathleen Simoneau. The bail commissioner arrived at 10:53 a.m. and began to release the prisoners, starting with the sole female prisoner at 10:58 a.m. The bail commissioner and the prosecution officer processed the prisoners in cell numbers 1-5 and then cells numbers 13-20. While multiple people passed cell number 20 during

this time, it is not until 11:28 a.m. that Officer Kennedy discovered Mr. Missiuro was unresponsive. Kennedy immediately notifies Ms. Simoneau and Sergeant John Martin. Martin activated his BWC and responded to cell number 20, where he found Mr. Missiuro lying face down inside of the cell with his neck resting on the bench. While awaiting rescue, officers administered two doses of Narcan to Mr. Missiuro. Rescue personnel arrived within approximately five minutes. They determined that Mr. Missiuro was not breathing and had no pulse. Rescue personnel began life-saving efforts including CPR and multiple doses of epinephrine. They then transported Mr. Missiuro from the Public Safety Complex to Rhode Island Hospital at 12:04 p.m.

Doctors at Rhode Island Hospital re-established a pulse and Mr. Missiuro began breathing with the assistance of an artificial respiration device. Based upon his lack of brain activity, medical staff eventually discontinued life support. Mr. Missiuro was pronounced dead at 7:52 a.m. on March 31.

The following day, Dr. Ariel Goldschmidt of the Office of the State Medical Examiners conducted an autopsy. On June 10, 2020, Dr. Goldschmidt issued a final autopsy report accompanied by a Forensic Sciences Laboratory Toxicology Report. After reviewing Mr. Missiuro's medical records and the BWC of Sergeant Martin, Dr. Goldschmidt determined the cause of his death to be "Complications from chronic alcoholism" and the manner of death to be "natural".<sup>2</sup>

## **A. WITNESS ACCOUNTS**

This section summarizes the accounts given by the witnesses during the investigation.

### **1. Joann Marcoccio**

On April 1, 2020, Providence Police Major Oscar Perez and Detective Sergeant James Mellor interviewed Joann Marcoccio. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Ms. Marcoccio had worked for Providence Police for nearly twenty-five years. For the last fourteen years, she was assigned to the detention area of the Public Safety Complex at 325 Washington Street. On March 28, 2020, she was scheduled to work from 7:00 a.m. to 11:00 a.m. Upon her arrival in the detention area, she spoke briefly with Arlett Ferreira. Ms. Ferreira told her there was one prisoner in the cellblock and there were no incidents with the prisoners during the previous shift.

At approximately 10:00 a.m., Justynian Missiuro was brought into the detention area. She recalled him saying that he did not do anything wrong, and he wanted to call his "girlfriend

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<sup>2</sup> The five manner of death categories are: natural, undetermined, suicide, accident and homicide.



who got him arrested.” Marcoccio told him to calm down and she proceeded to search and process him. She smelled alcohol on his breath, but he could communicate effectively with her. She indicated that he did not seem “fully intoxicated, but you could tell he had a few...some liquor on his breath.” He was then placed in cell number 2. Mr. Missiuro began to bang on the cell door demanding to talk to his girlfriend. Marcoccio advised him that he could not talk to her because he was charged with a domestic offense. For the next ten minutes Mr. Missiuro continued banging on the cell door, so with the assistance of Officer Kennedy, he was moved to a cell (number 20) farther away from the processing area. Once in cell number 20, Marcoccio had a short talk with Mr. Missiuro in a successful attempt to get him to calm down. Shortly after this brief conversation, Marcoccio was relieved by Jesus Gerez at approximately 10:45 a.m. Ms. Marcoccio was unclear whether there were cereal bars in either cell number 2 or cell number 20, but normally there would be two in each cell. More are available if detainees request them.

The following day, March 29, Ms. Marcoccio arrived for work at the detention area at approximately 6:20 a.m. She relieved Tyshonda King with whom she did not speak.<sup>3</sup> Marcoccio logged in to the computer and checked on the prisoners. She heard banging on the cell door from cell number 20, and when she arrived at that cell a few minutes after 7:00 a.m., she asked Mr. Missiuro why he was banging on the door. His response uttered in an angry tone was, “Open the f-ing door. And I want to go home. Give me my stuff. I’m going home.” Marcoccio told him to relax because they had a procedure to go through, but she advised him that he would be leaving some time in the morning. He, again, calmed down and Marcoccio went back to her desk and processed other prisoners. Between the hours of 7:00 a.m. and approximately 9:30 a.m., she had “three or four” interactions with Mr. Missiuro. She assisted him in getting bail money by calling his mother. Mr. Missiuro’s mother was unable to assist him due to an illness, but Marcoccio was able to contact Mr. Missiuro’s brother who agreed to post his bail. Ms. Marcoccio reported this information to Mr. Missiuro and told him that the bail commissioner would be coming between 10:00-10:30 a.m. According to Marcoccio, this conversation occurred at approximately 9:30 a.m.<sup>4</sup> and it was the final conversation she had with him before being relieved by Kathy Simoneau.

At no point during Ms. Marcoccio’s interactions with Mr. Missiuro on March 28-29 did he complain of any pain or that he was suffering from any medical issues requiring attention.

## **2. Jesus Gerez**

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<sup>3</sup> Her memory on this point is not accurate as the detention area video and time sheets indicate that Arlett Ferreira relieved Lettisha King and Ferreira was relieved by Marcoccio.

<sup>4</sup> Cellblock surveillance video indicates that this conversation occurred at approximately 8:55 a.m..

On April 1, 2020, Major Oscar Perez and Detective Sergeant James Mellor interviewed Jesus Gerez. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Mr. Gerez had worked for Providence Police for twenty-four years, and he was assigned to the detention area of the Public Safety Complex at 325 Washington Street. On March 28, 2020, he was scheduled to work from 11:00 a.m. to 3:00 p.m. and arrived on time for his shift. Upon his arrival in the detention area, he spoke briefly with Joann Marcoccio whom he relieved. Ms. Marcoccio told him there was one prisoner in the cellblock and "Everything seems to be fine. I spoke to him [the prisoner] briefly...and he should be all set."

By the time Mr. Gerez arrived at the detention area, the bail commissioner had already come and exited the Public Safety Complex. There was not enough time to complete the paperwork and process Mr. Missiuro for him to be presented to the bail commissioner, so he remained in the cellblock. During his shift, Gerez heard Mr. Missiuro knocking on the cell door at approximately 1:00-1:30 p.m. Gerez went to speak with him. Mr. Missiuro told him, "I don't feel I should be here. I didn't do anything wrong...When do you think I can get out of here 'cause they're telling me tomorrow." Gerez told him to get some sleep and he would be released in the morning. Mr. Missiuro seemed calmed and answered, "You know what? That's exactly what I'm gonna do. I'm just gonna get some rest and call it a day." Gerez also asked him if needed anything and he answered, "Nope, I'm fine." This was the only interaction Gerez had with Mr. Missiuro and according to Gerez, "He seemed fine."

Mr. Gerez was relieved at approximately 2:45 p.m. Before leaving, he told his relief that two prisoners were in the cellblock in cell numbers 2 and 20.

### **3. Tanyetta Ellis**

On April 1, 2020, Tanyetta Ellis was interviewed by Providence Police Detective Sergeant James Mellor. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Ms. Ellis had worked for Providence Police for approximately ten years. For the last nine years, she was assigned to the detention area of the Public Safety Complex at 325 Washington Street. On March 28, 2020, she was scheduled to work from 3:00 p.m. to 7:00 p.m. Upon her arrival in the detention area, she spoke briefly with Jesus Gerez. Mr. Gerez told her there were two prisoners in the cellblock and he was not able to present them to the bail commissioner during his shift. Since the bail commissioner had already come and gone, Ellis expected these two prisoners to remain in the cellblock until the following day. During his rounds, Ellis conveyed this information to Mr. Missiuro who was still located in cell number 20. She also told him that he would be getting released in the morning. According to Ms. Ellis, during this conversation and throughout her rounds, Mr. Missiuro, "seemed

fine...He was...standing up for the most part when I walked around...He never indicated that he was hurt or needed any kind of medical attention or anything...I didn't have any problems with [cell] 20.”

Ellis did not make it her practice to leave the cereal bars or extra toilet paper in the cells because inmates often made a mess with them. During her shift, she did not provide any food to Mr. Missiuro, nor did he request any. Ellis was relieved at approximately 7:00 p.m. by Tyshonda Scott.

#### **4. Tyshonda Scott**

On April 1, 2020, Tyshonda Scott was interviewed by Providence Police Major Oscar Perez and Detective Sergeant James Mellor. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Ms. Scott had worked for Providence Police for approximately four years, and she was assigned to the detention area of the Public Safety Complex at 325 Washington Street. On March 28, 2020, she was scheduled to work from 7:00 p.m. to 11:00 p.m. Upon her arrival in the detention area, she spoke briefly with Tanyetta Ellis. Ms. Ellis told her there were two prisoners in the cellblock. She advised Scott that the prisoner in cell number 2 wanted to use the phone and the prisoner in cell number 20 (Missiuro) did not present any problems.

During Ms. Scott's shift, an additional prisoner had to be processed and the prisoner in cell number 2 continued to bang the cell door and complain about the phone. She did not speak with Mr. Missiuro during her shift, but she could overhear him speaking with the prisoner in cell number 18. By the time she was interviewed, she could not clearly recall seeing Mr. Missiuro during her shift. Mr. Missiuro did not lodge any complaints or request anything to eat or drink.

Scott was relieved at approximately 11:00 p.m. by Letisha King.

#### **5. Letisha King**

On April 1, 2020, Letisha King was interviewed by Providence Police Detective Sergeant James Mellor. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Ms. King had worked for Providence Police for approximately four years. For the last three years, she was assigned to the detention area of the Public Safety Complex at 325 Washington Street. On March 28, 2020, she was scheduled to work from 11:00 p.m. on the 28<sup>th</sup> until 3:00 a.m. on the 29<sup>th</sup>. Upon her arrival in the detention area, she spoke briefly with Tyshonda Scott. Ms. Scott told her there was one prisoner in cell number 2 who wanted to use the phone but other than that, “everyone else was fine.”

Ms. King conducted her own checks of the prisoners and noticed that everyone was sleeping on their benches. She did not speak with Mr. Missiuro during her shift, nor did she provide him with anything to eat. She saw Detective Clift process at least one prisoner at some point on her shift, but not Mr. Missiuro. At the very end of her shift, King heard some light banging from the cellblock. She could not locate the source of the sound after a final check of the cellblock before she clocked out. She was relieved at approximately 3:00 a.m. by Arlett Ferreira.

## **6. Arlett Ferreira**

On April 1, 2020, Arlett Ferreira was interviewed by Providence Police Detective Sergeant James Mellor. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Ms. Ferreira had worked for Providence Police for approximately four years. For the last three years, she was assigned to the detention area of the Public Safety Complex at 325 Washington Street. On March 29, 2020, she was scheduled to work from 3:00 a.m. to 7:00 a.m. Upon her arrival in the detention area, she spoke briefly with Letisha King. Ms. King told her there was one prisoner in the cellblock and there were no incidents with the prisoners during the previous shift. Just as Ms. Ferreira was beginning her shift, she saw Ms. King do a check for the source of some light banging coming from the cellblock. Ms. King reported to her that she did not find anyone in need of anything.

At approximately 3:15 a.m., Ms. Ferreira heard some light banging coming from cell number 20 where Mr. Missiuro was lodged. When she went to check on the noise, she saw Mr. Missiuro standing in his cell at the door saying, "Mom, could you open up the door. I forgot my key. I'm cold. Can you open up the door?" Ferreira asked Mr. Missiuro if she could help him and he answered, "Yes. Can you open up the door? I forgot my key." Ferreira told him that he was at the Providence Police Department and that she could not open the door so he would be there until the morning. Mr. Missiuro answered, "Okay. Thank you." and he sat down. She said physically, Mr. Missiuro "looked okay" and he had no complaints.

Ferreira knows that she did not give Mr. Missiuro anything to eat. She was unaware if there were cereal bars in his cell when she arrived. Ferreira did not have a clear recollection of who relieved her following her shift.

## **7. Kathleen Simoneau**

On March 30, 2020, Kathleen Simoneau was interviewed by Providence Police Detective Sergeant Paul Zienowitz and Detective Sergeant James Mellor. Also present for the interview was union representative John O'Brien. This is a summary of that interview.

On the date of the interview, Ms. Simoneau had worked for Providence Police for approximately eight years. She was assigned to the detention area of the Public Safety Complex

at 325 Washington Street. On March 29, 2020, Simoneau was scheduled to work from 11:00 a.m. to 3:00 p.m. Upon her arrival in the detention area at approximately 10:45 a.m., she spoke briefly with Joann Marcoccio. Ms. Marcoccio told her there were two prisoners going to the Adult Correctional Institutions and the others “were going home.”

As soon as Simoneau’s shift began, the bail commissioner and the prosecution officer, Christopher Kennedy, came into the detention area. They began arraigning and releasing the female prisoners and then they moved to the males. The last prisoner scheduled to come before the commissioner was to be Justynian Missiuro in cell number 20. Officer Kennedy went back to that cell to bring Mr. Missiuro out. Kennedy immediately came “running back around to me [Simoneau], yelling for me to call the desk sergeant, to have him call a rescue and come up as soon as possible.” Kennedy said Mr. Missiuro looked like he was not breathing. Simoneau ran to the phone and called for the desk sergeant and a rescue. She then went to cell number 20 and opened the cell door. Up until this point, Simoneau had no interaction with Mr. Missiuro. Rescue responded within three minutes and began life-saving efforts inside the cell for ten to fifteen minutes before transporting Mr. Missiuro in a rescue vehicle, according to Simoneau.

Simoneau did not provide any food to Justynian Missiuro. She said it is common practice in the detention area to supply the cell with cereal bars after a prisoner is released and the cell is cleaned.

#### **IV. LEGAL ANALYSIS**

The Attorney General reviewed the criminal law of the State of Rhode Island to determine whether any criminal statute could possibly apply to any of the actions of the law enforcement or civilian employees of Providence Police who interacted with Mr. Missiuro on March 28-29, 2020.

Based on the evidence collected during this investigation, there is no basis to conclude that any law enforcement officer or civilian employee used any unnecessary or unreasonable force at any point during Mr. Missiuro’s arrest, transport or detention. Mr. Missiuro cooperated with the arresting officers, as is evidenced by the body worn camera footage of Officers Hampton and Waters and the arrest report of Officer Waters. Additionally, the body worn camera footage and video footage obtained from the cellblock area, demonstrate that no force was used against Mr. Missiuro at any point during his booking process and placement in the cellblock. Mr. Missiuro was cooperative with law enforcement which did not necessitate the use of any force. Additionally, there is no evidence that any other prisoner physically interacted with Mr. Missiuro during his approximately twenty-four hours in the Providence Police detention area. In fact, there is incontrovertible evidence in the cellblock surveillance video that no one outside of police personnel had direct contact with him.

What is readily apparent, especially when viewing and listening to Officer Hampton’s body camera footage, is Mr. Missiuro’s intoxication. He informed the police on the phone and in person that he had been drinking. Civilian #1 told Officer Waters that Mr. Missiuro had been

drinking for “at least forty-eight hours.” Mr. Missiuro continued to display signs of intoxication when he interacted with Joann Marcoccio in the police department cellblock.

Throughout his time in the cellblock, Mr. Missiuro was observed by and interacted with multiple detention officers:<sup>5</sup>

- Joann Marcoccio on Saturday morning noted that while she “smelled alcohol on his breath” he was not “fully intoxicated”, nor did he communicate that he was in any physical distress. He was banging on the cell door proclaiming he did nothing wrong, and Ms. Marcoccio had to tell him to “try to relax.” He was moved further away to cell number 20 to lessen the noise and distraction to the cellblock personnel. During the move he was ambulating under his own power and following commands.
- Jesus Gerez came in at 11:00 a.m. Saturday and had a normal conversation with Mr. Missiuro about when he may be released. Gerez commented that, “He seemed pretty fine to me.”
- Tanyetta Ellis started her shift at 3:00 p.m. on Saturday. She explained to Mr. Missiuro that he had missed the bail commissioner and would be released in the morning. “He never indicated that he was hurt or needed any kind of medical attention or anything.”
- Tyshonda Scott came in at 7:00 p.m. on Saturday night and recalls seeing Mr. Missiuro on the bench in his cell, but she did not recall any conversations with him. She certainly did not recall seeing him in any type of distress.
- Lethisha King worked from 11:00 p.m. to 3:00 a.m. Sunday morning. At the end of her shift, she heard some faint banging but when she did her rounds everyone appeared asleep in their cells.
- Arlett Ferreira reported to work at the cellblock at 3:00 a.m. on Sunday, March 29. During her shift that early morning she heard Mr. Missiuro lightly knocking on his cell door. When she went down to check on him, she could hear him telling his mother that he was cold, had forgotten his key, and could she (his mother) open the door. Ms. Ferreira described him as “not in his right mind” but when she explained to him that he was in the Providence Police Station he said “Okay” and calmly sat down. She said at that point he looked good and had no complaints.
- Joann Marcoccio came back in at 7:00 a.m. on Sunday. Throughout the morning, she had multiple conversations with Mr. Missiuro about arranging for his bail. She told him to just relax until the bail commissioner arrives. Her last conversation with him was at approximately 9 a.m.

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<sup>5</sup> While the timing and duration of these interactions was confirmed by the cell block surveillance video, it should be noted that none of the cameras cover the area inside of cell numbers 2 and 20. They do, however, depict any interactions which occurred when Mr. Missiuro was outside of the cells.

Three Providence Police Officers also interacted with Mr. Missiuro during his time in the cellblock:<sup>6</sup>

- Officer Christopher Kennedy helped, at approximately 11:00 a.m. on the 28<sup>th</sup>, Detention Officer Marcoccio move Mr. Missiuro from cell number 2 to cell number 20. He indicated that Mr. Missiuro was able to walk within the cellblock “on his own.”
- B.C.I. Detective Doug Allin can be viewed on the surveillance video removing Mr. Missiuro from his cell at 5:34 p.m. and escorting him to the booking station. They return at 5:46 p.m. Throughout the video Mr. Missiuro has a steady gait and needs no assistance in walking.
- B.C.I. Detective James Clift also interacted with Mr. Missiuro at approximately 10:45 p.m. when he discussed whether the bail commissioner was coming that night. Det. Clift indicated that Mr. Missiuro was awake and alert. He expressed that he was hungry, so Det. Clift retrieved some cereal bars and passed them to Mr. Missiuro.
- Kathleen Simoneau came into work at 10:45 am on the 29<sup>th</sup> to replace Detention Officer Marcoccio. She immediately started getting all those detained ready to go before the bail commissioner who was expected shortly. She did not interact with Mr. Missiuro. The commissioner that day was Attorney Joseph Solomon, and he was accompanied by Prosecution Officer Kennedy. They arrived in the cellblock around 11:00 a.m. During the process of bringing the detained men and women, to the bail commissioner and ultimately to release, Mr. Missiuro, being in cell number 20 was the last to be retrieved. It was Officer Kennedy that went to bring Mr. Missiuro before the bail commission. When he looked into cell number 20, he saw Mr. Missiuro lying on his stomach with his neck propped up on the bench. He knocked on the cell door, but there was no response. He ran back over to Detention Officer Simoneau and told her to call the Desk Sergeant. Desk Sergeant Martin received the call at 11:34 a.m. and responded immediately to cell 20 while at the same time calling for a rescue. Officer Kennedy remained at the cell until the rescue arrived. Sergeant Martin activated his body worn camera and it shows the awkward position in which Mr. Missiuro was found. Clearly whatever malady befell Mr. Missiuro occurred between 8:55 a.m. when he last spoke with Ms. Marcoccio and 11:30 a.m. when he was discovered by Officer Kennedy. The surveillance video from that time frame does not show anyone entering cell number 20.

None of the above listed interactions between Providence Police personnel and Mr. Missiuro were in any way improper. Additionally, those interactions provided no clues that Mr. Missiuro was suffering from any serious health condition. Mr. Missiuro appeared intoxicated yet functional when the police arrived at his house on the 28<sup>th</sup> and he was still in that condition when

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he later arrived at the police cellblock. He had that rather strange early morning interaction with Arlett Ferreira wherein Mr. Missiuro appeared to be speaking with his mother, but that could have been a result of drinking or of being in some sort of dream state. Nevertheless, he was lucid enough to communicate repeatedly and extensively with Marcoccio later that morning about his bail situation.

And while there is substantial evidence of his intoxication upon arrival, there is no evidence that any member of the Providence Police willfully ignored a prisoner in obvious physical distress and thereby contributed to his death. While being detained for a twenty-four-hour period on misdemeanor charges is certainly not ideal, it is somewhat understandable given the timing of Missiuro's arrest which caused him to narrowly miss the bail commissioner's daily visit. There was no effort by the police to thwart Mr. Missiuro's release nor did they ignore any clear signs that he needed medical attention.

All signs do, however, point to the conclusion found in Dr. Goldschmidt's autopsy report that he "died as a result of complications of chronic alcoholism." Evidence of his alcoholism came from Civilian #1 and from police interaction with him on the morning of March 28<sup>th</sup>. The most vivid evidence, however, of Mr. Missiuro's alcoholism and its effect on him is detailed in the autopsy report. Dr. Goldschmidt opined that he found "multiple sequelae of chronic alcoholism" during the autopsy. These include a dilated heart, alcohol related pancreatitis, a fatty liver and jaundiced skin. These conditions developed after years of alcohol abuse and were not the result of any outside influence exerted on him at the Providence Safety Complex. The Medical Examiner further found that the hemorrhages and tooth lacerations of the tongue suggested a possible alcohol-related terminal seizure.

Just as important as what the Medical Examiner found during the autopsy was what he did not find. The autopsy did not reveal any evidence of asphyxiation/ strangulation or blunt force trauma. This lack of trauma is consistent with all the video evidence, both body camera and surveillance footage, that clearly depicts the Providence Police officers and civilian personnel dealing with Mr. Missiuro in a respectful, ordinary, and non-aggressive manner. Additionally, toxicology testing failed to find the presence of any illicit drugs, indicating that he did not die of an overdose.

## **V. CONCLUSION**

Based upon the comprehensive investigation conducted by the Providence Police Department's Office of Professional Responsibility with the assistance of the Office of the State Medical Examiner, this Office concludes that no criminal act was committed during the arrest or detention of Justynian Missiuro that led to his death on March 31, 2020.