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May 20, 2020

The Honorable Colette McEachin  
Office of the Commonwealth's Attorney  
400 North 9th Street  
Richmond, VA 23219

Re: Jason Norton Investigation

Dear Colette:

Please find included with this letter a summary of this office's investigation related to former Richmond Detective Jason Norton. In short, there is insufficient evidence to prove beyond a reasonable doubt that Norton committed a crime. This office considers this matter to be closed. I want to thank your office, as well as the Richmond Police Department, for the assistance provided my investigative team over the course of this lengthy investigation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Colin D. Stolle', written over a white background.

Colin D. Stolle  
Commonwealth's Attorney

/adh

Enclosure

## Jason Norton Investigation

This office was appointed as Special Prosecutor on June 11, 2015, to determine if criminal charges were warranted against former Richmond Police Detective Jason Norton (hereinafter "Norton") for conduct related to his employment specifically between 2008 and 2012. Norton came under suspicion after several search warrants he obtained contained identical section 7s (confidential informant statement of reliability) but appeared to involve different confidential informants (hereinafter "CI"). After more than an 18-month review by the Richmond Office of the Commonwealth's Attorney (OCA), that office determined an independent investigation by a special prosecutor was warranted.

Virginia Beach accepted the referral for special prosecution and received the appointment and package of information for investigation in July 2015. Included with the appointment for special prosecution were interviews conducted by FBI agents related to three federal cases adopted from the Richmond Police Department. After reviewing the file, this office requested additional information from the Virginia State Police in order to determine if there was enough evidence for a criminal prosecution. Throughout the course of the investigation, multiple changes to both the prosecution and investigative teams, were required. Additionally, this complex investigation required the review of voluminous amounts of documentation coupled with trying to connect poor record keeping and searching for missing documents. Although the State Police worked diligently to follow up on all requested information, many documents necessary to review and potentially prove a crime was committed were missing, or no longer available.

The following charges were considered for prosecution:

### Perjury "Section 7s"

Insufficient evidence exists to prove that Norton perjured himself.

The initial investigation involved allegations of perjury on the search warrant affidavit section wherein Norton provided the reliability of CIs (section 7s). Several search warrant section 7s had identical language but appeared to involve two different CIs. To prove perjury under Virginia Code § 18.2-434, the Commonwealth must show 1). An oath was lawfully administered, 2). The defendant willfully swore falsely; and 3). The facts to which he falsely swore were material to a proper matter of inquiry. See Mendez v. Commonwealth, 220 Va. 97,

102 (1979). Additionally, this section requires “two witnesses testifying to the falsity of the statement” or “one witness with strong corroborating” evidence of falsity. Keffer v. Commonwealth, 12 Va. App.. 545, 547, (2002).

To prove perjury in these cases, it is necessary to (1) have a complete CI file that accurately reflects their utilization as well as results and expenditures as appropriate; (2) someone to serve as custodian and who can speak to the contents of such records; (3) proof Norton signed such affidavit under oath; and (4) proof that the CI reliability was material to the magistrate issuing the search warrant.

The procedure for signing up informants at the time Norton worked in SID were detailed, comprehensive, and designed to ensure reliability and integrity in any future investigations where the CI may be utilized. Some of these requirements included an initial in person meeting with two detectives, a signed cooperation agreement defining expectations, a personal history form, and an initial debriefing form that allowed the detectives to assess the degree of cooperation and value the potential CI presented. A final quality control measure was an examination of other records, screening, and required ultimate approval by a Commonwealth Attorney prior to becoming a CI.

Once the CI was approved, that person was assigned a number. Each time a CI was used/gave information, the detective was to create an informant resume sheet that went into the informant’s file. In the initial packet itself, there were instructions that the form “should be updated and submitted each time the informant did something which proved him or her reliable. Likewise, records were to be made whenever anything was learned that detracted or undermined the CI’s reliability and an assessment made whether to remove the CI from active use based on this information.

When an informant was paid for information, money was used to conduct a purchase of narcotics/firearms, or a bill was paid for the informant, a report of expenditure of Special Investigative Funds (hereinafter “N-10”) was required to be generated and added to the file. The N-10 detailed the date of the expenditure, assigned case number from the department, the amount spent, and the CI involved. The CI, a witness, the detective using/paying the money, a supervisor and a Special Investigations Division Lieutenant all were required to sign the expenditure form. The result of the operation for which the CI received any expenditure was then recorded in a separate document to support the expenditure and to record the results. Because of those procedures, every instance of a CI’s work should have been documented in ways that would support the section of the search warrant affidavit describing the CI’s prior acts that lead to his reliability for the then current investigation.

Unfortunately these procedures were not followed in most of Norton's cases. The lack of reliable documentation made it impossible to establish whether these discrepancies were intentional or the result of very sloppy record keeping by Norton. There was evidence that suggested that Norton had previous internal findings that related to his honesty; however, there was even more evidence that suggested that Norton was unable to meet basic standards of administrative competence.

#### **Perjury during Suppression Hearing - "Christopher Holmes":**

Insufficient evidence exists to establish Norton perjured himself while testifying in a suppression hearing in 2011.

Norton was called as a witness in the motion to suppress and subsequent trial of Christopher Jason Holmes. Norton testified that a certain CI provided him information that allowed him to detain Holmes. Additionally, he testified to the reliability of the CI and the working relationship that they had had in the past.

The Richmond Commonwealth's Attorney's had concerns that the information he provided under oath was not correct. Unfortunately, numerous documents necessary to prove this information was incorrect were missing from the CI's file or had incorrect information on them. Additionally, the CI had credibility issues that required significant corroboration before any perjury by Norton potentially could be established. Attempts to re-interview the CI, as well as obtain additional documents that could corroborate the concerns, did not produce any credible evidence.

#### **Forgery Public Record**

Insufficient evidence exists to prove that Norton forged the signature of CI's on N-10 forms.

Based on allegations that a CI did not sign three N-10's, the FBI investigated this allegation. The N-10 document required the detective who expended the funds to swear that the information furnished is true and accurate. Additionally, a supervisor was also required to sign the document ensuring the funds were expended correctly. Examples of questionable N-10s were previously identified and investigated by internal affairs. Ultimately those involved in

the inquiries were cleared of any wrongdoing, although some officers who were interviewed did admit a culture within the division where detectives would sign as a witness without actually witnessing the payment. Unfortunately, due to this alleged wide-spread practice of signing without witnessing payments as well as lack of necessary documentation, there is insufficient evidence to support a criminal charge.

### Embezzlement

Insufficient evidence exists to prove that Norton embezzled city funds.

Under Virginia Code §18.2-112, any officers or employees of the Commonwealth or any city who has custody of “public funds or other funds coming into his custody under his official capacity, knowingly misuse or misappropriate the same or knowingly dispose thereof otherwise than in accordance with law, he shall be guilty of a Class 4 felony[.]”

During the FBI interviews, several defendants claimed Norton took money or guns from them, but there was no evidence to substantiate these allegations, nor were these allegations reported to the police department at the time of the alleged offenses. Unfortunately, due to witnesses lacking credibility, lack of reliable documentation, and credible witnesses contradicting the allegations, there was insufficient evidence to prove a criminal charge.

### Conclusion

In all criminal prosecutions, the Commonwealth has an ethical obligation to only proceed if they have a reasonable likelihood of conviction based on credible and reliable evidence. Although Norton’s behavior may be perceived as suspicious, the lack of reliable witnesses and incomplete or missing documentation, as well as a complete absence of accurate recordkeeping by not only Norton, but other members of the Richmond Police Department, prohibit us from pursuing any criminal charges in this matter.