

1 **Affidavit of James M. Atkinson, dated 11/26/2012, re: Patrolman Mahoney**  
2 **Fraudulent Court Filings, False Arrest, Assault, etc.**

3  
4 In Gloucester District Court in “Criminal Complaint 0939CR000772”, Patrolman  
5 Daniel J. Mahoney authored a signed narrative that he submitted after he took an  
6 written oath to this court on or about 30-November-2009 that included his own  
7 signed confession (under oath) of multiple state and federal felony violations. His  
8 Complaint also implicates other Town of Rockport public safety employees, state,  
9 and federal government employees in blatant civil rights violations, namely: arrest  
10 without probable cause, false arrest, false imprisonment, kidnapping, perjury, and  
11 other violations listed below.

12  
13 According to page 1, line 16, of the “Statement of Facts” Patrolman Mahoney  
14 alleges that no money was sent from the victim to myself except on 10/08/2009, in  
15 which it is alleged I received approximately \$32,000.00. It is factually impossible  
16 for there to have been any fraudulent action or larceny by me as of 11/09/2009,  
17 because prior to that date I had paid Research Electronics, the supplier of the  
18 ordered gear, approximately \$20,000.00 on 10/14/2009. This payment paid in full  
19 the supplier to provide the ordered goods to the alleged victim, GTS in  
20 Switzerland. If I had the intention to either temporarily or permanently deprive the  
21 victim of their money, the full payment to the supplier by me prior to November 9,  
22 2009, and this fact completely refutes Mahoney’s false allegation under oath that I  
23 had committed fraud or larceny. Mahoney’s claim under oath is an utter fiction.  
24 Ironically, according to Mahoney, the Rockport Police Department did not get  
25 involved in the case until 11/09/2009. By that date, the supplier had already been  
26 paid in full by me, had confirmed receipt of the full payment for the shipment, and  
27 was obligated to provide and ship the ordered items to the alleged “victim” on the  
28 U.S. Department of State issued a license for the shipment.

29  
30 Between November 9, 2009 and November 17, 2009, Patrolman Mahoney  
31 contacted the Commonwealth of Massachusetts, Office of Health and Human  
32 Services, Department of Public Health, Office of Emergency Medical Services.  
33 Patrolman Mahoney informed them that I was the subject of a criminal case in  
34 Gloucester District Court. The OEMS office responded by sending a letter of  
35 inquiry to this court. This inquiry letter may be found in the Clerk of Court’s  
36 record in the above captioned and numbered case. This letter confirms that  
37 Patrolman Mahoney knew on or before 11/17/2009 that I was a licensed volunteer  
38 EMT, employed by the Town of Rockport. Further, Patrolman Mahoney had been  
39 present at Emergency 911 calls when I was summoned as an EMT on multiple  
40 occasions prior to November 9, 2009. Patrolman Mahoney had not only assisted

41 me with patients, but at times was the first responder to the scene when I arrived  
42 and thereafter and took over from him to continue providing EMT services to the  
43 patient. Patrolman Mahoney had driven me to my home multiple times after these  
44 911 incidents in his cruiser, or had driven me back to ambulance headquarters  
45 (approximately 120 feet from my residence) well prior to 11/09/2009. Patrolman  
46 Mahoney knew my face, name, and home address. In fact, at the Rockport Police  
47 Department I was listed on a published roster of Rockport Ambulance Department  
48 Emergency First Responders since March 2008, and listed as a Town of Rockport  
49 EMT on similar rosters at the police station since the beginning of 2009, which  
50 contained my phone numbers and home address.

51  
52 Additionally, when I became an Emergency First Responder for the Town of  
53 Rockport, the police department and the ambulance department did a background  
54 investigation on me to ensure that I was suitable to be a volunteer First Responder  
55 or EMT.

56  
57 It is also notable that I had complained in late 2008 to OEMS in regards to  
58 fraudulent EMT training courses being run by Lyons Ambulance and employees of  
59 Lyons ambulance. I felt I was ethically required to report these fraudulent activities  
60 at the school, which I considered a menace to public safety. The school was falsely  
61 reporting attendance at classes required to be an EMT that students never attended  
62 or over reported attendance rosters. In 2009, I was contacted by the Massachusetts  
63 State Police and interviewed regarding my written complaint of 2008. I was  
64 advised I would likely be called as a state's witness against the instructors of these  
65 fraudulent EMT training courses. Because I filed the complaint with OEMS in the  
66 late Summer and early Fall 2008, I became the victim of on-the-job harassment (as  
67 an EMT) and retaliated against due to the sole fact that I was a whistleblower. As  
68 the instructors of these courses were also EMT Examiners for the Commonwealth  
69 of Massachusetts, they were employees of the Commonwealth Office of OEMS,  
70 the same office to whom I had reported these criminal misdeeds. It is also notable  
71 that the now convicted ringleader of this fraudulent training was an EMT by the  
72 name of Henry Michalski. Michalski's wife Penny Michalski worked as staff for  
73 Attorney General, Martha Coakley. Additionally, one of the police officers  
74 involved in the EMT training fraud, at Lyons Ambulance and the Hamilton Police  
75 Department by the name of Police Sgt. Ken Nagy who would later shoot another  
76 officer by the name of Officer Jason Lantych and then commit suicide himself, was  
77 married and his wife (Katie Nagy) worked for the Essex Country District Attorney,  
78 Jonathan Blodgett.

79

80 It should be mentioned that Sergeant Nagy was formally reprimanded by the state's  
81 Office of Emergency Management Services (OEMS) for lying on EMT training  
82 records along with 13 other Hamilton Police officers who were formally  
83 reprimanded by the OEMS for lying about attending training classes that they  
84 didn't actually attend, plus the three ring leaders were indicted, convicted, and  
85 sentenced in Salem Superior Court.

86  
87 Part of the reason that Hamilton got caught and had their police operated  
88 ambulance service shutdown as due in part to my complaint about EMT training  
89 fraud running rampant at Lyons Ambulance as they were also running the  
90 Hamilton, Wenham, Gloucester, and other training programs, including programs  
91 that trained Rockport Police Officer, Rockport Firemen, and Rockport EMT's.

92  
93 This incident involving the Hamilton EMT training fraud is particularly of note as  
94 shortly before the event in this case took place, multiple members of the Rockport  
95 Ambulance Department verbally berated and harassed me due to my whistle  
96 blowing on Lyons Ambulance to OEMS, and they (the other Rockport Ambulance  
97 Department EMT's) stated that my actions of reporting Lyons would lead to the  
98 destruction of the Rockport Ambulance Department. In fact, in August and  
99 September of 2009 I sought to have a two way hand-held EMT radio issued to me  
100 by the ambulance department, and to be given a red light permit for my vehicle  
101 (but I was repeatedly given delays on this two items), and during this period I  
102 overheard conversations that I was going to be "forced out of the department  
103 shortly" and "shut out" solely because I had reported the fraudulent EMS and EMT  
104 courses at Lyons, which as then leading back to EMTs in Rockport ho ere personal  
105 friends with those EMT trainers who were under indictment, or who were close  
106 personal or professional friends with the primacy actors of the fraud, or worked  
107 with them closely. The harassment on the job that I as experiencing as coming  
108 form those Rockport EMT's with close ties to Lyons Ambulance, and with close  
109 ties to Henry Michalski (the confessed ring leader).

110  
111 Indeed, what I had reported were a group of people and a criminal enterprise that  
112 was essentially very well politically insulated while operating a complex criminal  
113 racket. This fact is very relevant to this matter since the letter from the OEMS  
114 office to this court dated 11/17/2009 is roughly eight (8) calendar days and roughly  
115 3 business days from the date Patrolman Mahoney spoke with the Cape Ann  
116 Chamber of Commerce who Mahoney alleges initially complained to him about  
117 the GTS from Switzerland "larceny" case.

118

119 Further, District Court Case 0939CR000772 is nothing less than a whistleblower  
120 retaliation by the Rockport Police Department, Rockport Ambulance Department,  
121 Lyons Ambulance, the Essex County District Attorney, and likely even the  
122 Attorney General's office due to my reporting of the fraudulent EMT training  
123 course(s) at Lyons Ambulance. Many of the persons indicted were either family  
124 members or close personal friends of members of the Rockport Police Department.  
125 In addition, although I have not been able to verify this, I have been informed that  
126 Patrolmen Mahoney was maintaining an intimate relationship with Assistant  
127 District Attorney, Kate Hartigan. Ms. Hartigan assisted Patrolman Mahoney in the  
128 prosecution of me initially, but was later reassigned after my arrest.

129  
130 It is also notable that when Gloucester District Court Case 0939CR000772 went to  
131 jury trial in Peabody District Court on May 17, 2012. On that date, Mahoney's  
132 charge of alleged Intimidation of a Witness was dismissed at the request of the  
133 Commonwealth because Patrolman Mahoney had committed a felony (i.e. illegal  
134 wiretapping) in making the tape recording of his conversation with me without  
135 obtaining my prior consent. Further, Patrolman Mahoney had twisted and distorted  
136 the content of this illegal wiretap in the confecting of his fraudulent complaint. The  
137 second charge, the alleged larceny, was dismissed because the evidence showed  
138 that I had paid Research Electronics approximately \$20,000.00 in full payment on  
139 10/14/2009, well prior to Mahoney's involvement in the case on 11/09/09.  
140 Combined with a large volume of other, substantial exculpatory evidence showing  
141 I had not violated any laws the Commonwealth (by way of the Judge, not the  
142 ADA) dismissed that charge as well. Finally, on the same date no witnesses were  
143 present to provide any evidence of the alleged "larceny." The Commonwealth had  
144 hidden this exculpatory evidence for approximately 30 months until the eve of the  
145 trial.

146  
147 The District Court Case 0939CR000772 was nothing less than a malicious  
148 prosecution to discredit me and attempt to keep me from testifying in the Lyons  
149 Ambulance EMT training fraud case (in Salem Superior Court).

150  
151 It is also notable that the Assistant District Attorney who was initially involved in  
152 prosecuting this case (Kate Hartigan) was suddenly reassigned out of Gloucester  
153 District Court. Then a new ADA named Thomas Sholds was assigned to the case.  
154 This new ADA Thomas Sholds would later state to my attorney (Paul Andrews,  
155 Esq.) "that there was no case" but that his superior at the Essex Country District  
156 Attorney, Jonathan Blodgett, had "refused to drop the case" even though the  
157 evidence utterly exonerated me which explains why the District Attorney's Office  
158 refused to disclose this exculpatory evidence until shortly before my trial date.

159  
160 Further, I was listed in the Town as having completed all levels of FEMA and  
161 MEMA Incident Command Training at ICS-100, ICS-200, ICS-300, ICS-400  
162 levels, plus Emergency Operations Center training, Radiological Hazard Training,  
163 State Medical Reserve Corp and other emergency incident training that is reflected  
164 in my Town of Rockport Personnel and Training records (which I incorporate here  
165 by reference). In some topics or specialties in my Town of Rockport Personnel and  
166 Training records, I was the only Town employee to be certified or to have been  
167 trained in certain topics. The police officers of the Town of Rockport were well  
168 aware of this since many of them had attended some of the training where I was  
169 also a student. In fact, I had arranged for the all of the Senior Rockport Police  
170 Officers (Chief McCarthy, Officer Frithsen, Officer Schmink, and Officer Tibert)  
171 to actually attend a course which I sponsored and brought to Rockport so that they  
172 could complete ICS-300 and ICS-400 courses, which they were lacking at the time.  
173

174 Thusly, not only did Patrolman Mahoney know full well that I was a Town of  
175 Rockport EMT, and Red Cross Volunteer CPR and First Aid instructor (having  
176 taught numerous classes at the Rockport Police Department), but other officers  
177 knew this as well. The Police Chief, and his three shift supervisors, and others  
178 knew this because they were also present in courses that I either taught, or which I  
179 sponsored and attended as a co-student with them.  
180

181 Virtually every other police officer in the Town of Rockport knew who I was,  
182 knew that I was a Town of Rockport EMT, knew where I lived (having visited at  
183 times), knew that I taught classes, that knew I was certified in Incident Command,  
184 and knew what I did as a living outside of my volunteer work as an EMT, and that  
185 these police officers knew that I operated a company since 1987 called “Granite  
186 Island Group” and they knew full well that my company was engaged in  
187 specialized areas of electronics engineering called “TSCM” and “TEMPEST”.  
188 They also knew that I was considered one of the leading experts on the subject  
189 internationally.  
190

191 Also, that various Rockport Police officers and Town of Rockport employees had  
192 actually watched me on C-SPAN when I testified before Congress as a  
193 Congressionally certified subject matter expert. Further, while at the police station  
194 teaching a course, one of the Town of Rockport police officers produced a copy of  
195 my Congressional testimony which they curiously had in the Police Departments  
196 video library and played it for some of the students during break, and the officer  
197 playing the video stated “all the officers had seen it”.  
198

199 Additionally, the Police officers of the Town of Rockport knew that I had written a  
200 textbook on the use of chemical weapons, and had discussed (and sometimes  
201 argued) with me about my medical decontamination protocols listed in the  
202 textbook, which they took great issue with (my decontamination protocols were  
203 based on medical decontamination protocols used by the U.S. Military).  
204

205 The point in the above is that Patrolman Mahoney went to considerable effort in  
206 “Criminal Complaint 0939CR000772” (see above) to pretend not to know me;  
207 pretend not to know here I lived; pretend not to have ever been to my house;  
208 pretended that I was not a very well-known Town of Rockport EMT; pretended  
209 that I was not a whistleblower; and that he lied and asserted that he did not know  
210 my residential address, and examination of the “Criminal Complaint  
211 0939CR000772” demonstrates his tremendous effort to pretend that he knew  
212 nothing of me at the time.  
213

214 Further, the Town of Rockport provides anybody who asks (my way of the Town  
215 Clerks office) a computer file of all registered voters, and “nosy book” entries on  
216 the people of Rockport. This file can be obtained both in printed form and in  
217 digital form. The Police Department of the Town of Rockport acquire this  
218 computer file at least yearly and merges in into what they call their “In House  
219 Database.” This “In-House Database” also contains entries on who is an EMT,  
220 Fireman, or other Town Employee, flags medical workers such as Doctors and  
221 Nurses, lists citizens who possess Firearms Licenses or Firearms Identification  
222 cards, lists local felons, drug addicts, and sexual offender, domestic abusers, and  
223 lists people and address who have at some point called 911 or summoned an  
224 ambulance, EMT, or Fireman. This “in house database” also contains vehicle data,  
225 traffic and parking tickets, and other data that the police can use to link a citizen to  
226 a past or present location, vehicle, or emergency, or resources like Veterans, active  
227 or retired EMTs, medical people, and so on.  
228

229 As Patrolman Mahoney would have used this “in house database” in his initial  
230 investigation of this matter, and within only a few keystroke would have seen that I  
231 have been a resident of Rockport for over 20 years, was an EMT, and emergency  
232 worker, a veteran, an engineer who worked at home, and that I had no previous  
233 negative contact with the Rockport Police, and that I was in fact a credentialed  
234 Town of Rockport Employee.  
235

236 This extensive effort by Patrolman Mahoney to pretend not to know who I was and  
237 is a massive fraud upon this court in the documents which he filed on 11/30/2009  
238 falsely alleging criminal action on my part.

239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278

It is quite stunning that he would go to such ends to pretend not to know me, and when his “Criminal Complaint 0939CR000772” is compared to records which he had access to, what he knew, his prior contacts with me, my position as a Town EMT, and the records of the Town of Rockport, his fraud upon this court **utterly shocks the conscience.**

In fact, on 12/1/2009, when Patrolman arrested me at my home, processed me at the police station, and brought me to court to me arraigned I was still dressed in an EMT shirt, with my name on it, the Town of Rockport seal, and the EMT Star-of-Life. When officer Mahoney and the other police officer involved in my processing at the police station took my photograph for the arrest record they went to great effort not to capture my EMT shirt in the photographs and repeatedly took photographs from various different angles trying not to get the EMT logos and my name on the shirt in the pictures. Essentially, it appears that they were aggressively trying to downplay the fact that I was a Town of Rockport EMT, and play down the that they all knew me, respected me, and knew who I was.

Further my firearms License to Carry lists my addresses, when I renewed my LTC in 2008 it was to this address (31R Broadway) that the police sent my renewal paperwork, and the address to which the License to Carry was mailed when it was renewed.

In fact when I moved to this (31R Broadway) address, I provided a change of address notification to the Rockport Police Department, and to the Commonwealth of Massachusetts in regards to my License to Carry Arms.

My Drivers License Lists this (31R Broadway) Address.

This address is listed in the Town of Rockport municipal employees personnel records as my (31R Broadway) home address.

This (31R Broadway) address is listed on the “Town of Rockport - Emergency First Responder” rosters, on the first page, a copy of which is posted at the Rockport Police department at the dispatcher’s desk.

This (31R Broadway) address is listed on the “Town of Rockport - Emergency Medical Technician” rosters, on the first page, a copy of which is posted at the Rockport Police department at the dispatcher’s desk.

279 When I applied to join the Rockport Ambulance Department it as this address (31R  
280 Broadway) that I listed on my employment applications, and this is the address that  
281 shows up in my personnel records.

282  
283 It is virtually impossible that any police officer in Rockport would not know where  
284 I lived, or who I was.

285  
286 On page 1 of 7 of the “Criminal Complaint 0939CR000772” lists at the top of the  
287 page that he knows not where I live and lists my address as “Unknown” when not  
288 only did he know my address, he had actually driven me to my 31R Broadway”  
289 address on occasions, this address was on my drivers license, my EMT license, my  
290 Town of Rockport Employee Records, and showed on the First Responder/EMT  
291 rosters that he would have had by way of the “in House Database” and other  
292 records.

293  
294 The town databases (including the “In House Database” of the Rockport Police  
295 Department) for 2006, 2007, 2008, and 2009 show my address as being “31  
296 Broadway, Unit # R” and it shows that I am a veteran, and that I am employed “At  
297 Home.” Hence, any police officer that looked me up in the “in-house” database  
298 would have found my residential address (given only my name) with no effort.

299  
300 The police also have this database as they refer to it as their “In House database”  
301 (with dozens of radio calls per day or week referencing looking someone up in the  
302 “in-house database” or merely “in-house” when the citizen that they are talking to  
303 for some reason does not have a drivers license on them, or refuse to identify  
304 themselves in their own homes). This helps them to ensure that someone actually  
305 lives in Rockport, and tells them how long someone has been a registered voter in  
306 the Town, etc. (i.e.: a call to the police dispatcher in Rockport by a police officer  
307 might result in a response of “no record, or WMS, but we do show him in the  
308 internal database as living for the past 8 years at 44 Summit Street, he is 47 years  
309 old, a veteran, with a wife by the name of Sarah, two dogs, current dump sticker,  
310 and he has a firearms license to carry” and similar responses from police dispatch).

311  
312 Additionally, members of Town of Rockport Harbormasters and members of the  
313 Rockport Police Department, and Rockport Fire Department have visited my home  
314 office to pick up boxes of emergency supplies, medical supplies, medical  
315 equipment, and other gear which I donated to the Town of Rockport Emergency  
316 workers at various times.

317



318 This is also the same address which the Town of Rockport send me mail, to  
319 include Christmas cards, pay related materials, 1099's, insurance data, IRA data,  
320 and other documents and materials related to my Town of Rockport Employment  
321 as an EMT and first responder.

322  
323 Patrolman Mahoney also lists my correct date of birth on page one of the  
324 "Criminal Complaint 0939CR000772" which he would not found had he not also  
325 known my address, firearms license, drivers license, and so on.

326  
327 Further, Patrolman Mahoney actually arrested me at my home, at an address which  
328 he claims not to know anything about. Also, as I was in college a great deal of the  
329 time in the Fall 2099 semester, I would call Rosemary Lesch (head of the  
330 Ambulance Department) on days when I was back from school early and available  
331 to make ambulance runs and respond to 911 calls, and it was my call to her on  
332 12/1/2009, where she then reported that I was home and available for EMT duty to  
333 officer Mahoney, who then arrived at my house and arrested me 5 minutes later.

334  
335 Thus, Officer Mahoney, knowing that I was a Town of Rockport EMT, and  
336 knowing full well where I lived, reached out to Rosemary Lesch to report to him  
337 when I would be available for EMT duties, so that he could arrest me at my  
338 residence that he claims to the court not to know anything about.

339  
340 Patrolman Mahoney committed a gross, and shocking fraud upon this court... and  
341 a engaged in a complex obstruction of justice (by lack of his utter lack of  
342 truthfulness in his complaint), and he conspired and worked with other to foist this  
343 fraud upon the court. It is notable that this obstruction of justice offense is one of  
344 the predicates for a RICO case.

345  
346 On Page 1 of 7, of this aforementioned complaint document, Patrolman Mahoney  
347 states:

348  
349 "The undersigned complainant, on behalf of the Commonwealth, on oath  
350 complaints that on the date(s) indicated below the defendant committed the  
351 offense(s) listed below and on any attached pages."

352  
353 As his complaint was submitted "on oath" any falsehoods which his compliant or  
354 lack of candor or full disclosure contain in the document is a *defacto* perjury upon  
355 this court.

356

357 Further, this perjury upon this court, committed by Patrolman Mahoney is a  
358 violation of my Constitutional rights as his perjury lead to an unlawful arrest,  
359 assault and battery, kidnapping, and the filing of false criminal charges. This is a  
360 violation of both state and federal criminal law.

361  
362  
363 **CHAPTER 268 - CRIMES AGAINST PUBLIC JUSTICE**

364 *Section 1 Perjury*

365  
366 Section 1. Whoever, being lawfully required to depose the truth in a  
367 judicial proceeding or in a proceeding in a course of justice, wilfully  
368 swears or affirms falsely in a matter material to the issue or point in  
369 question, or whoever, being required by law to take an oath or  
370 affirmation, wilfully swears or affirms falsely in a matter relative to  
371 which such oath or affirmation is required, shall be guilty of perjury.

372 Whoever commits perjury on the trial of an indictment for a capital  
373 crime shall be punished by imprisonment in the state prison for life or  
374 for any term of years, and whoever commits perjury in any other case  
375 shall be punished by imprisonment in the state prison for not more  
376 than twenty years or by a fine of not more than one thousand dollars  
377 or by imprisonment in jail for not more than two and one half years,  
378 or by both such fine and imprisonment in jail.

379  
380 An indictment or complaint for violation of this section alleging that,  
381 in any proceedings before or ancillary to any court or grand jury  
382 proceedings relating to an indictment or complaint for the commission  
383 of a violent crime, as defined in section 121 of chapter 140, the  
384 defendant under oath has knowingly made 2 or more declarations,  
385 which are inconsistent to the degree that 1 of them is necessarily false,  
386 need not specify which declaration is false if: (1) each declaration was  
387 material to the point in question and (2) each declaration was made  
388 within the period of the statute of limitations for the offense charged  
389 under this section. In any prosecution under this section, the falsity of  
390 a declaration set forth in the indictment or complaint shall be  
391 established sufficient for conviction by proof that the defendant, while  
392 under oath, made irreconcilably contradictory declarations material to  
393 the point in question. If, in the same continuous court or grand jury  
394 proceeding in which a declaration is made, the person making the  
395 declaration admits to such declaration to be false, such admission  
396 shall bar prosecution under this section if, at the time the admission is

397 made, the declaration has not substantially affected the proceeding, or  
398 it has not become manifest that such falsity has been or will be  
399 exposed. It shall be a defense to an indictment or complaint made  
400 pursuant to this section that the defendant, at the time he made each  
401 declaration, believed each such declaration to be true or its falsity was  
402 the result of a good faith mistake or error.

403  
404 *Section 4 Testimony creating presumption of perjury; commitment;*  
405 *recognizance; witnesses bound over; notice*

406  
407 Section 4. If it appears to a court of record that a party or a witness  
408 who has been legally sworn and examined, or has made an affidavit,  
409 in any proceeding in a court or course of justice has so testified as to  
410 create a reasonable presumption that he has committed perjury  
411 therein, the court may forthwith commit him or may require him to  
412 recognize with sureties for his appearance to answer to an indictment  
413 for perjury; and thereupon the witnesses to establish such perjury  
414 may, if present, be bound over to the superior court, and notice of the  
415 proceedings shall forthwith be given to the district attorney.

416  
417  
418 *Section 5 Presumption of perjury; papers, books and documents*  
419 *detained for prosecution*

420  
421 Section 5. If perjury is reasonably presumed, as aforesaid, papers,  
422 books or documents which have been produced and are considered  
423 necessary to be used on a prosecution for such perjury may by order  
424 of the court be detained from the person who produces them so long  
425 as may be necessary for their use in such prosecution.

426  
427  
428 *Section 6A False written reports by public officers or employees*

429  
430 Section 6A. Whoever, being an officer or employee of the  
431 commonwealth or of any political subdivision thereof or of any  
432 authority created by the general court, in the course of his official  
433 duties executes, files or publishes any false written report, minutes or  
434 statement, knowing the same to be false in a material matter, shall be  
435 punished by a fine of not more than one thousand dollars or by

436 imprisonment for not more than one year, or by both such fine and  
437 imprisonment.  
438

439 *Section 36 Compounding or concealing felonies*  
440

441 Section 36. Whoever, having knowledge of the commission of a  
442 felony, takes money, or a gratuity or reward, or an engagement  
443 therefor, upon an agreement or understanding, express or implied, to  
444 compound or conceal such felony, or not to prosecute therefor, or not  
445 to give evidence thereof, shall, if such crime is punishable with death  
446 or imprisonment in the state prison for life, be punished by  
447 imprisonment in the state prison for not more than five years or in jail  
448 for not more than one year; and if such crime is punishable in any  
449 other manner, by a fine of not more than five hundred dollars or by  
450 imprisonment in jail for not more than two years.  
451

452 **CHAPTER 265 CRIMES AGAINST THE PERSON**  
453

454 *Section 37 Violations of constitutional rights; punishment*  
455

456 Section 37. No person, whether or not acting under color of law, shall  
457 by force or threat of force, willfully injure, intimidate or interfere  
458 with, or attempt to injure, intimidate or interfere with, or oppress or  
459 threaten any other person in the free exercise or enjoyment of any  
460 right or privilege secured to him by the constitution or laws of the  
461 commonwealth or by the constitution or laws of the United States.  
462 Any person convicted of violating this provision shall be fined not  
463 more than one thousand dollars or imprisoned not more than one year  
464 or both; and if bodily injury results, shall be punished by a fine of not  
465 more than ten thousand dollars or by imprisonment for not more than  
466 ten years, or both.  
467

468  
469 Further, Patrolman Mahoney was armed with a high capacity firearm when he  
470 unlawfully arrested me, assaulted me, battered me, kidnapped me, stolen from me,  
471 and committed larceny of over \$250, and violated my civil rights.  
472

473 **CHAPTER 265 CRIMES AGAINST THE PERSON**  
474

475 *Section 18B Use of firearms while committing a felony; second or  
subsequent offenses; punishment*

476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515

Section 18B. Whoever, while in the commission of or the attempted commission of an offense which may be punished by imprisonment in the state prison, has in his possession or under his control a firearm, rifle or shotgun shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not less than five years; provided, however, that if such firearm, rifle or shotgun is a large capacity weapon, as defined in section 121 of chapter 140, or if such person, while in the commission or attempted commission of such offense, has in his possession or under his control a machine gun, as defined in said section 121, such person shall be punished by imprisonment in the state prison for not less than ten years. Whoever has committed an offense which may be punished by imprisonment in the state prison and had in his possession or under his control a firearm, rifle or shotgun including, but not limited to, a large capacity weapon or machine gun and who thereafter, while in the commission or the attempted commission of a second or subsequent offense which may be punished by imprisonment in the state prison, has in his possession or under his control a firearm, rifle or shotgun shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not less than 20 years; provided, however, that if such firearm, rifle or shotgun is a large capacity semiautomatic weapon or if such person, while in the commission or attempted commission of such offense, has in his possession or under his control a machine gun, such person shall be punished by imprisonment in the state prison for not less than 25 years.

A sentence imposed under this section for a second or subsequent offense shall not be reduced nor suspended, nor shall any person convicted under this section be eligible for probation, parole, furlough or work release or receive any deduction from his sentence for good conduct until he shall have served the minimum term of such additional sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at

516 such institution. Prosecutions commenced under this section shall  
517 neither be continued without a finding nor placed on file. The  
518 provisions of section 87 of chapter 276 relative to the power of the  
519 court to place certain offenders on probation shall not apply to any  
520 person 17 years of age or over charged with a violation of this section.  
521

522 The assault and battery by Patrolman Mahoney caused injury to my open wound to  
523 my wrists and internal injury to my shoulders and back (as evidence by elevated  
524 CK levels in my bloodstream). Further, Patrolman Mahoney knew that I was a  
525 disabled veteran with back and shoulder problems, because as an EMT I would  
526 often have to ask for him and other Rockport Police Officers to assist me in  
527 moving and loading a patient into the ambulance. His assault, battery, violation of  
528 my civil rights and his unlawful arrest of me were partially to intimidate and injure  
529 me because of my military disabilities, and more importantly to intimidate me as a  
530 witness in the Lyons Ambulance training fraud case (in Salem Superior Court).  
531

## 532 **CHAPTER 265 CRIMES AGAINST THE PERSON**

### 533 *Section 39 Assault or battery for purpose of intimidation; weapons;* 534 *punishment*

535  
536 (a) Whoever commits an assault or a battery upon a person or damages the  
537 real or personal property of a person with the intent to intimidate such  
538 person because of such person's race, color, religion, national origin, sexual  
539 orientation, or disability shall be punished by a fine of not more than five  
540 thousand dollars or by imprisonment in a house of correction for not more  
541 than two and one-half years, or by both such fine and imprisonment. The  
542 court may also order restitution to the victim in any amount up to three times  
543 the value of property damage sustained by the owners of such property. For  
544 the purposes of this section, the term "disability" shall have the same  
545 meaning as "handicap" as defined in subsection 17 of section one of chapter  
546 one hundred and fifty-one B; provided, however, that for purposes of this  
547 section, the term "disability" shall not include any condition primarily  
548 resulting from the use of alcohol or a controlled substance as defined in  
549 section one of chapter ninety-four C.  
550

551 (b) Whoever commits a battery in violation of this section and which results  
552 in bodily injury shall be punished by a fine of not more than ten thousand  
553 dollars or by imprisonment in the state prison for not more than five years,  
554 or by both such fine and imprisonment. Whoever commits any offense  
555 described in this subsection while armed with a firearm, rifle, shotgun,

556 machine gun or assault weapon shall be punished by imprisonment in the  
557 state prison for not more than ten years or in the house of correction for not  
558 more than two and one-half years. For purposes of this section, “bodily  
559 injury” shall mean substantial impairment of the physical condition,  
560 including, but not limited to, any burn, fracture of any bone, subdural  
561 hematoma, injury to any internal organ, or any injury which occurs as the  
562 result of repeated harm to any bodily function or organ, including human  
563 skin.

564  
565 There shall be a surcharge of one hundred dollars on a fine assessed against  
566 a defendant convicted of a violation of this section; provided, however, that  
567 moneys from such surcharge shall be delivered forthwith to the treasurer of  
568 the commonwealth and deposited in the Diversity Awareness Education  
569 Trust Fund established under the provisions of section thirty-nine Q of  
570 chapter ten. In the case of convictions for multiple offenses, said surcharge  
571 shall be assessed for each such conviction.

572  
573 A person convicted under the provisions of this section shall complete a  
574 diversity awareness program designed by the secretary of the executive  
575 office of public safety in consultation with the Massachusetts commission  
576 against discrimination and approved by the chief justice for administration  
577 and management of the trial court. A person so convicted shall complete  
578 such program prior to release from incarceration or prior to completion of  
579 the terms of probation, whichever is applicable.

580  
581 The document which I hold that purports to be an arrest warrant is not actually  
582 signed by the Clerk Magistrate or Judge, even though it is stamped “Arrest  
583 Warrant” and it is not indeed a lawful arrest warrant, and I was arrested by the  
584 authority of this unsigned warrant (which is a violation of my Constitutional rights,  
585 and a violation both Federal and State law).

586  
587 Upon my arrest I demanded to see this alleged arrest warrant and Patrolman  
588 Mahoney refused to show me this warrant (which as a fictional, unsigned arrant),  
589 in violation of state law, and he claimed to have a writ, when in fact he did not,  
590 which is a violation of state law.

591  
592 An unsigned warrant is not a writ, but merely an application for a writ. In fact I  
593 was not provided a copy of this document until my arraignment when my attorney  
594 as finally given a copy, of a document that was unsigned either by the Clerk  
595 Magistrate or Judge. Indeed, at my arraignment there was some amount of

596 consternation as no signed writ for my arrest could be found. Hence, there was no  
597 lawful arrest warrant was actually signed or issued before my arraignment.  
598 Nonetheless, it does appear that an unlawful arrest warrant may have been signed  
599 actually at my arraignment, (well after my arrest) despite such a post-arrest signing  
600 being a violation of my civil rights. Further, there is no arrest warrant in the record  
601 with a clerks time stamp that is at a time of date prior to my arrest, but rather at the  
602 time of my arraignment. I incorporate the entirety of the Clerk of Courts records in  
603 the previously described case in Gloucester District Court.  
604

605 While Patrolman Mahoney does request an arrest warrant in his affidavit, there is  
606 no record of one ever actually being approved (in advance of my being arrested or  
607 arraigned). In fact, the document which I have in my possession is the one which I  
608 was given to my attorney John Seabrook by the court clerk on December 1, 2009 at  
609 my arraignment.  
610

611 Thus, was it was provided (BY THE COURT) sans a signature AFTER my arrest,  
612 to my attorney at the arraignment, it was in fact an unsigned warrant before the  
613 arrest, an unsigned warrant after my arrest, and thus an illegal arrest and an illegal  
614 warrant. I would again point out that I have an unsigned copy of the warrant, given  
615 to me at the arraignment.  
616

617 While an unsigned complaint may have been filed by the police to the court, it  
618 remained unsigned and unapproved a full day later and in fact at the time of my  
619 arrest and arraignment there still was no signed warrant for my arrest.  
620

621 Nonetheless, Patrolman Mahoney entered this unlawful “warrant” into the state  
622 public safety databases, so that if I was stopped by any public safety person in the  
623 state and my name was “run” there would have been an entry of this fake arrest  
624 warrant, and I would be taken into custody on an unlawful arrest.  
625

626 There is no lawful mechanism by which I would have been able to obtain a copy of  
627 this unsigned and unapproved criminal complaint and warrant, and it marks a very  
628 serious anomaly in regards to the **Fourth Amendment**, a civil right violation and a  
629 violation of state and federal law.  
630

631 The **Fourth Amendment** to the **Constitution of the United States** reads:

632 “The right of the people to be secure in their persons, houses, papers,  
633 and effects, against unreasonable searches and seizures, shall not be  
634 violated, and no warrants shall issue, but upon probable cause,



635 supported by oath or affirmation, and particularly describing the place  
636 to be searched, and the persons or things to be seized.”  
637

638 **Article XIV of the Massachusetts Declaration of the Rights** written by  
639 John Adams and enacted in 1780 as part of the **Massachusetts Constitution**  
640 added the requirement that all searches must be “reasonable” and served as  
641 the basis for the language of the Fourth Amendment:

642 “Every subject has a right to be secure from all unreasonable searches,  
643 and seizures of his person, his houses, his papers, and all his  
644 possessions. All warrants, therefore, are contrary to this right, if the  
645 cause or foundation of them be not previously supported by oath or  
646 affirmation; and if the order in the warrant to a civil officer, to make  
647 search in suspected places, or to arrest one or more suspected persons,  
648 or to seize their property, be not accompanied with a special  
649 designation of the persons or objects of search, arrest, or seizure: and  
650 no warrant ought to be issued but in cases, and with the formalities,  
651 prescribed by the laws”  
652

653 The mere fact that I have an unsigned criminal complaint that purports to be a  
654 warrant nonetheless means that the document is not an actual warrant as of my  
655 arraignment, nor for that matter an actual criminal complaint. Rather it is an  
656 unexecuted application, upon which I was falsely arrested, assaulted, battered, and  
657 kidnapped by armed individuals.  
658

659 This means that it would have been a warrantless (and quite illegal) arrest at the  
660 time.  
661

662 When Patrolman Mahoney (with another officer) came to my house to arrest  
663 me on 12/1/2009, they pounded on my doors for several minutes, and  
664 shouted that they had an arrest warrant. Patrolman Mahoney repeatedly  
665 stated that he would rip the door down with a battering ram if I did not come  
666 outside. I asked to see the arrest warrant, which he claimed he had, and he  
667 refused to produce it, or to show it to me. As he claimed to have an arrest  
668 warrant, but refused to produce it when asked I was reasonably certain that  
669 he did not in fact possess an arrest warrant.  
670

671 He did press a half sheet of paper against the glass of my door (that was  
672 rough 5x8 inches), but this was a sheet of paper that had been torn in two,  
673 and had a few lines of gibberish on it from a dot matrix printer, and nothing  
674 which looks like actual words, and certainly nothing which looked like a

675 court document, or anything with the words “warrant”, or “arrest warrant”,  
676 nor even my name, or anything related to me, or any signatures, or anything  
677 beyond this piece of paper actually being a random piece of scratch paper.  
678

679 In fact, I observed that the piece of paper he claimed to be the warrant  
680 (which he did not possess) was torn along the longer edge as if someone  
681 had taken an 8.5 x 11 inch sheet of paper and torn it in half to create an 5.5  
682 x 8.5 half note sheet.  
683

684 His violent pounding on my doors continued, and it sounded like he was  
685 body slamming the door and trying to forcibly enter, and I became  
686 concerned that he was going to try to forcibly enter my home, and he  
687 repeatedly shouted for the other officer to get the battering ram so that they  
688 could break the doors down.  
689

690 It was only under great duress, and fear of further violence by Mahoney that  
691 I told them to step away from the door and they I would step outside to  
692 speak to them.  
693

694 When they did lure me outside, I was unlawfully assaulted, battered,  
695 arrested, kidnapped, and had my civil rights violated without a warrant, then  
696 handcuffed and locked into the back of a police cruiser, even though  
697 Patrolman Mahoney stated that he had an arrest warrant in his possession,  
698 which he did not actually possess.  
699

700 Patrolman Mahoney did not actually possess such a process, and steadfastly  
701 refused to display it or produce is even when repeatedly asked, and indeed I  
702 repeatedly demanded to see it.  
703

704 At the police station, I requested and demanded to see the arrest warrant, and  
705 Mahoney refused to show it to me, or to provide me with a copy and instead  
706 stated “you will get it when you get arraigned.”  
707

708 The only copy of the document which I was provided (which was an alleged  
709 “arrest warrant”) was provided (unsigned by a judge or magistrate) to my  
710 attorney at my arraignment, and it was still unsigned at that time, even  
711 several hours after my actual arrest.  
712

713 Officer Mahoney pretended to have a warrant, when in fact he had none, and  
714 when I asked to see the warrant, he refused to show it to me, in violation of  
715 state law.

716  
717 Hence, it was an unlawful, and warrantless arrest, an assault, a battery, and a  
718 kidnapping, and false imprisonment.

719  
720 In turn, I suffered assault (non-consenting touching) and battery (wounds to  
721 my wrists and shoulders), and kidnapping as there was no legal basis for my  
722 arrest.

723  
724 I was taken into custody WITHOUT LAWFUL AUTHORITY, and was  
725 taken by force and confined against my will, by two armed assailants.

726  
727 **CHAPTER 263 - RIGHTS OF PERSONS ACCUSED OF CRIME**

728 *Section 1 Nature of crime; right to be informed; penalty*  
729

730 Section 1. Whoever is arrested by virtue of process, or whoever is taken into  
731 custody by an officer, has a right to know from the officer who arrests or  
732 claims to detain him the true ground on which the arrest is made; and an  
733 officer who refuses to answer a question relative to the reason for such  
734 arrest, or answers such question untruly, or assigns to the person arrested an  
735 untrue reason for the arrest, or neglects upon request to exhibit to the person  
736 arrested, or to any other person acting in his behalf, the precept by virtue of  
737 which such arrest has been made, shall be punished by a fine of not more  
738 than one thousand dollars or by imprisonment for not more than one year.  
739

740 (Note: Patrolman Mahoney took me and placed me under arrest, and  
741 never truthfully told me why I was being arrested, and refused to  
742 show me the Arrest Warrant, which he only pretended to have).  
743

744 (Note: I repeated demanded to see the arrest warrant, and Mahoney  
745 repeatedly refused to show it to me, and instead waved a blank 1/2  
746 sheet of scrap paper (claiming it was the warrant), and indeed he did  
747 not have any arrest warrant in his possession when he placed me  
748 under arrest. Patrolman Mahoney only later stated that I was being  
749 arrested for “Intimidation of a Witness” and not also “Larceny” I was  
750 thus arrested without being told the nature of the second charge,  
751 which he as compelled to do by law, and which he failed to tell me in

752 violation of state law. He “attested an untrue reason for the arrest” and  
753 committed a criminal act.)

754  
755 (As he had no warrant in his possession, and refused to show the  
756 warrant to me, it was thus a False Arrest, Assault, Battery, and  
757 Kidnapping as defined by law.)  
758

759  
760 *Section 2 Arrest on false pretence; penalty*  
761

762 Section 2. An officer who arrests or takes into or detains in custody a person,  
763 pretending to have a process if he has none, or pretending to have a different  
764 process from that which he has, shall be punished by a fine of not more than  
765 one thousand dollars or by imprisonment for not more than one year.  
766

767 (Note: Patrolman Mahoney did not have an arrest warrant, and  
768 nothing of which I was accused was in fact a crime; hence, it was a  
769 false arrest for which no warrant could be issued. Patrolman Mahoney  
770 also pretended to have a warrant when they in fact had none. An  
771 application for a warrant is not a warrant until the Magistrate or Judge  
772 signs and approves the document (before the arrest), and this was not  
773 done prior to my arrest, and thus Patrolman Mahoney violated my  
774 civil rights by placing me under false arrest, for something that was  
775 not a crime.  
776

777  
778 **CHAPTER 265 CRIMES AGAINST THE PERSON**

779 *Section 26 Kidnapping; weapons; child under age 16; punishment*  
780

781 Section 26. Whoever, **without lawful authority, forcibly** or secretly  
782 **confines or imprisons** another person within this commonwealth  
783 **against his will**, or forcibly carries or sends such person out of this  
784 commonwealth, or forcibly seizes and confines or inveigles or kidnaps  
785 another person, with intent either to cause him to be secretly confined  
786 or imprisoned in this commonwealth against his will, or to cause him  
787 to be sent out of this commonwealth against his will or in any way  
788 held to service against his will, shall be punished by imprisonment in  
789 the **state prison for not more than ten years or by a fine of not**  
790 **more than one thousand dollars** and imprisonment in jail for not  
791 more than two years. Whoever commits any offence described in this

792 section with the intent to extort money or other valuable thing thereby  
793 shall be punished by imprisonment in the state prison for life or for  
794 any term of years.

795  
796 Whoever commits any offense described in this section while armed  
797 with a firearm, rifle, shotgun, machine gun or assault weapon shall be  
798 punished by imprisonment in the state prison for not less than ten  
799 years or in the house of correction for not more than two and one-half  
800 years. The provisions of the preceding sentence shall not apply to the  
801 parent of a child under 18 years of age who takes custody of such  
802 child. Whoever commits such offense described in this section while  
803 being armed with a firearm, rifle, shotgun, machine gun or assault  
804 weapon with the intent to extort money or other valuable thing  
805 thereby shall be punished by imprisonment in the state prison for life  
806 or for any term of years but not less than 20 years.

807  
808 [ Third paragraph effective until November 5, 2010. For text effective  
809 November 5, 2010, see below.]

810  
811 Whoever commits any offense described in this section while  
812 armed with a dangerous weapon and inflicts serious bodily  
813 injury thereby upon another person or who sexually assaults  
814 such person shall be punished by imprisonment in the state  
815 prison for not less than 25 years. For purposes of this paragraph  
816 the term "serious bodily injury" shall mean bodily injury which  
817 results in a permanent disfigurement, protracted loss or  
818 impairment of a bodily function, limb or organ or substantial  
819 risk of death. For purposes of this paragraph, the term "sexual  
820 assault" shall mean the commission of any act set forth in  
821 sections 13B, 13F, 13H, 22, 22A, 23, 24 or 24B.

822  
823 [ Third paragraph as amended by 2010, 267, Sec. 61 effective  
824 November 5, 2010. For text effective until November 5, 2010, see  
825 above.]

826  
827 Whoever commits any offense described in this section while  
828 armed with a dangerous weapon and inflicts serious bodily  
829 injury thereby upon another person or who sexually assaults  
830 such person shall be punished by imprisonment in the state  
831 prison for not less than 25 years. For purposes of this paragraph

832 the term "serious bodily injury" shall mean bodily injury which  
833 results in a permanent disfigurement, protracted loss or  
834 impairment of a bodily function, limb or organ or substantial  
835 risk of death. For purposes of this paragraph, the term "sexual  
836 assault" shall mean the commission of any act set forth in  
837 sections 13B, 13B1/2, 13B3/4, 13F, 13H, 22, 22A, 22B, 22C,  
838 23, 23A, 23B, 24 or 24B.

839  
840 Whoever, without lawful authority, forcibly or secretly confines or  
841 imprisons a child under the age of 16 within the commonwealth  
842 against his will or forcibly carries or sends such person out of the  
843 commonwealth or forcibly seizes and confines or inveigles or kidnaps  
844 a child under the age of 16 with the intent either to cause him to be  
845 secretly confined or imprisoned in the commonwealth against his will  
846 or to cause him to be sent out of the commonwealth against his will or  
847 in any way held to service against his will, shall be punished by  
848 imprisonment in the state prison for not more than 15 years. The  
849 provisions of the preceding sentence shall not apply to the parent of a  
850 child under 16 years of age who takes custody of such child.

851  
852  
853 **Chapter 265 CRIMES AGAINST THE PERSON**

854 Section 29 Assault; intent to commit felony; punishment

855  
856 Section 29. Whoever assaults another with intent to commit a felony  
857 shall, if the punishment of such assault is not hereinbefore provided,  
858 be punished by imprisonment in the state prison for not more than ten  
859 years or by a fine of not more than one thousand dollars and  
860 imprisonment in jail for not more than two and one half years.

861  
862  
863 **CHAPTER 265 CRIMES AGAINST THE PERSON**

864 Section 13A Assault or assault and battery; punishment

865  
866 Section 13A.

867 (a) Whoever commits an assault or an assault and battery upon  
868 another shall be punished by imprisonment for not more than 2 1/2  
869 years in a house of correction or by a fine of not more than \$1,000.

871 A summons may be issued instead of a warrant for the arrest of any  
872 person upon a complaint for a violation of any provision of this  
873 subsection if in the judgment of the court or justice receiving the  
874 complaint there is reason to believe that he will appear upon a  
875 summons.

876 (b) Whoever commits an assault or an assault and battery:

877 (i) upon another and by such assault and battery causes serious  
878 bodily injury;

879 (ii) upon another who is pregnant at the time of such assault and  
880 battery, knowing or having reason to know that the person is  
881 pregnant; or

882 (iii) upon another who he knows has an outstanding temporary  
883 or permanent vacate, restraining or no contact order or  
884 judgment issued pursuant to section 18, section 34B or 34C of  
885 chapter 208, section 32 of chapter 209, section 3, 4 or 5 of  
886 chapter 209A, or section 15 or 20 of chapter 209C, in effect  
887 against him at the time of such assault or assault and battery;  
888 shall be punished by imprisonment in the state prison for not  
889 more than 5 years or in the house of correction for not more  
890 than 2 1/2 years, or by a fine of not more than \$5,000, or by  
891 both such fine and imprisonment.

892 (c) For the purposes of this section, "serious bodily injury" shall mean  
893 bodily injury that results in a permanent disfigurement, loss or  
894 impairment of a bodily function, limb or organ, or a substantial risk of  
895 death.

896  
897 Further, on approximately 11/23/2009 and on 11/25/2009 Patrolman Mahoney was  
898 informed by (or should have been informed by) the FBI during his phone calls and  
899 meeting with them that the type of equipment which I design, and in which I deal  
900 with all requires a special license issued by the U.S. Department of State for each  
901 and every international shipment and that the approval delays for this type of  
902 equipment is approximately 5 to 6 months once the goods have been paid for and  
903 the applications submitted to the U.S. Department of State. As this license can only  
904 be issued based on an "End User letter or Certificate" from the actual end user (in  
905 this case

911  
912 The U.S. State Department PM/DDTC office which handles ITAR 121.1 XI(b)  
913 approvals (which this sort of equipment is) publishes reports on turn around time  
914 for initial approval, and during November and December 2009, the published  
915 report states that the average turn around time was around 15 business days (3  
916 weeks) overall for ITAR goods on average (but much longer on 121.1 XI(b)  
917 goods).

918  
919 Given a day or two for REI (the actual manufacturer and exporter) to process an  
920 end-user letter that I supplied them with, and to submit it to the State Department,  
921 and then a minimum of a few days or weeks to process the approved license, the  
922 expected delay can be at least four weeks for more, at a minimum (actually 70 days  
923 is listed in the U.S. State Department reports at the time for ITAR 121.1 XI(b)  
924 classified goods such as these, but the actual delay is closer to 30-45 days, and 140  
925 days in some cases, where there are intermediaries and freight forwarders involved,  
926 as there was in this case).

927  
928 Thusly, while the goods may be paid for on one day, the EUC must issue from the  
929 actual end user or the transaction will be delayed, be processed through the  
930 manufacturer/exporter (REI, Research Electronics), then be processed into the U.S.  
931 Department of State, then the U.S. Department of State to dispatch investigators  
932 (usually CIA operations officers) to both GTS (in Switzerland), and also to CEMS  
933 (in Uzbekistan), then they (the DOS/CIA) will prepare a written report which they  
934 provide back to the Department of State PM/DDTC office, who then issues the  
935 license to the exporter, who then exports the goods. If the site visits to the  
936 intermediary (GTS) and to the ultimate end user (CEMS in Uzbekistan) PRIOR to  
937 the order being placed (customarily 6+ months in advance) then the approvals may  
938 be expedited and only take a few weeks, but in a transaction such as this were there  
939 had been not pre-approvals and the intermediary as being deceptive and  
940 uncooperative the approval would take several months at a minimum.

941  
942 Additionally, at this point it time (Sep, Oct, Nov, Dec 2009, and at dates before  
943 and after this period) the United States Department of State was having particular  
944 difficulties with pre-licensing interviews within Switzerland and the Swiss  
945 government as obstructing the State Department inspections of equipment and  
946 business records (such as GTS) in violation of international treaty. A temporary  
947 compromise was formed hereby the Swiss government put up a Chinese Wall and  
948 required the U.S. Department of State to make inquiries only by way of this wall.  
949 The end result was that the licenses involving anything related to Switzerland



950 (such as the GTS order) and ITAR or the Munitions Control List would be  
951 significantly delayed do to the diplomatic belligerence of the Swiss government.  
952

953 I had engaged in dozens of phone calls between October 9, 2009 and November 6,  
954 2009 with Mr. Paccaud, where he kept demanding that I break federal law and ship  
955 the goods to him, without my knowing whom the end user was (or having any  
956 legitimate end user certifications. He had initially lied to me and stated that that his  
957 company (GTS, or on other occasions “Zeromax”) was the ultimate end user, and  
958 when it was discovered that he was merely the broker and freight forwarder, he  
959 refused to disclose who the true end user was. He continued this delay until  
960 November 24, 2009 at which he provided me with the 3<sup>rd</sup> End User Certificate  
961 (dated 12/23/2009). Mr. Paccaud became increasing more and more abusing, and  
962 became more and more adamant that “he was going to punished me and have me  
963 arrested” if he did not have the goods in his hands in Switzerland by November 6,  
964 2009. At one point he stated the he was obligated to deliver the goods to his  
965 customer not later then 12/6/2009.  
966

967 Indeed, it looks like the “punishment” was that Mr. Paccaud called the Chamber of  
968 Commerce and then made false claims to the Rockport Police Department (if  
969 indeed Mr. Paccaud actually exists at all). Indeed, Mr. Paccaud did contact the  
970 Chamber of Commerce on 11/8/2009 or 11/9/2009 in order to punish me for  
971 enforcing U.S. La on export requirements, and to get the Chamber of Commerce  
972 and then the Rockport Police to act on his behalf and to act as agents of foreign  
973 influence on behalf of the Government of Uzbekistan in order to subvert U.S.  
974 Exportation controls and to force me to ship goods to him illegally under threat of  
975 unlawful arrest.  
976

977 Given that the customer (in Switzerland) did not actually obtain a legitimate end  
978 user letter from their customer in Uzbekistan until November 23, 2009, and it was  
979 not passed to Research Electronics until November 25, 2009, it would have been  
980 impossible to obtain a legitimate U.S. State Department License at the earliest until  
981 sometime until the mid to end of December 2009 for the goods to be shipped, at  
982 the earliest... and most likely possibly not into the early Spring of 2010.  
983

984 This third End User Certificate (note: the GTS intermediary had sent to prior bogus  
985 end user certificates) now from “Rustam Mansurov” of the “Deputy Chairman of  
986 the State Customs Committee and Centre of Electromagnetic Compatibility State  
987 Unitary Enterprise” of the “Information Agency of Uzbekistan” in Tashkent,  
988 Uzbekistan.  
989

990 It should be noted that Mr. Rustam Mansurov is known to be an intelligence officer  
991 for the government of Uzbekistan, responsible for importing electronic  
992 surveillance and electronic counter-surveillance or electronic counter-measures and  
993 other equipment used by the intelligence and nuclear agencies from Belgium,  
994 Switzerland, and other European countries. Mr. Rustam [Pulatovich] Mansurov is  
995 also an officer in the rank of Colonel in the National Security Service (SNB) of the  
996 Uzbekistan Intelligence Agency (previously known as the KGB or “Komitet  
997 gosudarstvennoy bezopasnosti” before it became the SNB), which from 2001 until  
998 the present date he has handled importation of weapons grade nuclear materials  
999 from Kazakhstan into Uzbekistan, and thence to Iran and other states by way of  
1000 cutout companies in Switzerland, Spain and France (see next paragraph).

1001  
1002 Further, GTS or “GAZ Turbine Services, S.A.” is in the business of purchasing and  
1003 brokering radioactive materials, including weapons grade nuclear materials and  
1004 related minerals and equipment to and from Uzbekistan and Kazakhstan. “GAZ  
1005 Turbine Services – GTS” and “Gazprom Germania GmbH” also operated under the  
1006 name of “Zeromax GmbH” as a Swiss registered, and also as “Zeromax, LLC” a  
1007 Delaware corporation, but Uzbek controlled company owned by Uzbekistan  
1008 President Islam Karimov's daughter, Gulnara Islomovna Karimova and the  
1009 Minister of Finance Rustam Azimov, and operates in the United States and in  
1010 Great Britain under the name “Oxus Gold”. Gulnora Karimovav, currently resides  
1011 in Geneva Switzerland, Spain, Tashkent Uzbekistan **and in Boston, MA.**

1012  
1013 In the early stages of the negotiations of this transaction in February 2009, the  
1014 customer in Switzerland repeated used the business name of “Zeromax” along with  
1015 other names including “GAZ turbine” and “GTS”

1016  
1017 In February 2009, the GTS intermediary/customer was also informed that the  
1018 actual end user (who was not disclosed to me at the time) needed to initiate initial  
1019 contact with the U.S. Embassy in their area to initiate the pre-licensing inspections  
1020 and interviews to facilitate the transaction being expedited for ITAR 121.1 XI(b)  
1021 approvals once the end user letter was issued when the order was placed. It should  
1022 be noted that a properly executed End User Letter/Certificate and legally issued  
1023 ITAR License Number for a legitimate shipment often dramatically exceeds the  
1024 actual monetary value of the goods being exported.

1025  
1026 Weapons grade nuclear materials imports from Kazakhstan to Uzbekistan are also  
1027 controlled by a U.S.-owned “Nukem Corporation” and the Israeli company “Metal-  
1028 Tech Ltd.” in conjunction with “Zeromax”. “Zeromax” also does business under

1029 the name of JV Bentonite and Uzbekneftegaz in Uzbekistan as Swiss registered  
1030 companies.

1031  
1032 Patrick Schneider of Schaffhausen, Switzerland is the owner or/and operator of 27  
1033 different other Swiss or Swiss-Uzbek companies, including “GTS Gaz Turbine  
1034 Services SA.” Patrick Schneider is engaged in the business of freight forwarding,  
1035 mining, oil, and related industries, including brokering gold and other high value  
1036 metals or minerals (such as Uranium and “yellow cake” used to make nuclear  
1037 weapons).

1038  
1039 Of note, is that in the first paragraph of this third end user certificate, dated  
1040 November 23, 2009, the signatory (Colonel Rustam Pulatovich Mansurov) who is  
1041 a government official in Uzbekistan acknowledges in this official document that  
1042 the U.S. State Department which requires the granting of an individual export  
1043 license for equipment of this nature.

1044  
1045 “End User Certificate for presentation to the Export Control  
1046 Authorities of the United States of America. In accordance with the  
1047 regulations of the State Department of the United States granting of an  
1048 individual export license is dependent on the presentation of and end-  
1049 user certificate...”

1050  
1051 Further, in fourth paragraph of the same document the signatory (Colonel  
1052 Mansurov) states:

1053  
1054 “We (I) certify that the above-mentioned goods or any replica thereof  
1055 will not be used in any nuclear explosive activity or unsafeguarded  
1056 nuclear fuel-cycle activity; that the goods will not be used in any  
1057 activities related to the development or production of chemical or  
1058 biological weapons; that the goods will only be civil end-uses...”

1059  
1060 This fourth paragraph of the 3<sup>rd</sup> End User Certificate is important, as it needlessly  
1061 answers a un-asked question in regards to nuclear weapons and nuclear materials  
1062 that had not yet been asked or posed in this transaction, and which was and is out  
1063 of character for this type of equipment sale. Nonetheless, the Government of  
1064 Uzbekistan was purchasing this equipment so that they might transport it to  
1065 Kazakhstan and render TSCM services on the transport rail cars (used to transport  
1066 radioactive fuels, and materials used to build nuclear weapons), and then return the  
1067 equipment and it operators back to Uzbekistan. The fourth paragraph of this EUC

1068 does tend to specify the nuclear nature of the actual service to be provided by use  
1069 of this equipment.

1070  
1071 The customer/intermediary GTS, also sent a carbon copy of this end user  
1072 certificate to the Rockport Police Department (which I suspect that I was not  
1073 supposed to notice as CC'd (carbon copied E-Mail by GTS) to Patrolman  
1074 Mahoney).

1075  
1076 Hence, Patrolman Mahoney knew at this point that the transaction could not have  
1077 been consummated before this letter arriving, but that now that the letter was sent  
1078 that the State Department approval could be obtained and the goods shipped in a  
1079 few weeks, or most likely months.

1080  
1081 But what is notable, is that Patrolman Mahoney actually scrambled to get the arrest  
1082 warrant issued and to get criminal charges filed mere hours after the end user letter  
1083 was sent, and before a reasonable time had passed for the goods to be actually  
1084 shipped. He did not wait for 3 weeks after the End User Letter (dated 11/23/2009),  
1085 or two months. He instead waited for two business days (one actual "active  
1086 business day"), that was it... one day!

1087  
1088 Indeed, if the U.S. State Department took 15-16 business days (which would be the  
1089 bare minimum) to issue a Blue Lantern Pre-License check, and Research  
1090 Electronics (REI, the manufacture and exporter) submitted the application without  
1091 any delay on their part, the earlier the transaction would have been approved was  
1092 13 days after I was arrested. However, at that point in time, it was taking the U.S.  
1093 State Department several months to issue licenses for ITAR 121.1 XI(b) goods  
1094 exportations, not mere days, or even hours... actual MONTHS.

1095  
1096 I received this end-user document (dated 11/23/2009) on the evening of November  
1097 25, 2009 (when I returned from school) and forwarded a copy to Research  
1098 Electronics and to my attorney Robert Laramee by E-Mail, and then to Robert  
1099 Laramee by fax on November 30, 2010.

1100  
1101 Due to the Thanksgiving holiday on November 26, 2009, there was nothing I could  
1102 do at the time to further the transaction, as Research Electronics remained closed  
1103 from November 25, 2009 (when I received the 3<sup>rd</sup> EUC) until November 30, 2009  
1104 (which is normal for them, as they usually take the afternoon before Thanksgiving  
1105 off, and shutdown the business until the next Monday).

1106

1107 As the end user letter was signed on November 23, 2009 in Uzbekistan, sent to me  
1108 by the intermediary customer in Switzerland on November 24, 2009 and received  
1109 by me late in the day on November 25, 2009, and sent by the intermediary next to a  
1110 major national holiday it is unreasonable to expect a response of any sort until the  
1111 Monday after the holiday (November 30, 2009).

1112  
1113 It should be noted that Patrolmen Daniel Mahoney of the Rockport Police  
1114 Department knew full well about the holiday, and that he could reasonably expect  
1115 that nothing could be done in regards to the End User Certificate dated November  
1116 23, 2009, as he knew (or should have known) that it required approval both of the  
1117 manufacture and the U.S. Government, which he himself had a copy of (the signed  
1118 3<sup>rd</sup> End User Letter) directly from the intermediary (Paccaud of GTS, in  
1119 Switzerland).

1120  
1121 Given my payment credit card authorization of the all of the funds for this  
1122 shipment to Research Electronics on October 14, 2009 and their subsequent  
1123 **charging of my credit card on October 15, 2009** and confirmation of payment  
1124 being made from me to REI – Research Electronics for this shipment, it is *prima*  
1125 *facia* evidence that there was no fraud on my part, and they there was no  
1126 unreasonable delays in processing the order on my part, or in refusing to ship the  
1127 goods on my part. Further, this payment authorization and actual charging to my  
1128 credit card being made is also evidence that there was no attempt to defraud  
1129 anybody in any way, and certainly no scheme to defraud. There was however, the  
1130 normal delay to obtain the export license from the U.S. Department of State, which  
1131 was complicated by GTS refusing to provide a legitimate End User Certificate  
1132 from the actual end user, and GTS initially fraudulently claiming to be the end  
1133 user, when they were not.

1134  
1135 As Patrolmen Mahoney was working closely with REI in order to set me up (REI  
1136 has judicially confessed to this already), once the End User Letter was in the hands  
1137 of Research Electronics, and Research Electronics having been paid in full by me  
1138 for the transaction and confirmed back that they had been paid in full on or about  
1139 10/14/2009 and that only the end User Letter was need to get the ITAR license and  
1140 make the shipment, it would have been important for Mahoney to move quickly to  
1141 arrest me over the (utterly legal) delay in shipment, which he did, way too quickly.  
1142 I am reasonably certain that REI and Mahoney were actually in close  
1143 communication the entire time, and they once the EUC was sent to REI that there  
1144 was panic with Mahoney that his case against was about to collapse.

1145

1146 **In fact, Patrolman Mahoney actually arrested me for enforcing and obeying**  
1147 **federal law, and enforcing international treaty that the United States of**  
1148 **America has adopted as Federal statute in the form of the ITAR statutes and**  
1149 **the Munitions Control List.**  
1150

1151 Further, Patrolman Mahoney, within days of his receipt of the end user later (dated  
1152 November 23, 2009), he did file a fraudulent criminal complaint against me on  
1153 November 30, 2009, without permitting reasonable time for the new end user letter  
1154 to be reviewed by the government (U.S. State Department) and manufacture, and  
1155 for proper shipment to be made of the goods, after proper issuing of a license.  
1156

1157 Further, Patrolmen Mahoney rushed to arrest me, when he had good reason to  
1158 believe that the goods would be in transit within mere hours or days of the end user  
1159 certificate being approved as the manufacture had already been paid in full for the  
1160 goods.  
1161

1162 It should be noted that my status with Research Electronics was that of  
1163 “Manufactures Representative” and that I did not actually manufacture nor export  
1164 the goods myself. Also, Research Electronics had repeatedly stated to me that they  
1165 were properly licensed to manufacture these good, and that they had what they  
1166 called a “blanket license” to export these goods and I would later (in 2010 and  
1167 2011), find out that this was utterly false and that they had no such license. I began  
1168 to grow increasingly suspicious in 2007 that something as not proper about their  
1169 exports, and made a proper report on my concerns to the proper federal agencies,  
1170 and did document my concerns or the respective agencies so as not to commit  
1171 misprison of a felony. I continued to obtain export documents, but Research  
1172 Electronics continuously evaded providing me with it. During a factory visit, I  
1173 personally witnesses goods being prepared for arm smuggling, and observes that  
1174 the export documentation was fictional. I in the following months I pushed REI  
1175 quite hard to provide me is export documents for shipment which I as involved in,  
1176 and it as only by accident that I received several documents which proved that REI  
1177 as engaging in illegal arms smuggling.  
1178

1179 Although I have not been able to confirm this, I have been told by sources ho have  
1180 direct first hand knowledge of the matter that Research Electronics is the target of  
1181 a Federal Grand Jury in regards into long term arms smuggling.  
1182

1183 Patrolman Mahoney did not obtain any form of Apostilles for any of the  
1184 communications, which Paccaud (at GTS Switzerland), and this certification of  
1185 documents and statement if utterly missing in his application, and could be

1186 considered by a judge or magistrate, and instead Patrolman Mahoney bases his  
1187 claims upon bald assertions in regards to documents he did not properly have,  
1188 transactions he as never a part of, form document he does not have, on export law  
1189 he is ignorant of, and he made no attempt to confirm the claims of GTS or to even  
1190 obtain Apostille based statements. Essentially, Patrolman as pulling his false  
1191 accusation from a void and vacuum, and confecting a twisted fraud upon the court.  
1192

1193 The Hague Convention Abolishing the Requirement for Legalisation  
1194 for Foreign Public Documents, the Apostille convention or the  
1195 Apostille treaty is an international treaty drafted by the Hague  
1196 Conference on Private International Law. It specifies the modalities  
1197 through which a document issued in one of the signatory countries can  
1198 be certified for legal purposes in all the other signatory states. Such a  
1199 certification is called an Apostille (French: certification). It is an  
1200 international certification comparable to a notarisation in domestic  
1201 law.  
1202

1203 In a situation such as this, the alleged victim in another country would be required  
1204 to make a sworn statement before a government representative in their on country,  
1205 and enter that statement into their governments official records. The agencies or  
1206 office would then attach an Apostille to the statement, and the Rockport Police  
1207 Department could act (in any way) only on this sworn and sealed document (called  
1208 an Apostille). As Paccaud is outside of the Commonwealth of Massachusetts and  
1209 outside of the laws of the United States of America this requirement of an  
1210 Apostille protects a citizen of the U.S. from a foreign entity making inappropriate  
1211 and false claims against a U.S. Citizen. This is a protection of the Constitutional  
1212 Rights of all U.S. Citizens, and by Patrolman Mahoney no obtaining written and  
1213 sworn statement from GTS by way of a Sealed Apostille he violated my civil rights  
1214 as he has no legitimate statement or complaints, or documents that that could  
1215 legally recognized by the this court.  
1216

1217 As Patrolman Mahoney did not request or obtain any documents from the alleged  
1218 victim sealed with a Apostille, he violated my civil rights in violation of:  
1219 **CHAPTER 265 CRIMES AGAINST THE PERSON, Section 37 Violations of**  
1220 *constitutional rights; punishment.*  
1221

1222 Further on Page 6 or 7 of the “Statement of Facts in Support of Application for  
1223 Criminal Complaint” Patrolman Mahoney seems to be unable to find the ITAR  
1224 121.1 XI(b) classifications of these goods, and instead of contacting the U.S.  
1225 Department of State who actually handles these licenses he calls the FBI and the

1226 U.S. Customs, neither of whom have an understanding of the equipment n are they  
1227 involved in the required process to obtain such a ITAR exportation license, as this  
1228 is solely a Department of State PM/DDTC matter, only. Essentially, the blind were  
1229 leading the blind, who in turn leading the blind, and the refused to reach out the  
1230 either my Attorney ho could explain the matter to then, nor did they contact the  
1231 U.S. Department of State for clarifications of assistance. Indeed, their mutual  
1232 objectives seems to be an attempt to confect false charges over a properly delayed  
1233 shipment that as aaiting an End User Certification and DOS licensing.

1234  
1235 On page 6 of his narrative, Patrolman Mahoney states “We then began to research  
1236 whether Uzbekistan was a country that was not authorized to receive this  
1237 equipment with the assistance of ICE Agent Jamie Wiroll.” While Uzbekistan is  
1238 certainly authorized, but I still needed an End-User Certificate, and Research  
1239 Electronics had to use this End-User Certificate to obtain an export license from  
1240 the U.S. State Department for a specialized piece of military hardware. It is illegal  
1241 to ship these goods until the license is obtained, and GTS was obstructing the  
1242 exportation by not providing the required legal documents.

1243  
1244 In the next line down, Patrolman Mahoney states “Agent Wiroll directed us to the  
1245 Internet, specifically the (public) website [www.bis.gov](http://www.bis.gov) for clarification on this  
1246 topic.”

1247  
1248 The website in question contains nothing at all about specific model numbers, or  
1249 manufactures, this would be the responsibilities of the DOS PM/DDTC office, not  
1250 Commerce or Customs.

1251  
1252 Further, as this equipment REQUIRES a formal license from the U.S. State  
1253 Department the presentation of the End-User Certification initiated the  
1254 second stage of end-user licensing, which would normally take at least a few  
1255 weeks, but more often months for the State Department to approve both the  
1256 broker (in Switzerland), and the actual end user (in Uzbekistan).

1257  
1258 A “SED” is a Shipper's Export Declaration (SED) filing is required by the U.S.  
1259 Census Bureau for U.S. exports that contain a single commodity's value  
1260 exceeding a certain dollar amount (currently \$2500). All SED information is  
1261 provided to the U.S. Census Bureau and is used for export compliance and  
1262 governmental reporting.

1263



1264 The "Shipper's Export Declaration (SED)" contains a section in which the  
1265 PM/DDTC license number that was issued by the U.S. State Department must  
1266 be placed, and on the current "FORM 7525-V(7-18-2003)" used by the U.S.  
1267 Census Bureau this section is labeled "27. LICENSE NO./LICENSE EXCEPTION  
1268 SYMBOL/AUTHORIZATION" In the event of a fraudulent exportation of these  
1269 goods the block or section will list "NLR" or "No License Required" when it  
1270 should in fact contain the actual license number required by law.

1271  
1272 An "ITAR License Number" refers to the actual license number issued by the  
1273 Directorate of Defense Trade Controls (DDTC) of the U.S. State Department, in  
1274 accordance with 22 U.S.C. 2778-2780 of the Arms Export Control Act (AECA)  
1275 and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-  
1276 130). More specifically, these type of goods are tightly controlled by "Division  
1277 IV - Electronic Systems (USML Commodity Category XI)" within the office of  
1278 PM/DDTC of the U.S. State Department. TSCM equipment, goods, services,  
1279 training, manuals, and technical data may not leave this country unless a  
1280 license is first obtain from this division, each time. This permission in initiated  
1281 by the aforementioned "End User Certificate" on application to the U.S. State  
1282 Department.

1283  
1284 An "ECCN" or "Export Control Classification Number" is an alpha-numeric  
1285 code, e.g., 3A001 that describes the item and indicates licensing requirements.  
1286 All ECCNs are listed in the Commerce Control List (CCL) (Supplement No. 1 to  
1287 Part 774 of the EAR). The CCL is divided into ten broad categories, and each  
1288 category is further subdivided into five product groups. These ECCN's are self-  
1289 assigned by the manufacture of the goods, and not by the government. Thus, a  
1290 company who wishes to illegally export arms will assign to their products an  
1291 ECCN that is fraudulent in an attempt to evade and subvert export controls.

1292  
1293 The Department of Commerce's Bureau of Industry and Security (BIS) is  
1294 responsible for implementing and enforcing the Export Administration  
1295 Regulations (EAR), which regulate the export and re-export of most  
1296 **commercial items**. The U.S. Government often refer to the items that BIS  
1297 regulates as "dual-use" – items that have both commercial and military or  
1298 proliferation applications – but purely commercial items without an obvious  
1299 military use are also subject to the EAR.

1300  
1301 The EAR do not control all goods, services, and technologies. Other U.S.  
1302 government agencies regulate more specialized exports. For example, the U.S.

1303 Department of State has sole authority over defense articles and defense  
1304 services. A list of other agencies involved in export controls can be found at  
1305 Resource Links or in Supplement No. 3 to Part 730 of the EAR.

1306

1307 Thus, an ECCN is published by the Department of Commerce's Bureau of  
1308 Industry and Security (BIS) with a description of what that ECCN means. Then  
1309 the producers or manufactures of the goods match their products up with  
1310 these descriptions (when it is legal for them to do so).

1311

1312 However, Export Administration Regulations (EAR) do not apply to  
1313 commodities, goods, products, or services defined by international treaty as  
1314 "dual use" items, and thus Department of Commerce has no authority over  
1315 them, only the U.S. State Department.

1316

1317 Then under ITAR 121.1 XI(b), the use an ECCN code to then facilitate the  
1318 exportation of a device, good, commodity, service, manual, or training that is  
1319 used to "...electronic systems or equipment designed or modified to  
1320 counteract electronic surveillance or monitoring" is unlawful and a grave  
1321 breach of international arms control treaties as the goods sold by Research  
1322 Electronics are sold for this sole purposes of "counteracting electronic  
1323 surveillance or monitoring" as defined in their own textbooks, technical  
1324 manuals, marketing materials, trade show presentations, and other  
1325 documents. The use of an ECCN to export TSCM goods such as those  
1326 manufactured and exported (illegally) by Research Electronics is a fraudulent  
1327 tactic to facilitate unlawful exportation and smuggling of arms.

1328

1329 Further, under ITAR Section 120.21, technical data, technical manuals, users  
1330 guides, white papers, and other documents and descriptions are further  
1331 restricted and controlled, and merely to send a users manual to a prospective  
1332 overseas purchaser requires formal U.S. State Department Approval in the  
1333 form of an End User License. The shipping of a manual to an overseas location,  
1334 absent this permission by the U.S. State Department would thus be an illegal  
1335 export, and *defacto* arm smuggling.

1336

1337 Training services on this equipment, and on this subject matter is also  
1338 controlled under ITAR Section 120.8, and also controlled exclusively by the  
1339 U.S. State Department, and a the student and the course must both obtain a  
1340 license for the student to attend training in the United States, or for the U.S.  
1341 based instructor to travel overseas to teach. Any teaching of the subject of

1342 TSCM or related disciplines to non-U.S. citizens is a very serious criminal act,  
1343 unless permission is obtained for each student, each instructor, and each class.  
1344 Research Electronics and the employees and agents of Research Electronics  
1345 have been providing this unlawful training to non-U.S. Citizens.

1346  
1347 Further, under “The Wassenaar Arrangement On Export Controls For  
1348 Conventional Arms and Dual-Use Goods and Technologies” or merely  
1349 “Wassenaar Arrangement” (an International treaty the U.S. has signed) the  
1350 United States is obligated through the PM/DDTC office within the U.S. State  
1351 Department to administer a “dual use” licensing program. This office is thus  
1352 responsible for the regulation, licensing, enforcement, and control of any such  
1353 devices, equipment, good, information, or training related to these subject  
1354 matters.

1355  
1356 The Participating States of the Wassenaar Arrangement are: Argentina,  
1357 Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic,  
1358 Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy,  
1359 Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand,  
1360 Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation,  
1361 Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine,  
1362 United Kingdom **and United States**. Representatives of Participating States  
1363 meet regularly in Vienna where the Wassenaar Arrangement's Secretariat is  
1364 located.

1365  
1366 The Wassenaar Arrangement has been established in order to contribute to  
1367 regional and international security and stability, by promoting transparency  
1368 and greater responsibility in transfers of conventional arms and dual-use  
1369 goods and technologies, thus preventing destabilizing accumulations.  
1370 Participating States seek, through their national policies, to ensure that  
1371 transfers of these items do not contribute to the development or enhancement  
1372 of military capabilities which undermine these goals, and are not diverted to  
1373 support such capabilities.

1374  
1375 The decision to transfer or deny transfer of any item is the sole responsibility  
1376 of each Participating State (the United States, though the President of the  
1377 United States has designated that the U.S. Department of State will handle all  
1378 such approvals on behalf of the United States). All measures with respect to  
1379 the Arrangement are taken in accordance with national legislation and  
1380 policies and are implemented on the basis of national discretion and laws.

1381  
1382 In the case of the Wassenaar Arrangement, the U.S. Statute which enforces it is  
1383 “Title 22--Foreign Relations, Chapter I - Department Of State, Part 121 - The  
1384 United States Munitions List.” [CITE: 22 CFR 121.1] All other U.S. laws on the  
1385 exportation of these dual-use items then derives from this 22 CFR 121.1.

1386  
1387 As part of the Wassenaar Arrangement, there is also a “List Of Dual-Use Goods  
1388 and Technologies and Munitions List” from which the United States Munitions  
1389 List is thus derived.

1390  
1391 The equipment and goods involved in this transaction serve a single purpose,  
1392 and is of little or no value for any other practical purpose. The goods being  
1393 sold are for the “Electronic systems or equipment, designed either for  
1394 surveillance and monitoring of the electro-magnetic spectrum for military  
1395 intelligence or security purposes or for counteracting such surveillance and  
1396 monitoring”

1397  
1398 Page 177 of WA 10 29 201  
1399 [http://www.wassenaar.org/controllists/2010/WA-](http://www.wassenaar.org/controllists/2010/WA-LIST%20%2810%29%201%20Corr/WA-LIST%20%2810%29%201%20Corr.pdf)  
1400 [LIST%20%2810%29%201%20Corr/WA-](http://www.wassenaar.org/controllists/2010/WA-LIST%20%2810%29%201%20Corr/WA-LIST%20%2810%29%201%20Corr.pdf)  
1401 [LIST%20%2810%29%201%20Corr.pdf](http://www.wassenaar.org/controllists/2010/WA-LIST%20%2810%29%201%20Corr/WA-LIST%20%2810%29%201%20Corr.pdf)

1402  
1403 Under the Wassenaar Arrangement, “Munitions List” ML11.

1404  
1405 ML11. Electronic equipment, not specified elsewhere on the Munitions  
1406 List, as follows, and specially designed components therefor:

1407 a. Electronic equipment specially designed for military use;

1408 Note ML11.a. includes:

1409 a. Electronic countermeasure and electronic counter-  
1410 countermeasure equipment (i.e., equipment designed to  
1411 introduce extraneous or erroneous signals into radar or  
1412 radio communication receivers or otherwise hinder the  
1413 reception, operation or effectiveness of adversary electronic  
1414 receivers including their countermeasure equipment),  
1415 including jamming and counter-jamming equipment;

1416 b. Frequency agile tubes;

1417 c. Electronic systems or equipment, designed either for  
1418 surveillance and **monitoring of the electro-magnetic**

- 1419 **spectrum for military intelligence or security purposes**  
1420 **or for counteracting such surveillance and monitoring;**  
1421 d. Underwater countermeasures, including acoustic and  
1422 magnetic jamming and decoy, equipment designed to  
1423 introduce extraneous or erroneous signals into sonar  
1424 receivers;  
1425 e. Data processing security equipment, data security  
1426 equipment and transmission and signalling line security  
1427 equipment, using ciphering processes;  
1428 f. Identification, authentication and keyloader equipment  
1429 and key management, manufacturing and distribution  
1430 equipment;  
1431 g. Guidance and navigation equipment;  
1432 h. Digital troposcatter-radio communications transmission  
1433 equipment;  
1434 i. Digital demodulators specially designed for signals  
1435 intelligence;  
1436 j. "Automated Command and Control Systems".

1437  
1438 N.B. For "software" associated with military "Software"  
1439 Defined Radio (SDR), see ML21.  
1440

1441 b. Global Navigation Satellite Systems (GNSS) jamming equipment.  
1442

1443 As a result, any improper exportation or importation of "Electronic systems or  
1444 equipment, designed either for surveillance and monitoring of the electro-  
1445 magnetic spectrum for military intelligence or security purposes **or for**  
1446 **counteracting such surveillance and monitoring;**" is both a grave violation  
1447 of U.S. Law, and a violation of International Treaty which makes a United  
1448 States of America liable to international sanctions for such violations.  
1449 Essentially, an improper export of this type of equipment is a grave diplomatic  
1450 violation. Thus, there is an intricate formal protocol to facilitate such sales,  
1451 services, goods, information, and training so as not to offend this international  
1452 treaty. This treaty is an executive power, and is Constitutionally administered  
1453 by the President of the United States, through the Department of States  
1454 PM/DDTC office and through no other authority. The Commonwealth of  
1455 Massachusetts, and the Town of Rockport has no authority to control such  
1456 transactions, or to pressure the bypass of either this treaty or the federal  
1457 statutes.

1458  
1459 Patrolman Mahoney also states: “After extensive research and Agent Wiroll’s  
1460 guidance, it was revealed that the classification of this equipment is identified as  
1461 “3A992 – General purpose electronic equipment not controlled by 3A002” under  
1462 “Commerce Control List” document, page 25 under export administration  
1463 regulations effective January 2009.”

1464  
1465 The problem is that it is not in fact “General purpose electronic equipment,” and it  
1466 is in fact a restricted item under ITAR. In fact this “guidance” involved Patrolman  
1467 Mahoney, Agent McDowell and Agent Wiroll actually involved calling Research  
1468 Electronics and asking them what the ECCN code was for the goods, but  
1469 Patrolman Mahoney does not disclose that they did this as required by *Aguilar v.*  
1470 *Texas*. While Research Electronics lied about the ECCN, Patrolman Mahoney does  
1471 not appear to have called the U.S. Department of State, and there is no indication  
1472 that either the FBI or Customs informed him that he should contact DOS on the  
1473 matter to provide resolution and insight.

1474  
1475 The U.S. Government Department of State controls the export and import of  
1476 "defense articles" and "defense services" pursuant to the **Arms Export Control**  
1477 **Act**. Section 38 of the **Arms Export Control Act** authorizes the President to  
1478 control the export and import of defense articles and defense services.

1479  
1480 The statutory authority of the President to promulgate regulations with respect to  
1481 exports of defense articles and defense services was delegated to the Secretary of  
1482 State by **Executive Order 11958**, as amended.

1483  
1484 The **Arms Export Control Act** is implemented by the **International Traffic in**  
1485 **Arms Regulations (ITAR)**, which are administered by the State Department's  
1486 Office of Defense Trade Controls within the Bureau of Political-Military Affairs.  
1487 These regulations are found at 22 CFR parts 120-130.

1488  
1489 The **Arms Export Control Act** provides that the President shall designate the  
1490 articles and services that are deemed to be "defense articles" and "defense  
1491 services." These items, as determined by the State Department with the  
1492 concurrence of the Department of Defense, are included on the U.S. Munitions  
1493 List.

1494  
1495 No items may be removed from the **U.S. Munitions List** without the approval of  
1496 the Secretary of Defense, and there must be 30 days advance notice to Congress.  
1497

1498 The Department of Commerce or another department or agency may request a pre-  
1499 license check to establish the identity and reliability of the recipient of the items  
1500 requiring an export license. It is desirable to do this well in advance of placing any  
1501 order for goods, or providing payment, but many overseas buyers who are  
1502 attempting to subvert U.S. Export law will merely submit payment, and dance  
1503 around or try to evade end user certification and compliance with exportation law  
1504 of these munitions.

1505  
1506 The 1979 Act provides that the Secretary of Commerce and designees (U.S. State  
1507 Department) may conduct overseas pre-license checks and post-shipment  
1508 verifications of items licensed for export. A pre-license check is conducted during  
1509 the normal licensing process. A post-shipment verification is an on-site visit to the  
1510 location to which the controlled item has been shipped under an export license, in  
1511 order to ascertain that the item is being used by the appropriate end user and for the  
1512 appropriate purpose. Thus, the U.S. Department of State (through DOS, CIA, or  
1513 DOD/DIA inspectors) would have visited CEMS in Uzbekistan at some random  
1514 period of time after the goods had been received in order to inspect the goods and  
1515 ensure that the goods were still in the possession of the government of Uzbekistan  
1516 and not “lost” in Kazakhstan, China, North Korea, or Iran.

1517  
1518 The Commerce Department's and U.S. State Department procedures for conducting  
1519 pre-license checks and post-shipment verifications are similar and involve site  
1520 visits and equipment inspections by U.S. intelligence officers.

1521  
1522 A pre-license check or post-shipment verification is initiated by sending a cable  
1523 with relevant information about the case to the appropriate U.S. Embassy overseas.  
1524 Specific officials at the Embassy usually have been pre-designated to conduct these  
1525 checks, although special teams from Washington, D.C. also periodically conduct  
1526 end-use checks.

1527  
1528 The Embassy official initially collects background information on the end user  
1529 (listed in the end user certificate). Next, the Embassy official visits the end user  
1530 and interviews senior employees and executives there. Upon completing the visit,  
1531 the Embassy official is required to cable the Commerce Department or the U.S.  
1532 State Department PM/DDTC with the information collected and an evaluation (to  
1533 include the DOS, CIA, and DOD/DIA) as to whether the proposed end user is  
1534 considered a reliable recipient of U.S. technology.

1535  
1536 Based on the cabled information, the cognizant agency evaluates whether the result  
1537 of the check is favorable or unfavorable, and the license is issued or declined.

1538  
1539 Research Electronics repeatedly claimed that they had a “blanket” license to export  
1540 these goods, and I shared my concern with FBI and U.S. Customs about REI  
1541 possibly illegally smuggling arms and that I was concerned because they (REI)  
1542 kept claiming that they had such a license, but that I had obtained several REI  
1543 completed SED forms by accident which contained no ITAR license number, but  
1544 did include an fraudulent ECCN (hence, it was unlikely legitimate exports).

1545  
1546 I also made a formal report and inquiry to the U.S. Department of State  
1547 PM/DDTC, who confirmed that REI was not license to manufacture such goods,  
1548 and certainly was not actually applying for ITAR export licenses.

1549  
1550 In fact none of the REI gear has a legal ECCN, it is ALL ITAR 121.1 XI(b) items,  
1551 and the U.S. Department of State, and no other government agency has control  
1552 over it. Essentially Agents Christian McDowell and Agent Jamie Wiroll confected  
1553 a ruse with the Patrolman Mahoney, and used him as a foil to deceive the court by  
1554 proxy, and to attack, arrest, incarcerate, and to injury me.

1555  
1556 Research Electronics has been lying for years about the classification of their  
1557 goods, to get those goods exported improperly, which is likely why they had all of  
1558 their shipment from roughly Mid Dec 2009 until mid –April 2009 seized, detained,  
1559 or delayed (likely as a result of this case and a temporary seized and disbarment for  
1560 export privileges).

1561  
1562 Research Electronics, since 1996 to 2010 had told me that they were obtaining the  
1563 export license for all transactions, which is why they needed me to provide the  
1564 End-User Certificate or Letter, as they claimed that they had to provide this  
1565 document to the U.S. State Department to get the transaction approved.

1566  
1567 REI also repeatedly told me (by way of Dean Butler, Lee Jones, Tom Jones,  
1568 Michelle Gaw, and others) that REI had a blanket license (which I later discovered  
1569 through litigation and with interviews with federal Agents and licensing  
1570 authorities, to be a utter fiction circulated by REI, and that they possessed no such  
1571 license).

1572  
1573 With other manufacturers such as Rockell, EMCO, Electro-Metrics Micro-tel,  
1574 Morrow, and others of similarly classified ITAR 121.1 XI(b) equipment they  
1575 would also require this end user certification, which those other (not REI)  
1576 companies would send to the U.S. State Department and then wait for weeks and  
1577 months for the license to issue.



1578  
1579 Indeed, it was not until January of 2011 that I upon closely examining the matter  
1580 did I discover that Research Electronics had fraudulently represented their goods to  
1581 the U.S. State Department as NOT being munitions control items, which facilitated  
1582 them to fraudulently ship millions of dollars of goods to year to overseas buyers  
1583 and to subvert U.S. Export and Arms Control Law and gravely violate international  
1584 treaty.

1585  
1586 I had formally brought this to the attention of the FBI back in September of 2007,  
1587 but the agents could not get their head around the matter, and they seemed to be  
1588 quite ignorant of the ITAR 121.1 XI(b) issues and the international treaty.  
1589 Technically, the FBI has no authority in the matter, and rather they were on the  
1590 "turf" of the United States Department of State, and the FBI essentially covered up  
1591 or ignored the matter hen it as reported to them.

1592  
1593 Further, Patrolman Mahoney states in his sworn statement "From the interpretation  
1594 of this material we cross-referenced it with them "Commerce Country Chart"  
1595 which ultimately revealed that Uzbekistan is authorized to receive this equipment  
1596 and no license requirement is needed."

1597  
1598 However, at no time did I ever say anything other then, that a license was needed  
1599 or the goods could not be legally shipped. Patrolman Mahoney is lying is a sworn  
1600 document before this court.

1601  
1602 In *Giordenello v. United States*, although the Supreme Court construed the  
1603 requirement of "probable cause" contained in Rule 4 of the **Federal Rules of**  
1604 **Criminal Procedure**, it did so "in light of the constitutional" requirement of  
1605 probable cause which that Rule implements. *Id.*, at 485. The case also  
1606 involved an arrest warrant rather than a search warrant, but the Court said:  
1607 "The language of the Fourth Amendment, that ` . . . no Warrants shall issue,  
1608 but upon probable cause . . .' of course applies to arrest as well as search  
1609 warrants." *Id.*, at 485-486. See *Ex parte Burford*, 3 Cranch 448; *McGrain v.*  
1610 *Daugherty*, 273 U. S. 135, 154-157. The principles announced in  
1611 *Giordenello* derived, therefore, fore, from the **Fourth Amendment**, and not  
1612 from our supervisory power. Compare *Jencks v. United States*, 353 U. S.  
1613 657. Accordingly, under *Ker v. California*, 374 U. S. 23, they may properly  
1614 guide our determination of "probable cause" under the Fourteenth  
1615 Amendment.

1616

1617 Patrolmen Mahoney did not have any probable cause, he had no proof of any  
1618 wrong doing on my part, no proof or hint of fraud on my part, no theft or larceny  
1619 on my part, no deception on my part, no undue delay on my part, and indeed he  
1620 had not bothered to see that I actually had a legitimate business license (which I  
1621 did), that I had trademarks registered with the state, and that I was very well  
1622 respected internationally in my profession, and in the local community.

1623  
1624 Indeed, as Officer Mahoney appears to have working closely with REI in this  
1625 matter he would have known prior to 10/15/2009 that I has actually paid for this  
1626 shipment, and indeed in later judicial proceedings not only did REI judicially  
1627 confess that I had paid them for these goods, but also they judicially confessed that  
1628 they were working closely with the Rockport Police Department to set me up, by  
1629 delaying a shipment to assist the Rockport Police Department so as to falsely  
1630 accuse me of a non-existent crime.

1631  
1632 In fact, Patrolman Mahoney even had E-mail records in his possession between  
1633 himself and the GTS intermediary in Switzerland where they confirm to him that  
1634 they did indeed receive the goods... a shipment which left the factory on 12/1/2009  
1635 (prior to my arrest that day) as soon as the factory obtained the end user certificate  
1636 described above. The factory (REI) did in fact violate federal law with the  
1637 shipment, as it was later discovered by the federal agent who I talked with the  
1638 PM/DDTC Enforcement Office (Glenn Smith) that REI did not obtain the required  
1639 license for the shipment, nor were they even legally allowed to manufacture the  
1640 equipment (as manufacturing of such equipment requires a U.S. Department of  
1641 State license, which is different from the transaction-to-transaction licenses they  
1642 did not have either). Further, for several months after this shipment the U.S.  
1643 Customs seized all shipments of REI goods due to REI having been caught  
1644 illegally shipping controlled military electronics munitions without the proper  
1645 licenses to do so.

1646  
1647 Indeed, Sergeant Mark Schmink of the Rockport Police Department verbally  
1648 confessed to my Attorney Robert Laramie on 12/9/2009 that the Rockport Police  
1649 Department had “made a very grave error” in this case and that there as no basis  
1650 for this or any other case against me.

1651  
1652 Patrolman Mahoney actually discovered (and concealed) exculpatory evidence that  
1653 the GTS customer actually illegally had the goods in their possession on 12/4/2009  
1654 in New York City, NY and the goods were smuggled to Switzerland to arrive on or  
1655 about 12/5/2009 or 12/6/2009 so that Patrolman Mahoney knew all along in this  
1656 case that the customer actually had the goods, that Patrolman Mahoney knew this,

1657 Christian McDowell knew, Jamie Wiroll knew, the Essex County District Attorney  
1658 Jonathan Blodgett knew (or should have known), and ADA Kate Hartigan knew  
1659 (or should have known).

1660  
1661 During an in person meeting with the Federal Bureau of Investigation, U.S.  
1662 Customs, and then later with the U.S. State Department OIG and the Department  
1663 of Defense DCIS I was shown the “secret” REI Export documents related to this  
1664 and other transaction and these documents were discussed with my Attorney  
1665 Stephen Spring (who attended telephonically). These documents clearly show that  
1666 the exportation value was fraudulent, the nature of the goods listed on the  
1667 exportation documents were listed fraudulently, the listed end user and country  
1668 was fraudulent, and that REI – Research Electronics had not actually apply for any  
1669 required ITAR or DOS license for the illegal exportation of these goods. Further,  
1670 the REI exportation documents fraudulently stated that No License was required.

1671  
1672 Further, on or about 12/7/2009, Patrolman Mahoney sent GTS (in Switzerland) an  
1673 E-Mail stating to Mr. Paccaud (of GTS) that his complaint was the key to the  
1674 police filing other charges against me, inferring that he should conceal or deny that  
1675 he actually had received the goods. In fact, the exculpatory fact that the goods had  
1676 actually been illegally shipped by REI and received by GTS and was indeed  
1677 concealed by GTS, the Patrolman Mahoney, the Essex County District Attorney  
1678 Jonathan Blodgett, ADA Kate Hartigan, and others for approximately 30 months.

1679  
1680 In fact, had Patrolmen Mahoney actually contacted Attorney Robert Laramee (or  
1681 when Attorney Laramee repeated called him several weeks previous to  
1682 11/25/2009), it would have been explained to him that all that was needed to  
1683 initiate the licensing process was the EUC (from the actual end user in Uzbekistan)  
1684 to get the shipment released and to obtain the export license, and that once it was  
1685 provided by Uzbekistan to GTS and then provided to me that it would be sent to  
1686 REI, ho would then release the shipment 3 days to a week later (but only AFTER  
1687 the State Department ITAR or end user license was issued). Attorney Laramee  
1688 would have also explained to Patrolman Mahoney that the goods had already been  
1689 paid for my me (as I had paid REI in full for the goods, and they confirms this  
1690 payment as being for the shipment going to Uzbekistan on behalf of GTS), and  
1691 proof of this payment in full to REI would have been provided to him and the  
1692 matter closed. As Patrolman Mahoney refused to return my attorneys phone calls  
1693 (see Patrolman Mahoney’s statement to this effect in the above captioned  
1694 complaint, and then Patrolmen Mahoney belligerently refused to take any calls  
1695 from my attorney).

1696

1697 As, I was in school all day on November 30, 2009, but did call Research  
1698 Electronics a number of times on November 30, 2009 during my breaks between  
1699 classes to ensure that the new (and 3<sup>rd</sup>) End User Certificate from GTS was suitable  
1700 and acceptable, and to ensure that the goods would be dispatched with no further  
1701 delay once they got the Department of State license.

1702  
1703 However, on this day REI kept forwarding my calls to voicemail, or when I did  
1704 reach Michelle Gaw, she told me that she would call me back as REI was not  
1705 officially open yet due to the holiday.

1706  
1707 Late on the same day on November 30, 2009, I received a cryptic “call me back  
1708 right away,” E-mail from Michelle Gaw. In addition, on November 30, 2009, at  
1709 around 1 PM I received a large number of frantic phone calls from Agent Christian  
1710 McDowell that went on for most of the afternoon, and late into the afternoon and  
1711 early evening. I was unable to take his calls as I was at school all day and was  
1712 presenting a lecture that evening in regards to “Mitochondria, and Tracing it back  
1713 to the Cradle of all Life though Molecular Analysis.” I did get frustrated by he and  
1714 Michelle Gaw insanely flooding my cellular phone with phone calls and took his  
1715 call during a break at approximately 7 PM (as he as barraging my cell phone from  
1716 3-4 different phone numbers trying to get me to answer), only for him to unload on  
1717 me about my “security clearance being revoked, and that I was of no further value  
1718 to the government, and that my services were no longer required” He repeated this  
1719 to me three times, and then asked me “if I understand” and mid-way into his  
1720 senseless ranting, and I hung up on him to go back to talking about the genetic  
1721 make-up of the organelles involved in causing diabetes. I now realize and suspect  
1722 that Christian McDowell was scrambling to quickly sever ties with me, as  
1723 Patrolmen Mahoney had just filed criminal charges against me earlier that day, and  
1724 they he was about to arrest me the following day.

1725  
1726 It should be noted that at the time the Central intelligence Agency, the U.S.  
1727 Department of State, the U.S. Army, the Federal Bureaus and other federal  
1728 agencies ere by clients in regards to way engineering services, within my area of  
1729 expertise.

1730  
1731 I also now realize that Research Electronics also knew of the pending arrest which  
1732 is what compelled Michelle Gaw to send me a “call me right way” messages and  
1733 voicemails, and text message as well as repeatedly calling my cellular telephone all  
1734 that afternoon (which being in class meant I could not take the calls).

1735

1736 On 11/30/2009, from approx. 1 PM until 7 PM, between Christian McDowell and  
1737 Michelle Gaw, there were approximately 23 clusters telephone calls, and numerous  
1738 text messages sent to me within a six-hour period, many merely seconds apart. It  
1739 also suggests to me that both Michelle Gaw and Christian McDowell were  
1740 involved in the case more then previously thought, and suggests that Michelle Gaw  
1741 rejected my calls and sent me to voice mail and delayed addressing the matter of  
1742 the 3<sup>rd</sup> end user letter when I repeatedly called her earlier in the day.

1743  
1744 These frantic calling patterns tend to indicate to me that Michelle Gaw of Research  
1745 Electronics (or other employees of Research Electronics), and Christian McDowell  
1746 of the Boston FBI Office, and Patrolman Daniel Mahoney of the Rockport Police  
1747 Department were working in close concert with one another.

1748  
1749 On December 1, 2009, I returned to school in the morning and tried to call  
1750 Research Electronics, but they would not take my calls and I kept being routed to  
1751 voicemail instead of Michelle Gaw taking my calls. I did get a call back though  
1752 from Lee Jones of REI within a few hours of my leaving voicemail for Michele  
1753 Gaw who told me that the Swiss order was about to be shipped, and that it would  
1754 go out shortly (indeed it as released by REI minutes later), so that the customer in  
1755 Switzerland would have it early the following week. This is notable, as I would  
1756 later discover (though litigating and though DOD/DCIS, DOS/IG, U.S. Customs,  
1757 and the FBI) that REI lied on the export documents **and was shipping all goods  
1758 absent any State Department ITAR 121.1 XI(b) license.**

1759  
1760 It should also be mentioned that the shipment to Switzerland was quite literally on  
1761 the truck and enroute to the freight terminal prior to my arrest, but that Patrolman  
1762 Mahoney and the Commonwealth concealed this until he eve of the trial (for 30  
1763 months).

1764  
1765 It should be mentioned that when case 0939CR000772 went to jury trial (30  
1766 months after arrest), the Commonwealth went to considerable effort to conceal  
1767 exculpatory evidence until the very eve of trial (on orders, I was told by my  
1768 Attorney Paul Andrews, that were issued by DA Jonathan Blodgett for political  
1769 gain), and the ADA (Thomas Sholds) assigned to the case acknowledge that there  
1770 was no criminal case, as I had done nothing wrong. Indeed when the exculpatory  
1771 evidence was examined on the eve of trial, and then presented to the court, the  
1772 court dropped the charges and provided an apology for what the police have done.  
1773 Once the charges were dismissed on May 17, 2012; Patrolman Mahoney, launched  
1774 into a loud tirade of obscenities and blasphemies in the lobby of the courthouse and

1775 did cause a breach of the peace in violation, before he stomp loudly don the stairs  
1776 and departed the lobby area.

1777  
1778 In a related document (that is in the Clerks record) authored by Patrolman  
1779 Mahoney entitled "Supplemental Narrative for Patrol Daniel J Mahoney – Page 1"  
1780 "Ref: 09-107-WA" Patrolman Mahoney states that he "met with ADA Kate  
1781 Hartigan on Monday 11/30/09" The problem with this document and with his point  
1782 of the narrative which he attributed to ADA Kate Hartigan would have been  
1783 forbidden as it violated *Aguilar v. Texas*, 378 US 108 - Supreme Court 1964, as  
1784 she is not the required "Informed, Detached, Deliberate person" described under  
1785 *Aguilar*. Further, the Assistant District Attorney does not provide probable cause  
1786 that facilitates an arrest warrant, only the un-varnished facts of the officers  
1787 affidavit can do this, and then only the Magistrate or the Judge by determine if  
1788 probable cause exists or not by examining the affidavit, not by the police  
1789 conspiring with the ADA (Kate Hartigan) to fine tune their mutual fraud upon the  
1790 court.

1791  
1792 ADA Kate Hartigan overstepped the bounds of her office, and by so doing violated  
1793 my civil rights as per **CHAPTER 265 CRIMES AGAINST THE PERSON,**  
1794 *Section 37 Violations of constitutional rights; punishment.*

1795  
1796 Also in the "Supplemental Narrative for Patrol Daniel J Mahoney – Page 2" "Ref:  
1797 09-107-WA" Patrolman Mahoney further lies to the court in this sworn document  
1798 as states "the fact the Mr. Atkinson has only a zip code listed as his residence"  
1799 which Patrolman Mahoney knew as an utter lie as not only was I a registered voter  
1800 in Rockport, MA with the address of "31R Broadway" or "31 Broadway, Unit# R",  
1801 but also had that same address on my drivers license, EMT license, firearms  
1802 license, town rosters, "in-house database" in other places. Additionally, Patrolman  
1803 Mahoney had driven me home several times and he and others on the police  
1804 department knew where I lived and had visited me there. Indeed, when it came  
1805 time to actually arrest me, he drove at high speed right to my door, and went from  
1806 the police station straight to my door in under 5 minutes.

1807  
1808 Further, in severe weather the ambulance would at times stop in front of my house  
1809 to pick me up or to drop me off to expedite our responding to an emergency calls.

1810  
1811 "The Commissioner [magistrate] must judge for himself the  
1812 persuasiveness of the facts relied on by a complaining officer to show  
1813 probable cause. He should not accept without question the

1814 complainant's mere conclusion that the person whose arrest is sought  
1815 has committed a crime” in *Kaylor v. Superior Court*, 1980  
1816

1817 Patrolmen Mahoney lied in the application for an arrest warrant (that was never  
1818 signed, before the arrest), and thus deceived the magistrate (who did not sign the  
1819 arrest arrant, at least not the copy my attorney was given directly from the record,  
1820 and ho also observed that there as no signed arrant), and that Patrolman Mahoney  
1821 offered no probable cause or any crime to the magistrate. The magistrate would  
1822 have and should have questioned him as should the ADA about the case, and about  
1823 missing documents such as the Apostille, ITAR classifications tables, ITAR  
1824 licensing delays, and so on and about the numerous issues in his complaint that  
1825 make no sense and which are essentially gibberish.  
1826

1827 Towards the bottom of this page Patrolman Mahoney states:  
1828

1829 “Mr. Atkinson has refused to cooperate with this investigation and has  
1830 deposited the funds without sending the equipment to GTS of Switzerland.”  
1831

1832 However, at no time did I refuse to cooperate with the “investigation” but did refer  
1833 him to my attorney who would been happy to answer his questions, instead his  
1834 own report shows that Patrolman Mahoney refused to contact my attorney so that  
1835 he could be assisted in this matter and to delaying involved in obtaining licenses  
1836 for these types of specialized good, the importance of a proper end user  
1837 certification, the required pre and post inspections, and the process of executing a  
1838 lawful exportation of these types of goods, and this yet another lie to the court is  
1839 told by Patrolman Mahoney.  
1840

1841 Further, at no time did I “deposit funds” as this is not how a wire transfer works,  
1842 and rather the sender (GTS) deposits the funds into their on account and then  
1843 initiates a wire transmittal from one bank to another (and often though several  
1844 foreign intermediary banks), to arrive at the destination bank and account with zero  
1845 involvement of the person receiving the funds beyond the providing of a routing  
1846 number or merely account number.  
1847

1848 In applying for the arrest warrant, Patrolmen Mahoney does not make the required  
1849 disclosures required by Supreme Court in *Aguilar v. Texas*, 378 US 108 (1964),  
1850 whereby, he must provide details as to the accuracy, authenticity, and reliability of  
1851 both the information, and the source of the information. Patrolman Mahoney thus  
1852 evades such a disclosure and violates my civil rights. Had any judge or magistrate  
1853 issued any warrant based any of the documents provided by Patrolman Mahoney,

1854 then that judge of magistrate would be violating the *Aguilar Doctrine* and would in  
1855 fact be violating my civil rights in violation of both Federal (42 U.S.C. 1983 ) and  
1856 State law.

1857  
1858 Indeed, given that in such a case Patrolman Mahoney, the ADA (Kate Hartigan),  
1859 and the magistrate or judge would be violating the *Aguilar Doctrine* with the  
1860 issuance of any unlawful writ or warrant and would be a violation of 42 U.S.C.  
1861 14141 and 42 U.S.C. 1983 for respective police, prosecutorial, or judicial  
1862 misconduct in regards to a system of civil right violations.

1863  
1864 **42 USC § 14141** - *Cause of action*

1865 (a) Unlawful conduct

1866 It shall be unlawful for any governmental authority, or any agent thereof, or  
1867 any person acting on behalf of a governmental authority, to engage in a  
1868 pattern or practice of conduct by law enforcement officers or by officials or  
1869 employees of any governmental agency with responsibility for the  
1870 administration of juvenile justice or the incarceration of juveniles that  
1871 deprives persons of rights, privileges, or immunities secured or protected by  
1872 the Constitution or laws of the United States.

1873  
1874 **42 USC § 1983** - *Civil action for deprivation of rights*

1875 **Every person** who, under color of any statute, ordinance, regulation,  
1876 custom, or usage, of any State or Territory or the District of Columbia,  
1877 subjects, or causes to be subjected, any citizen of the United States or other  
1878 person within the jurisdiction thereof to the **deprivation of any rights,**  
1879 **privileges, or immunities** secured by the Constitution and laws, shall be  
1880 liable to the party injured in an action at law, suit in equity, or other proper  
1881 proceeding for redress, except that in any action brought against a judicial  
1882 officer for an act or omission taken in such officer's judicial capacity,  
1883 injunctive relief shall not be granted unless a declaratory decree was violated  
1884 or declaratory relief was unavailable. For the purposes of this section, any  
1885 Act of Congress applicable exclusively to the District of Columbia shall be  
1886 considered to be a statute of the District of Columbia.

1887  
1888 As Patrolman Mahoney's multiple frauds upon the court involved perjury (due to  
1889 his numerous lies in sworn documents), obstruction of justice (by virtue of his  
1890 hiding exculpatory evidence, 18 USC § 1503 – Obstruction of Justice), wire fraud  
1891 (by virtue of his use of the Internet to transmit messages to and from Switzerland,  
1892 18 USC § 1343 - Fraud by wire), witness tampering (by virtue of his trying to  
1893 discredit me as a witness in the Lyons Ambulance criminal case by arresting me



1894 for fraud when no fraud had taken place, 18 USC § 1511 - Obstruction of State or  
1895 local law enforcement, 18 USC § 1511 – Witness Tampering, 18 USC § 1513 -  
1896 relating to retaliating against a witness, victim, or an informant), kidnapping (by  
1897 virtue of his arrest of me, without a lawfully issued arrest warrant), prohibited  
1898 monetary transactions (by virtue of his collecting wages and other compensation  
1899 for violating my civil rights and kidnapping me, 18 USC § 1957 - relating to  
1900 engaging in monetary transactions in property derived from specified unlawful  
1901 activity) he has crossed the repeatedly crossed threshold of multiple RICO  
1902 predicate criminal acts with his associates and co-conspirators. As by his sworn  
1903 statements he did this in concert with other, he has established the existence of a  
1904 complex organized criminal enterprise operating in a hierarchical structure.  
1905

1906 Under the Federal RICO statutes (keeping in mind the Supremacy clause of the  
1907 Constitution of the United States), Patrolman Mahoney’s conduct is marked by his  
1908 last known overt act on this case on 5/17/2012 (whereby he lied to the ADA  
1909 Thomas Sholds), and then reaching backwards in time to the date of his first  
1910 confessed action on this matter on 11/9/2009 and upon numerous dates between  
1911 these two dates. This the statue of limitations did not start to toll on his conduct  
1912 until 5/17/2012.  
1913

1914 Further, even if Patrolman Mahoney was able to obtain a signed arrest warrant,  
1915 prior to arresting me, that arrest warrant would be instantly null and void from the  
1916 moment it was signed as nothing in Patrolman Mahoney’s Application, Complaint,  
1917 or Narrative complies with the *Aguilar Doctrine* or other statutes and  
1918 Constitutional, case law, points of authority, and he would be acting as if he had no  
1919 warrant, even if he had a warrant signed by the court, which he did not have and  
1920 such a warrant is issued would thus be *void ab initio*.  
1921

1922 The Supremacy Clause of the Constitution of the United States commands that the  
1923 Constitution, the Amendments to the Constitution, Federal Statutes, and Federal  
1924 law are Superior to any law of the Commonwealth of Massachusetts. It is a act of  
1925 Constitutional disobedience and an act of insurrection if the Law of the  
1926 Commonwealth is in Conflict with the superior laws, and the Commonwealth  
1927 ignores the superiors law and attempts to apply the inferior or subordinate law.  
1928

1929 The Gloucester District Court Must and Shall Obey The Constitutions of the  
1930 United States and is subordinate to both Federal Law and the Constitutional Law,  
1931 as per *Marbury v. Madison*.  
1932

1933  
1934  
1935  
1936  
1937  
1938  
1939  
1940  
1941  
1942  
1943  
1944  
1945  
1946  
1947  
1948  
1949  
1950  
1951  
1952  
1953  
1954  
1955  
1956  
1957  
1958  
1959  
1960  
1961  
1962  
1963  
1964  
1965  
1966  
1967  
1968  
1969  
1970  
1971  
1972

“The particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.”  
**Marbury v. Madison** () 100 U.S. 1

Under **Marbury**,

- a. The Constitution of the United States is first applied as the Supreme Law of the Country and is Supreme to all Federal Law and all State Laws
- b. The Amendments to the Constitution bear the same force and authority as the original Constitution, and it is thus Supreme to the Laws of the United States, and Supreme to the Laws and Statutes or Policies of the many States (including the Commonwealth of Massachusetts) or cities.
- c. Federal Law is supreme to the laws of the individual states, but inferior to the Constitution and its Amendments.
- d. Under the 14th Amendment, the Commonwealth of Massachusetts is forbidden to make any law or statute that infringes upon the civil rights of any citizen (to include the first ten and all other amendments to the Constitution of the United States).
- e. The Supreme Court of the United has forcefully stated that all of the first ten Amendments to the Constitution are applied by the operation of the 14th Amendment, and that the Bill of Rights speak of Fundamental INDIVIDUAL rights, that it is not within the control of the States, or the Judiciary of any state.
- f. Any state statute or policy, which infringes upon the Constitution, or the Bill of Rights, or the Amendments to the Constitution is legally mandated to be *void ab initio*
- g. It is a violation of the oath of office of any minister, legislative, or judicial official to not obey the Constitution and its Amendments, and to recognize it as the Supreme Law of the land.
- h. Under 42 USC 14141 it is a criminal act for any judicial officer to supersede the Constitution of the United States with State Statutes.
- i. Under **Marbury v. Madison**, all judicial, prosecutorial, and law enforcement officers must obey the Constitutional law first, then Federal Law, and must ignore any State Statute that violates Constitutional Law or Federal Law.
- j. Further, all state courts are inferior to the U.S. Supreme Court, and are subordinate to the Supreme Court and the Circuit Courts, and the Federal District Courts.

1973  
1974  
1975  
1976  
1977  
1978  
1979  
1980  
1981  
1982  
1983  
1984  
1985  
1986  
1987  
1988  
1989  
1990  
1991  
1992  
1993  
1994  
1995  
1996  
1997  
1998  
1999  
2000  
2001  
2002  
2003  
2004  
2005  
2006  
2007  
2008  
2009  
2010  
2011  
2012

“Supreme Court reasoned that the Fourteenth Amendment prohibits a State from denying any person within its jurisdiction the equal protection of the laws. Since a State acts only by its legislative, executive, or judicial authorities, the constitutional provision must be addressed to those authorities, including the State's judges. Section 4 was an exercise of Congress' authority to enforce the provisions of the Fourteenth Amendment and, like the Amendment, reached unconstitutional state judicial action.” - *Pulliam v. Allen*, 466 US 522 - Supreme Court 1984, at 541

Thus, I assert that this action by the Commonwealth (though Patrolman Mahoney, ADA Kate Hartigan, DA Jonathan Blodgett, and others) is an unlawful state action in violation of Constitutional Law, and that the (now dismissed) criminal case against me was a prohibited “unconstitutional state judicial action,” as described in *Pulliam v. Allen*.

The Supreme Court first applied the Fourth Amendment's prohibitions to the States through the Fourteenth Amendment in *Wolf v. Colorado*, 338 U.S. 25, 28 (1949), which held that:

“The security of one's privacy against arbitrary intrusion by the police -- which is at the core of the Fourth Amendment -- is basic to a free society. It is therefore implicit in 'the concept of ordered liberty' and as such enforceable against the States through the Due Process Clause [of the Fourteenth Amendment].”

*Mapp v. Ohio*, 367 U.S. 643 (1961), extended *Wolf* by holding that a central method of enforcing the Fourth Amendment, the exclusionary rule, was also applicable to the States through the Fourteenth Amendment.

The proposition that Congress may enact legislation pursuant to its § 5 power to redress violations of constitutional amendments made applicable to the states through the Fourteenth Amendment is not novel. In *Flores*, 521 U.S. at 519, the Court said:

“We agree ... of course, that Congress can enact legislation under § 5 enforcing the constitutional right to the free exercise of religion. The "provisions of this article," to which § 5 refers, include the Due Process Clause of the Fourteenth Amendment. Congress' power to enforce the Free Exercise Clause follows from our holding in *Cantwell v. Connecticut*, 310

2013 U.S. 296, 303 (1940) that the "fundamental concept of liberty embodied in  
2014 the [Fourteenth Amendment's Due Process Clause] embraces the liberties  
2015 granted by the First Amendment."  
2016

2017 By the same logic Congress has the power under § 5 to enforce the Fourth  
2018 Amendment, which has been made applicable to the States through that same  
2019 constitutional mechanism, the Fourteenth Amendment's Due Process Clause. As  
2020 such, § 5 grants Congress the power to enforce the Fourth Amendment's  
2021 restrictions on the ban of excessive force, **false arrests, false reports**, and  
2022 unlawful searches by police.  
2023

2024 18 U.S.C. § 242 makes certain conduct by persons acting "under color of law" that  
2025 violates citizens' constitutional rights a federal criminal offense.  
2026

2027 The Supreme Court has twice upheld the constitutionality of 18 U.S.C. § 242 and  
2028 its predecessors, first in *Screws v. United States*, 325 U.S. 91 (1944), and again in  
2029 *Williams v. United States*, 341 U.S. 97 (1950). Both *Screws* and *Williams*  
2030 concerned federal criminal prosecution of local, municipal law enforcement  
2031 officers for use of excessive force. Since § 242 is constitutional, then surely §  
2032 14141 is as well, for § 242 authorizes the more severe remedy of federal  
2033 prosecutions of criminal violations of the Constitution, including the Fourth  
2034 Amendment, while § 14141 simply authorizes civil suits to enjoin patterns or  
2035 practices of such conduct.  
2036

2037 I incorporate by reference the entire Clerk of Courts record of this case which  
2038 provided *prima facie* evidence of the criminal acts of Patrolman Mahoney. I also  
2039 incorporate by reference the E-mail records of Patrolman Mahoney between GTS  
2040 and himself (in possession of the Rockport Police Department) and the end user  
2041 documents and related correspondence possessed by officer Mahoney.  
2042

2043 Signed under the pains and penalties of perjury this 26th day of November 2012, at  
2044 Rockport, Massachusetts.  
2045

2046  
2047 \_\_\_\_\_  
2048 JAMES M. ATKINSON  
2049 31R Broadway  
2050 Rockport, MA 01966  
(978) 546-3803