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DIVISION OF CRIMINAL JUSTICE

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Report of the State's Attorney for the Judicial District of Ansonia-Milford Concerning the Death of Carl R. Talbot in the New Haven Correctional Center on March 21, 2019

1. Legal Authority for the Report

Connecticut General Statutes § 51-277a provides in pertinent part as follows:

(a)(1) Whenever a peace officer, in the performance of such officer's duties, uses physical force upon another person and such person dies **as a result thereof...** the Division of Criminal Justice shall cause an investigation to be made and shall have the responsibility of determining whether the use of physical force by the peace officer was appropriate under section 53a-22. The division shall request the appropriate law enforcement agency to provide such assistance as is necessary to determine the circumstances of the incident.

In addition, the State of Connecticut Division of Criminal Justice has adopted a policy concerning use of force investigations. This policy was revised after receipt and assignment of this investigation, therefore, this report is submitted in accordance with prior policy. Pursuant to that policy, on or about October 24, 2019, former Chief State's Attorney Kevin T. Kane referred this matter to the Office of the State's Attorney for the Judicial District of Ansonia-Milford for an investigation and issuance of a report regarding the death of Mr. Talbot on March 21, 2019.

2. Incident Overview

On March 21, 2019, Carl R. Talbot was an inmate housed at the New Haven Correctional Center (NHCC), on Whalley Avenue in the City New Haven. Mr. Talbot had been remanded to custody on a Violation of Parole on Tuesday evening, March 19, 2019. Parole Officer Giovanna Harris made that determination based on several factors and in consultation with her supervisor.

On the morning of Thursday, March 21st, Mr. Talbot was housed in the medical unit at the New Haven Correctional Center. At approximately 6:45 a.m., Corrections Officers responded to Mr. Talbot's cell because he was yelling and screaming. One of the Corrections Officers, Nekengie Brookshire, observed Mr. Talbot smearing feces over himself and his cell. Mr. Talbot was given an opportunity to shower and obtain clean clothes. Mr. Talbot complied with directives and was escorted to the shower within the medical unit.

After showering, Mr. Talbot failed to comply with verbal commands to stand up and leave the shower. Lt. Padro used a chemical agent and sprayed Mr. Talbot in the facial area at that time. Lt. Padro also delivered a leg strike to the upper part of Mr. Talbot's torso. The leg strike is visible on the hand-held video from the medical unit.

Mr. Talbot was taken to the decontamination station, and in addition, eye wash was administered to him by Nurse Margo Zukowska. Corrections Officers assisted Mr. Talbot into clean clothing. Having been

medically cleared to return to the Restrictive Housing Unit (RHU), three Corrections Officers (Daniels, Gibbons, Belanger) directly assisted him into a wheelchair and toward the elevator. Mr. Talbot was handcuffed in front for the transport.

While en route, Mr. Talbot tried to stand up several times and refused to comply with commands to remain seated. At the elevator, Mr. Talbot eventually removed himself from his chair and as a result, rode the elevator on the floor. While in the elevator, a chemical agent was once again administered to Mr. Talbot by Lt. Padro.

After exiting the elevator, Mr. Talbot compliantly walked into his cell with the assistance of the Corrections Officers. Mr. Talbot appeared anxious and agitated in his cell. After non-compliance with commands to calm down and relax, Lt. Padro used a chemical agent once again. Lt. Padro also requested a Corrections Officer retrieve in-cell restraints.

Several Corrections Officers assisted in the application of the in-cell restraints. Lt. Padro summoned the nurse to come to the cell¹. After application of the in-cell restraints, Lt. Padro and Nurse Zukowska checked Mr. Talbot and departed. The cell was not decontaminated.

Per protocol, fifteen minute observation checks were performed by the Corrections Officers. At the 8:45 check, Corrections Officer Bii-ronn Wilkes noted that Mr. Talbot was "lying still and quiet".

Shortly after beginning her shift, three Corrections Officers accompanied Lt. Angel Champion to Mr. Talbot's cell in order to see whether it was feasible to remove the in-cell restraints. Upon arrival, at approximately 8:57, Lt. Champion determined that Mr. Talbot was not breathing. Lt. Champion called a Code White – inmate medical emergency – immediately.

In addition to the medical staff at NHCC, both the New Haven Fire Department (NHFD) and American Medical Response (AMR) joined in efforts in resuscitation. In addition to CPR, Narcan was administered twice to Mr. Talbot as resuscitation efforts continued. Mr. Talbot was transported to the St. Raphael's Campus of Yale New Haven Hospital. All efforts at resuscitation failed, and Mr. Talbot was pronounced deceased at 9:40 a.m., by Dr. Shashani Baldeo.

Lt. Charles Padro was placed on administrative leave on March 21, 2019.

3. Medical Findings

On March 22, 2019, Dr. Maura DeJoseph, D.O., Deputy Chief Medical Examiner of the Office of the Chief Medical Examiner, conducted an autopsy. On that date, the cause of death was certified as:

PENDING FURTHER STUDY, CIRCUMSTANCES PENDING FURTHER INVESTIGATION.

The manner of death was certified as:

PENDING.

On October 24, 2019, Dr. DeJoseph certified the cause of death:

¹ It appears from the hand-held video from the RHU that medical personnel were summoned twice.

SUDDEN DEATH DUE TO PHYSICAL STRUGGLE WITH RESTRAINT, ATHEROSCLEROTIC AND HYPERTENSIVE CARDIOVASCULAR DISEASE AND MORBID OBESITY.

Dr. DeJoseph certified the manner of death as:

HOMICIDE (STRUGGLE/RESTRAINT INVOLVING CORRECTIONS PERSONNEL)

There were no significant internal injuries revealed in the autopsy.

4. Investigation

Upon notification of the death of Mr. Talbot on the date of the incident, members of the State's Attorney's Office of the Judicial District of New Haven, and Connecticut State Police (CSP) Troop I, responded to the New Haven Correctional Center. A short time thereafter, the CSP Central District Major Crime Squad (CDMCS) responded and assumed the investigation.

Upon a determination of the cause and manner of death by the Office of the Chief Medical Examiner, on October 24, 2019, the responsibility of the investigation, and analysis regarding the legality of the use of force by members of the Department of Corrections (DOC), was reassigned to this office, that of the Judicial District of Ansonia-Milford, per policy. Since most of the investigation had been completed, all of the materials were provided to this office by CDMCS shortly thereafter.

5. Materials Reviewed

1. Connecticut State Police Reports (20)
2. Department of Corrections Reports (55)
3. American Medical Response Run Sheets
4. New Haven Fire Department Run Reports
5. DOC Policies and Procedures (7)
6. Photographic Evidence (194 photos)
7. Videographic Evidence (7 videos)
8. Audio recordings - Department of Corrections Witnesses (23)

All materials are enumerated in Appendix A

6. Factual Findings

Corrections Officer Nekengie Brookshire (Incident Report, Recorded Interview):

Nurse Margo Zukowska (Incident Report, Recorded Interviews)

At approximately 6:00 on the morning of Thursday, March 21, 2019, Mr. Talbot refused his breakfast tray and morning medications. Corrections Officer Brookshire left his tray, and shortly thereafter observed Mr. Talbot eating. There is no indication in the records or interviews what medications were initially provided. In a subsequent interview with Nurse Zukowska on February 21, 2020, she indicated that the only

medication Mr. Talbot was scheduled to receive that day was Wellbutrin, which he refused. Corrections Officer Brookshire indicated in her recorded interview that she does not know if Mr. Talbot received those medications. She did indicate, however, that no medications were administered to Mr. Talbot overnight. In addition, there is no clear indication as to why Mr. Talbot was in the medical unit at that time.

Corrections Officer Brookshire indicated that at approximately 6:30 – 6:40 a.m., Mr. Talbot began screaming and requested a telephone call. Mr. Talbot, according to Nurse Zukowska, was not allowed telephone calls because he was a segregation inmate and in any event, no calls were allowed before 9:00 a.m. Both Corrections Officer Brookshire and Nurse Zukowska responded to Mr. Talbot's cell. When Mr. Talbot continued screaming and smearing feces, and then began banging in the cell, Corrections Officer Brookshire called for a lieutenant. Lieutenants John Barrett, Arden Coggins, and Carlos Padro responded. Both Coggins and Padro assisted and Mr. Talbot was allowed to shower. According to Corrections Officer Brookshire, Mr. Talbot refused to comply with several commands and would not get out of the shower and continued to keep turning the water on. Corrections Officer Brookshire indicated that after a warning was given², Lt. Padro deployed a chemical agent.

Corrections Officer Nicholas Belanger (Incident Report, Use of Force Report, Recorded Interview):

Corrections Officer Eddie Daniels (Incident Report, Recorded Interview):

Corrections Officer Jeffrey Gibbons (Incident Report, Use of Force Report, Recorded Interview)

Upon exiting the shower, Corrections Officers Belanger, Daniels, and Gibbons assisted Mr. Talbot to the decontamination station. They then assisted him back to a wheelchair whereupon they helped him with a change of clothes. Corrections Officer Belanger applied wrist restraints to Mr. Talbot, using two sets because of his size. Lt. Padro then lead the way as Mr. Talbot was transported toward the elevator.

At various points heading toward the elevator, for return to the RHU, Mr. Talbot attempted to stand up. En route to the elevator, Mr. Talbot inquires two times as to where he is being taken. There is no response. Mr. Talbot eventually maneuvers out of the wheelchair, and rides on the floor of the elevator. Lt. Padro deploys a chemical agent in the elevator. Corrections Officer Gibbons describes Mr. Talbot as “combative” while in the elevator and after placement in the cell. Corrections Officer Gibbons further indicates that Mr. Talbot was secured to a fixed surface in the elevator. Corrections Officer Belanger also describes Mr. Talbot as being secured on the elevator. There is no indication, either through witnesses or video, of any warning preceding the use of the chemical agent in the elevator.

Upon arrival to the RHU, Mr. Talbot complied and walked into Foxtrot L-07 Cell. There is no evidence that any medical treatment was provided to Mr. Talbot prior to his entering the cell. While in the cell, Mr. Talbot appears to be anxious and agitated. Mr. Talbot asked on more than one occasion for the opportunity to use the bathroom. Those requests were not addressed.

While in the cell, Corrections Officer Daniels indicates that Mr. Talbot was secured to the bed. Lt. Padro deployed a chemical agent once again, and no warnings are heard on the hand-held video. It is unclear from the incident report and interview of Corrections Officer Daniels the timing of this application of the chemical agent. It is clear from the video, however, that Mr. Talbot did not receive medical care between the time he got off the elevator and prior to the use of a chemical agent in his cell.

The Corrections Officers describe Mr. Talbot's behavior as “disruptive, non-compliant, actively resistant and combative”. Lt. Padro requested in-cell restraints to be applied. It is apparent from the hand-held video that it took many Corrections Officers and several minutes to apply the restraints. The number of

² Note: Only Corrections Officer Brookshire states that a warning was given, and this is in the video interview, not her written incident report.

Department of Corrections personnel obscures most, if not all, of the viewing of the application of these restraints.

Once the restraints were applied, Lt. Padro and Nurse Zukowska checked Mr. Talbot. Nurse Zukowska cleansed Mr. Talbot's face with eye cleaning solution, checked the restraint areas and pulses. She indicated that Mr. Talbot "had no labored breathing". They exited the cell. In her recorded interview, Nurse Zukowska indicated that when she left the cell, Mr. Talbot was not in any type of distress, he was calm and that there was no wheezing or gasping.

Corrections Officer John Antoine (Incident Report, Recorded Interview):

Lt. Angel Champion (Incident Report, Recorded Interview):

Corrections Officer Coron Pettaway (Incident Report, Recorded Interview):

Corrections Officer Bii-ronn Wilkes (Incident Report, Recorded Interview):

As an inmate in the RHU, fifteen (15) minute checks or observations were required per Department of Corrections protocol. The restraint checklist indicates checks were performed at 7:25 (initial), 7:30, 7:45, 8:00, 8:15, 8:30, and 8:45 a.m. At each time point, the Corrections Officer puts a code (corresponding to observations) and their initials. At 8:45, the last check prior to Lt. Champion's "Code White", Corrections Officer Wilkes observed Mr. Talbot "lying or sitting" and "quiet". In his incident report, he notes that he observed "live breathing flesh" for all inmates.

At the prior check at 8:30, Mr. Talbot was observed to be "talking to self" by Corrections Officer Antoine. Corrections Officer Antoine also noted "live breathing flesh" inside each occupied cell he viewed. These checks are from outside a closed cell as seen on the stationary video.

Lt. Angel Champion (Incident Report)

As soon as Lt. Champion observed that Mr. Talbot did not appear to be breathing, she immediately entered the cell and called a "Code White" and activated 911. Lt. Champion instructed Corrections Officer Larry Edwards to administer CPR immediately, as DOC medical personnel arrived.

DOC nurses continued CPR and assisted Mr. Talbot with an Automated External Defibrillator (AED). In addition, DOC nurses administered Narcan to Mr. Talbot on two occasions.

The New Haven Fire Department (9:07 a.m.) and American Medical Response (9:06 a.m.) responded and took over resuscitation efforts. According to the patient run sheets and other paperwork, both agencies arrived quickly and in close proximity to one another. Additional NHFD reports indicate that fire department personnel were "coughing and sneezing from potential pepper spray being sprayed before we arrived."

AMR/NHFD/YNHH

The AMR report indicates that upon arrival, Mr. Talbot was "pulseless and apneic" and that his face was "cold and blue". Similarly, the NHFD reports indicate that upon arrival, Mr. Talbot was "unresponsive and pulseless".

Upon arrival at the hospital, physical examination of Mr. Talbot yielded the following:

Constitutional:

He appears distressed. Face blue purple discoloration with stiff pale white tongue.

H.E.N.T.:

Pupils fixed and dilated.

Cardiovascular:

Pulseless.

Musculoskeletal:

Mottling of extremities with stiffening.

In addition, the medical records indicate that Mr. Talbot, when removed from the restraints was "noted to have rigor bilaterally in right and left shoulder arm moved straight out from body".

7. Legal Analysis

Connecticut General Statutes § 53a-22 provides that a police officer, *inter alia*, is justified in using physical force upon another person when and to the extent that he or she reasonably believes such to be necessary to ... defend himself or herself or a third person from the use or imminent use of physical force ... while preventing or attempting to prevent an escape. Note that the provision specifically applies to authorized officials of the Department of Corrections. In addition, this provision applies to any Department of Corrections employee directed to assist a peace officer.

From the time of the initial interaction with Mr. Talbot, in removing him from his cell in the medical unit, taking him to the shower, and transporting him back to the RHU, there are several witnesses who described Mr. Talbot's behavior as active resistance, non-compliant, and even combative.

In order for the use of physical force to be justifiable, there must be a reasonable belief that the use of physical force was necessary to defend against the use or imminent use of physical force or to keep Mr. Talbot in custody. From the hand-held video, it is apparent that Mr. Talbot refused to follow commands to get out of the shower. In addition, that video reveals that Mr. Talbot actively tried to remove himself from the wheelchair during transport and refused to comply with numerous commands to remain seated. It is also apparent from that video that Mr. Talbot, when standing on the bed in his cell and refusing to comply with commands, could pose a threat of physical injury to others in his presence due to his size alone. Department of Corrections policies and procedures (DOC Administrative Directive 6.5, 5) specifically authorize the use of reasonable physical force to maintain order and discipline, prevent self-infliction of injury, defend against the imminent use of physical force, and to the extent they reasonably believe such is necessary. Said directives also require verbal warnings by the Correctional Supervisor to the inmate prior to their use. There is no evidence that any warnings were provided by Lt. Padro, the supervisor, prior to the administration of the chemical agent, with the exception of Corrections Officer Brookshire's interview regarding the first deployment. By his own report, Lt. Padro indicated that the chemical agent was used three times. On two of those occasions, witnesses indicate that Mr. Talbot was "secured" – once in the elevator and once on the bed in his cell. In addition, there is some indication from the hand-held video that a second spray may have occurred following the leg strike by Lt. Padro in the shower, thus bringing the number of sprays to four.

The autopsy did not reveal any significant internal injuries to Mr. Talbot. Moreover, there is no apparent correlation to the use of a chemical agent as a contributing or proximate cause of Mr. Talbot's death³. Nurse Zukowska indicated that when she left Mr. Talbot, he did not exhibit labored breathing. Corrections Officers Wilkes, Pettaway, and Antoine all recorded that they observed "live breathing flesh" upon performing fifteen minute checks while in the RHU.

8. Recommendations

As chief law enforcement officer for the Judicial District of Ansonia-Milford, the charging decision in any criminal investigation properly rests with the State's Attorney.

Based on the independent review of all the investigative materials, it is the opinion of the State's Attorney that no actions of any individual Department of Corrections official can be determined to be a proximate cause in the death of Mr. Talbot. Said determination is necessary to any criminal prosecution for the death of Mr. Talbot based upon a theory of criminal negligence. In addition, no actions of any individual Department of Corrections official give rise to the degree of recklessness, such as would be a prerequisite to any criminal prosecution for the death of Mr. Talbot based upon that state of mind. Moreover, based upon review of all of the investigative materials, there is no basis for criminal prosecution for the death of Mr. Talbot based on intentional conduct. Therefore, no criminal charges will be brought with respect Mr. Talbot's tragic death.

That conclusion, however, does not complete my duties with respect to a determination of the appropriateness of the use of physical force in this case. State's Attorney Kelley is recommending that the Central District Major Crime Squad investigators submit an arrest warrant for review and judicial authorization charging Lt. Carlos Padro with one count of the crime of Assault in the Third degree in violation of § 53a-61 of the Connecticut General Statutes, as it relates to the leg strike to the upper torso of Mr. Talbot. The video footage reveals that Lt. Padro delivered that leg strike while Mr. Talbot was on his back on the floor of the shower, having just deployed a chemical agent.

Connecticut General Statutes § 53a-61 provides in pertinent part as follows: a person is guilty of Assault in the Third Degree when: (1) with intent to cause physical injury to another person, he causes such injury to such person.... "Physical injury", per Connecticut General Statutes §53a-3(3), means impairment of physical condition or pain.

It is apparent from the hand-held video that the strike to Mr. Talbot's upper torso was delivered with force immediately following the deployment of a chemical agent. Mr. Talbot was not given the opportunity to respond following the deployment of the chemical agent and was hampered by his size and the close quarters within the shower unit.

The criminal charge is merely an accusation and Lt. Padro is presumed innocent unless and until proven guilty.

9. Conclusions

³ Mr. Talbot's mother dropped off a C-PAP machine on Wednesday, March 20, 2019. There is no indication that Mr. Talbot had this available that night and into the next morning. In fact, in her February 21, 2020 interview, Nurse Zukowska indicated that she was not aware of the CPAP machine.

The Ansonia/Milford State's Attorney's Office expresses its sincere condolences to Mr. Talbot's family for his tragic loss of life. The State's Attorney wants to commend the CSP, Troop I and in particular, the CDMCS for their thorough investigation and response to questions from this office. In addition, State's Attorney Kelley also wants to thank Dr. DeJoseph, Deputy Chief Medical Examiner, of the Office of the Chief Medical Examiner for her responses and availability as this office reviewed the investigative materials. It is also important to note that the DOC was very cooperative with respect to this investigation.

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Appendix A – Materials Reviewed

1. Connecticut State Police Reports

- a. Initial Report of Det. Jeffrey Morgan
- b. On Scene arrival – Troop I – Tpr. Randal Tavares
- c. Primary Digital Photo Report – Det. Christopher Meier
- d. Secondary Digital Photo Report – TFC Brian Connolly
- e. Scene Video Report – Det. Peter Farr
- f. Sketch Map and Report – Det. Lindsey Valcourt
- g. Secondary Digital Photo Report – Det. Kevin Duggan
- h. Evidence Seizure Report – Uniform of Lt. Padro – Det. Kevin Duggan
- i. DOC Video Footage Report – Det. Jeffrey Morgan
- j. 48 hour background – Tpr. Timothy Kendrick
- k. OCME Reports
- l. DOC Incident reports – report of Det. Jeffrey Morgan
- m. AMR Run Sheets – report of Det. Jeffrey Morgan
- n. NHFD Run Sheets – report of Det. Jeffrey Morgan

2. Department of Corrections Reports

- a. Shift Commander Overview – Capt. W. Cole
- b. Critical Incident Brief – Lt. C. Padro
- c. Incident Report – C.O. N. Brookshire
- d. Incident Reports Supplemental
 - i. Lt. C. Padro
 - ii. Lt. A. Coggins
 - iii. C.O. W. Caple
 - iv. C.O. E. Daniels
 - v. C.O. J. Gibbons
 - vi. C.O. N. Belanger
 - vii. C.O. P. Davidson
 - viii. C.O. C. Petaway
 - ix. C.O. M. Gatison
 - x. C.O. C. Washington
 - xi. R.N. M. Zukowska
- e. Medical Incident Report – R.N. M. Zukowska

- f. Medical Incident Report – R.N. M. Zukowska
- g. Use of Force Reports
 - i. Lt. C. Padro
 - ii. C.O. C. Washington
 - iii. C.O. C. Petaway
 - iv. C.O. N. Brookshire
 - v. Lt. A. Coggins
 - vi. C.O. N. Belanger
 - vii. C.O. J. Gibbons
 - viii. C.O. M. Gatison
 - ix. C.O. P. Davidson
- h. Contraband/Physical Evidence Reports
- i. Video Review Reports
- j. Photographic Evidence Reports
- k. Inmate Information
- l. Restraint Checklist
- m. Shift Commander Overview – Capt. K. PETERSKI
- n. Critical Incident Brief – Lt. A. Champion
- o. Incident Report – Lt. A. Champion
- p. Incident Reports Supplemental
 - i. Lt. A. Champion
 - ii. C.O. P. Pellegrino
 - iii. C.O. J. Antoine
 - iv. C.O. L. Edwards
 - v. C.O. N. Barnes
 - vi. C.O. T. Smith
 - vii. C.O. D. Burroughs
 - viii. C.O. D. Dawson
 - ix. C.O. H. Frasier
 - x. R.N. G. Ballabani
 - xi. R.N. S. Draughn
 - xii. R.N. C. Nappi
 - xiii. L.P.N. M Gary

- xiv. C.O. J. Payne
 - xv. C.O. C. Little
 - xvi. C.O. B. Wilkes
 - xvii. C.O. K. Flowers
 - q. Medical Incident Report – R.N. G. Ballibani
 - r. Informational Log – C.O. Okolie
 - s. Contraband/Physical Evidence Reports
 - t. Photographic Evidence Reports
 - u. Inmate Property Form
 - v. Inmate Information
3. American Medical Response Run Sheets
 4. New Haven Fire Department Run Reports
 5. DOC Policies and Procedures -
 - a. Administrative Directive 6.5 – Use of Force
 - i. AD 6.5 Attachment A – Authorized Armory Items during Use of Force
 - ii. AD 6.5 Attachment B – Therapeutic Restraint Protocol
 - iii. AD 6.5 Attachment C – Medical Restraint Protocol
 - iv. AD 6.5 Attachment A – Authorized Armory Items during Use of Force
 - v. CN 6502 – Restraint Checklist
 - vi. CN 6501 – Use of Force Report
 6. Photographic Evidence
 - a. 14 photographs from report of Tpr. Randal Tavares
 - b. 46 photographs from report of Det. Christopher Meier
 - c. 78 photographs from report of TFC Brian Connolly
 - d. 56 photographs from report of Det. Kevin Duggan
 7. Videographic Evidence
 - a. Scene processing video by Det. Peter Farr
 - b. Fixed Cameras
 - i. DOC Video Export_031 FOXTROT LEFT_Thursday March 21 2019175412
 - ii. DOC Video Export_089 HOSPITAL – NURSE STATION_ Thursday March 21 2019175600
 - iii. DOC Video Export_099 HOSPITAL CELL CORRIDOR_ Thursday March 21 2019175623
 - c. Handheld Camera - Med Unit

- d. Handheld Camera – Segregation Unit
8. Audio recordings - Department of Corrections Witnesses
- a. Nurse Ballabani
 - b. Nurse Gary
 - c. Nurse Nappi
 - d. Nurse Zukowska
 - e. C.O. Antoine
 - f. C.O. Barnes
 - g. C.O. Belanger
 - h. C.O. Brookshire
 - i. C.O. Caple
 - j. C.O. Champion
 - k. C.O. Coggins
 - l. C.O. Daniels
 - m. C.O. Davidson
 - n. C.O. Dawson
 - o. C.O. Edwards
 - p. C.O. Frasier
 - q. C.O. Gatison
 - r. C.O. Gibbons
 - s. C.O. Pellegrino
 - t. C.O. Smith
 - u. C.O. Washington
 - v. C.O. Wilkes