

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CR-1235-2015**  
 v. :  
 :  
 **TERENCE DWIGHT FORSYTHE,** : **CRIMINAL DIVISION**  
 **Defendant** :

**OPINION AND ORDER**

On December 29, 2015, the Defendant filed a Motion to Suppress Evidence. A hearing on the motion was held on February 9, 2016.

**I. Background**

**A. Detective Al Diaz’s Testimony**

Detective Al Diaz (Diaz) was a Lycoming County detective for seven years. He was the coordinator of the Lycoming County Narcotics Enforcement Unit (NEU). The NEU’s function is to arrest people for drug violations in Lycoming County. There are full-time and part-time members of the unit. Part-time members help when the NEU requests. Municipal police officers are part-time members of the NEU. Each police officer submits an application to the NEU. Each application is signed by the chief of police in the officer’s jurisdiction. Municipal police officers are paid by their municipalities for their work in the NEU. The municipalities are reimbursed by the District Attorney’s Office, who receives money from the Pennsylvania Attorney General’s Office.

The NEU conducts interdiction roving patrols. An interdiction roving patrol is when law enforcement officers patrol areas where there is drug activity and attempt to stem the flow of drugs. “All those assigned [to a patrol] drive around looking for narcotics activity.” If a police officer wants to stop a vehicle while on patrol, he or she has the authority to stop the vehicle.

Diaz tells the patrolling officers to do their jobs. The NEU conducts interdiction patrols because there is a “really terrible drug problem in the county.”

On June 3, 2015, the NEU conducted an interdiction roving patrol. In order to conduct the patrol, Diaz requested the aid of law enforcement officers in other departments. Sergeant Chris Kriner (Kriner) of the Old Lycoming Township Police Department was among those requested to aid in the patrol, which was set up by Detective Michael Simpler of the Lycoming County District Attorney’s Office. The patrol included individuals from the Federal Bureau of Investigation, the Pennsylvania State Police, the Williamsport Bureau of Police, the Old Lycoming Township Police Department, the Pennsylvania Board of Probation and Parole, and the Lycoming County Probation Office. The officers were briefed before participating in the roving patrol. They were instructed to target certain areas. During briefings, Diaz sometimes gives the officers specific individuals to target, but he did not mention the Defendant or [the driver] during the June 3, 2015 briefing. After the June 3 briefing, “everyone went out to conduct investigations.”

#### **B. Sergeant Chris Kriner’s Testimony**

Sergeant Kriner has been a police officer with the Old Lycoming Township Police Department for 15 years. He has been a member of the NEU since 2001, and he has about 15 years of experience in conducting drug investigations. He assists members of the NEU in conducting drug investigations.

The NEU requested Kriner’s assistance with a roving drug interdiction patrol that it was planning for June 3, 2015. He was assigned to the patrol “through the Old Lycoming Township Police Department.” He was “made aware” of the date and time of the patrol and the location of the briefing. The briefing was held on June 3, 2015 at approximately 3:00 p.m. in the

conference room of the Old Lycoming Township Police Department, and the briefing lasted 30 to 45 minutes. Kriner was not given any specific information about the Defendant or [the driver] during the briefing.

Kriner “went out” immediately after the briefing. He was in full uniform and in an unmarked police vehicle with Chief William Solomon (Solomon) of the Old Lycoming Township Police Department. As part of the interdiction, Kriner is given general police powers throughout Lycoming County. He was patrolling the Interstate 180 corridor, and he was looking for indications of drug use, buying, and dealing. Kriner’s duties took him outside of his jurisdiction.

Shortly before 8:00 p.m. on June 3, 2015, Kriner was patrolling the area of the Weis Market on West Third Street in Williamsport. This area is not in the Old Lycoming Township Police Department’s jurisdiction. Rather, it is in the jurisdiction of the Williamsport Bureau of Police. Based on police reports and interviews with criminal defendants, Kriner believes the area is a high-crime area. He has received complaints of drug use and drug trafficking in the area. He has also made arrests for drug trafficking in the area.

As Kriner was driving through the Weis Market’s parking lot, he saw a green Chevy Blazer parked in the lot. Two men quickly exited the vehicle and went into the store. Kriner checked for information on the vehicle and learned that it was registered to an individual with an address in Mifflinburg, Union County. From his training and experience, Kriner knows that a lot of drug users go to Williamsport to purchase drugs. While the men were in the store, Kriner observed that the vehicle’s windows were down, its keys were in the ignition, and cell phones were inside the vehicle. The men exited the store several minutes after they entered. They were looking around, and Kriner believed that they were looking for him and Solomon.

One man sat in the Blazer's driver seat; the other man sat in the passenger seat. When the vehicle exited the parking lot, Kriner began to follow it. Kriner thought it was "probable that [the men] may have been involved in drug activity." At the intersection of Market Street and West Third Street in Williamsport, it was apparent that the Blazer's license plate light was out. Kriner does not remember if the police car's headlights were on.

The Blazer did not enter Route 15 South towards Union County. Instead, it proceeded east on Interstate 180. Kriner followed the vehicle into Loyalsock Township, which is not in Old Lycoming Township Police Department's jurisdiction. Kriner stopped the vehicle because the registration plate light was not operating. After the vehicle stopped, Kriner saw the passenger move around and twist his body. Kriner talked with the vehicle's passenger, who was the Defendant. Solomon talked with [the driver]. After talking with the Defendant, Kriner talked with [the driver]. Based on the interviews of the Defendant and [the driver], the Defendant was taken into custody. There were drugs "on the Defendant" and "drugs on [the driver]." Cell phones were seized from the vehicle.

### **C. Arguments**

The Defendant argues that the stop of the Blazer was illegal because Sergeant Kriner lacked the requisite probable cause. In support of his argument, he cites Commonwealth v. Salter.<sup>1</sup> The Defendant notes that it was not dark out, Kriner was able to obtain the license plate number, and Kriner did not turn off the patrol car's headlights.

The Defendant also argues that the traffic stop violated the Municipal Police Jurisdiction Act (MPJA). He argues that Kriner's actions do not fall into any of the exceptions to the rule prohibiting extraterritorial police conduct. In support of this argument, the Defendant cites 42

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<sup>1</sup> 121 A.3d 987 (Pa. Super. 2015)

Pa.C.S. § 8953(b), which provides that the exceptions to the rule do not “extend or otherwise enlarge a municipal police officer’s power and authority to arrest any person for an offense unless specifically authorized by law.” The Defendant contends that Kriner was not authorized to enforce the law in Williamsport and Loyalsock just because the District Attorney assigns him to a patrol. He argues that suppression is appropriate because the District Attorney cannot form his own police force.

The Commonwealth argues that the video from the patrol car’s camera shows that Kriner had probable cause to stop the Blazer for a violation of Section 4303(b) of the Motor Vehicle Code. It notes that the Blazer’s lights were on but the license plate was not illuminated. The Commonwealth also notes that it was dusk, a time when vehicles typically have headlights on. Finally, the Commonwealth argues that the Defendant has no standing to challenge [the driver’s] statements.

The Commonwealth argues that this case is a “simple, ordinary application of the MPJA.” It contends that Kriner’s actions did not violate the MPJA because Diaz requested his assistance, and 42 Pa.C.S. § 8953(a)(3) allows an officer to perform functions outside of his jurisdiction when another officer requests assistance. The Commonwealth argues that this situation is “the very thing that the MPJA was enacted to address.” It notes that the MPJA should not be strictly construed. In addition, the Commonwealth argues that, if the Court finds Kriner’s actions violated the MPJA, suppression is not the proper remedy. It contends that suppression is not proper because Kriner conducted an ordinary traffic stop, and he was not acting in bad faith.

## II. Discussion

“The authority of [municipal police] officers to perform their duties outside of their primary jurisdictions is governed by the Municipal Police Jurisdiction Act (MPJA) . . . .” Commonwealth v. Eicher, 605 A.2d 337, 344 (Pa. Super. 1992). “The purpose of the MPJA is to proscribe investigatory, extraterritorial forays used to acquire additional evidence where probable cause does not yet exist.” Commonwealth v. Chernosky, 1874 A.2d 123, 130 (Pa. Super. 2005). “One of the principal purposes of the MPJA is to promote public safety while placing a general limitation on extraterritorial police patrols.” Commonwealth v. Laird, 797 A.2d 995, 998 (Pa. Super. 2002). In Eicher, the Superior Court of Pennsylvania discussed the purposes behind the MPJA:

[C]ompeting goals [are] sought to be achieved by the legislature. On the one hand, the legislature has sought to restrict extra-territorial forays by the police to promote public safety and to foster municipal control over the police. However, the legislature has also recognized the necessity of creating practical exceptions to the otherwise harsh and unworkable rule prohibiting extra-territorial police conduct which would, in the absence of such exceptions, only inure to the benefit of criminals. In striving to balance these competing interests, the appellate courts have held that the MPJA should not be rigidly applied but should be liberally construed to effectuate its purposes.

605 A.2d at 344-45 (internal citations and quotation marks omitted). Fostering “local control over police, and discourag[ing] extraterritorial forays by outside law enforcement officers who are not subject to the control of the municipality [is] certainly a laudable goal.” Commonwealth v. Merchant, 595 A.2d 1135, 1138 n.7 (Pa. 1991).

“Under the MPJA, the municipal police are permitted to engage in extra-territorial functions in six specific circumstances . . . .” Eicher, 605 A.2d at 344. “It is in the interest of promoting public safety . . . that the MPJA exceptions contemplate and condone extra-territorial activity in response to specifically identified criminal behavior that occur[s] within the primary jurisdiction of the police.” Laird, 797 A.2d at 998. “Section 8953(a) [of the MPJA] delineates

[the] six specific situations wherein an officer can go outside of his or her primary jurisdiction to make arrests, serve warrants and perform other official functions . . . .” Commonwealth v. O’Shea, 567 A.2d 1023, 1028 (Pa. 1989).

Here, the Commonwealth argues that Sergeant Kriner’s actions fall into Section 8953(a)(3) of the MPJA. “Subsection (a)(3) provides that a police officer has the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that officer beyond the the [sic] territorial limits of primary jurisdiction as if enforcing those laws within the officer’s primary jurisdiction when the officer has been requested to aid or assist any local, State or Federal law enforcement officer or otherwise has probable cause to believe that the other officer is in need of aid or assistance.” Commonwealth v. Triplett, 564 A.2d 227, 231 (Pa. Super. 1989). The Commonwealth argues that Kriner’s actions fall into the exception because Detective Diaz requested Kriner to assist in the patrol.

Sergeant Kriner’s actions in this case are prohibited by the MPJA. Kriner engaged in an extraterritorial foray to acquire evidence where probable cause did not yet exist. His activity was not in response to specifically identified criminal activity. Neither the Defendant’s name [n]or [the driver’s] name was mentioned in the briefing before the patrol. Kriner was outside of his jurisdiction and looking for indications of drug use, buying, and dealing. This conduct is prohibited by the MPJA. The Court agrees with the Commonwealth that the MPJA should be liberally construed. But it should be liberally construed to effectuate its purposes. One of its purposes is to restrict extraterritorial forays.

The “suppression of evidence may or may not be the appropriate remedy for a violation of section 8953 of the [MPJA], depending upon all of the circumstances of the case including the intrusiveness of the police conduct, the extent of deviation from the letter and spirit of the Act, and the prejudice to the accused.” Chernosky, 874 A.2d at 130 (quoting O’Shea, 567 A.2d

at 1030). Here, Sergeant Kriner engaged in an extraterritorial patrol, which is exactly what the MPJA seeks to restrict. See Commonwealth v. Henry, 943 A.2d 967, 973 (Pa. Super. 2008) (holding that suppression was unwarranted when an officer did not enter another jurisdiction to conduct an extraterritorial patrol or to embark on a fishing expedition in hopes of gathering more evidence to reach a determination of probable cause). Because Kriner's actions were contrary to the letter and spirit of the MPJA, suppression is the appropriate remedy in this case.

In Martin v. DOT, Bureau of Driver Licensing,<sup>2</sup> the Supreme Court of Pennsylvania held that an officer's "conduct in pursuing [a driver into a neighboring jurisdiction] and arresting [the driver] was without statutory authorization." 905 A.2d at 448. The use of the word "pursuing" shows that a violation of the MPJA can occur before a person is seized. "The very purpose of the MPJA is to proscribe such investigatory, extraterritorial forays used to acquire additional evidence where probable cause does not yet exist, and the suppression of such evidence *obtained from such forays* is an appropriate remedy under the MPJA." Laird, 797 A.2d at 999 (emphasis added). The exclusionary rule may "act to suppress evidence obtained *pursuant to an MPJA violation*." Henry, 943 A.2d at 972 (emphasis added).

Here, the officers violated the MPJA by patrolling and looking for drug activity outside of their jurisdiction. Therefore, any evidence obtained pursuant to the unlawful extraterritorial patrol is suppressed. This includes any evidence found in the Blazer, the drugs found on the Defendant, any statements made by the Defendant, and all of the officers' observations on June 3, 2015, including that they saw drugs, the Blazer, [the driver], or another person. It is the intent of this Court to suppress all of the evidence obtained pursuant to the extraterritorial patrol such that the officers will be unable to testify about anything that happened on June 3, 2015. The evidence suppressed also includes the drugs found on [the driver] because that evidence was

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<sup>2</sup> 905 A.2d 438 (Pa. 2006).



obtained pursuant to the same MPJA violation that produced the aforementioned evidence. The Court agrees with the Commonwealth that there is no ground to suppress [the driver's] proposed testimony. However, the Court notes that the drugs, the Defendant's statements, the evidence from the Blazer, and the officers' observations on June 3, 2015 are suppressed, so the Commonwealth is not able to use that evidence to corroborate [the driver's] testimony.

### **III. Conclusion**

Sergeant Kriner violated the MPJA by engaging in an extraterritorial patrol. Suppression is appropriate because Kriner's actions were contrary to the letter and spirit of the MPJA. Any evidence obtained pursuant to the unlawful extraterritorial patrol is suppressed.

### **ORDER**

AND NOW, this \_\_\_\_\_ day of February, 2016, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Motion to Suppress Evidence is GRANTED in part and DENIED in part. It is ORDERED and DIRECTED that the controlled substances, the Defendant's statements, the evidence from the Blazer, and the officers' observations made on June 3, 2015 are hereby SUPPRESSED. The motion as it relates to [the driver's] proposed testimony is DENIED.

By the Court,

Nancy L. Butts, President Judge