



MBTA Transit Police Affidavit

1. On Monday 04/11/11, at approximately 3:15 p.m., MBTA Transit Police Dispatch received a call from the MBTA Operations Control Center (OCC) reporting a bus driver was being assaulted on a Route #15 bus at the intersection of Dudley and Hamden Streets located in Roxbury.

2. Initial responding Transit Police officers, Officers Lawrence Clark and Samuel Abany observed and reported via radio, MBTA Bus #2157 had struck a building at 385 Dudley Street. Officers reported two (2) male subjects were trapped between the bus and the building. As they continued to transmit information to Transit Police Dispatch, the officers informed police personnel one (1) of the male subjects (later identified as Michael Baptista, D.O.B. 01/13/92) was able to free himself just prior to their arrival. The officers then reported the other male subject (later identified as Felix Garcia, D.O.B. 08/24/92) had his left foot trapped underneath the front passenger side tire of MBTA Bus #2157.

3. Transit Police officers on scene observed multiple Boston Firefighters attempting to free Garcia. With the assistance of Boston Police officers, Transit and Boston Police began to gather information from passengers onboard the bus and bystanders who may have witnessed the incident. Simultaneously, Transit Police Officer Clark conducted a brief interview with the bus operator. He told Officer Clark while he was operating the Route 15 bus #2157 along Dudley Street, he smelled the odor of cigarette smoke emanating from the rear of the bus. He stopped the bus at or about 367 Dudley Street in order to access the situation.

4. He exited the bus through the front door. He walked to the rear doors which he opened when the bus stopped. He boarded the bus through the rear doors and approached a group of male subjects, two (2) of which are previously mentioned above, as Garcia and Baptista. Bus driver said he confronted the male subjects and inquired about who had been smoking. He said the male subjects denied smoking and became belligerent when he asked them to leave the bus.

5. Bus driver told Officer Clark he exited the bus, re-entered the front of the bus and sat in the driver's seat. While the bus was still parked he observed a group of male subjects (which included Garcia and Baptista) exit through the rear doors of the bus and walk toward the front doors of the bus. He continued to explain the male subjects entered the bus and began to physically assault him. He said at one point he lost consciousness from being punched by the male subjects. He said when he regained consciousness, he observed the bus he was operating #2157 had struck a building (385 Dudley Street).

6. Officer Clark observed the bus driver to have multiple contusions, redness and swelling to his head and face. Officer Clark advised Boston Emergency Medical (EMS) personnel. EMS treated and transported him to Boston Medical Center for injuries he had sustained during the incident.

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7. As interviews were being conducted on scene by officers, Boston Firefighters were able to free Garcia from the front passenger side tire. Garcia, along with Baptista, was transported by Boston EMS technicians Kevin Hunter and Walter Dunbar in ambulance #12 to the Brigham and Woman's Hospital located in Boston.

NOTE: Transit Police Crime Scene Services Sergeant Detective Kenneth Sprague and Detective Bruce Dolloff remained on scene and photographed the bus for evidentiary processing and coordinated its removal to Cabot Bus Garage.

8. During the transport by EMS ambulance #12, to the Brigham and Woman's Hospital, both Boston Police Officer Sheehan and I accompanied Garcia and Baptista in the rear of the ambulance. Upon our arrival at the hospital, I was able to conduct separate interviews with both male subjects.

9. At approximately 4:00 p.m., I conducted an interview in the emergency room with Garcia. Garcia said he boarded a Route #15 bus at Ruggles MBTA Station. He told me he was with his "boys" one (1) of which was Baptista. He said while the bus drove along Dudley Street just prior to Blue Hill Avenue the bus driver (Anderson) stopped the bus. Garcia said the bus driver exited the bus through the front doors and re-entered the bus through the rear doors. Garcia said the bus driver was yelling about people smoking on the bus. Garcia said he told the bus driver while holding his hands in the air "It's not me." Garcia said the bus driver probably thought he was the person smoking because he had a cigarette and lighter in his hand.

10. Garcia told me he could smell the cigarette smoke on the bus but did not observe who had been smoking. Garcia then made a spontaneous utterance and said he had been smoking a cigarette. When I inquired about his statement, he said he does smoke and did have a cigarette in his hand but he didn't light the cigarette on the bus. Garcia said while his foot was stuck under the bus and the firefighters were attempting to free him he ignited the cigarette he had been holding.

11. Garcia said while the bus driver was on the rear end of the bus, the bus operator began yelling at the passengers about the cigarette smoke. He said while the bus driver was yelling for the person smoking to get off of "My" bus, an unknown female patron requested to move past him to exit the bus because she had asthma. Garcia said his companion Baptista told the bus driver no one was smoking and told the bus driver to go back to the front of the bus and do his job. Garcia said the bus driver yelled back at Baptista, yelling he had a "cheap ass grandpa suit." Garcia said the bus driver exited the rear doors and went back to the front of the bus.

12. Garcia said he observed the bus driver sitting in the driver's seat while the bus was still stopped and he could see he had picked up an orange telephone. Garcia said he is on probation and did not want to get into any trouble so he told his companions to get off the bus before police arrived.

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13. Garcia said he and several other companions (he specifically named Baptista and another person) exited the bus at the rear doors and began to walk toward the front of the bus. Garcia said he walked ahead of the group, however he did observe Baptista re-board the bus at the front doors. He said Baptista and the bus driver were yelling at one another and then they began to physically assault one another. Garcia said when he observed Baptista punching the bus driver, he walked away to avoid the situation due to his current probation matter.

14. Garcia went on to say as he was walking away from the bus, the bus drove into his path and pushed him against the building with the moving bus trapping his left foot underneath the front passenger tire.

15. Garcia also informed me the bus he was traveling on, bus #2157, and was extremely crowded during the incident. He said all of the seats were occupied and people were standing in aisles. He believed 40 or more people may have been on-board the bus during the incident which had occurred on Dudley Street.

NOTE: While on scene, en route to the hospital and at the hospital, Garcia was observed by me "high fiving" people and yelling he was going to sue the MBTA. He was yelling to the crowd "Free MBTA pass for life!"

16. On the same date 04/11/11, at approximately 4:20 pm, Detective Patrick Guilfoy and I conducted an interview with Baptista. After establishing Baptista was alert and oriented we conducted our interview at room 34 in the emergency room of the Brigham and Woman's Hospital.

17. Baptista told Detective Guilfoy and I he attended an interview at "Year Up" located at 93 Summer Street in Boston. He said he traveled on an Orange Line train to Ruggles MBTA Station. Baptista said he arrived at Ruggles Station at approximately 3:00 p.m. Baptista said, when he arrived at Ruggles Station, he unknowingly met with some companions, one (1) companion being Garcia.

18. Baptista said he and his companions walked to the Route #15 bus stop and boarded the rear of bus #2157. Baptista said when he boarded the bus, he observed the bus was crowded. He said all of the seats were occupied and some people stood in the aisle. Baptista said, as the bus traveled along Dudley Street toward Blue Hill Avenue, he overheard passengers complaining about an unknown passenger smoking a cigarette on the bus.

19. Baptista said the bus passed through Dudley Square and made an abrupt stop just prior to Blue Hill Avenue at Hampden Street. He said the bus operator opened the front and rear doors. The bus operator walked to the rear entrance of the bus and yelled to the passengers that he wanted the passenger who was smoking the cigarette to extinguish it. Baptista stated the bus operator said, "Whoever is smoking on my bus better get off now!" Baptista said an unknown woman then moved past the bus operator claiming she had asthma and needed to get off of the bus due to the cigarette smoke.

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20. Baptista said the bus operator repeatedly said for the passenger who was smoking on the bus to get off. Baptista told the bus operator, "Just drive the fucking bus!" The bus operator then made a remark about the suit he was wearing. Baptista said the bus operator said something to the effect that his suit was cheap. Baptista said he got mad and again told the bus operator, "Just drive the fucking bus!" Baptista said the operator asked him if he was "The Ring Leader," and ordered him to get off of the bus.

21. When Baptista refused to exit the bus, after telling the bus operator he wasn't smoking and that he paid his fare, the bus operator walked back to the front of the bus, sat in the driver seat and used what Baptista described as an orange telephone to contact the police. When they observed the operator contacting the police and after his refusal to move the bus, Baptista and his companions exited the bus through the rear doors and began walking on the sidewalk toward the front of the bus.

22. Baptista said he was "pissed" the bus operator "kicked" him and his companions off of the bus. Baptista proceeded to walk toward the front of the bus and his intentions were to confront the bus operator and request information from him in order to file a complaint with the MBTA.

23. Baptista entered the bus through the front door and said to the bus operator, "Give me your fucking name!" Then he said, "Give me your fucking badge number!" Baptista said when he demanded the bus operator's information, the bus operator would not comply. Baptista said the bus operator stood-up from his seat and punched Baptista in the left side of his forehead. Baptista said he did not fight back, however he did attempt to break free from the bus operator by pushing his arms and chest. He said he grabbed the bus operator's jacket at the neck area while he was repeatedly punched by the operator.

24. Baptista said, he may have punched the operator in order to fend off his attack. Baptista said when he was able to break free from the bus operator he exited the bus. Baptista said when he exited the bus, he observed the bus operator abruptly turn the steering wheel of the bus from traffic toward his location on the sidewalk. Baptista said the bus operator stepped on the accelerator to make the bus go faster. Baptista said he was ejected from the bus and was subsequently trapped between the bus and the building.

25. Baptista told us his companion Garcia was also trapped underneath the wheel of the bus. Baptista said he observed the bus operator turn the steering wheel in his direction and once he and Garcia were trapped he yelled at the two (2) of them "I got you, I got you!"

26. On the same date, 04/11/11, at approximately 4:20 p.m., Detective Sean Conway conducted an interview with the bus Operator while at Boston Medical Center. He told Detective Conway he was operating bus #2157 a Route #15 bus which travels from Ruggles Station to Uphams Corner in Dorchester.

27. He said prior to the bus departing from Ruggles Station, numerous school age passengers boarded the bus through the front door. The bus was filled to capacity, therefore when the bus arrived at Dudley MBTA Station, Anderson was unable to allow more passengers to board. He

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said as he traveled along Dudley Street toward Blue Hill Avenue he could smell cigarette smoke emanating from the rear of the bus. When the bus approached the intersection of Dudley and Hampden Streets he stopped the bus, set the emergency brake, opened the doors and went to the back of the bus to address the person or persons who were smoking.

28. Due to the large volume of people traveling on the bus, he exited through the front doors and re-entered through the rear doors. He told the passengers in the back of the bus, (he specified his interaction was with Baptista, Garcia and three other companions), "Whoever is smoking must leave the bus now." He said an unknown male subject told him to, "Fuck off" and "Just drive the bus!" After the five (5) passengers refused to exit the bus, he exited the rear doors, walked to the front doors and got back onto the bus. Due to the lack of cooperation of the passengers, he contacted OCC to request police assistance.

29. He said the five male subjects repeated to him "Just drive the bus" and they asked, "What are you calling the cops for?" He said as they male subjects yelled profanities at him an unknown female passenger said she had asthma and exited the bus.

30. After a brief period, he observed approximately 10 juveniles exit the rear doors of the bus. When the juveniles exited the bus, he closed the rear door and released the emergency braking system. He said his intent was to close the front doors and continue on his route. However, before he was able to close the front doors of the bus two (2) of the male subjects who had just exited the rear doors of the bus re-entered the bus through the front doors.

31. The two (2) male subjects identified as Baptista and Garcia yelled profanities at him. Baptista told the bus driver he would "shoot" him if they saw him again and he also said, "I'm gonna fuck you up." Bus driver responded to him by saying, "What the fuck are you waiting on?" He said Baptista and Garcia then repeatedly punched him in the head. He told Detective Conway while he was being punched he was sitting in the driver's seat. He said he did not have any opportunity to stand from his seat. He said he did not fight back however, he held his hands up and attempted to push Baptista and Garcia away from him. He said he did not fight back because he was concerned for the security of the passengers and could lose his job if he had assaulted either male subject.

32. He said, during the assault he hit his head on the driver's window, causing it to shatter. He said at some point prior to the collision with the building he lost consciousness. When he regained consciousness, he said an unknown male subject told him to not move the bus. He proceeded to engage the emergency brake but left the bus engine running.

33. While interviews were being conducted at the hospitals, Lieutenant Detective Mark Gillespie conducted an interview at the incident location, Dudley and Hampden Streets. Lieutenant Gillespie identified a witness, who told Lieutenant Gillespie he was on the Route #15 bus at the time the MBTA bus operator was assaulted and the resulting collision. The interview was audio tape recorded as agreed to.

34. Witness said he was seated on the driver's side of the bus in the forward to mid -section of the passenger compartment prior to and during the assault as well as the resulting collision.

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He said, three (3) male subjects assaulted the bus operator and fled from the front doors of the bus. Two (2) of these subjects, while fleeing after the assault, were struck by the bus and trapped between the bus and the building that bus had struck. At this time, a third subject fled from the scene.

35. He said the incident developed because of unidentified passengers who were smoking in the rear of the bus. He said the bus was stopped at a bus stop located at approximately 377 Dudley St. He said the bus operator got off the bus and went to the rear doors, which were open and made an announcement stating whoever was smoking had to get off the bus. He said youth who were seated in the rear of the bus challenged the bus operator. He said he explained to those who were challenging him that it was against MBTA policy to smoke on the bus and the bus would not move until the passengers who were smoking got off the bus. He said one of the passengers (Baptista) who later assaulted the bus operator, told the bus operator to "Shut the fuck up and move the bus." He said the bus operator left the rear doors, re-entered the bus and took the driver's seat. He said the operator got on the phone and again became the target of more verbal abuse from the same group who were antagonistic toward him when he made the initial request for those who were smoking to get off the bus. He said the bus operator had explained there were physical reasons, including Asthma, for the MBTA's no smoking policy. He said the bus operator refused to move the bus until those smoking got off the bus. As the operator used the radio to request police assistance, the group once again became abusive and shouted at him as they accused him of calling the police stating, "Oh, that nigga's gunna call the cop on us."

36. Shortly after (approximately two minutes), several passengers exited the rear doors of the bus. He said a group of three (3) youths walked alongside the bus adjacent to the sidewalk and ran into the bus through the front doors. He said these youths were the same youths who were previously abusive toward the operator when asked to stop smoking. After entering the bus, the youths jumped on him and immediately began to physically assault the bus operator as he was struck with fists several times. He said the bus operator started to defend himself as he tried to push his assailants away. During the assault, he said the bus started to move, creating fear and "chaos" on the bus. He said the bus was moving slowly as the bus "deviated" toward the sidewalk and struck a traffic control signal. As the bus was moving, three (3) of the subjects who were assaulting the bus operator fled the bus, leaving the bus operator in the driver's seat.

37. He continued to say, one (1) of these subjects fled the bus and got away while the two (2) other subjects became involved in the collision. One (1) of the subjects who was struck and "pinned" by the bus between the building and the front tire was able to free himself, however the other subject could not get out from the right front wheel of the bus. This individual needed emergency responders to extricate him. He said he thought the bus operator may have been hurt as a result of the assault.

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38. On the same date, Monday, 04/11/11, Lieutenant Gillespie and I went to a witnesses' residence after we had learned she had video recorded several moments after the incident. We conduct an interview with another witness, who told us she was on the Route #15 bus this same day during the time of the assault and collision. She said she boarded the bus at Ruggles MBTA Station with a friend known to her as "Joey." She said "Joey" was with several companions to include Baptista and Garcia.

39. She told us the bus was fully occupied to capacity leaving several patrons standing in the aisle. She said the bus operator passed Dudley Station without making a stop due to its full capacity. As the bus approached the intersection of Dudley and Hampden Streets, she said the bus operator stopped the bus. She said the bus operator exited the bus and entered the rear door. When he entered the rear door of the bus he made an announcement to the passengers that he smelled cigarette smoke and wanted the person who was smoking to exit the bus. She said, Garcia raised his hands and said, "It's not me!" She observed a lighter in Garcia's hand as he raised his hands making the above mentioned statement. sHE continued to say Baptista made several comments toward the bus driver. She heard Baptista tell the bus driver to, "Shut the fuck up and drive the bus."

40. sHE described the subjects in the back of the bus as those who were antagonistic and verbally abusive toward the driver as the same individuals who assaulted the driver in the front of the bus. She described two subjects identified as Baptista and Garcia. She said she knew "Joey" by name. The physical description she provided as well as the clothing description of both Baptista and Garcia matched the description of the individuals who she saw assault the driver. The description she gave also matched the physical and clothing descriptions of both Garcia and Baptista as observed by myself and Lieutenant Gillespie while interviewing them at the Brigham and Women's Hospital shortly after the accident.

41. She described the subjects referred to as # 1 black or Hispanic male with a light complexion, thin build with long braids and black and yellow sneakers. # 2 black male with a light complexion and wearing a suit with a blue shirt and wearing a tie.

42. On 04/11/11, 7:30 p.m. a witness to the incident came into MBTA Transit Police Headquarters. He was interviewed by Detective Conway and Patrick Guilfooy inside the Criminal Investigations Unit.

43. He said on Monday, 04/11/11, he boarded a Route #15 bus at Ruggles MBTA Station and sat directly behind the bus operator. He said the bus was crowded and therefore it did not make its scheduled stop at Dudley MBTA Station. He said the bus operator inquired if anyone needed to exit at Dudley Station to which no one replied. He said the bus continued along its route on Dudley Street. When the bus approached the intersection of Dudley and Hampden Streets he heard someone say, "Who is smoking on my bus." He said, he thought the voice was coming from behind him and not from the bus operator. Then he heard another voice say,

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"I have an asthma problem, we have an issue." The chatter continued and he heard young male voices laughing and sarcastically repeated, "I got asthma too."

44. After he heard all of the passengers complaining, the bus operator stopped the bus. When the bus was stopped, the witness still heard passengers saying, "Just drive the bus, just drive the bus." He could hear a siren in the background as the voices continued to say, "Are you calling the cops?" He observed an ambulance passing by with its lights and siren sounding. After the ambulance passed by the bus, several unknown male subjects exited the rear door of the bus. After the male subjects exited the rear door, he heard banging on the side of the bus. Two (2) teenage male subjects boarded through the front doors of the bus and began attacking the bus driver. He said he heard someone say, "Oh shit," "Oh my God."

45. He knew one (1) of the male subjects as Michael Baptista. He said he knew Baptista as he is a lifelong family friend. He said Baptista was dressed in a black suit and wearing a tie. He described the other male subject as a Hispanic male, teenager, wearing yellow sneakers. He observed Baptista and the other male (Garcia) "scuffling" with the bus operator.

46. At no point did he observe the bus operator remove himself from the driver's seat. He said the driver at no time defended himself by returning punches against his attackers. As Baptista and Garcia assaulted the bus operator he felt the bus begin to move. He described the movement of the bus to be "very slowly" without any acceleration or lurching ahead. He noted the bus was veering to the right and going up onto the sidewalk. He also observed the bus hit the traffic light. He stated there was a lot of yelling and screaming as people got off the bus. He heard people yelling for the bus drive to move the bus. He heard the bus driver say, "I can't move the bus."

47. As a result of this investigation, both Felix Garcia DOB 08/24/92 and Michael Baptista DOB 01/13/92 have been identified as assaulting the bus driver while in its operation. Further Baptista verbally threatened to shoot the bus operator. I respectfully request a warrant be issued for both Garcia and Baptista through Roxbury District Court.

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