

## **Racism cannot be mediated**

Estifanos Zerai-Misgun and Prentice Pilot  
January 26, 2016

### **Response to Chief O’Leary and the Selectmen on mediation**

We, Officers Estifanos Zerai-Misgun and Prentice Pilot, are responding to the Town of Brookline regarding the topic of mediation. After careful consideration our conclusion is detailed below.

### **Racism cannot be mediated**

The Town of Brookline is already legally obligated to provide a working environment free from discrimination, yet the Town has been unable and/or unwilling to fulfill this obligation. The Chief, the Selectmen, and the Union could not keep this promise in 2014 after our first collective report of racial discrimination on the job. No meaningful change has taken place in the organization, policies, procedures, or the culture the Chief and the Selectmen allow to exist. Guarantees made by the Chief and Selectmen are not credible.

The Chief and the Selectmen make promises regarding “zero tolerance” for racism on the force, but we have experienced two separate occasions already where we reported these incidents and the perpetrators remain on the job, without consequence—while we are fighting for the truth. When these perpetrators go unpunished by the Chief and the Selectmen they become even more emboldened to commit racist acts.

### **You can’t ensure our safety when you claim don’t understand our concerns**

To date, neither the Selectmen nor the Chief have acknowledged any of our concerns with respect to the fear for personal safety on the job. The Chief has stated publicly that, “Once these officers return to work, they will be assured of their personal safety.” How can the Chief and Selectmen or anyone from the Town assure us of our personal safety when they have not even acknowledged or understood our specific concern? In public meetings, some Selectmen have even stated that they do not understand what our fear is in returning to work. They’ve stated further, that they do not know what our fears are because we will not tell them. This is a lie. As early as December 16, 2015, Selectmen/Police Commissioner Bernard Greene sat in the Diversity, Inclusion, and Community Relation Commission meeting and heard exactly why we were afraid.

We have explained plainly there are racist members of the BPD; in addition, those racists have numerous relatives and friends on the force. Retaliation is a very serious possibility. We do not feel safe on the job since “accidents” happen. We have no doubt that despite the seriousness of an injury or fatality, the officer would not be held accountable should an “accident” befall us. If someone has denigrated us purely on the basis of our race, then that person has hatred in his/her heart because of our race. Given the dangerous work that we perform on the job, can we really

trust that same individual to be “watching our back?” We think not. It is reprehensible for the Chief, the Selectmen, and the Union President to make false promises of protecting us. In fact, they have done nothing to help us from the moment we made our reports.

**The present investigation is compromised by the Town’s inadequate response to racism in the past and by the Selectmen’s present actions, which demonstrate their insincerity and lack of good faith**

While the Selectmen proclaim their neutrality, saying that the investigation is confidential and they cannot comment, three Selectmen have already compromised the investigation by playing an active role in influencing its outcome. Selectmen Nancy Daly communicated to the Police Union president her desire for him to come before the Selectmen in a public meeting to state there is no racism problem in the BPD. Selectmen Greene emailed a private citizen of Brookline, divulging and spreading false counter-narratives from the perpetrator pertaining to this so-called “confidential” investigation. Chair of Selectmen Neil Wishinsky stated publicly and on record to citizens gathered to demand paid administrative leave for us, “The officers are being paid,” when this was untrue. Immediately confronted with his lie, and in front of numerous witnesses, Selectmen Wishinsky did nothing to correct his statement.

Clearly these three Selectmen have acted improperly, as they advocate on behalf of the perpetrator of hate speech. Having full knowledge of these incidents, Selectmen Nancy Heller and Ben Franco have remained silent, doing nothing to protect the integrity of the investigation of our reports of racial discrimination. The Selectmen’s egregious impropriety, and their silence, taints not only the on-going investigation, but the possibility of mediation.

**The Chief and the Selectmen trust the words of someone who has a record of violating departmental protocol**

Our work histories are exemplary. Multiple reports of overt racist acts were filed by multiple officers to Chief O’Leary. Yet all that was required was for a white officer to deny it. Chief O’Leary described our situation as “He said—He said,” and the Selectmen immediately accepted that description. This is outrageous. If this is the extent of the investigatory prowess of the Brookline Police Department, no matter what acts of aggression take place against us in the future, it is clear we will not be believed. Our experiences and our reports will always be subordinate to white officers, who behave as they please, and with impunity.

The veracity of the command officer that uttered the racist statement should be highly in doubt. The Brookline TAB reported the perpetrator named by Officer Pilot was punished for detail-work violations within the department. In 2010 this same sergeant was accused of using his position to target another white officer because the two had a dispute over a threat recorded on voicemail (Brookline TAB). Why do the Chief and the Selectmen protect this sergeant over Officer Pilot, who has been an outstanding officer with an unblemished record of 18 years of service to Brookline? This favoritism smacks of preferential treatment for some “bad apples” at the expense of the “good apples,” and the residents of Brookline. The real issue is that the Chief and the Selectmen do not want to substantiate or address any issue of racism in Brookline; their refusal to act can damage this Town’s reputation, and they will incur the attending legal consequence.

## **A racist is promoted**

The case of African American firefighter Gerald Alston is informative as to how the Town conducted a public smear campaign against a victim of racism. Despite the fact that Paul Pender never once denied saying “f\_king n\_\_\_\_r” on Alston’s answering machine, the formal investigation exonerated the perpetrator, who was promoted to Captain shortly thereafter. The clear message from the Town: We value the excuses for hate speech more than we do the man who gave 10 years of service to Brookline. Five years later, Gerald Alston continues to fight for justice. Alston’s case wasn’t “He said—He said”, since there was a recording of the racist remark. If a tape recorded message of a racist remark is insufficient, what higher threshold of evidentiary standards are the Selectmen establishing for victims of racial discrimination in Brookline? Meanwhile, the explanations of a racist are accepted without any problem.

## **The Chief violated the Town’s procedures by not following the same in the 2014 “investigation”**

Officers Zerai-Misgun and Pilot had already presented earlier complaints of racism to the chief in December 2014. At that time, the Chief failed to follow established process, procedures, and protocol to address those complaints. That failure is vastly different from how the Chief has behaved following the most recent complaint in 2015, which comes accompanied by public outcry and media attention. No investigation or conclusions were reached in 2014; that is the basis for the recurrence of additional incidents in 2015. Further, the identity of the officers that filed the internal complaint was breached to the entire department by command staff. That breach was retaliatory. The Selectmen, in their capacity as police commissioners, are equally at fault for failing to call attention to this breach of a standard, established protocol. Why bother having Town policies when the Chief and the Selectmen choose when, and if, they are followed?

## **Continued discrimination based on race**

Despite the demands of hundreds of Brookline residents, The Selectmen have not granted us paid administrative leave, the same leave given to white officers arrested and charged with felonies. The Chief and Selectmen want us to enter mediation, knowing it delays full resolution, and that our families suffer as we go without pay in the meantime. Mediation can only benefit the Chief and the Brookline Selectmen.

The Chief and the Selectmen would like us all to believe mediation would resolve this problem. However, the problem is that Brookline has a systemic racism problem that remains unaddressed. Through the public meetings we have heard from many other victims in Brookline that the Town and many of its police act in a well-organized and hateful manner toward people of color. The Selectmen have done nothing to address the harassment reported by Cruz Sanabria, Juana Baez, Rogelio Rodas, Leslie Epps, Gerald Alston, and others, since these residents stood before them publicly to ask for redress. Even the Town’s own Diversity, Inclusion and Community Relations Commission has issued the formal, public statement that “the Board of Selectmen...has allowed a

culture of institutional racism” in Brookline. Until the Chief and Selectmen act to end these deeper systemic issues, mediation is a meaningless and manipulative gesture.

## **Summary**

Together, we've given over 20 years of our best selves to Brookline. We believed we belonged here. We know the people of Brookline well, and we know your leaders do not represent you, your values, or your families. We've sacrificed our careers, and the security of our families, because we insist on the dignity and fair treatment that is rightfully ours as Black men, and as Americans.

Intolerance ought not be tolerated. Unfortunately in Brookline, not only is racism tolerated, it is promoted and defended by the Selectmen.

Racism cannot be mediated.