

# **REPORT AND RECOMMENDATIONS OF JUDGE STEVEN I. PLATT (RET.)**

## **ON CITY OF LAUREL, MARYLAND HIRING PRACTICES (PART 2)**

### **INTRODUCTION AND RELEVANT HISTORY**

On February 10, 2014 at a general public hearing held by the Mayor and the City Council of Laurel, Maryland, pointed comments and criticisms were made by Mr. Carl DeWalt regarding the hiring policies and practices of the City of Laurel, Maryland. Those comments called into question the letter and spirit of the key goals of the current Mayor and City Council which have been “to open city government to all citizens, businesses and employees and in doing so to provide the transparency” that the Mayor has stated “government must have to earn and maintain the trust of the people it serves”.

For this reason those comments and criticisms were and are taken quite seriously by the Mayor, the City Council as well as the City’s staff whose job it is to administer these policies on a daily basis and to do so fairly and impartially in a transparent manner. The result was that the Mayor retained The Platt Group, Inc. in the person of Judge Steven I. Platt (Ret.) to generally “Review the Hiring Procedures and Protocols for the City of Laurel, Maryland” and to report to the Mayor and City Council his Findings and Recommendations with regard to those personnel policies, procedures and protocols generally, initially without reference to any particular hiring procedure, decision or person (Part 1). That **Report and Recommendations (Part 1)** was delivered to the Mayor and City Council as well as the citizens of Laurel on July 11, 2014.

Following this **Report and Recommendations (Part 1)**, a further Report and Recommendations was directed to be researched and developed **(Part 2)**. This Report and Recommendations essentially involves the application, the Findings and Recommendations set forth in the **Report (Part 1)** to the specific hiring decision referenced by Mr. Carl DeWalt, which in large part motivated this investigation and review of the City of Laurel’s Hiring Practices and Procedures. That further inquiry encompassed interviews with both the successful applicant and any applicant including Mr. DeWalt who felt aggrieved by the process.

This **Final Report (Part 2)** specifically addresses the particular hiring decision which was the subject of the Complaint by Mr. DeWalt and any issues which it generated, including whether the City of Laurel’s own laws, procedures

and protocols were followed. It also includes further recommendations for the future which would insure that the issues raised in this instance do not arise again.

## **METHODOLOGY (PART II)**

Judge Steven I. Platt (Ret.) personally met with or interviewed by telephone all individuals who expressed a desire to be interviewed and/or were willing to be interviewed if they were in any way involved in the hiring decision in controversy as an applicant or as a part of the selection process. The individuals who were personally interviewed included the following persons:

- 1) Laurel Police Chief Richard McLaughlin
- 2) Laurel Deputy Police Chief James Brooks
- 3) Laurel Police Lieutenant John Hamilton
- 4) Laurel Police Sergeant Brad DiPietro
- 5) Laurel Police PFC Marcus Currie
- 6) Laurel Police Department Compliance Manager Alia Smalls
- 7) M's Lou Ann Cook
- 8) M's Cathy Harvey
- 9) Mr. Mike Greene
- 10) M's Kristie Mills
- 11) Laurel City Council President Fred Smalls
- 12) M's Brianne Kleinschmidt
- 13) Laurel Police Sergeant Jordan Perretta
- 14) M's Joanie Noland
- 15) Mr. Carl DeWalt
- 16) Mr. Gary Arter (Telephone Interview)

Each of these individuals were told that their responses to Judge Platt's questions were not being recorded and would not be quoted without their permission. They were however advised that their responses to questions and the information provided by them would be used in the Fact-Finding necessary to fully investigate and determine the facts, i.e. what occurred during the hiring process for the position of Laurel Police Department Compliance Manager.

All interviewees were also asked if there were any other individuals whom they thought should be interviewed because of their knowledge of the hiring process of the City generally and/or this particular hiring decision for the position of Laurel Police Department Compliance Manager. Anyone who answered this question affirmatively was requested to name and provide Contact Information for those persons and they were added to the list of persons to be interviewed and in fact interviewed if possible.

In addition each interviewee was asked if there were any additional documents or written information which Judge Platt should review and consider. In response to that inquiry Mr. Carl DeWalt and Mr. Gary Arter provided additional documents as well as written summaries and documentation of some of the information provided by them verbally. In addition, Mr. Mike Greene provided additional documents requested by Judge Platt. Alia Smalls also subsequently provided documentation and verification of previous information provided at her interview. All of this additional information and documents were reviewed and considered.

## THE ALLEGATIONS (PART 2)

On February 10, 2014, Mr. Carl DeWalt appeared at a meeting of the Mayor and City Council of Laurel. At that meeting he spoke at length about the Hiring Process for the position of Laurel Police Department Compliance Manager as follows:

Recently I experienced the City's hiring process by the means of being an applicant. Throughout the entire process I uncovered many discrepancies and concerns. At the suggestion of the Mayor's office I was referred to meet with Kristie Mills, the City Administrator, to voice my concerns. Ms. Mills invited Michael Greene the Personnel Director. During the meeting one of the questions directed to Mr. Greene was "Since all three current positions are within the Police Department, was there a thorough background conducted on every applicant both criminally and financially?" His response was "I assume it was completed by the Police Department." Well Mr. Greene's assumptions were wrong! That background couldn't have been conducted prior to the hiring of Fred Smalls' daughter for the position of Compliance Manager because in researching MD Judiciary Case Search it showed an active warrant for her arrest. This warrant consisted of 16 traffic offenses which include: attempt by driver to elude Police in official Police vehicle by failing to stop, attempt by driver to elude uniformed Police by failing to stop, person driving motor vehicle on highway on suspended license and privilege, reckless and negligent driving! Ms. Smalls' actions that day placed the lives and safety of numerous Bowie Police Officers in jeopardy and also her actions jeopardized the safety and lives of the entire Bowie community. While accessing Maryland Judiciary Case Search it also reveals Fred Smalls' daughter has filed for bankruptcy and has wage garnishments by two different entities. No Police Dept. in the nation would hire her knowing the prime requirements for the Compliance Manager's position are absolute honesty, sobriety, industry, and courage. Three other qualified applicants applied for the Compliance Manager's position that Fred Smalls' daughter was given. A MSP Sergeant with grant experience, a former Police Officer who also had grant and general orders experience and was a forensic specialist with Montgomery County Police. He was also a MPTC Instructor who taught forensics to Police academies, high schools, and college students. The other applicant was a diligent and hardworking Laurel Police dispatcher who has a Bachelor's Degree in Mathematics and during her breaks for the past 4 months has been in close contact with Bob Davis attempting to gain valuable knowledge of the Compliance Manager position. These three qualified individuals completed the entire process that Fred Smalls' daughter never even applied for! She was given the position not because of merit, not because of her qualifications but because she was Fred Smalls' daughter! Mayor as a tax paying Laurel citizen I am appalled, because this hiring was wrong, unethical, stinks of nepotism and falls into the category of public corruption. Two department heads (the Personnel Dept. and the Police Dept.) that you entrusted in "doing the right thing" failed you miserably! The Laurel public deserves a thorough investigation by an outside agency into "righting the ship" with the City's hiring process and the people involved need to be dealt with severely! Based on all the information I have gathered and a voting Laurel citizen, I would also encourage Mr. Smalls to rethink his position on the Laurel City Council.

The allegations set forth in these remarks are very serious and resulted in this Investigation for the reasons stated in the Introduction and Relevant History of this Report (Part 2) and in (Part 1). Restated in less flamboyant and incendiary terms these allegations are as follows:

- I. There was not a thorough background check conducted on every applicant both criminally and financially.
- II. M's Alia Smalls actions on February 24, 2011 consisting of 16 traffic offenses "placed the lives and safety of numerous Bowie Police Officers in jeopardy and also her actions jeopardized the safety and lives of the entire Bowie community."
- III. M's Alia Smalls was given the position of Laurel Police Department Compliance Manager "not because of merit, not because of her qualifications but because she was Fred Smalls' daughter."
- IV. "This hiring was wrong, unethical, stinks of nepotism and falls into the category of public corruption"
- V. "Two department heads (The Personnel Dept. and the Police Dept.) that you (The Mayor) entrusted in doing the right thing failed you miserably"
- VI. "The Laurel public deserves a thorough investigation by an outside agency into righting the ship with the City's hiring process."

## **FINDINGS**

- I. **ALLEGATION:** There was not a thorough background check conducted on every applicant both criminally and financially.

**FINDING:** The Laurel Police Department at the express direction of its Chief Richard McLaughlin did in fact conduct a thorough background check on every applicant for all three open positions considered in the relevant time period both criminally and financially. Having reviewed all relevant documents and interviewed all personnel involved in the selection process including all members of the Oral Boards which were established for the three open positions, I am convinced that not only was a thorough background check on every applicant performed, but that check in the case of Alia Smalls and one other applicant went beyond what was required in order to investigate what actions or inaction resulted in certain entries on the criminal background check and the financial check and as well as their current status and disposition.

The Findings in the case of Alia Smalls will be set forth infra the Findings with respect to other applicants who were not selected will not be disclosed here out of respect for their privacy and because their backgrounds have not been under investigation or suspicion or for any reason the subject of this inquiry.

- II. **ALLEGATION:** M's Alia Smalls actions on February 24, 2011 consisting of 16 traffic offenses "placed the lives and safety of numerous Bowie Police Officers in jeopardy and also her actions jeopardized the safety and lives of the entire Bowie community."

**FINDING:** **This statement / allegation is absolutely 100% incorrect.** Although there was police action taken on February 24, 2011 as a result of violations of Maryland's Motor Vehicle and criminal laws by the driver of a black Toyota Corolla owned by applicant Alia Smalls and a Maryland Judiciary Case Search Record was compiled as a

result of those police actions, further research determined that the driver of the subject vehicle on the date in question was not Alia Smalls. In fact, it was an individual named Whitney Williams Jr. who came forward to accept "full responsibility".

Mr. Williams explained his actions to this Investigator and others in a written statement as follows:

March 19

To Whom It May Concern,

I, Whitney Williams Jr., was pulled over by a P.G. County police officer in Bowie, Md. on or about February 29, 2011 while operating a black Toyota Corolla owned by Alia Smalls. At the time, I had an out of state fugitive warrant for my arrest pending in Delaware. Out of panic and fear of incarceration I fled, ensuing a high speed chase by the officer. I never divulged this incident to Alia Smalls being that I fled uncaptured and had assumed that her license plate had not been disclosed or obtained. However, I had ultimately left Ms. Smalls in a compromising and conflicting situation. I accept full responsibility for my actions and am also willing to accept any penalty that may be imposed.

Sincerely,

Whitney Williams Jr.  
Whitney Williams Jr.

The Maryland Judiciary Case Search and other records have been and/or are being corrected. Neither the Bowie, MD Police Department nor any other authority holds M's Alia Smalls responsible for Mr. Williams actions on

February 24, 2011. In short, M's Alia Smalls in fact did not ever place the lives and safety of numerous Bowie Police Officers in jeopardy. Nor did she ever jeopardize the safety and lives of the entire Bowie community.

III. **ALLEGATION:** M's Alia Smalls was given the position on Laurel Police Department Compliance Manager "not because of merit, not because of her qualifications, but because she was Fred Smalls' daughter".

**FINDING:** This allegation has no merit. This Investigator thoroughly examined every document generated or associated with the selection process for all three open positions in the Laurel Police Department considered in the relevant time period. I also interviewed every individual who played any role in the selection process for any and all of these positions including the ultimate and Final "Decider", Chief McLaughlin, the members of the Oral Board, the staff of the City and the Police Department who implemented the selection process as well as City Council President Fred Smalls. By that evidence I am persuaded that M's Alia Smalls was offered the position of Laurel Police Department Compliance Manager after a fair process in accordance with the applicable provisions of federal, state, county law and the Charter of the City of Laurel, Maryland.

In connection with this Determination, I also make the following relevant but ancillary findings of fact:

- A. After requesting from the City of Laurel and all departments and offices therein to produce all e-mails as well as records of telephone calls and messages, received or sent regarding these positions and the selection process, I found no evidence that any written or oral communication or conversation between Council President Smalls and/or his office staff and any individual involved in the selection process for any of the three vacant positions in the Laurel Police Department during the operative time period ever took place.
- B. After interviewing Council President Smalls and all personnel involved in the selection process for the three positions, I found no evidence that even a single conversation ever took place regarding any of the persons selected for these three positions between Council President Smalls, his staff and any of the persons involved in the selection process.

IV. **ALLEGATION:** This hiring was wrong, unethical, stinks of nepotism and falls into the category of public corruption"

**FINDING:** This allegation is not only incorrect, it is an unjustified and unfair attack on the integrity of both the successful applicant and now Compliance Manager, Alia Smalls and her father, the President of the City Council of Laurel. This allegation was made largely on the basis of off the record conversations which when the individuals who allegedly made the comments upon which this allegation was based were asked by this investigator to confirm their comments, their response was without exception in substance of the following: (1) to deny making the comment (2) to not remember or recollect the comment (3) to specify or clarify that their comment was a repetition of a comment someone else had made and may have been misinterpreted or over interpreted, i.e. unreliable hearsay / gossip. I will therefore not repeat those comments here nor will I further delve into their meaning or source. Suffice it to say that serious allegations using words like corruption and unethical should not be based on uncorroborated and unreliable statements. Many of which were hearsay.

V. **ALLEGATION:** "Two department heads (the Personnel Department and the Police Department) that you (the Mayor) entrusted in doing the right thing failed you miserably."

**FINDING:** For the reason set forth above this allegation simply has no factual basis.

VI. **ALLEGATION:** “The Laurel public deserves a thorough investigation by an outside agency into righting the ship with the City’s hiring process.”

**FINDING:** The Laurel public has received the “thorough investigation by an outside agency into righting the ship with the City’s hiring process at the direction of the Mayor. This is the Report (Part 2) of that thorough investigation.

## **SUPPLEMENTAL BASIC FACT-FINDING (Minus the Drama, Rumor & Innuendo)**

The position of Laurel Police Department Compliance Manager (Grade 13) was previously held by Retired Prince Georges County Police Officer Robert Davis. On January 31, 2014, Mr. Davis retired from this civilian position with the Laurel Police Department.

The vacancy was posted on September 17, 2013 with a closing date of October 14, 2013. 36 persons applied for this position of which 8 individuals were selected to be interviewed as a result of meeting the criteria set forth in the previous Report (Part 1) of this Investigation.

The person who was ultimately hired to this position, Alia Smalls was not an original applicant for this position. She was an applicant for another Grade 13 position “Services Supervisor” which had been posted at around the same time period October 1, 2013.

The 8 persons selected to be interviewed were selected following the established laws, policies and procedures more fully described in the previous Report (Part 1) of this Investigation. There were no variances from these procedures.

As a result of that selection process, the position of Compliance Manager was initially offered to Applicant Marlene S. Newman in writing on December 19, 2013. M’s Newman declined the offer and withdrew her application on December 23, 2013.

The position was next verbally offered to M’s Rita Charles on December 23, 2013. She declined the position.

Only after these 2 applicants declined the position was the position offered on December 26, 2013 to Alia R. Smalls who had not applied for the position of Compliance Manager, but had applied for the position, also a Grade 13 of “Services Supervisor.” She accepted.

This Investigator was made aware of the names of the other applicants, the reasons they were interviewed, and the reasons they were not selected for the position of Compliance Manager. Their names and information are not set forth here out of respect for their privacy and because in many cases, their future with the City of Laurel, if they want it is bright, based on what Management believes their potential to be. Furthermore, their only connection to this investigation appears to be that they applied for the position that was ultimately given to Alia R. Smalls. For these reasons some were interviewed because they requested to be interviewed and/or were referred to me to be interviewed. If an applicant did not request to be interviewed after being notified of this Investigation or it was not suggested that they be interviewed, they were not interviewed.

Finally the procedure followed here of offering a position to an applicant in this case Alia Smalls who did not apply for that position, but who did apply for another position with an identical grade bears scrutiny and comment. This procedure is perfectly legal and has been utilized previously by the City of Laurel and other employers without

controversy. It is a practice commonly utilized in both public sector and private sector hiring where the applicant for one position meets the qualifications for another position and management as in this case, feels the applicant is a "better fit" for the different but comparable job.

In this case Alia Smalls, in fact, more than met the qualifications for both the position she applied for the position of "Services Supervisor" and the position which she was ultimately offered and accepted, "Compliance Manager". Those qualifications are as follows:

#### **SUMMARY OF ESSENTIAL DUTIES AND RESPONSIBILITIES:**

This position is responsible for performing a variety of advanced administrative work with an emphasis on grants submittals, inside and outside training, General Orders, records and standards that are followed by the Commission on Accreditation of Law Enforcement Agencies (CALEA). Work is performed under the general supervision of the Deputy Chief of Police, but considerable leeway is granted for the exercise of independent judgment and initiative. The nature of the work performed requires the employee to establish and maintain effective working relationships with the public, other City Departments and other agencies

#### **QUALIFICATIONS:**

Diploma from an accredited High School (or a GED certificate), some college preferred, and five years related experience in clerical, administrative, law enforcement duties, or any equivalent combination of education and experience that meets the requirements of the duties and responsibilities. Ability to operate a computer terminal or personal computer. Able to use typical word processing software such as Microsoft Word and able to use spreadsheet software such as Microsoft Excel. Able to learn and apply other office software and automated office procedures. Able to type 35 words per minute and produce work that meets departmental formatting requirements. Applicant must have no convictions of a felony or serious crime.

#### **MUST BE ABLE TO PASS A PRE-EMPLOYMENT PHYSICAL EXAMINATION, INCLUDING DRUG SCREEN, AND A CRIMINAL BACKGROUND CHECK.**

Notwithstanding the fact that Alia R. Smalls clearly met the qualifications for the position she was ultimately offered and accepted, this perfectly legal procedure aroused more than a fair share of suspicion and criticism. This is probably because of the fact that its legitimate use was clouded by the context of the allegations previously described. The issue for the Mayor, his City Administrator, and HR Officer as well as the City Council is whether the procedure should be utilized in the future in light of this experience.

#### **RECOMMENDATION**

That issue should be addressed with no preconceived notions in light of this experience and others where it has been utilized without issues. That is my sole recommendation based on Part 2 of this Investigation.

#### **FINAL CONCLUSION**

It has been my pleasure to conduct and now complete this Investigation and to hopefully as much as possible clear the air of the allegations which lead to my being commissioned to do so.

It is worth noting as I have on more than one occasion in my work as a Judge and now as a Mediator, Arbitrator and Consultant that we're all human and because of that "we're all more complicated than either our admirers or detractors would like to believe". The very serious allegations which were made resulted from strong and sincerely held opinions formed on the basis of casual and off the record remarks which were never intended to form the basis of public charges which impugned the integrity of numerous city officials and most sadly Alia Smalls. M's Smalls has by all accounts of the Laurel Police Department Chief and Command Staff performed admirably and efficiently as Laurel Police Department Compliance Manager since being placed in that position.

I have labored too long in the field of dispute resolution to believe that the persons who so strongly disagreed with the actions of certain city officials and their critics will necessarily as a result of this Report change their opinions about what happened and agree with my fact-finding and conclusions. I do however hope that all of the persons and most importantly the employees of the City of Laurel with whom I came into contact as a result of this investigation will agree to move forward if necessary by agreeing to disagree with the understanding that as the late Senator Daniel Patrick Moynihan said so famously – We're all entitled to our own opinions. But we're not entitled to our own facts."

Thank you for the opportunity to serve the citizens of the City of Laurel. It has been an honor.

Respectfully Submitted,



Judge Steven I. Platt (Ret.)