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|--|------------------------------------|-------------------------------|--|---|
| CRIMINAL COMPLAINT DEFENDANT COPY | | DOCKET NUMBER 1098CR000605 | NO. OF COUNTS 2 | Trial Court of Massachusetts District Court Department  |
| DEFENDANT NAME & ADDRESS Eli D Cooper 20900A Damon P.O. Box 232 Amherst, MA 01004 530-3821 | | | COURT NAME & ADDRESS Eastern Hampshire District Court 205 State Street Belchertown, MA 01007 (413)323-4056 | |
| DEFENDANT DOB 06/07/1977 | COMPLAINT ISSUED 03/25/2010 | DATE OF OFFENSE 03/20/2010 | ARREST DATE | |
| OFFENSE CITY / TOWN Hadley | OFFENSE ADDRESS | | NEXT EVENT DATE & TIME 04/27/2010 8:15 AM | |
| POLICE DEPARTMENT Hadley PD | POLICE INCIDENT NUMBER 10-37-WA | | NEXT SCHEDULED EVENT Arraignment | |
| OBTN | | | ROOM / SESSION Arraignment Session | |
| The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the date(s) indicated below the defendant committed the offense(s) listed below and on any attached pages. | | | | |

| COUNT | CODE | DESCRIPTION |
|---|----------|----------------------------------|
| 1 | 272/99/F | WIRETAP, UNLAWFUL c272 §99(C)(1) |
| On 03/20/2010 did wilfully commit an interception, or procure some other person to commit an interception or attempt to commit an interception, of some wire or oral communication, not being specifically excepted by G.L. c.272, §99, in violation of G.L. c.272, §99(C)(1). | | |
| PENALTY: state prison not more than 5 years; or jail or house of correction not more than 2½ years; or not more than \$10,000 fine; or both such imprisonment and fine. | | |
| 2 | 272/53/F | DISORDERLY CONDUCT c272 §53 |
| On 03/20/2010 was a disorderly person, in that he or she did, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, engage in fighting or threatening, or in violent or tumultuous behavior, or did create a hazardous or physically offensive condition by an act that served no legitimate purpose of the defendant, in violation of the common law and G.L. c.272, §53. | | |
| (PENALTY: not more than \$150 fine.) | | |

| | | |
|--------------------------------------|---|------|
| SIGNATURE OF COMPLAINANT X | SWORN TO BEFORE CLERK-MAGISTRATE/ASST. CLERK/DEP. ASST. CLERK X | DATE |
| NAME OF COMPLAINANT | CLERK-MAGISTRATE/ ASST. CLERK X | DATE |

Notice to Defendant: 42 U.S.C. § 3796gg-4(e) requires this notice: If you are convicted of a misdemeanor crime of domestic violence you may be prohibited permanently from purchasing and/or possessing a firearm and/or ammunition pursuant to 18 U.S.C. § 922 (g) (9) and other applicable related Federal, State, or local laws.

Ref: 10-125-OF

On Saturday, 3/20/2010, at approximately 1036 hours, I, Officer Mitchell Kuc was travelling westbound on Russell Street passing Essellon Cafe. Approximately 1/4 west of my location, I observed a westbound bicyclist travelling in the middle of the right travel lane. This section of Russell Street is also state Route 9, is a four-lane undivided highway and is maintained by the Massachusetts Department of Transportation. The speed limit on this section of Russell Street is 40 miles per hour, and motor vehicles are routinely stopped and cited for speeds in excess of 60 miles per hour. Upon observing this, I caught up to the bicycle so that no other operator in the right travel lane could strike the cyclist.

Due to the fact, that a previous bicyclist stated that the law allowed him to travel in the middle of the travel lane because it was safer to do so, I recorded a 25 second clip of the offender travelling in the middle of the travel lane. In this clip, the bicyclist was recorded travelling in the middle of the travel lane, not moving to the right for faster moving vehicles. The clip also shows that there is room that allows for the operators of bicycles to travel to the right side of the road. This recording also shows that there is heavy traffic present. After recording the short clip, I activated the cruiser's overhead emergency lights. The operator of the bicyclist appeared not to see my lights activated, at which point I briefly sounded the cruiser's electronic air horn. The cyclist at this point pulled to the right and stopped. Upon the cyclist stopping and turning around to look at me, I observed him to be an individual who I had stopped on two occasions previous, after he had been observed travelling in the middle of the travel lane on a bicycle. This cyclist is the same that I mentioned before who stated that he thought that the law allowed him to travel in the middle of a travel lane. See calls 09-5753, 09-6257 (report 09-351-OF). Both are attached. Upon these incidents, the cyclist was advised that travelling down the middle of the travel lane on a busy state highway was dangerous.

I recognized the cyclist, although I did not immediately remember his name and upon approaching him and asking him for a Massachusetts License or identification, he stated that he had none. Upon asking him his name he stated that it was Eli Damon. When he advised me of this, I also asked him for his date of birth, which he stated was 6/7/1977. Upon running a license check on Eli Damon, there was no record found in the Massachusetts Registry of Motor Vehicles or in the Hadley Police Department database. It was then that I remembered that Damon was the middle name of Eli Damon COOPER. A cruiser computer failure and researching of his information added additional time to the stop.

Shortly after the above mentioned incident on 9/12/09, I spoke with Officer Bartlett who stated that he had an incident where a bicyclist assaulted a vehicle operator after the vehicle operator asked the cyclist to get out of the middle of the road. That call is 07-2204. The assaulted party, Eric Perkins, owner of the Amherst Motel, reported this incident to the Amherst Police Department (their call number is 07-5455). All associated call logs and reports are attached. The cyclist who was travelling in the middle of the travel lane and assaulted the vehicle operator was COOPER.

A Massachusetts Uniform Citation (M8824178) was issued to COOPER for Failure to Keep Right Upon Being Overtaken was issued to COOPER. I also noted after the issuance of the citation, that the chapter and section of the violation was listed as 89/11b, and that the correct chapter is 85/11b. The registry and agency copy were corrected and the correct chapter was entered into this system.

Due to the heavy traffic conditions and recorded high speed travel on this roadway, and that I have personally advised COOPER of the dangers of him travelling down the middle of the traffic lane, I will be charging him

Ref: 10-125-OF

with Disorderly Conduct. COOPER's travel down the middle of the travel lane creates a hazardous condition for himself and other vehicle operators through the danger of a motor vehicle accident. Due to the width of the roadway, it is reasonable for him to travel on the roadway, but to the right side far enough for vehicles to pass him. COOPER travelling down the middle of the travel lane serves no legitimate purpose to him other than for him to exercise his opinion of the law, which he states that the law allows him to do and that it is safer than travelling to the far right. I have advised him that he may travel however he may choose, but not to do so in a way that endangers himself or others, even if he perceives the law to allow him to travel on a bicycle in the middle of the road.

On speaking to COOPER, I advised him that I was aware that bicyclists are not restricted to travel only on the right of the road or to a bike path and that I was further aware that bicyclists are entitled all the same rights to a vehicle. Note- Since Operating to Endanger specifically notates the operation of a "motor vehicle", I could not charge COOPER accordingly.

While dealing with and issuing COOPER his citation, I observed an attachment on the left side of his helmet that appeared to have a clear lens at the front. Upon asking him what the attachment was, he stated that it was a video camera. He was then asked if that camera recorded audio. He stated that it did. Upon being advised that he had been recording my voice without telling me, I advised him that I would be seizing the camera and charging him violating the wiretap statute under MGL Ch.272 sec. 99. At no point did COOPER ever advise me that he was recording my voice. Furthermore, I advised COOPER that I could not see any flashing light on the camera to indicate to me that I was being recorded. It was then COOPER removed the device from his camera and showed me that there was a recessed light inside of the camera. This light was not visible to me while he was recording.

While dealing with COOPER, Sgt. Mason came to my location, at which point I requested his assistance. I advised him of the situation and past dealings with COOPER. Sgt. Mason reaffirmed COOPER of his violation of the wiretap statute and that him riding his bicycle in the middle of the travel lane being dangerous considering the traffic conditions and roadway.

After the completion of the stop, Sgt. Mason instructed me to contact an Assistant District Attorney from the Northwest District Attorney's Office and ask that they review the facts. At approximately 1420 hours, I spoke with Attorney Neil Desroches, Supervisor of the District Courts and advised him of the above situation. A.D.A. Desroches concurred that all charges appeared to be proper.

Due to the fact that COOPER has no criminal history and was likely to answer to a summons, COOPER was only summonsed on the charges, although a felony right of arrest clearly existed.

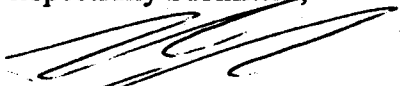
On viewing the clip where COOPER recorded my voice, it is clear that while on Route 9 in Amherst, he is travelling to the right side of the road, and upon the roadway opening up to four lanes, he occupies the entire right travel lane. The video also shows that COOPER not only refuses to move out of the travel lane when a vehicle comes up behind him, he can be seen signalling the vehicles to pass. It is also clear while COOPER travels on Route 9 in Amherst in Hadley, there is sufficient room to the right side of the road, and at times, an entire breakdown lane or wide shoulder. The video also shows that traffic on Route 9 is heavy and that traffic passes him on both the right and left.

NARRATIVE FOR PATROLMAN MITCHELL J KUC

Ref: 10-125-OF

The video camera was entered into evidence per department policy.

Respectfully Submitted,



Officer Mitchell Kuc, #349

Ref: 09-351-OF

On 9/12/09 at approximately 1037 hours, I, Officer Mitchell Kuc was monitoring traffic on Russell Street from the parking lot of Competitive Edge.

At this time, I observed a westbound bicycle being operated by an individual I recognized and later identified as ELI DAMON COOPER. COOPER was travelling westbound in the center of the right travel lane with vehicle's travelling slowly behind him.

On 8/22/09 (call 09-5753), I had also observed the same incident, had stopped COOPER and advised him that driving down the center of the travel of a four-lane divided highway was dangerous and that he was not to do so. COOPER insisted that the law allows him to do so. He was advised that he must yield and pull to the right for overtaking traffic. COOPER continued to argue stating that it was only safe for him to travel in the middle of the travel lane and not the side of the road. COOPER was advised that he was not to travel down the center of the travel lane or could face criminal charges of disorderly in the future.

Today, I stopped COOPER again who continued to insist that he was legally allowed to travel in the travel lane. He was advised again that even though the law may say that he is not restricted to right of the lane, that he is travelling on a state highway and that it was dangerous.

Hadley Highway Department was requested to removed the bicycle from the roadway and COOPER was advised that he may retrieve it at the Hadley Police Department. Note- As COOPER was walking away from the scene, he was doing so to the full right of the roadway.

No criminal charges at this time.

Respectfully Submitted,

Officer Mitchell Kuc, #349

Hadley Police Department
Incident Report

Page: 1
03/20/2010

Incident #: 09-351-OF
Call #: 09-6257

Date/Time Reported: 09/12/2009 1039
Report Date/Time: 09/12/2009 1122
Status: Incident Closed
Reporting Officer: Patrolman Mitchell Kuc
Approving Officer: Chief Dennis Hukowicz

Signature: _____

| SUSPECT(S) | SEX | RACE | AGE | SSN | PHONE |
|---|-----|------|-----|---|-------|
| COOPER, ELI D 20 ARBOR WAY AMHERST MA 01002 | M | W | 32 | 008-48-2496 | |
| BODY: NOT AVAIL. DOB: 06/07/1977 LICENSE NUMBER: MA 008482496 | | | | COMPLEXION: NOT AVAIL. PLACE OF BIRTH: NOT AVAIL. ETHNICITY: NOT HISPANIC | |

| OFFENSE(S) | ATTEMPTED | TYPE |
|--|-----------|---------------------------------|
| LOCATION TYPE: Commercial/Office Building COMPETITIVE EDGE 374 RUSSELL ST HADLEY MA 01035 | | Zone: Geocode 05 Russell Street |
| DISORDERLY CONDUCT 272/53/F | N | Misdemeanor |
| OCCURRED: 09/12/2009 | | 1039 |

r Date: 08/22/2009 - Saturday

| <u>ll Number</u> | <u>Time</u> | <u>Call Reason</u> | <u>Action</u> | <u>Priority</u> | <u>Duplicate</u> |
|-------------------|-------------|---|-----------------------------|-----------------|------------------|
| -5753 | 1055 | Initiated - GENERAL SERVICES | Verbal warning | 3 | |
| Call Taker: | | 504 - Baj, Henry | | | |
| Location/Address: | | ROUTE 9 | | | |
| Initiated By: | | 38 - Kuc, Mitchell | | | |
| Party Entered By: | | 08/22/2009 1133 504 - Baj, Henry | | | |
| Involved Party: | | COOPER, ELI DAMON @ 20 ARBOR WAY - AMHERST, MA 01002-1694 | | | |
| | | SSN: 008482496 DOB: 06/07/1977 Sex: M | | | |
| Unit: | | 38 Kuc, Mitchell | | | |
| | | | Arvd-10:55:13 Clrd-11:16:41 | | |
| Narrative: | | 08/22/2009 1056 Baj, Henry | | | |
| | | 349 ATTEMPTING TO STOP BICYCLIST RIDING DOWN MIDDLE OF ROAD. | | | |
| Narrative: | | 08/22/2009 1117 Baj, Henry | | | |
| | | 349 ADVISED SUBJECT NOT TO RIDE IN ROAD, DISORDERLY NEXT TIME. SUBJECT'S NAME IS ELI COOPER MA ID # 008482496 | | | |

or Date: 03/30/2007 - Friday

| <u>Call Number</u> | <u>Time</u> | <u>Call Reason</u> | <u>Action</u> | <u>Priority</u> | <u>Duplicate</u> |
|--------------------|-------------|---|-----------------------------|-----------------|------------------|
| -2204 | 1436 | 911 - WOM AGGRAVATED ASSAULT(NO I | Investigated | 2 | |
| Call Taker: | | 502 - Matroni, Steve | | | |
| Call Closed By: | | 501 - Thibault, Daniel 03/30/2007 1507 | | | |
| Location/Address: | | [HAD DOMINOS] DOMINO'S PIZZA - 457 RUSSELL ST | | | |
| Party Entered By: | | 03/30/2007 1439 502 - Matroni, Steve | | | |
| Calling Party: | | DAMON, ELY @ 20 ARBER WAY - AMHERST, MA 01002 413-530-3861 | | | |
| Unit: | | 34 Bartlett, Adam | | | |
| Cleared By: | | 501 - Thibault, Daniel | Arvd-14:42:24 Clrd-15:07:32 | | |
| Narrative: | | 03/30/2007 1439 Matroni, Steve | | | |
| | | RP RIDING BIKE HAD TRUCK BEEPING HORN AT HIM FOR PERIOD OF TIME ON RT.9, TRUCK THEN PULLED INTO DOMINO'S WHERE RP FOLLOWED TRUCK TO CONFRONT OPERATOR. ALTERCATION OCCURRED BETWEEN RP AND OPERATOR. | | | |

Amherst Police Department
Call Number Printed: 03/20/2010

or Date: 03/30/2007 - Friday

| <u>Call Number</u> | <u>Time</u> | <u>Call Reason</u> | <u>Action</u> | <u>Priority</u> | <u>Duplicate</u> |
|--------------------|-------------|--------------------|---------------|-----------------|------------------|
|--------------------|-------------|--------------------|---------------|-----------------|------------------|

| | | | | | |
|-----------------------|------|---|--------------------------|---------------|--|
| 7-5455 | 1449 | Walk-In - Assist Citizen | Referred To Other Agency | 3 | |
| Call Taker: | | 1001 - Brunelle, Christine | | | |
| Call Closed By: | | 991 - Cicia, Joshua 03/30/2007 1507 | | | |
| Call Modified By: | | 991 - Cicia, Joshua | | | |
| Location/Address: | | 408 NORTHAMPTON RD | | | |
| Party Entered By: | | 03/30/2007 1456 1001 - Brunelle, Christine | | | |
| Reporting/Inv. Party: | | PERKINS, ERIC W @ 520 AMHERST RD - BELCHERTOWN, MA 01007 413-374-1177 | | | |
| | | SSN: 015486566 DOB: 07/06/1955 Race: W Sex: M | | | |
| Post: | | 220 Epiceno, Sabino | | | |
| | | Disp-14:49:59 | Arvd-14:55:51 | Clrd-15:07:41 | |
| Arrived By: | | 1000 - Rushford, Jason | | | |
| Cleared By: | | 991 - Cicia, Joshua | | | |
| Narrative: | | 03/30/2007 1455 Brunelle, Christine | | | |

RP reports while in area of listed location, a bicyclist was riding in the roadway. The bicyclist then proceeded to the traffic island and sat down. RP exchanged words with the bicyclist and then the bicyclist went to the RP and grabbed the RP by his shirt. The RP proceeded to APD to report incident. The bicyclist was LSW jeans and a short sleeved shirt.

Narrative: 03/30/2007 1502 Epiceno, Sabino assisted Hadley PD happened by Dominoes Pizza, 34

Narrative: 03/30/2007 1507 Cicia, Joshua Party was located in Hadley, Hadley PD were already dealing with him.

Narrative: 03/30/2007 1537 Molin, Yvonne RP entered station stating that there was a bicyclist in the middle of the road impeding traffic. RP stated he stopped his truck and told the man on the bike to get out of the road. The man then came up to his driver side window and grabbed the RP by the shirt stating it was "his road". Dispatch was notified was found to be in Hadley not in Amherst. #102.