

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon.  
 :  
 v. : Criminal No. 18-\_\_\_\_  
 :  
 ROGER THEN : 18 U.S.C. § 241  
 : 18 U.S.C. § 242  
 : 18 U.S.C. § 4  
 : 18 U.S.C. § 1519  
 : 18 U.S.C. § 2

**INDICTMENT**

The Grand Jury in and for the District of New Jersey, sitting at Newark,  
charges:

**COUNT 1**  
**(Conspiracy Against Rights)**

1. At all times relevant to Count 1 of this Indictment:
  - a. Defendant ROGER THEN (“THEN”) was a police officer employed by the Paterson Police Department (“PPD”) in Paterson, New Jersey.
  - b. Ruben McAusland (“McAusland”) was a police officer employed by the PPD.
  - c. The Victim resided in Paterson, New Jersey. On or about March 5, 2018, the Victim attempted to commit suicide, called 911, and was taken by the Paterson Fire Department (“PFD”) to St. Joseph’s Medical Center (“SJMC”) in Paterson. THEN and McAusland, in uniform and acting in their official capacities, responded to the Victim’s residence and followed the PFD to SJMC to monitor the Victim.

2. On or about March 5, 2018, in Passaic County, in the District of New Jersey, and elsewhere, defendant

**ROGER THEN**

knowingly and willfully conspired and agreed with Ruben McAusland to injure, oppress, threaten, and intimidate the Victim in the free exercise and enjoyment of the rights secured to the Victim by the Constitution and laws of the United States, namely, the right to be free from unreasonable searches and seizures, which includes the right to be free from the use of unreasonable force by a law enforcement officer.

Goal of the Conspiracy

3. It was the goal of the conspiracy for THEN and McAusland, under color of law, to use force and the threat of force to physically assault and intimidate the Victim at SJMC.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that THEN and McAusland physically assaulted the Victim while the Victim was in a wheelchair in SJMC's emergency room. As captured on hospital surveillance video, McAusland pushed the Victim's wheelchair and punched the Victim in the face. As the Victim fell towards the ground, still in the wheelchair, THEN grabbed the Victim by the back of the neck and further pushed the Victim towards the ground.

5. It was further part of the conspiracy that THEN used his cellular telephone to videotape McAusland further assaulting the Victim while the Victim

was in an SJMC hospital room. THEN and McAusland were present in an SJMC hospital room while the Victim lay prone in a hospital bed. THEN began recording a video in the hospital with his cellular telephone, turned his cellular telephone towards himself, and smiled into the camera. THEN next turned his cellular telephone towards the Victim and McAusland, and, instead of attempting to stop McAusland, THEN recorded McAusland putting on a pair of hospital gloves and violently striking the Victim twice across the face.

6. It was further part of the conspiracy that THEN and McAusland submitted a false Incident Report to the PPD. THEN and McAusland agreed to omit and did omit material facts from the Incident Report, namely that: (a) McAusland punched the Victim and THEN grabbed the Victim by the neck and pushed the Victim towards the ground; (b) McAusland violently struck the Victim, twice, in a hospital room; and (c) that THEN used his cellular telephone to record McAusland's assault of the Victim in the SJMC hospital room.

7. As a result of the assaults committed by THEN and McAusland, the Victim suffered bodily injuries, including facial injuries.

In violation of Title 18, United States Code, Section 241.

**COUNTS 2 & 3**  
**(Deprivation of Rights Under Color of Law)**

1. The allegations set forth in paragraphs 1 and 4 to 7 of Count 1 of this Indictment are realleged and incorporated as if set forth herein.

2. On or about March 5, 2018, in Passaic County, in the District of New Jersey, and elsewhere, defendant

**ROGER THEN,**

while acting under color of law, willfully deprived the Victim of the rights secured and protected by the Constitution and laws of the United States, namely, the right to be free from unreasonable searches and seizures, which includes the right to be free from the use of unreasonable force by a law enforcement officer, by the conduct set forth in the table below, all of which resulted in physical injuries to the Victim:

<b>COUNT</b>	<b>CONDUCT</b>
2	Physically assaulting the Victim.
3	Failing to intervene to stop Ruben McAusland's assault of the Victim.

In violation of Title 18, United States Code, Section 242 and Section 2.

**Count 4**  
**(Misprision of Felony)**

1. The allegations set forth in paragraphs 1 and 4 to 7 of Count 1 of this Indictment are realleged and incorporated as if set forth herein.

2. On or about March 5, 2018, in Passaic County, in the District of New Jersey, and elsewhere, defendant

**ROGER THEN,**

having knowledge of the actual commission of a felony cognizable by a court of the United States, that is, McAusland's assault of the Victim in violation of the Victim's right to be free from unreasonable searches and seizures, which includes the right to be free from the use of unreasonable force by a law enforcement officer, concealed and did not make known as soon as possible the same to some judge or other person in civil authority under the United States.

In violation of Title 18, United States Code, Section 4.

**COUNT 5**  
**(Falsification of Record)**

1. The allegations set forth in paragraphs 1 and 4 to 7 of Count 1 of this Indictment are realleged and incorporated as if set forth herein.

2. Conspiracy and substantive offenses involving the deprivation of civil rights, to include the right to be free from unreasonable searches and seizures, including through the use of unreasonable force by a person acting under color of law, statute, ordinance, or regulation, contrary to Title 18, United States Code, Sections 241 and 242, are matters within the jurisdiction of the Federal Bureau of Investigation ("FBI"), which is an agency within the United States Department of Justice.

3. On or about March 5, 2018, in Passaic County, in the District of New Jersey, and elsewhere, defendant

**ROGER THEN,**

in relation to and in contemplation of a matter within the jurisdiction of the Federal Bureau of Investigation, an agency of the United States, knowingly concealed, covered up, falsified, and made false entries in a Paterson Police Department Incident Report about the March 5, 2018 incident involving the Victim, with the intent to impede, obstruct, and influence the investigation and proper administration of such matter, that is, THEN approved the submission of a false Incident Report to the PPD that omitted that: (a) McAusland punched the Victim and THEN grabbed the Victim by the neck while the Victim was in a

wheelchair; (b) McAusland violently struck the victim twice, while the Victim was in a hospital bed; (c) THEN failed to intervene to stop McAusland's striking of the victim; and (d) THEN recorded the incident set forth in (b).

In violation of Title 18, United States Code, Section 1519 and Section 2.

A TRUE BILL

  
\_\_\_\_\_  
CRAIG CARPENITO  
UNITED STATES ATTORNEY

\_\_\_\_\_  
FOREPERSON