

# \$150,000 FOR OFFICER INJURED ON ICY STEPS EXECUTING SEARCH WARRANT



A landlord's tenant is the subject of a drug investigation by a joint task force. With three knock and announce

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warrants in hand, the police are greeted at the front door by another resident and enter the landlord's multi-unit rental property through the front entrance without incident. The police search the tenant's second floor apartment. The tenant is taken into custody and the police find and seize a bag filled with heroin.

While leaving the building, a local police detective slips and falls on snow and ice covered granite steps attached to the front porch. As you may know, it is often more dangerous coming down icy stairs than going up. The detective suffers a complete rupture of the patellar tendon in his left knee. Less than two weeks later, he had surgery under general anesthesia to repair his knee. The detective's condition improved with time and despite some continuing symptoms, he was cleared for a full return to work just over five months after his fall, including a short stint on light duty.

We cannot stress the importance of immediately documenting falls on ice and other dangerous conditions with photographs enough. This case was

no exception. A fellow officer took plenty of photographs to document the condition of the stairs soon after the detective's fall. The photos clearly showed the front entrance covered in a thick layer of hard packed snow and ice, including the location where the officer fell. Conditions like these are created by walking over the area repeatedly the area without proper snow removal. In addition, the photos indicated an absence of any gutter system to direct melt water away from the roof above. The absence of gutters allowed meltwater to drip down and refreeze to form melt

**We cannot stress the importance of immediately taking photographs enough...**



*Warrant in hand, the police search an apartment and seize a bag filled with heroin. A job well done but they still must get past the snow and ice covered steps on their way out.*

water ice on the front entrance. You know melt water ice when you encounter it. It is so slippery it is almost impossible to walk on without falling.

According to Attorney Jared Ballin, the photographs were critical in enabling him to settle the detective's case with the defendant's landlord for \$150,000 without ever having to file a lawsuit. Had we needed to involve the Court, the photographs would have been a crucial part of the case. Most officers have a smart phone. Keep this in mind next time someone gets hurt at a property.

Aside from the importance of photographs, here is the takeaway for public safety officers around the state – landowners must keep their property safe for visitors where people are expected to walk. Moreover, this holds true regardless of why you are legally at a property. Whether it be responding to a domestic call, serving a

search warrant, or anything in between, it does not change the fact that *you* are a lawful visitor and the landowner has a continuing obligation to make it safe for you to walk on the property.

Massachusetts law is not unreasonable. It recognizes we live in New England. There is no expectation that every speck of snow and ice is removed from someone's property or that the owner be outside constantly clearing, as soon as the first snowflake falls. The law imposes a duty on the landowner to use reasonable care in all the circumstances. Typically, this involves shoveling after a storm or putting down sand, rock salt or ice melt on icy areas. This photograph tells another story: a choice was made to neglect the buildup of snow and ice. Community safety requires neglectful property owners be held accountable for the injuries they cause.

Officers injured on or off duty should consult with us early on, so we can determine whether you have a viable case and for you to learn what your rights are. Sometimes we need to do some investigation to determine whether a case is worthwhile to proceed for an injured officer. Decisions about whether to proceed with a claim always belong to the injured officer, not us, and can be made later. When we work on these cases, we work on a contingent fee basis. That means the injured officer pays nothing up front, nor while the case is pending. He or she only needs to pay for legal services and expenses at the end of the case, if we successfully collect money on their claim. We typically will receive one-third of the money collected. In the off chance we are unable to collect money for the injured officer, the officer owes nothing for our services.

*To protect the privacy of the detective and witnesses, all names have been changed. Any resemblance to names of real persons, past or present, is merely coincidental and not intended. The injured detective agreed to have this article published in order that public safety officers around the Commonwealth be better educated about their legal rights to compensation when injured.*

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Attorney Jared Ballin joined our law firm in 2013. He resolved this case and co-authored this article with Steven Ballin. Steven Ballin, is an attorney and founder of the law firm, Ballin & Associates, LLC, which specializes in representing injured officers and their families. Attorney Ballin has practiced law since 1981 and specializes in the field of police injury law. Along with other attorneys in his firm, they have successfully represented injured police officers in over 200 departments throughout Massachusetts. Attorney Ballin is a certified instructor for the Municipal Police Training Committee and also lectures for the Massachusetts Police Association. He sponsors [www.PoliceInjury.com](http://www.PoliceInjury.com), a website devoted to Massachusetts public safety officers. Attorney Ballin is available for free and confidential consultation and case review. He can be reached by telephone at 508-543-3700, or by e-mail at [SBallin@PoliceInjury.com](mailto:SBallin@PoliceInjury.com).