

# Angry sergeant releases Tsarnaev photos

By [Travis Andersen](#) and [Nikita Lalwani](#) | GLOBE STAFF AND GLOBE CORRESPONDENT JULY 19, 2013



SERGEANT SEAN P. MURPHY/MASSACHUSETTS STATE POLICE VIA BOSTON MAGAZINE

**Dzhokhar Tsarnaev, with a red dot from a sniper's laser sight trained on his head, surrendered to authorities on April 19.**

A State Police sergeant, incensed by the controversial Rolling Stone magazine cover of accused Boston Marathon bomber Dzhokhar Tsarnaev, has released dramatic photographs of the apprehension of the accused terrorist to a local magazine without permission from his agency.

The pictures, taken by Sergeant Sean Murphy, a State Police tactical photographer who was working during the [massive manhunt on April 19 in Watertown](#), first appeared Thursday afternoon on [the website](#) of Boston Magazine. [Bostonglobe.com](#), [Boston.com](#) and other news outlets posted them afterward.

Murphy told the magazine that the photos, which show Tsarnaev bloodied and with a police sniper's laser-projected bead on his head, display "the real Boston bomber. Not someone fluffed and buffed for the cover of Rolling Stone magazine."

The Rolling Stone cover, which critics say glamorized Tsarnaev, “was an insult to any person who has ever worn a uniform of any color or any police organization or military branch and the family members who have ever lost a loved one serving in the line of duty,” Murphy said.

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A State Police spokesman said Thursday night that Murphy had been relieved of duty for one day and will be subject to an internal investigation. “His duty status will be determined at a hearing in the near future,” said spokesman David Procopio.

Procopio confirmed that Murphy took the photos in his official capacity, but he distributed them without permission.

“Today’s dissemination to Boston Magazine of photographs of Boston Marathon bombing suspect Dzhokhar Tsarnaev and police activity related to his capture was not authorized by the Massachusetts State Police,” Procopio said in a statement. “The department will not release the photographs to media outlets.”

A spokeswoman for US Attorney Carmen M. Ortiz, whose staff is prosecuting Tsarnaev, said State Police have indicated they will be “taking action” in response to the leak.

“The release of these photos was completely unacceptable,” spokeswoman Christina DiIorio-Sterling said in a statement.

Neither Procopio nor DiIorio-Sterling would say whether the photos have been entered as evidence in the pending case against Tsarnaev in federal court in Boston. He faces a slew of charges that could bring the death penalty for his alleged role in the bombings, which killed three, including a child from Dorchester, and wounded more than 260.

Murphy could not be reached for comment Thursday, and Tsarnaev’s lawyers did not respond to inquiries.

The release of the photos drew criticism from legal specialists.

Rosanna Cavallaro, a professor at Suffolk University Law School, said the leak will exacerbate what is already a major problem: how to empanel a jury that has not seen or formed judgments about the case based on news coverage and photos.

But, she said, these particular photos will not transform the case, since there are already concerns about whether Tsarnaev can get a fair trial anywhere, let alone in Boston.

“The real concern is that people will see these new photos and think, ‘Oh, he must be guilty,’ because

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why else would he be surrounded by dozens of police and emerging, bleeding, from a boat,” said Cavallaro, a former assistant attorney general. “We have to make sure people don’t make decisions based on that, because we want punishment to be based on a fair proceeding.”

John Cunha, a former president of the Massachusetts Association of Criminal Defense Lawyers, called the leak disgraceful and said that Murphy acted outside his bounds as a member of law enforcement.

“Does he think he’s our appointed champion against the fourth estate?” Cunha said. “Give me a break.”

Rolling Stone declined to comment Thursday, but said previously on its website that the cover fell within journalistic traditions and the magazine’s “long-standing commitment to serious and thoughtful coverage of the most important political and cultural issues of our day.”

The cover title of Rolling Stone’s story on Tsarnaev was: “The Bomber: How a popular, promising student was failed by his family, fell into radical Islam, and became a monster.”

That cover has sparked outrage throughout the region, from victims and local officials who called the magazine front tasteless, to merchants vowing to keep the issue off their shelves.

Gerard T. Leone Jr., the former Middlesex district attorney, said in an e-mail that Murphy’s actions, while understandable, were problematic.

“It is troubling that the trooper would act unilaterally and outside of the MSP chain of command in such public and serious matters,” said Leone, who also served as a federal prosecutor and is now a partner at the Nixon Peabody law firm.

Thomas Nolan, a former Boston police lieutenant and newly appointed chairman of the criminal justice department at SUNY Plattsburgh, was also critical.

“It’s unprofessional and inappropriate,” Nolan said, adding that police officers are not supposed to respond viscerally and publicly to things they find upsetting or offensive.

And Martin G. Weinberg, a prominent Boston defense lawyer, said Tsarnaev’s trial will test whether the American justice system can handle a terrorism case. The leaked photographs “infect” that process, he said.

“This is a profoundly serious experiment in American justice,” he said. “Can we give a fair trial to the least popular man in the Commonwealth of Massachusetts? I’m sure we can, but why make it more difficult?”

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