

**Report on the Evaluation
of the
Connecticut Department
of Public Safety
Internal Affairs Program**



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EXECUTIVE SUMMARY

In October 2005, Connecticut Commissioner of Public Safety Leonard C. Boyle and Connecticut State Police Colonel Edward J. Lynch asked New York State Police Superintendent Wayne E. Bennett to conduct an independent evaluation of the Connecticut Department of Public Safety (DPS) Professional Standards Section and its Internal Affairs Unit's operations, policies and procedures. Commissioner Boyle also asked the New York State Police (NYSP) to examine questions concerning the fairness and objectivity of certain investigations conducted by the unit and allegations that Connecticut State Police (CSP) command personnel exerted improper influence on internal affairs operations. Superintendent Bennett agreed to provide the requested assistance and assigned a detail of specialized NYSP personnel to conduct the interagency evaluation.

At about the same time, Connecticut Attorney General Richard Blumenthal was receiving numerous complaints about the Connecticut State Police under the state's "Whistleblower Act." To avoid duplication of effort in the evaluation of similar cases and combine expertise and resources, it was mutually agreed that the Attorney General's Office and the New York State Police would form a Joint Evaluation Team to cooperatively investigate these whistleblower complaints.

Sixty-four cases of alleged misconduct were reviewed, including whistleblower complaints and cases independently developed by the NYSP. As a result of this initial review, some of the cases were excluded from further evaluation because it was clear that the Department of Public Safety had appropriately handled them. After in-depth evaluation of the remaining cases, 19 were selected for inclusion in this report as the

most clear-cut illustrations of the systemic problems identified by the New York State Police Detail and the Attorney General's staff assigned to the evaluation. Every attempt was made to keep the case summaries as concise as possible, given the complexity of the investigations. They do not lend themselves to further condensation in this summary.

In addition to conducting joint evaluations of whistleblower cases with the Connecticut Attorney General's Office, Commissioner Boyle specifically asked the New York State Police Detail to address five issues. Those issues and a summary of the NYSP Detail findings are:

Issue 1: Did any member of the CSP command staff improperly influence or attempt to influence any internal affairs investigation with the intent to harm, disparage or punish any member of the Department of Public Safety?

The NYSP Detail did not find any evidence that any member of the CSP command staff exerted, or attempted to exert, improper influence on the Internal Affairs Unit in an attempt to harm, disparage or punish any member of the Department of Public Safety. This allegation was made in a number of cases reviewed. In none of these cases did the evaluators find any evidence that an employee was targeted improperly. That being said, the Detail found that, because the internal affairs process is often so ineffective and the predilection of the agency to ignore or excuse employee misconduct is often so strong, there is a perception that any time an official internal investigation actually is initiated, the target employee is being singled out unfairly.

Issue 2: Did any member of the CSP command staff improperly influence or attempt to influence any internal affairs investigation with the intent to improperly protect or shield any employee from appropriate discipline?

The Detail found evidence that, on some occasions, members of the CSP command staff improperly interfered with and influenced internal affairs investigations in ways that effectively shielded employees from appropriate investigation, discipline and even possibly criminal charges. In numerous cases reviewed by the Detail, supervisors or command staff directed investigators to ignore evidence, limit the scope of their investigation to the point of not following obvious leads, not open or pursue a case that was already being investigated by an outside agency or not open an administrative case with strong evidence of misconduct if a separate criminal investigation did not find proof beyond a reasonable doubt of criminal acts.

Although it is not possible to absolutely determine whether the motivation for these actions was a desire to avoid negative publicity for the agency or an intent to shield specific individuals from punishment, the practical result was that CSP employees, who may have faced disciplinary action up to and including termination of employment and arrest on criminal charges, received no punishment for their alleged misconduct. While the evaluation did not substantiate allegations that lax discipline was the result of inappropriate relationships, the continuing failure to investigate allegations of misconduct also resulted in a disservice to the agency, the public and DPS employees who might have been cleared of false allegations.

Issue 3: Did any member of the CSP command staff employ or attempt to employ the internal affairs process with the intent to harm, disparage, or improperly punish any member of the Department of Public Safety.

There is no evidence in any of the cases reviewed by the NYSP Detail that any member of the CSP command staff tried to use the internal affairs process to harm, disparage, or improperly punish any member of the Department of Public Safety.

Issue 4: Did any member of the Internal Affairs Unit issue false reports or otherwise corrupt the internal affairs process to the improper benefit or detriment of any employee?

This is a more difficult question to answer. If the heart of this question is whether the Detail found evidence that any current member of the Internal Affairs Unit acted improperly out of personal feelings of animosity or magnanimity toward any employee of the Department, the answer is no. As noted previously, the Detail did not find evidence of any impropriety in an internal affairs investigation that resulted in undeserved discipline or other punishment or damage to an innocent employee, or any evidence that a member of the Connecticut State Police fabricated evidence to sustain a false allegation against any employee of the Department.

However, there are numerous cases where, primarily because of orders or influence from supervisors or command staff, CSP personnel conducting internal investigations: 1) failed to document relevant information; 2) failed to diligently follow

and exhaust all leads, including obvious ones like taking formal statements from the accused employees, victims and witnesses; 3) ignored physical evidence and strong circumstantial evidence that might have led to a finding against the accused employee; 4) made serious mistakes that compromised the investigation; 5) focused investigations on less serious allegations to the exclusion of more serious allegations; and 6) otherwise failed to conduct thorough investigations of allegations of improper or criminal conduct. These failures were found in both Internal Affairs Unit investigations and criminal investigations of employees conducted by Major Crime Units. The net results of these actions were inadequate reports that led to inaccurate conclusions rather than deliberately falsified reports. The result of these flawed investigations was that when an employee may have been deserving of discipline or even arrest, no action or inappropriate action was taken.

As to the question of corrupting the internal affairs process, the Connecticut Department of Public Safety internal affairs process has repeatedly been undermined, rendering it ineffective. However, this is not due to the deliberate actions of members of the Internal Affairs Unit. In actuality, the internal affairs process has been undermined by the systemic problems that are identified in the following sections of this report.

Issue 5: Do the structure, practices and protocols of the Internal Affairs Unit meet the best professional standards?

The current internal affairs structure, practices and protocols are seriously deficient. The report deals with identified deviations from best practices in detail.

In addition to the specific issues above, the Joint Evaluation Team found serious problems throughout the Department of Public Safety and Connecticut State Police with regard to their internal affairs processes. These problems include, but are not limited to:

- Abdication by certain members of leadership responsibilities and authority;
- Failure to properly supervise subordinates and hold them accountable for performing their duties with integrity, diligence and respect for the public;
- A consistent disregard for official policies, reinforced by consistent failure to discipline employees who deliberately and willfully fail to adhere to them;
- A historical institutional bias against the internal affairs function and the necessity to investigate all complaints against personnel;
- Failure to provide adequate resources and essential command staff support to the Internal Affairs and Inspections Units;
- A pervasive view of citizen complaints as nuisances rather than legitimate concerns warranting internal affairs review;
- Repeated efforts to discredit complainants and witnesses while, at the same time, giving the benefit of the doubt to self-serving, questionable statements by accused employees; and
- Inadequate supervisor and command staff oversight and review of administrative and internal affairs investigation reports to the extent that serious allegations of misconduct and even criminal acts are overlooked.

The New York State Police Detail identified additional problems, not directly related to the Attorney General's whistleblower investigation, including but not limited to:

- Subordination of the internal affairs process and imposition of discipline to Labor Relations;
- Weakening the internal affairs process and the ability of the DPS to administer effective discipline by failing to assert essential management authority and deferring that authority to unofficial interpretations of union contract language by certain members and/or unwritten common practices that ignore agency policy; and
- An aversion to pursuing appropriate discipline through every channel available, to the point of reversing investigative findings of employee culpability rather than taking the case to arbitration.

Finally, the report provides more than sixty detailed recommendations for correcting the problems identified in the report. The recommendations are divided into two categories: (1) recommendations by the Attorney General and the NYSP Detail (the Joint Evaluation Team) where the recommendations relate to both the whistleblower inquiries and the NYSP Detail's evaluation and (2) additional recommendations made solely by the NYSP Detail relating to the evaluation requested by Commissioner Boyle of the Internal Affairs Unit's operations, policies and procedures. These additional recommendations are not recommendations of the Attorney General.

The recommendations of the Attorney General and the NYSP Detail cover empowerment of the Professional Standards Section, complaint intake and processing and training. Additional recommendations of the NYSP Detail cover drug testing to comply with the union contract, monitoring systems, accountability and labor management Issues.

The Joint Evaluation Team has conscientiously worked to recommend solutions, and not just identify problems. The Commissioner will ultimately be responsible for evaluating the recommendations and any viable alternatives, identifying those that he feels will best serve the interests of the Department and the public, and working with the various involved parties to effect the necessary changes. These changes will require cooperation from the employees of the Department and the CSP Union and will also require support from the governor and legislature to facilitate changes and provide the resources that will be required to implement the recommendations.

Maintaining the momentum to effect long-term change is always a significant challenge to large organizations. Therefore, the Joint Evaluation Team recommends that the Commissioner establish an oversight group to continually monitor and report on the progress made toward implementation of needed changes.

While the problems identified in this report are serious, the Joint Evaluation Team emphasizes to the people of the State of Connecticut that there are more than 1200 men and women who serve with well deserved pride in the Connecticut State Police and daily put their lives on the line to protect and serve the public. In fact, complaints from state police members themselves -- deeply concerned about the direction of their agency -- were the direct cause for Commissioner Boyle's request to Superintendent

Bennett and precipitated the Attorney General's whistleblower investigation. The mishandling of the internal affairs process identified in this report involves only sixty-four cases and a small percentage of agency employees. The overwhelming majority of DPS employees perform their duties with diligence, integrity and courage. We believe they are ready and willing to work with Commissioner Boyle to preserve and enhance public and employee confidence in the Department.

BACKGROUND

The events leading to this report began in early 2005 with a series of complaints from the Connecticut State Police Union, individual Connecticut State Police (CSP) employees and members of the general public concerning the conduct of certain CSP personnel, ranging in rank from troopers to executive officers. These complaints included allegations of widespread, systemic mismanagement, favoritism, abuse of authority, manipulation of investigations, interference with the operations of the Connecticut Department of Public Safety Internal Affairs Unit and violations of law. Some of these complaints were made to Connecticut Commissioner of Public Safety Leonard C. Boyle. Others were made to Connecticut Attorney General Richard Blumenthal under Connecticut's General Statute § 4-61dd (a) (the "Whistleblower Act"), which gives the Attorney General and the Auditors of Public Accounts authority to investigate and report on allegations of improper or illegal conduct by public officials.

In October 2005, while the Attorney General was investigating the complaints made to his office, Commissioner Boyle and Colonel Edward J. Lynch asked New York State Police Superintendent Wayne E. Bennett to conduct an independent evaluation of the Professional Standards Section and the Internal Affairs Unit of the Connecticut Department of Public Safety (DPS). Specifically, the Commissioner asked the New York State Police (NYSP) to evaluate the Internal Affairs Unit's operations, policies and procedures. Commissioner Boyle also asked the NYSP to examine questions concerning the fairness and objectivity of certain investigations conducted by the unit and allegations that CSP command personnel exerted improper influence on internal affairs operations. Superintendent Bennett agreed to provide the requested assistance

and assigned Colonel Joseph F. Loszynski, Deputy Superintendent of the New York State Police Internal Affairs Bureau, to form a detail of specialized NYSP personnel to conduct the interagency evaluation.

EVALUATION PARAMETERS

During initial strategy meetings between Commissioner Boyle and Colonel Loszynski, they agreed to the following objectives for the New York State Police Detail. The Detail would: 1) determine whether any member of the CSP command staff improperly influenced or attempted to influence any internal affairs investigation with the intent to harm, disparage or punish any member of the Department of Public Safety; 2) determine whether any member of the CSP command staff improperly influenced or attempted to influence any internal affairs investigation with the intent to improperly protect or shield any employee from appropriate discipline; 3) determine whether any member of the CSP command staff employed or attempted to employ the internal affairs process with the intent to harm, disparage, or improperly punish any member of the Department of Public Safety; 4) determine whether any member of the Internal Affairs Unit issued false reports or otherwise corrupted the internal affairs process, to the improper benefit or detriment of any employee; and 5) evaluate the structure, practices and protocols of the Internal Affairs Unit, to determine if they meet the best professional standards used by leading law enforcement agencies in the United States.

Upon completing the evaluation, the Detail would produce a comprehensive report to document any problems identified, including leadership failures, operational weaknesses, accountability issues, inadequate or ineffective policies and procedures,

contractual issues and training shortfalls. This report would also include specific recommendations to improve the internal control mechanisms of the Department of Public Safety and the Division of State Police. It also was agreed that the evaluators would have the freedom to follow any leads and gather any information they deemed necessary to conduct a thorough and impartial evaluation.

WHISTLEBLOWER CASE PARAMETERS

Pursuant to Connecticut General Statute § 4-61dd (a), known as the Whistleblower Act, a person having knowledge of any matter involving corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any state department or agency may transmit facts and information concerning these matters to the Auditors of Public Accounts. The Whistleblower Act provides authority to the Attorney General to investigate and report on cases referred by the Auditors of Public Accounts.

As information began to circulate regarding Commissioner Boyle's request for an independent assessment, many CSP personnel filed additional complaints with Attorney General Blumenthal, seeking protection under the Whistleblower Act. These complaints ranged from allegations of management interference with the operations of the DPS Internal Affairs Unit to allegations of unfair treatment of some CSP employees. To avoid duplication of effort in the evaluation of similar issues, it was mutually agreed that the Attorney General's Office and the New York State Police would conduct a joint investigation of those cases reported under the whistleblower provision, while

investigation of numerous cases that had not been submitted to the Attorney General's Office would be the sole responsibility of the New York State Police Detail.

Attorney General Blumenthal assigned five attorneys and one investigator from his office to conduct joint interviews of witnesses in whistleblower cases. He selected Assistant Attorney General Arnold I. Menchel to coordinate their efforts with Colonel Loszynski and the NYSP Detail. The Attorney General's staff worked closely with the NYSP Detail offering case suggestions, reviewing documents and interpreting Connecticut statutes. Due to the statutory protection provided to whistleblowers, the Attorney General's Office obtained consent from complainants to disclose their identities and provide the specifics of their complaints to the New York State Police Detail.

Throughout this report we will use the terms "the Joint Evaluation Team" or "the Team" to reference the cooperative efforts of the New York State Police and the Connecticut Attorney General's Office. We will use the terms "the NYSP Detail" or "the Detail" when discussing work done independently by New York State Police personnel.

NYSP CREDENTIALS

The New York State Police is the largest full service state police agency in the nation, with 4,913 sworn members and 974 non-sworn employees. Its proactive Internal Affairs Bureau (IAB) is comprised of 31 sworn members and 7 non-sworn support personnel assigned to Division Headquarters in Albany, with strategically located regional offices in Syracuse, Rochester and Newburgh.

The New York State Police has officially adopted the core values of Integrity, Respect, Customer Service, Continuous Improvement and Learning, and Leadership. Integrity is deliberately the primary value. These values create the necessary framework for every employee of the organization to live and work in accordance with high ethical standards, be honest and truthful, have the physical and moral courage to do what is right and not tolerate unethical behavior in others. These values are continually reinforced throughout the agency, particularly when IAB conducts ethics and integrity training during basic recruit schools, in-service training, and the leadership conferences held for commissioned and non-commissioned officers. The NYSP further reinforces these core values by selecting ethics textbooks as source material for questions used during both lieutenant and sergeant promotional examinations.

ORGANIZATIONAL QUALIFICATIONS

The New York State Police is recognized internationally as a leader in internal affairs matters and internal audit policies and procedures. The United States Army recently asked the NYSP Internal Affairs Bureau to assume a leadership role in developing internal controls for a modern civilian police force in Iraq. Many of the policies, procedures, best practices, protocols and operational manuals used by the NYSP IAB have been adapted for use by the Iraqi civilian police during the ongoing reconstruction. Law enforcement agencies in the United States and other countries frequently consult with the New York State Police IAB and benchmark against its practices in the areas of testing hair for drugs, early intervention, integrity testing, critical incident response and the various methods and controls used to conduct internal audits. IAB periodically sponsors internal affairs seminars, the most recent of which was attended by representatives from 36 states and the Canadian Provinces of Ontario and Quebec.

Local law enforcement agencies in New York State regularly seek advice from the NYSP IAB on sensitive internal cases and request IAB assistance with undercover operations and integrity testing. Other government agencies within New York State have asked the Bureau to conduct audits of their evidence procedures and other critical functions such as security assessments. One recent example is an audit of a 60 year accumulation of evidence retained by a district attorney's office.

QUALIFICATIONS OF DETAIL PERSONNEL

Colonel Joseph F. Loszynski

Deputy Superintendent Loszynski has been a sworn member of the New York State Police for almost 32 years. In the course of his career, he has held numerous ranks and positions of trust. He led many high profile homicide investigations in the late 1980's and early 1990's, including the investigation of a serial killer who murdered five women and is currently on death row in North Carolina.

In 1992, after commanding the Bureau of Criminal Investigation in central New York for seven years, Captain Loszynski was elevated to the rank of Major. He was placed in charge of field operations in Troop C, which covered seven counties in the southern tier and encompassed the cities of Binghamton, Ithaca, Cortland, Norwich and Oneonta. His appointment to Troop C Commander came when the troop was caught up in the largest scandal in the history of the New York State Police, which involved accusations of fabricating evidence, perjury and numerous acts of criminal conduct. The three-year investigation into these allegations, directed by a special prosecutor appointed by the Governor, resulted in three State Police members being sent to state prison.

In 1995, Major Loszynski was promoted to Staff Inspector and assigned to the Internal Affairs Bureau, where he subsequently received additional promotions to Lieutenant Colonel and Colonel. During his tenure, he has ensured strict accountability of the entire State Police workforce. He has also overseen the implementation of dozens of reforms and internal affairs improvements to correct the serious deficiencies identified during the course of the evidence tampering investigation.

As Deputy Superintendent, Internal Affairs, his responsibilities reach far beyond the oversight of internal investigations. He is the internal control officer for the Division of State Police and directs a proactive audit unit that assesses leadership traits, promotes operational efficiency and effectiveness, identifies best practices and assigns accountability when deficiencies are noted during an audit. He developed and implemented the bifurcation of the investigative and audit functions, which significantly improved the overall effectiveness and professionalism of the Internal Affairs Bureau.

Colonel Loszynski is a graduate of the FBI National Academy, the Governors Leadership Classroom, and the nationally renowned Frances Glessner Lee Homicide Seminar in Maryland.

Lieutenant Colonel Stephen J. Maher

Colonel Loszynski appointed then Staff Inspector Stephen J. Maher as his executive assistant on the Evaluation Detail. Lieutenant Colonel Maher has held a wide range of positions within both the Uniform Force and the Bureau of Criminal Investigation during his 27-year career with the New York State Police. He was appointed the Director of Training in 1998 and in 2000 was appointed to command Troop G, a ten county area in the capital region. In 2002, he was promoted to Inspector and assigned to direct the IAB North Region Investigative Unit, overseeing all internal affairs investigations within a fifteen county region that has over 1500 sworn and non-sworn personnel. In October 2006, Inspector Maher was promoted to Lieutenant Colonel and charged with overseeing all internal investigations statewide. Lieutenant Colonel Maher holds a Master's Degree in Criminal Justice and is a graduate of the FBI National Academy.

Other Detail Personnel

Colonel Loszynski chose the investigators assigned to the Detail from dozens of candidates within the New York State Police. The people he selected have extensive experience conducting high profile internal affairs investigations and, in some instances, supervising some of the most sensitive criminal investigations in the state. All of the Detail members have extensive experience as first line field supervisors and the majority has served as second line supervisors in various capacities within the NYSP. These veteran members have years of law enforcement experience in internal affairs, criminal investigations, training, agency accreditation and policy review, narcotics and traffic enforcement. Several members assigned to the Detail have earned Master's Degrees in either Criminal Justice or Public Administration and/or are graduates of the FBI National Academy.

NYSP RESOURCES ALLOCATED TO DETAIL

The NYSP Detail began working in Connecticut on November 1, 2005. Initially, it was comprised of six members of the New York State Police IAB. The Connecticut DPS provided office space and logistical support during the course of the evaluation. The NYSP provided clerical support to transcribe the taped interviews conducted during this comprehensive and exhaustive effort.

As the evaluation progressed, it became apparent that the number of personnel initially allocated to conduct the large number of interviews and case reviews was insufficient to accomplish the mission and objectives of the evaluation. On January 17,

2006, the Detail was expanded to eleven members. The Connecticut DPS provided additional office space and logistical support to accommodate the expanded Detail.

On March 17, 2006, the Detail completed all interviews of CSP employees and other witnesses and returned to NYSP Headquarters in Albany to continue case evaluation and analysis of the transcribed interviews. Research on current IAB practices of a number of other major law enforcement agencies was conducted with the assistance of the NYSP Planning and Research Section. Upon completion of this analysis, the project entered the report-writing phase.

Over the course of the evaluation, Team members conducted a total of 262 interviews including: 207 interviews of current and former sworn CSP employees (114 employees were interviewed, some more than once); 26 interviews of non-sworn employees of the Connecticut Department of Public Safety; 14 interviews of personnel from other agencies; and 15 interviews of private citizens. To ensure the accuracy of the evaluation, all interviews of DPS employees were recorded. Interviews of private citizens and personnel from other agencies were also recorded unless the person being interviewed specifically declined. The NYSP submitted 112 requests for information (RFI) in order to obtain Internal Affairs Unit case reports and other documents.

The NYSP IAB investigative staff expended approximately 9,500 personnel hours on the Detail from November 1, 2005 to November 27, 2006. Additionally, NYSP secretarial staff spent approximately 1,400 hours transcribing tapes. Other NYSP sections and personnel also assisted with research, evaluation and report writing.

EVALUATION METHODOLOGY

The volume and types of complaints received from CSP employees by the Commissioner of Public Safety and the Attorney General were strong evidence of a serious breakdown of trust and communication between the CSP management, individual members and the union representing CSP troopers and sergeants. In light of this, Commissioner Boyle determined that an objective evaluation by a qualified, independent investigative body was essential to overcome the growing distrust. Throughout the evaluation, the Team functioned independently, without oversight or influence by any CSP troopers, managers or executives.

The Joint Evaluation Team began the evaluation by submitting requests for information (RFI) pertaining to policies and procedures of the CSP and specifically the Department of Public Safety Internal Affairs Unit. Team investigators also requested copies of reports and documents relating to individual cases that had been identified by the Attorney General and the Commissioner before the formation of the Team.

The NYSP Detail interviewed every employee currently assigned to the Professional Standards Section. The Detail also interviewed every employee who worked in the Internal Affairs Unit and/or served as commander of the Professional Standards Section within the last five years. The purpose of these twenty-six initial interviews was to obtain background information on Internal Affairs Unit operations and insight into CSP organizational history, culture, morale and structure.

Upon completion of the initial interviews, Detail members began selecting specific cases to review. These cases fell into three basic categories: (1) cases identified by the CSP Union; (2) “whistle blower” cases resulting from complaints made

to the Attorney General's Office; and (3) cases identified during interviews by NYSP Detail members that were determined to be relevant to the mission of the Detail. Every case did not receive the same level of review and some cases were redundant, for example, some cases identified by the union were also whistleblower cases.

The Joint Evaluation Team reviewed and evaluated cases that had been investigated by the Connecticut DPS Internal Affairs Unit, but, with one exception, neither the Team nor the NYSP Detail independently performed full re-investigations of internal affairs cases. Partial investigations were sometimes conducted to test a theory or illustrate a point the Team was trying to make. In other cases, a thorough and impartial evaluation required the Team to investigate specific, obvious leads that Connecticut Internal Affairs Unit investigators overlooked, deliberately ignored or were ordered not to pursue by their superiors. In the one exception, the Team independently conducted a full internal affairs investigation of a case involving attempted intimidation of a CSP sergeant assigned to the unit (discussed later in this report as The Cancer Note case).

Members of the NYSP Detail received several complaints from private citizens while they were conducting the evaluation. However, none of those complaints fell within the scope of the Detail's assignment, which was to evaluate concluded cases. Consequently, all these new cases were forwarded to the Commissioner of Public Safety for appropriate action. Additionally, the Detail interviewed a number of private citizens who came forward to report information that they believed would be helpful, but these interviews did not generate any additional cases warranting Internal Affairs Unit referral.

DISCLAIMER

The scope of the mission was to evaluate and review a limited number of internal investigations and complaints. The evaluation included interviews of CSP personnel who were involved in the original investigation or had supervisory or command authority over some aspect of the investigation. In a few instances, Team members followed obvious leads that they felt were overlooked by the original investigators. This was done primarily to determine whether the original investigation was conducted with reasonable diligence, not for the purpose of reopening the case or bringing new charges.

The NYSP does not have the authority, nor would it have been appropriate for Detail members to initiate investigations of CSP personnel or of crimes committed in the State of Connecticut. The Detail, likewise, did not review external criminal investigations conducted by the CSP.

The conclusions and recommendations in this report are based solely on the evaluation of the internal cases and complaints reviewed. They are not intended to reflect upon the conduct of criminal investigations, the quality of other services provided by the CSP, or the dedication and professionalism of the more than 1,200 sworn members of the CSP.

DEPARTMENT OF PUBLIC SAFETY OVERVIEW

The Connecticut Department of Public Safety (DPS) is a subdivision of the executive branch of state government. The Governor appoints the chief executive officer of the DPS, the Commissioner of Public Safety, who has general jurisdiction over the affairs of the Department. By Connecticut General Statute, the Commissioner has all of the powers and authority of a state police officer and also is the State Fire Marshal and a member of the State Traffic Commission.

The Department of Public Safety fulfills its responsibilities through three principal divisions, each headed by a deputy commissioner appointed by the Commissioner: the Division of State Police, whose deputy commissioner is also appointed as Colonel and Commanding Officer of the Connecticut State Police; the Division of Fire, Emergency and Building Services; and the Division of Scientific Services. In addition to the three principal divisions, several other sections and units report directly to the Commissioner's Office through the Executive Assistant – Office of the Commissioner, including: the Labor Relations Unit, the Professional Standards Section, the Public Information Officer, the Legal Affairs Section, the Equal Employment Compliance Unit, and the Legislative Liaison Office (*Connecticut Department of Public Safety Administration and Operations Manual* Section 2.1.1 - Tables of Organization, Table 1, November 2, 2005).

DIVISION OF STATE POLICE

The Connecticut State Police, established in 1903, is a full service police agency with statewide authority. The CSP has an authorized strength of 1240 sworn members. The Department of Public Safety employs 508 civilian personnel, including personnel assigned to the CSP as support staff.

Connecticut General Statutes authorize the Commissioner to appoint a deputy commissioner to serve as the commanding officer of the Division of State Police. This deputy commissioner holds the rank of colonel and directs two distinct branches of the Division: the Office of Field Operations (OFO) and the Office of Administrative Services (OAS), each headed by a lieutenant colonel.

Office of Field Operations

The Office of Field Operations (OFO) oversees the Division's law enforcement and criminal investigation activities within three geographical field districts: Western, Central and Eastern. Each district maintains a headquarters directed by a district commander holding the rank of major and an executive officer holding the rank of captain. Each district is comprised of four troops and a major crime unit. A troop is headed by a troop commander holding the rank of lieutenant, except Troop W (responsible for Bradley International Airport), which is commanded by a captain. Troop commanders are assisted by a troop executive officer with the rank of master sergeant. The Major Crime Unit is commanded by a lieutenant and provides criminal investigators (detectives) to conduct major criminal investigations anywhere in the district.

The OFO also includes the Bureau of Criminal Investigations (BCI), organized according to investigative specialties and statewide task forces such as narcotics, organized crime, auto theft, intelligence, casino licensing, and firearms. The BCI conducts specialized and technical investigations statewide.

Office of Administrative Services

The Office of Administrative Services (OAS) is organized into various sections that perform the support functions of training, recruit selection and background investigations, scheduling special overtime, maintaining offender registries, special licensing and firearms, information technology, fleet management, crime analysis, communications and facilities management.

DPS PROFESSIONAL STANDARDS SECTION

The Professional Standards Section is comprised of several units with distinct functions. The Internal Affairs Unit investigates complaints directed against troopers and non-sworn personnel and as otherwise directed. The Inspections Unit conducts staff inspections of all Department commands and facilities and maintains data on the condition of facilities and results of such inspections. The Accreditation Unit maintains the required standards of compliance, as dictated by the Commission On Accreditation For Law Enforcement Agencies, Inc. (CALEA), to qualify the Connecticut State Police as a nationally accredited law enforcement agency and acts as the Department liaison to other agencies nationwide concerning policies, rules, and regulations. The Research and Planning Unit performs special projects, analyzes operational activities, manages updates to policies and procedures and publishes periodic reports about Department

activities. The Risk Management Unit is responsible for identifying potential liabilities and recommending action to the Commissioner to minimize risks of harm to agency employees, the physical infrastructure and the fiscal and environmental resources of the agency.

DPS INTERNAL AFFAIRS UNIT

One of the critical issues identified by the Joint Evaluation Team, which will be addressed more fully in subsequent sections of this report, is the all too frequent failure of Connecticut Department of Public Safety and Connecticut State Police personnel to adhere to the policies, procedures and chain of command specified in the Department of Public Safety *Administration and Operations Manual (A&O Manual)*. One example of this failure is that the “official” description of the responsibilities and organization of the Internal Affairs Unit differs significantly from the way that the unit actually functions within the Department.

Internal Affairs Unit Organization per the *A&O Manual*

According to the Department’s *A&O Manual*, the Professional Standards Section is commanded by a captain who reports directly to the Commissioner of Public Safety (*A&O Manual* Section 5.2.5 f (1)). The Professional Standards Section is comprised of three main units: Internal Affairs, Inspections and Accreditation/Risk Management. A lieutenant commands each unit and reports to the Professional Standards captain.

Internal Affairs Unit Organization in Actual Practice

In contrast with the official chain of command, the NYSP Detail determined that the Professional Standards captain actually reports to the major in command of the Labor Relations Unit, who reports to the Executive Assistant – Office of the Commissioner. This practice effectively places another layer of management between the Professional Standards Section and the Commissioner's Office. The involvement of Labor Relations Unit in internal affairs investigations is also problematic, as will be documented later in this report.

Internal Affairs Personnel

In addition to the lieutenant in command, four sergeants are assigned to the Internal Affairs Unit. There appears to be no specific selection criteria for assignment of personnel to Internal Affairs. No consideration is given to experience and sergeants with limited field supervisory experience frequently are assigned to the unit. Newly assigned Internal Affairs personnel do not receive any structured specialized training in conducting internal affairs investigations and are only given a general orientation on how the unit operates, how to obtain permission to open an investigation and how to write internal affairs reports.

Vacancies in the Internal Affairs Unit are not posted, nor are employees canvassed to determine their interest in working in the unit. Assignment to the Internal Affairs Unit is economically detrimental for sergeants because they lose their eligibility to work construction overtime. Further, assignment to the Internal Affairs Unit is not considered to be part of any career path within the Connecticut State Police, nor does it in any way enhance a member's career. Consequently, most personnel in the unit serve involuntarily.

Internal Affairs Facilities

The Professional Standards Section, including the Internal Affairs Unit, is centrally located in a building at the Meriden Complex. The building is not adequately maintained and the office space is in poor condition. Due to the physical condition of the office space, Internal Affairs personnel work in a very unprofessional atmosphere. The unsatisfactory environment results in a perception that there is an apparent lack of importance placed on the unit and its personnel by the organization. This perception extends beyond the Internal Affairs staff to other members of the organization.

Morale

The NYSP Detail found that the apparent low priority given to internal affairs, as evidenced by the staffing levels, economic hardship, lack of direct access to the Commissioner, lack of recognition of service in Internal Affairs, nonexistent training and substandard facilities, contributes to very low morale in the unit. Moreover, in the course of this evaluation, the Detail found multiple occasions when CSP commanders failed to support or defend internal affairs investigation findings that properly sustained the charges against the accused employee. This gradual but persistent erosion of Internal Affairs' critical role in the agency caused confusion and distrust among Internal Affairs personnel and had a detrimental effect on the functionality of the unit.

By minimizing the importance of, and respect for, the internal affairs process, CSP commanders have created and allowed widespread disregard of official policy and procedures governing internal affairs case adoption and investigation. This attitude has permeated throughout the agency and undermined both the authority and morale of the Internal Affairs Unit.

CASE EVALUATIONS

The Attorney General's Office and the NYSP Detail reviewed a combined total of 64 cases over the course of their evaluations. After initial review, the Joint Evaluation Team ruled out a full evaluation of many of these cases for one of the following reasons:

- They did not appear to involve any issues Commissioner Boyle requested the NYSP to evaluate;
- They were duplicate complaints from different sources concerning an incident already selected for review; or
- They were new complaints that had not been brought to the attention of the CSP and, therefore, had not yet been the subject of an internal investigation. Most of the complaints received directly from the public fell into this category; these were referred to the Commissioner of Public Safety for investigation. (The only exception in this category is the "Cancer Note" case that involved a member of the DPS Internal Affairs Unit; the Team conducted an independent investigation of this case.)

Of the cases that underwent a full evaluation, the 19 cases summarized below were selected for inclusion in this report because they are the most demonstrative of problems identified in areas the Commissioner asked the Detail to evaluate. The cases fall into three categories:

- 1) Whistleblower cases jointly investigated with the Office of the Attorney General. These are identified by the designation "AG" in the case title;

- 2) Cases submitted to the Commissioner by the CSP Union. These are identified by the designation "Union" in the case title; and
- 3) Cases that came to the attention of the NYSP Detail in the course of its personnel interviews and review of other cases. These cases typically represent incidents where the NYSP Detail determined that an internal investigation should have been conducted, but was either ignored or handled in a way that bypassed formal internal affairs investigation or standard CSP policies and procedures. These are identified by the designation "NYSP" in the case title.

Two of the cases described below were reported to the Attorney General's Office as whistleblower cases and also reported to the Commissioner by the Union. These cases are identified by the designation "AG/Union" in the title.

Intimidation and Misconduct Involving a Weapon (NYSP)

CASE SUMMARY

In 2003, an employee at Bradley International Airport was visiting Trooper A on his post when an airline supervisor told the employee to get back to work because he was “on the clock.” Trooper A allegedly resented the comment and racked the action of his shotgun to intimidate the supervisor. When the supervisor complained to Trooper B about the incident, Trooper B allegedly failed to notify any superiors and attempted to mediate the issue on his own. An airline manager later reported the incident to the captain commanding Troop W, who requested an internal affairs investigation through the Central District executive officer, also a captain. The executive officer denied his request, instructing the troop commander to handle it “in house.” The troop commander called Trooper A into his office and, in the presence of a sergeant, verbally admonished him for his conduct.

During his interview by members of the Detail, the troop commander stated he thought it was outrageous that Trooper A would rack a shotgun in a terminal full of people and no official internal investigation was conducted. He stated he was never given an explanation as to why no internal affairs case was initiated.

During an interview, the former Central District executive officer, now a lieutenant colonel, stated that he thought it was appropriate for the commanding officer to bring Trooper A in and counsel him. He stated that, at the time the incident happened, he believed the outcome of an internal affairs investigation would have produced the same result.

EVALUATION AND FINDINGS

In this case, the troop commander identified serious allegations of misconduct and requested an internal affairs investigation, which was denied without justification by the district executive officer. Trooper A's alleged improper actions were not performance or training issues to be addressed by counseling, but clearly constituted misconduct. Despite this, the troop commander was directed to conduct a verbal admonishment only. At a minimum, an official internal affairs investigation should have been conducted and documented and appropriate discipline administered if warranted. Commanders also failed to review past complaints or discipline to determine if Trooper A may have a history of incidents involving similar behavior.

Trooper A received no discipline and the incident went entirely undocumented. In addition, no internal affairs investigation was initiated against Trooper B for his apparent failure to report the alleged misconduct, a failure he appears to have repeated a year later in another case highlighted in this report under the case titled Sexual Harassment of TSA Employee. The decision by the district executive officer not to investigate this matter not only failed the agency, but also violated the trust the airport employees had placed in the State Police to handle the matter appropriately.

Department Vehicle Accident, Family Violence and Victim Intimidation (NYSP)

CASE SUMMARY

In May 2004, Trooper A, while off-duty, was a front seat passenger in a vehicle driven by his long time girlfriend. While the vehicle was in motion, with three young children in the rear seat, it was alleged that an ongoing argument escalated into an assault by Trooper A upon his girlfriend. He is alleged to have struck the victim in the face, pulled out a clump of her hair and ripped an earring out of her right ear, causing minor bleeding.

When the victim observed a Connecticut State Police cruiser on the shoulder of the highway, she decided to stop behind the cruiser to obtain help. While attempting to pull over, she made an unsafe lane change in front of another vehicle. As a result, that vehicle rear-ended hers and pushed her vehicle into the rear of the cruiser occupied by Trooper B, who was assisting a disabled motorist. The impact of the collision caused Trooper B's head to strike the mobile video recording system (MVR) camera and windshield, resulting in head and neck injuries.

Immediately after the collision, Trooper B approached the victim and observed a small amount of blood on her right ear and redness to the right side of her face. While retrieving the vehicle registration and insurance card from the glove compartment, she pointed to a clump of hair in the car and stated to Trooper B, "Look at my hair that he pulled out." Trooper B, who understands Spanish, was interviewing the victim when Trooper A threatened and intimidated her by stating in Spanish, "You'd better keep your mouth shut if you want to keep getting a paycheck," and "Tell them it (the domestic dispute) was only a verbal."

When Sergeant A responded to the scene, Trooper B advised him of the allegations and related that he understood the conversation in Spanish, in which Trooper A threatened the victim. Sergeant A subsequently spoke to the victim who reportedly told him that prior to the accident Trooper A pulled off her earring. However, Sergeant A's report stated that he observed no visible signs of injury.

Sergeant A assigned Trooper C to interview the victim and she told Trooper C that Trooper A had been drinking, was arguing with her, and called her a whore. She reiterated that Trooper A pulled her earring out and pulled her hair. Trooper A again interfered with the interview and intimidated the victim, speaking to her in Spanish. Trooper C twice told Trooper A to move away then relocated the victim inside his vehicle. Trooper C submitted a supplemental report detailing his observation of Trooper A's intimidation of the victim. Subsequently, the victim changed her account of what happened and provided a written statement that contradicted her verbal accounts to Trooper B, Sergeant A, and Trooper C regarding the physical altercation.

Sergeant A assigned Trooper D to interview the operator of the third vehicle as a witness. The written statement obtained by Trooper D only contains information about the nature of the collision. It contains no information about Trooper A's conduct before or after the collision. However, when members of the New York State Police interviewed the witness, she stated that prior to the accident she realized "something might have been going on" in the other car because she noticed "some kind of movement inside the car between the people." After the collision, she exited her vehicle and was going to approach the occupants to see how they were, but stopped when she realized that they were arguing and the male was "so violent and saying nasty things."

She stated that the male (Trooper A) was “out of control,” cursing and yelling in Spanish, which is her native language, and she was afraid to approach them. She described the condition of the female as visibly upset and stated she was holding the right side of her head and pushing her hair back in place “as if someone had pulled her hair.” She believed that even if she had told Trooper D what she observed, he would not have included it in her statement because she saw the male passenger wave to Trooper D during her interview and Trooper D acknowledged him by waving back. At that point she surmised that he was an off-duty trooper.

A tow truck driver arrived shortly after the collision to remove the uninvolved disabled vehicle. When interviewed by members of the New York State Police, he remembered a male and female arguing outside of the vehicle that struck the rear of the cruiser. He believed that the female involved in the argument had blood on the right side of her face. He stated that he was not interviewed by anyone from the Connecticut State Police.

Sergeant A made supervisory notification to his troop commander, Lieutenant A, who was advised that the incident consisted of a department vehicle accident with injuries and that it also involved a family violence incident involving off-duty Trooper A. Despite possessing this information and being aware that Trooper A might have intimidated the victim at the scene, Lieutenant A did not respond to the scene. He did, however, notify the district commander, a major, who also did not respond. The major notified the lieutenant colonel in the Office of Field Operations, who directed him to assign two Major Crime investigators to interview the victim.

Sergeant A provided the two Major Crime sergeants with the victim's written statement obtained at the scene, but reportedly did not provide any further information as to how she changed her story and the intimidation inflicted by Trooper A. The Major Crime sergeants located her and obtained another written statement that failed to address the question of physical force used by Trooper A. The victim told them that, "At one point he put his hand near my right ear, I pulled away and my earring came off." They accepted this statement knowing the inconsistencies this created and avoided their professional responsibility to conduct a thorough investigation by not asking follow up questions for clarification.

Sergeant A assigned Trooper D to escort Trooper B's cruiser when it was towed to the local troop, where it was secured in the upper garage. The garage is accessible to any Connecticut State Police member. Sergeant A failed to secure the MVR tape from the cruiser before it was towed away. When the master sergeant inspected the damage to the cruiser 5 days later he could not locate the MVR tape within the system vault in the car. Trooper B advised that the MVR tape was recording at the time of the collision and should have captured the audio portion of Trooper A's intimidation of the victim. The master sergeant notified the lieutenant, who in turn notified the major, but no investigation or proper documentation was completed concerning the lost MVR tape. In addition, no administrative action was taken with respect to Sergeant A's failure to secure the MVR tape as is required in all department vehicle accident cases. When interviewed by the Detail, Trooper A denied taking the tape, but admitted to passing through the unsecured garage where the damaged cruiser was stored, two days after the incident; prior to any supervisor checking for the MVR tape.

The major commanding the district called Trooper A into his office to verbally admonish him about causing the accident that injured Trooper B, but did not initiate an internal affairs case. The Major ordered Trooper A to call the Employee Assistance Program (EAP) concerning his possible family problems. Trooper A made the initial call from the major's office, but did not actually meet with anyone from EAP. The major also directed Trooper A to call Trooper B at home and apologize, which he did.

EVALUATION AND FINDINGS

The criminal investigation report and the department vehicle accident report were submitted and approved in an untimely manner. The investigative findings in the two reports also contradict each other. The accident report contains most of the information from the criminal investigation report, including evidence of both the physical assault before the collision and the intimidation of the victim after it. By including this information, the report clearly identifies Trooper A's possibly criminal conduct as the cause of the three-car accident, yet the findings of the investigation and subsequently issued traffic ticket fault the victim for "Turns Restricted."

The response to, and investigation of, this incident by Connecticut State Police management was inexcusably inadequate. No supervisor exercised proper direct oversight and control of the incident scene and the subsequent investigation. Troopers (equal in rank to the accused member) were inappropriately assigned to take written statements from witnesses, including the victim. There was a lack of communication and coordination between the Major Crime Unit and managers at both the troop and district headquarters. Trooper B had probable cause to arrest Trooper A for family

violence crimes, but did not do so because he was injured in the collision and under the belief that supervisory members would take the proper action. Both the troop commander and district commander, despite being fully aware of the allegations, failed to initiate an internal affairs complaint. They actually stated in their interviews with the Detail that they believed Trooper A was not accountable to the Connecticut State Police for his actions because he was off-duty. This contradicts *A&O Manual* section 14.2.2 b. (97), which holds members accountable for violations of law. Trooper A refused to provide a statement in the criminal investigation and was never compelled to provide an administrative statement.

Connecticut State Police command staff also failed to handle and investigate the incident according to established protocols for family violence cases. The victim's initial verbal accounts of an assault were disregarded in favor of two inadequate and flawed written statements that clearly appear to have been influenced by Trooper A's subsequent intimidation of the victim, which was witnessed and documented. Official *A&O Manual* policies concerning family violence incidents were not followed and the required Family Violence Offense Report (form DPS-230-C) was never completed. A criminal investigation report was completed by Sergeant A, but was limited only to Disorderly Conduct. Important information relating to the documented intimidation of the victim by Trooper A was not included in Sergeant A's narrative, despite the fact that Trooper C's supplemental report detailing the intimidation was attached to Sergeant A's report.

This case is one of the clearest examples of the way some CSP command staff and supervisors disdain internal investigations and abdicate their responsibilities for

directing thorough investigations, carefully reviewing investigative activities and reports and holding subordinates accountable for shoddy work. As a result, Trooper A was never disciplined for possibly criminal conduct that directly injured his girlfriend, indirectly injured another Connecticut State Trooper, caused significant damage to a State Police patrol car and the vehicle of an innocent motorist and recklessly endangered others on the highway at the time. Failure to address the issue of family violence potentially left Trooper A's girlfriend and, perhaps, their children in danger. Finally, Trooper A's documented, direct intimidation of the victim and indirect intimidation of a witness was ignored. While Trooper A escaped unscathed by his documented illegal and dangerous actions, it is equally distressing that none of the supervisors or command staff involved in the case were held accountable for their apparent neglect of duty.

Drug Trafficking (Union)

CASE SUMMARY

During the summer of 2004, a local defense attorney reported to the Office of the State's Attorney that Trooper A, a narcotics officer, was "dirty." He stated that his client, known as a drug trafficker, had been paying Trooper A \$2,000 to \$5,000 a month for protection. The attorney alleged that when his client stopped paying Trooper A, members of his client's family were targeted and subsequently arrested. The State's Attorney contacted Captain A, commanding officer of the Connecticut State Police Office of Professional Standards, who in turn advised her to contact the Commissioner.

Two Major Crime sergeants were assigned to "look into" the allegations against Trooper A. Their supervisor, a lieutenant, instructed them to complete each task as it was assigned, report all findings by memorandum through channels and await further investigative direction from him. The sergeants conducted interviews that resulted in what they described as hearsay and second hand information. They stated that, absent a warrant or a subpoena, they were unable to develop enough credible information to support further inquiry.

Requests were made to obtain statements from the attorney and his client, but both declined to provide statements until they were offered an acceptable level of immunity. The attorney made it clear to the members of the Detail that he and his client were seeking immunity from charges that stemmed directly from his client's alleged relationship with Trooper A, not to relieve his client from the burden of any other prosecution. However, the attorney and the Office of the State's Attorney were unable to reach an agreement and there was no CSP involvement in the process.

The lieutenant colonel in the Office of Field Operations and the State's Attorney agreed to transfer the investigation of the case to the Major Crime Unit in a different district to minimize the possibility that personal relationships between Trooper A and Major Crime Unit members in his district might influence the investigation. The major commanding the district subsequently responsible for the investigation assigned two Major Crime sergeants to the case. They were instructed to report their findings via memorandum directly to the major, who was responsible for updating the lieutenant colonel.

The investigators interviewed a number of people, including two individuals who were incarcerated at a correctional center in Connecticut. The sergeants judged the information obtained to be hearsay and less than credible. According to the interviewed CSP personnel, the case was subsequently closed because investigators could not develop any reliable information to support the allegations. However, Detail members reviewed the existing investigation documents and determined that due diligence by the investigators likely could have developed considerable evidence to either support or refute the complaint.

EVALUATION AND FINDINGS

The CSP personnel interviewed stated that the investigation was limited in scope by their inability to obtain sworn statements from the attorney and his client. It is the position of the Detail that the CSP should have been represented in the negotiations between the prosecutor and the complaining attorney. The failure of the CSP to assert

their interests in such negotiations possibly contributed to the lack of an agreement, which they used as justification for not investigating the matter thoroughly.

Despite the serious allegations of criminal conduct by a CSP trooper, no case number was ever assigned and no investigation report was filed. Trooper A was never interviewed formally about the allegations made against him and investigators made only minimal and ineffective efforts to interview members of the local community to support or refute the claims of the complainant. The command staff of the CSP has a responsibility to the Department employees, the community and the agency to fully investigate all allegations made against members. In this matter, the agency failed to conduct an adequate investigation and thereby failed to prove or disprove the allegations. Due to the nature and complexity of the case, consideration should have been given to seeking assistance from another agency, such as the United States Drug Enforcement Administration. Trooper A's alleged corruptive behavior unquestionably created a potential integrity breach within the agency that could have been avoided if commanders had made prudent and responsible decisions about the investigation of this complaint.

Alcohol Abuse, DWI and Suicidal Behavior (AG)

CASE SUMMARY

In February 2005, Trooper A's sister called 911 and reported that her brother, a state trooper, had been drinking and was threatening to kill himself. Local police officers responded to Trooper A's residence and met with his father, who reported that Trooper A was in his bedroom, highly intoxicated, and had told family members that he was going to "end it all." The local police reported that while being interviewed, Trooper A denied he threatened to harm himself, but stated he was depressed. The police officers further reported that they interviewed Trooper A's wife, who stated that he had threatened several times that day to kill himself and also had threatened her. Trooper A was hospitalized for psychiatric evaluation.

Lieutenant A, Trooper A's commanding officer, was advised by a CSP sergeant that Trooper A had admitted himself to a hospital for depression after an altercation with his wife while he was intoxicated. Lieutenant A telephoned Trooper A's father, who reportedly advised that his son was suffering from depression and was suicidal. Lieutenant A notified the lieutenant colonel in the Office Of Field Operations of the incident, then responded to the residence where he secured Trooper A's service weapon. Lieutenant A interviewed Trooper A's wife, who stated that her husband had been drinking all day, was intoxicated and suicidal. She denied that he had threatened her, but admitted that they had gotten into a fight. Lieutenant A went to the local police department, discussed the incident with members of that agency, was given a copy of the police report and was advised that there would be no criminal charges.

When the Joint Evaluation Team interviewed Lieutenant A, he stated that he did not take a formal statement from the wife or the father, nor did he ensure that a Family Violence Offense Report (form DPS-230-C) had been completed as required because there was no evidence of physical violence. In fact, no report of any kind was prepared within the CSP.

In March 2005, Lieutenant A (who had been reassigned to a different position) was attending a meeting with executive staff at DPS Headquarters. The meeting was interrupted and Lieutenant A was advised of another incident at Trooper A's residence. Trooper A reportedly was depressed, under the influence of alcohol and had locked himself in the garage. Lieutenant A called the local police and requested assistance. In response to the local department dispatcher's questions, he advised that Trooper A was not in possession of any weapons. The local chief and a captain stood by until Lieutenant B, Trooper A's new commanding officer, and Sergeant A arrived on the scene. Lieutenant B later notified the lieutenant colonel in the Office of Field Operations of the incident and the fact that Trooper A admitted himself to a hospital. Once again, no report was prepared.

In May 2005, Trooper A, while off duty, was operating his assigned CSP vehicle. A citizen reported that he observed the vehicle being operated in an erratic and dangerous manner; crossing double yellow lines into oncoming traffic, striking a curb and passing through a red light. The citizen reported the registration number to the local police department via cellular 911. The local police department conducted a registration inquiry and determined that the vehicle was registered to the CSP, but could not immediately locate the car. The registration information gave the address of CSP

fleet operations, so they contacted the local troop in that area. An unknown employee there advised them that information regarding the assigned operator could not be obtained. Apparently no action was taken by the CSP and approximately seven hours later the local police located the vehicle in the parking lot of an exotic nightclub with the engine running and Trooper A slumped over the wheel. According to the local police, Trooper A was found to be intoxicated and a nearly empty pint sized bottle of rum, 151 proof (75.5% alcohol), was seized from within the vehicle. Despite the presence of all of the elements of a DWI offense, Trooper A was not arrested. Instead, the local police first transported Trooper A to his residence, then to the hospital for an emergency committal and evaluation. It was only after Trooper A's committal to the hospital that the local police notified CSP of the incident. Lieutenant B assigned Sergeant A to respond to the hospital to check on Trooper A.

The Internal Affairs Unit was notified and Sergeant B was assigned to investigate the incident. He retrieved evidence, including the bottle of rum, prescription medications and photographs of the vehicle. Other Internal Affairs members later ridiculed him for taking these appropriate investigative steps. During interviews of witnesses, including local police officers, medical personnel and family members, Sergeant B was informed of the two recent incidents (as described above), that Trooper A had threatened suicide in one of the incidents and that he had been hospitalized on both occasions for medical or psychiatric evaluation.

The conclusion of the internal affairs report stated that, "the investigation was unable to establish/prove that Trooper A was operating his assigned vehicle under the influence or to the level of intoxication, due to the consumption of an alcoholic

beverage.” However, charges against Trooper A were sustained for Conduct Unbecoming an Officer, Improper Drug or Alcohol Use and Improper Use of Equipment (vehicle). Through a stipulated agreement, Trooper A received discipline of 10 days suspension, which was held in abeyance for a 24-month period. He was also required to enter into a rehabilitation program through the Employee Assistance Program (EAP).

Sergeant B’s original report included information about Trooper A’s alleged previous suicide threats and associated treatment. When interviewed by the Team, Sergeant B alleged that the commander of the Professional Standards Section, a captain, directed him to delete or change all references to the suicide threats and medical treatment. Sergeant B provided his original report as evidence. It contained numerous handwritten deletions and amendments from the captain and a review of the final version revealed that those changes were, in fact, made. Sergeant B’s perception was that this was done to avoid exposing the CSP to negative publicity.

In an interview by the Team, the captain admitted that he directed the changes in the report. He stated that the investigation dealt strictly with Trooper A’s operation of his department vehicle while intoxicated and that inclusion of the information associated with his suicide threats would be a violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), because those issues were medical in nature and were not considered by him to be misconduct. The captain also admitted that he had no training concerning HIPPA matters, did not consult with anyone else in the CSP about HIPPA and was being “overly cautious.” The Team concluded that the use of HIPAA as a reason to remove information, which would have clearly documented Trooper A’s lack of fitness for duty, was completely unjustified and inappropriate.

In January 2006, Trooper A was speaking to his friend, Trooper B, on the telephone. Trooper B stated that Trooper A told her he was in his department vehicle, was drinking, feeling lonely and “in ten minutes was going to put his gun in his mouth and kill himself.” Trooper B, concerned that Trooper A was about to commit suicide, called the off-duty master sergeant, who responded to Trooper B’s residence after notifying the troop commander, Lieutenant C. There was no immediate emergency response by any police agency to Trooper A’s location in response to his suicide threat.

Lieutenant C went to Trooper A’s parents’ house and interviewed Trooper A. He was accompanied by Sergeant C, who is a personal friend of Trooper A. Lieutenant C then called the master sergeant and advised him that no odor of alcohol was detected on Trooper A’s breath, no action would be taken and that Trooper B had over reacted to Trooper A’s comments. Lieutenant C did not ask either Trooper B or the master sergeant to file a written report regarding this incident. When interviewed by the Team regarding Trooper A’s threat that he would shoot himself in 10 minutes, Lieutenant C stated that he did not consider ordering an emergency response and instead drove 45 minutes to check it out himself because he had spoken to Trooper A on the telephone and “he seemed fine.” Because Trooper A denied making suicidal threats, Lieutenant C did not inquire about his gun or conduct interviews of family members. Based on his observations and conversation between Trooper A, himself and Sergeant C, he chose to believe Trooper A’s denial and disregard the accounts given by Trooper B and the master sergeant. The troop commander made notification to the district commander that Trooper A was not a danger to himself. Lieutenant C offered the services of EAP to Trooper A and later made a notification to EAP, but there was no emergency evaluation

of Trooper A. No official report of this incident, including the required Personnel Early Intervention Report (Form DPS-144C), was ever generated.

In March 2006, a citizen reported that he observed Trooper A's vehicle operating erratically on I-84; slowly drifting in and out of the center lane, repeatedly making abrupt steering corrections, and cutting off other vehicles. The citizen stated he recognized that it was an unmarked CSP vehicle without a light bar, believed the operator was impaired and reported it by cellular 911. The call was answered by the local troop (not Trooper A's assigned troop). The citizen apparently was not satisfied that the 911 operator recognized the significance of the situation. Believing that the driver had been "unfit for duty," the next evening the citizen called the same CSP troop and asked Sergeant D what follow up action had been taken. Sergeant D advised that the driver may not have been impaired but "distracted or fatigued" and admitted to the citizen that no one was dispatched to investigate the complaint. The citizen persisted and requested to be contacted by Trooper A's supervisor. Two days later, Lieutenant C contacted the complainant and obtained a written statement concerning the incident from him.

By the time this incident occurred, the NYSP Detail had completed its on-site work in Connecticut and returned to New York. However, the Attorney General's Office developed the following information concerning the handling of this matter. Trooper A was suspended from duty, relieved of his gun, badge and department vehicle, and was voluntarily admitted to the hospital in lieu of an emergency committal. The troop commander presumably took this action as a result of the citizen's persistence and his

correct perception that no action was being taken. Trooper A was released from the hospital two days later and the Department planned to have EAP contact him.

The most recent incident involving Trooper A to come to the Team's attention occurred in June 2006. A New York State Police trooper on patrol observed a vehicle at the New York/Connecticut state line on the I-84 exit 1 ramp, parked with the engine running and the driver passed out behind the wheel. Subsequent to preliminary investigation, the NYSP trooper determined that the vehicle operator was intoxicated and took him into custody. The vehicle operator identified himself as off-duty Connecticut Trooper A, but could not produce CSP credentials. The NYSP trooper was aware he was close to the state line, but was unsure of the exact location of the border. He called another NYSP trooper and verified that the state line bisects the eastbound exit ramp and that he was a few feet into the State of Connecticut (the top of the ramp is NY, the bottom is CT).

Coincidentally, an on-duty CSP trooper (Trooper C) arrived and confirmed that the individual in custody was a CSP trooper, explaining that Trooper A had no credentials because he was currently on suspension. The NYSP trooper removed his handcuffs from Trooper A, turned over custody and control to Trooper C and returned to New York State. It was reported that Trooper C called off-duty Sergeant C, a friend of Trooper A, who arrived in his personal vehicle and transported Trooper A to the residence of Trooper A's parents. Neither Trooper C nor Sergeant C arrested Trooper A for DWI and neither made an official report of the incident. Sergeant C later contacted EAP on Trooper A's behalf.

The Commissioner has indicated that both Sergeant C and Trooper C are the subjects of an internal affairs investigation for their improper handling of the incident. Trooper A is also the subject of an internal affairs investigation for the incident and for a separate allegation of excessive drinking, which was made by a concerned citizen on the same day to a Connecticut town constable.

On July 14, 2006 the lieutenant colonel wrote to the Connecticut Department of Motor Vehicles (DMV) requesting the revocation of Trooper A's driver's license. DMV did suspend Trooper A's license. However, Trooper A appealed DMV's decision and his license was subsequently reinstated. Trooper A remains on light duty, and DPS has suspended his police powers and taken possession of his assigned state vehicle, weapon, badge and police identification. Four separate internal affairs investigations into Trooper A's alleged misconduct remain open.

EVALUATION AND FINDINGS

Trooper A appears to have been involved in seven alcohol related incidents; at least three of which involved threats of suicide, four involved committal for medical or psychiatric evaluation, and four involved possible DWI. Local police agencies handled four of the incidents, with notification to CSP each time, while the CSP handled the other three. The majority of the incidents were improperly managed by the CSP supervisors or commanders who either responded or were notified of them by subordinates. Sergeant C, who is a close personal friend of Trooper A, reportedly responded to at least two incidents and failed to take appropriate action. One troop commander, Lieutenant A, who responded to the trooper's residence regarding a threat

to commit suicide with a gun, failed to even determine if he was in possession of a weapon and another lieutenant may have jeopardized the local police officers responding to an incident by advising that there were no weapons at Trooper A's house, when he had no direct knowledge of that.

With the exception of some personal notes completed by responding supervisors, CSP members generated no documentation in association with these earlier incidents. By failing to document each of these events, the agency deprived itself of the ability to discern patterns of behavior that should have raised serious concerns. They also ignored a policy designed specifically for such cases, Connecticut Department of Public Safety General Order 03-05, dated 12/22/03. The stated purpose of this order is: "To create a new section within the A&O Manual Section 04.10.05, entitled, 'Department Personnel Early Warning System.' This system will provide commanders and supervisors with a systematic way to identify an employee who may require some form of intervention or assistance before behaviors occur that are harmful to that employee, or others." Although this Order was created for compliance with CALEA standard 35.1.15, the Professional Standards captain stated that, while he is familiar with this order, he believes it is not workable and that it was not being followed.

Article 16 of the union contract provides that "a dispute over whether an employee is mentally or physically competent to perform his/her duties shall not be considered as a disciplinary issue, but shall be resolved as a medical question through arbitration." Trooper A's possible afflictions of alcoholism and depression would be medical issues to be addressed by this article. However, the provision does not

preclude disciplinary or criminal action for the gross misconduct of operating a department vehicle while intoxicated.

The CSP's failure to take prompt and appropriate action against Trooper A, despite their knowledge of his apparent alcohol abuse and associated pattern of misconduct involving operation of a CSP vehicle, is a serious breach of its duty to protect the public and its employees from identifiable danger. While management personnel seemed to exhibit concern for the individual involved in this case, and made an effort to obtain help for him through the Employee Assistance Program, the failure by the CSP and the local police to initiate appropriate enforcement and disciplinary action against Trooper A enabled him to continue his potentially destructive behavior, which endangered the public and exposed the State of Connecticut to significant potential liability.

False Completion of Fingerprint Cards (Union)

CASE SUMMARY

In December of 2002, Trooper A reported to a correctional facility to pick up a prisoner, who was soon to be released and turned over to the State of New York as a fugitive from justice. When Trooper A processed the prisoner at his troop, he rolled the fingerprints on the top portion of the fingerprint cards as required, but failed to complete the flat impressions on the bottom portions of the cards. He returned the prisoner to the facility before realizing his error.

When the prisoner's fingerprint cards were submitted to the Bureau of Identification, a technician immediately recognized that the flat impressions did not match the rolled impressions. Suspecting that the trooper might have placed his own fingerprint impressions on the card, the technician retrieved the fingerprint cards submitted for Trooper A's application to join the Connecticut State Police. His suspicions were confirmed when the flat impressions matched on both cards. The technician notified his supervisor, a State Police sergeant, who passed the information up the chain of command.

An internal affairs investigation revealed that when Trooper A processed the prisoner, he was working his last day before going on leave, which encompassed the Christmas holiday. Rather than taking the time to return to the correctional facility and complete the fingerprinting process, he placed his own fingerprints on the cards before submitting them to his sergeant. The internal affairs report was completed with a recommended finding of "Sustained" on the charges of Falsifying Information and

Conduct Unbecoming an Officer. It was then referred to Labor Relations for a recommendation regarding discipline.

When the CSP Union brought the case to the attention of the Detail, the Internal Affairs sergeant assigned to the case was interviewed and stated that he was instructed by the captain in charge of Professional Standards to alter his report after submission. The captain also instructed the sergeant to give him the computer disk containing the electronic version of his original report; he found this direction highly unusual. Although the charges were sustained, one charge was changed from Falsifying Information to Destroying or Converting Evidence. The sergeant stated that he felt that this charge appeared less damaging to Trooper A's credibility and believed it was changed because Trooper A had been an attorney for many years and had even been a magistrate for a brief time, and the initial charge might have jeopardized his standing before the Connecticut Bar.

The sergeant in Labor Relations was also interviewed regarding his research on this case. His confidential memorandum recommending possible disciplinary action referenced the charge of Falsifying Information, and he had no recollection of the charge of Destroying or Converting Evidence. He appeared to the Detail members to be puzzled as to why he would make a recommendation regarding a charge that was not contained in the report. The range of discipline recommended by Labor Relations went from a negative Performance Observation Report to a written reprimand up to a short suspension for a first offense.

Adjudication of the disciplinary phase of this case was referred to the troop commander, who was also an attorney. He imposed a two-day suspension, but crossed

out the word “Sustained” regarding the charge of Destroying or Converting Evidence and wrote in “Not Sustained,” thus changing the finding of the report. The finding on the charge of Conduct Unbecoming an Officer was not changed.

EVALUATION AND FINDINGS

Although the offending act in this case does loosely fit the definition of Destroying or Converting Evidence, as charged, the original charge of Falsifying Information appears to be the more accurate charge. Members of the Connecticut State Police have argued that the purpose of changing the charge was in consideration of Trooper A’s standing in the legal community. While that assertion could not be substantiated, the appearance of impropriety does exist, regardless of the reason for the change.

The arbitrary decision of the troop commander to negate the findings of “Sustained” for the reduced charge cannot be explained and lends strong credibility to charges of favoritism and improper command interference with internal affairs investigations. It is another example of the consistent pattern of some command staff acting to arbitrarily and unilaterally change or dismiss the findings of internal investigations without justification.

Inadequate Discipline for Falsifying Overtime Records (AG)

CASE SUMMARY

In December 2003, two troopers assigned to the Central Traffic Services Unit alleged that their sergeant submitted false documentation regarding his overtime. Following an Internal Affairs investigation, the sergeant was found guilty of submitting false documentation regarding both overtime hours worked and his activity while on overtime, and of making changes to his work schedule for the purpose of accruing unauthorized overtime in the amount of \$5,227.24. The sergeant received discipline consisting of a five-day suspension. Three days were held in abeyance and he was allowed to apply the remaining two days to leave accruals. It was alleged in the whistleblower complaint that the sergeant received light discipline a) because of his reported close relationship with a colonel, and b) because he reinvestigated a 1999 fatal automobile collision involving a person with strong political connections and reversed the findings of the trooper who initially investigated the collision.

It also was alleged that the discipline was delayed until after a criminal trial associated with the fatal collision, at which the sergeant testified as an expert witness for the prosecution. The investigator from the Internal Affairs Unit submitted his final report in March 2004, the trial was held in May 2004 and the CSP command staff imposed discipline in June 2004. Although the trial took place between the filing of the final report and the imposition of discipline, the Team did not find any evidence to substantiate the allegation.

EVALUATION AND FINDINGS

The Joint Evaluation Team found that a CSP audit of the sergeant's overtime clearly indicated he falsified business records and collected overtime payments for hours that he did not work. Although criminal charges should have been evaluated, there was no evidence that the CSP requested the Office of the State's Attorney to seek an arrest warrant.

The discipline was imposed three and one-half months after the internal affairs investigation was completed, which was typical of other cases reviewed. A lieutenant colonel attributed the delay to report reviews and scheduling and there is no evidence to indicate that the process was delayed pending the sergeant's testimony at the vehicular manslaughter trial.

We find that the discipline imposed was grossly insufficient in relation to the seriousness of the misconduct. The investigation was sustained for Neglect of Duty and 11 counts of Knowingly Falsifying Official Records, yet the CSP failed to pursue criminal charges. The Department allowed the sergeant to keep the proceeds of his fraudulent action rather than requiring him to repay the overtime received for "unverified hours." The Team did not substantiate a nexus between the light discipline imposed on the sergeant and his relationship with a colonel or his reinvestigation of the fatal collision. The inadequate discipline in this case is consistent with the imposition of ineffective discipline in many other cases that were reviewed, including those of a possibly criminal nature.

Sexual Assault and Intimidation of Airport Employee (AG)

CASE SUMMARY

A female maintenance worker at Bradley International Airport alleged that, in December 2002, Trooper A sexually assaulted her, intentionally rubbing his crotch on her buttocks so she could feel his penis through her clothing. The maintenance worker mentioned this matter to Trooper B within a couple of weeks of the incident; however she refused to provide specific details and requested that the trooper keep it to himself. In July 2003, she described the incident to Trooper C, with whom she believed she had developed a good rapport. She also stated that she told him that Trooper A had stroked her hair on at least one other occasion. She stated that she also requested that Trooper C keep this information to himself, but due to the seriousness of the allegations he correctly reported it to one of the sergeants assigned to the airport and an internal affairs investigation was initiated. According to witness accounts, the victim hesitated in reporting the incident due to concerns of retaliation from State Police members and her doubts that the word of a maintenance worker would be taken over that of a state trooper.

It was also alleged that, after hearing about the investigation, Trooper A harassed and intimidated the maintenance worker by staring her down, blocking her path and making her walk around him. When interviewed by the Joint Evaluation Team, the Internal Affairs sergeant assigned to the complaint admitted that he never investigated the allegation of intimidation of the victim, although he agreed that it should have been investigated and addressed in his report. He reported this allegation to the

commanding officer of Professional Standards, a captain, but was never specifically instructed to investigate it.

The sergeant further stated that the sexual offense allegation, if true, would constitute the crime of Sexual Assault in the State of Connecticut. He was not aware of any criminal investigation into this incident and could provide no reason why one wasn't conducted, even though the captain had directed him to contact Labor Relations, where another sergeant advised him to consult with the Office of the State's Attorney regarding criminal action. The Internal Affairs sergeant could not recall if he made this contact and it is not mentioned in his report. The Professional Standards captain stated that he believed the decision to keep the case internal and not call the Office of the State's Attorney was made by a former colonel, who is now retired.

The captain was questioned regarding a number of inconsistencies in the internal affairs report. A significant discrepancy was the sergeant's inaccurate account of a key witness statement. The witness, a Hispanic woman who did not speak English, was interviewed by a Spanish speaking Connecticut State Police sergeant. According to the translating sergeant's memorandum, which was attached to the report, the witness was facing the victim when the alleged grinding incident occurred. The witness was "adamant" that the contact was not inadvertent and was done in a sexual manner. The Internal Affairs sergeant copied the memorandum language verbatim in the body of his report. However, in the "Recommendations" and the "Summary & Conclusions" sections of the report he wrote "... more than likely she (the witness) would not be able to state positively that Trooper A rubbed his penis against the victim's buttocks." The captain admitted that he did not read the entire report and that he did not notice this

inconsistency. He further stated "... I didn't see that, but I should have seen it and sent it back."

The Internal Affairs sergeant closed the case with a finding of "Not Sustained," due to minor inconsistencies in the victim's verbal statements, Trooper A's denial of the accusations, and the reluctance of the victim and a witness to provide written statements.

EVALUATION AND FINDINGS

The evidence in the case was not properly considered. A review of the investigation failed to substantiate the alleged inconsistencies in what the victim and witness told several members of the Connecticut State Police. Near the conclusion of the Joint Evaluation Team's interview, the Internal Affairs sergeant was asked if he still felt the sexual contact allegation was not sustained. He replied, "By what we've talked about today, no...I don't still feel that way."

Trooper A filed a whistleblower complaint with the Office of the Attorney General, claiming that the management of the Connecticut State Police unfairly targeted him due to his outspoken criticism of the airport sergeant. He cited the fact that the complainant took seven months to report the incident as evidence that the sergeant improperly solicited the complaint. The Team found nothing to substantiate this allegation. All of the evidence indicates that the delay was due to the fact that the victim was extremely hesitant in coming forward, for fear of retaliation. CSP managers confirmed the validity of the complainant's fear when they failed to take appropriate steps to prevent contact between her and Trooper A. In fact, there is evidence that he did intimidate the victim.

For the protection of the trooper, the victim and the Connecticut State Police, Trooper A should have been temporarily re-assigned to an area away from the airport and a protective order issued.

Trooper A also claimed in his whistleblower complaint that managers in the upper command inappropriately directed the investigation, citing phone calls between commanding officers and Internal Affairs Unit members that were documented in the internal affairs report. The Team determined that the contact between Professional Standards Section personnel and troop supervisors was reasonable and necessary and did not inappropriately influence the investigation.

Although Trooper A complained that he was unfairly targeted for this complaint and that command staff interfered with the investigation intending to do him harm, the Joint Evaluation Team investigation revealed that the internal affairs investigation was inadequate and more effort was directed toward discrediting the complainant than to investigating her allegations. Further, the CSP failed to open a criminal case for the possible sexual assault.

This case also demonstrates the tendency of some CSP command staff to haphazardly review reports submitted by their subordinates. This negligence results in managers making uninformed decisions regarding sensitive internal affairs matters. In fact, as cited earlier, their failures concerning the oversight of the investigation, coupled with inadequate review of the report, resulted in a "Not Sustained" finding where substantial evidence to the contrary was not properly considered or evaluated.

Public Indecency at the Airport (AG/Union)

CASE SUMMARY

In February 2003, at Bradley International Airport, an intoxicated male reportedly exposed himself to two employees of a cleaning company. A Transportation Security Administration (TSA) screener witnessed the incident and reported it to the Troop W dispatcher by telephone. An airport police officer (APO) was assigned and responded to the scene and a trooper also responded to provide backup to the APO, if needed. Airport police officers, who are not state troopers, are employed and supervised by the Connecticut State Police.

As the APO interviewed the intoxicated male, the TSA screener brought the two cleaners to the scene and made the APO aware of their presence and that they were the victims of the indecent exposure. The APO conducted a wanted person check on the intoxicated male with negative results and released him without ever interviewing the two cleaners or the TSA screener. The victims and the TSA screener observed the APO and the trooper laughing with the intoxicated male and his female companion as they escorted them out of the terminal. The victims later contended that they were discriminated against because they were minorities, while the intoxicated male, his female companion and the two officers were white.

The next day a CSP sergeant was advised that the APO had “kicked a case” in which a man exposed himself. (“Kicking a case” is a slang term used by troopers to describe not handling a complaint.) The sergeant failed to take supervisory action with regard to the allegation against the APO. Several days later, TSA officials inquired about the public indecency incident and requested a copy of the arrest report. The

captain assigned the same sergeant to look into the matter to determine if probable cause existed for a summary arrest and if the APO had failed to take the appropriate action.

Statements taken from the victims and the TSA screener indicated that there was probable cause for a summary arrest and that the APO failed to take appropriate action. Having this information and being directed by the captain to take administrative action against the APO, the sergeant again failed to do so. The sergeant and the APO then engaged in a course of conduct, the effect of which was to intimidate and discredit the victims and witnesses in the case. The APO submitted a false investigation report of the incident and the sergeant withheld two of the three witnesses' statements from an arrest warrant application that also contained false information. The sergeant approved both the investigation report and the arrest warrant that contained false information and from which material information was omitted. The Office of the State's Attorney declined to act on the arrest warrant application, due to a lack of probable cause.

Troopers at the airport became aware of the alleged misconduct of the sergeant and APO and appropriately reported it to the captain by memoranda in March 2003. Upon learning of the allegations, the captain removed the sergeant and the APO from the case. He also called the executive officer at the district headquarters and requested an internal affairs investigation of the sergeant and APO, but the request was denied. The captain determined that the Public Indecency case was solvable and contacted the State's Attorney for two reasons: (1) to re-apply for an arrest warrant and (2) to review allegations of possibly criminal conduct by the sergeant and APO. The State's Attorney accepted a second warrant application for the arrest of the intoxicated

male, but determined the sergeant's and APO's actions lacked criminal intent and therefore declined prosecution of the officers. The intoxicated male was eventually arrested for public indecency, but the alleged misconduct of the sergeant and APO, including filing false instruments and intimidating witnesses, was inappropriately addressed and neither officer was officially disciplined.

EVALUATION AND FINDINGS

This case is an example of the failure of supervisors at multiple levels within the CSP to follow established or official procedures and their unwillingness to hold members accountable for serious misconduct and possibly criminal acts. At the first level, the trooper who responded to back up the APO on the complaint of public indecency failed to ensure the proper handling of the case by the APO and was actually complicit in the alleged misconduct of the APO. At the next level, the sergeant not only failed to hold the APO and trooper accountable, but also compounded the alleged misconduct by facilitating the APO's intimidation of the witnesses and falsification of reports. Finally, when the next level supervisor stood up to take appropriate action, his efforts were thwarted by the district executive officer. The end result was that allegations of serious misconduct and possibly criminal behavior were not addressed in an adequate and timely manner.

Allegations of Drug Use, Harassment and Other Criminal Conduct (AG)

CASE SUMMARY

In late December of 2004, Trooper A and his girlfriend traveled to the island nation of Jamaica to be married. After they returned to Connecticut, they lived together at his residence. Approximately two weeks later, Trooper A moved out of the house and obtained a restraining order against his new wife.

In the beginning of April 2005, Trooper A's estranged wife received a speeding ticket from Trooper B and alleged that it was improperly issued at the direction of her husband. In her initial complaint to troop supervisors on the day of the incident, she stated that she had been driving on the highway when Trooper A came up along side her in his cruiser, pointed at her and laughed. She sped up to get away from him, then exited to another highway, where Trooper B stopped her. She stated that she told Trooper B she was the wife of Trooper A and when he returned to her car with the ticket, he said, "The divorce is between you and (Trooper A)."

During her initial contact with supervisors, she made three additional allegations. The first was that while they were in Jamaica, Trooper A purchased and smoked marihuana in the presence of two other US citizens, who knew that he was a Connecticut state trooper. She stated that she found rolling papers at their home, but never witnessed him using drugs except while in Jamaica. The second allegation was that Trooper A had threatened her by stating, "I am a state trooper and I carry a gun and I am going to get you." The third was that she had found drivers' licenses from ten different individuals in Trooper A's house and turned them over to her attorney.

Shortly thereafter, Mrs. A was interviewed by members of the Internal Affairs Unit and made further allegations of the following conduct: Trooper A may be involved in laundering money for his father; he sold a house for a substantially higher price than the recorded sale price in a scheme to hide financial assets and reduce alimony payments; he falsely reported jewelry stolen to the local police and fraudulently received an insurance payment for it; he coerced her into filing for bankruptcy prior to their marriage in order to reduce financial obligations; he inappropriately obtained the restraining order against her through someone he knew at the court; he committed larceny by accepting payment for the sale of a motorcycle but failed to deliver it; and he possessed stolen motorcycle parts. The Internal Affairs lieutenant took detailed notes of these allegations and reported them to his commanding officer, the captain in charge of Professional Standards, who instructed him as to which allegations would be included in the internal affairs investigation. The internal affairs interview of Mrs. A was neither recorded nor written in a statement form.

After being briefed in April 2005, the captain directed Internal Affairs members to conduct surveillance on Trooper A's residence. During the three-day operation, photographs were taken and observations made, but no incriminating evidence was discovered. In addition, Trooper A's garbage was obtained from the curb in front of the residence and brought to a State Police facility where it was examined. A plastic bag containing a white powder was found and a drug field test was conducted on it, but the results were negative. The captain and the Internal Affairs lieutenant also ran several computer inquiries. According to an Internal Affairs sergeant, he was specifically told by the lieutenant and captain not to document the computer inquiries, surveillance,

photographs, examination of the trash, and the associated negative field drug test in his report. He was directed by his superiors to maintain this documentation and other material in a separate file.

The internal affairs report contains references to the existence of seized drivers licenses at Trooper A's residence, but lists no details and includes no copies of them. During the subject interview, the Internal Affairs sergeant asked Trooper A leading questions about the licenses in a manner that provided a rationalization for his conduct. The trooper was directed to follow-up by producing the case numbers associated with each seized license. When he failed to do so, the Internal Affairs lieutenant simply sent the matter to the troop for investigation, where it was instead handled as a training matter. At the time he seized the licenses, Trooper A had nearly three years of service and should have known the proper procedures for seizing the documents and submitting them as evidence. There was no documentation of a formal disposition or discipline regarding this allegation, nor was there any action taken for the trooper's failure to provide the information as ordered by the Internal Affairs investigators.

The investigation of the traffic stop involving Mrs. A included a review of the mobile video recording from Trooper B's cruiser. It showed that upon Trooper B's return to the cruiser from his initial contact with Mrs. A, he received a Nextel[®] alert, then turned off the audio portion of the MVR. Approximately 11 minutes later he turned the audio on and returned to Mrs. A's vehicle to issue her a ticket. During the subsequent interview, Trooper B admitted contacting Trooper A via Nextel[®] during the shift, both before and during the car stop in question. He denied that Trooper A called him to request he initiate the vehicle stop, or that they had any conversation about Mrs. A before the stop.

He did state however, that he called Trooper A, explained that he had his wife stopped, and asked him if he should write her a ticket. The response was, "Do what you've got to do."

Trooper B recalled in great detail the events surrounding the traffic stop, but could not recall who was calling when he received the Nextel[®] alert immediately before he deactivated the audio recording. He declined the Internal Affairs sergeant's request to provide his telephone records, which would assist in determining who called him. Trooper B also admitted that he rarely stops vehicles in that location, which is outside of his troop and district area.

Trooper B's failure to continuously record the audio is a clear violation of the written policies regulating the use of MVR equipment. An attachment to the report indicates that the trooper intentionally turned off the audio, but Trooper B was not charged with violating the *A&O Manual* (13.15.3) policies regarding MVR usage during traffic stops. A transcription of Trooper B's statement was not included as an exhibit to the report.

The Internal Affairs lieutenant and sergeant conducted a completely inadequate interview of Trooper A regarding the allegation that he orchestrated the traffic stop by Trooper B. Trooper A denied the charge and denied ever seeing his now ex-wife on the highway. He did admit calling Trooper B via Nextel[®] during that night but stated it was unrelated to the stop. The sergeant allowed key questions to go unanswered and twice encouraged Trooper A to consult with the union representative before responding to his request to obtain the Nextel[®] records. The sergeant ultimately recommended that the charges not be sustained, due to the absence of these records, despite identifying what

amounted to a preponderance of circumstantial evidence to support the allegations. There were no efforts made to obtain a subpoena for the telephone records for either trooper.

The Professional Standards captain agreed with the recommendation stating in his interview with the Team, "I don't recall that there was anything else that we could have done. Looking at the (MVR) tape he did everything right..." The captain also stated that he reviewed the entire report and concluded, "you don't want to sustain someone and lose it in arbitration because it would be bad for two things; number one it sets a precedent, and number two it makes Internal Affairs look bad. The trooper and the union will say that Internal Affairs is trying to get you." The Joint Evaluation Team finds these assertions unconvincing.

The most viable lead in the case regarding marijuana use was the identity of two people who had allegedly witnessed Trooper A smoking marijuana, a couple whose names were listed on the Jamaican marriage certificate as witnesses to the marriage of the trooper and his wife. However, there were only two investigative steps taken to pursue this lead. The Internal Affairs sergeant stated that he sent an e-mail to one of the witnesses at an e-mail address provided by Mrs. A, and there was no reply. The report does not contain a copy of his e-mail and there were no other steps taken to identify the person through the Internet service provider. The sergeant also stated he called the resort booking agency that was used for the trip to Jamaica in order to develop contact information for the witnesses, but was denied information without a subpoena. He did not contact the political subdivision in Jamaica that issued the

marriage certificate because he believed that his commanders did not want him to make long distance and international telephone calls.

Trooper A denied buying and smoking marihuana in Jamaica during his honeymoon. He stated that it was not he who smoked marihuana in Jamaica, but his wife, after she purchased it through a bus driver. One occasion was in their hotel room, while a second occasion was on the other couple's hotel room balcony. According to his version of the story, he stood on one side of the balcony and the other man stood on the opposite side, while Mrs. A and the other woman smoked marihuana seated at the table in the middle of the balcony. Trooper A stated that the other woman said, "I can't believe I'm able to smoke marihuana in front of a state trooper."

The interview of Trooper A concerning drug usage was also completely inadequate. The Internal Affairs sergeant failed to ask about rolling papers located at his residence as his ex-wife had alleged. When Trooper A was asked, "What did you say to her when she was smoking marihuana?" he did not fully answer the question. The sergeant never re-asked the question and inappropriately followed up with an unrelated question. A review of the transcript indicated that, although there was a passing reference to a drug test, Trooper A was never asked to submit to one. However, the report states that Trooper A never answered in the affirmative or in the negative when asked about a drug test. He was asked to take a polygraph examination and agreed, but for unknown reasons no test was ever administered. During an interview with the Professional Standards captain, members of the Team asked about the failure to follow through with a polygraph examination and the captain stated that he speculated it was not given because, "the union would say no." This assertion was

made in spite of the fact that the union representative was with Trooper A during the statement, when he agreed to it.

The focus of the investigation regarding marihuana use completely changed upon Trooper A's denial of his own use and uncorroborated admission that he was present when his wife smoked marihuana. Despite Mrs. A's denial that she ever used drugs and her continued assertion that Trooper A purchased and used marihuana, her allegation was no longer pursued. The accused trooper's conflicting account was given credence over that of the complainant without any corroborating evidence. His presence during her alleged drug use was minimized in the report which erroneously states, "He gave an account that he was unaware it was illegal to smoke marijuana in Jamaica." Trooper A's actual account was that his wife asked the bus driver if marihuana was legal and the response was that everything is legal as long as you do it in the resort and not on the street. Trooper A was never asked if he believed marihuana possession in Jamaica was legal. The report appeared to further minimize the marihuana use and condone Trooper A's continued presence during its use by stating, "The possession and use of marijuana in Jamaica is illegal but the enforcement of this law is lax to non-existent." A 58 page DEA document entitled "The Drug Trade in the Caribbean: A Threat Assessment" was inexplicably attached to the investigation report, to which it has absolutely no relevance because it pertained to drug trafficking, not casual use.

The internal affairs report indicates that Trooper A's first ex-wife was also interviewed concerning the drug use allegation. However, she was never asked about Trooper A using drugs. Instead, a paragraph in the report is devoted to discrediting the

complainant through the use of disparaging comments made by the first ex-wife. The inclusion of these comments is one more glaring example of the typical tactic utilized by the CSP, i.e., attempting to discredit the complainant in any manner possible so that the allegations against their member may be dismissed without an appropriate investigation. The members of the Team found this to be a recurring and disturbing theme throughout the cases reviewed.

A charge of Conduct Unbecoming an Officer was sustained against Trooper A because he admitted that he was present during what he described as his wife's drug use in Jamaica. However, the Commissioner determined that "The behavior did not rise to the level of conduct unbecoming an officer" and reversed the finding to "Not Sustained." It appears that this decision was influenced by union officials, who raised concerns about the investigative steps taken by Internal Affairs that were not documented in the report. They argued that information was intentionally left out of the report because it was exculpatory in nature. The Team determined that there was little or no exculpatory value to those investigative steps that were intentionally omitted from the report, because the steps were extremely limited and did not address the allegation of drug use in Jamaica four months prior.

The union officials also argued that taking action against Trooper A was inappropriate because he was off-duty and out of the state at the time of the alleged conduct. This assertion that a law enforcement agency has no standing to regulate off-duty conduct is baseless, yet it was a common misconception among some of the Connecticut State Police members interviewed.

It was apparent during our interviews with the State Police Colonel and one lieutenant colonel that they were either misinformed or completely misunderstood the circumstances of this case with respect to marihuana use. Both stated they were told that Trooper A's explanation was that he tried to get as far away as possible from his wife while she was smoking the marihuana in the room, so he went out on the balcony to distance himself from the incident. The Colonel stated, "There was no way we could discipline him on that issue. We didn't have anything to substantiate that he was using drugs... she's smoking marihuana in the bedroom, he's standing out on the veranda to get himself out of the situation and I think a decision was made in light of all those issues... we talked with our legal people, they said that this one is an absolute loser, if you try to sustain it, if you try to discipline on it, it's going to be a loser and that's exactly why we did what we did." Unfortunately, the Commissioner's decision to reverse the finding was based upon this incorrect accounting of what the accused member claimed happened, with no attempt to substantiate his account and virtually no attempt to prove or disprove the complainant's allegations.

The report lists Mrs. A's other allegations under the title, "*Issue # 3: Other accusations of misconduct.*" This section of the report does not specifically mention the eight allegations of criminal conduct recorded by the lieutenant in his notes. According to the captain, the information was not in the report because, "We had a woman who is going through a divorce and, as often times happen, they are bringing up things that may very well not be true. There was nothing (the sergeant) or the other investigators were able to find that indicated anything that this was true and my feeling at the time, and it still is, is that why taint him by putting something in the report that would indicate

he did something when, in fact, he didn't do anything and we found that he did nothing.” He further stated that the negative results of the various computer inquiries, “certainly shows he wasn't involved in anything” and that not every allegation was investigated because of their serious nature and the negative impact it could have on Trooper A if not proven. The allegation of threatening “... I carry a gun and I am going to get you” was never investigated, nor was a Family Violence Offense Report (form DPS-230-C) completed as required by the *A&O Manual* (19.3.17) and C.G.S. §§ 46b-38d.

EVALUATION AND FINDINGS

Based upon its review of this case, the Team concludes that there was no organized approach to address the multiple allegations brought by Mrs. A. A total of twelve specific allegations of criminal and administrative misconduct were identified, yet nine of those allegations were not investigated. Eight of them were not even documented anywhere in writing, other than in the personal notes of the Internal Affairs lieutenant. The internal affairs report only addressed two of the allegations and those were inadequately investigated. The one allegation concerning the drivers' licenses that was clearly proven was quickly removed from Internal Affairs to the troop level, where it was improperly handled. This illustrates a failure to recognize and understand the importance of documenting and investigating each and every allegation for the protection of the agency and the accused member.

The entire case was mishandled, beginning with the undocumented investigative steps that were taken, purportedly to determine if the allegations had enough merit to justify a criminal investigation. These steps were inadequate and disorganized, due to

inappropriate command guidance and poor training. This led to a determination, without the benefit of conducting a proper investigation, that many of the allegations were lacking merit. The failure to document the steps was justified by commanders who reasoned that the allegations were serious, they could not be proven, and if the information were included in a report that was subject to disclosure through freedom of information requests, it would result in an unfairly negative reflection upon Trooper A. Union leaders on the other hand, believed that the information was left out of the report because it was exculpatory. For whatever reason, these investigative acts should not have been excluded from the investigation report.

The commanding officer of Professional Standards reviewed and approved the investigation report, which contained numerous instances of inaccuracies, deficiencies, and inappropriate language. The subject interviews were poorly conducted by investigators who failed to ask appropriate questions; did not follow up on replies; asked leading questions which supplied subjects with justifications for their actions; allowed the subjects to cloud the issues; and deferred to the union representatives for answers. Key leads were not exhausted and witnesses were not located for interview. Investigators, as well as their commanders, inappropriately discredited the complainant and minimized the alleged conduct of the accused trooper. They also accepted his denial of the allegations and his version of the incidents with no corroborating evidence. All of these factors indicate a poor understanding of the investigative methods, interview techniques and report writing skills required for successful investigation of complex internal affairs cases. The Joint Evaluation Team believes that the agency did not keep

an open mind regarding the allegations and investigators missed numerous opportunities afforded them during the course of this investigation.

The union brought this case to the Commissioner's attention, alleging Internal Affairs unfairly targeted the trooper. The Joint Evaluation Team found no evidence to support this allegation. In fact, the Team finds that the trooper received unduly favorable treatment, in that even the finding of "Sustained" on the greatly reduced charge was ultimately reversed and he received no discipline at all.

Rifle Scope Stolen from Property Vault (AG)

CASE SUMMARY

Detective A of the Special Licensing and Firearms Unit (SLFU) was assigned as the property custodian and tasked with maintaining control over the weapons vault. In September of 2003, he was absent on sick leave for two days. While he was out, Detective B assumed his duties. When Detective A returned from leave he noticed that someone had removed a Tasco[®] Pronghorn rifle scope from a confiscated rifle that was scheduled for destruction. An allen wrench, which may have been used to remove the scope, was left on the nearby shelf. He questioned Detective B, who stated that the scope went to a member of the SWAT team. At the conclusion of that conversation, Detective A believed that Detective B would ensure the proper paperwork was completed. In October of the same year, the rifle was destroyed.

In November of 2003, the SLFU sergeant was at the vault for a monthly inspection when Detective A advised him of the circumstances surrounding the missing rifle scope. Because the paperwork had still not been submitted, the SLFU sergeant approached Detective B. At that time, Detective B told him that Lieutenant A, who apparently had no legitimate reason to do so, had actually taken the scope. When asked why he had reported that it went to a SWAT team member, Detective B stated that he didn't want to "rat" on the lieutenant. The sergeant instructed him to ensure the scope was returned. The sergeant also made notification to Lieutenant B, who was overseeing the unit in the absence of the SLFU Lieutenant.

Detective B stated that one week later he obtained a scope from Lieutenant A and gave it to the SLFU sergeant. The sergeant then returned it to Detective A, who advised that it was not the same scope that had been removed. It was a Leupold® brand scope and was made for a pistol, not a rifle. Subsequently the sergeant advised the SLFU lieutenant, who in turn notified her superior, the major in charge of the Bureau of Training and Support Services. In January of 2004, the SLFU Lieutenant made a decision, with the concurrence of the major and the lieutenant colonel in the Office of Administrative Services to have the Leupold® scope destroyed, even though there was clear evidence that it was not the scope that had been removed. They based the decision on the SLFU lieutenant's assumption that Detective A was incorrect when he stated it was not the same scope. Additionally, a decision was made by the supervisors involved to draft a negative Performance Observation Report (POR) and issue it to Detective B. The original draft of the POR is alleged to have indicated that "a different scope came back," but the SLFU sergeant reportedly was directed by the SLFU lieutenant to change the wording to indicate simply "a scope was taken and a scope was returned." At this point no action had been taken against Lieutenant A and no member, other than Detective B, had even spoken with him about the matter.

In March of 2005 Detective A made a Commission on Human Rights and Opportunities (CHRO) complaint to the Connecticut Department of Public Safety and a whistleblower complaint to the Connecticut Attorney General's Office. Detective A believed that he was being subjected to workplace harassment, partially as a result of his report to superiors that the rifle scope was taken by Lieutenant A.

The Equal Employment Compliance Unit of the Connecticut Department of Public Safety investigated the CHRO complaint of workplace harassment and concluded that an internal affairs investigation should be initiated. However, prior to an investigation, the State Police Colonel directed the captain in charge of Professional Standards to look into the matter and determine if the removal of the rifle scope involved any criminal conduct. The captain conducted several cursory interviews and inappropriately concluded there was no indication of criminal conduct. Upon reporting back, the captain was assigned to the internal affairs investigation. However, the focus of the investigation was clouded by combining the CHRO complaint with the missing property complaint. CSP command staff failed to recognize the gravity of the allegations and the implications for the organization when they classified the case. Numerous facts directly point to theft of evidence by an employee, yet the case was improperly classified as “other improper administrative issues by SLFU personnel.” This resulted in no conclusion regarding the theft of property and no disciplinary action against any of the personnel who were responsible for not holding Lieutenant A culpable for his possibly criminal behavior.

EVALUATION AND FINDINGS

Detective A’s whistleblower complaint led to the later involvement of the Connecticut Attorney General’s Office and the New York State Police Detail, whose review of the internal affairs investigation and report exposed serious flaws. By the time the CSP investigation was conducted, Lieutenant A had filed for retirement and, although he was utilizing the remainder of his leave, he was still subject to discipline.

Regardless of his employment status, he also remains subject to criminal statutes. The captain interviewed him by telephone rather than conducting a personal interview. His interview of the major, who had since been promoted to lieutenant colonel, was also conducted by telephone and the report provided no supporting documentation regarding it. The captain conducted other interviews inappropriately by asking leading questions, which provided the subjects interviewed with specific and convenient answers. The most egregious examples appear in the interview of the SLFU Lieutenant, who had improperly ordered the destruction of the second scope and reportedly instructed the sergeant to change language in the Performance Observation Report for Detective B.

The captain also drew the misleading conclusion in his report that Lieutenant A had taken the scope to install it on a personally owned weapon for official use, because the Connecticut State Police allows members to qualify with and carry a personally owned Colt AR-15 rifle while on duty. However, the captain failed to establish in his internal affairs investigation if Lieutenant A ever qualified with a personally owned rifle or even if he owned one. The Joint Evaluation Team investigation determined that Lieutenant A did not qualify with an AR-15.

This matter was mishandled from the very outset, beginning with the first members notified of the incident in the fall of 2003. An internal affairs investigation should have been initiated immediately to uncover the facts surrounding the allegation that Lieutenant A removed the rifle scope. That investigation, if properly conducted, would have determined whether Lieutenant A committed a larceny and should have been held accountable for his actions. Further mishandling by the commander of the Professional Standards Section resulted in an investigation where basic steps were not

taken, there were misstatements of material facts, critical interviews were conducted telephonically, rather than in person, and leading questions were asked of witnesses. The ultimate outcome was that no one was held accountable for his/her actions, which ranged from negligence to possibly criminal conduct.

Allegations of Drug Use, Associating with Drug Traffickers and Alleged Prostitutes (AG)

CASE SUMMARY

In February 2004, a security employee at the Mohegan Sun Casino received an anonymous telephone call from a person who alleged that Trooper A was associating with persons engaged in the use and distribution of illegal narcotics and might be involved in such activities himself. Trooper A was a former member of the State Police Casino Unit who was reported to have been a regular customer at Mohegan Sun since his reassignment to another troop. The security investigator advised a sergeant at the State Police Casino Unit of her suspicions and notifications were made up the chain of command to the State Police Colonel. Together with the major in charge of the Bureau of Criminal Investigations (BCI), the Colonel decided that the Casino Unit should conduct an investigation. A Casino Unit sergeant performed a number of investigative acts, but the Internal Affairs Unit was never notified and no official case was ever adopted.

The Casino Unit sergeant determined that Trooper A had earned special privileges as a "high roller," which allowed him access to a restricted lounge and provided him with discounted rooms and amenities. Through interviews of casino employees, the sergeant developed evidence suggesting that Trooper A may have regularly associated with another high roller who was suspected of using and trafficking in narcotics. During further interviews by the Casino Unit sergeant, witnesses alleged that Trooper A was observed passing around a burning marijuana cigarette with a group of teenagers during a party held at a casino employee's home, although the witness did not observe him actually smoking the marijuana.

The Statewide Narcotics Task Force (SNTF) was contacted for assistance because of the alleged narcotics use and trafficking. Their undercover operation was almost immediately compromised because the operatives were introduced to the security staff at the casino and were forced to proceed with the investigation without the “high roller” credentials they were promised. Word of the investigation quickly spread throughout the casino staff, many of whom were social acquaintances of Trooper A.

Trooper A was identified as a secondary target of the investigation, with the primary target being his associate. The undercover officers approached the associate at the bar, but he refused to interact with them and no illegal activity was observed. Trooper A never appeared at the casino during the operation, a clear deviation from his reported usual pattern of attendance. After approximately three weeks, the primary undercover officer determined that, without dedicating far more resources to the investigation and involving other SNTF members, the operation was “a waste of time.” Therefore, the undercover operation was terminated due to a lack of progress.

Members of the Joint Evaluation Team interviewed the undercover officers and their supervisor, a Connecticut State Police sergeant. Their assessment was that, although the Casino Unit members were diligent in their attempts to investigate the alleged criminal activity, this type of investigation was beyond the scope of their training and capabilities. Considering that undercover narcotics investigations require specific methods and the coordination of a team who are experienced in such operations, the Casino Unit should not have been involved. At one point, the Casino Unit members instructed the undercover SNTF officer to follow the target into a rest room and make a summary arrest if narcotics were observed. This would have been a premature action

and an unsafe practice for the officer, who did not have any backup. The narcotics officers were also frustrated that their State Police superiors would not allow them to utilize the full resources of their team and conduct the investigation in a manner that they believed appropriate.

In May of 2004, while the investigation was ongoing, the BCI major was replaced. The incoming BCI major (now a lieutenant colonel) was never briefed about the case by the outgoing major and was unaware of the investigation until learning about it by chance at a meeting with Mohegan Sun Casino management personnel. The major immediately instructed the Casino Unit lieutenant to terminate the investigation. A short time later, the security employee approached the Casino Unit sergeant and gave him a security system videotape. The tape showed Trooper A going in and out of a hotel room at the facility with two Asian women who were alleged to be prostitutes. When this information was brought to the attention of the BCI major, rather than being concerned about the serious allegations mounting against a member of the State Police, the major became angry, believing the Casino Unit members had disobeyed orders by continuing the original investigation. The major met with the lieutenant colonel in the Office of Field Operations and his chief of staff and informed them of this perceived disregard of an order. The major and the chief of staff subsequently met with the involved Casino Unit members. At this meeting, the Casino Unit members were chastised and instructed to cease all investigative activity. There has been no further investigation into the allegation that Trooper A was associating with a known drug trafficker.

The BCI major assigned the Statewide Organized Crime Investigative Task Force (SOCITF) to investigate the allegation that Trooper A was associating with prostitutes. Although members of the Casino Unit, in cooperation with Mohegan Sun security personnel, had initiated an investigation into a possible Asian prostitution ring, the SOCITF sergeant who investigated this matter failed to consult with them. He made no meaningful effort to identify the women or the other male in the video. The Connecticut State Police did place an Asian trooper in the casino in an undercover capacity. However, since there are few Asian male troopers in the Connecticut State Police, it is highly unlikely that his identity would remain unknown to Trooper A or his associates and, in fact, he did not develop any useful information

After exhausting all viable leads, the obvious remaining investigative possibility would have been to simply interview Trooper A administratively to determine who the people in the video were and the nature of their association with him. However, that fundamental investigative step was never taken.

In February of 2005, the primary target of the undercover narcotics operation was arrested in another part of the state as the result of an unrelated investigation. He was charged with eight drug related felonies, including possession of cocaine, marihuana and prescription pills. The area commander for the SNTF, a lieutenant, became aware of this and recommended to the SNTF commander, a captain, that they should “take another look at (Trooper A).” His recommendation was not followed.

EVALUATION AND FINDINGS

There were three serious allegations involving possibly criminal conduct against Trooper A, but no internal affairs investigations were ever initiated. The two associated criminal investigations that were conducted by other units within the Connecticut State Police identified persons associated with Trooper A as the targets, rather than the trooper himself. These inquiries were described as “secret” or “illegal” by some of the highest ranking members of the department, who either terminated them in anger, or so poorly managed them as to render them completely ineffectual. Although more than two years have passed since the initial allegations came to light, Trooper A has never been interviewed regarding any of the allegations. He has not been afforded the opportunity to clear his name, nor have the people of the State of Connecticut been served by the failure of the State Police to properly investigate allegations that a state trooper was using drugs, associating with a confirmed drug trafficker and possibly consorting with prostitutes.

Improper DWI Arrest Procedures (NYSP)

CASE SUMMARY

In February 2004, the DPS Inspections Unit conducted a staff inspection of a troop. In his report, the Inspections Unit lieutenant identified several irregularities with the DWI arrest procedures of troopers on the midnight shift. The lieutenant reported that the inspectors developed this information through a review of documents, as well as interviews of employees at the troop, the Office of the State's Attorney and the Department of Motor Vehicles.

The report noted that the troop's midnight shift had received a Unit Citation Award for their DWI enforcement efforts. However, the inspection uncovered indications that there may have been an "open competition" among some troopers on the midnight shift to see who could make the most DWI arrests and that two troopers (Troopers A and B) had a disproportionately high number of DWI arrests. It also identified problems with DWI arrest documentation, including late submissions of this paperwork to the court and failure to document detailed information on the probable cause for arrest.

The inspection report raised questions about improprieties in the administration of chemical tests to determine the defendants' blood alcohol level (BAL), as well. One case was identified in which the documentation does not identify the person who collected a urine sample from a female arrestee. Because the arresting trooper (Trooper B) is male, this indicates either a chain of custody issue or a violation of policies that prohibit the collection of urine samples from persons of the opposite gender.

A much more serious issue was the allegation that troopers were improperly encouraging defendants to refuse breath tests. According to the lieutenant in charge of Inspections, several DWI suspects had complained to prosecutors that the troopers told them they would be released earlier by refusing the test, but if they took the test they would have to post bond and remain in custody longer. The Office of the State's Attorney also expressed concern regarding the unavailability of mobile video recording system tapes for use as evidence at trial. DPS policy (*A & O Manual* Section 13.15.3) requires troopers to secure MVR tapes as evidence in DWI cases. However, the inspection revealed that there were more than 500 DWI arrests made in the year prior to the inspection, but only 14 MVR tapes were secured as evidence.

The inspection report identified an inordinately high number of arrests for driving under the influence of alcohol or drugs where the subsequent laboratory tests were negative for alcohol or drugs or showed a BAL well below the level required for prosecution. In many of these cases, the arresting troopers reported that they smelled an odor of alcohol or marijuana at the time of arrest or that the defendants admitted to ingesting alcohol or drugs.

Due to the sensitive nature and volatility of the inspection findings, the State Police Colonel (now retired) directed Internal Affairs to initiate an investigation. The Professional Standards captain and the Internal Affairs lieutenant assigned the investigation to Sergeant A. For reasons they could not explain to the Detail, they instructed Sergeant A to limit the investigation to the actions of Trooper A. Detail members found this limitation to be highly unusual, particularly in light of the findings of the inspection report that raised similar questions about other troopers. In fact,

collateral evidence collected by Sergeant A, consisting of DWI arrest documents and associated lab results indicating negative tests for alcohol and drugs, was ample justification to give credibility to the inspection report and implicate other troopers who worked the midnight shift with Trooper A.

Not only was the internal affairs investigation unreasonably limited to one trooper, it only focused on a limited number of the issues raised in the inspection report. The allegations of competition between members of the midnight shift for DWI arrests, failure to secure MVR tapes as evidence and collection of urine samples from defendants of the opposite gender were not addressed in the investigation report. Sergeant A made passing references to a competition among midnight shift troopers to make the most DWI arrests, but made no findings on the issue. He attached listings of arrest and BAL data to the report, but made no use of them for any analysis of the rate of DWI arrests by Trooper A compared to those of other members. His mention of the failure to secure MVR tapes included an indirect reference to an interview with a state's attorney who acknowledged it was a problem, but Sergeant A again listed no facts, conclusions or findings regarding the allegation.

Sergeant A discredited the inspection report as inaccurate and attributed most of the problems to sloppy documentation within the troop, concluding that the issues were not as serious as indicated in the inspection report. He improperly merged the allegations of poor documentation, lack of probable cause and toxicology reports that were negative for alcohol or drugs under the title, "*Issue # 1.*" By doing so, he confused matters, failing to clearly delineate the allegations in the details and findings of the report.

The report states that Trooper A failed to properly document his arrests on multiple occasions; however, Sergeant A appears to minimize and even excuse these serious deviations from correct police procedures by characterizing this as a training issue that was being addressed at the troop level and expressing the opinion that Trooper A's reports were improving. Sergeant A stated that he randomly selected a sample of Trooper A's case files covering a two-year period, choosing one out of 10 reports for review, but he did not indicate the total number of cases reviewed.

Sergeant A also appears to minimize the allegation of making arrests without probable cause by inferring that Trooper A made the necessary observations to provide probable cause at the time of arrest, but failed to properly record them on the arrest report. These statements are evidence that Sergeant A failed to recognize the significance of the data which indicated an inordinately high number of Trooper A's DWI arrests were not corroborated by the subsequent laboratory tests.

Sergeant A contended in his report that he used a "pool of raw data" to complete a comparative analysis of Trooper A's DWI arrests against those of other members. He also compared raw data for the entire midnight shift at the troop with a "comparative pool from a troop of similar DWI activity." However, he failed to quantify the results and simply stated, "I found no statistical data to confirm a pattern of low BAC arrests at (the troop), nor evidence of misconduct by (Trooper A)." He also contended that ".000 bac (sic) arrests existed in the comparative pool..." but failed to compare the rates for arrests with negative tests between the two groups.

While pages of "raw data" were attached to the report, Sergeant A did not include any of the calculations for the statistical analysis that he said he performed, precluding

any supervisor from reviewing it for accuracy and relevance. The sampling group appears to be entirely inadequate and the pages of "raw data" contain handwritten notes that, on their face, appear to support the allegations made in the inspection report regarding the inordinately high number of refusals and negative test results in the inspected troop.

Sergeant A addressed the allegation of improperly encouraging defendants to refuse breath tests under the title, "*Issue # 2.*" He conducted interviews of the two employees of the Office of the State's Attorney who had been interviewed by the Inspections lieutenant; an attorney and an investigator. While the Inspections Unit lieutenant cited these sources as stating that defendants had complained about being encouraged to refuse breath tests, Sergeant A reported that they denied those statements. He quoted the attorney as saying that anything relative to misconduct was "rumor and innuendo." However, he made no attempt to contact and interview any of the people who refused a breath test to ascertain whether or not Trooper A pressured them to refuse.

EVALUATION AND FINDINGS

The internal affairs investigation was conducted in such a haphazard manner that it would be impossible to determine whether or not employee misconduct occurred by reading the internal affairs investigation report. Virtually none of the leads in this case were adequately followed. The Professional Standards captain and Internal Affairs lieutenant inexplicably and wrongly directed the sergeant assigned to the investigation to limit it to one trooper and ignore the others implicated by the inspection report. The

inspection report provided detailed findings in 16 specific arrests for DWI or DUI Drugs, yet the internal investigation only addressed four cases, and did not even address all of the cases involving Trooper A.

Of the hundreds of persons arrested for DWI by the troopers on the midnight shift in this troop, not one was interviewed to determine if there were irregularities in their arrests or subsequent processing. While we are not suggesting that every one of the defendants should have been interviewed, a proper investigation of this case requires interviewing a substantial, representative sample of them. There were obvious methods of screening candidates for those interviews, such as choosing those whose BAL was 0.00% or otherwise well below the legal limit, those who had refused the breath test, and those whose drug tests were negative.

Sergeant A never conducted necessary interviews of CSP personnel, including the Inspections lieutenant, the sergeant who assisted him in the staff inspection and the two dispatchers and trooper who were identified by the Inspections lieutenant and sergeant as their sources of information. Instead, Sergeant A instructed them to submit explanatory memoranda to answer approximately a half-dozen brief questions he posed. The responses by these employees revealed significant information that was never pursued and in fact, was misrepresented by Sergeant A in his report.

One dispatcher responded that other desk personnel had received phone calls from those who were arrested, or from family members, complaining about being coerced into not taking breath tests. She further indicated that the local state's attorney had come to a roll call to address the matter. Instead of following these leads, Sergeant A stated in the conclusion of his report that "No complaints have been made regarding

the actions of (Trooper A) by DWI offenders he has encountered, or by anyone outside this agency. No one he has arrested has stepped forward and complained about his actions in any venue we found.”

The dispatcher also indicated that, “The primary name associated with these practices (of encouraging breath test refusals) was (Trooper B).” She did not say that Trooper A was not involved, however, Sergeant A misrepresented this response by stating in his investigation report, “She believed these issues to be actions of (Trooper B) and not (Trooper A).” This misrepresentation was used as part of the rationale to negate the allegations against Trooper A. If the investigator and the command staff who reviewed the report believed this statement on its face, they should have initiated an investigation of Trooper B, but this was not done.

The desk trooper who served as a source of information for the inspection report also provided a memorandum in response to Sergeant A’s question. In the memorandum he states that he “... received a phone call while working the desk from a person working at the per se office (of the Department of Motor Vehicles) regarding that they were still receiving DWI reports with negative results.” The desk trooper went on to say that he asked, “...how many reports, like twenty? The person I was speaking with stated ‘a lot more then (sic) that.’” This conversation was recorded because the call came into the dispatch center, where all calls are recorded. Further on in his memorandum he states that he “then replayed the conversation to (a sergeant) and then for (a master sergeant) and (the troop lieutenant).” Sergeant A never interviewed the trooper who wrote this memorandum. Worse yet, he failed to follow up on the

trooper's statement about the tape recorded conversation, which provided opportunities to interview additional members as well as to review the taped telephone call.

The desk trooper also made reference to the competition between members of the midnight shift in his memorandum, stating "They wanted to become members of the 100 club for the year," inferring that their goal was to make 100 DWI arrests for the year. This clearly substantiated the inspection report and would have been a far more meaningful lead to pursue in an effort to confirm or deny the competition allegation than the "compilation of raw data" or undocumented "statistical analysis" Sergeant A reported, yet it was essentially ignored.

Another allegation made indirectly in the inspection report was that the troopers would submit their reports to specific sergeants, who would approve them without question. They avoided submitting reports to other sergeants because those sergeants would find fault with the reports. This allegation was never recognized or addressed in the investigation report. This allegation, coupled with the fact that the midnight shift had received at least one award for their DWI efforts and the desk trooper's statement that he had played the recorded telephone call for the master sergeant and lieutenant, would tend to indicate possible complicity or nonfeasance on the part of supervisors and command personnel at the troop. No member of Internal Affairs or Professional Standards, nor any command or executive officer identified or addressed this issue.

Although the Inspections and Internal Affairs Units both fall under the command of the Professional Standards Section, the efforts of the two units were never coordinated. Worse yet, the work of the Inspections Unit was discounted and even discredited, in an attempt to explain the flawed internal affairs investigation report.

There were clear indicators of serious misconduct uncovered by the Inspections lieutenant, who appropriately sounded the alarm, but that alarm was promptly and improperly silenced by members of his own Section.

During the course of this investigation, the Professional Standards captain was replaced by Captain B, who was responsible for reviewing the investigation report. Captain B admitted in an interview with Detail members that he had read both the inspection report and the investigation report and was aware of the conflicting witness statements as well as other inconsistencies. Nonetheless, he made no effort to reconcile them, nor did any other CSP commander who reviewed them.

This case represents many of the systemic problems identified by the Detail. It demonstrates the tendency of some command staff to exclude certain personnel as targets of investigations, a disorganized approach to investigations, failure to follow all leads, and acceptance of inadequate reports by supervisors and command staff. Most striking is the evident institutional bias to minimize allegations of misconduct and discredit complainants and witnesses, even though in this case some of the complainants and witnesses were not only employees of the Connecticut State Police, but also members of the Professional Standards Section Inspections Unit who made their allegations of misconduct in an official report.

Of all of the cases evaluated, the failures in this case had the most direct result on members of the general public. Conducting a thorough and effective investigation could have cleared the troopers under suspicion or affirmed the charges and allowed the DPS to prevent further misconduct. If misconduct was occurring, prompt action by the DPS would protect the public from such misconduct. Although the Inspections Unit

diligently and effectively fulfilled its responsibilities, the subsequent actions of the Professional Standards Section commander, the Internal Affairs Unit and agency command staff cannot be excused. By effectively dismissing the inspection report findings and only perfunctorily investigating the serious allegations it made, the Department failed to protect either its employees or the public.

Excessive Force With Serious Injury (NYSP)

CASE SUMMARY

In May of 2003, Troopers A and B were working the night shift, conducting motor vehicle equipment checks on a highway on-ramp. Trooper A reported that they chose a location under an overpass, in an area where the streetlight that normally illuminates the roadway was not working. He stated that he was standing on the left shoulder just inside the travel portion of the roadway with his cruiser parked on the right shoulder, directly across from him. The overhead emergency lights were not activated, but the "cruise" light (small lighted "State Police" sign) was on and the driver's side alley light was pointed to illuminate him to oncoming traffic.

According to Trooper A's account, at approximately 12:10 a.m. Trooper B made a DWI arrest and left to process the prisoner. Within "approximately 40 seconds," a vehicle came around the sharp curve at a high rate of speed. Trooper A stated that he was holding his CSP issued metal flashlight in his left hand and holding up his right hand, palm out, yelling, "stop." According to Trooper A, the vehicle initially slowed down, then suddenly raced its engine and came toward him. Believing that he was in danger, he "instinctively" jumped to his right, in order to get out of the vehicle's path. As he did so, the flashlight "just left" his hand, projecting toward the oncoming vehicle. He then heard the sound of breaking glass.

The vehicle continued past Trooper A toward the highway and stopped approximately 1/10 mile from the location of the initial incident. Trooper A stated that he entered his cruiser, activated his overhead lights and pulled in behind it, but failed to activate the mobile video recording system as required. Trooper A stated that as he

approached the vehicle he saw that the victim was holding the side of his face and appeared to have facial injuries. He returned to his cruiser and radioed for an ambulance.

The internal affairs report indicates that Trooper A, while awaiting the arrival of medical assistance, advised his troop supervisor, Sergeant A, of the incident. The sergeant never responded to the scene or the hospital. Instead, he directed Trooper A to go to the hospital, interview the injured civilian, evaluate the extent of the injuries and photograph them. (An additional internal affairs investigation was conducted with respect to Sergeant A's failure to respond to this incident. The charge of failing to investigate was sustained but no discipline was imposed.)

Trooper A stated that, when he arrived at the hospital, the victim refused to speak to him or give a urine sample when requested. Trooper A took several Polaroid® photographs of the injuries, which medical records describe as fractures to both the upper and lower jaws, 5 displaced teeth, a 6 cm laceration to the upper lip and a 5 cm "through and through" laceration to the lower lip, requiring reconstructive and plastic surgery. According to the trooper's report, he charged the subject with Failure to Obey an Officer's Signal, Engaging in Pursuit, Reckless Endangerment 1st Degree, Attempted Assault on a Police Officer, and Interfering.

Major Crime Unit detectives also conducted an investigation of this incident, eventually completing an application for an arrest warrant, charging the victim with Reckless Driving and Failure to Obey an Officer's Signal. A copy of the application was attached to the internal affairs report, but it remained undated and unsigned. The report does not indicate if the warrant was ever filed, or if an arrest was made. The detectives

took Polaroid® photographs and 8mm video images of the scene during both daylight and nighttime conditions the day after the incident. They depicted the cruiser and Trooper A in the positions that he reported them to be in at the time of the incident and it was noted that all streetlights were working.

They also submitted the flashlight to the crime laboratory and examined a vehicle of the same model in an attempt to determine the position of the window at the time it was shattered. Most importantly, there is no indication that scientific testing was conducted to determine how much force would be required to propel the flashlight through the window, shattering the glass and causing the severity of injuries incurred by the victim, and whether that force would be consistent with Trooper A's account of the incident.

The internal violations surrounding this case are spelled out in a memorandum from the Internal Affairs sergeant to the Professional Standards captain. They only include failure to activate the MVR equipment and improper use of equipment, i.e., the flashlight. The third paragraph of this memo questions "whether or not Trooper A used excessive force during the performance of his official duties as a state trooper," but little attention was paid to the details surrounding the possible use of excessive force. In fact, the report tends to discredit the victim and discount the other impartial witnesses.

The internal affairs report asserts that the victim is a recovering heroin addict and that bottles of prescription medication were found on the rear seat of the vehicle, but there is no evidence that on the night in question the victim was impaired in any manner. Major Crime detectives interviewed a paramedic with nine years experience and an emergency medical technician with eight years experience who treated the

victim. Both stated the victim showed no indications of intoxication or impairment by alcohol or drugs. The hospital admission records also reflect that “the patient had no alcohol upon admission.” The Major Crime detectives were granted a warrant for medical records, including the results of a chemical analysis of the victim’s blood, but the report inexplicably excludes the findings.

The Major Crime detectives interviewed three responding firefighters in addition to the paramedic and emergency medical technician. One of these witnesses stated that the trooper seemed nervous and told him he threw his flashlight to try to get the driver to pull over. Two others stated that the trooper told them he “hit” the window with his flashlight, and still another stated that the victim told him the trooper threw his flashlight at the car. Although these accounts indicate an intentional act on the part of Trooper A, the Internal Affairs sergeant concluded in his report that “Contrary to some witness statements, in neither (Trooper A’s) written report nor in his personal interview does (Trooper A) admit to intentionally throwing his flashlight at (the victim’s) vehicle.” This is one more example of the Internal Affairs investigators’ willingness to accept an accused member’s questionable explanation of his conduct, despite strong evidence to the contrary.

The victim refused to be interviewed by Major Crime detectives and Internal Affairs personnel on advice of his attorney. However, according to the report, the victim’s sister called the Major Crime detective and stated that her brother had related his story to her. She stated that her brother told her the trooper ran toward his vehicle, shattered the window with the flashlight then hit him with the light. He also told her that while the trooper was assaulting him, another officer came up and said “You did

enough,” at which point Trooper A ceased his alleged assault. It is unclear if the victim was referring to Trooper B as the other officer, but members of the Detail found it disturbing that Trooper B, who supposedly left the scene less than one minute prior to this incident, was never interviewed by members of the Major Crime or Internal Affairs Units.

During the sister’s phone call, which the report clearly states was of her own volition, she reportedly told the detective that her brother was a liar, had a history of drug abuse and had been arrested several times for drug related offenses. The sister also reportedly stated that she did not believe her brother’s story, which he also had related to their mother and father who, “...showed concern in regards to the way (the victim) sustained the injury to his broken jaw.” No formal statement was ever taken from the sister and, according to the report, the mother refused to be interviewed, deferring to her son’s attorney. There is no mention of any attempt to interview the father.

An inordinate amount of time passed between the occurrence of the incident and the time that the majority of the interviews were conducted. The emergency medical technician, paramedic and firefighters on the scene were not interviewed until more than four months after the incident, which was two months after Trooper A’s interview. Interviews and follow-ups continued for approximately eleven months, at long intervals, until the report was finally submitted more than a year later.

The final result of this investigation was a finding of “Sustained” on the charge of Improper Use of Equipment (Flashlight) and a three day suspension was imposed. The

suspension was implemented by deducting three days from Trooper A's accrued holiday time in lieu of losing three days' pay.

EVALUATION AND FINDINGS

The true nature of this case is the allegation of excessive force, but the investigation avoided that issue and centered on the failure of the trooper to activate the mobile video recording unit and his improper use of his flashlight. As stated earlier, the report reflects an attempt to discredit both the victim, by exploiting his former heroin addiction and current methadone treatment, and the witnesses (emergency services professionals), by completely disregarding their statements. While the report played up the character assassination of the victim by his sister, it disregarded the parents' concerns as reported by her, as well as the accounts given by completely impartial emergency service personnel. Most significantly, there is no record of any attempt to interview Trooper B, who was working the road check with Trooper A, or to determine if he did in fact make an arrest that night and if the time of the arrest was consistent with Trooper A's statement that he left the scene less than a minute before the incident.

It should be noted that Trooper A, in this case, is the same trooper highlighted in this report under the case titled Improper DWI Arrest Procedures. The Connecticut State Police failed to take advantage of two opportunities to fully investigate a potential problem officer who was alleged to have abused his authority and violated the rights of citizens. Trooper A left the CSP for employment with another law enforcement agency, then subsequently requested reemployment with the Connecticut State Police. Despite his history of questionable conduct and performance, he was rehired.

The Cancer Note (AG)

CASE SUMMARY

In September 2005, Sergeant A of Professional Standards, found a note with the word “Cancer” written on a legal pad on his desk at State Police Headquarters and considered the note to be threatening. Sergeant A had made whistleblower complaints and had spoken out at an open union meeting three days prior, regarding his beliefs that command officers were corrupting the DPS internal affairs process. He reported his discovery to the Commissioner’s executive assistant who tore the note from the pad, but failed to retain the entire pad. The executive assistant showed the note to the Commissioner and an internal affairs investigation was initiated.

A forensic examination of the note revealed fingerprints belonging only to the Commissioner and his executive assistant, a former CSP sergeant, both of whom handled the note after it was found by Sergeant A. More than four weeks went by before the Internal Affairs lieutenant took a statement from Sergeant A. Before any further action was taken by Internal Affairs, the case was turned over to the Joint Evaluation Team for investigation.

During the investigation conducted by the Team, it was determined that on the day the note was left, three members of the CSP Background Investigations Unit were in and near Sergeant A’s office cubicle. According to witnesses, Sergeant B was in the cubicle while two members of his unit, Troopers A and B, remained outside and adjacent to the cubicle “snickering and smirking” as they watched Sergeant B.

Sergeant B, Trooper A and Trooper B each were interviewed twice. All three denied leaving the cancer note. Their explanation for being at the cubicle was that they

were looking for a CD for another employee, however, the interviews revealed inconsistencies between their description of the sequence of events and those provided by witnesses. The investigation did not identify any other individuals who were in the cubicle on that day.

This investigation determined that certain members of the Background Investigations Unit, and specifically Troopers A and B, would regularly joke with each other by leaving humorous drawings and written notes around their workplace and refer to each other using words like “Cancer”, “Redneck” and “Hispanic.” It was also determined that Trooper C was jokingly referred to as a cancer because he had been called a cancer by a supervisor years earlier.

A lieutenant admitted to using the word cancer in a separate case to describe chronic complainers who have bad attitudes that affect conscientious workers. The lieutenant stated that the use of this term “Cancer” is so common among supervisors and command staff that any supervisor who said they never heard it used would not be telling the truth. Sergeant B has maintained that he has never heard anyone within the Connecticut State Police refer to someone as a “Cancer.”

EVALUATION AND FINDINGS

This investigation was hindered from the beginning due to improper evidence handling. Because the entire pad was not secured and later could not be located, any hope of finding physical evidence such as additional fingerprints or writing imprints was lost. The delay in conducting basic investigative steps further hampered the investigation, leaving the case unlikely to be solved.

Internal Affairs Disclosure (NYSP)

CASE SUMMARY

In early 2005, an internal affairs investigation (synopsized in this report under the title Allegations of Drug Use, Harassment and Other Criminal Conduct) was conducted with respect to multiple allegations of illegal conduct on the part of one trooper. Some of the investigative acts included surveillance, taking photographs, and a search of the accused member's trash. These steps went undocumented, as instructed by the lieutenant in charge of Internal Affairs and the captain in charge of Professional Standards, resulting in information being omitted from the report. One of the Internal Affairs sergeants involved in the investigation believed these actions to be part of an ongoing course of unethical conduct within the Internal Affairs Unit. He reported this to the Connecticut State Police Union and shortly thereafter made a whistleblower complaint with the Office of the Attorney General.

In September of 2005, a discussion of internal affairs tactics with respect to this case took place at an open union meeting. While the union official hosting the discussion did not specifically identify the source of the information, he stated that it was a member of Internal Affairs "with a conscience." The Internal Affairs sergeant then advised the assembly that he was the source, ostensibly because suspicion had been directed at another member and he wanted to ensure that person was not unjustly accused of leaking confidential information.

It was later determined that the Internal Affairs sergeant had discussed several other cases with union officials in order to reveal the perceived injustices perpetrated by other members of Internal Affairs and by CSP executives. He contended that all of the

investigations had been completed prior to his disclosures, at which point the reports would have been available to the union and the involved members. However, his disclosures involved internal affairs investigative tactics, not merely the information contained within the reports.

EVALUATION AND FINDINGS

Detail members reviewing this case determined that the Internal Affairs sergeant had attempted on several occasions to raise these issues with his immediate supervisors in Internal Affairs and Professional Standards, to no avail. Although the Detail believes that he should have attempted to pursue the issue at higher levels within the DPS, we also find that, unfortunately, he felt the atmosphere within the agency had deteriorated to the point where that was not a viable option.

Failure to Investigate Allegation of Sexual Abuse by a Trooper (AG)

CASE SUMMARY

In August of 2004, the Connecticut State Police Internal Affairs Unit received a phone call from the chief of police in a small town in Maine. The chief requested verification of employment of Sergeant A, and explained that he was handling a criminal complaint against Sergeant A for an incident of sexual abuse within his jurisdiction. The Internal Affairs sergeant took down a brief description of the events and received some faxed documents from the police chief before turning the information over to his supervisors.

The police chief had received the complaint from a New Hampshire man who owned a cabin in town. The man, who had once been a part-time police officer, stated that he had been with a female companion at a local bar when another man began to bother her, attempting to buy her drinks and get her to dance. According to the complainant, during the course of the evening the stranger identified himself as Sergeant A with the Connecticut State Police and even wrote his name and badge number on a slip of paper. After refusing several requests, the female acquiesced to one dance, "because he was getting really irritating." She alleged that Sergeant A attempted to dance too closely and she kept pushing him away.

A short time later she exited the bar. Sergeant A allegedly followed her outside, began touching her inappropriately and attempted several times to kiss her against her wishes. He then allegedly placed his hands down the back of her pants and grabbed her buttocks. The woman stated that she became very frightened because she felt as if he was leading her away from the building, toward the alley. She broke away and

reentered the bar, where she told her friend she wanted to leave. They left the bar and returned to the camp, where the woman called her fiancé in New Hampshire and asked him to pick her up immediately because she was afraid that she could encounter Sergeant A again.

As is the practice of the Connecticut State Police, the commander of Internal Affairs notified Sergeant A's troop commander of the allegation, rather than immediately initiating an investigation. The troop commander, a lieutenant, made notifications up the chain of command until ultimately, the Commissioner was advised. The lieutenant was instructed to monitor the situation and act as a liaison with the chief of police in Maine, to provide him with any necessary information. As is also the practice, because a criminal investigation was ongoing, even though it was not being conducted by the CSP, no internal affairs investigation was initiated.

The chief of police reported that he had some difficulty in contacting the alleged victim, who appeared unsure about cooperating with a criminal prosecution. Although he was unsuccessful in obtaining a sworn statement from her, she mailed him a handwritten account of her story. After several attempts to obtain the victim's statement, he closed his case pending her cooperation. At that point, the CSP troop commander made one phone call to the woman and left a message. This was the one and only attempt by any member of the Connecticut State Police to contact her. He then completed a memorandum addressed to Sergeant A, explicitly detailing the alleged facts of the case and instructed him to respond in writing to the allegations.

Sergeant A was given two weeks to formulate his response. He admitted to being in the bar a couple of evenings during the week in question and speaking with a

man who had some type of law enforcement background, with whom he exchanged contact information. He denied touching the woman inappropriately, dancing with her, or even meeting her.

While the Attorney General received a whistleblower complaint about this case, the NYSP Detail independently became aware of this case during a background interview of the Internal Affairs sergeant who had taken the original phone call from the chief of police. He alleged that this possibly criminal conduct by a member was not investigated by Internal Affairs for disciplinary purposes upon orders of those at the highest ranks of the Connecticut State Police. Our inquiry has determined that his statement was accurate, although this result may have been the unintended consequence of failed policies. The unwritten policy that an internal affairs investigation will not be undertaken while a criminal investigation is active served to delay this case to the point where it was cold and difficult to follow-up. In addition, CSP commanders decided that because the criminal case in Maine was closed with no criminal action, no internal affairs case was necessary. That decision was staunchly defended by a lieutenant colonel when interviewed by members of the New York State Police Detail.

While members of the CSP did maintain contact with the chief of police in Maine, there appeared to be no clear direction as to who was controlling the contacts. At various times the chief spoke with the assigned troop commander, the district commander, the executive assistant to the lieutenant colonel and the lieutenant colonel himself. However, when Detail members interviewed those personnel, none were able to produce any notes or documentation regarding their contacts. At one point the Connecticut State Police sent the chief two photographs. One was of Sergeant A, in uniform, while the other was not identified, but the chief believed it may have been

Sergeant A's brother, a former Connecticut state trooper. The victim and a witness stated that Sergeant A might have been with another man on the night of the incident.

The New York State Police interviewed the allegedly uncooperative complainant, her companion, and her fiancé. Three trips to New Hampshire were required; one to complete the tape recorded statements, one to obtain their signatures on the transcribed written statements, and one to have them view photographic arrays including photos of Sergeant A. At all times the three parties were easily contacted and cooperative. Their accounts did not differ from those originally given to the chief of police in Maine. They were unable to positively identify any suspect from the photo arrays 18 months after the incident and the local prosecutor declined to proceed with a criminal case.

EVALUATION AND FINDINGS

The Commissioner made the decision not to open an internal affairs investigation. Had the Connecticut State Police conducted an appropriate internal affairs investigation in a timely manner, they may have had the opportunity to accomplish one of two objectives while assisting the police in Maine with solving a possible crime: they might have determined that one of their members had committed a sex offense and taken appropriate action against him or alternatively, they might have been able to prove that their member was wrongly accused.

Sexual Harassment of TSA Employee (AG/Union)

CASE SUMMARY

A female Transportation Security Administration (TSA) employee, working at Bradley International Airport complained that, during the period of August through December of 2002, Trooper A committed sexual harassment by making unwelcome advances, sexually explicit comments and cellular telephone calls to her. The TSA Employee appeared at Troop W in the early fall of 2002 to make a complaint against Trooper A. While at Troop W, she encountered Trooper B, who was assigned to desk duties. Trooper B took the TSA employee's complaint. Based on comments that Trooper B made while taking the statement, including that he was a shop steward, the complainant inferred that Trooper B was a CSP supervisor. The TSA Employee believed that Trooper B accepted her complaint against Trooper A, and was confident something would be done about it, but Trooper B did not forward the complaint to a supervisor as required by CSP policy (*A & O Manual* Section 5.2.6 d. (1)).

The TSA employee complained that, after she reported the sexual harassment to Trooper B, Trooper C allegedly began to harass and intimidate her in an attempt to influence her to drop her allegations against his friend, Trooper A. The TSA employee stated that she quit her job in December 2002 because of the harassment.

In May of 2003 Sergeant A, assigned to Troop W at the airport, became aware of the TSA employee's allegations against Trooper A and that Trooper B failed to forward the complaint. Sergeant A made arrangements for the TSA employee to be interviewed and a written statement was obtained. An internal affairs investigation was commenced

against Trooper A for sexual harassment, Trooper B for failing to notify a supervisor of a citizen's complaint, and Trooper C for harassment and intimidation.

In a whistleblower complaint to the Office of the Attorney General, Trooper B alleged that the complaint against him was in retaliation for previously reporting a complaint against Sergeant A on an unrelated matter (the case titled Public Indecency at the Airport, also highlighted in this report). Instead of initiating a separate internal affairs case, the lieutenant who commanded the Internal Affairs Unit directed the Internal Affairs sergeant to address Trooper B's allegation of retaliation in a memorandum entitled "cross-complaint" in the investigation report. The Joint Evaluation Team could not substantiate that the internal affairs investigation was initiated in retaliation for the prior complaint. Whatever the motivation, we found that Sergeant A had properly fulfilled his duty by arranging for the complainant to provide a statement.

The allegation against Trooper B of failing to notify a supervisor of a complaint was sustained. The allegations of harassment against Troopers A and C were not sustained due to a lack of independent witnesses and evidence, despite telephone records of the TSA employee that corroborate calls from Trooper A.

The troop commander, a captain, argued in a memorandum that the finding against Trooper B should not be sustained because of a "lack of evidence, corroboration or witnesses to support the allegations." He cited problems with 12 specific issues in the investigation report. As a result, the finding against Trooper B was changed to "Not Sustained."

EVALUATION AND FINDINGS

The troop commander, now retired, was interviewed by the Team about each of the 12 issues in his memorandum, but was unable to explain his rationale for any of his decisions, which were refuted by information in the report. The captain originally stated in his memorandum that the finding for Trooper B should not have been sustained because the findings for Troopers A and C were not. However, during his interview he stated that all three complaints should have been sustained if the complainant was determined to be credible.

The Central District commander, a major, also failed to compare the memorandum of the troop commander to the investigation report. The major concurred with the troop commander's findings without reviewing the report and provided his opinion to the lieutenant colonel in the Office of Field Operations. The lieutenant colonel, without any review, authorized the change in finding to "Not Sustained" based on issues raised by the troop commander, issues that the Team determined to be without merit and not supporting a reversal of the findings.

The Joint Evaluation Team found that there was clear evidence to sustain a finding of failure by Trooper B to report a complaint as required by CSP policy, including his own admission. The efforts to change the outcome of the investigation of this allegation and the failure of command personnel to properly review the investigation and the reported findings allowed this trooper to avoid sanctions for apparently deliberate disregard of established official policy.

Family Violence (AG)

CASE SUMMARY

In February of 2005, Trooper A's wife petitioned the Superior Court for a restraining order against him, alleging several instances of domestic violence. Upon the issuance of the protective order, an internal affairs case was opened and Sergeant A was assigned to conduct the investigation. The criminal allegations developed by Internal Affairs were turned over to the local police departments in the localities where the acts occurred.

The allegations made by Mrs. A included multiple occurrences of verbal abuse, striking, punching, and choking with a belt, as well as other physical abuse. The most serious allegation was that on two separate occasions Trooper A held his issued firearm to her head and threatened to kill her. She provided Sergeant A with a tape recorded statement and then a written statement affirming these allegations. Statements were also taken from friends and family members on both sides of the dispute, who tended to contradict each other along family lines.

There were some issues of concern regarding the complainant's veracity. Some of these stemmed from her testimony in the divorce proceedings with her first husband, and others from allegations she made regarding financial transactions. She had accused her first husband of issuing a bad check for child support and requested criminal action on it. The investigation by the local police revealed that although he had written the check on an account containing insufficient funds, he had made good on the check with cash payments. The complainant was now accusing Trooper A of forging her name on checks issued against her personal checking account and stated that he

did not have permission to do so. An investigation by the local police department determined that he did sign her name to the checks, but a teller at the bank stated that on one occasion Mrs. A had given permission by telephone for him to access the account. The State's Attorney was prepared to prosecute the case against him until it was learned that Mrs. A had also issued checks against his account.

The Joint Evaluation Team's review uncovered evidence that members of the Internal Affairs Unit, as well as executive officers within the Connecticut State Police, made every effort to discredit the complainant in this case and made little or no effort to examine the facts that tend to support her allegations. In meetings and conversations with CSP personnel investigating the case, as well as with the chief of the local police department handling the criminal case, it appears that a CSP Colonel and major stated that they had difficulty believing the allegations because they knew Trooper A to be a "good kid" and a lieutenant colonel and that same major made negative comments regarding the complainant's character. The major denied that he ever made any comments regarding either of the parties involved or that he had any conversations with Internal Affairs investigators regarding the specifics of this case. However, multiple witnesses interviewed, including the commanding officer of Professional Standards, have testified that the major, who was Trooper A's district commander, had several conversations regarding this case with Internal Affairs Unit members.

Early in the internal affairs investigation, a tape-recorded statement was taken from the complainant's ten-year-old daughter from a prior marriage. The child told of witnessing several violent acts perpetrated by Trooper A against her mother, including menacing by holding a gun to her head. The daughter even created a rudimentary stick

figure drawing of the event. However, command officers summarily dismissed her statement when the investigating sergeant presented it, on the premise that her mother must have coached her regarding what to tell the investigators. They cited prior “false” allegations the child had made to the Department of Children and Families regarding her biological father (not Trooper A). To the contrary, the investigation by that agency concluded that the allegations were true. CSP command staff used this unjustified conclusion that these were false allegations not only to discredit the child’s statement, but also to discredit her mother by assuming, without any credible evidence to support their assumption, that she had instructed the child to make them.

This investigation was seriously mishandled, with key leads not pursued. Independent evidence such as damage to doors within the marital residence was not properly processed. Trooper A was accused of kicking in doors in order to access his wife for the purpose of physically abusing her. However, during his statement he claimed that his wife had kicked in some of the doors in order to gain access to him when he desired to be left alone. He admitted to kicking in some of the doors himself, but his rationale for doing so was weak and suspect. While Polaroid photos of the damage were taken to illustrate splits in the wood and bent strike plates, no effort was made to determine if shoe marks or other evidence were present that would assist in determining who actually kicked in the doors.

Trooper A was also accused of repeatedly abusing his CSP canine by punching the animal about the head, at times as punishment for urinating in the house. One of the personal checks examined with regard to the forgery allegation was made out to Stanley Steamer and listed “removal of pet stains” in the memo field. The investigators

failed to pursue what appeared to be viable leads to determine whether the animal had been abused.

Two subsequent internal affairs cases were adopted upon the arrest of Trooper A by local police departments. The first was adopted in the summer of 2005, upon his arrest for violating the order of protection by appearing at Mrs. A's residence. The second was adopted in the fall of 2005, upon his arrest by a neighboring police department for a computer crime. This charge stemmed from him obtaining registered owner information from the statewide police computer network for vehicles observed in his estranged wife's driveway. Both internal affairs cases were sustained on the charges of Violation of Law and Conduct Unbecoming an Officer, due to the fact that Trooper A had been arrested in each case by the local police agency.

While it was not within the scope of the Joint Evaluation Team's mission to determine the propriety or thoroughness of outside agency investigations, there were clear problems identified with both of these investigations. Members of the local police department had "dealt with" the complainant on several prior occasions and immediately discounted her accusations. When interviewed by Team members, the police chief stated that he told the Connecticut State Police Colonel he felt there was nothing to investigate, thus dismissing the allegations as being without merit. Even with the knowledge that the police chief had prejudged the case, the Colonel decided to disregard the advice of Internal Affairs personnel and did not assign the case to the State Police Major Crime Unit. Members of the Connecticut State Police Internal Affairs Unit also stated they informed the Colonel of a statement made by a sergeant from the local police department, which indicated that Trooper A had already received

preferential treatment by members of the department. The sergeant was quoted as saying “We did what we had to do to make things end amicably for one of our own.” While the Colonel denied knowledge of this statement, he was aware that Trooper A had been a municipal police officer in a jurisdiction that adjoins that town.

The local police department asked the Office of the State’s Attorney to review the criminal case they adopted based upon information about alleged family violence provided to them by the DPS Internal Affairs Unit. The Office of the State’s Attorney reviewed the case materials that were submitted and, in a memorandum dated August 10, 2005, the assistant state’s attorney wrote that he supported the local department’s “position not to submit an arrest warrant.” The fact that the case was not prosecuted criminally influenced the commanding officer of Professional Standards view that it would be difficult to substantiate the charges in an administrative investigation. However, the standards of proof for criminal and administrative cases are entirely different. While the criminal prosecution requires proof beyond a reasonable doubt for a conviction, the administrative case only requires a preponderance of the evidence for a finding of “Sustained.” The assistant state’s attorney who handled the criminal case was interviewed and indicated that he felt there was probable cause to arrest Trooper A on multiple charges, but believed it would be difficult to prove the case beyond a reasonable doubt. When asked if the decision not to prosecute criminally should have any bearing on the administrative proceedings, he indicated that nobody could reasonably make that connection and believed there was plenty of evidence to sustain an action where the standard was less than proof beyond a reasonable doubt. Interviewers from the New York State Police and Connecticut Attorney General’s Office

showed him several exhibits from the Connecticut State Police internal affairs report, which had been turned over to the local police department. These included photographs of damage in the residence and witness statements, in particular the statement of Mrs. A's daughter. The State's Attorney's Office had not been presented with any of these supporting documents.

Independent investigative steps taken by the Internal Affairs sergeant were essentially disregarded by his superiors after the prosecution of the criminal case was declined. Furthermore, Internal Affairs members and executive officers failed to recognize the larger picture that presented itself when Trooper A was arrested for violating the order of protection by appearing at his estranged wife's residence and then again for using the statewide law enforcement computer system to obtain registration information on vehicles observed at her house. Although they professed to have difficulty ascertaining who the aggressor was in the pattern of domestic disturbances at the residence, these further undisputed acts clearly indicated aggressive and controlling behavior on the part of Trooper A.

The Internal Affairs Unit sergeant disregarded these facts when recommending a finding for the original case. Although some members of Internal Affairs actually argued that you must evaluate each case independently and cannot consider evidence or outcomes in one case while evaluating another, the three incidents involving Trooper A comprise a continuing course of conduct. No case occurs in a vacuum and the larger picture must be considered, especially in cases of family violence.

The Team also reviewed the internal affairs case involving the violation of the order of protection and the associated local police department criminal investigation

report. That review revealed that Mrs. A's allegations of sexual abuse by forcible touching were summarily dismissed or disregarded. A different Internal Affairs sergeant was assigned to this case. When interviewed by the Team, he emphatically stated that he had no intention to investigate any allegations regarding sexual conduct. Rather, he focused solely on the allegation that Trooper A violated the order of protection by his physical presence at the residence. Part of his explanation included the rationale that Trooper A had stated the sexual contact was consensual. Thus, this Internal Affairs sergeant who professed to be a "seasoned major crime investigator" took the word of an alleged sex offender that the act was consensual, and determined that no further investigation was necessary. This led to a situation where a serious allegation of sexual abuse went unreported, while the internal affairs investigation was limited to a violation of the protective order, which was mitigated by an explanation that Trooper A was lured into the situation by the victim.

The sergeant's investigation involved little more than a brief interview with the complainant and the attachment of the local police department's report. His interview with Trooper A was woefully inadequate and served no purpose other than to verify the facts already on record: that an order of protection existed, Trooper A was arrested for violating that order, and the case was "nolled" at his court appearance, i.e., the charges would be dismissed if he did not re-offend within a specified time frame. The interview contained no questions regarding the incident itself and no questions regarding the allegations of sexual abuse. The charges of Conduct Unbecoming an Officer and Violation of Law were sustained based upon the violation of the order of protection. Once again, the investigating member in Internal Affairs relied solely upon the

investigation and prosecutorial disposition of the criminal case by other agencies to determine the disposition of the administrative charges.

When reviewing the history and investigative steps taken not only by the DPS Internal Affairs Unit, but also by the local police department regarding Trooper A's alleged misconduct, the Team learned from the chief of the local department that members of his agency had been called to a domestic incident at the residence on Super Bowl Sunday of 2005. He called Trooper A's troop commander, a lieutenant, the following day and advised that there had been numerous responses to domestic incidents at Trooper A's residence, but so far they had only involved verbal disputes. The chief expressed concern that the situation was escalating and advised the lieutenant that the State Police must intervene in order to prevent violence in the residence. The lieutenant's response was to send Trooper A's first cousin, a State Police sergeant, to speak with him and "make sure that he was all right." The lieutenant failed to handle the situation personally, failed to notify superiors of the escalating problem in a timely manner, and failed to follow procedures as outlined in the *A&O Manual* (Section 19.3.19), which specifically addresses family violence incidents involving police officers. The lieutenant also focused on the trooper's welfare rather than attempting to determine if he had committed any violations of law or CSP policy and did not attempt to ascertain the welfare of the victim. When the protective order sparked an internal investigation more than two weeks later, Trooper A was suspended from duty.

In June 2006, after the Joint Evaluation Team concluded its evaluation activities, Trooper A accepted a stipulated “last chance” agreement in lieu of termination that imposed a 60 day suspension and required him to attend anger management training.

EVALUATION AND FINDINGS

Based on its review and evaluation, the Joint Evaluation Team concludes that there is substantial evidence of undue influence in the form of pressure from the district commander and ill-advised comments made by a colonel and a lieutenant colonel in the presence of both Internal Affairs Unit members and outside agency personnel conducting the investigations. In addition, there is evidence of inadequate investigations performed by members of the Internal Affairs Unit and inadequate training for those members. Specifically, several of those members are under the mistaken belief that absolutely no information gleaned in an internal affairs investigation may be turned over to criminal investigators. This is a clear misinterpretation of Garrity v. New Jersey, 385 U.S. 493 (1967) and associated court decisions, which expressly prohibit the use of compelled statements made by the target of the internal investigation in a criminal prosecution of that employee. These decisions do not prohibit sharing physical evidence or statements made by the employee, other witnesses, victims or complainants with other criminal investigative agencies.

There is also a misunderstanding or misinterpretation of what constitutes a preponderance of evidence for purposes of sustaining a charge in an internal affairs case. Connecticut State Police commanders misinterpreted the failure to prosecute a criminal charge under the standard of proof beyond a reasonable doubt as grounds for

not proceeding with administrative charges, which may be sustained under the less stringent standard of a preponderance of the evidence.

This case provides convincing evidence of a tendency to discount and discredit complainants and witnesses and to instinctively lend credibility to statements of the accused member. At the same time, there is a reluctance to ask an accused member the questions necessary to identify misconduct or refute patently false statements. In this particular case, Trooper A claimed that he could not recall police officers ever coming to his home regarding domestic incidents despite the fact that he had interacted with the local police on these calls more than half a dozen times. Internal Affairs investigators never challenged this assertion.

This case also illustrates a breakdown in command, where a commissioned officer was unwilling to respond to the scene, let alone take appropriate action when notified of a serious problem involving a subordinate.

Overtime Coordinator Received Gifts from Overtime Abuser (NYSP)

CASE SUMMARY

In September of 2004, the Internal Affairs Unit received a complaint that Trooper A had collected payments for overtime he did not work, in an apparent effort to inflate his anticipated retirement benefits. The investigation revealed that Trooper A overcharged the State of Connecticut more than \$8,000.00 by falsifying documents. It also determined that he often violated Department of Transportation permit restrictions relating to escorts of oversized vehicles by ignoring the specified travel times and routes on the permit in order to complete the escorts on a schedule that would allow him to provide them on overtime. Trooper A's alteration of these routes and times potentially created highway congestion and traffic hazards on a regular basis.

During the investigation it was determined that this one trooper received 25% of the total statewide allotment of escort overtime for the 2004 calendar year. Trooper A regularly called the overtime coordinator, a civilian employee, on her direct telephone line to ask about overtime assignments. She also called him when there were assignments available due to cancellations by other troopers. In doing so, the overtime coordinator violated the established CSP protocol regarding the fair and equitable distribution of overtime to all personnel participating in the program.

The Internal Affairs sergeant interviewed the overtime coordinator and the assistant overtime coordinator, who both admitted receiving gifts over the years from Trooper A as well as from others participating in the escort overtime program. The sergeant learned that the gifts from Trooper A to the overtime coordinator included a wristwatch valued at \$150, and that Trooper A got what were considered the "good

jobs.” The overtime coordinator had received gifts from other troopers consisting of jewelry, lottery tickets and gift certificates. The assistant overtime coordinator stated that she was new to the unit in 2003, when she received several gifts from troopers for Christmas. She recognized that it was inappropriate and thought the troopers were trying to influence the assignment of escort overtime.

Due to the perception of impropriety and unfairness in their distribution of overtime, the Internal Affairs sergeant ordered both the overtime coordinator and the assistant overtime coordinator not to accept any further gifts. However, the abuses continued. For Christmas 2004, the overtime coordinator accepted \$100 cash and a bracelet from Trooper A. The assistant overtime coordinator reported that Trooper A attempted to give her \$100 cash, but she declined to accept it.

The Internal Affairs sergeant believed that the overtime coordinator should be the subject of an internal affairs investigation for receiving gifts, preferentially assigning overtime to the gift givers and refusing to obey his direct order not to accept any more gifts. He reported this to the Internal Affairs lieutenant, who agreed that the matter should be investigated and conveyed his opinion to the Professional Standards captain. The captain consulted with the attorney in Legal Affairs to determine if the overtime coordinator’s actions were a violation of any rules, regulations or laws. However, he only advised the attorney that the overtime coordinator had received gifts from personnel, not that there was an allegation of favoritism as a result of the gifts. Lacking this critical information, the attorney advised that the receipt of gifts was not a violation. The captain also briefed the State Police Colonel and the Commissioner, but again

failed to disclose the allegations of favoritism. He did not specifically ask to open an investigation and neither commander instructed him to do so.

The Connecticut State Police *A&O Manual* (Section 14.2.4 d. (8) entitled “Rules of Conduct”) reads in part, “No public official or state employee shall knowingly accept, directly or indirectly, any gift or gifts known to amount to \$50 or more in value in any calendar year from any person the public official or state employee knows or has reason to know...has financial interests which may be substantially affected by the performance or non-performance of official duties by the official or employee.” In this case, the financial interest substantially affected was the overtime Trooper A received based on the overtime coordinator’s deviation from the escort overtime protocol. This benefit was further compounded by the inclusion of this amount in the calculation of Trooper A’s lifetime pension payments.

During an interview by members of the Detail, the Professional Standards captain stated that there was not enough evidence to initiate an investigation into the actions of the overtime coordinator, because they could not connect a specific gift received with the assignment of overtime to the trooper. We find it disturbing that the commanding officer of Professional Standards believes he must have evidence before initiating an investigation when the purpose of an investigation is to obtain such evidence. It is even more troubling that this officer feels he does not have sufficient grounds to investigate possible corruption even after he had undisputed evidence that Trooper A overcharged the state more than \$8,000 with respect to this overtime program and that he was assigned 25% of the total statewide overtime in this program after giving gifts of cash and jewelry to the person assigning him the overtime.

The State Police Colonel could not recall why no internal affairs investigation was conducted. He did recall the issue of gifts being received by the overtime coordinator, but stated he was under the belief that the allegations were going to be brought to the State's Attorney, although they were not considered to constitute a major issue. The Professional Standards captain and the Internal Affairs sergeant met with a prosecutor from the Office of the State's Attorney, but the captain allegedly instructed the sergeant not to speak. There was no mention of the gifts to the overtime coordinator in exchange for favoritism in overtime assignments. The captain stated that he asked for and received a letter from the prosecutor waiving criminal prosecution of the trooper, provided he retire and pay restitution. The report does not contain this letter, although it does contain a letter from the major in charge of the Labor Relations Unit to the trooper's attorney that refers to an agreement between the Office of the State's Attorney and Trooper A, waiving prosecution if Trooper A retires from the CSP and pays restitution. The recommended disciplinary action of dismissal was held in abeyance due to Trooper A's retirement, but the case file contained no documentation to show that restitution was paid. After various Connecticut state agencies made inquiries prompted by the NYSP Detail's investigation, Trooper A's attorney submitted to the Office of the Chief State's Attorney a check in the amount of \$7,968.13 on October 13, 2006. This was the amount included in the original agreement between Trooper A and the State's Attorney dated April 21, 2005.

The Detail's investigation revealed further abuses by Trooper A and employees of the overtime unit that might have been uncovered by the Connecticut State Police, had they conducted an appropriate investigation. Employees of the Overtime Unit

stated that they received gifts during the holidays from members they would not even recognize in person, but who would regularly call their office looking for overtime jobs. The Detail also learned that three separate civilian employees assigned to the Overtime Unit were offered the use of Trooper A's seasonal residence in Florida. A former employee assigned to the Overtime Unit stated, "The overtime coordinator would show favoritism if you were on good terms."

The investigation also revealed that there was little or no supervisory oversight of the Overtime Unit to ensure that overtime programs were being implemented properly. The overtime coordinator, who has been in that position for the last 24 years, stated, "I wouldn't have any idea as to whether they were abusing it (the overtime program) or whether they were putting in false cards." When the overtime coordinator was asked, "Do you have a responsibility to notify your supervisor if you see someone abusing the overtime program or submitting false cards?" the overtime coordinator replied, "That's not my job."

EVALUATION AND FINDINGS

When the issue was brought to its attention, the agency had a responsibility to investigate the allegations of gift giving and favoritism, which appear to have violated C.G.S. §§ 1-84(f) and (g). The Professional Standards captain prematurely determined the outcome of the case prior to a thorough investigation being conducted and also failed to fully inform the State Police Colonel and the Commissioner of all of the circumstances of the case. Although the agency appropriately investigated Trooper A, the worst abuser of the system, command officers failed to address the overtime

coordinator's misconduct, including the acceptance of cash gifts, and also failed to investigate the program to determine if others engaged in misconduct and should be disciplined.

FINDINGS REGARDING SPECIFIED ISSUES

The systemic problems identified by the NYSP Detail are principally due to years of inattentive and neglectful leadership by some command officers within the Connecticut State Police. Their failure to support the decisions of commissioned and non-commissioned officers has resulted in a hands-off attitude toward supervising subordinates and discourages efforts to hold employees accountable for failure to comply with official policy and procedures, lack of integrity, acts of misconduct and even possibly criminal behavior.

The following sections discuss specific findings and recommendations. First and foremost, however, the leaders must set the standard for integrity on and off duty, and hold everyone in the agency accountable not only for their actions, but also for their failure to fulfill their command, supervisory and law enforcement responsibilities with diligence and integrity.

After addressing each specific issue that Commissioner Boyle asked the New York State Police to evaluate, other critical issues identified during the evaluation will be presented.

Issue 1: Did any member of the CSP command staff improperly influence or attempt to influence any internal affairs investigation with the intent to harm, disparage or punish any member of the Department of Public Safety?

The NYSP Detail did not find any evidence that any member of the CSP command staff exerted, or attempted to exert, improper influence on the Internal Affairs Unit in an attempt to harm, disparage or punish any member of the Department of Public Safety. This allegation was made in a number of cases reviewed. In none of these cases did the evaluators find any evidence that an employee was targeted improperly. That being said, the Detail found that, because the internal affairs process is so ineffective and the predilection of the agency to ignore or excuse employee misconduct is so strong, there is a perception that any time an official internal investigation actually is initiated, the target employee is being singled out unfairly.

Issue 2: Did any member of the CSP command staff improperly influence or attempt to influence any internal affairs investigation with the intent to improperly protect or shield any employee from appropriate discipline?

The Detail found evidence that, on some occasions, members of the CSP command staff improperly interfered with and influenced internal affairs investigations in ways that effectively shielded employees from appropriate investigation, discipline and even possibly criminal charges. In numerous cases reviewed by the Detail, supervisors or command staff directed investigators to ignore evidence, limit the scope of their

investigation to the point of not following obvious leads, not open or pursue a case that was already being investigated by an outside agency or not open an administrative case with strong evidence of misconduct if a separate criminal investigation did not find proof beyond a reasonable doubt of criminal acts.

Although it is not possible to absolutely determine whether the motivation for these actions was a desire to avoid negative publicity for the agency or an intent to shield specific individuals from punishment, the practical result was that CSP employees, who may have faced disciplinary action up to and including termination of employment and arrest on criminal charges, received no punishment for their alleged misconduct. While the evaluation did not substantiate allegations that lax discipline was the result of inappropriate relationships, the continuing failure to investigate allegations of misconduct also resulted in a disservice to the agency, the public and DPS employees who might have been cleared of false allegations.

Issue 3: Did any member of the CSP command staff employ or attempt to employ the internal affairs process with the intent to harm, disparage, or improperly punish any member of the Department of Public Safety.

There is no evidence in any of the cases reviewed by the NYSP Detail that any member of the CSP command staff tried to use the internal affairs process to harm, disparage, or improperly punish any member of the Department of Public Safety.

Issue 4: Did any member of the Internal Affairs Unit issue false reports or otherwise corrupt the internal affairs process to the improper benefit or detriment of any employee?

This is a more difficult question to answer. If the heart of this question is whether the Detail found evidence that any current member of the Internal Affairs Unit acted improperly out of personal feelings of animosity or magnanimity toward any employee of the Department, the answer is no. As noted previously, the Detail did not find evidence of any impropriety in an internal affairs investigation that resulted in undeserved discipline or other punishment or damage to an innocent employee, or any evidence that a member of the Connecticut State Police fabricated evidence to sustain a false allegation against any employee of the Department.

However, there are numerous cases where, primarily because of orders or influence from supervisors or command staff, CSP personnel conducting internal investigations: 1) failed to document relevant information; 2) failed to diligently follow and exhaust all leads, including obvious ones like taking formal statements from the accused employees, victims and witnesses; 3) ignored physical evidence and strong circumstantial evidence that might have led to a finding against the accused employee; 4) made serious mistakes that compromised the investigation; 5) focused investigations on less serious allegations to the exclusion of more serious allegations; and 6) otherwise failed to conduct thorough investigations of allegations of improper or criminal conduct. These failures were found in both Internal Affairs Unit investigations and criminal investigations of employees conducted by Major Crime Units. The net results

of these actions were inadequate reports that led to inaccurate conclusions rather than deliberately falsified reports. The result of these flawed investigations was that when an employee may have been deserving of discipline or even arrest, no action or inappropriate action was taken.

As to the question of corrupting the internal affairs process, the Connecticut Department of Public Safety internal affairs process has repeatedly been undermined, rendering it ineffective. However, this is not due to the deliberate actions of members of the Internal Affairs Unit. In actuality, the internal affairs process has been undermined by the systemic problems that are identified in the following sections of this report.

Issue 5: Do the structure, practices and protocols of the Internal Affairs Unit meet the best professional standards?

The current internal affairs structure, practices and protocols are seriously deficient. The following sections deal with identified deviations from best practices in detail. The final sections of this report contain specific recommendations to correct these deficiencies and create a professional, effective Internal Affairs Unit within the Connecticut Department of Public Safety.

INTERNAL AFFAIRS POLICIES AND PROCEDURES

The Connecticut Department of Public Safety has permitted its internal affairs and disciplinary processes to decline from a primary responsibility to secondary importance, particularly as applied to the Division of State Police. The causes, as determined by the Joint Evaluation Team are largely the following:

1. Certain DPS and CSP command staff over several years have abdicated their leadership responsibility and authority to establish clear priorities and values for the agency and to hold employees accountable for performing their duties with integrity, diligence and respect for the public they serve.
2. The agencies have lost a proper appreciation of the critical role that official policies and procedures play in providing direction and control. As a result, the *Administration and Operations Manual* contains contradictory policies, employees regularly ignore official policies in favor of ineffective and detrimental informal procedures, and supervisors and command staff do not hold employees accountable for deviating from official policy.
3. There is a historical institutional bias against the internal affairs function and the necessity to investigate all complaints against personnel. There seems to be a view that most citizen complaints are nuisances rather than legitimate concerns warranting internal affairs review. The agencies often appear to discredit credible complainants and witnesses and, at the same time, give the benefit of the doubt to self-serving, questionable statements by accused employees. Further, the agencies appear to attach a stigma to members who are the subject of an administrative investigation, even if the allegations are unfounded, seeing it

as a bar to special assignments or promotions. Consequently, appropriate administrative investigations are rarely opened. When they are opened, they are conducted with an inclination to favor the accused employee. The perceived bias against internal affairs is also evident in the limited resources allocated to the unit and low prestige accompanying Internal Affairs Unit assignments.

Two additional causes as determined by the New York State Police Detail, independent of the Attorney General's whistleblower investigation are:

4. The internal affairs investigation and discipline processes have been directly linked to labor relations, to the point of placing the Professional Standards Section under the Labor Relations Unit, contrary to written policy. Consequently, the DPS has relinquished essential management authority through common practices that ignore agency policy. The established practice of negotiating the findings of administrative investigations has weakened the internal affairs process, which should be separate and distinct from the disciplinary process and hindered the ability of the DPS to administer meaningful, effective discipline.
5. There is a strong aversion, particularly in the Labor Relations Unit, to pressing the case for appropriate discipline through every channel available. The Detail repeatedly heard command staff express the belief that the Department could not prevail if the union took a disciplinary case to arbitration and that it was preferable to reverse investigative findings of employee culpability by executive fiat rather than lose an arbitration case. While the Department can significantly improve its chance of prevailing in arbitration by properly conducting and

documenting internal affairs investigations, even a pattern of reversals should not deter the agency from pursuing appropriate discipline through the entire process.

LEADERSHIP

The problems identified are, first and foremost, problems of leadership. The primary function of leaders in an organization is to establish the vision and framework for accomplishing the organization's mission and ensuring that every member is evaluated and held accountable for conformance to that vision and framework. The leaders of the CSP and DPS need to redouble their efforts to fulfill these responsibilities and engage in the relentless pursuit of core values that will reverse the negative patterns that were identified during this evaluation.

Organizational Mission and Values

Although Chapter 3 of the *A&O Manual* provides an excellent description of how and why an agency should develop a mission statement, goals and objectives, nowhere in the manual does the DPS or CSP make reference to what their mission and goals are. In contrast, the New York State Police Manual has clearly defined mission priorities and core values that are communicated to our members through academy training, in-service training and field supervision. They are widely distributed through posters placed in State Police installations and wallet cards issued to every employee. These foundational beliefs allow all of our members to perform their duties with the same ideals.

State police agencies face unique challenges in maintaining uniform standards of operation, performance and discipline because they are geographically dispersed and must function with a decentralized management structure. The leaders of the DPS and CSP have the responsibility to establish a unified organizational culture with clearly

defined values, mission, and standards of conduct to which all employees are required to adhere.

Accountability

A police department cannot function effectively without the trust and support of the public it serves. Supervisors must constantly be alert for indicators that any member of the CSP may be engaging in any action that would erode or undermine the public trust and confidence. Equally important, whenever a supervisor observes a problem or potential problem, he/she must immediately take appropriate action, which might include additional training, counseling, discipline and/or reporting it as prescribed by official policies and procedures.

Effective supervision is impossible if supervisors are not confident that their chain of command will support them. Therefore, the command staff must establish clear expectations that field supervisors will hold their subordinates accountable for performance, compliance with established CSP policy and procedures, integrity and impartiality when dealing with the public. Responsibility for the conduct of Department personnel is not limited to supervisors. Every member of the agency must be held accountable for reporting deviations from approved policies or other misconduct through the appropriate channels.

POLICY ISSUES

A necessary distinction must be made between the official policies established by the Connecticut Department of Public Safety and the actual procedures and practices followed by its employees regarding complaints against personnel, internal affairs

investigations and administrative inquiries. Some of the official policies contained in the *Administration and Operations Manual* are well written and, if followed, would provide a sound foundation for an effective internal affairs operation. This should not be surprising, as the policies are written to meet cross-referenced, nationally recognized CALEA standards for accreditation purposes. Unfortunately, these well written policies often are undermined by contradictory sections elsewhere in the *A&O Manual*, in the *Internal Affairs Guide* and by unwritten, informal procedures.

Failure to Follow Policy

Throughout the review and evaluation process, the Joint Evaluation Team found that troopers, supervisors and commissioned officers routinely and deliberately ignored official written policies and procedures, often in deference to widely recognized informal procedures. Although they offered myriad reasons or excuses for violating official policy, their failure to follow official policy and procedures resulted in inadequate and incomplete investigations, and allowed misconduct and even possibly criminal acts to go unpunished.

One consistent theme in the cases reviewed in this report is the fact that virtually anyone who violated official policy and procedures for adopting and investigating complaints against CSP personnel did so with impunity. The Joint Evaluation Team found very few instances of a superior in the chain of command holding a subordinate accountable for disregarding proper policies and procedures during an internal affairs investigation. To the contrary, superiors regularly ignored and often encouraged this behavior.

Contradictory Policy

One of the most striking examples of contradictory policy in the *Administration and Operations Manual* concerns the basic issue of who has the authority to open an administrative investigation and decide which unit will conduct the investigation.

Chapter 5 of the *A&O Manual* contains the following policy statements:

- “The commanding officer of the Labor Relations Unit will...decide where the investigation will take place (Professional Standards or within a unit)” – 5.1.2 c. (2) (b) 2 [b].
- “The determination as to what unit will conduct any internal administrative investigation will ultimately lie with the commander of the Professional Standards Units” – 5.2.2 b. (2) (c)
- “The commanding officer of the Labor Relations Unit who reports directly to the Commissioner will determine an appropriate level of command to conduct the internal affairs investigation” – 5.2.5 a. (2)

The Commissioner and DPS/CSP command staff must thoroughly review the *Administration and Operations Manual* to ensure that its policies provide suitable direction and control and that existing contradictory policies are reconciled. Once this is achieved, they must make a firm commitment to enforce all official policies and procedures and to hold every employee accountable for compliance with them.

BIAS AGAINST INTERNAL AFFAIRS

The problems with current Connecticut DPS internal affairs procedures begin with the way that the agency handles complaints against employees. In general, the DPS and particularly the Division of State Police appear to discount the seriousness of most personnel complaints. Section 5.2.2 a. of the *A&O Manual* states, "Although self-policing is an important function, experience has proven that most internal investigations are neither serious nor complicated and some are less involved than others." This official policy statement immediately minimizes the importance of internal affairs investigations in the eyes of all employees. In the experience of the New York State Police, while some internal investigations are not complicated and there are clearly differences in complexity from case to case, a thorough investigation of every citizen complaint is essential to maintaining the integrity of the agency and the confidence of the public.

Receiving Complaints

The Connecticut State Police makes it very difficult for a member of the public to register a personnel complaint against an employee. To a great extent, this difficulty is a result of interpretations of the collective bargaining agreement. Although the *A&O Manual* requires the Department to accept written complaints, verbal complaints reduced to writing, and verbal or anonymous complaints involving criminal behavior, some members have unofficially and incorrectly interpreted the collective bargaining agreement with the CSP Union (Article 15, Section 11) to prohibit the Department from considering a complaint against personnel unless the complainant provides a written statement. Some members have also interpreted the contract to require the CSP to

immediately notify the subject of the complaint when a non-criminal investigation is opened and to provide a copy of the complainant's statement to the accused employee.

The Department will also accept complaints by mail, but the vast majority of these "letter complaints" are not assigned an official complaint number and are not thoroughly investigated. There is no provision made for submitting allegations by telephone, fax, e-mail or telecommunications devices for the deaf (TDD's), nor will the Department accept anonymous or third party personnel complaints unless they are criminal in nature.

These policies are not consistent with current best practices. For example, the New York State Police will accept personnel complaints made in person or submitted by telephone, mail, fax, TDD or e-mail. The NYSP also provides a 24-hour toll free telephone number people can call to register a complaint and a link on its website that will allow anyone to send a complaint by e-mail directly to the Internal Affairs Bureau. It will accept anonymous and third party complaints.

At the request of Deputy Superintendent Loszynski, the New York State Police Planning and Research Section conducted a benchmark survey to ascertain some of the internal affairs procedures of 26 major law enforcement agencies in the United States and Canada (a copy of the survey instrument and results is included as Appendix I of this report). The survey found that all of the 24 agencies responding accept complaints in person, 23 of the 24 accept complaints by mail and fax, 22 accept them by telephone and e-mail and 10 accept them by TDD. Twenty-one of the 24 responding agencies accept anonymous complaints and 20 accept third party complaints. Almost half of the agencies responding have a 24-hour toll free telephone

number that people can use to make complaints. Seventy-nine per cent of the responding agencies have a complaint form that members of the public can fill out themselves.

The survey also determined that 87% of agencies responding will initiate an internal complaint against any employee who fails to inform a citizen how to file a complaint and 92% initiate internal investigations of employees who dissuade or attempt to dissuade someone from filing a complaint. All but one of the responding agencies will initiate disciplinary action against an employee who refuses to accept a complaint from a member of the public.

Publicizing the Complaint Process

For most people, lodging a complaint against a police officer is uncomfortable and even intimidating. Law enforcement agencies committed to best practices for maintaining public confidence and encouraging legitimate reports of misconduct find ways to inform the public about the complaint process and encourage people to report employees who abuse power or otherwise engage in misconduct. In addition to providing a direct link for “compliments and complaints” on its website, the New York State Police also uses posters and brochures in public places to communicate the complaint process. Seventy-one per cent of the benchmarked agencies use pamphlets and brochures to publicize their complaint procedures, 58% use websites, 33% use public presentations, 29% use posters, and 8% use broadcast media, newspapers or billboards.

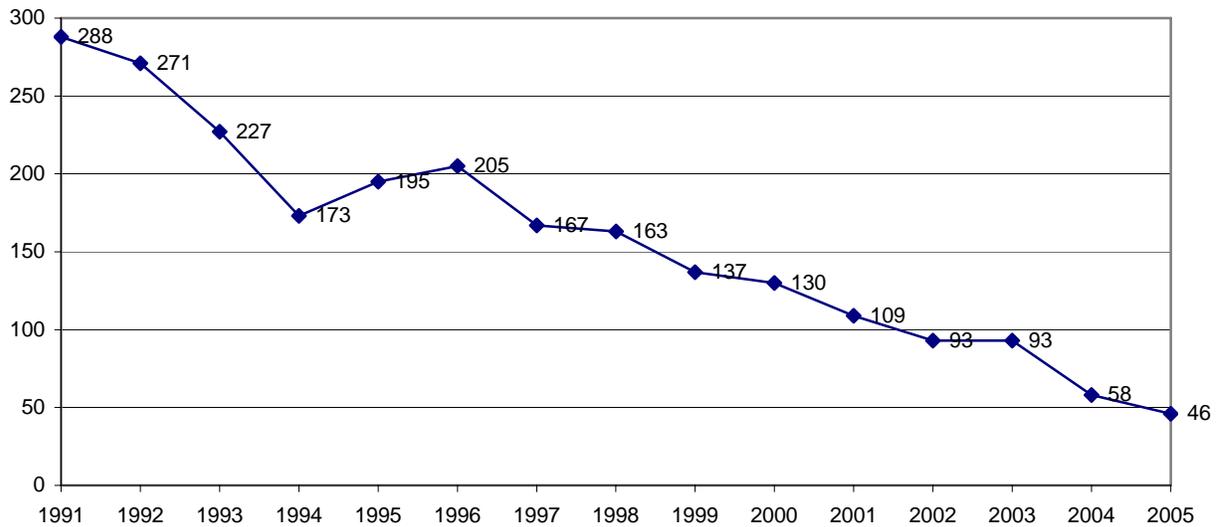
The Connecticut Department of Public Safety and Connecticut State Police do not make any effort to publicize their complaint reporting system. Only 2 out of 24 agencies responding to the benchmark survey (8%) do not make any effort to publicize their personnel complaint reporting system.

Documenting Complaints and Adopting Investigations

Current DPS policy (*A&O Manual 5.1.2*) requires an administrative investigation of any allegation that, if sustained, would result in discipline. Section 5.2.1 b. states, “It is the policy of this department that all complaints against personnel shall be investigated promptly, accurately and thoroughly.” After interviewing members assigned to the Labor Relations Unit and every employee who worked in the Internal Affairs Unit or served as commander of the Professional Standards Section within the last five years, we conclude that the vast majority of complaints received are never investigated or documented. Most do not even receive a tracking number that would allow supervisors to determine how many complaints have been received or track the progress of the investigation. Even when investigations are conducted, the case frequently does not receive an official internal affairs case number and those investigative steps that are undertaken are not recorded and filed.

The failure to investigate complaints appears to be a long-term trend for the Department of Public Safety. A review of the number of administrative investigations conducted over the last fifteen years shows an 84% decline in the number of investigations conducted, from 288 in 1991 to 46 in 2005.

DPS Administrative Investigations 1991-2005



While we would like to believe that this decline is the direct result of a decreasing number of complaints and incidents of misconduct, every indicator we found points to an increasing disinclination to formally investigate the complaints received as the real reason for the decrease in these investigations.

Every complaint that is submitted to the New York State Police receives a complaint number and is forwarded to the Deputy Superintendent of Internal Affairs for proper assignment. All but three of the 24 agencies (87%) responding to the benchmarking survey document every complaint against personnel and assign a case number to each complaint received.

Adopting Administrative Investigations

The DPS process for initiating investigations of complaints against personnel is disjointed and inconsistent. It lacks effective supervision and supervisory review and effectively ensures that fair, consistent discipline is impossible. The contradictory

policies regarding who is responsible for deciding whether and how to conduct an administrative investigation have already been discussed. This confusion contributes to the lack of consistency and failure to open many appropriate administrative investigations.

Additionally, the current DPS practice of requiring review and comments by the CSP chain of command before opening an administrative investigation is inappropriate, demonstrably preventing effective investigation of all complaints. In a number of the cases evaluated, a single comment questioning the need for an investigation from an officer in the chain of command became the justification for not opening an investigation of a serious complaint.

The DPS should institute a policy requiring the Professional Standards commander to promptly be notified of every complaint against personnel and granting him/her sole authority to assign the investigation to the appropriate unit within the agency; this is the current policy and practice in the NYSP.

Favoring Accused Employees

Our evaluation found there is a pervasive inclination to discount complaints against personnel. The Team found overwhelming evidence that supervisors in a position to make investigatory decisions often rationalized the behavior of CSP members who were the subject of personnel complaints, did not require sworn statements from employees under investigation and made concerted efforts to discredit both complainants and uninvolved, objective witnesses. If witnesses could not be discredited, even on the weakest reasoning, supervisors and command staff frequently chose to disregard their evidence and omit it from the report.

The case reviews already have presented abundant evidence of these practices. Correcting these attitudes will require strong leadership, forceful training and an unwavering commitment to principles and practices of accountability that will not tolerate disparagement of complainants and witnesses.

Inadequate Report Review

Currently, supervisor and command staff oversight and review of administrative and internal affairs investigation reports is so inadequate that misconduct and even possibly criminal acts are overlooked. The case reviews document numerous examples of failure to follow basic investigative leads, poor interview techniques and investigative strategies, and even misrepresentation of facts in final reports. DPS commanders should have recognized these inadequacies during their report reviews. We found that substandard administrative investigations and poor report writing were the norm for the cases evaluated.

Stigma

During interviews and evaluations of the Internal Affairs Unit's handling of personnel complaints, it became abundantly clear that CSP personnel did everything possible to avoid opening an official administrative inquiry or internal affairs investigation when a personnel complaint was received. Members of the Team repeatedly were told that a key reason for not opening a case was that doing so would stigmatize the accused employee and damage his/her career. However, the failure to open cases is detrimental to the individuals who may be the subject of unfounded complaints and the reluctance to document and thoroughly investigate every complaint

also prevents the agency from tracking and identifying problematic patterns of behavior and damages the public's confidence in the agency.

Unavoidably, any law enforcement officer who is doing a conscientious job is at risk of becoming the target of a disgruntled citizen. The New York State Police recognizes this fact and has established the following official position:

“The Superintendent recognizes that, due to the nature of our police work, duties, obligations and responsibilities (that encompass the exercising of authority in positions of public trust), public criticism and complaints against our personnel will occur from time to time. To protect the people of the state, our Members and Employees, and the reputation of the NYSP as a responsible law enforcement agency, the Superintendent has a responsibility to cause a prompt, thorough investigation to be made of allegations and complaints received. Whether or not such an allegation or complaint is valid or baseless, each such allegation or complaint must receive careful evaluation to ensure that clear and accurate documentation is available, should a question arise at a later date”

NYSP Administrative Manual - Article 9 [IO 99-40 11/99].

This approach ensures that the mere filing of a complaint or opening of an internal affairs case will not adversely impact an employee's career or reputation. To the contrary, careful evaluation and documentation of unsubstantiated or false complaints assures falsely accused employees that the State Police will make a thorough effort to clear their names. Conversely, this approach also ensures that every reported complaint is documented and provides the information needed to monitor

patterns and identify training needs. In some cases, if a pattern of similar allegations made against a particular employee develops, investigations into the allegations that could not be substantiated may be reopened.

Inadequate Support of Internal Affairs

The lack of commitment to an effective DPS internal affairs function is clearly demonstrated by the inadequate staffing and material resources allocated to the unit. The Detail expected to find an adequately staffed Internal Affairs Unit, headed by a high-ranking officer who reported directly to the Commissioner of Public Safety and had the authority to initiate and conduct formal administrative and, if necessary, criminal investigations of all complaints against personnel.

What the Detail actually found was that the captain in charge of the Professional Standards Section reports to the major in charge of Labor Relations, who reports to the Commissioner through the executive assistant to the Commissioner. The total staff of the Internal Affairs Unit consists of the lieutenant/commander and four sergeants who are responsible for investigating all serious administrative complaints against personnel for the 1240 sworn members of the Connecticut State Police, as well as non-sworn employees assigned to the CSP and other DPS Divisions.

By contrast, the commander of the New York State Police Internal Affairs Bureau is a deputy superintendent (colonel) who reports directly to the Superintendent of the New York State Police. Under the deputy superintendent are two assistant deputy superintendents (lieutenant colonels), who oversee the Investigations Unit and the Audit Unit. The Investigations and Audit Units closely coordinate their activities and share relevant information. Audit Unit personnel frequently assist the Investigations Unit with

major internal affairs cases. In total, the New York State Police IAB has 31 sworn employee positions to handle all serious complaints against the 4900 sworn employees of the State Police, approximately one sworn IAB position for every 158 sworn employees, while the Connecticut Department of Public Safety Internal Affairs Unit has 5 sworn positions to handle all serious administrative complaints against 1240 sworn CSP employees, one Internal Affairs position for every 248 sworn employees. The NYSP Internal Affairs Bureau also has seven civilian support staff, while the DPS Internal Affairs Unit has one.

As previously noted, the Professional Standards Section and Internal Affairs Unit lack adequate office and interview space and do not have modern information systems, including computer systems to track, review and analyze case and complaint data. They also lack equipment and supplies to adequately conduct investigations, including photographic and electronic recording equipment.

SEPARATION OF INTERNAL AFFAIRS FROM THE DISCIPLINARY PROCESS

The collective bargaining agreement (Article 15, Section 4a) and the *A & O Manual* (Section 5.1.4 a. (6)) incorporate the due process protections that are afforded employees at the conclusion of an investigation, as set forth in the United States Supreme Court decision in Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985). Those provisions require that, prior to imposing discipline, the department provide the employee and the union with a detailed statement of charges and meet with the employee to allow the employee an opportunity to answer the charges against him. Article 15, Section 4a of the collective bargaining agreement also requires the agency to

provide the employee a copy of the internal affairs report five days prior to this meeting. Although not part of the Loudermill protections, during Loudermill meetings, employees and their unions negotiate with the Department the discipline that may be imposed by the Department. At times, those negotiations also inappropriately extend to the findings of the internal affairs report.

As documented elsewhere in this report, the management of the Connecticut Department of Public Safety has blurred the lines between its duty to conduct appropriate investigations and its decision to impose discipline. Contrary to the official chain of command that provides for the Captain of the Professional Standards Section to report directly to the Commissioner's Office, DPS management has required this captain to report to the major in command of the Labor Relations Unit, who in turn reports to the Commissioner's Office

Internal Affairs investigators should complete their investigations without any reference to possible disciplinary actions against the subject of the investigation. The Internal Affairs investigators should collect and recite in their report evidence, make findings of facts from this evidence, and sustain or not sustain the specific charges being investigated. The completed internal affairs report should be forwarded to the commanding officer of the Professional Standards Section who will then review and approve the final report. At this point, the Professional Standards commander should forward the report directly to the Commissioner, consistent with *A&O Manual* Section 5.2.5 f. (1) which provides: "The Commanding Officer of Professional Standards is responsible for the internal affairs function and reports directly to the Commissioner of Public Safety."

The *A&O Manual* provides that various levels of supervisors are authorized to make the decision to impose discipline. The Labor Relations Unit establishes the range of discipline the supervisor may impose. However, these decisions should be made only after the Internal Affairs Unit has completed a final internal affairs investigation report, and the commanding officer of Professional Standards has approved and submitted it to the Commissioner's Office. After the person with proper authority has made a decision to impose discipline, the Labor Relations Unit may then inform the subject that discipline is being contemplated and provide a Loudermill meeting. However, Labor Relations should not become involved until *after* the IA Unit has completed and submitted its report to the Commissioner's Office.

The value of ensuring the process works this way is that the internal affairs investigation is not influenced by or tailored to meet considerations, real or imagined, of how CSP's ability to discipline an employee might be limited in the labor relations process, including the grievance and arbitration process. The Internal Affairs Unit will have produced and submitted to the Commissioner's Office an independent, complete and credible investigation into allegations made against the Commissioner's employees. The Commissioner or his designated subordinates may then determine whether to impose discipline based on this report.

The Joint Evaluation Team identified several provisions of the *A&O Manual* concerning the responsibilities of the Labor Relations Unit and the Professional Standards Section regarding internal affairs investigations that are inconsistent and contradictory. These provisions address, among other things, to whom the Internal Affairs Unit reports, who decides to impose discipline, and when the decision to impose

discipline is made. The Department should revise the *A&O Manual* to eliminate these inconsistencies and contradictions.

Additionally, the Department should revise Sections 5.2.9 c. (2) (a)-(e), which provide five “disposition classifications” for internal affairs investigations that the Internal Affairs investigators are required to use. The classifications require the Internal Affairs investigators to go beyond making findings of whether the facts support the complaint or allegations, and require them to make a judgment of whether discipline is warranted. Deciding whether discipline is warranted is not a proper function for the Internal Affairs investigators or the commander of Professional Standards. The *A&O Manual* provides that decisions to discipline are to be made by various levels of supervisors in the accused member’s chain of command. Because the disposition classifications require Internal Affairs investigators and the commander of Professional Standards to make judgments about imposing discipline, these provisions of the *Manual* appear to co-mingle the functions of the Internal Affairs Unit (i.e., investigating the underlying allegations and determining whether the evidence supports sustaining the charges) with the disciplinary process. The Department should make appropriate revisions to these provisions of the *Manual* to clearly allow and require the Internal Affairs investigators and their commanding officers to determine whether the facts show the alleged acts occurred and constituted misconduct without making a judgment or offering an opinion whether the circumstances do or do not warrant disciplinary action against the subject of the investigation.

While negotiations that may take place during Loudermill meetings are not specifically part of the due process protections set forth in Loudermill, what is most

important for purposes of maintaining an appropriate internal affairs process is that (1) the Department clearly separates the investigative process and procedures from the process and procedures used to decide whether to impose discipline and the terms and conditions of any discipline imposed, and (2) the Department imposes the appropriate discipline that each case warrants, even if the appropriate discipline subjects the Department to further proceedings as allowed by law. A perception that management does not take the disciplinary process seriously or that management will negotiate away appropriate discipline to avoid further legal proceedings undermines the entire process and the integrity of any internal affairs procedure.

RECOMMENDATIONS OF THE ATTORNEY GENERAL AND THE NYSP DETAIL (THE JOINT EVALUATION TEAM)

EMPOWERMENT OF THE PROFESSIONAL STANDARDS SECTION

The Department of Public Safety Professional Standards Section should be the catalyst for the changes that are needed to restore a high degree of professionalism, integrity and public confidence in the Connecticut State Police. Through competent, thorough and impartial investigations of misconduct allegations by the Internal Affairs Unit and proactive audits by the Inspections Unit, designed to identify incipient problems, Professional Standards can become the fulcrum on which the integrity and respect of the agency balances. To accomplish this, the Joint Evaluation Team recommends the following changes:

- 1) The Professional Standards Section commanding officer must hold the rank of lieutenant colonel in the Connecticut State Police.
 - The commanding officer of Professional Standards must report directly to the Commissioner of the Department of Public Safety.
 - The elevated rank is required to eliminate the possibility that higher ranking field commanders could interfere with or influence Professional Standards operations and investigations.
- 2) The commanding officer of Professional Standards must have full authority to independently direct all administrative inquiry and internal affairs investigations and internal audits of the Connecticut State Police. Great care must be taken to select someone who clearly has the ability to facilitate

organizational change and the integrity and managerial courage to identify agency misconduct and recommend appropriate corrective action.

- The commanding officer of Professional Standards must be given the authority to adopt administrative cases, i.e., AI and IA, and criminal investigations of CSP personnel without requiring approval of any CSP officer.
 - The commanding officer of Professional Standards, not Internal Affairs Unit members assigned to the investigation, must be the point of contact for commanders in the field regarding internal affairs investigations.
- 3) The commanding officer of Professional Standards must be responsible and accountable for the following:
- Ensuring agency-wide compliance with the newly proposed complaint intake and investigation procedures through training and strict monitoring;
 - Reviewing and approving the conduct of all investigations (both criminal & administrative) of misconduct by personnel; and
 - Final approval of all personnel complaint investigation reports, subject only to review by the Commissioner of the Department of Public Safety.
- 4) The DPS should upgrade the rank of other personnel assigned to the Professional Standards Section as follows:
- A captain should be in charge of the Internal Affairs Unit.
 - Internal Affairs Unit investigators should have the rank of lieutenant. This will signify the importance of these positions to the agency and give them a rank equivalent to troop commanders, enhancing their authority while

conducting field investigations. It will also eliminate the current financial hardships for sergeants assigned to Internal Affairs.

- The Internal Affairs Unit commander and staff must report directly and exclusively to the commanding officer of Professional Standards.
- 5) The DPS must revise the methods it uses for recruitment and selection of Professional Standards Section personnel.
- The Commanding Officer of Professional Standards must be directly responsible for the selection and appointment of Professional Standards Section personnel, subject to the approval of the Commissioner.
 - Internal Affairs Unit personnel must have broad experience within the agency and have demonstrated strong investigative skills.
 - Personnel appointed to Professional Standards must have a record of unquestioned integrity.
 - The agency should provide career incentives for service in Professional Standards.
- 6) The DPS must develop comprehensive and specific training for all Internal Affairs Unit members and require satisfactory completion of the training prior to undertaking internal affairs investigations. This training should include, but not be limited to internal affairs procedures, administrative investigations, a correct understanding of Garrity vs. New Jersey, 385 U.S. 493 (1967) issues, HIPAA regulations, labor contract and arbitration decisions, interview techniques and proper administrative report writing.

- 7) The agency must improve the professionalism and capabilities of the unit by providing enhanced administrative support and upgraded equipment, facilities and technology.
- 8) The implementation of this report's recommendations to thoroughly and formally investigate every complaint against personnel and to expand and upgrade audits and inspections will significantly increase the workload of the Professional Standards Section. Therefore, the DPS must increase the number of personnel assigned not only to the Internal Affairs Unit, but also to the Inspections Unit.

COMPLAINT INTAKE AND PROCESSING

Other than enforcement measures or requests for police services, the most common contact an agency has with individual members of the public is when a person approaches the agency to give a compliment or lodge a complaint about a particular employee's conduct. The public must have the full trust and confidence that the Connecticut State Police regards and responds to public input and feedback. The following recommendations are based on the fundamental goal to assure access and accountability from public servants and the agencies that employ them.

- 1) Every allegation of misconduct, regardless of the level of seriousness, must be immediately recorded and logged into a centralized complaint system and forwarded to the commanding officer of Professional Standards, who will assign it to the appropriate personnel for investigation.

- The agency must accept all types of complaints, including rudeness and unprofessional demeanor.
 - The agency must accept complaints in writing, in person, by telephone, by e-mail through a web site link and by all other appropriate means.
 - The agency must accept anonymous and third party complaints.
 - All employees must be held accountable for ensuring that misconduct allegations are properly recorded and forwarded to the commander of Professional Standards. Willful or negligent failure to comply with this policy must result in disciplinary action.
 - The agency must discontinue the practice of conducting unofficial, undocumented preliminary investigations to determine if a complaint has merit.
 - The agency must discontinue the practice of declining to investigate complaints against personnel unless they are reduced to writing within ten days.
- 2) The commanding officer of Professional Standards should develop a program to inform the public of procedures for filing a complaint against a member of the Connecticut State Police. A variety of methods should be used including, but not limited to posters at all installations, instructions and links on the Department's web site and establishing a toll-free telephone number.
- 3) The agency should create a classification system for complaints based on the seriousness of the allegation. The system should differentiate between minor complaints to be investigated by field supervisors in a simplified report format

and serious complaints to be investigated by Internal Affairs personnel. The Professional Standards commanding officer or his/her designee must be responsible for the classification of all complaints.

- Consideration should be given to replacing the current Administrative Inquiry/Internal Affairs numbering system with this new classification system and eliminating the unnecessarily complicated practice of renumbering and cross referencing cases that change classification in the course of the investigation.
- 4) The commanding officer of Professional Standards must be notified of all complaints in a timely manner through the appropriate district commander or headquarters supervisor during normal business hours.
 - 5) Serious complaints must be brought to the attention of the commanding officer of Professional Standards by the appropriate district commander or headquarters supervisor immediately, even if they occur outside normal business hours.
 - 6) The commanding officer of Professional Standards will be responsible for ensuring that all complaints are properly recorded, classified, documented and thoroughly investigated at the appropriate level in a timely manner.
 - 7) Members assigned to administrative inquiry and internal affairs investigations must document all steps taken during their investigations in their final written report. Transcripts of all interviews conducted in the course of the investigation must be attached to the final report.

- 8) The commanding officers of the Internal Affairs Unit and the Professional Standards Section must meticulously review all completed investigation reports for timeliness, thoroughness, accuracy and investigative consistency. Every allegation associated with a case must be properly addressed within the investigation report.
- 9) The Internal Affairs Unit must investigate criminal allegations against DPS and CSP employees that are developed by the Connecticut State Police. The Professional Standards commander should have the authority to temporarily assign additional criminal investigators and specialists from the CSP to Internal Affairs when needed to conduct a thorough and effective investigation.
- 10) Agency policy should require Internal Affairs to actively pursue participation in criminal investigations initiated by other law enforcement agencies in which Connecticut State Police members are targets. In those cases where the other agency wishes to defer to the Connecticut State Police, Internal Affairs should conduct the criminal investigation.
- 11) The commanding officer of Professional Standards shall ensure that an independent administrative investigation is conducted concurrently with, and without regard to, the outcome of a criminal investigation of a DPS employee.
 - Protocols must be established to ensure that Garrity v. New Jersey safeguards are in place for the protection of the employee and the agency at the time that any decision is made to compel an administrative

investigation statement from an employee who may also face charges as a result of the criminal investigation.

12) Any Department of Public Safety employee who is arrested or who is involved in a domestic incident or a situation involving a police response by an outside agency must notify the commanding officer of Professional Standards through the appropriate channels.

- This notification must be made as soon as practicable after the arrest, incident, situation or issuance of an order of protection.

13) The commanding officer of Professional Standards shall ensure that the Commissioner of Public Safety and the State Police Colonel are informed of all complaints in a timely manner and are provided periodic updates on serious internal affairs investigations.

14) The following people shall be notified of complaints against personnel as appropriate, except in cases determined by the Commissioner of Public Safety to be sensitive and restricted to Internal Affairs:

- All lieutenant colonels;
- District and unit commanders in the direct chain of command of the employee against whom the complaint has been made.

15) The agency must retain disciplinary records pursuant to the Connecticut State Library retention schedule titled "State Agencies' Retention/Disposition Schedule S2: PERSONNEL RECORDS." Per Lieberman v. State Board of Labor Relations et al., 579 A. 2d (1990), this is a management prerogative that is not the subject of union negotiation. The agency also must retain

records of all administrative investigations for the prescribed period, even when the result is unfounded or unsubstantiated. These records are essential to defend the agency in the event a complainant files a lawsuit subsequent to the conclusion of the internal affairs investigation. They are also key to developing an effective early warning system to detect potential problems that can be identified from a pattern of similar unfounded or unsubstantiated complaints over an extended period of time.

TRAINING

Correction of the significant problems identified during this evaluation will require changes to the current organizational culture of the Connecticut State Police. More is needed than simply modifying existing policies and procedures. Meaningful change will occur only when the agency adopts the qualities that foster integrity and high moral standards and publicizes and imposes them throughout the organization. Effecting these changes will require continual training -- and reinforcement of sound core values, accountability and moral tenets. To this end, we recommend:

- 1) The DPS should provide introductory training about Internal Affairs to all employees in order to provide a working knowledge of the unit and its role in protecting and maintaining public confidence in the agency.
- 2) The agency should provide comprehensive ethics and counter-corruption training in the Basic Academy, as part of orientation training when an employee is promoted, and as regular in-service training throughout an employee's career.

- 3) The agency should train all supervisors to conduct thorough administrative investigations.
- 4) Training in positive interaction with the public should be an integral part of the Basic School and a remedial training program should be in place to assist any employee who needs to improve his or her communications skills.
- 5) The agency should provide extensive training on substance abuse and domestic violence prevention and Department policies governing these issues. The training should begin in the Basic School and be regularly reinforced through periodic in-service training.

ADDITIONAL RECOMMENDATIONS OF THE NYSP DETAIL

To fully comply with Commissioner Boyle's request that the NYSP Detail conduct a comprehensive evaluation of the Department's internal affairs process, the Detail makes the following additional recommendations to ensure that the structure, practices and protocols of the Internal Affairs Unit meet the best professional standards. These additional recommendations are beyond the scope of the investigation conducted by the Attorney General's Office and, therefore, are not recommendations of the Attorney General.

DRUG TESTING TO COMPLY WITH UNION CONTRACT

The Department of Public Safety, employees of the Connecticut State Police and the public they serve have a compelling interest in being certain that all members of the CSP are physically, mentally and emotionally prepared to meet the demands of law enforcement and that they respect all of the laws they have sworn to uphold. There is no assurance of this unless the Department acts to institute drug testing of its sworn employees.

Effective May 25, 2005, the Connecticut State Police Union contract provided management the right to conduct drug testing of sworn members of the CSP. Management may conduct random drug testing of up to 25% of all sworn bargaining unit members during any contract year. Failure to report for a random drug test may constitute insubordination and may result in initiation of an internal affairs investigation and the imposition of discipline.

Further, management may administer an immediate drug test to any employee if a commanding or superior officer determines there exists a reasonable suspicion of drug use by the employee. Refusal to submit to testing when directed to do so by a commanding or superior officer will constitute insubordination and the employee will be subject to discipline.

Drugs for which individuals may be tested include, but are not limited to, amphetamines, barbiturates, cannabis, cocaine, hallucinogens, morphine, anabolic steroids, marijuana, opiates, phencyclidine (PCP) and other illegal substances causing stimulant or depressant effects. In addition, management may test for prescription drugs if reasonable suspicion exists of an illegal or abusive use of these drugs by an employee. Testing of urine, blood and hair may occur, depending on circumstances.

Adoption of a drug testing policy allows the Connecticut State Police to join the vast majority of police agencies who test their members for drug use. As shown in Appendix A1, Table 5, 85% of respondents to the benchmark survey responded that they conduct drug testing.

The NYSP Detail found no evidence that DPS has conducted random drug testing of CSP members in the 16 months since management acquired the right to conduct drug testing. DPS has adopted no procedures or policies for implementing and conducting drug testing.

The union contract provides that the union and management agree “[t]he critical mission of law enforcement justifies maintenance of a drug free work environment through the use of a reasonable drug testing/screening program.” The union and management agreed to implement a drug testing and screening program “in order to

ensure the integrity of the Connecticut State Police and to preserve public trust and confidence in a fit and drug-free law enforcement profession.” The DPS must move immediately to develop and implement a random and reasonable suspicion drug testing program in accordance with the union contract.

MONITORING SYSTEMS

In addition to investigating allegations of misconduct, the Professional Standards Section should be actively involved in monitoring trends concerning employee conduct and agency operations to maintain the highest standards of service. In order to provide effective quality control measures, we recommend the following programs:

- Comprehensive Internal Audits - these audits should be examinations of administrative and operational functions in a troop or district and should include leadership, teamwork, and customer service, as well as audits of evidence handling, overtime, leave accrual and usage, and other vulnerable areas;
- Administrative Review of any action by an employee that results in serious physical injury or death to another person or the employee;
- Integrity Testing;
- Domestic Violence Monitoring;
- Review of candidates' disciplinary history to assess their suitability for reassignment or promotion;

- A policy for random and reasonable suspicion drug testing for all sworn members of the Connecticut State Police in accordance with the union contract;
- Citizen Satisfaction Survey Program;
- Regular reviews of employees' driver's license records through the Department of Motor Vehicles; and
- Early Intervention Program to identify potentially problematic employees and emerging negative trends. At a minimum the program should evaluate information from databases tracking use of force, injuries to prisoners and personnel complaints.

We recommend that the DPS conduct its own benchmark research to identify successful programs used by other law enforcement agencies that best fit its operational needs and capabilities.

ACCOUNTABILITY

The Connecticut State Police must reestablish a culture of personal and organizational accountability for the conduct of its employees. It is essential that the agency becomes proactive in its effort to prevent misconduct. It also must ensure that every employee understands that a lack of honesty and integrity is contrary to and incompatible with the Department's mission and will not be tolerated. The following recommendations will help achieve these goals:

- 1) The agency must hold all employees accountable for their own actions and those of their peers.
 - Any time an employee becomes aware of misconduct by anyone in the agency, whether by a report from a member of the public, another employee or by personal observation, that employee must immediately report the misconduct to the appropriate supervisor.
 - Employees who fail to report misconduct must be subject to disciplinary action for failing to report it.
- 2) The agency must hold supervisors accountable for failing to properly address the inappropriate actions of their subordinates.
 - This requires supervisors to be proactive in preventing police misconduct.
 - It also attaches culpability to supervisors for willful blindness.
- 3) The agency must impose meaningful and appropriate discipline whenever an employee is found guilty of misconduct.
 - The agency should eliminate its sole reliance on a historical range of discipline and establish objective standard levels of discipline for various types of misconduct. The standards should be reviewed periodically and adjusted as necessary to reflect societal changes and public expectations.
 - The agency must not allow negotiations between the Labor Relations Unit and the Connecticut State Police Union to dilute management authority to take appropriate investigative and disciplinary action against employee misconduct.

- The agency must eliminate improper classification of cases/dispositions that result in ineffective discipline.
- 4) The agency must discontinue the practice of simply referring misconduct associated with alcohol abuse to the Employee Assistance Program and other forms of counseling, without also investigating the underlying misconduct and initiating discipline when appropriate.
 - 5) The agency must aggressively mandate adherence to all established policies and procedures.

Labor Management Issues

It is widely recognized that the relationship between labor and management is a dynamic tension aimed at achieving a delicate balance. State collective bargaining agreements, state and federal statutes, and the state and federal constitutions provide certain rights and protections to employees of the Department of Public Safety, as they do to all state employees. In addition, unionized employees are further protected by the collective bargaining agreements between their unions and the state. Because all collective bargaining agreements, once approved by the Connecticut General Assembly, are contracts between the state and the collective bargaining units, they can only be modified through the collective bargaining process. The due process clauses of the state and federal constitutions may provide protection to state employees who are subject to disciplinary action, particularly when termination of employment and/or loss of pay is at issue. See Cleveland Board of Education v Loudermill, 470 U.S. 532 (1985).

Some of the existing policies, practices and interpretations of contractual agreements examined by the Detail were seriously out of balance in that they hindered effective management of the agency, prevented management from taking appropriate action to maintain the public trust and, in some instances, exceeded established judicial rulings.

During this investigation the NYSP Detail noted that certain provisions of the Connecticut State Police Union Contract and *A&O Manual* make it difficult to properly investigate complaints against members of the State Police. Section 15, Article 11 of the union contract provides, "in the case of noncriminal conduct, a copy of the complaint or initial investigation report will be furnished to the employee at the outset of the investigation, together with the time, if known, of filing the oral complaint, if any." According to Section 5.2.7 b. of the *A&O Manual*, "Unless a complaint alleges a crime has been committed, a written notification to the employee is required whenever the employee is the focus of an IA or AI." Furthermore, the agency must provide the employee with:

"(1) Form DPS-678-C, Complaint Against Personnel

This form advises the employee that a complaint has been made against him or her.

- (a) A complaining citizen who requests anonymity will not be identified, except as provided by union contract;
- (b) A citizen writing a letter of complaint shall receive written acknowledgement of receipt of the complaint;

- (2) An attached copy of available complainant statements;
- (3) Internal department complaints

A complaint originating within the department shall be reduced to writing and provided to the employee."

To the extent this policy means that specific investigative details of the allegations of a complaint must be given to the target of an investigation prior to commencing an investigation, the policy is contrary to fundamental investigative practices. Such a policy would give the target of an investigation notice of the investigation before it is begun, possibly impeding the agency's ability to determine the truth of the complaint(s) and exposing witnesses to intimidation and pressure to recant or change their testimony.

Additionally, Article 15, Section 11 of the Connecticut State Police Union contract prohibits investigation of a citizen complaint that is not reduced to writing promptly, normally within 10 days of receipt, unless it is criminal in nature or the Department is otherwise required by law to investigate. The complaint may be reduced to writing either by the complainant filing a written complaint, or by CSP personnel memorializing receipt of the complaint by completing form DPS-678-C, entitled "Complaint Against Personnel." This short time frame makes it imperative that management require all DPS employees who receive a citizen complaint to promptly complete and submit this form, and provide adequate staff to ensure that all complaints are reduced to writing within 10 days after a citizen makes a complaint, to allow an appropriate investigation to take place on all complaints received by the Department. Also, to the extent this provision of the contract has been interpreted unofficially to require a written complaint

to be provided to the target of an investigation at the commencement of an investigation, the union and the state should consider revisiting this interpretation, which appears to jeopardize the Department's ability to conduct an effective IA investigation.

Article 9, Section 3a, of the collective bargaining agreement requires the Department to provide the union with a list of all non-criminal internal affairs investigations and their status on a quarterly basis. While that requirement may assist the union in keeping track of investigations of its members, management should not allow such reporting to influence management's decisions regarding the completion of an investigation.

It further appears that the Department's current disciplinary practice exceeds the due process requirements articulated by the court in the Loudermill case. According to the court, the essential requirements of due process are notice and an opportunity to respond. The employee is entitled to notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story. However, Loudermill does not require that the department provide the employee with a copy of the entire investigatory file or report. Disclosure of such an investigative file at this stage of the proceedings may result in the intimidation of witnesses before discipline is imposed. Subsequent to any formal decision to impose discipline, the employee will be provided with access to witness statements made during the investigation and will be allowed to confront witnesses through the formal hearing process allowed by the collective bargaining agreement or by statute. The wisdom of allowing an employee access to the full Internal Affairs investigatory report prior to a

Loudermill meeting and prior to the imposition of discipline should be reconsidered by the union, the department and the General Assembly.

The following recommendations will allow a restoration of balance between effective management and employee rights.

- 1) Discontinue the following “practices” which appear to be the result of reported unofficial interpretations of the Connecticut State Police Union contract by individual members. (To the extent these practices are actual policies of the CSP and not practices engaged in by individual members on an unofficial basis, changes to these “practices” may require renegotiation with the union or legislative action.):
 - The practice of investigating a citizen complaint only when the citizen provides a written complaint and does not request to remain anonymous.
 - The practice of notifying members immediately upon receipt of allegations of misconduct and prior to commencing an investigation.
 - The practice of providing members with complainant and witness statements and identities during the administrative investigation.
 - The practice of providing a copy of the complete internal affairs report to the accused member prior to a formal disciplinary meeting.
 - The practice of discussing ongoing administrative investigations with union officials.

- 2) The agency must discontinue the “practice” of routinely providing union representation to employees who are witnesses, but are not targets of internal investigations.

3) The agency must take appropriate action during negotiations with the Connecticut State Police Union to preserve the management right to impose appropriate discipline. Further, the agency must impose appropriate discipline in each case even if that might result in further legal action. Speculation that a decision to impose appropriate discipline might be overturned in the grievance or arbitration process should not deter the agency from imposing appropriate discipline. Professional, thorough and high quality investigations are the foundation upon which the agency's disciplinary decisions should be built, and will support these decisions in an appeal. If a pattern of decisions by outside arbitrators can be demonstrated to be a bar to fair and effective discipline, then negotiated or legislated changes to the discipline process should be initiated.

CONCLUSION

The Department of Public Safety and Commissioner Boyle should be commended for seeking outside evaluation and assistance in addressing internal problems. Over the last 20 years a number of appointed commissions have examined the policies and practices of various law enforcement agencies and many have issued highly critical reports. Generally, these investigative bodies have been created as the result of external pressure and even government intervention. It is unusual for a law enforcement agency to invite another organization to evaluate and critique its conduct and operations as the Connecticut State Police have done here. The vast majority of state police members will welcome reform because they are honest and hard working, and wish to enhance the public's trust and confidence in their work and in the Connecticut State Police. An Internal Affairs Unit that is highly regarded, fair and effective will be a benefit for all state troopers and for all the citizens of the State of Connecticut.

Identifying problems is much easier than correcting them. The Joint Evaluation Team has conscientiously worked to propose viable solutions, and not just identify problems. The Commissioner will ultimately be responsible for evaluating the recommendations and any viable alternatives, identifying those that he feels will best serve the interests of the Department and the public, and working with the various involved parties to effect the necessary changes.

These changes will require cooperation from the employees of the Department and the CSP Union and will also require support from the Governor and legislature to provide additional resources and, perhaps, changes to state law or regulations. Given

adequate resources, some of the changes, e.g., reorganizing the chain of command and upgrading and expanding the Professional Standards Section and Internal Affairs Unit, may be accomplished in a matter of months. Other changes, like revamping recruit, in-service and supervisory training, may take longer. Maintaining the momentum to effect long-term change is always a significant challenge to large organizations. That is why the Team recommends that the Commissioner establish an oversight group to continually monitor and report on the progress made toward implementation of needed changes.

While the problems identified in this report are serious, the people of the State of Connecticut should remember that there are more than 1200 men and women – people of integrity and dedication -- who serve in the state police uniform proudly and put their lives on the line to protect and serve the public. In fact, internal complaints from CSP employees -- deeply concerned about the direction of their agency -- were the catalyst for Commissioner Boyle's request to Superintendent Bennett and for the Attorney General's whistleblower investigation. The problems with the internal affairs process identified in this report derive from evaluations of only sixty-four cases that involved only a small percentage of agency employees. The overwhelming majority of DPS employees perform their duty with diligence and integrity and are eager to work with Commissioner Boyle to preserve and increase public and employee confidence in the Department.

APPENDIX 1

IAB BENCHMARK SURVEY

NEW YORK STATE POLICE INTERNAL AFFAIRS SURVEY

Analysis and Results

The Demographic Section of the survey consisted of information identifying the agency and the agency section completing the questionnaire, as well as contact information. Including the New York State Police, twenty-four of twenty-six agencies responded, yielding a response rate of 92% of the selected sample.

Section I: Personnel Complaint Policy

Section I focuses on policies that concern personnel complaints. When asked if the agency documents every complaint against personnel, 87.5% of the responding agencies agreed that they did. Only three agencies did not. Seventy-one percent of the agencies investigate every complaint against personnel. All responding agencies document and investigate allegations of rudeness and unprofessional conduct during citizen encounters. Agencies were questioned as to whether they assign a case number to each complaint received against personnel, with 21 of the 24 agencies agreeing that they do. Twenty-one of the 24 agencies agreed that their agency accepts anonymous complaints against personnel. Eighty-three percent of 24 responding agencies noted that they accept third party complaints against personnel, with one agency not responding.

The agencies were queried about time limits for the acceptance of complaints against personnel, with 19 (79.2%) responding that they do not have time limits. Three agencies noted that they have 6 months after the date of the incident, one had a three month limit (excluding criminal allegation, discrimination and harassment), and one noted one year from date of alleged occurrence. Only one agency requires complainants to sign a sworn statement regarding their allegations before investigating complaints against personnel. When

determining the credibility of the complainants and witnesses, 54.2% consider the criminal history of the civilian complainant or witness, 67% consider the complaint history and discipline record of the accused personnel, and only four agencies (16.7%) show a preference for the credibility of personnel over the civilian complainant or witness.

Section II: Personnel Complaint Intake Procedures

The intake procedure for personnel complaints is measured by asking about publicizing the process, acceptance methods for complaints against personnel, available forms, and notification to IAB. An examination of how agencies publicize their complaint procedures shows that the majority of agencies use pamphlets and brochures (71%). Websites were the second most commonly used media source for publicizing complaint procedures (58%), with presentations being third at 33.3%. More than a quarter (29%) of agencies use posters, nearly 8.3% use TV/Radio, and only two agencies use either newspaper or billboards. Eight percent use no publicizing media at all. All 24 agencies accept civilian complaints against personnel in person. Twenty-three of 24 accept complaints by mail and fax. Twenty-two agencies accept complaints by telephone as well as email, and ten accept complaints by TDD. Other types of acceptance were by law suit, attorney, and website. About half the agencies have a 24-hour toll free hotline to accept complaints against personnel and a majority of the agencies (79.2%) utilize a complaint form so that citizens can register a complaint.

When questioned about notification to Internal Affairs, 96% (23) of responding agencies mandate notification upon initiation of a criminal investigation against personnel that is generated internally, 22 of 24 agencies mandate notification upon initiation of a criminal investigation against personnel externally. Upon initiation of a civil lawsuit against personnel for actions pertaining to employment, 63% of the agencies mandate notification to Internal Affairs.

Section III: Regulations Relating to Personnel Complaints and Misconduct

The following questions primarily pertain to regulations surrounding personnel complaints. Fifty-four percent of agencies prohibit personnel from requiring complainants to limit or waive their ability to file a lawsuit prior to accepting a complaint against personnel. When asked about initiating complaints against personnel, 87.5% initiate complaints for failure to inform a civilian how to file a complaint upon request, 92% initiate complaints for dissuading or attempting to dissuade a civilian from filing a complaint, and 23 of 24 agencies initiate a complaint for refusal to accept a complaint.

All agencies require all personnel to immediately notify the agency when arrested or criminally charged in connection with on-duty or off-duty conduct.

Eighty-three percent of agencies have a regulation that prohibits personnel from retaliating against civilians who report misconduct. Nineteen agencies also have a regulation that prohibits personnel from retaliating against other personnel who report misconduct. Upon the discovery of unrelated misconduct during an internal investigation, 74% of agencies require that an additional complaint be initiated.

Section IV: Classification of Complaints against Personnel

Twenty-two agencies stated that when complaints against personnel are criminal in nature, they receive an administrative case number. If the agency received a criminal complaint against one of their personnel, 71% noted that they take the investigative lead and approximately 21% refer the case to another agency having police jurisdiction and approximately 4% responded that they do both. Twelve agencies did note that they have policies in place for referring cases or it simply depends on the case.

The following Table (2) shows results for misconduct allegations and the section of the agency or supervisor in the chain of command that is considered responsible for such.

TABLE 2: Allegation and Agency Section Responsible For Investigation

Allegation	Total Number Responding (N)	Investigating Section or Individual			
		Internal Affairs (%)	Supervisor in Chain of Command (%)	Both IAB and Supervisor (%)	Other (%)
Excessive Force	22	77.3	9.1	4.5	9.1
Improper Threat of Force	22	72.7	13.6	4.5	9.1
False Arrest	22	63.6	13.6	4.5	18.2
Filing of False Charges	22	68.2	13.6	4.5	13.6
Unlawful Search and Seizure	21	57.0	19.0	4.8	19.0
Invidious Discrimination	23	73.9	4.3	4.3	17.4
Intentional Failure to Complete Required Forms	22	31.8	50.0	4.5	13.6
Rudeness, Discourtesy, Unprofessional Conduct	22	31.8	50.0	4.5	13.6
Racial or Ethnic Slurs	23	56.5	21.7	4.3	17.4
Domestic Violence	22	68.2	13.6	4.5	13.6
Use, Abuse, or Improper Behavior Relating to Narcotics	23	78.3	4.3	4.3	13.0
Sexual Misconduct	23	65.2	4.3	4.3	26.1
Sexual Harassment	22	59.1	-0-	4.5	36.4
Theft	21	71.4	4.8	4.8	19.0
Civil Rights Violations	21	61.9	9.5	4.8	23.8
Dishonesty	22	68.2	18.2	4.5	9.1
False Info Provided for Admin Investigation	23	69.6	8.7	4.3	17.4
Retaliation Against a Civilian	23	73.9	8.7	4.3	13.0
Retaliation Against other Personnel	23	73.9	4.3	4.3	17.4

*Total N's vary based on question - each totals 100% across

Table 2 shows that the majority of misconduct allegations are handled by an Internal Affairs Bureau. Less frequently, allegations are handled by both Internal Affairs and a supervisor. Other sections cited were EEO or field personnel, lieutenant or higher.

Section V: Personnel Complaint Adjudication

Personnel complaint adjudication is measured by: examining the system used by each agency, final classifications, appeal, inclusion in personnel file, and discipline. Upon investigating the system of adjudication by the adjudicating body, overall, it was clear that using both “determination of findings” and “imposition of discipline” was the likely selection. Looking at each adjudicating body separately for the 24 agencies, “executive staff/chief executive” is most likely to use both an imposition of discipline and determination of findings (55%). When agencies answered for “accused personnel’s commanding officer” they were more likely to use both systems of adjudication as well (72%), however between the two types, determination of findings was most prevalent (16.7%).

When Adjudicator is “discipline officer” agencies tended toward “determination of findings” (50%), only 33.3% noted “imposition of discipline.” When the system of adjudication is a “hearing board” 38% said “determination of findings” and 44% said “both” systems. The Civilian Review Board system had mostly missing data (83%), which could be interpreted as not having one. Four agencies said “determination of findings” with the Civilian Review Board. When the adjudicating body is Internal Affairs, 71% noted “determination of findings” as their response, 24% said both, and 6.0% said “imposition of discipline.” When adjudication is negotiated between union and management, the majorities are more likely to use “imposition of discipline” (62.5%).

For final classification categories of adjudication used (See Table 3), a majority (96%) or 22 of 23 agencies, noted Founded/Substantiated/Sustained as a final classification category. The final classification category most often used after the above mentioned is “Unsubstantiated/not sustained (with many

underlining not sustained), at 83% as a final classification. “Unfounded” as a category had the same outcome, with 19 of 23 agencies selecting this as a final classification category.

TABLE 3: Final Classification Categories of Adjudication (N=23)

Classification Category	Percent of Cases (%)
Founded/Substantiated/Sustained	95.7
Unsubstantiated/Not Sustained	82.6
Unfounded	82.6
Exonerated	65.2
Ineffective Policy or Training	8.7
Other	8.3
No Finding	4.3

* Number of cases represents number of agencies responding.

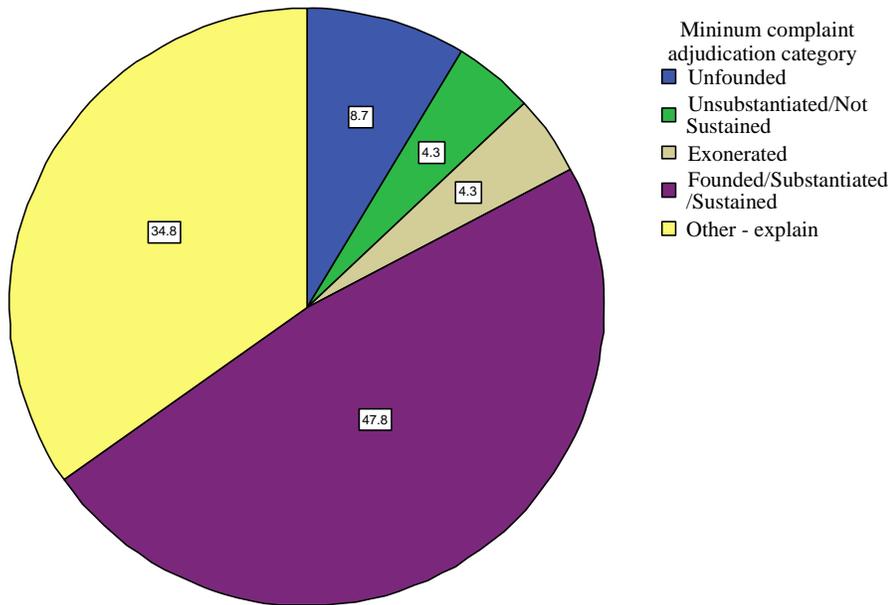
Agencies were questioned as to what system is available to appeal imposed discipline. Eighty-eight percent (N=15) responded “no” to whether imposition is final and not subject to appeal in any forum. One agency responded “yes and no” to this question. When asked if appeal to internal discipline review board or discipline officer was available, of the 19 agencies that responded, the majority (63%) said yes. Appeal to external arbiter was available to 72% of the 18 responding agencies. Appeal to external state commission was nearly split in half with 47% yes and 53% no for the responding 17 agencies. Eleven agencies noted that they had other systems to impose discipline, including appeal to a civilian board, civil service board, appeal review board decision to circuit court, and liberty interest hearing for probationers.

Agencies were queried as to what the minimum complaint adjudication category is that would justify the inclusion of the complaint in the personnel file of the accused. The category results are viewed in Chart 1 below. Other category

examples included such explanations as: all categories were included; any finding resulting in disciplinary action will result in employee discipline record. One agency noted that misconduct information is not placed in personnel files.

Chart I (N=23)

Minimum Complaint Adjudication Category Justifying Inclusion in the Personnel File



The last question in Section 5 concerning Personnel Complaint Adjudication pertains to the types of discipline that are used by each agency. All agencies responding (N=23) noted that Termination is used; 22 of 23 agencies note that they use a letter of reprimand/censure, as well as, suspension without pay. Twenty-one of 23 agencies (91.3%) noted Demotion as a disciplinary action. Fifty-two percent of agencies use Involuntary Transfer and Suspension with Pay. Loss of Vacation days is used by only 48% of agencies and Probation only by 35% of agencies. Loss of Overtime is used by only 4 agencies and three agencies (13.0%) noted Loss of Vehicle for take home/off duty use. Other types were noted by some agencies; including 5% reduction in pay for a certain number of months, removal from bonus, and training.

Section VI: Patterns of Conduct Review Using Early Warning System/Management Awareness Defined Systems.

Seventy-five percent of 24 agencies utilize a type of Early Warning/Management System to alert, track, and monitor patterns of conduct of individual personnel. Fifteen of 20 responding agencies include “red flags” that cannot be ignored. There were many explanations for the use of red flags. Some examples of the written comments include: 1-3 reportable incidents within two years, two reportable use of force incidents within two years, three citizen complaints or 4 use of force incidents in 12 months, and 3 in 18 system sends up red flags (3 complaints in 18 months). The majority use a “rule of three” that seems to send up red flags. Several note special software that they use for indicating trends or patterns that provide alerts. One example called IAPro Software is used to manage complaints; alerts are part of the package.

Of the 13 possible categories for input into an Early Warning system, nearly 90% of agencies list Citizen Complaints and 75% of agencies list Misconduct Investigations and Use of Force Activity. Agency Vehicle Collisions are listed by 55% of agencies and 60% use Discipline (see Table 4). “Other” responses not listed include: discharge of firearm, K-9 bites, and officer involved shooting, claims, and lawsuits.

TABLE 4: Early Warning System Inputs (N=20)

Input Information	Percent of Cases (%)
Citizen Complaints	90.0
Misconduct Investigation	75.0
Use of Force Activity	75.0
Agency Vehicle Collisions	55.0
Discipline	60.0
Domestic Incidents	30.0
Leave Usage	20.0
Injury to Prisoner	20.0
Audits of Reports and Statistics	15.0
Traffic Stops	15.0
Search and Seizures	10.0
Review of Mobile Video and Recorder	10.0

Agencies were asked if they conduct integrity testing of personnel. Seven agencies of the responding 22 (31.8%) reported yes. If the agencies said yes to the question regarding integrity testing, they were asked a contingency question to then describe the type of testing, either targeted, random, or both. The majority of agencies did not answer the contingency questions due to very few responding in the affirmative to the original question.

Eight conduct issues were given for agencies to respond to regarding their integrity testing of personnel. Of the agencies that responded, “Yes” to integrity testing, only two noted that they use specifically targeted testing for unlawful stops. Three agencies said that they do both random and targeted testing for unlawful stops. For Unlawful Search and Seizure, again two agencies use targeted testing and two use both targeted and random testing. One agency uses targeted testing for excessive force and two agencies use both targeted and random testing for excessive force. The only conduct issue that showed specifically random testing was that of Narcotics/Drugs, with two agencies responding. Four agencies noted that they use both targeted and random testing in this case and two agencies noted specifically targeted. For the conduct issue of US Currency, six agencies responded. Of those responding, three use targeted testing and three use both. Found Property elicited 5 responses. Three use targeted testing and two noted both random and targeted. Two agencies

use both random and target testing for Discouraging Others from Filing a Complaint of Misconduct. One agency used targeted only. Failing to File a Complaint of Misconduct yields a targeted test from one agency and both random and targeted from two additional agencies. Two agencies noted other issues that may constitute testing: alcohol, responding to calls, and arrival times.

The next series of questions regarding conduct review concerned drug testing. For those that said yes, a contingency question gathered more information about the selection method and the type of testing (urine, hair, both, other). Twenty agencies responded and 17 (85.0%) responded that yes, they conduct drug testing. See Table 5 for selection method and type.

TABLE 5: Selection Method for Drug Testing and Type of Testing (N=24)

Selection Method	N and (%) Responding YES		Use Urine Test (%)	Use Hair Test (%)	Use Both Urine and Hair (%)	Other Tests (%)
Random All	(14) 58.3		(13) 54.2	(1) 4.2	-0-	-0-
Random All Probationary	(8) 33.3		(6) 25.0	(1) 4.2	-0-	-0-
Targeted All	(3) 12.5		(1) 4.2	-0-	(1) 8.3	-0-
Targeted All Probationary	(7) 29.2		(5) 20.8	-0-	(2) 8.3	-0-
Targeted All Assigned to Narcotics	(5) 20.8		(4) 16.7	-0-	(2) 8.3	-0-
Targeted All Assigned to Special Units	(6) 25.0		(3) 12.5	-0-	(2) 8.3	-0-
Upon Suspicion of Illegal Drugs	(19) 79.2		(12) 50.0	-0-	(4) 16.7	(2) 8.3
Only at the Request of Employee	(3) 12.5		(2) 8.3	-0-	(1) 4.2	-0-
Other Selection Method	(3) 12.5		(1) 4.2	-0-	-0-	(1) 96.0

*N's Responding YES are based on 24 Respondents – **Some Respondents did not check yes for selection method, but did check type of testing that corresponded with a selection method. *** Other Types include: breath and blood testing.

Section VII: Internal Affairs Organizational Structure

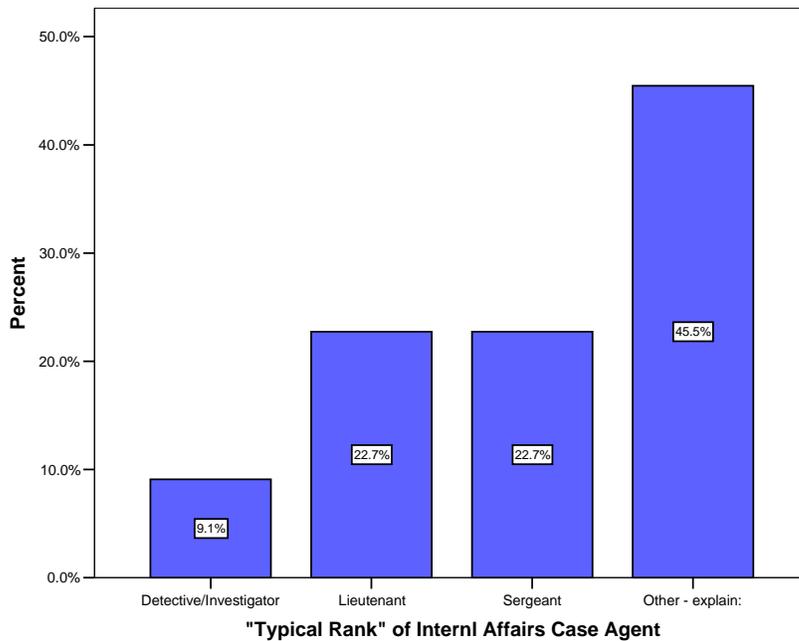
Respondents were questioned about the organizational structure of their agency, and more specifically, where Internal Affairs falls within that structure. The measures for structure include: questions pertaining to the exclusion of personnel from Internal Affairs assignments, typical rank of case agents, rank of commanders, where in the agency Internal Affairs appears on the organizational chart, and subpoena powers.

Of the 24 agencies that responded to excluding personnel from Internal Affairs assignments, a maximum of 15 responded yes to any of the exclusionary factors. Sixty-three percent of agencies noted that Serious Misconduct would be a factor in exclusion. Fifty-four percent checked Discrimination and Sexual Misconduct as exclusionary factors. Excessive Force was noted by 50.0% of agencies and False Arrest was checked by 38%. Sixteen agencies said that a History of Dishonesty was a factor in exclusion in these assignments. Other factors included: case-by-case basis.

Rank Structure

The law enforcement agencies were asked to describe the “typical rank” of the Internal Affairs case agent. Apparently this was a more difficult task than originally thought. The majority checked “other” than the ranks that were available for selection. The reason appears to be that they had trouble listing only one typical rank. Sergeant was not an option, and yet most of those that chose “other” listed Sergeant as their explanation. The most often cited ranks are show in Chart 2 below.

CHART 2 – Typical Rank of Case Agent (N=22)



Upon an examination of the “Other” category, the most common issue was that there was more than one possibility. (See Table 6 for the breakdown).

TABLE 6: OTHER RANK EXPLAINED (N=23)

Other Rank	Frequency	Percent	Cumulative Percent
Missing	2	8.7	8.7
Detective Sgt	2	8.7	17.4
Detective/Inv	2	8.7	26.1
Lt	5	21.7	47.8
Lt and Detective Lt	1	4.3	52.2
Lt S/Lt Sgt	1	4.3	56.5
Police and Lt	1	4.3	60.9
Sgt	5	21.7	82.6
Sgt and Detective/Inv	2	8.7	91.3
Sgt/SFC	1	4.3	95.7
Special Agent	1	4.3	100.0
Total	23	100.0	

The question, “what rank is your Internal Affairs Commander” was asked of the agencies. The responses varied again, as with “typical rank for a case agent.” The variability could most likely be due to the fact that various types of law enforcement agencies were surveyed. Local and State Police have similar

though differing rank structures. The majority of agencies responded that the Commander was either a Major (13%) or a Captain (26%).

TABLE 7: Rank of IA Commander (N=24)

Commander Rank	Frequency	Percent (%)
Missing	1	4.2
3 Star Chief	1	4.2
Asst. Chief	1	4.2
Captain	6	25.0
Civilian Mgr.	1	4.2
Colonel	1	4.2
Commander	2	8.3
Deputy Chief	2	8.3
F/Lt	1	4.2
Inspector	1	4.2
Lt	1	4.2
Major	3	12.5
Staff Lt	1	4.2
Superintendent	2	8.3
Total	23	100.0

Another open-ended question was posed to the respondents regarding whom the Internal Affairs Commander reports to. Although the categories were varied, they did have shared sentiment. They can be collapsed into approximately four categories, with about half the agencies responding that they report to the highest level individual in the agency (Superintendent, Police Commissioner, Commander, Commissioner, and Director). Another group of agencies show that their Internal Affairs Commander reports to a second in command position (Deputy Commissioner, Colonel, Assistant Superintendent). After these groupings, there are section heads, Inspectors, Majors, and Captains. (See Table 8 for the responses to this question).

TABLE 8: To Whom the Internal Affairs Commander Reports (N=23)

Commander's Superior Officer	Frequency	Percent (%)	Cumulative Percent
Missing	1	4.3	4.3
Capt. of Executive Div who reports to Director (Colonel)	1	4.3	8.7
Chief of Staff to Superintendent	1	4.3	13.0
Commander	1	4.3	17.4
Commissioner	1	4.3	21.7
Deputy Chief	1	4.3	26.1
Deputy Commissioner	2	8.7	34.8
Director	3	13.0	47.8
Director/Colonel	1	4.3	52.2
Human Resource Mgt. Commander	1	4.3	56.5
Inspector (may report directly to Chief or Chief of Staff)	1	4.3	60.9
Major	1	4.3	65.2
Major then to Deputy Commissioner	1	4.3	69.6
Mayor's Office	1	4.3	73.9
Police Commissioner	2	8.7	82.6
Staff Superintendent	1	4.3	87.0
Superintendent, Employee Services & Internal Affairs	1	4.3	91.3
Superintendent/Chief of Staff	1	4.3	95.7
Supt./Asst Supt	1	4.3	100.0
Total	23	100.0	

* There are those that report to the highest official in the agency, those that report to a 2nd in command (Deputy Chief etc.), Section Heads, Majors and Captains.

One last question regarding “rank” asks if there are any local commanders (e.g., precinct, district, area, troop, zone, station) higher in rank than the Internal Affairs Commander. Over half (57.1%) of all agencies agree that there are local commanders higher in rank than the Internal Affairs Commander.

Among the 24 agencies, Internal Affairs Sections tend to lie in the Office of the Chief Executive most often (38%). The second most noted option was Professional Standards/Office of Professional Responsibility (29%). Only one

agency said Human Resources/Personnel and 21% noted some “other” office. Other included for the most part, that the Internal Affairs Unit is its own Division and answers only to the Commissioner.

Subpoena Powers

Three measures of subpoena powers were used: 1) Does the agency have subpoena powers to compel the appearance of a witness; 2) Does the agency have subpoena powers to compel the release of records in administrative investigations and; 3) Which individuals have the authority to issue a subpoena?

The question pertaining to Subpoena powers to compel the appearance of a witness was divided 50/50 among the 24 agencies. Half the agencies reported yes and half reported no to this question. The results were similar with the second question in this series, “Subpoena powers to compel the release of records,” with 48% noting yes, and 52% checking no. Three agencies did not respond to the question. Regarding who possesses the authority to issue a subpoena, the majority did not agree that the individuals listed had the authority to do so. Of the agencies that responded yes, 24% agreed that the Chief Executive or a designee had the authority, 14% agreed that the Internal Affairs Commander had the authority, 19% said that Legal Counsel possessed the authority to issue a subpoena. Others that were named included: Commissioner, Staff Investigator, and Chair of the Adjudication Board.

IAB BENCHMARK SURVEY INSTRUMENT

New York State Police Internal Affairs Survey

For office use only

ID#

The New York State Police is conducting a survey to identify best practices in internal investigation and discipline cases by various police agencies.

The questionnaire is divided into different sections. Each section focuses on a particular area of the Complaint Process.

Please complete survey and fax it to Deputy Superintendent Joseph F. Loszynski by April 21, 2006, at 518-457-4809

Thank you.

Demographic Information / Contact Information:

Please identify the individual who completed the survey:

Agency:	Section:
Contact Name / Rank:	Phone #:
E-mail Address:	

Section 1: Personnel Complaint Policy

1-1 Does your agency document every complaint against personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-2 Does your agency investigate every complaint against personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-3 Does your agency document allegations of rudeness and unprofessional conduct during citizen encounters?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-4 Does your agency investigate allegations of rudeness and unprofessional conduct during citizen encounters?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-5 Does your agency assign a case number to each complaint received against personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-6 Does your agency accept anonymous complaints against personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-7 Does your agency accept third-party complaints against personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-8 Does your agency have time limits for the acceptance of complaints against personnel? If yes, what are they?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-9 Does your agency require complainants to sign a sworn statement regarding their allegations before investigating complaints against personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1-10 When determining the credibility of the complainant and witnesses, do you consider the following?		
a. The criminal history of the civilian complainant or witness.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
b. The complaint history and discipline record of the accused personnel.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
c. Preference for credibility of personnel over the civilian complainant or witness.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

New York State Police Internal Affairs Survey

Section 2: Personnel Complaint Intake Procedures

2-1 Does your agency publicize its complaint procedures using any of following media? Check all that apply.

- TV / Radio Website Newspaper Pamphlets/Brochure None
 Posters Billboards Presentations Other - explain:

2-2 Which of the following methods does your agency use to accept civilian complaints against personnel? Check all that apply.

- In person Telephone Fax TDD E-mail Mail Other - explain:

2-3 Does your agency have a 24-hour toll free hotline to accept complaints against personnel? Yes No

2-4 Does your agency utilize complaint forms on which a citizen can register a complaint? Yes No

2-5 Does your agency mandate notification to Internal Affairs upon the following?

- a. Upon initiation of a criminal investigation against personnel that is generated **internally**. Yes No
- b. Upon initiation of a criminal investigation against personnel that is generated **externally**. Yes No
- c. Upon initiation of a civil lawsuits against personnel for actions pertaining to employment. Yes No

Section 3: Regulations Relating to Personnel Complaints and Misconduct

3-1 Are personnel prohibited from requiring complainants to limit or waive their ability to file a lawsuit prior to accepting a complaint against personnel? Yes No

3-2 Does your agency initiate complaints against personnel for the following?

- a. Failure to inform a civilian how to file a complaint upon request. Yes No
- b. Dissuading or attempting to dissuade a civilian from filing a complaint. Yes No
- c. Refusal to accept a complaint. Yes No

3-3 Does your agency require all personnel to immediately notify the agency?

- a. When arrested or criminally charged in connection with **on-duty** conduct. Yes No
- b. When arrested or criminally charged in connection with **off-duty** conduct. Yes No

3-4 Does your agency have a regulation that prohibits personnel from retaliating against **civilians** who report misconduct? Yes No

3-5 Does your agency have a regulation that prohibits personnel from retaliating against **other personnel** who report misconduct? Yes No

3-6 Does your agency require that an additional complaint be initiated upon the discovery of unrelated misconduct during an internal investigation? Yes No

New York State Police Internal Affairs Survey

Section 4: Classification of Complaints Against Personnel

4-1 Do complaints against personnel, that are criminal in nature, receive an administrative case number? Yes No

4-2 If your agency received a criminal complaint against one of your personnel:

a. Do you take the investigative lead on the matter? Yes No

b. Do you refer the case to another agency having police jurisdiction? Yes No

If you refer to another agency, please explain why:

4-3 Which part of the agency is responsible for investigating the following misconduct allegations?

Allegation	Internal Affairs	Supervisor in COC *	Other **
a. Excessive force	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Improper threat of force	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. False arrest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Filing of false charges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Unlawful search or seizure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Invidious discrimination (race, ethnicity, gender, religion, national origin, sexual orientation or disability)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Intentional failure to complete required forms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Rudeness, discourtesy or unprofessional conduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Racial or ethnic slurs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Domestic violence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Use, abuse or improper behavior relating to narcotics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Sexual misconduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Sexual harassment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n. Theft	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o. Civil rights violations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p. Dishonesty	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
q. False information provided for administrative investigation or official report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
r. Any act of retaliation or retribution against a civilian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
s. Any act of retaliation or retribution against other personnel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* [COC = Chain of Command]

** If other is chosen, please explain:

New York State Police Internal Affairs Survey

Section 5: Personnel Complaint Adjudication

5-1 What system of adjudication is used by your agency? Check all that apply.

Adjudicator / Adjudicating Body	Determination of Findings	Imposition of Discipline
a. Executive Staff / Chief Executive	<input type="checkbox"/>	<input type="checkbox"/>
b. Accused personnel's Commanding Officer	<input type="checkbox"/>	<input type="checkbox"/>
c. Discipline Officer	<input type="checkbox"/>	<input type="checkbox"/>
d. Hearing Board / Discipline Panel (Internal)	<input type="checkbox"/>	<input type="checkbox"/>
e. Civilian Review Board	<input type="checkbox"/>	<input type="checkbox"/>
f. Internal Affairs	<input type="checkbox"/>	<input type="checkbox"/>
g. Negotiation or stipulated agreement between union and management	<input type="checkbox"/>	<input type="checkbox"/>

5-2 What final classification categories of adjudication are used within your agency? Check all that apply.

- Unfounded
 Unsubstantiated/Not Sustained
 Ineffective policy or training
 Exonerated
 Founded / Substantiated / Sustained
 No finding
 Other - explain:

5-3 What system is available to appeal imposed discipline?

- a. Imposition of discipline is final & not subject to appeal in any forum Yes No
 b. Appeal to internal discipline review board or discipline officer Yes No
 c. Appeal to external arbiter Yes No
 d. Appeal to external state commission Yes No
 e. Other - explain: Yes No

5-4 What is the minimum complaint adjudication category that would justify the inclusion of the complaint in the personnel file of the accused? **Only check one.**

- Unfounded
 Unsubstantiated/Not Sustained
 Ineffective policy or training
 Exonerated
 Founded / Substantiated / Sustained
 No Finding
 Other - explain:

5-5 Which of the following types of discipline are used by your agency? Check all that apply.

- Letter of reprimand / censure
 Loss of overtime
 Probation
 Involuntary transfer
 Loss of vacation days
 Demotion
 Suspension with pay
 Suspension without pay
 Termination
 Loss of vehicle for take home/off-duty use
 Other - explain:

New York State Police Internal Affairs Survey

Section 6: Patterns of Conduct Review Using Early Warning / Management Awareness System Defined System(s)

6-1 Does your agency utilize any type of Early Warning / Management Awareness System to alert, track and monitor patterns of conduct of individual personnel? Yes No

If yes, does this system include "red flags" that cannot be ignored? Yes No

If yes, please explain what the "red flags" are:

6-2 What information is used as input to the Early Warning / Management Awareness System? Check all that apply.

- | | | |
|---|--|---|
| <input type="checkbox"/> Citizen complaint | <input type="checkbox"/> Misconduct investigations | <input type="checkbox"/> Search & seizures |
| <input type="checkbox"/> Citizen satisfaction surveys | <input type="checkbox"/> Audits of reports & statistics | <input type="checkbox"/> Discipline |
| <input type="checkbox"/> Use of force activity | <input type="checkbox"/> Review of mobile video recorder tapes | <input type="checkbox"/> Injury to prisoner |
| <input type="checkbox"/> Agency vehicle collisions | <input type="checkbox"/> Domestic incidents | <input type="checkbox"/> Leave usage |
| <input type="checkbox"/> Traffic stops (considering race, ethnicity and gender) | | |
| <input type="checkbox"/> Other - explain: | | |

6-3 Does your agency conduct integrity testing of personnel? Yes No If yes, please check all that apply.

Conduct	Type of testing		
	Random	Targeted	Both
Unlawful stops	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unlawful search and seizure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Excessive force	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Narcotics / drugs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
U.S. currency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Found Property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Discouraging others from filing a complaint of police misconduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failing to file a complaint of police misconduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other - explain:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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6-4 Does your agency conduct drug testing? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please check all that apply.						
Selection method	Yes or No		If yes, type of testing			
	Yes	No	Urine	Hair	Both	Other *
Random all personnel	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Random all probationary personnel	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Targeted all personnel	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Targeted all probationary personnel	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Targeted all personnel assigned to narcotics	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Targeted all personnel assigned to specialized units	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Upon suspicion of illegal use	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Only at the request of the employee	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other selection method - explain:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* Other type of testing - explain:

Section 7: Internal Affairs Organizational Structure

7-1 Does your agency exclude personnel with a history of any of the following from assignment to Internal Affairs? Check all that apply.

Serious misconduct Excessive force False arrest
 Discrimination Sexual misconduct Dishonesty
 Other - explain:

7-2 What is the "typical rank" of your Internal Affairs case agent? **Only check one.**

Police Officer / Deputy / Trooper Captain
 Detective / Investigator Major
 Lieutenant Other - explain:

7-3 What rank is your Internal Affairs Commander?

7-4 To whom does your Internal Affairs Commander report?

New York State Police Internal Affairs Survey

7-9 Within your agency's organizational structure, where does Internal Affairs appear? **Only check one.**

- | | |
|--|---|
| <input type="checkbox"/> Office of the Chief Executive | <input type="checkbox"/> Labor Relations |
| <input type="checkbox"/> Field Command | <input type="checkbox"/> Patrol Services |
| <input type="checkbox"/> Administrative Services | <input type="checkbox"/> Legal Affairs / Department Advocate / Counsel |
| <input type="checkbox"/> Human Resources/Personnel | <input type="checkbox"/> Professional Standards / Office of Professional Responsibility |
| <input type="checkbox"/> Other - explain: | |

7-5 Are there any local commanders (e.g.: precinct, district, area, troop, zone, station) higher in rank than the Internal Affairs commander? Yes No

7-6 Does your agency have subpoena powers to compel the appearance of a witness? Yes No

7-7 Does your agency have subpoena powers to compel the release of records in administrative investigations? Yes No

7-8 Do any of the following possess the authority to issue a subpoena? Check all that apply.

- | | |
|---|---|
| <input type="checkbox"/> Chief Executive / designee | <input type="checkbox"/> Internal Affairs commander |
| <input type="checkbox"/> Legal Counsel | <input type="checkbox"/> Other - explain: |