REPORT OF THE OFFICE OF THE ATTORNEY GENERAL ON THE INVESTIGATION CONDUCTED PURSUANT TO SECTION 4-61dd OF THE CONNECTICUT GENERAL STATUTES

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

Case Evaluations on Whistleblower Complaints

December 2006

Alcohol Abuse, DWI and Suicidal Behavior (AG)

CASE SUMMARY

In February 2005, Trooper A's[1] 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, William R. Podgorski, Trooper A's commanding officer, was advised by a CSP sergeant, Joseph G. Weber, that Trooper A had admitted himself to a hospital for depression after an altercation with his wife while he was intoxicated. Lieutenant Podgorski telephoned Trooper A's father, who reportedly advised that his son was suffering from depression and was suicidal. Lieutenant Podgorski notified the lieutenant colonel in the Office Of Field Operations,Vincent E. McSweeney, of the incident, then responded to the residence where he secured Trooper A's service weapon. Lieutenant Podgorski interviewed Trooper A's wife, who stated that her husband had been drinking all day, was intoxicated

[1] The information relating to Trooper A may disclose "medical records" and "medical files and similar files." Conn. Gen. Stat. § 1-210(b)(2). Participation by Trooper A in the State Employee Assistance Program requires Trooper A's consent to disclosure pursuant to Conn. Gen. Stat. § 31-128i. Conn. Gen. Stat. § 1-210(b)(13).

and suicidal. She denied that he had threatened her, but admitted that they had gotten into a fight. Lieutenant Podgorski 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 Podgorski, 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 Podgorski (who had been reassigned to a different position) was attending a meeting with executive staff at DPS Headquarters. The meeting was interrupted and Lieutenant Podgorski 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 Podgorksi 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, David Aflalo, Trooper A's new commanding officer, and Sergeant A, Joseph G. Weber, arrived on the scene. Lieutenant Aflalo later notified Lieutenant Colonel McSweeney 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 Aflalo assigned Sergeant A to respond to the hospital to check on Trooper A.

The Internal Affairs Unit was notified and Sergeant B[2] 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, Captain Michael P. Guillot, directed him to delete or change all

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[2] Sergeant B is a whistleblower whose identity may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

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, Captain Guillot 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. Captain Guillot 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[3] 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

[3] Trooper B is a whistleblower whose identity may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

commit suicide, called an off-duty master sergeant[4] who responded to Trooper B's residence after notifying the troop commander, Lieutenant C, Thomas J. Begert. There was no immediate emergency response by any police agency to Trooper A's location in response to his suicide threat.

Lieutenant Begert went to Trooper A's parents' house and interviewed Trooper A. He was accompanied by Sergeant C,[5] who is a personal friend of Trooper A. Lieutenant Begert 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 Begert 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 Begert 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 Begert 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, Lieutenant Begert, made notification to the district commander,

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[4] The master sergeant is a whistleblower whose identity may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

[5] Sergeant C is currently the subject of an Internal Affairs investigation. Releasing his name at this time may compromise that investigation. Conn. Gen. Stat § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

Major Robert A. Duffy, that Trooper A was not a danger to himself. Lieutenant Begert 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, Michael O'Toole, 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 Begert 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, Lieutenant Begert, 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,[6] 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

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[6] Trooper C is currently the subject of an Internal Affairs investigation. Releasing his identity at this time may compromise that investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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.

Commissioner Boyle 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 Lieutenant Colonel McSweeney 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 Thomas J. Begert, 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 William R. Podgorski, 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.

Inadequate Discipline for Falsifying Overtime Records (AG)

CASE SUMMARY

In December 2003, two troopers[7] assigned to the Central Traffic Services Unit alleged that their sergeant, Jae J. Fontanella, submitted false documentation regarding his overtime. Following an Internal Affairs investigation, Sergeant Fontanella 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 Sergeant Fontanella 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

[7] These troopers are whistleblowers and their identities may not be disclosed pursuant to Conn. Gen. Stat. § 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

witness for the prosecution. The investigator from the Internal Affairs Unit, Lieutenant Brian C. McLean, 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 Sergeant Fontanella'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, Vincent E. McSweeney, 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 Sergeant Fontanella 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[8] 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

[8] Trooper A is a whistleblower whose identity may not be disclosed pursuant to Conn. Gen. Stat. § 4-61dd. Conn. Gen. Stat. § 1-210(b)(13). The findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Trooper A's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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, Robert K. Eddy, 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, Captain Thomas Snyder, but was never specifically instructed to investigate it.

Sergeant Eddy 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 Captain Snyder had directed him to contact Labor Relations, where another sergeant, Alaric Fox, advised him to consult with the Office of the State's Attorney regarding criminal action. Sergeant Eddy could not recall if he made this contact and it is not mentioned in his report. The Professional Standards Captain, Snyder, 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.

Captain Snyder was questioned regarding a number of inconsistencies in the internal affairs report. A significant discrepancy was Sergeant Eddy'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, Jose E. Claudio Jr. 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. Internal Affairs Sergeant Eddy 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." Captain Snyder 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."

Internal Affairs Sergeant Eddy 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, Internal Affairs Sergeant Eddy 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 a sergeant.[9] 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

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[9] This sergeant is the subject of an Internal Affairs investigation related to the case study titled Public Indecency at the Airport. Releasing his name at this time may compromise that investigation. Conn. Gen. Stat § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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)[10] 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

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[10] The findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of the names of the APO, the back-up Trooper and the Sergeant at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat § 1-210(b)(13).

copy of the arrest report. The captain, Robert A. Duffy, assigned the 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 Captain Duffy 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 Captain Duffy by memoranda in March 2003. Upon learning of the allegations, Captain Duffy removed the Sergeant and the APO from the case. He also called the executive officer at the district headquarters, Vincent E. McSweeney, and requested an internal affairs investigation of the sergeant and APO, but the request was denied. Captain Duffy 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, Captain Duffy, stood up to take appropriate action, his efforts were thwarted by the district executive officer, Vincent McSweeney. 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[11] 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, John Jackson, 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 Jackson stopped her. She stated that she told Trooper Jackson 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

[11] Some of the allegations against Trooper A are uncorroborated complaints of criminal conduct. Disclosure of Trooper A's identity may violate Conn. Gen. Stat. §1-216. Conn. Gen. Stat. § 1-210(b)(3). However, the findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Trooper A's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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, Peter N. Wack, took detailed notes of these allegations and reported them to his commanding officer, the captain in charge of Professional Standards, Michael P. Guillot, 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, Captain Guillot 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. Captain Guillot and the Internal Affairs Lieutenant Wack also ran several computer inquiries. According to an Internal Affairs sergeant, Michael Spellman, 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, Michael Spellman, 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, Internal Affairs Lieutenant Wack 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 Iternal Affairs investigators.

The investigation of the traffic stop involving Mrs. A included a review of the mobile video recording from Trooper Jackson's cruiser. It showed that upon Trooper Jackson'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 Jackson 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 Jackson 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 Internal Affairs Sergeant Spellman's request to provide his telephone records, which would assist in determining who called him. Trooper Jackson also admitted that he rarely stops vehicles in that location, which is outside of his troop and district area.

Trooper Jackson'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 Jackson was not charged with violating the *A&O Manual* (13.15.3) policies regarding MVR usage during traffic stops. A transcription of Trooper Jackson's statement was not included as an exhibit to the report.

Internal Affairs Lieutenant Wack and Sergeant Spellman conducted a completely inadequate interview of Trooper A regarding the allegation that he orchestrated the traffic stop by Trooper Jackson. Trooper A denied the charge and denied ever seeing his now ex-wife on the highway. He did admit calling Trooper Jackson via Nextel® during that night but stated it was unrelated to the stop. Sergeant Spellman 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.

Professional Standards Captain Guillot 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 marihuana use was the identity of two people who had allegedly witnessed Trooper A smoking marihuana, 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. Sergeant Spellman 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, Michael Spellman, 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 Professional Standards Captain Guillot, 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, Commissioner Boyle 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 State Police Colonel Edward J. Lynch and Lieutenant Colonel Vincent E. McSweeney 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, Commissioner Boyle'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 Lieutenant Wack in his notes. According to Captain Guillot, 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, Captain Guillot, 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[12] 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, Peter J. Kennedy, 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

[12] Detective A is a whistleblower and his identity may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

the nearby shelf. He questioned Detective Kennedy, who stated that the scope went to a member of the SWAT team. At the conclusion of that conversation, Detective A believed that Detective Kennedy would ensure the proper paperwork was completed. In October of the same year, the rifle was destroyed.

In November of 2003, the SLFU sergeant, Timothy Osika, 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, SLFU Sergeant Osika approached Detective Kennedy. At that time, Detective Kennedy told him that Lieutenant A,[13] 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 Kennedy stated that he didn't want to "rat" on the lieutenant. Sergeant Osika instructed him to ensure the scope was returned. The sergeant also made notification to Lieutenant B, James R. DeFelice, who was overseeing the unit in the absence of SLFU Lieutenant Sarah B. Kasacek.

Detective Kennedy stated that one week later he obtained a scope from Lieutenant A and gave it to SLFU Sergeant Osika. 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 SLFU Lieutenant Kasacek, who in turn notified her superior, the major in charge of the Bureau of Training and Support

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[13] The findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Lieutenant A's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

Services, Cheryl Malloy. In January of 2004, SLFU Lieutenant Kasacek made a decision, with the concurrence of Major Malloy and the lieutenant colonel in the Office of Administrative Services, Ralph J. Carpenter III, 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 SLFU Lieutenant Kasacek'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 Kennedy. The original draft of the POR is alleged to have indicated that "a different scope came back," but SLFU Sergeant Osika reportedly was directed by SLFU Lieutenant Kasacek 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 Kennedy, 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, State Police Colonel Lynch directed the captain in charge of Professional Standards, Captain Guillot, to look into the matter and determine if the removal of the rifle scope involved any criminal conduct. Captain Guillot conducted several cursory interviews and inappropriately concluded there was no indication of criminal conduct. Upon reporting back, Captain Guillot 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. Captain Guillot interviewed him by telephone rather

than conducting a personal interview. His interview of Major Malloy, who had since been promoted to lieutenant colonel, was also conducted by telephone and the report provided no supporting documentation regarding it. Captain Guillot 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 SLFU Lieutenant Kasacek, who had improperly ordered the destruction of the second scope and reportedly instructed Sergeant Osika to change language in the Performance Observation Report for Detective Kennedy.

Captain Guillot 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, Captain Guillot 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, Captain Guillot, 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[14] 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[15] of her suspicions and notifications were made up the chain of command to the State Police Colonel, Timothy Barry. Together with the major in charge of the Bureau

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[14] The allegations against Trooper A are uncorroborated complaints of criminal conduct. Disclosure of Trooper A's identity violate Conn. Gen. Stat. § 1-216. Conn. Gen. Stat. § 1-210(b)(3). Further, the findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Trooper A's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

[15] The Casino Unit sergeant is a whistleblower whose identity may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

of Criminal Investigations (BCI) Frank J. Griffin, Colonel Barry 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 marihuana 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 marihuana.

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[16]. 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.

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[16] The identities of the undercover officers are not public records because disclosure may compromise undercover operations and the safety of officers who participate in them. Conn. Gen. Stat. § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

In May of 2004, while the investigation was ongoing, BCI Major Griffin was replaced. The incoming BCI major, Cheryl Malloy, (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. Major Malloy immediately instructed the Casino Unit lieutenant, Stephen P. Castagliuolo, 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 Malloy, 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. Major Malloy met with Lieutenant Colonel Vincent E. McSweeney in the Office of Field Operations and his chief of staff, Captain Paul A. Samuels, and informed them of this perceived disregard of an order. Major Malloy 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[17] 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 of 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.

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[17] The identities of the undercover officers are not public records because disclosure may compromise undercover operations and the safety of officers who participate in them. Conn. Gen. Stat. § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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.

The Cancer Note (AG)

CASE SUMMARY

In September 2005, Sergeant A of Professional Standards,[18] 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

[18] Sergeant A is a whistleblower whose identity may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

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, Andrew R. Crumbie, who tore the note from the pad, but failed to retain the entire pad. Mr. Crumbie showed the note to Commissioner Boyle 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, Robert Corona, 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[19], 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

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[19] Sergeant B, Trooper A and Trooper B are currently the subjects of an Internal Affairs investigation. Releasing their names at this time may compromise that investigation. Conn. Gen. Stat § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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, Peter M. Naples, was jokingly referred to as a cancer because he had been called a cancer by a supervisor years earlier.

A lieutenant, Lieutenant A[20], admitted to using the word cancer in a separate case to describe chronic complainers who have bad attitudes that affect conscientious workers. Lieutenant A 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.”

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[20] Lieutenant A’s duties may involve undercover activities. The identities of undercover officers are not public records because disclosure may compromise undercover operations and the safety of officers who participate in them. Conn. Gen. Stat. § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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.

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,[21] 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[22] 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

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[21] Sergeant A was never arrested and the allegations against Sergeant A are uncorroborated complaints of criminal conduct. Disclosure of Sergeant A's identity may violate Conn. Gen. Stat. § 1-216. Conn. Gen. Stat. § 1-210(b)(3). Additionally, Sergeant A's privacy rights may be implicated. Conn. Gen. Stat. § 1-210(b)(2). Conn. Gen. Stat. § 1-210(b)(13).

[22] The Internal Affairs sergeant is a whistleblower whose name may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

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, Lieutenant Peter N. Wack, notified Sergeant A’s troop commander, Lieutenant Russell M. Stevens, of the allegation, rather than immediately initiating an investigation. Lieutenant Stevens made notifications up the chain of command until ultimately, Commissioner Boyle was advised. Lieutenant Stevens 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 hand-written 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, Lieutenant Stevens, 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, Vincent E. McSweeney, 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, Major Steven L. Fields, the executive assistant to Lieutenant Colonel McSweeney, Captain Paul A. Samuels, Lieutenant Stevens, and to Lieutenant Colonel McSweeney 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

Commissioner Boyle 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[23], 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,[24] 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[25] 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.

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[23] The findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Trooper A's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

[24] Trooper B is a whistleblower whose name may not be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

[25] The findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Trooper C's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

In May of 2003 Sergeant A[26] 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, Dale P. Hourigan, directed the Internal Affairs sergeant, Michael J. Spellman, 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

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[26] Sergeant A is the subject of an Internal Affairs investigation related to the case study titled Public Indecency at the Airport. Releasing his name at this time may compromise that investigation. Conn. Gen. Stat § 1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

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, Captain Danny R. Stebbins, 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, Captain Danny L. Stebbins, 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, Major Eric C. Smith, 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 Lieutenant Colonel Vincent E. McSweeney in the Office of Field Operations. Lieutenant Colonel McSweeney, without any

review, authorized the change in finding to "Not Sustained" based on issues raised by the troop commander, Captain Stebbins, 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[27] 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[28] 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.

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[27] The identity of Trooper A cannot be revealed because disclosure would reveal the identity of a child who made statements to DCF, in violation of Conn. Gen. Stat. §§ 17a-28 (b) and 17a-101k. In addition, the identity of Trooper A cannot be revealed because Trooper A's wife is a victim of an alleged sexual assault and her identity is protected under Conn. Gen. Stat. 1-210(b)(3). Finally, the findings of this report are being transmitted to the Chief State's Attorney pursuant to Conn. Gen. Stat. § 4-61dd. Disclosure of Trooper A's name at this time could compromise a possible criminal investigation. Conn. Gen. Stat. §1-210(b)(3). Conn. Gen. Stat. § 1-210(b)(13).

[28] Sergeant A is a whistleblower whose identity cannot be disclosed pursuant to Conn. Gen. Stat. 4-61dd. Conn. Gen. Stat. § 1-210(b)(13).

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 CSP Colonel Edward R. Lynch and Major Eric C. Smith stated that they had difficulty believing the allegations because they knew Trooper A to be a "good kid" and Lieutenant Colonel Vincent E. McSweeney and Major Smith made negative comments regarding the complainant's character. Major Smith 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, Captain Michael P. Guillot, have testified that Major Smith, 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 CSP 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, it was clear that CSP Internal Affairs personnel perceived problems with the local police department's investigation. Internal Affairs Lieutenant Peter N. Wack stated in his interview that the local police department had "dealt with" the complainant before and was not eager to get involved in the case. Lieutenant Wack reported that Sergeant A felt that the local police department was not giving the case the attention it deserved, and Wack conveyed this to Captain Guillot. In his interview Captain Guillot provided the following recollection: "I think the Chief [of the local police department] called the Colonel, he wanted to discuss it with him and because he felt that she [Mrs. A] had lied in the past to them, she, he didn't think

there was necessarily a case to investigate so he had called the Colonel…" A meeting with the local police chief and CSP personnel followed, Nevertheless, despite the concerns of CSP Internal Affairs personnel, Colonel Lynch decided to disregard their advice 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. Sergeant A quoted the local police department's sergeant as saying "We did what we had to do to make things end amicably for one of our own." While Colonel Lynch denied knowledge of this statement, he was aware that Trooper A had been a municipal police officer in a jurisdiction that adjoins that town.[29]

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[29] Subsequent to the release of this report the local police department involved in this matter expressed concern that the report could be interpreted as concluding that the local department had not properly investigated the matter. This revised paragraph makes clear that although CSP Internal Affairs personnel had concerns about the local police department's handling of the case, it was not within the scope of the Joint Evaluation Team's mission to evaluate the local police department's performance, and the report evaluated only the CSP's handling of the matter. The Team's investigation concerned itself with how the CSP perceived the local police department's handling of the case, and how CSP command staff acted on the basis of these perceptions, not with the local police department's actual performance. Therefore, the Team did not interview the sergeant from the local police department before issuing the report. He has since denied making the statement attributed to him by CSP Internal Affairs personnel. Similarly, the local police chief has denied making the statements attributed to him by Captain Guillot.

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 Captain Guillot's 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.[30]

Independent investigative steps taken by the Internal Affairs sergeant, Sergeant A, 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.

Internal Affairs Unit Sergeant Michael J. Spellman 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,

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[30] As noted above in footnote 29, this report does not evaluate the performance of any local law enforcement agency. The assistant state's attorney expressed no opinion as to whether viewing these documents would have changed his decision to support the local police department's position that an arrest warrant should not be sought. The local police department has noted that it provided the prosecutor with a lengthy report on the case.

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 by some CSP Internal Affairs investigators. A different Internal Affairs sergeant, Lawrence A. Terra, 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, Internal Affairs Sergeant Terra, 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.

Sergeant Terra'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, Lieutenant Regina Y. Rush-Kittle, 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 Lieutenant Rush-Kittle 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,[31] to speak with him and "make sure that he was all right." Lieutenant Rush-Kittle 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, Major Smith, and ill-advised comments made by Colonel Lynch and Lieutenant Colonel McSweeney in the presence of both Internal Affairs Unit members and outside agency personnel conducting the investigations. In addition, there is evidence of inadequate investigations

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[31] The name of this State Police sergeant cannot be disclosed because it will disclose the name of Trooper A, his wife and child--names that cannot be disclosed under above cited statutes. Conn. Gen. Stat. § 1-210(b)(13).

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.