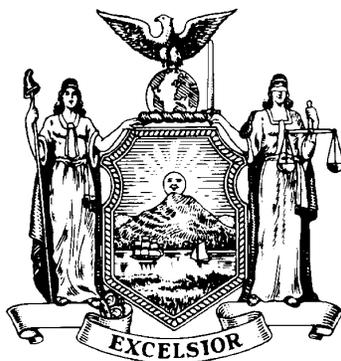


State of New York
Offices of the Inspector General



Investigation of the
New York State Division of State Police
Drug Enforcement Task Force

August 2020

Letizia Tagliaferro
Inspector General

EXECUTIVE SUMMARY

This report presents the findings of an investigation by the Office of the New York State Inspector General into the New York State Police's (State Police) investigation of a specialized task force, the New York Drug Enforcement Task Force (DETF), along with findings and recommendations to both substantially strengthen oversight of the DETF and enhance State Police internal controls to ensure proper accountability and corrective action of officer misconduct. The DETF, a collaborative effort between the United States Drug Enforcement Agency (DEA), New York City Police Department (NYPD), and the State Police, is charged with combating illicit drug trafficking. The Inspector General's probe also included a review of the State Police's investigation of a vehicular accident involving a then State Police senior investigator assigned to the DETF, which prompted the State Police's broader investigation of the DETF.

On February 18, 2018, then DETF Senior Investigator Francis Stabile III was involved in a late evening, single-vehicle accident while he was off duty and driving a DETF-assigned vehicle. Stabile did not report this accident to his supervisor until the following morning, at which point the State Police commenced an internal investigation. As part of its internal investigation, the State Police reviewed Stabile's work assignments, location of activities, and use of the DETF-assigned vehicle while off duty. The State Police found numerous inconsistencies including in claimed overtime, prompting the State Police to expand its inquiry and review the time and attendance records of 36 of the 39 State Police members assigned to the DETF.¹

The Inspector General found multiple deficiencies in the State Police's investigation of Stabile's misuse of a DETF-assigned vehicle. On February 18, 2018, Stabile drove his DETF-assigned vehicle into a ditch off State Route 9G in Dutchess County. Significantly, both Stabile and two troopers who responded to the accident scene failed to immediately report the accident to a supervisor, as required by State Police policy. This failure hampered the State Police's ability to thoroughly investigate the accident. Additionally, despite conflicting statements by

¹ The time and attendance of three DETF members, including its captain and two lieutenants, was not reviewed as these members did not generally accrue overtime.

Stabile, the State Police neglected to take a number of investigative steps to verify his whereabouts prior to the accident.

As a result of this incident, then State Police Superintendent George Beach II directed a broader review of the time and attendance of State Police DETF members. While Stabile was temporarily suspended from duty and reassigned from the DETF as a result of the accident, then State Police First Deputy Superintendent Christopher Fiore held discipline of Stabile in abeyance until the broader review was completed. The Inspector General found that the delay in discipline of Stabile was unnecessary and enabled him to retire in January 2019 prior to any disciplinary charges being filed against him or any formal disciplinary penalty being imposed.

The Inspector General further found that due to a compounding series of administrative errors, the State Police issued Stabile a “retirement in good standing” identification card in January 2019. Such cards are provided pursuant to New York State Executive Law and require review and approval by both the deputy superintendent who heads the State Police’s Professional Standards Bureau (PSB) and the State Police superintendent to ensure the retiring member has no negative information in his or her State Police employment record. On January 10, 2019, by checking a box on a form, the deputy superintendent in charge of PSB certified that there was “no derogatory information” regarding Stabile’s tenure. Likewise, the following day, then Superintendent Beach approved issuance of the card, and on January 24, acting Superintendent Keith Corlett also approved issuance of the card. Subsequently, the State Police claimed administrative error and rescinded and retrieved Stabile’s card.

In investigating the vehicular accident, the State Police uncovered evidence that Stabile falsely claimed overtime and received pay to which he was not entitled and that his subordinates may have done the same. As a result, the State Police conducted a review of the time and attendance of 36 investigators and senior investigators assigned to the DETF. PSB’s internal investigation resulted in recommendations that 13 members’ investigations be closed as founded with appropriate administrative action.² The review also found evidence that Stabile had directed a subordinate investigator on many occasions to falsify his time and attendance, which the investigator did.

² These 13 members included Robert Anderson, Miguel Cepeda, Michael Dewitt, Edwin Diaz, Roger Fortune, John Kakavas, Moises Nales, James Nohavicka, David Parker, Orlando Rodriguez, Leslie Simpson, Francis Stabile III, and Michael Vasquez.

Notably, the State Police's review of the DETF was significantly hampered by the DEA's refusal to provide necessary records to the State Police regarding the activities of State Police DETF members. Also, by terming its review an "audit" rather than an "investigation," the State Police approached its review as purely administrative rather than as a comprehensive investigation. Consequently, necessary investigative steps were not taken.

As a result of the review of DETF members, discipline was recommended against the 13 aforementioned members cited for misconduct. However, four of these members, including Stabile, retired prior to discipline being imposed.³ After review, Fiore decided to take no disciplinary action against one member who failed to document five hours of sick leave.⁴ Fiore served the remaining eight members with disciplinary "offers" in May 2019.⁵ Within days, all accepted these offers with the respective penalties imposed, which included suspension for three-to-five days and/or the loss of two-to-four days of accrued annual leave.

Soon after serving discipline, four of the disciplined DETF members retired from the State Police and received "retirement in good standing" State Police identification cards.⁶ The State Police did not seek restitution from any DETF member for the value of their wrongfully claimed hours, including those members who evaded discipline by retiring during the review.

The review identified deficiencies in the operations of the DETF. Specifically, the review found evidence that some members improperly used DETF-assigned vehicles while off-duty, claimed and were compensated for overtime on dates and times where records reflected they were not working, and conducted surveillance contrary to State Police rules, among other findings.

During and after its audit, the State Police made significant staffing changes to the DETF and implemented enhanced protocols. In July 2018, a new State Police captain was assigned to lead the DETF. The State Police also implemented measures to correct deficiencies, including (1) new requirements for DETF members to document their daily activities, (2) greater communication among State Police DETF members, (3) consolidated time and attendance

³ The other three DETF members that retired during the State Police's investigation were Roger Fortune, James Nohavicka, and Orlando Rodriguez.

⁴ This member is Edwin Diaz.

⁵ The eight included Robert Anderson, Miguel Cepeda, Michael Dewitt, John Kakavas, Moises Nales, David Parker, Leslie Simpson, and Michael Vasquez

⁶ DETF members John Kakavas, David Parker, Michael Dewitt, and Michael Vazquez retired "in good standing" after serving the terms of their discipline.

scheduling for efficient review, (4) increased access by certain DETF members to the DEA's reporting system for greater supervision of subordinates, (5) increased overtime approval requirements, and (6) increased restrictions on shifts starting or ending outside of New York City.

The Inspector General commenced its review of the State Police's investigations of DETF members' time and attendance, Stabile's vehicular accident, the related discipline, and the corrective actions implemented. The Inspector General's investigation found inherent problems with the supervision and oversight of the DETF given its shared supervisory structure. Specifically, within the DETF, State Police members are operationally supervised by NYPD and DEA members and only administratively supervised by the State Police. The autonomous nature of its operations means that much trust is placed in the integrity of its members, but ample opportunities exist to exploit that trust. The Inspector General's investigation also found that DETF's multi-agency reporting requirements create the potential for abuse and conflicts. Additionally, the Inspector General found that State Police members were not familiar with DEA policies although they were expected to abide by them.

Despite the DETF agreement's requirement that the DEA, State Police and NYPD together review all integrity-related issues, no such review occurred with respect to the investigation of Stabile and other DETF members. In fact, the Inspector General found that the DEA repeatedly refused to provide documents to the State Police, leaving the State Police unable to verify members' explanations of their DETF investigative activities. In some instances, this forced the State Police to accept members' responses at face value during interrogations.

The Inspector General found failures in the State Police's system for evaluating candidates for the DETF and the timeliness of running federal background checks, deputization, and training of new DETF members. As such, the Inspector General recommends that the State Police increase screening/vetting of DETF candidates, including a panel interview and expanded criteria beyond mere seniority.

The Inspector General's investigation revealed several issues concerning the use of assigned vehicles by DETF members. To remedy these issues, the Inspector General recommends that the State Police:

- Prohibit DETF members who reside more than 50 miles from New York City from commuting to and from their homes in assigned vehicles

- Require that a higher-ranking member report to the scene of any vehicular accident involving a member utilizing a government-assigned vehicle
- Provide annual training to members on the proper response to motor vehicle accidents involving members
- Require that members who respond to a motor vehicle accident in which a member is involved make immediate notification to their supervisor(s)

While PSB did conduct an extensive review of all DETF members despite the DEA's refusal to provide relevant records, the Inspector General found that the State Police's "audit" should have been conducted as a more comprehensive investigation with additional steps taken, including obtaining relevant records and reviewing members' personnel files and disciplinary histories. The State Police's decision not to review the members' calendars and notes may have hindered their review.

In addition, the State Police's failure to share its findings regarding certain DETF members with supervisory staff represented a missed opportunity to train supervisors and mitigate similar problems from occurring again in the future.

The Inspector General further recommends that the State Police appoint an integrity control officer for the DETF to monitor metrics such as overtime and vehicle usage. In addition, the State Police should ensure compliance with new DETF protocols and share audit results with supervisory members.

The Inspector General found that discipline imposed on DETF members was extremely lenient and lacked transparency. The range of discipline imposed—from a two-day deduction in annual leave to a five-day suspension without pay—merely mirrored the number of working hours each member was found to have wrongfully claimed. The State Police did not seek reimbursement from any member including those who retired during the course of the review.⁷ All members who retired after serving their terms of discipline received a "retirement in good standing" State Police identification card. The Inspector General's investigation found that the State Police lacks guidelines to ensure consistency and transparency in the assignment of discipline.

⁷ The State Police advised it will refer the matter to the Office of the New York State Comptroller to seek reimbursement through members' pension benefits.

To correct these failings, the Inspector General recommends that the State Police create a disciplinary checklist to ensure that certain considerations are consistently factored into disciplinary decisions and that all steps are documented. The State Police should involve its Counsel's Office at an earlier stage in the disciplinary process to confirm that an offer of discipline is in accordance with past precedent. The State Police should seek restitution from its members for cases of time and attendance abuse.

At the Inspector General's recommendation, the State Police are participating in monthly meetings with the Inspector General to review and confer on referrals. In addition, the State Police Manual should reference Executive Law Article 4-A and its prompt reporting requirement to refer matters to the Inspector General, and all State Police members should be trained on this update. Lastly, the State Police should also immediately refer all Level 3 and 4 personnel complaints to the Inspector General for review.

On June 12, 2020, Governor Andrew M. Cuomo signed into law the "Say Their Name" Reform Agenda package, repealing New York Civil Rights Law section 50-a, which had long been utilized to conceal from the public the complaint and disciplinary histories of law enforcement. This reform package increases transparency into the disciplinary process by allowing oversight agencies to review potential misconduct and make recommendations for improvements, which benefit the organization and the public.

ALLEGATION

In June 2018, the Office of the New York State Inspector General received allegations that numerous State Police members assigned to the DETF were absent from their assigned shifts, concealing their locations by bypassing Thruway toll systems, and falsifying their time sheets. The Inspector General referred this information to the State Police for its review and appropriate action, at which time the State Police advised an internal "audit and investigation" of the matter was ongoing.

The State Police's review of the DETF grew out of a February 18, 2018 vehicular accident involving a then State Police senior investigator, Francis P. Stabile III, who was assigned to the DETF.⁸ This late hour (approximately 9:40 p.m.), single-vehicle accident occurred while Stabile was off duty and driving a DETF-assigned vehicle. Stabile did not report

⁸ Stabile passed away on May 20, 2020.

this vehicular accident to his supervisor until the following morning, at which point the State Police commenced an internal investigation. As part of its internal investigation, the State Police reviewed Stabile's work assignments, location of activities, and use of the DETF-assigned vehicle while off duty. The State Police found numerous inconsistencies in its investigation of Stabile's accident, prompting it to expand the inquiry and review the time and attendance records of 36 State Police members assigned to the DETF.

In May 2019, the State Police informed the Inspector General it had concluded its investigation of Stabile's vehicular accident as well as its review of overtime and vehicle use by the State Police members assigned to the DETF. The State Police advised that as a result of its investigation, nine members were disciplined for misconduct. The State Police further reported that several members retired prior to being disciplined. The disciplinary findings involved a range of departmental violations such as wrongfully claiming to be on duty while commuting and using DETF-assigned vehicles while off duty. According to the State Police, supervision and accountability measures were enhanced within the DETF as a result of its investigations.

The State Police advised that it was referring its findings to the Inspector General for review and any further action deemed appropriate.

In May 2019, the Inspector General, pursuant to its authority under New York State Executive Law Article 4-A, initiated a review of the State Police's investigations of Stabile's vehicular accident, DETF members' time and attendance, the related discipline, and the corrective actions implemented by the State Police to the DETF.⁹

METHODOLOGY

The Inspector General's investigation included interviews with 20 State Police members involved in its internal audit and investigations including: DETF senior investigators, lieutenants, and a captain; members of PSB; and members involved in the administrative disciplinary process.

⁹ New York State Executive Law Article 4-A authorizes the Inspector General to "receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any covered agency." This authority includes the ability to review and examine covered agencies' related policies and procedures and recommend remedial action. Issuing public written reports concerning such matters is also authorized. Additionally, the Inspector General has authority to determine if the allegations warrant "disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency . . . and to assist in such investigations."

The investigation also included a review of the following materials: State Police Administrative Manual and Special Orders; Memorandum of Agreement between New York State and the New York State Police Investigators Association; all supporting materials, statements, and reports for Stabile's accident investigation and the DETF time and attendance investigation; overtime summaries; disciplinary records, including member personnel files; and memoranda and records related to the new protocols.

Notably, the Inspector General's investigation did not include a review of DETF records maintained by the DEA. Although these records were requested by the Inspector General, the DEA failed to produce any such records.

BACKGROUND

New York State Police

The State Police is responsible for ensuring the safety of state roadways, preventing and investigating crime, preparing for and responding to emergencies and disasters, and providing support to other law enforcement agencies. The superintendent oversees all members of the State Police with the first deputy superintendent as the second-in-command. For enforcement purposes, the State Police is divided into 11 troops across the State, including Troop NYC, which is responsible for certain areas within New York City. A troop commander oversees Troop NYC, which includes members assigned to the Uniform Patrol, Bureau of Criminal Investigation (BCI), and the DETF.

The State Police also includes PSB, which investigates certain complaints against State Police personnel. Complaints of misconduct by a member are assigned to the member's supervisor or commander or investigated by regional PSB offices. Investigative reports are produced with dispositions of "unfounded," "unsubstantiated," or "founded." When appropriate, the State Police may pursue disciplinary action.

New York Drug Enforcement Task Force Structure

The DEA is responsible for enforcing the controlled substances laws and regulations of the United States by investigating entities that illegally grow, manufacture, or distribute controlled substances. To carry out this mission, the DEA utilizes the New York DETF, which is a coordinated effort between the DEA, State Police, NYPD, and the Office of the New York City Special Narcotics Prosecutor. The DETF's mission is to combat drug-distribution networks

operating in New York, prevent violence associated with these organizations, and identify assets to be seized pursuant to State and federal laws.

A DETF agreement executed by the four entities establishes the parameters of the relationship, outlines disciplinary processes, specifies overtime reimbursement amounts, and establishes a vehicle leasing program. The DETF utilizes various investigative techniques, requiring its members to work flexible hours depending on operational needs.

The DETF is overseen by a DEA supervisory special agent. Commanding officers from the State Police and NYPD serve as second in command to assist the DEA supervisory special agent.

The State Police's 39 members of the DETF included one captain, two lieutenants, 12 senior investigators, and 24 investigators. These State Police members report to DEA, State Police, and/or NYPD supervisors. For operational needs, State Police members report to their division's NYPD lieutenant or DEA assistant special agent in charge. For administrative needs, including overtime approval and requests for time off, State Police members report to supervisory State Police lieutenants.

Assignment of State Police Members to the DETF

State Police members seeking assignment to the DETF must request a transfer to Troop NYC, from where the DETF operates. If approved by State Police executive staff, members can then request a transfer into the DETF. According to the State Police, members are assigned to the DETF based primarily on seniority. Traditionally, members assigned to the DETF have obtained the rank of investigator or higher. There are currently no prerequisites for applicants, such as an interview process, training requirements, or competitive reviews.

DETF Training

State Police members assigned to the DETF are required to undergo a federal background check, be deputized as federal agents, and attend a multi-day federal DETF officer training course. As detailed later in this report, the Inspector General found that both background checks and training of State Police members were not completed in a timely manner.

DETF Overtime and Flextime

Pursuant to the federal Fair Labor Standards Act, investigators and senior investigators assigned to the DETF are eligible for overtime payments, but lieutenants and captains are not unless exceptional circumstances exist.

Eligible members of the State Police earn overtime based on 28-day “work periods” rather than the traditional 40-hour workweek. The State Police collective bargaining agreement with the New York State Police Investigators Association requires members to work 168 hours during each 28-day work period.¹⁰ The first 160 hours worked are commonly referred to as “straight time.” The following eight hours worked are “flextime,” which is accounted for through the members’ annual salaries. Any hours worked beyond the 168 hours is considered overtime for which members receive compensation at a rate of time and a half.

Pursuant to the DETF agreement, the DEA reimburses the State Police for overtime payments up to an established amount, equated to \$22,624 per member in 2018. Overtime above this amount is paid by the State Police without reimbursement by the DEA.

Within the DETF, flextime and overtime are granted based on operational needs and require prior approval by an appropriate State Police supervisor. Prior to the commencement of this investigation, State Police DETF investigators’ flextime and up to three hours of consecutive overtime required the approval of a senior investigator. Any overtime requests beyond three consecutive hours required the approval of a lieutenant or higher-ranking officer. For senior investigators, all flextime and overtime requests required prior approval by a lieutenant or higher-ranking officer.

Accidents Involving DETF-Assigned Vehicles

DETF vehicles are assigned to each member of the DETF to perform official work-related duties, which includes commuting to and from work. The State Police station orders that were in effect at the time of this investigation made abundantly clear the actions required of State Police DETF members involved in vehicular accidents, stating:

¹⁰ The State Police collective bargaining agreement with the New York State Police Investigators Association covers senior investigators and investigators within the State Police’s Bureau of Criminal Investigation.

18. All automobile accidents and incidents involving OGV's and Leased Vehicles occurring in New York City shall be reported to the New York City Police Department for on-scene investigation. Accidents occurring outside New York City will be reported to the nearest appropriate police or sheriff's department. All Members are required to notify the Drug Enforcement Administration Duty Agent through the NY DEA Command Center of any accident or incident involving an OGV or Leased Vehicle. In every instance the member's first line NYSP Supervisor will be *immediately notified by the member and respond accordingly*. Notification of supervisory personnel of an accident or incident is the responsibility of the member involved.

These station orders are to be reviewed and signed by the State Police members indicating:

I have read and understand these station orders and will comply with them.

Multiple State Police witnesses testified to the Inspector General that DETF-assigned vehicles are to be utilized in accordance with State Police policies and procedures. Then First Deputy Superintendent Fiore testified, "It's not a Division vehicle, but the member assigned to it has to follow the same rules that they follow with a Division vehicle." Fiore opined that DETF members are aware that assigned vehicles are not to be utilized for personal purposes and a higher-ranking officer must be called to the scene of a vehicular accident involving such a vehicle. Furthermore, Fiore confirmed that the duty to notify a higher-ranking member of a State Police vehicle accident belongs to both the member involved in the accident as well as the responding trooper.

According to the State Police, in the event a member's vehicle is involved in a collision, notification must occur and a higher-ranking investigative member must promptly conduct an investigation. This investigation should include obtaining statements from those involved in the accident as well as witnesses. If the collision involves extensive property damage, the investigating member may request the Collision Reconstruction Unit respond to the scene through the zone commander.

State Police Professional Standards Bureau

PSB is responsible for tracking all personnel complaints, investigating certain personnel complaints, and conducting audits. PSB consists of four regional offices—Northern, Southern, Central, and Western—each supervised by a staff inspector. These staff inspectors report to the assistant deputy superintendent for audit and the assistant deputy superintendent for

investigations, both of whom report to the deputy superintendent of PSB. For purposes of disciplinary matters, the deputy superintendent of PSB reports to the State Police's first deputy superintendent.

All personnel complaints made against a State Police member are reported to and documented within PSB. Upon receiving the complaint, the appropriate regional staff inspector classifies the level of complaint and assigns the matter to the appropriate personnel for investigation. The classifications range from Level 1 (minor violations), to Level 4 (the most serious allegations of misconduct and crimes). Level 1, 2, and 3 complaints are investigated by the troop/detail commander designee while Level 4 complaints are investigated by PSB. The results of these investigations are communicated to PSB.

As part of an investigation by PSB, members may be interviewed. Under its collective bargaining agreement (CBA) with the New York State Police Investigators Association, State Police investigators and senior investigators are entitled to be accompanied by a union representative or attorney for any disciplinary investigations or hearings.¹¹ Under the CBA, members must be notified in writing once an investigation is complete.

Once an investigation is completed, the investigating member generates a written report that is forwarded to the appropriate supervisor for review. If the supervisor believes additional information should be reviewed, the report can be returned to the investigating member for further information and investigation. Personnel complaints are determined by the investigating member to be "founded" (the facts substantiate the specific allegation(s) made or other misconduct), "unsubstantiated" (insufficient facts exist to either prove or disprove the allegation(s) made), or "unfounded" (the facts substantiate the allegation(s) made are false).

Founded reports specify which rules and regulations a member violated but make no recommendation as to penalty. Additionally, PSB may conduct "incident reviews" when investigations are done without initial allegations of wrongdoing. Incident reviews may be "closed by investigation" and any violations uncovered may be addressed in an accompanying memorandum.

¹¹ The New York State Police Investigators Association represents the collective interests of State Police investigators and senior investigators while the Police Benevolent Association of the New York State Troopers represents the collective interests of State Police members holding the rank of major and below. The two associations enter into separate collective bargaining agreements with the State Police.

For “Troop-Level” discipline, founded investigation reports are reviewed by the troop commander who determines the disciplinary penalty to offer the member.

For “Division-Level” discipline, founded investigation reports are ultimately reviewed by the first deputy superintendent, who decides what, if any, discipline penalty to offer the member.¹² According to State Police rules and regulations, the first deputy superintendent may determine that:

- The matter requires no further action and will be closed;
- The matter should be returned to the troop/detail commander for appropriate action;
- A letter of censure be issued;
- The violations warrant punishment including probation for a period up to six months, loss of annual leave up to 10 days, suspension without pay for a period not to exceed 60 days, and/or intra- or inter-troop transfer; or
- The findings warrant the preparation of administrative charges, which will be served upon the accused member.

Upon written receipt of the penalty offered by the first deputy superintendent, the member must accept the penalty or request a formal hearing within 10 days.

The State Police Counsel’s Office drafts discipline penalty offers on behalf of the first deputy superintendent. If administrative charges are warranted, Counsel’s Office prepares the disciplinary charges and proceeds to an administrative hearing on behalf of the State Police. The administrative hearing occurs in front of a three-member disciplinary board comprised of State Police members. At the hearing’s conclusion, the hearing board submits findings and recommendations to the State Police superintendent who then determines the disciplinary penalty, which may include termination.

State Police “Retirement in Good Standing” Identification Cards

New York State Executive Law section 231, which was signed into law by Governor Andrew M. Cuomo in 2014, was drafted to create a system for identifying retired police officers authorized to carry a concealed firearm under the federal Law Enforcement Officers Safety Act. The statute requires the State Police superintendent to “distribute uniform identification cards to all sworn members of New York state police, upon such members’ retirement in good

¹² The specific disciplinary options at each level are delineated in 9 NYCRR Part 479.

standing.” The identification cards contain the member’s name, photograph, description as a retired sworn member of the State Police, State Police seal, and “any other information the superintendent deems appropriate.” The law defines “retirement in good standing” to mean that “the sworn member . . . retired from his or her employment for reasons other than the avoidance of disciplinary charges.” In 2015, the Governor signed a chapter amendment to Executive Law section 231 that streamlined the process for issuing the identification cards, thereby reducing the program’s impact on the State budget.¹³

THE STATE POLICE INVESTIGATION OF STABILE’S VEHICULAR ACCIDENT

On Sunday, February 18, 2018, at approximately 9:40 p.m., then State Police Senior Investigator Stabile, who was a DETF member, drove his DETF-assigned vehicle into a ditch on the side of State Route 9G in Dutchess County while sideswiping a telephone pole and crashing into a homeowner’s fence.



Stabile’s DETF-Assigned Vehicle Being Removed from Ditch on February 18, 2018

The accident occurred during a long holiday weekend and while Stabile was off duty between Friday, February 16, at 6:00 p.m. and Tuesday, February 20, at 10:00 a.m. On the evening of the crash, two civilians, including the homeowner and a passing motorist, called 911 to report a vehicle in a ditch on the side of the road but denied having witnessed the accident. As

¹³ New York State Archives. Legislative bill and veto jackets. Laws of 2015, Chapter 152.

a result, two State Police troopers in separate marked police vehicles, fire department personnel, emergency management services, and a tow company responded to the scene.

Neither Stabile nor the responding State Police troopers reported the accident to a State Police supervisor the night it occurred, as required by policy. Instead, Stabile called his direct supervisor, DETF Lieutenant Lucas Shuta, the following morning at approximately 11:00 a.m., after learning the estimate of damages to the DETF vehicle was \$10,736.83. In testimony to the Inspector General, Shuta described Stabile's failure to immediately report the accident to him as "absurd." Upon receiving Stabile's telephone call, Shuta forwarded the information through his chain of command to PSB, which classified the matter as a Level 3 personnel complaint. Shuta was directed to investigate the accident with assistance from a PSB member, Lieutenant Joseph Kolek. Although the practice of assigning a PSB member to assist in a Level 3 personnel complaint investigation is uncommon, former PSB Staff Inspector Michael Kopy, who supervised the investigation, testified to the Inspector General that he had done so because of the late hour of the accident and Stabile's failure to immediately report it. The Troop NYC commander, Robert Willis, also temporarily reassigned Stabile to work at the Troop NYC headquarters during the pendency of the internal investigation.

The investigation by Shuta and Kolek ultimately included interviewing the homeowner and motorist who had both called 911, responding emergency management technicians, responding troopers, the tow truck operator, fire department personnel, restaurant staff where Stabile had been prior to the accident, and Stabile.

In subsequent testimony to the Inspector General, Shuta advised that he directed Stabile—his immediate subordinate—to meet him at the accident scene the day after the collision, February 19, 2018, so Shuta could "see exactly where he was and what he was doing."¹⁴ According to Shuta, Stabile apologized, stating, "I messed up" and claimed he had not reported the accident the night before because he believed the damage to the vehicle was minimal—he thought it was only leaking antifreeze. He also claimed that he was driving to purchase gas for his DETF-assigned vehicle when he swerved to avoid hitting a deer.

¹⁴ Shuta's written report reflecting his review of the accident scene does not mention that Stabile was present during the review or indicate that he spoke to Stabile on February 19, 2019, after Stabile's telephone call reporting the accident.

Shuta further testified to the Inspector General that in addition to speaking with Stabile and observing the scene, he took photographs of the accident scene. According to his testimony, Shuta noticed beer cans among trash in the ditch but did not collect any as evidence nor document such fact in his written report, instead claiming the beer cans were not useful to the investigation. Shuta reasoned that even if Stabile admitted they were his, it would only show he possessed beer cans and not that he drank beer in the DETF-assigned vehicle on the night of the accident. Shuta also declined to call the Collision Reconstruction Unit, which, according to State Police policy, may be contacted when there is “extensive property damage.” He claimed, “It was a one-car property damage accident . . . There really would have been no further information gleaned from an accident reconstruction.” Shuta recalled that he had not observed tire skid marks on the road but noted that the road had been wet during his inspection.

That same day, Shuta visited the tow and repair company where the vehicle had been brought the night before. While there, he photographed the vehicle, interviewed the tow operator, assessed the damaged vehicle, and obtained an itemized estimate of the damages. However, he did not attempt to verify whether the vehicle was equipped with an event data recorder—an automotive “black box” installed on most new vehicles that records information related to accidents—or determine whether the vehicle’s navigation system had been in use at and around the time of the accident.¹⁵ Both systems may have provided additional information about the accident and the use of the vehicle prior to the accident.

The tow operator advised Shuta that Stabile was a personal acquaintance of his and telephoned him the night of the accident to request a tow. According to the tow operator, Stabile did not sound intoxicated on the telephone and he did not interact with Stabile once at the scene. The tow operator advised Shuta that he extracted the vehicle from the ditch and towed it to his repair shop. He also power washed the exterior of the vehicle. The following morning, prior to reporting the accident to Shuta, Stabile arrived at the tow company and received the itemized estimate of damages.

On February 20, 2018 and March 12, 2018, Shuta and Kolek interviewed the first responding trooper, Trooper 1. Trooper 1, then a member of the State Police for four years, testified to Shuta and Kolek that the roads were clear on the night of the accident, noting that it

¹⁵ Event data recorders may track speed, braking, acceleration, and steering, among other data, around the time of a vehicular collision.

was “dry, dark, no sleet, no snow.” Trooper 1, who explained that she was one of the first to arrive on the scene, stated that Stabile informed her on her arrival that he was a senior investigator assigned to the DETF and a 23-year veteran with the State Police.

According to Trooper 1, Stabile told her that he was on his way to meet two unidentified people when he swerved to avoid hitting a deer that ran in front of his vehicle. His vehicle then sideswiped a telephone pole, went down an embankment, crashed into a private fence, and became stuck in mud. After her brief discussion with Stabile, Stabile got into Trooper 1’s marked State Police vehicle. Trooper 1 recalled, “I talked to him and then he was in my car.” Other witnesses on the scene, including the homeowner and a responding fire department member, also described Stabile being seated in the police vehicle where they were unable to observe or communicate with him.

Trooper 1 further testified that Stabile initially wanted to drive the DETF-assigned vehicle to his home and not complete a vehicle accident form, believing the vehicle damage was minimal.¹⁶ However, after assessing the damage, at Trooper 1’s urging, Stabile acquiesced to have an accident report completed and the vehicle towed by an acquaintance, whom he called on his cellular telephone. Trooper 1 stated that she began to complete the vehicle accident report while sitting in the marked police vehicle with Stabile.

Also on February 20, 2018, Shuta and Kolek interviewed an emergency medical technician (EMT) who responded to the scene. According to the EMT, upon his arrival, he sought access to Stabile to assess whether he needed medical attention but was physically blocked from engaging with Stabile by the second responding trooper, Trooper 2. The EMT stated that Trooper 2 insisted that Stabile did not need medical treatment and directed that the EMTs were no longer needed at the scene. The EMT documented his interaction with Trooper 2 that night in the emergency management tracking system, writing:

We arrived on scene and the subject was with NYSP. The NYS Trooper reported that the subject was not injured and did not want to be seen by EMS. The Trooper would not allow me to confirm with the subject that he did not want EMS.

¹⁶ New York State Vehicle and Traffic Law section 600 creates a penalty for leaving the scene of an accident that causes property damage without reporting the damage or exchanging insurance information with the property owner. Such a violation constitutes a traffic infraction punishable by a fine of up to \$250 or a sentence of imprisonment for up to 15 days or both.

During a formal interview conducted by Shuta and Kolek on April 4, 2018, Trooper 2 denied physically blocking the EMT from Stabile at the scene. However, Shuta and Kolek did not confront Trooper 2 with the EMT's statement and written report which was inconsistent with Trooper 2's testimony.

Trooper 2 also testified that at the accident scene, Stabile instructed him stating, "You don't have to contact the sergeant, it's not a Division vehicle, it's a federally-leased vehicle. I'll contact my lieutenant in the morning and advise him." According to both responding troopers, they relied on Stabile's representations that he would contact his supervisor and therefore did not report the accident to their supervisors. Both responding troopers consistently testified they observed no signs of intoxication by Stabile despite the homeowner's assertion at that time to Trooper 2 that Stabile appeared to be intoxicated, beer cans were located near his DETF-assigned vehicle, the late hour of the incident, and Stabile's subsequent admissions to Shuta and Kolek that he had been drinking earlier in the day. There is no indication in the record whether Trooper 1 or Trooper 2 even asked Stabile if he had been drinking that night. Lastly, Trooper 2 testified that he drove Stabile home in a marked State Police vehicle, approximately a 20-minute drive.

Of note, although the police accident form completed on scene indicates police photographs were taken, the State Police have advised that none were in fact taken. The only known photographs taken the night of the incident were taken by the homeowner, who later turned over the photographs to the State Police upon its request on April 9, 2018. During their interviews with State Police, both responding troopers denied taking any photographs of the scene.

On February 21, 2018, three days after the accident, Shuta and Kolek questioned Stabile about his vehicular accident in the presence of a New York State Police Investigators Association representative and attorney. Captain James H. Murphy, the highest-ranking State Police member assigned to the DETF, was also present during this interrogation. During questioning, Stabile admitted that on the day of the accident he was not working, had used his DETF-assigned vehicle for personal use, had consumed two glasses of wine mid-day at one location where he stayed for approximately 1.5 hours, and had two beers in the late afternoon at another location where he stayed for approximately one hour. He also admitted driving a family member in the DETF-assigned vehicle during these social activities.

Stabile testified to the State Police that after drinking these alcoholic beverages at two restaurants in the Red Hook area, he drove the DETF-assigned vehicle over the Hudson River on the Kingston-Rhinecliff Bridge to Kingston, where he stayed for approximately four hours at a family member's residence and did not consume any alcoholic beverages. He testified that at approximately 8:20 or 8:30 p.m., he drove back across the Kingston-Rhinecliff Bridge toward his home. He further testified that he did not feel impaired while driving home that evening. Stabile also testified, as he had to Trooper 1, that just prior to the accident, a deer jumped in front of his vehicle, causing him to veer off the road into a ditch, where the vehicle became stuck in mud.

Initially, Stabile testified, he attempted to drive the vehicle out of the ditch, but he was unsuccessful. He advised that he did not call 911 or a supervisor the night of the accident because he believed the vehicle was only leaking antifreeze. According to Stabile, after the accident, Trooper 2 drove him home. It wasn't until the following morning, Stabile advised, that he realized the extent of the damage to the vehicle. Upon visiting the tow company, Stabile learned that he had sideswiped a telephone pole, damaging the passenger side of the vehicle as well as its mirror and bumper. The estimated damages totaled \$10,736.83. Approximately two hours later, Stabile reported the accident to Shuta via telephone.

The Inspector General found multiple inconsistencies in Stabile's statements and testimony about his reason for driving the night of the accident. Stabile advised Trooper 1 at the accident scene that he was on his way to meet two people, without naming them or providing any additional details. Stabile then told Shuta the day after his accident that he was driving in the area to get gas for his DETF-assigned vehicle. In a third version of events, Stabile, during his interrogation with the State Police two days later, claimed he was just going for a drive after spending a long weekend with family and friends. Despite Stabile's inconsistent versions of events, Shuta and Kolek did not confront him about this.

Five days after Stabile's interrogation, on February 26, 2018, Shuta and Kolek interviewed the homeowner who reported the accident to 911. In this recorded 911 telephone call, the homeowner advised, "I think it's a DWI. He had his reverse lights on trying to get out but he's not getting out." The homeowner explained during his interview with Shuta and Kolek that while at the accident scene, he overheard Stabile's initial conversation with Trooper 1. He recalled Stabile saying he was "on the job" and asking if a certain person was working that night, although the homeowner could not recall the specific name. The homeowner further reported

that at the accident scene, he suspected that Stabile was intoxicated because Stabile looked a little unsteady on his feet and was speaking slowly, he had hit the telephone pole and fence pole, and beer cans were on the ground near the vehicle even though the homeowner cleans his property often. The homeowner also stated that when he saw the road the next day there were no skid-marks, which, in his opinion, might indicate that the driver failed to brake.

Regarding Stabile's possible intoxication, Stabile testified to the State Police that he was not intoxicated at the time of the accident. Additionally, the two responding troopers testified that they observed no signs of intoxication and did not administer any sobriety tests. No other individuals on the scene that night directly interacted with Stabile.

Although during his February 21, 2018 interview Stabile provided the names of two locations where he claimed he had consumed alcoholic beverages on February 18, 2018, Shuta and Kolek did not visit those locations until more than three weeks later, on March 12, 2018. On this late date, the pair learned that one location's video security system retains video for only four days while the other location did not have security recordings. Both locations claimed to not have credit card receipts for Stabile. It is unclear whether any photographs of Stabile were shown to the establishment owners or their employees or if they inquired about Stabile's possible intoxication. Shuta and Kolek also did not interview the family member who Stabile claimed had accompanied him in his DETF-assigned vehicle to the two restaurants nor those family members he claimed he had visited. Additionally, Shuta and Kolek did not determine if, how, or when a toll was paid on Stabile's purported crossing of the Hudson River on the Kingston – Rhinecliff Bridge. The Inspector General's review of Stabile's State Police assigned E-ZPass records found no record of Stabile's DETF-assigned vehicle having crossed any bridges on the day of his vehicular accident.

Major Robert Willis, the former Troop NYC commander, testified to the Inspector General that on March 19, 2018, he submitted a copy of the accident investigation report to then deputy superintendent of PSB Colonel Scott Crosier, who is the highest-ranking member of PSB, so that Crosier could review it with then State Police Superintendent Beach. Two days later, Stabile was suspended without pay for 30 days. Subsequently, Stabile's suspension was continued with pay for 60 additional days pursuant to his union contract.

The final written report detailing the findings of this accident investigation is dated April 9, 2018. However, according to State Police records, this report was not forwarded to Matthew

Renneman, the assistant deputy superintendent of PSB, for his review and approval until June 4, 2018. The reason for this delay is unknown. On June 18, 2018, the report was forwarded through the chain of command to then First Deputy Superintendent Fiore for his review and approval and to institute discipline against Stabile.

Fiore testified to the Inspector General that prior to instituting discipline, he met with Stephen Smith, the deputy superintendent of field command, to discuss the findings of the accident investigation report.¹⁷ Smith testified to the Inspector General that upon reviewing the accident investigation report:

I wanted him out of the Bureau immediately and I wanted him in a place where he would not be supervising anyone, so we put him in records section. . . . He was using a State car off duty. We're not allowed to use our State cars off duty. He had his family members in a State car. We're not allowed to put family members in our State cars. He . . . compromised the two troopers that showed up to investigate that accident. . . . using his rank and his bravado and his seniority and . . . whatever . . . he conned those two young troopers into thinking that everything was being done right, when in fact it wasn't. He was doing it wrong.

On June 21, 2018, Smith documented his concerns in an internal memorandum to the State Police superintendent, stating:

The above investigation has established that Senior Investigator Stabile violated long standing rules and regulations of the New York State Police concerning off duty operation of an assigned vehicle, consumption of alcohol and operation of an assigned vehicle, allowing civilians to be transported in an assigned vehicle without an official purpose and failure to report damage to an assigned vehicle immediately to a supervisor. But most disturbing was the lack of veracity and poor example displayed by Senior Investigator Stabile to subordinate investigating members who responded to the scene of the accident that he was involved in.

* * *

The position of Senior Investigator within the New York State Police is a revered and respected position held by only the finest and most professional members of the Bureau of Criminal Investigation. It is evident that Senior Investigator Stabile fails to meet this standard and can no longer fulfill his duties as a supervisor in the Bureau of Criminal Investigation. I recommend that Senior Investigator Stabile be immediately removed from his supervisory position and placed in a non-critical position where he is under constant supervision.

¹⁷ The Bureau of Criminal Investigations, which is supervised by the deputy superintendent of field command, has oversight of DETF investigators and senior investigators.

On June 27, 2018, Stabile was reinstated to duty, removed from his appointed rank of senior investigator, returned to his permanent rank of sergeant in the Uniform Force and assigned to the records section at Division Headquarters.¹⁸ Fiore testified to the Inspector General that this was then Superintendent Beach's decision. Stabile's reduction in rank and reassignment were not deemed to be formal discipline and no disciplinary action was commenced against Stabile at this time. As a consequence, he continued to receive a salary and accrue time toward his pension until his retirement on January 18, 2019.

Although responsible for making a penalty "offer" to Stabile or referring the matter to Counsel's Office for disciplinary charges, in testimony to the Inspector General, Fiore attempted to justify his failure to take prompt disciplinary action. He testified that he did not believe the accident findings alone would have been sufficient to result in Stabile's termination following an administrative hearing. Fiore noted that by the time he reviewed the accident investigation report in June 2018, he was aware of another pending PSB investigation concerning Stabile's time and attendance records. Therefore, Fiore advised, he held the accident investigation report and any potential discipline of Stabile in abeyance for six months until he could review the findings of the broader ongoing time and attendance review, as discussed below.

Additionally, no personnel complaint or disciplinary action was brought against the responding troopers for their failure to report the accident to a higher-ranking member or any other potential violations. In testimony to the Inspector General, Fiore acknowledged that in this circumstance, "a supervisor should have been contacted" the night of the accident. However, Fiore stated that he also recognized that Stabile "told the troopers that this was not a Division vehicle, that it was a federally-leased vehicle, and the reporting requirements were different." Fiore justified the responding troopers' failure to notify a supervisor, stating that they "relied on the word of the senior investigator, which honestly doesn't surprise me because he is a much higher rank than they are."

THE PROFESSIONAL STANDARDS BUREAU'S REVIEW OF DETF MEMBERS' TIME AND ATTENDANCE

On March 9, 2018, Major Willis, the NYC Troop commander, was updated on the progress of the investigation into Stabile's accident. As Stabile had used his DETF-assigned

¹⁸ The titles of investigator and senior investigator are appointed positions which can be revoked by the superintendent without formal disciplinary proceedings. Such a reduction in rank also results in a reduction in salary.

vehicle while off duty, the investigation included a comparison of Stabile's time and attendance (reported in the State's Leave & Accrual Tracking System, or LATS) with purchase receipts and E-ZPass records for his DETF-assigned vehicle.¹⁹ The comparison revealed several anomalies in the times Stabile claimed to have conducted certain activities and the location of his assigned vehicle. Specifically, the comparison found evidence that Stabile sought and received overtime pay for periods when he was not physically in the areas where his casework and responsibilities were located, and he regularly used his DETF-assigned vehicle when he was off duty and not commuting to work. After reviewing the comparison, Willis requested that PSB formally initiate a separate investigation into Stabile's time and attendance and his off-duty use of his DETF-assigned vehicle on the day of the accident and the prior three-month period.

Additionally, stemming from his findings regarding Stabile, Willis informally reviewed the time and attendance records of at least five other DETF members. This review identified several areas of possible concern.

Two of Stabile's subordinates, Investigators Orlando Rodriguez and James Nohavicka, similarly received overtime pay for hours when Stabile's overtime was questionable.

John Richichi, an administrative senior investigator who was regularly scheduled to work the 6 a.m. to 2 p.m. shift, regularly incurred overtime after 2 p.m.

Lucas Shuta and Matthew Skarkas, two DETF lieutenants responsible for administrative supervision—which included the approval of overtime for subordinates—frequently worked the 6 a.m. to 2 p.m. shift, leaving no lieutenant on duty to verify or approve the majority of overtime of DETF investigators and senior investigators.²⁰

That same day, March 9, 2018, Willis advised then DETF Captain Murphy of his findings and directed Murphy to review Nohavicka's, Rodriguez's, and Richichi's E-ZPass records for any evidence that they too were claiming overtime when their DETF-assigned vehicles placed them elsewhere and whether they were using their assigned vehicles improperly

¹⁹ According to the State Police, the review was also prompted by a discrepancy in records reflecting Stabile's time and attendance on the day immediately following the accident. These records indicated that Stabile was present at work when he was actually at the tow company assessing the damage to the vehicle.

²⁰ Most State Police members of the DETF worked 10 a.m. to 6 p.m. shifts, while the State Police DETF lieutenants worked 6 a.m. to 2 p.m. shifts, and thus were not on duty when there would be the need to verify overtime.

while off duty. Additionally, Willis directed Murphy to no longer schedule Richichi to work the 6 a.m. to 2 p.m. shift and schedule at least one lieutenant to work the 1 to 9 p.m. shift.

On March 13, 2018, upon learning that Murphy had not implemented all the ordered changes, Willis reiterated his previous instructions. According to Willis, Murphy advised him that he thought that there would be no issues with the overtime claimed by Stabile's subordinates.

On March 15, 2018, Willis learned that records for Stabile's subordinates were ready for review. According to Willis, Murphy advised him that the deputy superintendent of PSB, Crosier, had denied access to Richichi's E-ZPass records because there was no pending personnel complaint against Richichi. However, the Inspector General notes that the State Police do not require that a formal complaint be filed with PSB in order for a troop commander to review a subordinate member's employment records.

In addition, Murphy reported to Willis that Rodriguez had submitted a memorandum to the State Police announcing his immediate retirement and was expected to return his State Police-issued equipment the next day.²¹ Rodriguez's pending retirement and Stabile's time and attendance anomalies were contemporaneously reported to PSB's leadership.

Around the same time, then State Police Superintendent Beach ordered PSB to expand the review of the time and attendance and use of DETF-assigned vehicles to all State Police members of the DETF for the period October 1 through December 31, 2017. To conduct what it termed a "Quality Control Audit," PSB assembled a team of captains, lieutenants, and senior investigators. PSB also identified a "clean team," which would not participate in the audit and would only conduct a criminal investigation if the audit developed evidence of criminality.

Matthew Renneman, PSB's deputy superintendent, characterized this review as an audit rather than an investigation. The basis for his assertion was that there were no allegations of wrongdoing. He insisted there were only "anomalies," which were insufficient to commence an investigation. Many other State Police members interviewed during the Inspector General's investigation also adopted the view that this review was an audit rather than investigation. However, the Inspector General notes that as a consequence of the audit, PSB prepared an

²¹ Murphy advised Willis that although Rodriguez initially planned to retire later that year, Rodriguez decided to retire earlier for reasons unrelated to the review of overtime.

“Overtime Report of Personnel Investigation” for each member and these reports refer to the matter as an investigation. Accordingly, the Inspector General views the audit as an investigation.

Michael Kopy, then staff inspector for PSB’s southern regional office, led the review and developed a methodology for identifying irregularities in the DETF members’ time and attendance. A detailed review of the voluminous records pertaining to the DETF’s State Police members was immediately commenced with respect to 36 members of the DETF, including all investigators and senior investigators.²² Like the review of records associated with Stabile, PSB compared the time and attendance records of other DETF members against fuel and toll records. For this review, PSB also reviewed license plate reader data. PSB again sought to determine if there were anomalies between members’ reported time and attendance, their scheduled activities, and the location of their vehicles. In this review, Kopy allowed for a “grace period” of one hour, both at the start and end of a member’s tour, to account for traffic to and from New York City. Accordingly, any anomalies found within this one-hour period were not considered.

On April 13, 2018, PSB completed its review, concluding that there were a “significant number of time and activity anomalies” for multiple members of the DETF. As a result, PSB was directed by then Superintendent Beach to expand its review to cover the period January 1 to March 31, 2018.

According to State Police members involved in the review, an investigation of possible ongoing time and activity abuse involving surveillance of then current DETF members was not practical given that DETF members had become aware of PSB’s review.

On April 16 and May 9, 2018, PSB, under Kopy’s direction, repeatedly sought records from the DEA in order to assess whether there were case-related explanations for the anomalies. Specifically, PSB sought DEA-issued cell phone records, DEA offices access card (swipe card) records, fuel card records, wire room logs, various operational plans, case records, relevant DEA emails, vehicle service records, and access logs for the DEA’s Case Record System. However, the DEA refused to produce any records in response to PSB’s requests.

²² PSB did not conduct a comprehensive review for the DETF’s two lieutenants and captain, because those individuals do not generally incur overtime.

In or around June 2018, PSB completed its expanded and rigorous review, which revealed that all 36 DETF members reviewed had time and activity anomalies. As the DEA had not provided the aforementioned records to PSB for its independent review, PSB requested a collaborative review with the DEA. To that end, PSB identified to the DEA those State Police members of the DETF with the most anomalies and requested that DEA analysts work with PSB personnel to review the DEA's records. PSB also requested to interview two DEA special agents in charge who supervised the State Police members of the DETF. Once again, the DEA did not comply. In November 2018, after several more requests resulted in the production of only certain fuel records, the DEA advised PSB that it would not release any other information regarding its cases.²³ Without access to case-related records from the DEA, PSB did not have access to information which could potentially corroborate or substantiate the anomalies.

PSB Staff Inspector Kopy advised the Inspector General that he believed the potentially criminal findings of PSB's review warranted a presentation to the Office of the United States Attorney for the Southern District of New York. However, Kopy advised, his requests to schedule a meeting with the Southern District were unsuccessful before his retirement in June 2018, and his successor attended in his stead. On July 5, 2018, PSB members met with the United States Attorney's Office for the Southern District of New York and provided a summary of the review findings.²⁴ According to the State Police, the United States Attorney's Office advised there was insufficient evidence at that time to move forward with a criminal case against the State Police members with time and attendance anomalies.

After the meeting, PSB decided to seek compelled interviews of the DETF members to discuss the anomalies found in the review. Compelled interviews, which are conducted pursuant to the State Police's regulations and its collective bargaining agreement with its members, provide members the right to consult with a union representative and/or an attorney and have one or both present during the interview, among other things. A refusal to cooperate or answer questions truthfully may result in disciplinary action, including termination. Since compelled interviews are involuntary, statements or other evidence derived from them may not be used

²³ At that time, the DEA further advised that it had made a required notification to the United States Department of Justice, Office of the Inspector General (DOJ-OIG) regarding this investigation, and that the DOJ-OIG was reviewing the information as part of its own inquiry.

²⁴ The meeting was attended by PSB Staff Inspector Robert Gregory, who replaced Kopy after his retirement, as well as Chief Inspector Colonel Scott Crozier, Captain Kenneth Luttmann, and Lieutenant Reva Navarro. DEA Office of Professional Responsibility Inspector Timothy Flaherty also attended the meeting.

against the member in any subsequent criminal prosecution other than for perjury or contempt arising from such statement.

Starting in mid-July 2018, PSB sent a memorandum directing each DETF member to appear before PSB and provide a compelled administrative statement.²⁵ The memorandum advised that the purpose of the statement was to inquire into the members' time and activity for the period October 1, 2017 through March 31, 2018, and provided a list of specific dates about which each member would be questioned. Senior investigators were also informed that they would be questioned about their role as a supervisor and provided specific dates for each subordinate about which the member would be questioned. The memorandum recommended that the member bring "written materials, i.e. Red Book, calendar, personal notes, personal daily activity keeping records, etc." to assist them in explaining their time and activities.²⁶ No attempt was made by PSB to collect or examine the written materials referenced in the memorandum prior to notifying members of the interview, during the interviews, or at any time after the interviews were concluded. The Inspector General notes that securing and reviewing contemporaneously-written evidence is a routine investigative technique.

The compelled interviews were taken under oath and recorded, and the DETF members were advised of their rights. Each member was represented by an attorney and a union representative and questioned by two PSB investigators. PSB reported that some members provided statements while consulting their handwritten notes and/or Red Books, while others did so without written records to refresh their recollections. Again, PSB did not review or obtain a copy of the notes and/or Red Books used by some members providing statements to corroborate their activities.

The Inspector General's review of PSB's compelled statements of the DETF members revealed the questioning was neither detailed nor probing. Members were merely questioned about anomalies in their records and supervisors about anomalies in the records of their subordinates. In two instances, when supervisors were unable to corroborate earlier statements of their subordinates, the subordinates were required to participate in a second compelled

²⁵ Three DETF members filed for retirement at the beginning of the investigation in Spring 2018. Accordingly, PSB compelled administrative statements from these members in April and June 2018, before their retirements were effective.

²⁶ A "Red Book" is a calendar/diary (bound in a red cover) issued to each member, which they may use, but are not required to use, to record any activities.

interview with PSB. Many justifications provided by members for anomalies in their records were accepted at face value even when no supporting documentation was provided.

After the interviews were completed, PSB investigators prepared individual written reports summarizing the investigative actions taken, number of anomalies substantiated, and any regulations violated by a member. Each report concluded with a recommendation as to whether the allegation should be founded (the facts substantiated the specific allegation(s) made), unsubstantiated (insufficient facts existed to either prove or disprove the allegation made), unfounded (the facts substantiated the allegation made was false), or closed by investigation (an investigation was conducted without any initial allegation of wrongdoing and the matter was determined to be unfounded).

PSB's Findings

PSB found that Stabile engaged in various forms of misconduct with respect to 115 of the 120 anomalies identified in the review. The misconduct included:

- Submitting claims and being paid for overtime that he did not work and to which he was not entitled to be paid
- Failing to use sick and annual leave accruals when absent from work for those reasons
- Reporting to work late
- Ending his tour early
- Commuting to and from work on straight time and overtime
- Using his assigned vehicle for personal matters

PSB recommended that the investigation of Stabile be closed as “founded” with “appropriate administrative action.” There were similar findings for other members:

- Investigator Orlando Rodriguez was found to have engaged in misconduct with respect to 106 anomalies,
- Investigator James Nohavicka was found to have engaged in misconduct regarding 81 anomalies (discussed more below).

No disciplinary action was taken with respect to Rodriguez and Nohavicka as they retired before PSB issued its findings regarding their anomalies. When members were not found to have engaged in any misconduct, PSB deemed the matters “closed by investigation.”

The reports were then reviewed by PSB supervisors including Staff Inspector Robert Gregory, Assistant Deputy Superintendent Renneman, and Deputy Superintendent Patrick Regan. Each report was accompanied by a “Personnel Complaint Tracking” form, which Gregory, Renneman, and Regan had to sign and on which they could add comments. PSB members testified to the Inspector General that their review and these decisions included discussion among the supervisors within PSB about the various rule violations. After this deliberation, PSB supervisors approved the reports and recommended that Division-Level discipline be imposed.

PSB’s Founded, Unfounded, and Unsubstantiated Time and Activity Reports

PSB concluded that 13 member investigations were founded and recommended “Division-Level” discipline.²⁷ These founded investigation reports were sent to then First Deputy Superintendent Fiore for review and consideration of possible discipline. PSB also concluded that 24 DETF member investigations warranted no further action and were to be “closed by investigation.” Since discipline was not recommended for these members, their reports were never formally reviewed by the first deputy superintendent.

Time and Attendance

Some of these State Police investigative reports included a summary of hours falsely claimed, absences without use of leave accruals, and/or claimed overtime that was not worked:

One investigative report found evidence that Rodriguez falsely claimed to have worked on 30 days, wrongfully sought and received overtime pay on 33 days while commuting to and/or from work, and wrongfully sought and received straight pay for time spent commuting to and/or from work on 61 days.

In another investigative report, evidence was found that Nohavicka falsely claimed and received pay for 246.25 hours of straight time and 69.75 hours of overtime.

In these two egregious cases, both members retired before disciplinary action was brought by the State Police and were not provided retirement in good standing identification cards.

²⁷ For Division-Level discipline, investigation reports completed by PSB are sent to State Police headquarters and reviewed by the first deputy superintendent, who decides what (if any) discipline to initiate. For Troop Level discipline, investigation reports are sent to the appropriate troop commander who decides on and initiates any discipline.

In another egregious example of time and attendance abuse, one investigative report found that Stabile directed Investigator Nohavicka, a subordinate, on many occasions to falsify his time and attendance, and Nohavicka complied. Indeed, according to the investigative report, Nohavicka testified that Stabile would “direct him to report to locations after the scheduled start of his shift and that he would not be expected to adjust his start times,” resulting in “him not working duty hours and commuting on duty time.” Further, Nohavicka advised that Stabile told him to stay out of the office on certain days without using leave accruals and to use a specific case number to take three hours of overtime, even while off duty. “Like at nine, nine thirty, I’d get a text saying, ‘take three hours overtime,’” he reported. “It happened a lot.” Nohavicka reported that Stabile told him “that was the way it was done” and “nobody cares about the overtime as long as we produce numbers.”

Surveillance Near Members’ Homes

The investigation revealed DETF members self-deploying to conduct surveillance closer to their homes to ease their commutes. As an example, a DETF investigator advised PSB during a sworn interview that a DEA supervisor who was not in his group gave him target addresses near his home “to be a little bit closer to home” at the end of his shift. However, this investigator’s supervisor subsequently testified that he was unaware of any active investigations in that county, did not authorize the investigator to be in that county, and was not aware what the investigator was doing there. The investigator was re-interviewed by PSB, at which point he admitted that he conducted these checks without the knowledge or approval of his supervisor and that these checks were done in order to start or end his tour closer to his residence. PSB ultimately found evidence that this investigator started and/or ended his tour in this county close to his home on 31 dates during the six-month time period without the approval of his supervisor.

There were also instances where questionable work was reported by DETF members for other DETF investigative teams. One example was a senior investigator who conducted surveillance at two locations within eight miles of his personal residence on at least 72 occasions at the beginning or end of his shift, using paid time to commute before or after these activities. However, these surveillance activities were for cases handled by another DETF group. This senior investigator claimed he reported his surveillance activities to another senior investigator who was assigned to the other DETF group, as well as his operational supervisor. According to the other senior investigator who was assigned to a different DETF group, there was no

paperwork—not one single report—documenting the checks, they had spoken about the checks on less than 10 occasions, and the case was not a priority for his group as it was still in early development. According to both supervisors, neither was aware that the checks were happening at such a high frequency.²⁸

In January and February 2019, pursuant to the CBA, the 24 DETF members whose investigations were unfounded were advised by letter of this disposition.²⁹ PSB determined that Murphy’s personnel complaint, which focused on his ability to supervise the DETF and follow Willis’s instructions, was unsubstantiated. Since the matter was closed as unsubstantiated, the State Police’s then first deputy superintendent, Fiore, did not review the investigation of Murphy, who had since retired, or sign the associated Personnel Complaint Tracking form.

PSB’s Quality Control Audit Report

In addition to the reports on DETF members, PSB issued an internal Quality Control Audit report (Audit Report) on January 9, 2019. One of its key findings was that “many members were not within the confines of the five NYC boroughs at the beginning of their shift, even if a buffer of approximately one hour was used to account for traffic and commute related delays that are prevalent when traveling around New York City.”³⁰ The report acknowledged that individual members statements “may account for these anomalies,” but also found that “these patterns give the appearance that duty time and/or overtime was being utilized for commuting.”³¹

The Audit Report also identified other problems regarding the activities of the State Police members of the DETF, including:

- Some members improperly used their DETF-assigned vehicles while off-duty;
- Some members claimed to have conducted surveillance outside of New York City while driving to or from work, often in the vicinity of the member’s residence and during duty time and claimed overtime;
- Many of the teams claimed to have worked lengthy consecutive shifts, some as long as 20 hours, which raised safety concerns;

²⁸ The Inspector General has not revealed the names of the members in the two examples above as to do so could expose surveillance locations and/or present a security risk for the members.

²⁹ See, CBA § 16.4.

³⁰ See Audit Report at page 8.

³¹ *Id.*

- It was difficult to account for each member’s duty times and activities because only observations or activities that are deemed significant are recorded in the DEA’s case management system;
- Some members filed paper and electronic time and attendance records which, on several occasions, did not match; and
- The State Police did not assign an administrative lieutenant to the DETF even though one had traditionally been assigned.

The Audit Report further found that the DETF “needs autonomy and the flexibility to operate independently, but this investigation indicated that there is also ample opportunity for members to take advantage of that latitude.” Lastly, the report found, “Due to the way the DETF operates, supervisors must often trust that their subordinates are operating in a manner that does not violate the agency work rules. However, the frequency of these anomalies indicates that supervisory oversight at several levels may need improvement.”³²

Due to the DEA’s refusal to provide records or assist PSB in its review, the audit contained several shortcomings. PSB was unable to verify such information as DETF members’ case work, the location of assignments, and the necessity of some overtime, and determine whether certain anomalies were appropriate investigative activities or not. Thus, PSB reviewers often lacked sufficient facts to either prove or disprove allegations or concerns. For example, in September 2018, a PSB investigator requested that the DEA confirm information gleaned from a compelled statement. The investigator spoke with a DEA contact on seven dates with no update. Subsequently, in November 2018, PSB’s request was shuttled to the DEA’s Office of Professional Responsibility, which later orally advised that the DEA would release no information on any PSB cases. According to the State Police, the DEA further advised it would not provide this denial in writing.

Despite the factual barriers created by a lack of corroborating information from the DEA, the Audit Report included recommendations to strengthen DETF oversight and supervision. In brief, they include:

- Supervisors should develop a system to more accurately validate surveillance activities that are not recorded in the DEA’s case management system;
- Supervisors should ensure that such surveillance activities outside of New York City and in the vicinity of members’ residences are operationally beneficial;

³² *Id.*

- Supervisors should ensure State Police members of the DETF operate within State Police guidelines and instructions when conducting surveillance;
- Division DETF command personnel should implement a more accurate system for entering and tracking schedule changes in LATS;
- The State Police should fill the position of DETF administrative lieutenant; and
- Since the DETF is a specialized unit requiring unique skills and significant independent operation, candidates should be interviewed to ensure they are qualified investigators who are motivated to perform the required work.

No specific recommendations were made regarding consecutive shifts. However, the Audit Report noted that the practice of assigning consecutive shifts is “now utilized on a much more limited basis to ensure member safety.”

Major Paul Hogan, who then had been recently named Troop NYC commander, advised the Inspector General of his impression of the Audit Report. He testified, “Honestly, at that time, I don’t think there was anything surprising about it because the conjecture had been that there had been issues . . . my overall impression was . . . there’s behavior that needed to stop and procedures and protocols that needed to be put in place to make sure that this didn’t happen again.”

In or around November 2018, prior to the issuance of the Audit Report, PSB Captain Martin Ralph provided DETF Captain Stephen Udice with a list of recommendations stemming from the audit so that the DETF could begin to implement changes. According to Udice, upon receiving the recommendations, he discussed them with Ralph and advised subordinate lieutenants of the recommendations. The Audit Report indicated that Udice agreed with the recommendations and had “implemented steps to allow more reliable supervisory oversight of case work.”³³ However, Udice never received a full version of the Audit Report when it was finished in January 2019.

Discipline and Other Actions: Suspensions, Letters of Censure, and Staffing Changes

Between December 2018 and April 2019, PSB sent 13 founded time and activities investigation reports recommending Division-Level discipline to then First Deputy Superintendent Fiore for review and consideration of possible discipline. However, by this time, three of the DETF members with founded investigation reports—Rodriguez, Nohavicka, and

³³ See Audit Report at page 10.

Roger Fortune—had retired during the pendency of the investigation and were therefore unable to be disciplined. In addition, Stabile tendered his retirement on January 3, 2019, four days after Fiore recommended that Counsel’s Office prepare disciplinary charges, proceed to an administrative hearing, and pursue termination against him. As these four members retired prior to receiving offers, they were not subject to discipline.

According to Fiore, he received the reports at various times between December 2018 and late March 2019 and reviewed all founded reports at least once. Of note, Fiore stated that he also reviewed one report that had been deemed “closed by investigation.” He explained, “I wanted to look at . . . an unsubstantiated or closed by investigation complaint . . . to get a sense of the difference between the ones that were considered founded and the ones that weren’t.”

As discussed above, the investigative reports did not always follow a consistent format. Many were lengthy and provided detailed information on every date with an anomaly, including any inconsistent time and location information, the explanation for the inconsistency, whether any documentation was provided or consulted, and whether the explanation was confirmed by a supervisor. Others, including many of the founded reports, did not include the total hours fraudulently claimed by and paid to the DETF member.

Fiore’s review was narrowly focused. He testified that although he can review and consider the severity of the offense, length of time on the job, disciplinary history, and truthfulness in the member’s statement when determining the appropriate discipline, he based his disciplinary decisions solely on each member’s investigation report and statement and did not consider personnel files or disciplinary history. In explaining his decision, he testified, “All I can say is, I did not take [disciplinary records] under consideration because I didn’t think it was relevant. You know . . . this was a very specific investigation based on an audit . . . which was started . . . with really no allegation of wrongdoing on anybody’s part.” However, the wrongdoing exposed in a review of Stabile’s activities was the basis for the expanded inquiry into all State Police DETF members.

Stephen Smith, then the deputy superintendent responsible for overseeing State Police field command, also reviewed founded investigation reports involving integrity matters to determine if operational/administrative personnel changes needed to be made. Smith reviewed these founded investigation reports and testified to the Inspector General that he was “fairly astonished and upset with the findings [and] that these were ongoing practices.” Ultimately, he

concluded that six of the nine remaining DETF members—Miguel Cepeda, Robert Anderson, John Kakavas, David Parker, Michael Dewitt, and Michael Vazquez—needed to be “immediately reassigned to a regular Troop BCI operation with increased supervision.” To that end, between March 29 and April 3, 2019, he sent a memorandum regarding each of the six members to then acting Superintendent Keith Corlett and Fiore detailing PSB’s findings that DETF members “violated several rules and regulations regarding work hours and the use of overtime.”³⁴ He advised that each senior investigator had abandoned his “supervisory responsibilities and cannot be relied upon to conduct himself in a position of trust and supervision” in the DETF, and each investigator “cannot be relied upon to conduct himself in a position of trust” in the DETF. In addition, Smith recommended that Senior Investigator Vazquez be reassigned as an investigator with greater supervision.

Around the same time, on or about April 3, 2019, Fiore met with lead PSB Staff Inspector Gregory and PSB Deputy Superintendent Renneman to discuss the founded reports of the remaining nine DETF members. Fiore testified that he wanted to review each of the founded complaints with PSB to ensure that he had a “good understanding of what they found in their complaints.” State Police Deputy Superintendent of Employee Relations Colonel Steven James and Deputy Superintendent for Field Command Smith also attended this meeting.

Fiore testified to the Inspector General regarding what he believed were the weaknesses in the investigations and audit findings. He noted that the structure of the DETF posed significant challenges in the investigation because “the members that are supervising for administrative purposes are not necessarily actually supervising the day-to-day activities.” He also stated that problems with administrative controls did not prove the alleged misconduct. “Asking somebody . . . where were you on this date six months ago at this time and them saying I don’t have anything in my notebook when they’re not required to put anything in their notebook as part of their normal duties does not translate in my mind to . . . sufficient proof to found that complaint.” Lastly, in discussing DETF Investigator Michael Dewitt, whom Fiore considered to be the worst offender and to whom he assigned the greatest disciplinary punishment, Fiore testified, “Our proof was very weak . . . the integrity of the system requires that you make your decision based on what the investigation proves, not what you think and

³⁴ Smith did not recommend transfer for three investigators with founded investigations.

that's how I based my punishments. I didn't think we had sufficient grounds . . . to assign a questionable punishment any higher than this.”

Following the meeting with PSB, Fiore moved to discipline eight of the nine DETF members with founded complaints.³⁵ On or about April 26, 2019, he met with New York State Police Investigator Association Chief Counsel Michael Ravalli to advise him of the State Police's offers of discipline. As per prior practice, Ravalli requested to meet once all offers had been prepared. At this meeting, Fiore informed Ravalli which members would be transferred, and that Vazquez would be removed from his rank of senior investigator and reassigned as an investigator. Investigator Robert Anderson was the only member whose discipline was changed as a result of Fiore's meeting with Ravalli. After reviewing the records and determining that a clerical error was responsible for one of the substantiated anomalies, Fiore decided to change the member's offer from five to four days loss of annual leave.

Eight DETF members were served with the memoranda on or about May 2, 2019. The members had 10 days to accept or decline the offers. All agreed to the offers and accepted the respective penalties imposed by May 13, 2019. The following day, State Police Counsel's Office prepared Letters of Censure with Fiore's signature for the eight members. Five members received Letters of Censure/Notices of Suspension wherein they were formally censured and suspended without pay for three-to-five days. The remaining three members received Letters of Censure with the loss of two-to-four days of accrued annual leave. Soon after this discipline, four of the members, Dewitt, Kakavas, Parker, and Vazquez, elected to retire from the State Police. Since they had served their discipline, each of these members retired in good standing and received a retired State Police identification card.

The Inspector General notes that while Smith recommended that Senior Investigator Vazquez be returned to the rank of investigator, this did not occur. Vazquez filed for retirement soon after receiving the penalty offer. Accordingly, he retired in good standing as a senior investigator and received a retired State Police identification card.

Stabile's Retirement and Time and Attendance Investigation Prior to Disciplinary Action

On December 4, 2018, PSB completed the time and attendance investigation of Stabile. Pursuant to State Police Manual procedures, on December 5, 2018, this report was forwarded by

³⁵ Fiore ultimately decided not to take any further action against one of the DETF members, Edwin Diaz, who failed to document a total of five hours of sick leave on two different days.

Renneman to Regan for review and approval. The report was thereafter forwarded to Fiore to institute discipline against Stabile. Fiore testified to the Inspector General that on Thursday, December 27, 2018, he combined the findings of the accident investigation and the time and attendance investigation and sent them to Counsel's Office for the purpose of preparing disciplinary charges, pursuing an administrative hearing, and seeking Stabile's termination. However, such charges were never drafted or filed against Stabile because on January 3, 2019, Stabile notified the State Police that he would be retiring effective January 18, 2019. According to State Police records, Stabile's actual last day at work was January 4, 2019.

Despite the conspicuous timing of events, Fiore testified to the Inspector General that he had no prior knowledge that Stabile intended to retire and that his retirement had no bearing on Fiore's action or inaction in this matter. Fiore insisted that he initially held the accident investigation findings in abeyance because he intended to pursue disciplinary charges seeking termination once the time and attendance investigation was completed. Nonetheless, Stabile retired prior to any disciplinary charges being filed against him or any formal disciplinary penalty being imposed, even though the findings from the accident investigation were forwarded to Fiore in June 2018, six months prior to his retirement.

In January 2019, as part of the retirement process, the State Police reviewed Stabile's employment record to determine, per the form, "whether the issuance of a Retired Member Identification Card and/or Retirement Letter is appropriate." Retirement cards are issued pursuant to New York State Executive Law section 231 and require the review and signature approval of the deputy superintendent of PSB and the State Police superintendent. The purpose of this approval process is to ensure that the State Police have no derogatory information pertaining to the member.

On January 10, 2019, by checking a box on a form, Regan, the deputy superintendent in charge of PSB, certified that a review of Stabile's personnel file had been conducted "so that the Superintendent may determine whether or not this member is of the good moral character required for the issuance of an Identification Card and/or Retirement Letter" and "no derogatory information" had been found. The following day, then Superintendent Beach approved issuance of the card. On January 24, 2019, acting Superintendent Keith Corlett also approved issuance of the card.

Of note, during this period, on January 18, 2019, the Albany *Times Union* inquired of the State Police if Stabile would be issued a retired in good standing card. On January 28, 2019, the *Times Union* published an article about Stabile's retirement and the ongoing State Police probe. According to the article, a State Police spokesperson advised the *Times Union* that it had "not yet been determined" whether Stabile would be issued a retired State Police member identification card.

On February 19, 2020, Stabile advised the Troop K (Poughkeepsie) troop commander that he had received a retirement in good standing identification card. This triggered an internal review, during which numerous administrative errors were identified. This resulted in the rescinding and retrieval of the card on February 22, 2019.

The State Police advised and numerous members testified that Stabile's retirement card had been mistakenly issued due to a clerical error. According to Fiore, Regan merely "checked the wrong box." A review of contemporaneous State Police email correspondence and administrative records supports that on or before January 21, 2019, the State Police did not intend to issue a retirement in good standing identification card to Stabile given the gravity of the matter. However, due to a series of administrative missteps—the perfunctory processing of the paperwork inadvertently approved by the PSB deputy superintendent—a card was issued.

OUTSIDE EMPLOYMENT

During the Inspector General's investigation, issues surfaced regarding State Police policies and practices for requesting, approving, revoking, and monitoring member outside employment. Requests for outside employment must be submitted to the State Police prior to engaging in the employment and require the review and approval (signature) of the member's first line supervisor, troop/detail commander, and the first deputy superintendent. According to the policy, members must update these forms upon termination of the outside employment. There is no requirement for annual recertification. According to State Police policy, a 20-hour weekly limit is imposed on outside employment and activities.

On February 22, 2018, the day after Stabile was interviewed by the State Police, he filed paperwork with the State Police to revoke an earlier approval for outside employment as a limousine driver. This form appears to have been signed by Stabile on February 22, 2018, and by Fiore on March 12, 2018. However, the form was not signed by a supervising commissioned officer or the troop/detail commander as is required by policy.

Of more serious concern, when the Inspector General showed this form to Fiore, he testified that he did not sign the form and was unaware of who would have signed his name on the form. Fiore opined that his secretary, whom he had authorized to sign certain documents on his behalf in the past, may have inked his signature. He was also unable to explain why two supervisory levels of approval were skipped, how the form was delivered to his office, and any other relevant circumstances surrounding Stabile's outside employment.

The Inspector General spoke to the individual identified as Stabile's outside employer, who stated that Stabile had briefly worked for him approximately eight years ago. Given this statement, it is peculiar that Stabile would file this form the day after his internal investigation interrogation and at a time when his time and attendance were being scrutinized. Moreover, there is no indication that the State Police internal investigation reviewed his outside activity or even knew that he had filed paperwork revoking approval of this activity.

DETF PERSONNEL CHANGES AND NEW PROTOCOLS TO STRENGTHEN SUPERVISION AND OVERSIGHT

During and after the internal investigations, the State Police made significant staffing changes to the DETF and implemented enhanced protocols. Most importantly, a change was ordered in leadership of the DETF. In July 2018, a new State Police captain, Stephen Udice, was assigned to lead the DETF. This personnel change was not a result of wrongdoing by the individual who previously occupied this position, new leadership in this position underscored the need for strengthened oversight of the DETF.³⁶

There were also several personnel changes—i.e. voluntary and involuntary transfers out of the DETF and retirements—which took place during and after the investigations. Eight DETF members were transferred from the DETF to other units within the State Police. A total of 12 DETF members (three of which had initially been transferred out of the DETF) retired during or after the investigations concluded.³⁷

In response to PSB's findings, the DETF made significant changes to its protocols and procedures to strengthen supervision and increase oversight. While some changes were implemented at the outset of the investigations (i.e., the PSB staff inspector modified schedules

³⁶ Udice replaced an interim captain who temporarily held the position after Murphy, the DETF captain who oversaw the DETF during the timeframe of the audit, was involuntarily transferred out of the DETF on April 5, 2018.

³⁷ One of the 12 retirements was unrelated to the audit.

so that at least one lieutenant was always working until 9 p.m.), most of the enhanced and new protocols were implemented starting in August 2018, shortly after the changes to leadership of Troop NYC and the DETF. According to the State Police, enhanced and new protocols were implemented to mitigate issues concerning poor supervision and oversight, including:

- Requiring daily emails to report all members on leave or traveling and confirm the same was accurately reported in LATS.
- Advising members of need for daily communication and engagement with their subordinates and superiors.
- Consolidating LATS scheduling for efficient review of schedules and reduced timekeeping errors.
- Requiring senior investigators to send emails to the Administrative Office at the start and end of each day reporting the members' tour of duty, starting location, ending time and location, daily overtime, and total overtime earned to date, among other information.
- Providing State Police lieutenants increased access to the DEA's New York DETF reporting system for greater supervision of subordinates.
- Significantly decreasing combined lengthy shifts and reviewing such shifts by the DETF lieutenants and captain.
- Providing greater scrutiny during periodic team meetings of surveillance locations outside of New York City.
- Requiring members to obtain the approval of a commissioned officer to work outside of Troop NYC in the event of inclement weather.
- Mandating that members who start and end their duty in the field be on location at the start and end of their duty. Senior investigators were required to enforce this policy and advise lieutenants of repeated noncompliance by subordinates.
- Requiring members starting or ending shifts at any location within the five boroughs but outside of the DETF Office to complete a blotter entry at the State Police facility nearest to their operation.
- Directing members to telephone a commissioned officer to advise of shifts starting or ending outside New York City.
- Prohibiting members who start or end shifts in the field from including commuting time in their timekeeping.
- Increasing staffing levels at Troop NYC and the DETF.
- Requiring commissioned officers to approve overtime beyond two consecutive hours.

Although most of these protocol enhancements and additions were first memorialized in a memorandum in May 2019, they were not disseminated to all DETF members until June 2019.

Also, in June 2019, a restatement of long-standing policies and procedures was provided to all DETF members. This Station Orders and Procedures memorandum required that DETF members sign an acknowledgment that they have read, understood, and agreed to comply with the policies and procedures. The Station Orders and Procedures memorandum was subsequently revised and re-issued on January 16, 2020.

The Inspector General notes that the DETF had a Station Orders and Procedures memorandum in place in October 2017 when its internal review commenced. The Station Orders and Procedures in place at that time were memorialized in a similar fashion in a memorandum dated June 18, 2015, which also included an acknowledgment for the members to sign. Many of the protocols and rules in the 2015 memorandum are similar in concept to the protocols in 2020. However, there are currently more protocols focused on enhanced recordkeeping and communication about the members' daily time, activities, and overtime. The 2020 Station Orders and Procedures memorandum also expressly sets forth additional directives regarding vehicle use, such as:

- Leased DETF vehicles are not to be driven while a member is off duty for any reason.
- The same rules, policies, and procedures in place governing the use of Division vehicles applies to the use of the leased vehicles.
- No member shall operate their assigned leased vehicle or a vehicle assigned to another member after consuming an alcoholic beverage.
- Automobile accidents and incidents will be reported to the member's direct supervisor without delay. Supervisors will then advise a commissioned officer and respond to investigate without delay. A commissioned officer is required to respond to all automobile accidents in which injuries are sustained, regardless of the severity of those injuries. Commissioned officer responses may also be required when other factors are present and considered, including the time of the accident. A State Police uniform supervisor should complete an accident report form when possible. If the State Police are not available to investigate, then the "appropriate agency" should be contacted to complete the accident report.

This 2020 Station Orders and Procedures memorandum succinctly and appropriately addresses many of the deficiencies revealed in the investigation of Stabile's vehicular accident.

FINDINGS

Overall Findings

The Inspector General found the following:

- The DETF is a unique law enforcement unit comprised of three distinct agencies—the State Police, NYPD, and DEA—each of which brings its own culture and expertise to drug enforcement investigations. While this multi-agency effort is intended to promote interagency collaboration and effective investigations, it also creates challenges to supervision and oversight given the shared reporting structure. Specifically, within the DETF, State Police members are directly supervised by NYPD and DEA members and only administratively supervised by the State Police. The nature of the DETF is such that much trust is placed in the integrity of its members. At the same time, ample opportunities exist to exploit that trust and take advantage of the system.
- The DETF’s structure creates conflicts between agency policy and procedures. Multiple witnesses testified to the Inspector General that they were not familiar with and/or did not receive copies of relevant DEA policies and procedures despite the DETF agreement stating that all DETF members “shall adhere to all DEA policies and procedures, except where DEA policies and procedures are in conflict with their agency’s policies and procedures.” Thus, State Police DETF members must be provided with DEA policies and procedures and trained on the same if they are expected to comply with these rules. Additionally, it must be made abundantly clear when DEA rules apply and when State Police rules apply.
- The DETF agreement “mandates a tripartite review of integrity-related issues, in order for determinations to be made concerning participation in the conduct of an investigation.” However, there is no indication that a tripartite review of the allegations investigated by the State Police occurred.
- The DETF agreement mandates that the State Police and NYPD have records available for inspection by the DEA but does not require the same transparency for the DEA to provide records to the State Police and NYPD. In this matter, the DEA repeatedly refused to provide pertinent documents to the State Police. Without these DEA documents, the State Police were unable to verify members’ explanations of their law enforcement-related activities, forcing the State Police in some instances to accept members’ responses at face value during interrogations.
- Multiple members testified to the Inspector General that federal background checks, deputization, and training of new DETF members were untimely. Several State Police witnesses testified that federal background checks, which are required prior to a member becoming deputized, are often not completed until after a member is transferred to the DETF. This lack of timeliness creates substantive problems, as members are not authorized to perform certain critical tasks without first being deputized. Witnesses also testified that because DETF officer training is only offered several times each year, a new member may be assigned to the DETF for several months before receiving

any formal DETF training. Moreover, one DETF supervisor testified that he had never participated in federal DETF officer training despite having been assigned to the DETF for more than three years. He justified his lack of training by explaining that senior investigators and investigators, rather than supervisors, were given a higher training priority since they are most often in the field. Beyond this one-time formal training, members learn from informal, on-the-job training. The State Police should work with DEA and NYPD to ensure timely background checks, training, and deputization of members assigned to the DETF.

- The investigation found that currently, entry into the DETF is based primarily on an applicant's level of seniority. Given the nature of the DETF assignments, it would be prudent to utilize a competitive selection process that includes a panel interview as well as a review of the member's prior training, accolades, certifications, disciplinary record, and prior time and attendance. Additionally, DETF applicants should have prior experience in narcotics investigations before a transfer into DETF is considered.
- The investigation found deficiencies in the approval and documentation of overtime by DETF members. Overtime must be accurately documented in the daily shift report by the day following one's overtime shift and in the Leave & Accrual Tracking System (LATS) no later than three days after the overtime is incurred. Shuta testified to the Inspector General that if senior investigators needed overtime approval, "They would either call me, text me, or I would see them on the floor, and they would just let me know if there was something going on. . . and . . . what their operation would entail." He further stated that although he did not keep a record of when he approved these overtime requests, he reviewed the overtime LATS entries of his subordinates daily. He claimed he never reviewed a member's LATS that contained overtime entries that he was not aware of or had not approved. As a result of the investigation, the State Police altered flextime and overtime protocols. Senior investigators are now authorized to approve flextime and only up to two hours of consecutive overtime. Additional overtime now requires the prior approval of a commissioned officer.

Stabile's Accident Investigation Findings

The Inspector General's investigation found a number of deficiencies in the initial response by State Police troopers to the Stabile accident scene and the subsequent State Police investigation of the matter:

- As for the initial response to the accident scene, the troopers were found to have improperly accepted Stabile's direction that there was no need to notify his superior officer as the vehicle was "federally-leased" and he would notify his supervisor the following morning. This failure to immediately report the incident to a supervisor hampered the State Police's ability to properly and thoroughly investigate the matter as a personnel complaint. Additionally, the one trooper's action in swiftly placing Stabile inside a marked police vehicle and the other trooper's denial of access by the EMT to Stabile ensured that the

two responding troopers were the only people on the scene to engage with Stabile. No one other than the two troopers could directly assess whether Stabile was impaired or intoxicated as had been suspected by the homeowner who had reported the accident to 911 and observed Stabile at the scene. In addition, although the troopers' report noted that photographs were taken at the scene of the accident, the State Police were unable to provide any such photographs and the responding troopers were not confronted with the absence of the alleged photographs from their investigative report.

- Upon learning of the accident the following day, Shuta immediately commenced an investigation. Shortly thereafter, PSB classified the personnel complaint as a Level 3 and assigned Kolek, a PSB lieutenant, to jointly conduct the investigation with Shuta. In hindsight, given the circumstances—the late night hour, use of an assigned vehicle during a non-working period, and Stabile's failure to immediately report the accident to Shuta—PSB should have classified the personnel complaint as a Level 4. In doing so, the investigation would have been assigned solely to PSB and Shuta, Stabile's immediate supervisor, would have been removed from the investigation.
- During the internal investigation, the State Police did not attempt to verify Stabile's whereabouts the day of the accident by reviewing telephone records, interviewing family members, or obtaining financial records. The State Police also failed to recognize that Stabile's E-ZPass records are void of any toll for the Kingston-Rhinecliff bridge the night of the accident, which is in direct contravention to his testimony to the State Police. Had this fact been observed, Stabile's explanation of his activities could have been more thoroughly scrutinized and additional violations may have been identified and proven. Additionally, the State Police did not confront Stabile about his three alternate versions of his purpose for driving in his DETF-assigned vehicle on the night of the accident.
- The State Police's investigation was inadequate and lacking an effective strategy. For example, the State Police conducted a compelled interview of Stabile only two days after the personnel complaint was received and prior to many pertinent and necessary investigative steps being taken such as interviewing the second responding trooper, passing motorist, and homeowner. Although Stabile revealed during his State Police interrogation that he had been drinking at two restaurants the day of the accident, these restaurants were not visited until March 12, 2018, more than three weeks after the accident, at which time surveillance video was unavailable and witnesses' memories had undoubtedly faded. The failure to visit the restaurants closer in time to the accident was a significant missed opportunity to corroborate Stabile's version of events.
- The Inspector General finds it troubling that PSB did not investigate Stabile's outside employment to determine if it contributed to his time and attendance abuse. On February 22, 2018, four days after Stabile's vehicular accident, he purportedly submitted a notice of Cancellation of Outside Employment as a driver for a limousine company. The Inspector General believes that given the pending time and attendance investigation, this information should have

been communicated to PSB for further investigation. Instead, the administrative form was approved three weeks later on March 12, 2018, purportedly by someone in Fiore's office, and added to Stabile's personnel file without further inquiry or action.

- Fiore's decision to hold discipline against Stabile in abeyance until the subsequent investigation of Stabile's time and attendance issues was completed gave Stabile the opportunity to retire in January 2019 prior to any disciplinary charges being filed against him or any formal disciplinary penalty being imposed. Discipline could have been initiated against Stabile immediately upon the April 9, 2018 completion of the accident investigation report and additional charges could have been lodged when the time and attendance investigation was completed.
- The Inspector General found that Stabile was improperly issued a "retirement in good standing" identification card in January 2019. The card, issued pursuant to New York State Executive Law, required the review and approval of both the PSB deputy superintendent and the State Police superintendent to ensure that Stabile had no derogatory information in his State Police employment record. However, on January 10, 2019, Deputy Superintendent Patrick Regan inadvertently certified that there was "no derogatory information" regarding Stabile's tenure. The following day, then Superintendent Beach approved issuance of the card, which was later sent under acting Superintendent Corlett. In February 2019, after being alerted by Stabile that he had received a retirement in good standing identification card, the State Police realized one had been issued due to a series of inattentive clerical errors. Consequently, the State Police immediately rescinded its granting of the identification card and retrieved it from Stabile. The Inspector General finds these successive missteps troubling, given the duties and responsibilities entrusted to the State Police.

The totality of PSB's investigation of Stabile illustrates a troubling disconnect and lack of coordination between PSB's internal investigation and the disciplinary process. Better communication and collaboration between PSB, the first deputy superintendent, and Counsel's Office is essential. The lack of communication creates a missed opportunity for coordinated and effective discipline.

The State Police's Review of the DETF

The Inspector General's investigation found a number of issues with the State Police's review of the DETF:

- To fully understand the State Police's examination of members' time and attendance activities, it is important to recognize that the State Police viewed this effort as an audit rather than an investigation. This point repeatedly was emphasized by State Police leadership and PSB investigators who were interviewed by the Inspector General. Considering this, the Inspector General

finds that PSB conducted an extensive “audit” of all DETF members. This effort was a particularly difficult exercise as PSB did not have access to DEA records that could have corroborated or explained anomalies. However, the Inspector General questions the State Police’s decision to not review the members’ Red Books, calendars, and notes used at their interviews. Since PSB did not have access to DEA records, the Inspector General believes that a review of the members’ Red Books, calendars, and notes was especially critical to understanding the anomalies.

- Had the State Police conducted a comprehensive investigation of the same matter, the ultimate dispositions for the members may have been different. Indeed, the Inspector General’s investigation found evidence indicating that PSB was reluctant to allow review of records of members against whom formal complaints had not been initiated. However, there are no rules prohibiting review of an employee’s records prior to the filing of a formal complaint with PSB. Additionally, PSB has the authority to issue administrative subpoenas, yet none were issued in this matter. If PSB viewed this as an investigation, investigators may have attempted to review telephone records, social media postings, and personal E-Zpass records.
- The Inspector General found that PSB did not review members’ personnel files or consider their disciplinary histories during its review. Had it done so, PSB investigators would have learned relevant information. For example, DETF Senior Investigator John Richichi had received a 15-day suspension without pay in 2008 for his improper use of a Division vehicle during a 13-month period.³⁸ Additionally, the Inspector General reviewed Richichi’s time and attendance and observed a pattern of Richichi working a four-day workweek, Monday through Thursday, while regularly incurring overtime, and taking Fridays off while utilizing leave accruals. Moreover, the review revealed that Richichi sought and received approval for overtime when retrieving office supplies from another barracks, which is conveniently located near his residence. Although Richichi’s overtime and leave accrual usage were authorized by his supervisor, the frequency and repetitive nature of his schedule calls into question the necessity for his weekly overtime. The State Police’s failure to even review these factors renders the adequacy of its review questionable, at best.
- The Inspector General found no evidence that the findings of the individual personnel complaint investigations or the Quality Control Audit were shared with any DETF members, including the unit’s supervisors and captain. While there may be constraints on the nature and scope of disciplinary information that can be shared across the unit, it would be prudent for the findings of the investigations and audit to be generally shared with at least the supervisors for situational awareness of oversight issues and for better supervision of the members who report to them. Indeed, members interviewed by the Inspector General agreed that sharing such findings would have been helpful. For

³⁸ Richichi’s suspension was based on findings that between May 2006 and June 2007, he improperly utilized his assigned Division vehicle and his Division-issued E-ZPass numerous times when he was either on a pass day, or absent on annual, personal, or sick leave.

example, Captain Ralph, a PSB audit supervisor, testified, “I think, generally speaking, that all audits should probably be shared with the membership. This way, they know what we were looking at and they know what the issues were and errors were that we found . . . and what’s expected.” Senior Investigator William Diaz, who was not made aware of any specific findings of the audit other than those a colleague chose to share with him, testified, “[I] should have been told of the outcome of the audit . . . because I would have done something about it. I would have corrected the problem.”

- The DETF audit findings revealed that most DETF members commute daily to New York City from upstate counties and Long Island. Eleven of the 13 members with founded time and activities investigations resided in Orange and Dutchess Counties, both of which are more than 60 miles from New York City. The Inspector General finds that commuting such distances on a daily basis may be unsustainable and leaves the State Police vulnerable to both safety concerns and time and attendance abuse.

Discipline Related Findings

The Inspector General found that discipline imposed by the State Police in response to its review was extremely lenient and lacked transparency. Specifically:

- Suspending individual members without pay or deducting annual leave for the number of hours (in straight time and overtime) that were substantiated was lenient. The most significant discipline was a five-day suspension without pay. The least was a two-day deduction in annual leave without any suspension of the member.
- The Inspector General found that the State Police lacks measures and guidelines to ensure consistency and transparency in the classification of violations as well as the assignment of discipline. The State Police manual does not set forth any standards for assigning discipline for various violations. Moreover, there is no requirement that the first deputy superintendent, who is responsible for assigning discipline, confer with Counsel’s Office to confirm that disciplinary outcomes are consistent with previous decisions. Then First Deputy Superintendent Fiore acknowledged that he did not consult with Counsel’s Office in determining the discipline in these matters. Without guidelines or coordination with Counsel’s Office, discipline for similar violations may deviate from past precedent set by each individual first deputy superintendent.
- The State Police manual also does not set forth the information to be considered or stakeholders to be consulted when considering the assignment of discipline. The manual also does not expressly state the extent to which the first deputy superintendent should consider disciplinary histories before deciding on discipline.
- Fiore acknowledged that although he is able to consider disciplinary histories and personnel files when assigning discipline, he did not review either in this matter. Had he reviewed disciplinary histories or personnel files, he would

have discovered information possibly relevant to this matter. For example, a review of the personnel file for one DETF investigator who was reassigned, disciplined, and then retired following the current investigation would have revealed a disciplinary history suggesting a lack of integrity and candor. After being found guilty in an administrative hearing of having lied to the FBI during an investigation in 1999, this investigator received a Letter of Censure, served a 60-day suspension, and was placed on probation for six months. The Inspector General therefore finds that disciplinary histories and personnel files should be considered when disciplining a member. Furthermore, this example also calls into question the sufficiency of the State Police's vetting process for DETF candidates.

- The Inspector General notes that unwarranted overtime hours are calculated into final salaries on which pensions are typically based. In some investigative reports, PSB identified the number of hours of straight time and overtime at issue (i.e., the hours for which a member was paid straight time or overtime to which he was not entitled).³⁹ For example, PSB concluded that Stabile commuted on overtime or was not engaged in work-related activities during overtime claimed on 37 dates, which amounted to approximately 91.5 hours; Nohavicka was paid for 69.75 claimed hours of overtime that he did not work or was not entitled to take and 246.25 hours when he was absent from duty without proper leave; and Rodriguez commuted on overtime or claimed overtime for which he was not entitled on 33 dates, amounting to 95 hours. However, despite PSB's quantification of their improperly claimed hours, each of these members retired without the State Police pursuing discipline or seeking restitution from the members prior to their retirement. The State Police advised it will refer the matter to the Office of the New York State Comptroller to seek reimbursement through members' pension benefits.

Implementation of New Protocols

New and enhanced protocols to address the lack of supervision and oversight within the DETF were implemented under the leadership of then Superintendent Beach. These protocols were subsequently fully embraced by Superintendent Corlett. The State Police immediately began to establish various protocols to enhance supervision within the DETF at the outset of its investigation and continue to implement and refine these enhanced protocols.

The Inspector General examined many of these protocols by reviewing daily oversight tools and questioning current DETF members and supervisors about the implementation and effectiveness of the same. The findings include:

- The Inspector General notes that all new protocols are in place (i.e., daily In Service/Out of Service/Additional Assignments emails; combined LATS schedule for the entire unit; and reduction in lengthy shifts), are currently

³⁹ Other investigative reports identified anomalies but did not quantify the number of hours associated with each anomaly.

being implemented by the DETF, and appear to be effectively providing greater oversight and transparency of the time and activities of DETF members.

- In several instances, the new protocols were vague (i.e., “renewed emphasis on engagement by all supervisors;” periodic team meetings between the Senior Investigators and the Captain to discuss team activities; and meetings with senior investigators). As a result, these changes are difficult to monitor in terms of effectiveness and compliance. As such, the Inspector General is not in a position to opine on the efficacy of these particular protocols. Additionally, the Inspector General found that the State Police conducted no formal training at the time the new protocols were implemented on these new protocols.
- According to the State Police, it has created the position of major within PSB to identify and oversee Quality Control Audits throughout the State Police including conducting quarterly overtime and vehicle usage checks and investigating any irregularities found. This major will also be charged with periodic Quality Control Audits of specialized units such as the DETF to ensure that new protocols have been successfully implemented.

RECOMMENDATIONS

The Inspector General acknowledges that in 2020, the DETF’s leadership, membership, and supervisory protocols have changed from those of 2018, when this investigation first began. The State Police has taken significant steps to create greater oversight within the DETF. Nonetheless, the Inspector General recommends the following corrective actions be taken to further enhance accountability and increase transparency.

Vehicle Use and Policies

Vehicle use is a critical component of the State Police’s operations. The Inspector General recommends the following changes to the State Police’s vehicle use and policies:

- Promulgate revisions to existing policy to require a member of higher rank to report to the scene of a vehicular accident involving a member utilizing a government-assigned vehicle. The State Police advised a revised vehicle use policy is being implemented to mandate such reporting.
- Provide annual training to all State Police members on the proper response to motor vehicle accidents involving members.
- Require that members who respond to a motor vehicle accident involving another member make immediate notification to their supervisor. According to the State Police, a revised vehicle use policy is being implemented to mandate such notification.
- Prohibit DETF members who reside more than 50 miles from New York City from commuting to and from their homes in assigned vehicles. Instead,

require these members to leave assigned vehicles at the closest local State Police barracks.

Discipline

The State Police must have a disciplinary process in which the public can have confidence. This disciplinary process should be consistent and based on fairness and impartiality. Accordingly, the Inspector General recommends the following changes to the assignment of discipline, all of which are meant to ensure greater transparency:

- Create a disciplinary checklist to govern the disciplinary process. This checklist will ensure that certain considerations are factored into every disciplinary decision (i.e., personnel files and disciplinary histories are reviewed before an offer is extended; consultation with the member's supervisor; and ability of the member to retire during disciplinary investigation). This framework should also require that all factors be taken into consideration in each disciplinary decision (i.e., members who have been consulted in the decision, meetings with union representatives or union counsel) are documented.
- Factor retirement and resignation into disciplinary decisions and require documentation in the member's personnel file to ensure transparency.
- Involve Counsel's Office at an earlier stage in the disciplinary process to confirm that an offer of discipline is in accordance with past precedent.
- Implement a process by which the State Police seeks restitution for time and attendance abuse.

Internal Oversight and Audit

Although the State Police conducted a detailed audit of DETF members and operations, the Inspector General recommends the following enhancements to its oversight and audit functions:

- As noted above, a major within PSB will be tasked with the responsibility of an integrity control officer to monitor such metrics as overtime and vehicle usage by State Police DETF members.
- Conduct routine overtime audits for the top annual State Police earners to ensure taxpayer funds are being used appropriately. The State Police advised the Inspector General that it conducts quarterly tallies of the overtime hours of its members of the DETF, however, made no representation of any further review to ensure that the hours were appropriate or corrective action was taken when necessary.
- Develop a plan to monitor and ensure compliance with new DETF protocols.

- Share results of Quality Control Audits and corrective actions with all supervisory members of a unit so that there is transparency and awareness of issues as well as to ensure prompt implementation.

Training

The Inspector General recommends that the State Police implement the following training:

- Implement annual ethics training for all DETF members, focusing on time and attendance issues and supervisory duties.
- DETF members must be responsible for obtaining DEA rules and regulations to which they are expected to adhere and train on the same.
- While federal DETF training may be intermittent, the State Police should provide internal training for its DETF members.
- DETF supervisors should receive supervisor training focusing on the oversight of DETF members.

DETF Composition and Operations

To remedy deficiencies in DETF's composition and operations, the Inspector General recommends the following:

- Increase screening/vetting of DETF candidates before a member is assigned to the DETF. This should include a panel interview and expanded criteria beyond mere seniority.
- Members should be required to have supervisory experience before becoming DETF supervisors.
- In the absence of an emergency, prohibit DETF members from transporting office supplies and evidence during overtime.
- Consider the feasibility of requiring all DETF members to live within 50 miles of New York City.
- Require DETF members to maintain Red Books or other memoranda documenting their surveillance activities.
- Consider further revisions of DETF's Station Orders and Procedures to clarify those protocols that are more generalized protocols (e.g., "renewed emphasis on engagement by all supervisors;" etc.)

Inspector General Oversight of the State Police

By statutory design, the Inspector General has oversight over all covered agencies, including the State Police. Both agencies are charged with investigating and enforcing the laws of the State, equally committed to promoting ethics and integrity in law enforcement and support the other's investigative efforts. Given this unique relationship, the Inspector General

recommends the following to provide greater oversight and foster greater collaboration between the two agencies:

- Include Executive Law Article 4-A and referral to the Inspector General in the State Police Manual.
- Implement training for new recruits provided by the Inspector General on the Executive Law and integrity-related issues.
- Level 3 and Level 4 personnel complaints in which the PSB participates in the investigation should be immediately referred to the Inspector General for review.
- Implement monthly meetings between the State Police and Inspector General to review and confer on referrals.
- Provide documents to the Inspector General to confirm that new DETF protocols have been implemented and acknowledged by current DETF members.

The Repealing of New York State Civil Rights Law Section 50-a and Creation of the Law Enforcement Misconduct Investigative Office

On June 12, 2020, Governor Cuomo signed into law the “Say Their Name” Reform Agenda package, which, among other reforms, repealed New York Civil Rights Law section 50-a. This law had long been utilized to conceal from the public the complaint and disciplinary histories of law enforcement officers.⁴⁰ The new law allows for the transparency of disciplinary records of law enforcement officers so that they may be held accountable for any misconduct.⁴¹

On June 16, 2020, Governor Cuomo signed into law legislation establishing the independent Law Enforcement Misconduct Investigative Office in the Department of Law. This Office will be responsible for reviewing and making recommendations to police agencies in the State with the goal of enhancing the effectiveness of law enforcement; increasing public safety; protecting civil liberties and civil rights; ensuring compliance with constitutional protections and local, State and federal laws; and increasing the public’s confidence in law enforcement. The Law Enforcement Misconduct Investigative Office will also receive and investigate complaints against local law enforcement agencies in the State. The New York State Inspector General’s jurisdiction to receive and review complaints regarding law enforcement officers employed by State police agencies was also clarified in this law. Additionally, the MTA Inspector General

⁴⁰ Section 50-a also covered correction officers, firefighters, and paramedics employed by New York State.

⁴¹ Existing statutory exemptions under New York’s Freedom of Information Law may be applied to requests for law enforcement personnel records. *See e.g.*, POL §§ 86(9), 87(2)(b) and 87(2)(e).

and Port Authority Inspector General will receive and review complaints made against law enforcement officers employed with each entity.⁴²

⁴² New York State Executive Law § 75.