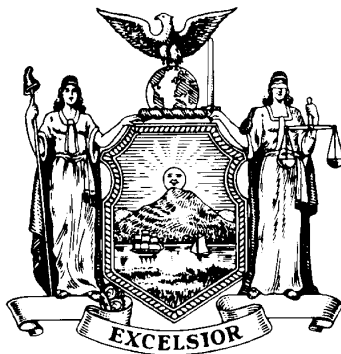


State of New York
Offices of the Inspector General



Investigation of the
New York State Police's Handling
of a Protective Services Unit Incident

August 2022

Lucy Lang
Inspector General

EXECUTIVE SUMMARY

In the late morning of May 22, 2020, then New York State Police Trooper Dane Pfeiffer received a call from one of his supervisors in the Protective Services Unit, or PSU, the unit responsible for protecting the governor and his family, ordering him to report immediately to a State Police satellite office in Albany.¹ A short time later, Pfeiffer was contacted again by the same supervisor and told to instead report to State Police Division Headquarters. No reason was given for the order, but the Trooper thought he knew why—he was involved in a romantic relationship with one of the daughters of the then governor, Andrew Cuomo², and she had told her father the day before. His suspicion was correct.

Earlier that day, the then secretary to the governor³ had telephoned the commander of PSU and advised him of the relationship, setting off a fast-moving chain of events that culminated with a compelled interview of Pfeiffer by the commanding officer of PSU and a veteran investigator from the State Police’s Professional Standards Bureau, or PSB. Following this interview, in which Pfeiffer acknowledged the approximately two-month-long relationship, a decision was made by the first deputy superintendent of the State Police, Kevin Bruen⁴, who bore ultimate responsibility for internal discipline, that while he would not face formal disciplinary proceedings, Pfeiffer could no longer serve on the governor’s protective detail as a member of PSU and would need to put in for a transfer to another command. At the same time, however, Bruen decided that one of Pfeiffer’s supervisors, who also sat for a compelled interview and admitted being aware of the relationship between Pfeiffer and the governor’s daughter but doing nothing, should be subject to discipline for that conduct. Within days, Pfeiffer applied for a transfer to a Troop more than two-and-a-half hours from Albany and his home and was transferred forthwith. His supervisor, who he had told about the relationship several weeks earlier, elected to retire.

In the nearly eighteen months that followed, no personnel complaint number was assigned to the matter, the audio files of the two compelled statements were not properly

¹ Notably, before and during the events described here, New Yorkers and New York State government were grappling with the challenges posed by the COVID-19 pandemic.

² On August 23, 2021, Andrew Cuomo resigned as governor of New York. Unless otherwise indicated, references in this report to “the governor” refer to the then governor, Andrew Cuomo.

³ Unless otherwise indicated, references in this report to the “secretary to the governor” refer to the then secretary to the governor.

⁴ On June 7, 2021, Bruen was confirmed as the State Police superintendent and currently holds that title.

maintained, reports documenting the investigative steps taken in response to the complaint were not completed, nothing was entered into the PSB record management system, and the Inspector General was not notified. In fact, it is possible that the details of this matter would not have come to light but for a December 6, 2021, request by the Police Benevolent Association of the New York State Troopers (NYSP Troopers PBA)⁵ on behalf of (then recently promoted) Sergeant Pfeiffer, for a copy of his May 22, 2020, compelled statement, as he was entitled to under the terms of the collective bargaining agreement.⁶ When informed by the State Police that neither a record nor recording could be found, a grievance was filed, and the Offices of the Inspector General commenced an investigation. While the audio recording of the statement was ultimately located the next day in the State Police email account of one of the interviewers and provided to Pfeiffer and the Inspector General, the myriad procedural flaws in the investigation soon became readily apparent.

While the circumstances of the compelled statements taken from Pfeiffer and his supervisor proved fair—the expedited timing was justified by the circumstances, the questions were appropriate and narrowly tailored, and legal representation in the form of the deputy general counsel to the NYS Troopers PBA was coordinated on their behalf—the State Police otherwise did not follow its own procedures, or Executive Law 4-A, in conducting the investigation. These failings prevented a full and fair review of the investigation, which, while problematic in any circumstance, is of even graver concern here, where the facts call into serious question the decision not to formally discipline Pfeiffer for his conduct, particularly when a simultaneous decision was made to discipline his supervisor for failing to take action upon learning of that same conduct.

In the months following the resignation of Governor Cuomo, Bruen, now State Police Superintendent, began to institute changes to improve PSU’s organizational structure, enhance its policies, and create greater oversight of its operations, however, these changes fail to fully address the deficiencies noted in this investigation. Therefore, in addition to formalizing regulations to prohibit relationships between PSU members and protectees, the Inspector General

⁵ The Police Benevolent Association of the New York State Troopers represents the collective interests of State Police Troopers.

⁶ Article 16.2(A)(10) of the collective bargaining agreement between the State of New York and the NYS Troopers PBA provides that a member who is interrogated by the State Police concerning an alleged violation of Division Rules and Regulations, which, if proven, may result in the member’s dismissal or other disciplinary punishment, shall be given a copy of any mechanically or stenographically recorded interview.

also advises the State Police to formally implement several outstanding recommendations from an August 2020 report by this office on the State Police Drug Enforcement Task Force.⁷ That report, which emphasized the need for the State Police to have a disciplinary process in which the public can have confidence, recommended changes to ensure greater accountability, including a checklist for disciplinary decisions to heighten consistency, a requirement that State Police counsel be involved from the outset of disciplinary proceedings, and, as required by law, contemporaneous reporting of the most serious disciplinary allegations to the Inspector General.

COMPLAINT & METHODOLOGY

On December 6, 2021, the NYS Troopers PBA contacted the State Police’s Professional Standards Bureau (PSB) to request a copy of a compelled statement given by then Trooper Dane Pfeiffer on May 22, 2020, while he was a member of the New York State Police’s Protective Services Unit (PSU), a unit responsible for protecting the governor and his family. In response, the State Police indicated that neither a record nor a recording of the statement could be found.

Two days later, on December 8, 2021, the NYS Troopers PBA filed a grievance on behalf of Pfeiffer alleging a violation of their collective bargaining agreement, which provides that a member who is interrogated concerning an alleged violation of Division rules and regulations, where the “questioning is mechanically or stenographically recorded, . . . shall be given a copy of such recording or transcript.”⁸ The grievance sought a copy of Pfeiffer’s statement to PSB.

On December 9, 2021, the Offices of the Inspector General began an investigation and was advised by the State Police that the former captain of PSB had located an audio recording of Pfeiffer’s statement, which he had emailed to himself the night it was taken. The former PSB captain provided the audio file to PSB, which, in turn, provided copies to Pfeiffer and to the Inspector General.

The Inspector General’s investigation included the interview of eight current or former State Police members. Additionally, the Inspector General reviewed audio recordings of Pfeiffer and his supervisor’s May 22, 2020 compelled statements, the grievance filed on behalf of Pfeiffer by the NYS Troopers PBA, and State Police policies, regulations, and records.

⁷ See <https://ig.ny.gov/system/files/documents/2020/08/nyspdetf2245.030.2018-nyc.pdf>.

⁸ See Collective Bargaining Agreement between New York State and the NYS Troopers PBA, Article 16.2(A)(10).

FINDINGS OF FACT

The New York State Police

The New York State Police (NYSP) 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. The State Police operates 11 Troops across the state, each consisting of numerous stations. More than a dozen units and details exist within the State Police to provide specialty services. These units and details include PSB and PSU among others.

The NYSP Professional Standards Bureau

The Professional Standards Bureau (PSB) is responsible for tracking all personnel complaints against State Police employees, investigating more serious personnel complaints, and conducting audits. PSB consists of an investigative section and an audit section and maintains four regional offices, each headed by a staff inspector. The investigative section is responsible for the investigation of allegations of misconduct by State Police employees, while the audit section conducts internal audits for Division accountability. Complaints of misconduct by a member are assigned for investigation to the member's supervisor, commander, or to regional PSB offices. Upon completion of an investigation, reports are produced of investigative findings and dispositions. When appropriate, the State Police may pursue disciplinary action based on the results of an investigation.

The NYSP Protective Services Unit

The State Police are authorized by law to create the Protective Services Unit (PSU), a detail "assigned for special duty with the governor."⁹ PSU, which is overseen by a detail commander appointed by the superintendent, provides 24-hour personal security for the governor and others.¹⁰ During the relevant period of this investigation, the PSU detail commander reported directly to the State Police's first deputy superintendent, and the first deputy superintendent reported PSU matters to the secretary to the governor or the governor's assistant.

⁹ New York State Executive Law § 215(11).

¹⁰ See New York State Police Standard Operating Procedure Manual for the Protective Services Unit, page 1, Mission Priorities. Of note, the version of this manual in effect at the time of this incident was undated and marked as a draft.

The State Police has established strict qualifications for candidates to this detail. A candidate must have prior service as a uniformed Trooper and possess satisfactory performance evaluation ratings. Members seeking such reassignment are vetted through a review of their personnel file and participate in a panel interview. If selected, members must sign a confidentiality memorandum stating that they will not discuss any matters related to PSU outside of the unit. The confidentiality memorandum in place during the relevant period further directs members' attention to State Police Rules and Regulations prohibiting misconduct or acting "in a manner tending to bring discredit upon the Division."¹¹

Per the PSU Candidate Interview form, PSU members "serve at the discretion of the Superintendent and are subject to reassignment at any time if the Superintendent deems it to be in the best interest of the Division." State Police Superintendent Bruen explained to the Inspector General that a PSU member holds a unique role and therefore must be suitable for the position. According to Bruen, this suitability requires a "certain level of trust and compatibility with the governor" and any "personality conflict" may result in a member's reassignment from the unit. The State Police advised that members transferred from PSU are reassigned to the Troop where they reside ("their Troop of origin") or another Troop consistent with the needs of the Division and the current collective bargaining agreement.

Then Trooper Dane Pfeiffer

Dane Pfeiffer began service with the State Police on March 2, 2015. In May 2018, Pfeiffer was reassigned to PSU, where he worked until he was removed from the unit on May 23, 2020. While a PSU member, Pfeiffer reported directly to a sergeant who had served with the State Police for more than 29 years before his May 2020 retirement.¹²

While assigned to PSU, Pfeiffer provided security at the Executive Mansion. By all accounts, he performed well in this position. Consequently, Pfeiffer was also assigned to assist with PSU's Travel Team. In both these roles, Pfeiffer had regular contact with the governor and certain members of the governor's family.

¹¹ See New York State Police Rules and Regulations § 8A8(2).

¹² Pfeiffer's supervisor's last date of service with the State Police was May 28, 2020. However, he remained on the payroll until his leave accruals were exhausted on June 8, 2020.

The Governor's Office Advised the PSU Detail Commander of Pfeiffer Allegation

According to the then PSU commander¹³, on or about May 22, 2020, the secretary to the governor reported to him that she had learned from a daughter of Governor Cuomo that the daughter was involved in a romantic relationship with Pfeiffer.¹⁴

Later that same day, the PSU commander telephoned Bruen and advised him about the relationship. According to Bruen, the PSU commander reported that Pfeiffer's relationship with the governor's daughter, who sometimes receives protective security services from PSU, violated an unspecified State Police regulation.¹⁵ The PSU commander also raised a possible concern to Bruen about "some hint of . . . countersurveillance" in that Pfeiffer may have "taught [the governor's daughter] . . . how to defeat surveillance, you know, protection." Lastly, according to Bruen, the PSU commander advised that Pfeiffer had told another PSU member about the relationship. In a subsequent conversation with Bruen, the PSU commander identified this other PSU member as Pfeiffer's supervisor, a sergeant, and advised that this supervisor had taken no action when learning of the relationship.

Around this same time, Bruen also spoke to the secretary to the governor, who provided additional details about the relationship. Bruen testified that the secretary to the governor told him not to speak about this matter with then State Police Superintendent Keith Corlett, to whom Bruen directly reported at that time.¹⁶ Nonetheless, Bruen believed he was obligated to inform the then superintendent and did so later that day.

Bruen testified to the Inspector General of his initial concerns about the allegation:

[T]his was concerning because of the factor . . . of the time that he's been compromised, . . . you can't be in this position and have that kind of a relationship with one of the protectees. You might be, supposed to be at a particular assignment, and if there's a fire in the house, you run to your beloved. Right. But that's not your job. Right. The other thing that concerned me is long-term security breakdowns. Do we have long-term security breakdowns? . . . Was there a process problem? What did he engage in, in terms of telling her

¹³ Unless otherwise indicated, references in this report to the "PSU commander" refer to the then PSU detail commander.

¹⁴ The Inspector General contacted the secretary to the governor and requested that she sit for a voluntary sworn interview. Subsequently, however, the secretary to the governor did not make herself available.

¹⁵ According to Bruen, the PSU detail commander also informed him that he considered Pfeiffer to be a "superstar" who he had intended to recommend for promotion to the State Police Bureau of Criminal Investigations (BCI).

¹⁶ Although Bruen was uncertain of the basis for the secretary to the governor's instruction, he speculated that she might have been concerned about "publicity and leaks."

how to defeat State Police protection? . . . Were there misuse of Division property or things like that?

Allegation Immediately Referred to PSB for a Division-Level Investigation

Bruen quickly concluded that the State Police needed to determine if Pfeiffer violated any State Police rules and regulations and evaluate the extent of any security breach. He explained his decision to the Inspector General: “I’m being told this is a clear case of misconduct and violating the rules . . . and we don’t know what we don’t know. So, we have limited options. We’re going to compel him.” Bruen further explained that he quickly directed an internal investigation “[b]ecause of the security potential, and because of the emotional attention it was getting . . . from the second floor of the governor’s office.”¹⁷ However, Bruen took no action to alert the Inspector General to this allegation of wrongdoing, as required by Executive Law.

Bruen immediately referred the allegation to the then PSB chief inspector, who was responsible for overseeing PSB and ensuring that investigations of personnel complaints are properly conducted. Although Bruen had discretion to direct the PSU commander to conduct a “Troop-Level” investigation, he instead chose to have this matter investigated by PSB as a “Division-Level” investigation—the highest category of investigation, which is generally reserved for the most serious of allegations of misconduct or criminal acts. Bruen advised the Inspector General that he had directed PSB to conduct the investigation in light of the seriousness of the allegation.

During their initial conversation, Bruen provided the then PSB chief inspector with very limited information; he explained only that there had been a “potential breach of security” at the Executive Mansion, it “involved the first family,” and that it was a “confidential” matter. According to the then PSB chief inspector, he “wasn’t part of the decision-making process in terms of how that matter would be handled,” and he believes that he was “purposely excluded”—facts acknowledged by Bruen.

Absent recusal, it is highly unusual for the PSB chief inspector and/or PSB assistant deputy superintendents to be excluded from knowledge of and decisions involving a “Division-Level” investigation conducted by a subordinate PSB member. In defending his decision to not fully brief the then PSB chief inspector, Bruen explained to the Inspector General that there was

¹⁷ “The second floor” refers to the location in the State Capitol, which houses the governor’s office and the offices of his/her aides and executives.

“a concern about press and confidentiality in that moment.” Bruen noted he was not specifically concerned that the chief inspector would disclose this matter to the press, but if Bruen was “asked the question, who have you told? Who knows about this?,” then he would be able to say, “It’s a very tight circle.”¹⁸

The then PSB chief inspector contacted the then PSB Northern Regional Office captain¹⁹ to conduct the investigation. He directed the PSB captain not to discuss the matter with him; instead, all further information and direction would be provided by Bruen. The PSB captain, at this time a 26-year veteran of the State Police who had been assigned to PSB for the two prior years, explained to the Inspector General he was not surprised by the assignment. He advised, “I handled a lot of what I would label weird or sensitive cases.”²⁰

Bruen Briefed the PSB Captain, Directed him to Work with the PSU Commander, and Emphasized the Sensitive Nature and Urgency of the Matter

After speaking with the then PSB chief inspector, the PSB captain met with Bruen, who informed him that Pfeiffer was involved in a romantic relationship with one of the governor’s daughters. Bruen tasked the PSB captain with determining how the relationship started, what it entailed, and whether Pfeiffer had violated any State Police rules or regulations. According to the PSB captain, Bruen impressed upon him the sensitive nature and enormity of the matter, informing him that the governor is “very upset” and Bruen was receiving “several calls from governor staff that are very upset.”

Bruen further directed the PSB captain to work with the PSU commander and report back to him. The PSB captain testified to the Inspector General that although he had never conducted a compelled interview of a member in which the member’s supervisory detail commander participated, in this instance, it made sense because the PSB captain had never worked for PSU and the PSU commander “would be able to provide him with sufficient context for the members’ daily work and responsibilities.”

¹⁸ Bruen testified that the then PSB chief inspector eventually learned of all details of the internal investigation.

¹⁹ Unless otherwise indicated, references in this report to the “PSB captain” refer to the individual who held the position of PSB Northern Regional Office captain during the relevant period of this matter.

²⁰ Of note, this was the Northern Regional Office captain’s last PSB assignment as he was, at the time this matter arose, scheduled to be voluntarily transferred out of PSB to a field position approximately five days later.

PSB Undertook Investigative Steps Despite Lack of Clarity as to What Rule(s) Were Violated

Based on the preliminary information provided by Bruen, the PSB captain consulted State Police manuals to determine if Pfeiffer may have violated any specific policies. After his review, the PSB captain reported to Bruen that he did not find Pfeiffer's actions to have violated any specific policy other than potentially violating one of the "catchall" rules, such as bringing discredit upon the Division.

The PSB captain described to the Inspector General the general nature of such "catchall" rules as, "You got involved in something you shouldn't have, you should've known better, but other than that, we don't know what you did wrong." According to the PSB captain, the State Police "made conscious efforts to steer clear of those type of determinations" and instead tried "to put concrete behavior into concrete violations of policy."

Additionally, the PSB captain advised the Inspector General that although the investigation had not been formally designated as a particular level at that time, since the matter was being handled by PSB, it was treated as a Level 4 ("Division-Level") investigation.

Pfeiffer Ordered to Report to State Police Division Headquarters

During the late morning of May 22, 2020, the then PSU zone sergeant telephoned Pfeiffer and directed him to report as quickly as possible to a State Police satellite office in Albany. Pfeiffer was not informed of the reason for this directive or that he would be required to sit for a compelled statement. Pfeiffer advised the Inspector General that he did not inquire of the zone sergeant the reason for his directive, but he suspected it "probably had something to do with" his relationship with one of the governor's daughters since he was aware that the daughter had spoken to the governor about the relationship the day before.

Shortly thereafter, the zone sergeant again contacted Pfeiffer and instructed him to instead report to the State Police Division Headquarters and to enter the building through the rear loading dock. Pfeiffer viewed this change in location to Division Headquarters as significant—"it ups the level"—and the zone sergeant provided no meaningful response to Pfeiffer's question about the reason for the change. Pfeiffer also explained to the Inspector General that entering the building through the rear loading dock felt "a little sketchy" to him, but multiple State Police members advised the Inspector General that the use of this entrance, which is near the parking lot, is not unusual.

While traveling to Division Headquarters, Pfeiffer contacted a lieutenant in a distant Troop who was a colleague and friend, informed him of his relationship with the governor's daughter, and discussed a possible transfer from PSU to a field position. The lieutenant advised Pfeiffer that he should request to leave PSU due to the potential conflict that could arise from dating a protected individual. Pfeiffer asked the lieutenant if it would be possible to be assigned to a station near Pfeiffer's home. According to Pfeiffer, the lieutenant responded, "absolutely," and subsequently contacted the regional zone lieutenant, who indicated that there were vacancies and "he had a locker waiting for" Pfeiffer in that regional barrack.

The PSB Captain and PSU Commander Prepared for Compelled Statements

The PSB captain contacted the deputy general counsel of the NYS Troopers PBA to ensure union representation for Pfeiffer and his supervisor.²¹ The PSB captain testified that while it is not standard operating procedure for PSB to arrange for union representation in a member's compelled statement to PSB, it is also not uncommon for this to occur.²² He noted that there is one deputy general counsel to represent thousands of members, so sometimes it is most convenient and efficient for him to go directly to her. The PSB captain also assigned an investigator to assist in the analysis of Pfeiffer's personal cell telephone, but Pfeiffer ultimately declined to consent to such a search.

The PSB captain and PSU commander also drafted questions to ask Pfeiffer and his supervisor. The questions for Pfeiffer focused on how the relationship started, the current state of the relationship, and Pfeiffer's intent in engaging in the relationship. According to the PSB captain and PSU commander, they wanted to ensure there was no malicious intent or coercion on the part of Pfeiffer. The questions for Pfeiffer's supervisor focused on how and when he learned of the relationship and what if anything he had done upon learning about the relationship.

During this preparation, the PSB captain and PSU commander received updated information from Bruen that indicated the relationship was consensual. Nonetheless, the PSB captain noted to the Inspector General that they still needed to take compelled statements to

²¹ On this date, the Friday before Memorial Day weekend, the NYS Troopers PBA deputy general counsel was in Syracuse representing another member, but she agreed to travel to Albany to represent the two members in their compelled statements.

²² Of note, under the collective bargaining agreement, Troopers are entitled to "consult privately with an attorney of the member's own choosing and/or a [NYS Troopers PBA attorney] before being interrogated."

“confirm . . . how this happened and that . . . there’s no nefarious or malintent here on the part of . . . Pfeiffer, any other member and/or the sergeant who . . . knew about this relationship.”

Pfeiffer Met with the NYS Troopers PBA Attorney and Prepared for Compelled Statement

Pfeiffer arrived at Division Headquarters in the late afternoon or early evening of May 22, 2020. He was met at the loading dock by the zone sergeant and, upon entering the building, was subjected to a pat down by the zone sergeant. Pfeiffer found this odd considering he was a sworn member of the State Police, wearing shorts, and unarmed.

In testimony to the Inspector General, the zone sergeant stated that he did not recall patting down Pfeiffer that day. However, State Police members testified to the Inspector General that while it is infrequent for a sworn member of the State Police to be subject to a pat down before a compelled interview, it could be appropriate in certain circumstances.

The PSU commander explained to the Inspector General that while he did not know Pfeiffer was subjected to a pat down, he viewed the investigation of the relationship as a “very sensitive situation” that presented potential safety concerns for the two PSB members and other State Police staff. He further noted, “We were dealing with a potential boyfriend/girlfriend dispute that could have been -- you have a Trooper who has a gun. You have a Trooper who fears that he could be losing his job. He could . . . have his career ruined over this. What’s going through his head? How is he gonna react?”

Pfeiffer was then introduced to the deputy general counsel of the NYS Troopers PBA, who advised that she would be representing him in a compelled statement to PSB. Pfeiffer said that this was the first time he had been told that he was to sit for a compelled statement. Pfeiffer estimated that the attorney spent approximately five minutes preparing him for the statement. According to Pfeiffer, had he been earlier advised that he was to sit for a compelled statement, he would have contacted the president of the NYS Troopers PBA and retained his own attorney. He made no such request at the time of his interview.

Pfeiffer’s Compelled Statement to PSB

Just after 5 p.m., Pfeiffer’s compelled statement began. Pfeiffer, represented by the NYS Troopers PBA deputy general counsel, was read a preamble, which noted that he was the focus

of an inquiry into an “inappropriate relationship” while being a PSU member.²³ Pfeiffer was also informed that he was required to answer questions and could be subject to disciplinary action for not doing so. Lastly, Pfeiffer was informed that his statement was being recorded and a full transcript and duplicate recording would be provided to him.

During Pfeiffer’s detailed compelled statement, he acknowledged his romantic relationship with one of the governor’s daughters, which he claimed had begun with an off-duty telephone call around mid-March 2020, approximately two months after he first met her during an assignment. He also claimed that he never physically interacted with the governor’s daughter while he was on duty. In addition, Pfeiffer testified that he had not accepted any assignment involving the governor’s daughter after he began a relationship with her nor discussed his State Police responsibilities with her.

According to Pfeiffer’s compelled statement, at some point, he and the governor’s daughter discussed that she was going to inform her family about their relationship, and Pfeiffer had no reservations about that decision. Subsequently, however, Pfeiffer said that the two agreed instead that she should delay informing the governor about their relationship because Pfeiffer was awaiting a possible promotion to a field position.

Pfeiffer also stated that he had mentioned the relationship to his supervisor in early May 2020, and had done so only after his supervisor overheard a telephone conversation that Pfeiffer was having with the governor’s daughter.

In his compelled statement, Pfeiffer was asked if, at that point in time, he believed it was “professional” of him to engage in a relationship with the governor’s daughter, to which he responded, “Yes, it was professional.”

At the conclusion of the statement, Pfeiffer stated to the PSU commander, “I’ve always conducted myself while on duty in a professional manner.” He explained that it was his intent to discuss the relationship with the PSU commander, but that the situation had unfolded in a different fashion. Pfeiffer also expressed that he was in a serious relationship, and because of that, he would not have done anything differently.

²³ The preamble for a target of a personnel complaint also noted that the compelled statement was being conducted pursuant to Article 16 of the collective bargaining agreement between New York State and the NYS Troopers PBA, as well as State Police regulations.

The PSB captain explained to the Inspector General that he was mindful of the sensitive nature of this interview and his questions had been carefully considered. He stated, “I would say they were probably even given extra thought and extra dignity attached to them due to the fact that this involved the governor’s daughter. I believe they were pretty direct but . . . I do believe I was trying to make a conscious decision to weigh my words when asking sensitive questions about the relationship . . . through this interview process it was becoming apparent this was a consensual relationship, so I did not get into the mechanics of any type of private activities.”

In contrast to this view, Pfeiffer testified to the Inspector General that he felt many of the questions asked during his compelled statement were about his personal life and were “inappropriate,” which made for a “hugely uncomfortable situation.” Pfeiffer expressed his belief that only those questions about “having sexual contact with anybody while on duty” were appropriate because such conduct is “covered” in State Police policies.²⁴

At the conclusion of the compelled statement, the PSU commander placed Pfeiffer on administrative duty, and advised he would work a Monday-to-Friday schedule and not return to the Executive Mansion. Pfeiffer was not told at that time where he would be reporting when he returned to work the following week; instead, he was told to await further instructions. Pfeiffer was also provided with a document stating that he was interviewed as part of a confidential investigation and should not discuss the matter with anyone.

Pfeiffer’s Supervisor’s Compelled Statement

Pfeiffer’s supervisor arrived at Division Headquarters on the night of May 22, 2020. He had been directed by the zone sergeant to report there for a compelled statement but not provided information about the subject of his statement. The supervisor met with the same NYS Troopers PBA deputy general counsel that had represented Pfeiffer, who advised that she would be representing him at the compelled statement.

The supervisor’s brief compelled statement was more direct than Pfeiffer’s. As the PSB captain explained, the focus of the supervisor’s questioning was whether Pfeiffer had told him

²⁴ During his statement, Pfeiffer was asked about an allegation of countersurveillance, in that he assisted the governor’s daughter in evading protection, which he denied. The Inspector’s General’s investigation did not uncover any evidence to corroborate this allegation.

about this relationship and if so, what had been said and what actions, if any, had the supervisor taken.

The supervisor confirmed in his compelled statement that he first became aware of Pfeiffer's relationship with one of the governor's daughters around early May 2020. He further noted that he did not know what to do with this information and had not reported it to any of his supervisors, despite subsequently hearing about the relationship several additional times from Pfeiffer. According to the supervisor, he told Pfeiffer to stop raising the matter with him because he viewed the two as consenting adults. The supervisor also told PSB that he thought Pfeiffer put himself in a "potentially compromising position." While he acknowledged that he was responsible for reporting misconduct of a subordinate, he did not want to disclose the relationship before the governor's daughter chose to do so. At the conclusion of his statement, the supervisor was provided with a document stating that he was interviewed as part of a confidential investigation and should not discuss the matter with anyone.

The Investigation was Viewed as Completed After the Compelled Statements

Immediately after each compelled statement, the PSB captain and PSU commander briefed Bruen on their findings. The PSB captain advised Bruen that he did not believe that Pfeiffer's conduct constituted a violation of any State Police rule or regulation, but the "general mood" was nonetheless that it was a "major incident that . . . had to be answered for . . . that both the Trooper and the sergeant were in the wrong." His conclusion was based on Pfeiffer's statement that he did not engage in the relationship "during work hours in the mansion" or on "other State properties." The PSB captain testified to the Inspector General that he viewed the relationship as an "ongoing consensual relationship between two adults that the State Police doesn't really have a real say in but agreeing that . . . this person can no longer work to be a member of the Protective Services Unit if they're in a full ongoing intimate relationship with one of the protected parties."

According to the PSB captain, Bruen made it "clear that both [Pfeiffer and his supervisor] couldn't go back to the mansion to work." According to the PSU commander, all agreed that Pfeiffer needed to be transferred.

After the compelled statements, the PSB captain did not take any additional investigative steps to either corroborate or discredit Pfeiffer's or his supervisor's accounts of the matter and

received no further instruction from Bruen regarding additional steps. The PSB captain transferred to a field position, as previously scheduled, five days after the statements.

Bruen testified to the Inspector General that he believed PSU might have taken additional investigative steps—including reviewing potentially relevant emails and telephone records to which they would have access. The PSU commander testified to the Inspector General as to his recollection that PSU “looked into other things” to determine whether Pfeiffer was “sneaking into the mansion Where was he having these communications with her? Where was he exchanging these text messages with her? Was it just happening outside or was it happening while he was working?” However, these additional investigative steps were never memorialized and therefore no records reflecting any additional investigative actions or results were available for the Inspector General to review.

Bruen Determined Pfeiffer’s Conduct did not Warrant Discipline, but he Must Leave PSU

The night of May 22, 2020, after being briefed by the PSB captain and PSU commander, Bruen decided not to formally discipline Pfeiffer for his conduct, but instead to remove him from PSU.

Bruen explained to the Inspector General that as the “supervisor of PSU” and “chief disciplinarian,” he “sort of short-circuited” the process because he “did not feel running [Pfeiffer] through the discipline process would benefit the Division.” Bruen’s determination that Pfeiffer’s conduct “was not appropriate for discipline” was “based on the nature of the relationship between the two people,” “the absence of any other real violation of our rules and regulations, apart from this romantic relationship,” and that the investigation did not reveal security breaches. Bruen noted that although early in the investigation the PSU commander had informed him that Pfeiffer’s conduct violated an explicit State Police rule, the PSU commander ultimately failed to cite to any specific rule. Although Bruen was clear that he did not approve of or condone Pfeiffer’s behavior, “when the facts get fully developed It’s just not discipline. The kid’s in a relationship.”

Although he was not involved in the investigation, the then PSB chief inspector testified to the Inspector General that Pfeiffer’s relationship was not an issue in and of itself, assuming none of his conduct occurred while he was on duty. Had this conduct occurred on duty, this “would have been an issue for him.” However, the then PSB chief inspector further testified that

Pfeiffer “should have asked to . . . get off the detail the second that that relationship started” because it was a “complete conflict of interest.”²⁵

Bruen also believed that shy of formal discipline, some penalty was due to Pfeiffer for his conduct and “he was going to be punished in the sense that he was going to be removed from the detail.” He noted that although there was “nothing in writing that said, thou shall not become romantically involved with a member of the first family,” “it was simply something everybody understood was a no-no and would make you inappropriate for the detail.”

Other members of the State Police also shared the view that Pfeiffer must be reassigned from PSU. The PSU commander believed that Pfeiffer’s conduct “was not acceptable for the detail” because he had “violated the trust of the detail,” and a subsequent PSB chief inspector²⁶ testified that inaction would place the State Police “in a bad situation” in that “it opens up opportunities for us to have something go wrong, or for him to do something he shouldn’t.”

Pfeiffer Immediately Transferred from PSU to a Troop Outside the Region

Once Bruen concluded that he would not pursue formal discipline against Pfeiffer, the focus shifted to removing Pfeiffer from the PSU detail. The next morning, Saturday, May 23, 2020, the PSU commander sent an email to all PSU members stating:

All, Effective yesterday’s date [Pfeiffer’s supervisor] and Trooper Dane Pfeiffer have been reassigned. Please know the facts and circumstances of this reassignment will remain confidential. At this time, no member of PSU should communicate with either member and both members are not permitted on Mansion and State Capitol property.

As for where Pfeiffer would be transferred, Bruen advised the PSB captain that Pfeiffer needed to submit a transfer request. The PSB captain replied to Bruen that he had learned from Pfeiffer during the compelled statement that Pfeiffer had earlier contacted a lieutenant who was a colleague and friend seeking a transfer to a station near his. Upon learning this, Bruen directed the PSB captain to contact the lieutenant and have the lieutenant tell Pfeiffer to put in for a transfer. Bruen explained to the Inspector General that although it was within his discretion to

²⁵ A subsequent PSB chief inspector noted that the State Police prohibits married Troopers from working together on a shift or patrol as such situations can create problems.

²⁶ Different State Police members have served in the role of PSB chief inspector from the time of PSB’s review of this matter to the date of this report.

involuntarily transfer Pfeiffer “to Buffalo,” given that Pfeiffer and the governor’s daughter were “very serious about each other,” he decided to allow Pfeiffer to “request a transfer.”

Later that day, the PSB captain telephoned the lieutenant and relayed Bruen’s direction. When the lieutenant advised that Pfeiffer wanted to be transferred to a specific Troop near his home, the PSB captain stated that the “Division” would not authorize Pfeiffer’s transfer to that Troop, as it was geographically too close to Albany, the governor’s family, and the Executive Mansion.²⁷ The lieutenant subsequently contacted Pfeiffer and advised him to request a transfer to a Troop outside the region because his stated choice of transfer was not an option.

By the following morning, Sunday, May 24, Pfeiffer had yet to submit a transfer request. Pfeiffer testified that he then received a telephone call from the PSU commander who indicated that he was waiting for Pfeiffer’s transfer request and that he expected Pfeiffer to request a transfer to the distant Troop. That afternoon, Pfeiffer submitted such a request to be transferred to Troop B, located approximately 145 miles from the Executive Mansion. As his reason for the transfer request, he noted, “I respectfully request transfer with the intention to gain further experience in the field prior to a promotion as Sergeant.”

Pfeiffer explained to the Inspector General that he was “pretty heavily defeated,” and did not view this transfer as voluntary but rather “voluntold.” He testified, “On paper I volunteered, but no, I don’t want to go up there, never want to go there again.” Pfeiffer noted that his commute to and from his home and station would be at least two hours each way.

On Monday, May 25, 2020, a memorandum was issued by Bruen to the PSU commander formally transferring Pfeiffer to the more distant Troop.²⁸

Pfeiffer’s Supervisor Retired in Good Standing Without any Personnel Complaint Pending

On the afternoon of May 25, 2020, Pfeiffer’s supervisor emailed the PSU commander tendering his retirement memorandum.²⁹ According to the PSU commander, he had asked the supervisor to request a transfer out of PSU, and in response, the supervisor informed him that he was ready to retire and would do so rather than request transfer to another unit.

²⁷ The lieutenant told the Inspector General that he inferred “Division” to mean Bruen and the then superintendent.

²⁸ Contemporaneous with Pfeiffer’s transfer to Troop B, a Trooper from the same Troop was transferred to PSU.

²⁹ Pfeiffer’s supervisor’s retirement memorandum stated that he was “seeking to retire in less than 15 days” at the close of business on May 28, 2020, under a COVID-pandemic-related waiver that was then in effect.

According to Bruen, had Pfeiffer's supervisor not retired, a personnel complaint would have been initiated against the supervisor for learning about Pfeiffer's relationship and failing to notify his supervisor of the matter. Bruen explained to the Inspector General that he viewed Pfeiffer's conduct and his supervisor's conduct differently. He testified:

The sergeant was different in that . . . he's [a] supervisor . . . [and] was told of someone who was compromised emotionally and has lost perspective.

* * *

I looked at it in two different ways. The sergeant wasn't in love. . . . basically, it came down to this kid was in love with the girl. And I cut him a break. . . . It was an ill fit for discipline. . . . The sergeant, hey, he can't do that. That sergeant I think . . . had 30 plus years on the job. . . . He'd been on a long time.

The supervisor instead retired from the State Police in good standing.

NYS Troopers PBA Requested a Transcript, Pfeiffer Subsequently Filed a Grievance

On November 24, 2021, Pfeiffer was promoted to the rank of sergeant. On December 6, 2021, the NYS Troopers PBA contacted PSB and requested a copy of Pfeiffer's compelled statement, which Pfeiffer had not received in the year and a half since he gave it. However, according to the State Police response, Pfeiffer's compelled statement could not be found.

A subsequent PSB chief inspector testified to the Inspector General that PSB members searched for the statement and corresponding investigation report but found no records reflecting either. When PSB contacted PSU about the matter, PSU reported it too could not locate the statement or corresponding investigative report. After learning that the former PSB captain may have a recording of Pfeiffer's statements, the PSB chief inspector contacted the former PSB captain, who confirmed that although he had taken Pfeiffer's statement, he no longer had the audio file because it had been deleted.

Two days later, on December 8, 2021, the NYS Troopers PBA filed a grievance seeking production of the transcript. The next day, the former PSB captain who conducted the interview located a copy of the audio recording of Pfeiffer's statement in his email account and a copy was provided by the State Police to Pfeiffer as well as the Inspector General's Office.

THE INSPECTOR GENERAL'S DETERMINATIONS

The Professional Standards Bureau Failed to Follow its Own Procedures

The procedure for PSB's investigation of personnel complaints is set forth in detail in the New York State Police Administrative Report Writing Manual, as well as Article 9B of the

Division Manual. A complaint against personnel is defined as “any allegation or complaint received by any member, directly or indirectly, that accuses any Member or employee of any improper or illegal conduct occurring either on-duty or off-duty.”³⁰

Per a subsequent PSB chief inspector, all personnel complaints made against a member are reported to the unit and documented within its electronic records management system. Upon receiving a complaint, the appropriate regional staff inspector classifies the level of complaint. The classifications range from Level 1 (minor violations) to Level 4 (the most serious allegations of misconduct/crimes). The complaints are given a personnel complaint number and assigned for investigation. Level 1, 2, and 3 complaints are investigated by the Troop/detail commander designee and are referred to as “Troop-Level” investigations, while Level 4 complaints are investigated by PSB and referred to as “Division-Level” investigations. The results of investigations conducted by the Troop/detail commander designee are communicated to PSB.

As part of a PSB investigation or other administrative investigation/review, members may be directed to provide a compelled statement. Under the State’s collective bargaining agreement with the NYS Troopers PBA, Troopers are afforded a reasonable opportunity to consult privately with an attorney of the member’s choosing and/or a NYS Troopers PBA attorney before being interrogated and may be accompanied by this attorney for any disciplinary investigations or hearings. Additionally, members must be notified in writing of any determination once an investigation is completed and provided a copy of the recording or transcript of the interview.³¹

Per the State Police Administrative Report Writing Manual, once an investigation is completed, a report is required to be written by the investigating member and reviewed by the member’s supervisor. The investigating member determines the final disposition of a personnel complaint as “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.

³⁰ Article 9B1(a) of the State Police Manual. This section has two exceptions that do not apply to the instant investigation.

³¹ See Articles 16.2(A)(8), 16.2(A)(10) and 16.4 of the collective bargaining agreement between the State of New York and the NYS Troopers PBA.

Here, the Inspector General found that PSB did not follow its own investigative procedures in that it failed to: (i) assign a personnel complaint number to the investigations of Pfeiffer and his supervisor; (ii) maintain records and audio files of their compelled statements; (iii) ensure that the full investigation was diligently memorialized in the form of investigative reports; and (iv) enter relevant information into PSB's record management system. While it is an inherent characteristic of exigent investigations that the nature and seriousness of the matter may evolve, even dramatically so, as more information becomes available, it is essential that before any investigation is concluded all administrative and procedural steps are completed. Here they were not.

First, the Inspector General's investigation found that the allegations against Pfeiffer and his supervisor were not initially assigned personnel complaint numbers. According to State Police members, this is not unusual, and investigations can be initiated without immediately assigning a number in certain circumstances. This is most likely to occur when circumstances necessitate an immediate investigative response, as was believed to be the case here. However, after the compelled statements were taken and throughout the course of the investigations, personnel complaint numbers were still not assigned. This remains the case.

Second, after the compelled statements, other routine actions were also not taken by PSB, such as ordering transcripts or copies of the audio recorded compelled statements or uploading the same into PSB's record management system. Instead, the PSB captain sent copies of the audio recordings to his work email. He explained his actions to the Inspector General by stating, "I've always been nervous of the recorders that I'm going to lose it."

Bruen testified to the Inspector General that once he determined Pfeiffer's actions did not warrant formal discipline, the matter became "tantamount to . . . just a security audit or some portion of a security review," and thus should be documented in the same fashion. Bruen further testified that until he learned of Pfeiffer's grievance, he had assumed it had been handled as such. When asked to articulate the specific way in which investigative steps are documented and statements maintained as part of an audit, however, Bruen was unclear as to the specifics. Additionally, the Inspector General's review of other State Police disciplinary investigations suggest that such materials are maintained as personnel complaints rather than audits. Moreover, the PSB captain testified that he had never documented a personnel complaint as an audit.

The PSB captain further testified to the Inspector General that he had a different understanding about how records and recordings from this portion of the investigation should be handled. According to the PSB captain, he believed that nothing else needed to be done with the compelled statements once Bruen determined that Pfeiffer had not violated any State Police rules and his supervisor had retired. Further, the PSB captain explained that he did not maintain the statements as he would other investigative records because “I didn’t know who to give them to. I was under orders not to talk about this, not to release the information. . . . I also did not [want to] give them to even my bosses for fear of them making it back to basically the governor.”³²

The PSB captain acknowledged to the Inspector General that the State Police’s preserving of the compelled statements of Pfeiffer and his supervisor “could have been done better.” This office agrees. Failing to document compelled statements and subsequent investigations also has the possibility of leaving State Police members with little recourse should they file a grievance or seek to challenge State Police actions. Here, Pfeiffer filed a grievance requesting a copy of his compelled statement, which the State Police were able to provide only because the PSB captain had emailed himself copies of the recordings. Had Pfeiffer filed a grievance seeking records of the subsequent investigation, the State Police would have been unable to properly respond due to the failure to memorialize the compelled statements or, as discussed below, to document the investigation in a report.

Third, the PSB captain, having received unclear procedural direction from his superiors and orders to keep the matter discrete, did not prepare investigative reports summarizing his investigative findings and results, which is the standard policy in a PSB investigation of a personnel complaint. Even if PSB ultimately determined that there was no violation of State Police rules, an investigative report outlining the full breadth of investigative steps and findings should have been prepared.

This conclusion is supported by a subsequent PSB chief inspector who testified, “Even if that turned out to be nothing at the end, there still needs to be a [personnel complaint] number taken for that, and a report completed to show -- it can be completely unfounded, but we need that report to show it was properly investigated and it was unfounded, or it was substantiated.”

³² The PSB captain correctly noted that it was not his responsibility to “decide how complaints come in or who gets assigned complaints. I don’t assign a number to those complaints. I work for a staff inspector who works for a lieutenant colonel, who works for a colonel, who’s a chief inspector. So, I’m down like four rungs inside of PSB itself.”

There are a number of possible reasons why PSB failed to memorialize this investigation properly, including that Bruen assumed responsibility for directing a highly sensitive and charged internal investigation without fully including PSB's upper management, the lack of clear guidance given to the PSB captain on how this sensitive investigation should be documented, or the actual or perceived influence of the governor and/or others on his executive staff. Regardless of the reason, failing to memorialize all investigative steps in any investigation does a disservice to the State Police as an agency, its members who might want decisions reviewed, and any oversight agencies who review its investigations.

Indeed, without such documentation, there is no way for the State Police to be able to determine whether an allegation was properly and thoroughly investigated. The subsequent PSB chief inspector recognized this, testifying to the Inspector General, "*There was no way for us, as an agency, to determine whether it was properly investigated, . . . whether the proper steps were taken to determine if . . . either one of these members did anything wrong or . . . could be cleared from wrongdoing on the allegation. We have no way of showing what did or didn't happen with that allegation.*" (Emphasis added.)

As a result of PSB's failure to document all investigative steps, the Inspector General cannot comprehensively review the matter, making it impossible to fully evaluate the thoroughness and propriety of the investigation. Instead, it appears that PSB took Pfeiffer's and his supervisor's statements as the truth, without anything more. The PSU commander testified that he looked into "other things," such as whether Pfeiffer was sneaking into the Executive Mansion or communicating with the governor's daughter while he was working. However, without any report or evidence of these or other investigative steps—such as interviewing other witnesses, and reviewing telephone, surveillance camera footage, and GPS records—the Inspector General can neither fully corroborate or discredit Pfeiffer's and his supervisor's statements.

Finally, as a result of PSB's failure to complete the above-described investigatory reports, the investigation was never memorialized in PSB's record management system or in Pfeiffer's and his supervisor's personnel files and PSB member records. As such, the State Police are unable to use the factual findings of this investigation as a reference point when making future decisions about Pfeiffer's assignments and/or promotions.

The Compelled Statements Taken from Pfeiffer and his Supervisor were Swift but Fair

Despite other procedural failings, the Inspector General found no issue with the form or content of the compelled statements taken from Pfeiffer and his supervisor.

The Inspector General notes that it was within Bruen's discretion to have merely referred this matter to PSU to investigate, which would have allowed the PSU commander to conduct a Troop-Level inquiry of Pfeiffer and his supervisor. Instead, Bruen chose to have compelled statements taken by PSB in light of the seriousness of the allegation.

The Inspector General further recognizes that the PSB captain took great efforts to ensure that a NYS Troopers PBA attorney was present late Friday afternoon of Memorial Day weekend to represent Pfeiffer and his supervisor. Although Pfeiffer testified that he would have retained his own attorney had he known he was going to give a compelled statement, he took no steps to discover the reason for his summoning to Division Headquarters. Specifically, Pfeiffer never asked the zone sergeant who contacted him why he was being directed to come to Division Headquarters or whether he needed an attorney. Additionally, in the few hours that passed between the initial call and his arrival at Division Headquarters, Pfeiffer did not contact the PSU commander to obtain more information, the NYS Troopers PBA, or seek an outside legal opinion or attorney representation. Moreover, when Pfeiffer arrived at Division Headquarters and learned of the compelled statement, there was nothing stopping him from seeking outside representation at that time if he in fact wanted it.

The Inspector General also determined that Pfeiffer and his supervisor were both read a preamble advising them of their rights, and that the questions asked of both during their compelled statements were fair and reasonable given the circumstances. In addition, the PSB captain's questions were focused on uncovering any violations of State Police rules, identifying possible security breaches, and confirming the consensual nature of Pfeiffer's relationship with the governor's daughter.

Although PSB infrequently conducts compelled statements of targets immediately upon its receipt of a complaint, given the urgent need to eliminate the question of possible security issues at the Executive Mansion or other PSU posts, the Inspector General finds it reasonable that the State Police decided to exigently obtain a compelled statement from Pfeiffer. It is also unusual for the target's unit supervisor—here the PSU commander—to be present during a compelled statement of a subordinate member. However, due to the unique nature of PSU and

its assignments, the Inspector General finds no fault with the State Police's decision to have the PSU commander present to provide clarification as necessary to the PSB captain during the compelled statements.

In short, although PSB deviated from the normal course of business in some aspects of its taking of the compelled statements, these deviations were understandable and justified given the circumstances.

Pfeiffer's Conduct Violated State Police Rules and Should Have Subjected Him to Discipline

Members of PSU are required to abide by State Police rules and regulations. As relevant to this investigation, State Police Rules and Regulations state:

A Member shall not engage in any activity that will interfere or could reasonably be expected to interfere with the proper, impartial, and effective performance of official duties or availability for regular or emergency duty.

* * *

[A member may be] determined to be incompetent and subject to disciplinary action . . . [when] a member exhibits: (1) Inaptitude; (2) Inadaptability; (3) Reluctance to perform duties; (4) Neglect of duty; or (5) Failure to assume responsibility or to exercise diligence in performance of official duties.³³

PSU members are also required to abide by New York State Public Officers Law. Of relevance to the instant case are two provisions of Public Officers Law section 74, the Code of Conduct. Section 74(3)(f) states:

An officer or employee of a state agency . . . should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

Section 74(3)(h) states:

An officer or employee of a state agency . . . should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

The Inspector General does not agree with Bruen's conclusion that Pfeiffer's conduct did not constitute a violation of State Police rules warranting the initiation of formal disciplinary proceedings.

³³ State Police Rules and Regulations sections 8E1 and 8A9, respectively.

While the Inspector General recognizes that the State Police prefer not to rely on catchall rules (e.g., bringing discredit to the Division) when finding a violation, despite its apparently clear applicability here, Bruen could have alternatively found that Pfeiffer's conduct violated a more definitive rule, such as Rule 8E1, which provides:

A Member shall not engage in any activity that will interfere or could reasonably be expected to interfere with the proper, impartial, and effective performance of official duties or availability for regular or emergency duty.³⁴

Indeed, the Inspector General's investigation found, and logic dictates, that Pfeiffer's conduct could reasonably be expected to interfere with the performance of his duties. Specifically, Pfeiffer chose to date a protectee for at least two months without ever notifying his supervisor of this relationship. Instead, he consulted the State Police rules and arrived at his own determination that he did not violate any State Police rules by dating one of the governor's daughters. He testified to the Inspector General, "I didn't break any rules . . . I wanted to make sure and double check our rules and regulations and our confidentiality agreement to be sure that there was no breach, which there was not."

Pfeiffer's analysis of his own conduct failed to take into consideration that his relationship could interfere with his duties and undermine his impartiality when on assignments or, at the very least, create a reasonable basis for such an impression. The fact that Pfeiffer asserted in both his compelled statement to PSB and his testimony to the Inspector General a year and a half later that he did not find his relationship to conflict with his PSU duties is continued evidence of poor judgment and lack of perspective with respect to this situation. Moreover, if the secretary to the governor did not advise the State Police of the relationship, it would presumably have continued without any review of Pfeiffer's assignments and placement in PSU unless and until such time as Pfeiffer chose to disclose his actions on his own accord.

It must be noted that the burden to address this inherent conflict initially rested squarely on the shoulders of Pfeiffer, who neglected to seek a solution prior to the disclosure of the then two-month relationship by the governor's daughter to the governor. Had Pfeiffer merely sought a transfer from PSU to a regional Troop during this period, he would likely have been transferred to his Troop of first choice or another Troop consistent with the needs of the State Police and collective bargaining agreements.

³⁴ New York State Police Rules and Regulations § 8E(1).

The Inspector General also finds that such a violation of State Police rules should have resulted in some form of discipline for Pfeiffer, even if it was as minimal as a verbal censure. This finding was supported by the PSU commander, who testified to the Inspector General that he believed Pfeiffer was due “formal discipline” for his actions in “breaking the trust.”

Although Bruen had discretion to find no violation of State Police rules, and other members interviewed by the Inspector General echoed his conclusion, this finding appeared to be based on the fact that no State Police rule *expressly* prohibits a member from engaging in a romantic relationship with a protectee and the determination that Pfeiffer had not furthered his relationship while on duty. However, the Inspector General finds that Bruen and other members of the State Police took an overly narrow view of Pfeiffer’s conduct and State Police rules. Instead of investigating the potential consequences of Pfeiffer’s relationship with respect to his assignments and the integrity of PSU at large, Bruen simply looked at the nature of the relationship and “cut him a break,” concluding that “there was nothing unseemly about his behavior. They were having, what in all other context, would be a romantic relationship.” Of note, Pfeiffer, like all State employees, is subject to Public Officers Law and in this instance, Bruen could also have found a possible violation of the aforementioned provisions of Section 74 and referred the matter to the then New York State Joint Commission on Public Ethics for further review.

Additionally, Bruen’s view that Pfeiffer’s conduct did not constitute a violation of New York State Police rules must be contrasted with Bruen’s view that Pfeiffer’s supervisor’s conduct did. Bruen’s view that the supervisor’s failure to disclose the relationship violated State Police rules is inconsistent with his view that the relationship itself did not.

The State Police Should Have Referred this Matter to the Inspector General After Possible Security Breaches Were Addressed

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.³⁵ Under this statute, the State Police is a covered agency and thus subject to the

³⁵ Covered agencies include “all executive branch agencies, departments, divisions, officers, boards and commissions, public authorities (other than multi-state or multi-national authorities), and public benefit corporations, the heads of which are appointed by the governor, and which do not have their own inspector general by statute.” N.Y. Exec. Law § 51 (McKinney 2006).

Inspector General’s jurisdiction. As such, the State Police is required to “promptly report” to the Inspector General “any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse” by any of its members.³⁶

The Inspector General then has the authority to determine if 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.”³⁷ The Inspector General is further authorized to review and examine covered agencies’ related policies and procedures and recommend remedial action. Issuing public written reports concerning such matters is also authorized.

The State Police failed to timely refer this matter to the Inspector General pursuant to the reporting mandates of Executive Law. In the instant matter, once the State Police addressed any immediate concerns about possible security breaches, it should have referred the matter to this office.

Notably, the State Police have historically only referred a limited number of complaints to this office. To provide some context, below is a chart summarizing the number of personnel complaints investigated by PSB in the last three years broken down by Level 1, 3, and 4.³⁸

Year	Total Personnel Complaints Investigated	Level 1	Level 3	Level 4
2019	432	158	225	49
2020	403	146	199	58
2021	353	126	180	47

However, the State Police have only referred a handful of its Level 4 complaints—the most serious allegations of misconduct/crimes—to the Inspector General in the last three years. Specifically, the Inspector General received referrals for only two of 49 complaints in 2019, four of 58 complaints in 2020, and four of 47 complaints in 2021.³⁹

³⁶ N.Y. Exec. Law § 55.

³⁷ N.Y. Exec. Law §§ 53(1), (5), and (6).

³⁸ Practically speaking, the State Police no longer utilizes the Level 2 designation. Level 2 designations were previously used for E-ZPass violations (e.g., excessive speed in a toll booth lane, etc.). However, since toll booths have been largely eliminated in the State, the State Police now rarely utilize this designation.

³⁹ It should be noted that not all State Police referrals received by the Inspector General’s office were traditional complaint referrals from PSB. For example, some of the complaint numbers reflected here include automatic notifications of employee arrests.

Consequently, the Inspector General does not have the same visibility into the State Police as it does with other similarly situated covered agencies, which refer significantly more cases to this office. Without an adequate view of State Police complaints, the Inspector General is unable to fulfill its mission to recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interests or abuse in covered agencies. Moreover, the lack of referrals ultimately undermines oversight and agency transparency.

POST-INVESTIGATION CHANGES TO PSU

In the months following the August 23, 2021 resignation of Governor Cuomo, Bruen, now the State Police superintendent, began to institute changes to improve PSU's organizational structure, enhance its policies, and create greater oversight of its operations.

As an initial matter, the commanding officer of PSU now reports directly to the assistant deputy superintendent of the Bureau of Criminal Investigation (BCI) rather than the first deputy superintendent. According to Bruen, this change was made because he viewed the assistant deputy superintendent of BCI, who reports to the first deputy superintendent, as better equipped for active daily management oversight of PSU. Moreover, when dealing with disciplinary cases, shifting supervisory responsibility down a reporting level serves to, in Bruen's words, "shield" the first deputy superintendent, the "chief disciplinarian," from being exposed to potential disciplinary cases as they arise rather than allowing them to serve as the final arbiter.

Second, the State Police now requires members of PSU leadership to be permanent rank commissioned officers.⁴⁰ Bruen expressed his belief that these more experienced commanders will be less likely to be "subject to undue influence, and even unconscious influence."

Third, during this investigation, the State Police revised PSU's Standard Operating Procedure Manual and is drafting revisions to PSU's confidentiality memorandum. Although not yet finalized, a draft memorandum reviewed by this office incorporates statements about a member's duty to report criminal activity, any other illegal conduct, any activity in violation of federal or New York State laws, and/or any violation of State or Division regulations, rules, policies, or procedures.

⁴⁰ To be a "commissioned officer," one must have taken and passed the sergeant's and lieutenant's examinations. Commissioned officers have a permanent rank of lieutenant.

Notably, while each of these changes will likely have a positive impact on the functioning of PSU and the State Police, it is the conclusion of the Inspector General's Office that none of these changes directly address deficiencies noted in this investigation.

To that end, the Inspector General is encouraged that the State Police has been receptive to our interim recommendation that members of the Offices of the Inspector General be given the opportunity to participate in future trainings of both newly-hired Troopers as well as newly-promoted supervisors. While the manner in which this training will take place has not yet been finalized, the process is underway and will make a recurrence of procedural failures seen here less likely.

RECOMMENDATIONS

Documentation

The Inspector General recommends that the State Police and PSB consistently follow established State Police procedures for investigating and documenting personnel complaints. All allegations/complaints, regardless of level designation, and without exception, should be assigned a personnel complaint number and have a corresponding written report or summary outlining the investigative actions taken and any findings, and all information and case activities should be memorialized and entered into PSB's case management system—even when the findings are unsubstantiated or unfounded. Here, the Inspector General recommends that this report be included or incorporated by reference in the personnel files and PSB member records of Pfeiffer and his supervisor.

PSB's Chain of Command Should be Utilized for all Investigations

The Inspector General further recommends that the State Police rely on its well-established chain of command within PSB to ensure that the chief inspector and assistant deputy superintendents are included in decision making for all Level 4 investigations, unless impractical or based on recusal. Simply put, the established process should not be short circuited and important stakeholders should not be left out. Had PSB's chief inspector and assistant deputy superintendents been involved in this investigation from the beginning, rather than merely the PSB captain and PSU commander, who had never been assigned to PSB, proper investigative procedures might have been followed.

According to Bruen, part of his rationale for disclosing this matter to few members was concerns about potential leaks. However, if there truly exists concerns about members

maintaining confidentiality, the State Police should consider implementing confidentiality memoranda for all PSB members, including the captains, assistant deputy superintendents, and chief inspector.

Discipline

Given that no State Police policy or regulation expressly prohibits romantic relationships between a PSU member and a protectee, and as the State Police has advised of its reluctance to utilize “catchall” rules to bar the same, the Inspector General recommends that the State Police either consistently utilize current policies or regulations in disciplinary actions to prohibit these relationships or draft and implement new policies prohibiting such relationships.

In addition, the Inspector General issued a report in August 2020 outlining its investigation of the State Police Drug Enforcement Task Force.⁴¹ Indeed, in that report, this office emphasized the need for the State Police to have a disciplinary process in which the public can have confidence. However, many of the changes to the State Police’s disciplinary process that were recommended by the Inspector General appear to have not yet been formally implemented.

In that report, the Inspector General recommended the following changes to the assignment of discipline, all of which were meant to ensure greater transparency:

- Create a checklist for disciplinary decisions to document and ensure that personnel files and disciplinary histories have been reviewed before offers are extended, members’ supervisors have been consulted, and the ability of members to retire or resign during disciplinary investigations has been factored into these decisions.
- 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.

The notion that the State Police’s disciplinary process should be consistent and based on fairness and impartiality is as true today as it was in August 2020. Although the instant conduct and compelled statements took place prior to the issuance of that report, this situation underscores the need for the implementation of these recommendations.

At the time of this report, the State Police advised that PSB maintains a database that tracks discipline and is reviewed regularly to ensure discipline is consistently imposed. The

⁴¹ See <https://ig.ny.gov/system/files/documents/2020/08/nyspdetf2245.030.2018-nyc.pdf>.

State Police further advised that since September 2021, in addition to regular meetings between the First Deputy Superintendent's Office and Counsel's Office, the PSB has weekly meetings with the first deputy superintendent and counsel to discuss pending disciplinary matters. According to the State Police, this approach provides all involved in the disciplinary process with current information on pending matters and a mechanism by which matters can be discussed openly and questions, legal or otherwise, can be resolved.

Reporting Requirement to the Inspector General's Office

By statutory design, the Inspector General has direct oversight of the State Police as a covered agency. In the August 2020 report, the Inspector General made the following recommendations, which underscore the reporting relationship the State Police has to the Inspector General:

- 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 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.

As of the writing of this report, the State Police advised that it will so revise the State Police Manual at its next periodic update and will work with the Inspector General to ensure that new recruits are fully trained on integrity-related issues and their reporting requirements pursuant to Executive Law.

The State Police acknowledged that it does not refer all personnel complaints to the Inspector General. The Inspector General notes that Executive Law section 55 mandates that “every state officer or employee in a covered agency shall report *promptly* to the state inspector general *any* information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee” (Emphasis added.) This mandate expressly requires that covered agencies such as the State Police report *all* such matters prior to internal investigation and not only those matters that result in an arrest.

Significantly, to address this issue, the State Police and Inspector General's Office commenced monthly meetings in August 2022 to discuss new and pending complaints. The Inspector General has had success utilizing this model with other covered agencies and is hopeful that it will facilitate progress towards the goal of more transparent and efficient communication with the State Police and the Offices of the Inspector General.

These recommendations will not only serve to increase collaboration between the two offices, but they will allow the Inspector General to have greater transparency into the State Police, track any trends, and fulfill its statutory mission to recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interests or abuse in covered agencies.

Collective Bargaining Agreement

Whether the State Police violated the collective bargaining agreement with the NYS Troopers PBA is not a question for the Inspector General to resolve. Accordingly, we refer that allegation to the State Police to review.