

## Complaint of Personnel Investigation 20120375

Type: Personnel Sub Type Troop: K Status: C  
Incident Date/Time 8/3/2012 7:00 AM Mode Rec. In Person  
Report Due 9/14/2012 Level Inv. T 3 CTV: K1465 - T/RHINEBECK  
Commissioned Officer Assigned Yes Report Location IAB 1/10/2012

### Synopsis:

Members failed to make a timely SJS entry and failed to document a sexual assault complaint or notify a supervisor in a timely manner.  
Level 3 per Staff Insp. M. J. Smith.

To be adjudicated by Major Kopy per the 1st Dep

Classification: INTERNAL ADMINISTRATIVE MATTERS Finding: F

### Subjects:

Employee ID [REDACTED] Rank TROOPER DOE: 2/14/2005  
Last Name MERGENDAHL First Name JEREME MI J  
Troop K Location RHINEBECK  
CCC 1: DISOD CCC 2: NEGLT CCC 3: IMPPA

Employee ID [REDACTED] Rank TROOPER DOE: 9/9/2002  
Last Name MIANO JR First Name ALBERT MI L  
Troop K Location RHINEBECK  
CCC 1: DISOD CCC 2: NEGLT CCC 3: IMPPA

Employee ID [REDACTED] Rank INVESTIGATOR DOE: 10/28/1996  
Last Name HOYT First Name MICHAEL MI J  
Troop K Location RHINEBECK  
CCC 1: DISOD CCC 2: NEGLT CCC 3: IMPPA

Employee ID [REDACTED] Rank INVESTIGATOR DOE: 1/8/1996  
Last Name POPOW First Name WILLIAM MI M  
Troop K Location RHINEBECK  
CCC 1: DISOD CCC 2: NEGLT CCC 3: IMPPA

### Complainants:

Employee ID [REDACTED] Last Name KOPY First Name MICHAEL MI A TJS K011  
Shield 4153 Rank MAJOR Sex M SP Employee ☒ DOE 9/22/1986  
Address City State Zip  
Home Phone Work Phone

### Administrative Personnel:

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<b>Employee ID</b> [REDACTED]	<b>ID</b> RECEIVING MEMBER	<b>TZS</b> K021
<b>Last</b> MURPHY	<b>First</b> JAMES <b>MI</b> H	<b>Date/Time:</b> 8/14/2012      10:00 AM

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<b>Employee ID</b> [REDACTED]	<b>ID</b> MEMBER AT TROOP NOTIFIED	<b>TZS</b> K011
<b>Last</b> KOPY	<b>First</b> MICHAEL <b>MI</b> A	<b>Date/Time:</b> 8/15/2012      8:30 AM

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<b>Employee ID</b> [REDACTED]	<b>ID</b> MEMBER WHO NOTIFIED TROOP	<b>TZS</b> K013
<b>Last</b> LOUGHRAN	<b>First</b> LISA <b>MI</b> D	<b>Date/Time:</b> 8/15/2012      8:30 AM

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<b>Employee ID</b> [REDACTED]	<b>ID</b> MEMBER AT DIV NOTIFIED	<b>TZS</b> H132
<b>Last</b> SMITH	<b>First</b> MARK <b>MI</b> J	<b>Date/Time:</b> 8/15/2012      2:45 PM

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<b>Employee ID</b> [REDACTED]	<b>ID</b> MEMBER WHO NOTIFIED DIV	<b>TZS</b> K011
<b>Last</b> KOPY	<b>First</b> MICHAEL <b>MI</b> A	<b>Date/Time:</b> 8/15/2012      2:45 PM

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<b>Employee ID</b> [REDACTED]	<b>ID</b> INVESTIGATOR	<b>TZS</b> K021
<b>Last</b> MURPHY	<b>First</b> JAMES <b>MI</b> H	<b>Date/Time:</b> 9/30/2012

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<b>Employee ID</b> [REDACTED]	<b>ID</b> REVIEWER	<b>TZS</b> H132
<b>Last</b> SMITH	<b>First</b> MARK <b>MI</b> J	<b>Date/Time:</b> 11/6/2012

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**NEW YORK STATE POLICE**

**Troop "K" Headquarters  
2541 Route 44  
Salt Point, NY 12578**

JOSEPH A. D'AMICO  
SUPERINTENDENT

MICHAEL A. KOPY  
TROOP COMMANDER

LETTER OF CENSURE

January 17, 2013

Investigator Michael J. Hoyt  
New York State Police  
Troop "K"  
Rhinebeck, New York

Dear Investigator Hoyt:

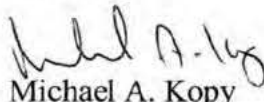
On January 17, 2013 you appeared before me at Troop K Headquarters for the purpose of adjudicating a disciplinary matter arising from your actions on August 2, 2012. You had previously requested to have the matter adjudicated informally by me pursuant to Rule 3 of the Administrative Manual.

After reviewing this case in depth, and discussing the matter with you, it is clear to me that you failed to exercise the minimal amount of due diligence that I feel is required in the performance of your duties. Clearly you should have responded to either the station, or the victim's residence, and taken charge of what turned out to be the most serious of sexual assault crimes. Your failure to do so created a significant void in this investigation and prevented what could have been very useful evidence from being collected at the most appropriate time. We are fortunate that the matter has turned out as successful as it is at this point, although this success has nothing to do with your actions. I find your conduct in this matter to be well below the standards that I believe are inherent in the position of Investigator.

As such I am closing this matter through the issuance of this letter of censure. I am directing that you lose three vacation days to be worked by you without additional compensation/and or overtime and that you be transferred from the SP Rhinebeck BCI Unit to the SP Poughkeepsie BCI Unit effective February 14, 2013. I trust that we will never see a recurrence of this kind in the future.

cc: Det HQ  
Capt BCI  
disc file  
pers

Sincerely,

  
Michael A. Kopy

Major - Troop Commander

# NEW YORK STATE POLICE

## MEMORANDUM

Troop K Station Headquarters

Date January 17, 2013

**To:** Troop Commander, Troop K, Poughkeepsie, New York

**From:** Investigator Michael J. Hoyt *MSH*

**Subject:** DISCIPLINARY ACTION – COMPLAINT AGAINST PERSONNEL  
20120375

I hereby request to have the above captioned investigation adjudicated by the Troop Commander pursuant to Rule 3, disciplinary action, of the New York State Police Manual.

I waive the following:

1. The right to have this matter disposed of by the Superintendent or by a formal hearing.
2. Any right to appeal the Troop Commander's adjudication, which may be a determination of unfounded or, upon a finding of guilt, the imposition of the following penalties:
  - i. A letter of censure and/or
  - ii. An intra-troop transfer and/or
  - iii. ~~A fine to be expressed in the loss of no more than~~  
five vacation days to be worked by me with no additional compensation or overtime.



**NEW YORK STATE POLICE**

**Troop "K" Headquarters  
2541 Route 44  
Salt Point, NY 12578**

JOSEPH A. D'AMICO  
SUPERINTENDENT

MICHAEL A. KOPY  
TROOP COMMANDER

LETTER OF CENSURE

January 17, 2013

Trooper Albert L. Miano  
New York State Police  
Troop "K"  
Wappingers Falls, New York

Dear Trooper Miano:

On January 17, 2013 you appeared before me at Troop K Headquarters for the purpose of adjudicating a disciplinary matter arising from your actions on August 12, 2012. You had previously requested to have the matter adjudicated informally by me pursuant to Rule 3 of the Administrative Manual.

During our meeting we discussed the events of August 12, 2012. I find that you exercised a lack of due diligence in the performance of your duties. Specifically, you failed to make an SJS entry properly documenting what was clear to you at the time to be the sexual abuse of a [REDACTED] [REDACTED]. We are fortunate that your omission did not adversely effect what turned out to be a far more serious crime than you originally believed.

I trust that after our discussion this will never happen again and I am closing this matter through the issuance of this letter of censure. A future dereliction of this type may result in a more significant penalty.

Sincerely,

Handwritten signature of Michael A. Kopy.  
Michael A. Kopy  
Major - Troop Commander

cc. Det HQ  
Capt RCG  
disc file  
per "

**NEW YORK STATE POLICE****MEMORANDUM**Troop K Station HeadquartersDate January 17, 2013

**To:** Troop Commander, Troop K, Poughkeepsie, New York

**From:** Trooper Albert L. Miano *alm*

**Subject:** **DISCIPLINARY ACTION – COMPLAINT AGAINST PERSONNEL  
20120375**

I hereby request to have the above captioned investigation adjudicated by the Troop Commander pursuant to Rule 3, disciplinary action, of the New York State Police Manual.

I waive the following:

1. The right to have this matter disposed of by the Superintendent or by a formal hearing.
2. Any right to appeal the Troop Commander's adjudication, which may be a determination of unfounded or, upon a finding of guilt, the imposition of the following penalties:
  - i. A letter of censure and/or
  - ii. An intra-troop transfer and/or
  - iii. A fine to be expressed in the loss of no more than five vacation days to be worked by me with no additional compensation or overtime.



**NEW YORK STATE POLICE**

**Troop "K" Headquarters  
2541 Route 44  
Salt Point, NY 12578**

JOSEPH A. D'AMICO  
SUPERINTENDENT

MICHAEL A. KOPY  
TROOP COMMANDER

LETTER OF CENSURE

January 22, 2013

Trooper Jereme J. Mergendahl  
New York State Police  
Troop "K"  
Rhinebeck, New York

Dear Trooper Mergendahl:

On January 18, 2013 you appeared before me at Troop K Headquarters for the purpose of adjudicating a disciplinary matter arising from your actions on August 12, 2012. You had previously requested to have the matter adjudicated informally by me pursuant to Rule 3 of the Administrative Manual.

During our meeting we discussed the events of August 12, 2012. I find that you exercised a lack of due diligence in the performance of your duties. Specifically, you failed to make an SJS entry properly documenting what was clear to you at the time to be the sexual abuse of [REDACTED]. We are fortunate that your omission did not adversely effect what turned out to be a far more serious crime than you originally believed.

I trust that after our discussion this will never happen again and I am closing this matter through the issuance of this letter of censure. A future dereliction of this type may result in a more significant penalty.

Sincerely,

*Michael A. Kopy*  
Michael A. Kopy

Major - Troop Commander

cc: Dis HQ  
Capt SLB  
disc file  
pers "


## NEW YORK STATE POLICE

### MEMORANDUM

Troop K Station Headquarters

Date January 18, 2013

To: Troop Commander, Troop K, Poughkeepsie, New York

From: Trooper Jereme J. Mergendahl 

Subject: **DISCIPLINARY ACTION – COMPLAINT AGAINST PERSONNEL  
20120375**

I hereby request to have the above captioned investigation adjudicated by the Troop Commander pursuant to Rule 3, disciplinary action, of the New York State Police Manual.

I waive the following:

1. The right to have this matter disposed of by the Superintendent or by a formal hearing.
2. Any right to appeal the Troop Commander's adjudication, which may be a determination of unfounded or, upon a finding of guilt, the imposition of the following penalties:
  - i. A letter of censure and/or
  - ii. An intra-troop transfer and/or
  - iii. A fine to be expressed in the loss of no more than five vacation days to be worked by me with no additional compensation or overtime.



**NEW YORK STATE POLICE**

**Troop "K" Headquarters  
2541 Route 44  
Salt Point, NY 12578**

JOSEPH A. D'AMICO  
SUPERINTENDENT

MICHAEL A. KOPY  
TROOP COMMANDER

LETTER OF CENSURE

January 24, 2013

Investigator William M. Popow  
New York State Police  
Troop "K"  
Rhinebeck, New York

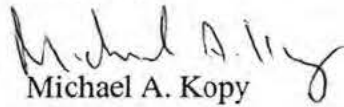
Dear Investigator Popow:

On January 24, 2013 you appeared before me at Troop K Headquarters for the purpose of adjudicating a disciplinary matter arising from your actions on August 2, 2012. You had previously requested to have the matter adjudicated informally by me pursuant to Rule 3 of the Administrative Manual.

It is clear to me that you failed to exercise the minimum due diligence that is required in the performance of your duties when you were aware of a sexual assault having possibly been perpetrated upon a [REDACTED]. I find this to be extremely disturbing and fully expect that it will never happen again.

I am closing this matter through the issuance of this letter of censure and trust that you have fully taken into account my discussion with you regarding this complaint.

Sincerely,

  
Michael A. Kopy  
Major - Troop Commander

cc: Du HQ  
BCI Capt  
disc file  
per "

# NEW YORK STATE POLICE

## MEMORANDUM

Troop K Station Headquarters

Date January 22, 2013

**To:** Troop Commander, Troop K, Poughkeepsie, New York

**From:** Investigator William M. Popow

**Subject:** **DISCIPLINARY ACTION – COMPLAINT AGAINST PERSONNEL  
20120375**

I hereby request to have the above captioned investigation adjudicated by the Troop Commander pursuant to Rule 3, disciplinary action, of the New York State Police Manual.

I waive the following:

1. The right to have this matter disposed of by the Superintendent or by a formal hearing.
2. Any right to appeal the Troop Commander's adjudication, which may be a determination of ~~unfounded or, upon a finding of guilt, the~~ imposition of the following penalties:
  - i. A letter of censure and/or
  - ii. An intra-troop transfer and/or
  - iii. A fine to be expressed in the loss of no more than five vacation days to be worked by me with no additional compensation or overtime.

**NEW YORK STATE POLICE****MEMORANDUM**Troop K Station HeadquartersDate January 4, 2013

**To:** Colonel Anthony G. Ellis II, Deputy Superintendent, Internal Affairs Bureau

**From:** Major Michael A. Kopy, Troop Commander, Troop K

**Subject:** COMPLAINT AGAINST PERSONNEL #20120375  
TPR. JEREME J. MERGENDAHL – EOD 2/14/05 – SP RHINEBECK  
TPR. ALBERT L. MIANO – EOD 09/09/02 – SP RHINEBECK  
INV. MICHAEL J. HOYT – EOD 10/28/96 – SP RHINEBECK  
INV. WILLIAM M. POPOW- EOD 01/08/96 – SP RHINEBECK

Reference is made to previously NYSP Cover Page Report of Lieutenant JAMES H. MURPHY, dated September 30, 2012 and cover memorandum of Captain LISA D. LOUGHRAN, dated October 12, 2012, both concerning captioned subject.

Investigation revealed that on August 3, 2012 Troopers JEREME J. MERGENDAHL and ALBERT L. MIANO failed to make an SJS entry at the conclusion of their shift documentation their investigation of a reported sexual assault complaint thereby violating Regulation 8A9(5) of the NYSP Rules and Regulations. Investigation revealed that Investigators MICHAEL J. HOYT and WILLIAM M. POPOW were found to be in violation of Regulation 8A9(5) for their failure to follow up on the investigation. Investigators HOYT and POPOW also failed to notify their immediate supervisor of the situation, thereby violating Regulation 8A4.

On January 17, 2013 Investigator HOYT appeared before me to adjudicate this matter and was formally censured for his actions. A copy of my letter is attached. Investigator HOYT was also assessed the loss of three vacation days and transferred from SP Rhinebeck BCI to SP Poughkeepsie BCI effective February 14, 2013.

On January 17, 2013 Trooper MIANO appeared before me to adjudicate this matter and was formally censured for his actions. A copy of my letter is attached.

On January 18, 2013 Trooper MERGENDAHL appeared before me to adjudicate this matter and was formally censured for his actions. A copy of my letter is attached.

On January 24, 2013 Investigator POPOW appeared before me to adjudicate this matter and was formally censured for his actions. A copy of my letter is attached.

This matter is closed.

**NEW YORK STATE POLICE****MEMORANDUM**Troop K Station HeadquartersDate October 19, 2012**To: Colonel Anthony G. Ellis II, Deputy Superintendent, Internal Affairs Bureau****From: Major Michael A. Kopy,** <sup>V</sup> Troop Commander, Troop K**Subject: COMPLAINT AGAINST PERSONNEL #20120375  
TPR. JEREME J. MERGENDAHL – EOD 2/14/05 – SP RHINEBECK  
TPR. ALBERT L. MIANO – EOD 09/09/02 – SP RHINEBECK  
INV. MICHAEL J. HOYT – EOD 10/28/96 – SP RHINEBECK  
INV. WILLIAM M. POPOW- EOD 01/08/96 – SP RHINEBECK**

Reference is made to attached NYSP Cover Page Report of Lieutenant JAMES H. MURPHY, dated September 30, 2012 and cover memorandum of Captain LISA D. LOUGHRAN, dated October 12, 2012, both concerning captioned subject.

I have reviewed the report, discussed the contents of same with both Captain LOUGHRAN and Lieutenant MURPHY and concur with the findings of the investigation.

Investigation has clearly determined that Troopers JEREME J. MERGENDAHL and ALBERT L. MIANO failed to exercise the due diligence expected in the performance of their duties when they both failed to make the appropriate Spectrum Justice Service entries as required by Division policy as well as their sending a rape victim home who had arrived at the barracks to make a complaint. Given the circumstances, I believe it would have been more appropriate to keep the victim at the barracks, where she had arrived, to conduct the initial inquiry.

I find that Investigator MICHAEL J. HOYT did also violate the New York State Police Regulations in that he both failed to assume responsibility and failed to exercise the due diligence required to perform his duties and probably more importantly, I find reluctance to perform his assigned duties. Clearly Investigator HOYT should have responded and taken charge of this serious investigation when notified. I find no justification for him to allow the Troopers to determine the course of action in what is certainly a case that is in the purview of the Bureau of Criminal Investigation and for which he was solely responsible. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]. As it pertains to his  
conduct, I question whether the discipline I can impose at the Troop level would be sufficient.

I concur and I believe that Investigation WILLIAM M. POPOW failed to exercise the required diligence in the performance of his duties in that when he was notified, he failed to ensure that an investigation was conducted on a timely basis.

Recommend appropriate administrative action.

## NEW YORK STATE POLICE

## MEMORANDUM

Troop K Station HeadquartersDate October 12, 2012**To:** Major Michael A. Kopy, Troop Commander, Troop K**From:** Captain Lisa D. Loughran**Subject:** COMPLAINT AGAINST PERSONNEL – DCN 2012-0375  
TROOPER JEREME J. MERGENDAHL - EOD 02/14/05  
TROOPER ALBERT L. MIANO EOD - 09/09/02  
INVESTIGATOR MICHAEL J. HOYT – EOD 10/28/96  
INVESTIGATOR WILLIAM M. POPOW – EOD 01/08/96

Reference is made to the attached Cover Page Administrative Report of Lieutenant JAMES H. MURPHY regarding the above Personnel Complaint. I have reviewed the report of Lieutenant MURPHY and concur with his findings.

On August 2, 2012, TROOPERS ALBERT MIANO and JEREME MERGENDAHL, SP Rhinebeck were in receipt of a rape complaint at SP Rhinebeck by the victim, [REDACTED]. They reported that [REDACTED].

TROOPER MERGANDAHL contacted the on-duty recall Bureau member, Investigator MICHAEL HOYT and advised him of the situation. Investigator HOYT did not respond to station or the residence of the victim for further investigation.

Trooper MERGANDAHL contacted Investigator HOYT a second time following an attempt to interview the victim and her family at their residence. Investigator HOYT instructed Trooper MERGANDAHL to email Investigator WILLIAM POPOW with the details of the complaint and no further investigation was conducted that evening.

The Troopers failed to document the complaint or their investigative steps in the Spectrum Justice System, SJS. No consultation was made with a supervisor by the Troopers or Investigator HOYT. The responsibility of the investigation then incorrectly shifted to the next bureau member on duty, Investigator POPOW, who was advised of the incident via email. Investigator POPOW was denied the opportunity to thoroughly investigate this matter from the onset and he wrongly assumed Investigator HOYT had adopted a case.

It should be noted that on August 12, 2012 the family did come to the station to follow up on the complaint at which time Investigator POPOW adopted a case and conducted a thorough investigation. [REDACTED]

**Troopers ALBERT MIANO and JEREME MERGENDAHL did violate the following rules and regulations of the New York State Police:**

**8A2 – Failed to comply with the Rules, Regulations and Instructions, specifically:**

**8A9(5) – Failed to assume responsibility or to exercise diligence in the performance of their official duties:**

**8A9 (3) – Reluctance to perform his assigned duties:**

On August 2 and 3, 2012 Troopers ALBERT MIANO and JEREME MERGENDAHL failed to exercise due diligence and to assume responsibility in the performance of their duties when they failed to thoroughly investigate the report of a rape by [REDACTED]. Their contact of the on-call Bureau member appears to have been just a “formality” and their statements regarding same gives the impression Troopers MIANO and MERGENDAHL and Investigator HOYT talked themselves out of conducting further investigation that evening. Trooper MERGENDAHL did send an email to the next on-duty bureau member advising him of the report however neither Trooper MIANO nor Trooper MERGENDAHL followed up the email with a call or conversation with Investigator POPOW. Additionally both Troopers MIANO and MERGENDAHL failed to report the alleged crime or their investigative steps into the Spectrum Justice System, a direct violation of Division’s SJS policy which states: at minimum all SJS incidents require a narrative entry describing the event and actions taken by Members.

**Investigator MICHAEL HOYT did violate the following New York State Police Rules and Regulations:**

**8A2 – Failed to comply with the Rules, Regulations and Instructions, specifically:**

**8A9(5) – Failed to assume responsibility or to exercise diligence in the performance of their official duties:**

**8A9 (3) – Reluctance to perform his assigned duties:**

On August 3, 2012 Investigator HOYT failed to assume responsibility in the performance of his duties and was reluctant to perform his assigned duty when he received a call from Trooper MERGENDAHL advising him that a rape of [REDACTED] had been reported to them [REDACTED]. Investigator HOYT as the on-call investigator failed to return to duty

to further investigate the matter. Lastly, Investigator HOYT failed to follow up with any of the information presented to him on August 3, 2012 and failed to ensure that a member of the BCI was made aware of the incident. Directing the Trooper to send an email regarding a Rape 1<sup>st</sup> investigation is not acceptable and falls far below the level of dedication and professionalism expected from a member of the Bureau of Criminal Investigation.

**Investigator WILLIAM POPOW did violate the following New York State Police Rules and Regulations:**

**8A2 – Failed to comply with the Rules, Regulations and Instructions, specifically:**

**8A9(5) – Failed to assume responsibility or to exercise diligence in the performance of their official duties:**

On August 3, 2012 Investigator POPOW failed to assume responsibility in the performance of his official duties when he received an email notification of a rape case that had been reported the evening prior and did nothing further to ensure the case had been adopted by a member of the BCI.

This investigation is complete and closed as FOUNDED, recommend the appropriate administrative action be taken against Trooper ALBERTO MIANO, Trooper JEREME MERGANDAH, Investigator MICHAEL HOYT and Investigator WILLIAM POPOW.

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NEW YORK STATE POLICE  
COVER PAGE

<b>TITLE OF CASE</b> Trooper JEREME J. MERGENDAHL EOD 02/14/05, SP Rhinebeck Trooper ALBERT L. MIANO EOD 09/09/02, SP Rhinebeck Investigator MICHAEL J. HOYT EOD 10/28/96, SP Rhinebeck Investigator WILLIAM M. POPOW EOD 01/08/96, SP Rhinebeck	REPORTING TROOP K	MANAGING TROOP K	DATE OF REPORT 09/30/12
	DATE OF OCCURRED 08/03/12	TZS K121	CTV CODE K1458
	INVESTIGATIVE PERIOD 08/16/12-09/30/12		TYPED BY jhm
	REPORT OF Lieutenant JAMES H. MURPHY		SHIELD 561
<b>CHARACTER OF CASE - (CC CODE)</b> COMPLAINT AGAINST PERSONNEL (PCT0100)	STATION SP Poughkeepsie		CASE # 20120375
	STATUS OF CASE <input type="checkbox"/> CA <input type="checkbox"/> C/EC <input type="checkbox"/> C/INV <input type="checkbox"/> C/UNF <input type="checkbox"/> C/UNS <input checked="" type="checkbox"/> C/FND <input type="checkbox"/> OPN		

REFERENCE: Complaint of Personnel Investigation 20120375

ENCLOSURES: TO DIVISION HEADQUARTERS and TROOP K:

1. SP Rhinebeck Uniform Force Schedule 7/19/12-8/15/12.
2. SP Rhinebeck BCI Schedule 7/19/12-8/15/12.
3. SP Rhinebeck UF Member Attendance Record (pers.29) 8/2/12.
4. SP Rhinebeck UF Member Attendance Record (pers.29) 8/3/12.
5. SP Rhinebeck BCI Member Attendance Record (pers.29) 8/2/12.
6. SP Rhinebeck BCI Member Attndance Record (pers.29) 8/3/12.
7. SP Rhinebeck BCI Member Attendance Record (pers.29) 8/13/12.
8. CAD Call Information 8/2/12 21:41.
9. CAD Call Information 8/3/12 00:56.
10. Memorandum of Sergeant ROBERT E. WARNER III dated 9/4/12.
11. E-Mail of Trooper JEREME MERGENDAHL titled "Heads UP" dates 8/3/12.
12. E-Mail of Trooper JEREME MERGENDAHL titled "FYI" dated 8/12/12.

DISTRIBUTION: <input type="checkbox"/> DHQ <input type="checkbox"/> TROOP <input type="checkbox"/> OTHER:	FOR TROOP/DIVISION HEADQUARTERS USE ONLY
APPROVED: ZONE <i>Captain David Friedman</i> TROOP <i>Captain Michael A. Gault</i>	DESTROY IN 20 _____ INITIALS _____ PERMANENT RETENTION _____ INITIALS _____

NEW YORK STATE POLICE  
INTERNAL AFFAIRS BUREAU  
HEADQUARTERS

2012 NOV -8 A 8: 23

COMPLAINT AGAINST PERSONNEL  
(PCT0100)  
#20120375  
CONTINUED:

ENCLOSURES: TO DIVISION HEADQUARTERS AND TROOP K

13. Document generated by Senior Investigator TIMOTHY COWPER showing recipients of e-mail titled "Heads Up".
  14. Transcript of Statement of Trooper JEREME MERGENDAHL dated 8/21/12.
  15. Transcript of statement of Trooper ALBERT MIANO dated 8/21/12.
  16. Memorandum of Trooper JEREME MERGENDAHL dated 9/7/12.
  17. Memorandum of Trooper ALBERT MIANO dated 9/7/12.
  18. Transcript of statement of Investigator WILLIAM POPOW dated 9/10/12.
  19. Transcript of statement of Investigator MICHAEL HOYT dated 9/10/12.
  20. SJS Report # [REDACTED] Rape 1st Investigation authored by Investigator WILLIAM POPOW.
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**SYNOPSIS:** On August 14, 2012, at approximately 9:45 AM, Lieutenant JAMES H. MURPHY, Troop K BCI was at SP Rhinebeck performing a routine supervisory check when he became aware of a subject under arrest for a B-Felony. When Lieutenant MURPHY questioned Senior Investigator WILLIAM GRAY as to the particulars of the arrest, it was learned that the incident had been reported to state police personnel on August 2, 2012 and that no BCI investigation had been commenced until August 13, 2012. Lieutenant MURPHY questioned Senior Investigator GRAY as to why he hadn't been advised of the matter and was informed that Senior Investigator GRAY only learned of it on the afternoon of August 13, 2012. It was then learned that the initial complaint had never been documented in SJS by either of the initial responding Members, Trooper ALBERT L. MIANO, or Trooper JEREME J. MERGENDAHL, or the advised BCI personnel, Investigator MICHAEL J. HOYT, or Investigator WILLIAM M. POPOW. Investigation into this matter finds that the troopers did telephonically contact Investigator HOYT of the crime and did send an e-mail advising Investigator POPOW of the incident, but never made any SJS entry. Investigation also found that Investigator HOYT incorrectly advised the UF when contacted, that he was not the on-duty investigator and failed to provide proper guidance on how to proceed. Lastly, Investigator POPOW learned of this case via e-mail on the morning of August 3, 2012 and then went on annual leave on COB date without ever notifying his supervisor of the incident, following up with the complainant, or making any entry in SJS. This case against Troopers ALBERT L. MIANO, JEREME J. MERGENDAHL, and Investigators MICHAEL J. HOYT and WILLIAM M. POPOW is deemed to be founded. Closed by investigation.

**DETAILS:**

**AT SP RHINEBECK, NEW YORK**

1. On August 14, 2012 at approximately 9:45 AM, I was at SP Rhinebeck conducting a routine supervisory check. While at the station, I was informed by Senior Investigator WILLIAM GRAY of a subject that was at the station being interviewed as a target in a rape case. I asked Senior Investigator GRAY the details of the case and was informed that the initial report of the rape was made to the state police on August 2, 2012 at approximately 11:50 PM. I informed Senior Investigator GRAY that I was surprised that I hadn't known of the investigation as I review SJS daily and did not recall seeing the case at any time. I then asked Senior Investigator GRAY when he first learned of the investigation and he stated that he was just advised on August 13, 2012 in the late afternoon. Senior Investigator GRAY added that he did not know of the case prior to that because it was never documented in SJS, nor had any of his squad mentioned it to him.

**AT SP POUGHKEEPSIE, NEW YORK**

2. On August 14, 2012 at approximately 12:30 PM I returned to SP Poughkeepsie. At that time I reviewed SJS for SP Rhinebeck for August 2, 2012 through August 4, 2012. At no time did I find any reference or mention of the rape investigation. I then advised Captain LISA D. LOUGHRAN of the matter.

Captain LOUGHRAN then advised Major MICHAEL A. KOPY of the incident who notified Inspector MARK SMITH of IAB South. Personnel Complaint 20120375 was initiated with Lieutenant MURPHY assigned to investigate.

3. On August 14, 2012 at 1:00 PM I retrieved the work schedules for SP Rhinebeck UF and BCI from LATS for the period of July 19, 2012 through August 15, 2012. Schedule reveals that Troopers MIANO and MERGENDAHL were both working a 2 shift on August 2, 2012. They were both assigned to Division vehicle 1K31. This was the last day of a two day work period and they both went on pass at 7:00 AM on August 3, 2012. The BCI schedule shows that Investigator HOYT was working a C-Line on August 2, 2012 and completed his shift at 11:00 PM, but would have been on recall until 3:00 AM on August 3, 2012. Investigator HOYT then began a three day pass and did not return to duty until 3:00 PM on August 6, 2012. The schedule also shows that Investigator POPOW worked a B-Line on August 2 and 3, 2012. He left work on 4:30 PM on August 2, 2012 and returned to duty at 8:30 AM on August 3, 2012, but was the recall investigator beginning at 3:00 AM on August 3. Investigator POPOW completed his tour of duty at 4:30 on August 3 and was off duty for the next nine days, returning to duty at 3:00 PM on August 13, 2012. Investigator JAMES MONTROSS was working a C-Line on August 3, 2012 and was the recall BCI Member for the Saturday August 4 and Sunday August 5, 2012. SP Rhinebeck UF Schedule for July 19, 2012 - August 15, 2012 is attached as Enclosure #1. SP Rhinebeck BCI Schedule for July 19, 2012 - August 15, 2012 is attached as Enclosure #2.

4. On August 14, 2012 I contacted Senior Investigator GRAY telephonically and directed him to make copies of the Member Attendance Record (Pers.29) for the SP Rhinebeck UF and BCI for the dates of August 2 and 3, 2012, as well as the BCI for August 13, 2012. I further directed Senior Investigator GRAY to forward those items to me via the Troop relay system. SP Rhinebeck Member Attendance Record (Pers 29) UF for August 2 and 3, 2012 are attached as Enclosures # 3 and 4 respectively. SP Rhinebeck Member Attendance Record (Pers 29) BCI for August 2, 3 and 13 are attached as Enclosures #5, 6 and 7 respectively.

5. On August 14, 2012 at approximately 2:30 PM I spoke with Sergeant EDWARD OMULESKI Troop K Communications Supervisor and requested any CAD, or radio transmission records for 1K31 for August 2, 2012 from 10:00 PM through August 3, 2012 until 2:00 PM. The radio records reveal that Troopers MIANO and MERGENDAHL were riding together in 1K31 and were assigned to a domestic incident at 9:42 PM. At 10:50 PM they called out at SP Rhinebeck with a prisoner stemming from the domestic complaint. At 12:02 AM they contacted Troop K Communications advising of a prisoner transport to court. The records indicate that Troopers MIANO and MERGENDAHL were occupied with the prisoner until 12:48 AM when they dropped him off at his residence after his arraignment. The CAD record then shows that Troopers MIANO and MERGENDAHL called out of service at [REDACTED] (address of rape victim) at 12:56 AM on a self initiated complaint. The record reveals further that both troopers remained at this location until 1:15 AM until they called back in service. CAD Call Information record is attached as Enclosure #8 and #9. Memorandum of Sergeant ROBERT WARNER Troop K Communications

Supervisor, out-lining radio transmissions for 1K31 from 9:39 PM, August 2, 2012 through 12:48 AM on August 3, 2012 is attached as Enclosure #10.

6. On August 14, 2012 I requested that Senior Investigator collect and forward to me any e-mail pertaining to the rape investigation. Senior Investigator GRAY forwarded two e-mails, both from Trooper MERGENDAHL to Investigator POPOW explaining the possibility of a rape that occurred in the recent past. The first e-mail titled "Heads Up" was sent on August 3, 2012 at 7:02 AM and stated that [REDACTED]

[REDACTED] The complainants were then directed to their residence as the troopers were preoccupied with an arrest and would respond to the complainant's residence to conduct an interview as soon as it was possible. [REDACTED]

[REDACTED] The two e-mails of Trooper JEREME MERGENDAHL are attached as Enclosures #11 and 12.

7. On August 15, 2012 at 1:47 PM, Captain LISA D. LOUGHRAN contacted Senior Investigator TIMOTHY COWPER, Division Information Security via e-mail and requested that Senior Investigator COWPER conduct a search on the previously mentioned e-mail titled "Heads Up" from Trooper MERGENDAHL to Investigator POPOW to determine if they were sent to any other recipients and what time each recipient opened said e-mails. The results were received on August 16, 2012 and revealed that the e-mail dated August 3, 2012 was sent only to Investigator POPOW and was opened by him on August 3, 2012, at 8:40 AM. Documentation regarding the e-mail dated August 3, 2012 is attached as Enclosure #13.

8. On August 21, 2012 at 3:25 PM I took a statement from Trooper JEREME MERGENDAHL in the presence of Captain SCOTT BROWN, Trooper JOHN GERO, Troop K PBA Union Delegate and Mister RICHARD MULVANEY, PBA Counsel. During the statement Trooper MERGENDAHL stated that on August 2, 2012 he was working a 2 Shift out of SP Rhinebeck. He was riding in Division Vehicle 1K31 along with Trooper MIANO. Around midnight they happened to be at SP Rhinebeck processing a prisoner and preparing to take the prisoner for arraignment. As they were about to leave SP Rhinebeck [REDACTED] arrived at the station. [REDACTED]

[REDACTED] Trooper MERGENDAHL continued by stating that he told the subjects to go to their residence and as soon as he was done arraigning the prisoner he would meet them at the residence to interview [REDACTED] Trooper MERGENDAHL went on to state that during the arraignment, he contacted Investigator HOYT via telephone and advised him of the possible rape. He was instructed by Investigator HOYT to interview the girl to ascertain the nature of the complaint and then

call him back. Trooper MERGENDAHL stated that after the arraignment was completed, he and Trooper MIANO drove the defendant to his residence and then proceeded to the complainant's residence [REDACTED]. Upon arrival they were met on the front porch of the residence [REDACTED].

[REDACTED] After repeated failed attempts to interview the family or determine what exactly occurred, both Trooper MERGENDAHL and MIANO cleared the scene. Trooper MERGENDAHL then called Investigator HOYT on the telephone even though he thought that Investigator POPOW was actually the recall BCI Member, and told him that they were unable to interview anybody at the scene, but that he had left all his own, Trooper MIANO'S and Investigator POPOW'S contact information in case the complainant's family decided to pursue a criminal investigation. Investigator HOYT then advised Trooper MERGENDAHL that he would not be responding and directed him to send an e-mail to Investigator POPOW advising him of the incident. Trooper MERGENDAHL also stated that he was responsible for sending an e-mail to Investigator POPOW at the end of the shift as well as the SJS entries except for the one related to the previously mentioned arrest. Trooper MERGENDAHL said he failed to do an SJS entry because he thought that the e-mail notification to Investigator POPOW was sufficient documentation of the complaint. Trooper MERGENDAHL closed by stating that he called the SP Rhinebeck BCI office during the day on August 3, 2012 to see if anything happened with the possible rape investigation, but nobody answered the telephone. Transcript of Trooper JEREME MERGENDAHL'S statement is attached to this report as Enclosure #14.

9. On August 21, 2012 at 3:45 PM I took a statement from Trooper ALBERT L. MIANO in the presence of Captain SCOTT BROWN, Trooper JOHN GERO, Troop K PBA Union Delegate and Mister RICHARD MULVANEY, PBA Counsel. During the interview Trooper MIANO stated that he was working a 2 Shift on August 2, 2012. He stated that he was working with Trooper MERGENDAHL and that they were at SP Rhinebeck preparing to take a prisoner out to arraignment. He said it was just after midnight when [REDACTED] arrived at the station. They were there to report a rape that had occurred [REDACTED].

[REDACTED] Trooper MERGENDAHL spoke with the subjects while Trooper MIANO guarded a prisoner and learned that the alleged victim [REDACTED]. At that point Trooper MERGENDAHL sent the subjects to their residence and advised them that they would respond there to conduct an interview as soon as possible. Trooper MIANO continued by stating that during the arraignment, Trooper MERGENDAHL contacted Investigator HOYT telephonically to advise him of the rape complaint. Trooper MERGENDAHL then advised Trooper MIANO that Investigator HOYT directed him to go to the complainant's residence and determine the nature of the complaint. After completing the arraignment and driving the defendant home, Trooper MIANO and Trooper MERGENDAHL responded to the residence [REDACTED].

[REDACTED]. Upon their arrival they were met on the front porch of the residence [REDACTED]

Trooper MIANO stated that he and Trooper MERGENDAHL were at the residence for approximately a half an hour attempting to gain information about the alleged rape. [REDACTED]

[REDACTED] After multiple unsuccessful attempts of conducting an interview, Trooper MIANO and MERGENDAHL told the complainants that someone from the state police would be in touch with them. But did not say who or when that would be. Trooper MIANO stated that the complainants were also given the telephone number to SP Rhinebeck and departed. Trooper MIANO went on to say that he never followed up with the complaint, but on August 12, 2012 he was working a 1 shift and happened to answer the telephone at when [REDACTED] called SP Rhinebeck. She stated that she wanted to come to SP Rhinebeck on Monday August 13, 2012 at 3:30 PM to speak with an investigator about [REDACTED]. At 3:30 PM on August 13, 2012 [REDACTED] called SP Rhinebeck and spoke with Trooper MIANO again. She advised Trooper MIANO that she would be enroute to the station [REDACTED]. While the subjects were enroute to SP Rhinebeck, Trooper MIANO advised Investigator POPOW of the situation. Upon their arrival at SP Rhinebeck, [REDACTED] were introduced to Investigator POPOW who then took control of the investigation. Trooper MIANO then departed the SP Rhinebeck. Trooper MIANO also stated during his interview that he was ultimately responsible for an SJS entry not being completed because he was the senior Member for the shift. Although Trooper MIANO was relying on Trooper MERGENDAHL to make the SJS entry, he never verified it was completed because he was completing other administrative duties. Trooper MIANO stated that the failure to make an entry was just an oversight and nothing more. Transcript of Trooper ALBERT MIANO'S statement is attached as Enclosure #15.

10. On September 4, 2012 I received copies of the SP Rhinebeck Member Attendance Records (Pers. 29) previously referenced in Paragraph #4. A review of these records reveals that Investigator HOYT was actually working from 4:00 PM to 12:00 AM on August 2, 2012 and signed out of SP Rhinebeck at 12:00AM. This information was previously unknown to me when I interviewed Troopers MERGENDAHL and MIANO. In light of this new information I then contacted Captain SCOTT BROWN and requested that he interview both Troopers regarding Investigator HOYT'S location when the complainant initially arrived at SP Rhinebeck on August 2, 2012. Both Members stated that although they had observed Investigator HOYT at SP Rhinebeck, they do not know if he was in the station when [REDACTED] arrived at SP Rhinebeck. They also both stated they did not check to see if Investigator HOYT was available to talk to the victim, but instead sent her to her residence to speak with them later in the evening.

Memorandums of Trooper MERGENDAHL and MIANO are attached as Enclosures #16 and 17 respectively.

11. On September 10, 2012 at 12:41 PM I took a statement from Investigator WILLIAM POPOW in the presence of Investigator JAMES SERAFINI, NYSPIA Union Delegate. During the interview Investigator POPOW stated that on August 3, 2012 he was working a B-line and began his shift at 8:30 AM. He stated that even though he began work at 8:30 AM, he was actually the SP Rhinebeck BCI recall Member beginning at 3:00 AM which is the normal operating procedure at Rhinebeck. Investigator POPOW went on to state that sometime during the beginning of his shift he opened an e-mail from Trooper MERGENDAHL titled "Heads Up". The e-mail outlined a possible sexual assault/ rape case that had been reported to Trooper MERGENDAHL during his shift the previous night. Investigator POPOW added that he read the e-mail and looked in SJS for an associated entry, but found none. Investigator POPOW stated that during the beginning of his shift he had also overheard an unknown trooper stating that Investigator HOYT had been notified of the case during the night. With this information, Investigator POPOW assumed that there was no need to take any action as he assumed that Investigator HOYT was handling the complaint. Because of this Investigator POPOW did not advise anyone else of the information contained in the e-mail, or call Investigator HOYT to discuss the case with him. He also added that he had no means of contacting the complainant as there was no telephone numbers listed in the e-mail of Trooper MERGENDAHL. Investigator POPOW continued by stating a few hours after beginning his shift he was assigned to assist SP Livingston with an arson investigation and was sent out of his patrol area until the end of his shift. Upon the completion of his shift at 4:30 PM, Investigator POPOW went on a two day pass, followed by three days of Annual Leave and four more pass days. Upon returning to duty on August 13, 2012 at 3:00 PM for a C-line, Investigator POPOW stated that he had a second e-mail from Trooper MERGENDAHL titled "FYI", dated August 12, 2012 referencing the original e-mail indicating that the subject of the case wanted the matter investigated. Investigator POPOW went on to state that at that point he spoke with Trooper MIANO who stated that [REDACTED] contacted him and wished to pursue the matter. Investigator POPOW then asked Trooper MIANO to put [REDACTED] in contact with him. Trooper MIANO then advised [REDACTED] to respond to SP Rhinebeck. When they arrived, they were introduced to Investigator POPOW who then initiated an investigation. Investigator POPOW added that he never contacted Investigator HOYT to see if anything had been done on the case up to that point. He stated he checked SJS again, but the case was still not in the system on August 13, 2012. He concluded by stating when [REDACTED] arrived at SP Rhinebeck, he interviewed both subjects and learned that nothing had been done to that point, so he commenced an investigation because he was the only investigator available at that time. Transcript of Investigator POPOW'S statement is attached as Enclosure #18.

12. On September 10, 2012 at 2:20 PM I took a statement from Investigator MICHAEL J. HOYT in the presence of Investigator JAMES SERAFINI, NYSPIA Union Delegate. During the interview Investigator HOYT stated that he was working a C 4 shift on August 2, 2012, meaning that he started work at 4:00 PM and completed his shift at

12:00 AM. He added that he had a pass day on August 3, 2012. Because he was going on pass he claimed that he was not the recall BCI Member so once his shift ended that responsibility fell on the BCI Members who were working the next day which in this case was Investigator POPOW. He further added that this is the normal practice, unless he was working a C-Line the next day, in that case he would have had calls until 3:00 AM on August 3, 2012. Investigator HOYT went on to add that he and Investigator POPOW had no prearrangement that he would be on recall after 12:00 AM. He also stated that he was at SP Rhinebeck at 10:50 PM on August 2, 2012 when Troopers MERGENDAHL and MIANO arrived with a prisoner. Investigator HOYT stated that he was not aware of any complainants entering SP Rhinebeck prior to his departure at the end of his shift, nor did he notice any unusual vehicles in the station parking lot. Investigator HOYT admitted that he does not know what time he left SP Rhinebeck, even though the Member Attendance Record (refer to Enclosure # 3) indicates that he was working until 12:00 AM. He stated it could have been before or after the listed time of 12:00 AM. Investigator HOYT continued by stating that shortly after midnight he received a telephone call from Trooper MERGENDAHL who advised him of a complainant who had come into SP Rhinebeck around midnight to report a sexual offense. Investigator HOYT was advised that the complainant was [REDACTED] and that she was sent home by Trooper MERGENDAHL [REDACTED] and that he would be responding to the complainant's home to interview her [REDACTED]. Investigator HOYT was not sure exactly what time he received this call, but he advised Trooper MERGENDAHL to interview the complainant and call him back to let him know the facts of the case. Investigator HOYT stated that Trooper MERGENDAHL telephoned him again at approximately 1:30 AM on August 3, 2012 and advised that he and Trooper MIANO had responded to the complainant's residence [REDACTED]

[REDACTED] Investigator HOYT added that he asked the Troopers if they needed him to respond, to which they replied "no". Investigator HOYT then directed Trooper MERGENDAHL to send an e-mail to Investigator POPOW outlining the circumstances in case any further action was needed the next day. Investigator HOYT claimed that he assumed that Investigator POPOW would share the information with Senior Investigator WILLIAM GRAY and perhaps call the [REDACTED]

[REDACTED]. Investigator HOYT added that he never followed up with the case after that because he thought it would be in SJS and everyone would have known about it and the proper investigative steps would have been taken. Investigator HOYT went on to state that he never heard anything further about the case until over a week later when Trooper MIANO advised him that the complainant's father had contacted him and stated that he wanted the matter investigated. Trooper MIANO told Investigator HOYT that he referred [REDACTED] to Investigator POPOW, so again he did not take any action. Investigator HOYT ended his statement by saying that he made what he thought was the best decision at the time. He stated that he felt comfortable with Troopers MERGENDAHL and MIANO'S assessment of the situation

and that Investigator POPOW would follow up with the case the next day. Investigator HOYT closed by stating that he never had any contact with Investigator POPOW about this case. Transcript of Investigator MICHAEL J. HOYT'S statement is attached as Enclosure #19.

13. On September 10, 2012 at 4:15 PM I telephonically contacted Senior Investigator WILLIAM GRAY to discuss the BCI recall arrangements for SP Rhinebeck. Senior Investigator GRAY stated that when a BCI Member is assigned a C-Line shift, he is responsible for any BCI matters that may come in until 3:00 AM the following day. This rule even applies when a Member works a C-Line and is going on pass the next day. He continued by stating the only time there would be a deviation from this procedure was if the Investigator responsible for the recall made other arrangements with another BCI Member. If this were to occur, he would not necessarily be aware of it. Senior Investigator GRAY was clear that the assigned C-Line Investigator is responsible for the recall issues until 3:00 AM the following day unless he makes other arrangements.

14. September 30, 2012 at 2:00PM I printed and attached completed SJS Report # [REDACTED] Rape 1<sup>st</sup> investigation. This is the completed documentation of the criminal investigation into this matter. [REDACTED]

[REDACTED] Copy of SJS Report # [REDACTED] Rape 1<sup>st</sup> is attached as Enclosure #20.

## CONCLUSION:

Investigation into this matter has revealed that the complainant in the sexual assault investigation arrived at SP Rhinebeck sometime prior to August 3, 2012 at 12:02 AM as shown by the radio transmissions of Troopers MERGENDAHL and MIANO in 1K31. It is also known through the collected documents that Investigator HOYT was working until August 2, 2012 at 12:00 AM. Investigation into this matter has also revealed that Trooper MERGENDAHL sent the complainant home to her residence instead of determining if Investigator HOYT was in SP Rhinebeck and referring her to him. From that point it was revealed that Trooper MERGENDAHL contacted Investigator HOYT, advised him of his actions and was directed by Investigator HOYT to conduct an initial interview of the complainant to determine the true nature of the complaint. After this interview was attempted by Troopers MERGENDAHL and MIANO, Trooper MERGENDAHL again contacted Investigator HOYT to update him on the investigation. [REDACTED]

[REDACTED] Investigator HOYT believed that Investigator POPOW was responsible

for the calls as he was beginning a three day pass decided not to take any further steps at that time. Investigator HOYT advised Trooper MERGENDAHL to send an e-mail to Investigator POPOW of the circumstances. Investigator HOYT took no further action or made any notifications to anyone regarding the sexual assault complaint. Trooper MERGENDAHL did in fact send an e-mail to Investigator POPOW, but the e-mail did not contain any contact telephone numbers for the complainant. Troopers MERGENDAHL and MIANO then completed their shift without documenting the incident in SJS. Investigator POPOW then worked a B-Line on August 3, 2012 and did open Trooper MERGENDAHL'S e-mail at the beginning of his shift. Investigator POPOW looked in SJS for an entry to gather more information, but found none. Investigator POPOW also took no further action due to the fact that he believed the case was being handled by Investigator HOYT. To compound the situation further, [REDACTED]

[REDACTED]  
Investigator POPOW was also did not return to work at the completion of his shift on August 3, 2012 until August 13, 2012 at 3:00 PM. [REDACTED]

[REDACTED] were put in touch with Investigator POPOW who immediately handled the case with the highest degree of professionalism. Investigator POPOW was able to get a full confession from the target of the investigation which will be crucial to the prosecution of this case.

On September 25, 2012 this matter is closed by investigation and the complaint against Trooper JEREME MERGENDAHL, Trooper ALBERT MIANO, Investigator MICHAEL HOYT and Investigator WILLIAM POPOW is deemed founded for their lack of due diligence to their official duties.

The facts obtained during this investigation conclude that the aforementioned Members did violate the following Regulations of the New York State Police:

8A9(5) Failure to assume responsibility or to exercise diligence in the performance of their official duties.

~~Specifically Troopers JEREME MERGENDAHL and ALBERT MIANO failed to~~ make an SJS entry at the conclusion of their shift on August 3, 2012 documenting their investigation of the reported sexual assault complaint. This omission is in violation of the Division SJS Policy which states: At a minimum, all SJS incidents require a narrative entry describing the event and actions taken by Members. This entry must be completed prior to the end of the Member's shift. Descriptive information on persons, vehicles and property are to be entered within the SJS tabs.

Investigator MICHAEL HOYT and Investigator WILLIAM POPOW are also found to be in violation of Regulation 8A9(5) for their failure to follow up on the investigation as well as not notifying their immediate supervisor of the situation which is in violation of Regulation 8A4 which states: It shall be the duty of all Members to protect life and property and to take proper police action when an offense of the law occurs within their jurisdiction. Members shall report all existing and potential conditions relating to or involving offenses of the law to an immediate supervisor. Members shall

diligently perform their duties and patrol assigned areas in such a manner that each Member cognizant of all conditions relating to the offenses and offenders and any condition that may adversely affect the peace and security of the people of the State. In dealing with the public, a Member must act in a courteous, dignified and businesslike manner.

It is recommended that the appropriate administrative action be taken against Trooper JEREME MERGENDAHL, Trooper ALBERT MIANO, Investigator MICHAEL HOYT and Investigator WILLIAM POPOW.

8/23/12  
10:34:33HTE CAD  
CAD CALL INFORMATION

PAGE 1

00001  
Call Number: [REDACTED] SI Call Type.: 040 DOMESTIC DISTURBANCE Police  
Entry Day/Tm: 8/02/12 21:41:45 040 DOMESTIC DISTURBANCE Police

CmnN: Agency.....: 150 NEW YORK STATE PO  
Location...: [REDACTED] Apt: [REDACTED]  
City.....: [REDACTED] Block#: 400 Loc ID: [REDACTED] Mapr: [REDACTED]  
Intersectn.: [REDACTED]

Caller Name: Last: [REDACTED] First: [REDACTED] Mid: See Caller:  
Address...: [REDACTED] Apt: [REDACTED]  
City/State: [REDACTED] Phone#: [REDACTED] Source: 7DIG

Call Taker.: 5434 AISENSTAT RACHEL QPADEV000Q  
Dispatcher.: 5434 AISENSTAT RACHEL QPADEV000Q

## N A R R A T I V E

[REDACTED]  
21:41:45  
21:42:20

1K35

## Unit Status History Information

8/02/12	21:41:46	4 Dispatched	D	4997 MIANO	ALBER
8/02/12	21:41:46	6 At Scene	AL		
8/02/12	21:41:46	11 Assigned as Primary	PR		
8/02/12	22:49:10	20 Available	AV		

00001

## D I S P O S I T I O N S

1 026 Assignment Complete End Call Case# 1 - 00-000000 Unit: 1K35

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00001

8/15/12  
14:02:01HTE CAD  
CAD CALL INFORMATION

PAGE 1

Call Number: [REDACTED] SI Call Type.: 142 OUT OF SERVICE FOLLOWUP Police  
Entry Day/Tm: 8/03/12 0:56:20 142 OUT OF SERVICE FOLLOWUP PoliceCmnN: INDIAN POINT Agency.....: 150 NEW YORK STATE PO  
Location...: [REDACTED] RD Apt: [REDACTED]  
City.....: [REDACTED] Block#: 100 Loc ID: Mapr: [REDACTED]  
Intersectn.: UNNAMED STREET DRIVEWAYCaller Name: Last: First: Mid: See Caller:  
Address...: Apt:  
City/State: Phone#: 000-000-0000 Source: SICall Taker.: 0000000000 MDTMAIN  
Dispatcher.: 9993 GROVE WILLIAM QPADEV000Z

## N A R R A T I V E

[REDACTED] 0:56:20  
[REDACTED] 0:56:20

1K31 Unit Status History Information

8/03/12	0:56:20	4 Dispatched	D	3259 MERGENDAHL	JEREM
8/03/12	0:56:20	6 At Scene	AL		
8/03/12	0:56:20	11 Assigned as Primary	PR		
8/03/12	0:56:21	24 Enroute to Scene	ER		
8/03/12	1:06:14	6 At Scene	AL		
8/03/12	1:15:22	20 Available	AV		

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## NEW YORK STATE POLICE

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## MEMORANDUM

Troop K Station PoughkeepsieDate Sept 4, 2012

To: Major Michael A. Kopy, Troop Commander, Troop K

From: Sergeant Robert E. Warner III Subject: SP RHINEBECK DOMESTIC CALL 1K31 SJS-

As requested by BCI Lieutenant James Murphy, a review of the tape logger material in reference to the above subject line was conducted by Sergeant Robert E. Warner III. The times of the initial call, dispatch time, beginning transport and ending transport mileages are listed below. The times were retrieved from the tape logger by Sergeant Robert E. Warner III.

Initial 911 call: 9:39:17pm<sup>00001</sup>  
Dispatch time: 9:42:16pm

1K31 BTM 22,309 10:37:43pm From Sepasco Rd  
1K31 ETM 22,317 10:50:20pm To SP Rhinebeck

1K31 BTM 22,317 12:02:18 am To T/Rhinebeck Court  
1K31 ETM 22,320 12:06:27 am At T/Rhinebeck Court

1K31 BTM 22,320 12:41:30am Courtesy to Residence  
1K31 ETM 22,325 12:48:19am At Sepasco Road


00001

00001

ENCLOSURE #13

**Message Id:** 501B77A2.FB8 : 152 : 64397  
**Subject:** Heads Up  
**Created By:** [REDACTED]  
**Scheduled Date:**  
**Creation Date:** 8/3/2012 7:02 AM  
**From:** Jereme Mergendahl

**Recipients**

Recipient	Action	Date & Time	Comment
 TroopK_PO.NYSPTroops2	Delivered	8/3/2012 7:02 AM	
To: William Popow [REDACTED]	Read	8/3/2012 8:40 AM	

**Post Offices**

Post Office	Delivered	Route
TroopK_PO.NYSPTroops2	8/3/2012 7:02 AM	troopers.ny.gov

**Files**

File	Size	Date & Time
MESSAGE	1845	8/3/2012 7:02 AM

**Options**

**Auto Delete:** No  
**Concealed Subject:** No  
**Expiration Date:** None  
**Notify Recipients:** Yes  
**Priority:** Standard  
**Reply requested by** None  
**Security:** Standard  
**To Be Delivered:** Immediate

State of New York                    )  
 County of Dutchess                )  
 Town of Pleasant Valley         )

This is a statement being taken from Trooper JEREMY J. MERGENDAHL at SP Poughkeepsie, Troop K Headquarters, Pleasant Valley, NY, on August 21, 2012. This Statement is being taken by Captain SCOTT BROWN, Lieutenant JAMES H. MURPHY commencing at 3:25 P.M.

The letters "JHM" denotes questions asked by Lieutenant MURPHY.

The letters "SLB" denotes questions asked by Captain BROWN.

The letter "A" denotes answers given by Trooper MERGENDAHL.

JHM: Trooper MERGENDAHL you were advised on August 20, 2012 by Captain BROWN of the matter being investigated and that we would be taking a statement at this time. The purpose of this interrogation is to inquire into your activities as a member of the State Police, specifically as it relates to a rape investigation that was reported to you on August 2, 2012. You are not the target of any known criminal investigation this interrogation is being conducted pursuant to Article 16(2) of the agreement between the State of New York and your certified employee representative organization and the regulations of the New York State Police. You have the right to contact and consult with an attorney and or a union delegate before being interrogated and have an attorney and or delegate present during the interrogation. This agreement and the State Police regulations require you to cooperate and answer truthfully questions relating to the investigation. Refusal to answer or failure to answer truthfully may result in disciplinary action which could result in your separation from service. Are you represented at this time and if so by whom?

JM: Yes I am, RICH MULHANEY and Troop K Delegate JOHN GERO.

JHM: Okay. Again I am Lieutenant JAMES H. MURPHY and I have been designated by the Superintendent to conduct this interrogation. Present during this interrogation are myself, Captain SCOTT BROWN, Trooper JEREMY MERGENDAHL, Trooper JOHN GERO, PBA Union Representative and RICHARD MULHANEY, PBA Attorney. This statement is being mechanically recorded. Do you understand this?

JM: I do.

JHM: Having been advised of all the above are you now ready to proceed with the interrogation?

JM: Yes.

JHM: On August 2, 2012 you were working a 2 shift with Trooper MIANO, do you recall a time during your shift when a subject arrived at SP Rhinebeck to report a rape?

JM: Yes.

JHM: Do you remember what time this happened?

JM: It was approximately around midnight.

JHM: Who did the complainant speak with?

JM: Um I actually spoke with [REDACTED]

JHM: Did the complainant....

JM: Trooper MERGENDAHL, myself.

JHM: Did the complainant come in and speak with anybody?

JM: [REDACTED]

JHM: Okay and what actions were taken at that time?

JM: [REDACTED]

JHM: Okay and was any follow up action taken?

JM: Yes.

JHM: Describe the events that transpired...let me jump in here...what follow up action was taken?

JM: Well we had, we had a subject under arrest at the station so we had to go do an arraignment um went and did the arraignment did a courtesy transport for, for that subject and then uh patrolled right out to [REDACTED]

JHM: And what's at [REDACTED]?

JM: [REDACTED]

JHM: The complainant?

JM: The complaint yes.

JHM: (unintelligible) Okay and when you got to [REDACTED] what actions were taken there?

JM: [REDACTED]

JHM: And then what (unintelligible) then?

JM: [REDACTED]

JHM: At either their residence or at the station did they give you any indication of uh any of the details of the rape like who may have raped her?

JM: [REDACTED]

JHM: On the porch at the residence?

JM: Yeah on the front porch yeah.

JHM: And uh you didn't get to speak with her by yourself?

*QAN*

JM: Nope we did not get to speak with her by herself. [REDACTED]  
[REDACTED]

JHM: Did you ask him any questions about the details of the rape?

JM: [REDACTED]  
[REDACTED]

Um so I uh wrote down all their information, you know my contact information, Trooper MIANO's, uh Investigator POPOW's, um cause he was gonna be the person who had the calls so then I went when we left the residence I actually contacted MIKE HOYT um you know I called him on his phone because he was, he was working until midnight um so we knew he would probably still be up and uh and he you know I told him pretty much what happened, they came to the station and we really didn't know what we had um and he just pretty much said you send, send an email to BILL in the morning and uh and we'll, and we'll handle it you know so that's was kinda how we left it.

JHM: Um did MIKE say not to call BILL or anything?

JM: (unintelligible)

JHM: Who spoke to MIKE on the phone?

JM: I spoke with MIKE on the phone.

JHM: Right and what, what were his instructions?

JM: Ah his instructions were just advise, advise um advise BILL that you know through, through an email that you know what, what you found out at the house kind of a heads up, all the peoples names and contact information um and he said you, you notified me on the phone I don't think there's anything to come out to and you know I agreed with him because we, we didn't know what we had. We honestly had no idea you know what we had because sta [REDACTED] said rape but we never got any-kind of story of what, what kind of transpired the night this apparently had happened.

JHM: At Rhinebeck?

JM: Right.

JHM: Or at the house?

JM: Right, right. We, we never got a chance to...

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[illegible]

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1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

2. Once the problem is identified, the next step is to define the objectives and goals of the project. This helps to clarify what needs to be achieved and provides a clear direction for the team.

3. The third step is to develop a plan or strategy to address the problem. This involves breaking down the problem into smaller, manageable tasks and determining the resources needed to complete each task.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress regularly to ensure that the project is on track.

5. Finally, the fifth step is to evaluate the results of the project. This involves assessing the outcomes against the objectives and goals and identifying any areas for improvement or further action.

[REDACTED]

SLB: Hm hm.

JM: [REDACTED]

SLB: Right. And the shift that you and Trooper MIANO was working was the 2<sup>nd</sup> into the 3<sup>rd</sup>?

JM: Yes.

SLB: [REDACTED] came to the barracks?

JM: Right and I think she was there more on the 3<sup>rd</sup> than...

SLB: Okay.

JM: It was right around midnight cause I know we got, I know we got to the station with the arrest at eleven.

SLB: Right.

JM: So I think it was a little after twelve when they actually came to the station.

SLB: Right. Right.

JM: Um actually when we went to the, I forgot this part, we went to the arraignment um and the arraignment was over they were making copies for the defendant I went outside and actually called MIKE HOYT...

SLB: Yeah.

JM: And said hey just a heads up this just walked into the station, I really don't know what we have you know what, what do you want me to do. Like do you want me to get her on paper do not want to get her on paper because [REDACTED].

SLB: Hm hm.

JM: I said, he said no don't get her on paper just go out there and find out exactly what you have and then call me back.

SLB: Hm hm.

JM: So that's what why I ended up calling him back.

SLB: So you talked to MIKE a couple of times?

JM: Yes I called MIKE twice. I was on the phone with him at the arraignment and that was real quick just....

SLB: Alright.

JM: what do you want me get you know do you want me to put something on paper you know and uh you know he said no just go out there and find out the story and then call me back. So when I called him back I didn't really have a story for him, I didn't have....

SLB: Hm hm.

JM: You know I didn't have what happened you know.

SLB: So that would have been the 3<sup>rd</sup>?

JM: Yeah

SLB: [REDACTED]?

JM: Yeah. [REDACTED]  
[REDACTED]

SLB: Right.

JM: [REDACTED]  
[REDACTED]

SLB: Right.

JM: I mean he wanted nothing to do with talking to us that night.

JHM: When you called MIKE the second time, Investigator HOYT, were you still at the scene or were you already in the car leaving?

JM: We had just pulled out of the driveway and were, we just parked probably fifty feet from the driveway. We actually had another call pending.

JHM: Now JEREMY you mentioned that it was gonna be BILLY POPOW's case. Why did you think that, because HOYT had just finished the c line that night (unintelligible)?

JM: Well yeah he was, he finished the c line so we just figured he be awake. Usually they swap the calls at three in the morning so I just assumed that MIKE had the calls until three and I think usually the b line guy takes over the calls after three so that's why I called him and, and the second call he just said you know POPOW's gonna have the calls just uh email him in the morning but you know I don't see any reason to come out. I did agreed, I agreed with him there was no reason to come out.

SLB: Right, right.

JM: We didn't have anything you know.

SLB: And to clarify that point though, Investigator HOYT told you to call POPOW or contact POPOW in the morning?

JM: Yeah he said to send, he said to end an...

SLB: To send an email?

JM: Yeah..

SLB: Okay.

JM: just to let him know so um you know so we talked to MIKE twice on the phone, send him an email send him an email you know probably seven in the morning probably when we were got back from patrol.

JHM: Did you notify any other BCI members beside uh Investigator HOYT via telephone and then the email to Investigator POPOW the next morning?

JM: No.

JHM: Did you ever call POPOW and speak with him in person?

JM: No.

JHM: Did you make an SJS entry regarding the rape at the end of your shift?

JM: No.

JHM: Why not?

JM: Um I, I really don't have a reason why I just, I did, it was, we had a really busy night between the arrest and then the rape and we had I think three or four other calls and they were kind of calls that weren't just like an EID or car deer you know they were like a missing person we had to look for, things like that but um I was so focused when we got back to the station on sending that email and AL was working on the uh Trooper MAINO was working on the SJS from the domestic where we made the arrest so I went through and did all the other SJS's and I just, I, it wasn't generated cause they came to the station.

SLB: Hm hm.

JM: Troop didn't generate an SJS...

SLB: Right.

JM: because they came to the station and then when I went out to their house I put it in the computer as a follow up so that didn't generate and SJS either so I just, it just totally slipped. You know as soon as I sent that email to BILL I was kinda like alright I, you know I made, I contacted him. You know I just, I just didn't do it you know.

SLB: And when [REDACTED] came to the station, you guys were working on that domestic?

JM: Yes we, we just....

SLB: You had a guy there under arrest?

JM: Yeah we had him on the bench yeah so we were just getting ready, we actually had we already had the arrangements with the judge and we were on our way, we were actually getting him up off the bench, cuffing him....

SLB: Hm hm.

JM: and going out the door to go to the arraignment so it was kind of like you know a hectic time.

SLB: Hm hm.

JM: As far as the SJS I just didn't do it. I don't know.

JHM: Um so nobody instructed you not to do it?

JM: Right. No, no one instructed me not to do it.

JHM: Okay. Did you advise uh a supervisor or anyone else of the rape complaint?

JM: No.

JHM: I have no further questions at this time. I don't know if Captain BROWN does?

SLB: Um just again this, this first uh going back to, to August 3<sup>rd</sup> from say after midnight to August 3<sup>rd</sup> when, when you spoke to Investigator HOYT and uh then sent an email to Investigator POPOW. Were you involved uh subsequent to them going, [REDACTED]

JM: Do you mean after, after I sent the email

SLB: Yeah.

JM: did I have anything, any kind of follow up....

SLB: Right.

JM: with the case or....

SLB: Did anybody contact you after...

JM: No, no one contacted me...

SLB: like a week later?

JM: No um I actually, the, the cause I put it in the end of the email, you know call me if any questions.

SLB: Hm hm.

JM: Cause I just assumed they get it. You know just a focal but I actually did call the backroom.

SLB: Hm hm.

JM: When I woke up that day cause you know just so see how it was going if they heard anything I don't know I just..

SLB: What day was that?

JM: Uh it was the 3<sup>rd</sup>. I woke up...

SLB: Okay.

JM: I woke that, that probably around eleven, twelve o'clock and just called the back room. I didn't there was no one to leave a message to. I didn't call anyone's cell phone or anything...

SLB: Okay.

JM: I guess just being nosey or follow up or whatever.

SLB: So just twenty three hours after you got off?

JHM: So you didn't speak to anybody?

JM: No I didn't talk to anybody. I didn't leave messages I just kind of called on my own and...

SLB: Good.

JM: No one picked up the back room you know at the office there. I found out later POPOW got sent up to uh Livingston...

SLB: Hm hm.

JM: or something for that DCI fire so. But that was all I just, just figured I try and follow up on it you know but.

JHM: I'm just curious too JEREMY you might not have the answer to this one but why did uh HOYT tell you it was gonna be POPOW's complaint if HOYT has calls until three in the morning obviously the complainant came in around midnight and then you guys interviewed them at the house it was around one thirty....

JM: Was it yeah I know it was between yeah I know....

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JHM: I checked the CAD.

JM: Okay yeah probably that was about right.

JHM: So it's still obviously um Investigator HOYT's recall time.

JM: Right. Right um. I don't, I don't know usually, usually it is you know until three the c line guy has the calls till three and I don't I think HOYT was going away or on vacation or was a pass day I don't know but. I don't know what happened with why you know if it was twelve or three I don't know but we knew HOYT was up so that's why I originally called him so. That's how it normally works til three.

JHM: Okay. I have nothing more. Is there anything you would like to add at this time?

JM: No. I don't think I'm. Nothing.

JHM: It is 3:38 P.M. and that concludes the statement of Trooper JEREMY MERGENDAHL.

I have read this statement consisting of 12 pages and it is all true to the best of my knowledge. I have placed my initials on the bottom of each page and next to each correction, and I signed it below.

Witness S/I [Signature] 1476  
Or [Signature] 9/21/12

Signature [Signature] #3259

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 2012

\_\_\_\_\_

Notary Public

|

State of New York                    )  
 County of Dutchess                )  
 Town of Pleasant Valley         )

This is a statement being taken from Trooper ALBERT L. MIANO at SP Poughkeepsie, Troop K Headquarters, Pleasant Valley, NY, on August 21, 2012. This Statement is being taken by Captain SCOTT BROWN, Lieutenant JAMES H. MURPHY commencing at 3:45 P.M.

The letters "JHM" denotes questions asked by Lieutenant MURPHY.

The letters "SLB" denotes questions asked by Captain BROWN.

The letter "A" denotes answers given by Trooper MIANO.

JHM: Trooper MIANO you were advised on August 20, 2012 by Captain BROWN of the matter being investigated and that we would be taking a statement at this time. The purpose of this interrogation is to inquire into your activities as a member of the State Police, specifically as it relates to a rape investigation that was reported to you on August 2, 2012. You are not the target of any known criminal investigation this interrogation is being conducted pursuant to Article 16(2) of the agreement between the State of New York and your certified employee representative organization and the regulations of the New York State Police. You have the right to contact and consult with an attorney and or a union delegate before being interrogated and have an attorney and or delegate present during the interrogation. This agreement and the State Police regulations require you to cooperate and answer truthfully questions relating to the investigation. Refusal to answer or failure to answer truthfully may result in disciplinary action which could result in your separation from service. Are you represented at this time and if so by whom?

A: Uh-yes by uh Trooper JOHN GERO and the uh attorney, um MULHANEY.

JHM: Again I am Lieutenant JAMES H. MURPHY and have been designated by the Superintendent to conduct this interrogation. Present during this interrogation are myself, Captain SCOTT BROWN, Trooper ALBERT L. MIANO, Trooper JOHN GERO, PBA Union Representative and RICH MULHANY, PBA Attorney. This statement is being mechanically recorded. Do you understand this?

A: Yes.

JHM: Having been advised of all the above are you now ready to proceed with this interrogation?

A: Yes.

*dm*

JHM: On August 2, 2012 you were working a 2 shift with Trooper MERGENDAHL. Do you recall a time during your shift when a subject arrived at SP Rhinebeck to report a rape?

A: Yes.

JHM: Do you remember what time this happened?

A: Uh not the approximate time just the time frame. Uh between I'd say uh midnight and twelve fifteen, twelve twenty, in between there.

JHM: And who spoke with the complainant?

A: Uh Trooper MERGENDAHL.

JHM: What actions were taken at the time that she arrived at the barracks?

A: Uh the actions was taken, uh he inquired about the age, [REDACTED] made an accusation of uh rape and at the time we had a subject under arrest for a domestic that we were just walking out the door to make an arraignment and [REDACTED]

[REDACTED] So we made them uh you know head home and we would call them as soon as the arraignment was uh finished.

JHM: Okay. Did they make any allegations at the barracks at the time of who may have raped [REDACTED]

A: [REDACTED]

JHM: Okay. Um and was there any follow up actions after they left the barracks?

A: Of...to them?

JHM: Yes.

A: Yeah we once we were fin, we called them when we told them I think where we were at right now. I know Trooper MERGENDAHL did was in contact with them during the arraignment.

JHM: In contact with who?

*de*

A: The, I think the subjects and the BCI.

JHM: Do you know who from the BCI he was speaking with?

A: Uh I believe it was Investigator MIKE HOYT.

JHM: Hm hm.

A: And uh I think, like I said I was doing the paperwork on the other defendant. He was on the phone, he said I don't know what we really have. [REDACTED]

He said okay please let me know when you have there so we know what we have and uh I think yeah when we finished the arraignment we called [REDACTED]

[REDACTED] We're enroute. And I think we had two calls pending at the time too. Um that we called and said we were heading to a follow up. You know we called Communications and told them we were following up and you're gonna have to stand by on those two complaints and then uh we went there.

JHM: Okay and what transpired when you go to the residence of the uh complainants?

A: [REDACTED]

JHM: [REDACTED]

A: [REDACTED]

[REDACTED]

[REDACTED]

A:

[REDACTED]

we left and uh I think we handled three more, three or four more complaints after that.

JHM: After you left did anybody advise.....

A: Yes.

JHM: an Investigator...

A: Sorry.

JHM: about what transpired?

A: Yes. He uh MERGENDAHL was either contacted by HOYT or he contacted HOYT and then he spent some time explaining and the Investigator said "should I go out there?"

[REDACTED]

Um he goes uh um you know uh, you know I forget what he said, I wasn't on the phone he was talking to Trooper MERGENDAHL. Basically he, he has enough confidence that we would do the you know the right thing with you know the notifications besides him and then uh then uh yeah we got off you know we'd do the SJS

in the morning you know. We had a lot of SJS between the domestic with the arrest you know he had three or four SJS's he needed to do and it all comes down to it you know I'm the senior member and I should have you know made sure the SJS was done so that, that could fall on me, we didn't do the SJS and that should fall on me because I'm the senior member.

JHM: Is there any reason you didn't do it?

A: Just I think he was busy doing the email and that email cause that email was to Investigator POPOW because from what I understand and what we saw on the board is after midnight you know Investigator POPOW had the calls. Um HOYT was up and we knew he was up after midnight and he's the type you know he's, if you call him, he's up he'll, he'll entertain your calls and we just sent him the email cause that's who had the you know officially had the calls and I know he was doing an email and doing other SJS while I was finishing a DIR and processing the info from, from the domestic and I'm going on pass so I wanted to make sure that was done and I totally forgot to facilitate that SJS.

JHM: So nobody told you not to do an SJS entry did they?

A: No, absolutely not.

JHM: Did you advise a supervisor or anyone else of this complaint?

A: Um not, no I, just the BCI.

JHM: [REDACTED]

A: [REDACTED]

[REDACTED]

JHM: [REDACTED]

A: [REDACTED]

JHM: [REDACTED]

A: [REDACTED]

JHM: Sure.

A: [REDACTED]

JHM: [REDACTED]

A: [REDACTED]

JHM: Right.

A: Um that was the only thing. I mean then uh yes from top to bottom that all I can remember. Like I said the SJS that that's you know. I'm not saying it's a minor thing but it's my fault, I'm the senior guys I should have facilitated that and made sure it was done. Especially he was in you know knee deep with that uh SJ, I mean uh email to the Investigator so and it's all I can remember.

SLB: Just to clarify, this is Captain BROWN, just to clarify that email Trooper MERGENDAHL was sending to the Investigator was, was outlining everything he had on this case?

A: Yes, um you know it like I said we did not know exactly what we had.

SLB: Uh hm.

A: Actually it was a sexual offense but we didn't know if it was a consensual thing, we you know we don't know like he wouldn't elaborate. He wouldn't let her elaborate.

SLB: Right. My point for bringing that up is just, just that fact that we realize there was no SJS entry made but the fact that Trooper MERGENDAHL did in fact send an email that outlined what you guys had on this case I just want to make that clear.

A: Yes. Oh yeah yeah absolutely. And I think you know I spoke to um I didn't see Investigator POPOW during the week cause he was on vacation but I think I saw him he knew you know he was he had I think he inquired what we were doing with this and I said it's funny we got a phone call and they're coming in. He goes it was like alright great lets do this and they were coming in and everything we got we needed you know. Um I mean from a Troopers stand point I you know I the only thing I see was missed making the notification in SJS by us, by my part but um yeah. That all you know I can remember. I know we were busy, we were really busy that night.

JHM: I have no further questions. Captain BROWN do you have any further questions?

SLB: No questions.

JHM: Is there anything else that you want to add at this point?

A: Um nothing, not at all.

This concludes the statement of Trooper ALBERT MIANO. The time is 4:01 P.M.

I have read this statement consisting of 7 pages and it is all true to the best of my knowledge. I have placed my initials on the bottom of each page and next to each correction, and I signed it below.

Witness S/I 1476 Signature Albert Miano  
Or 9/21/12

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 2012  
\_\_\_\_\_

Notary Public

## NEW YORK STATE POLICE

## MEMORANDUM

Troop K Station SP RhinebeckDate September 7, 2012

To: Troop Commander, Troop K, Poughkeepsie, NY

From: Trooper Jereme J. Mergendahl 

Subject: COMPLAINT AGAINST PERSONNEL 20120375

I was advised of my rights to representation pursuant to Article 16.2 of the contract by Captain Scott L. Brown on September 7, 2012 and submit the following account.

How did you know that Investigator Hoyt was the on duty and the recall investigator for 08/02/12?

- I knew Investigator MICHAEL J. HOYT was the C-line because he was at the station when I arrived for the beginning of my shift and was still at the station when I arrived with a prisoner at approximately 11:00PM. I assumed Investigator HOYT was the recall investigator.

Did you see Investigator Hoyt at SP Rhinebeck when you returned to the station with the prisoner at approximately 11:00PM?

-Yes

Do you know if Investigator Hoyt was at SP Rhinebeck at anytime between 11:00PM and 12:00AM?

-Yes, I saw Investigator HOYT in the patrol room while I was processing our prisoner.

If he wasn't at SP Rhinebeck do you know where he was? N/A

Did you check the BCI Pers 29 to see who was working on 08/02/12?

-No

Were you aware that Investigator Hoyt was working from 4:00PM to 12:00AM?

-Yes

If Investigator Hoyt was present at the station would you have been aware of that fact?

-Yes

•Did you go into the BCI area of SP Rhinebeck between 11:00PM and 12:00AM?

-No

If Investigator Hoyt had been at the SP Rhinebeck when the complainant ( [REDACTED] ) arrived at the station, would you have handled the situation any differently?

-I am unsure if Investigator HOYT was or was not at SP Rhinebeck when the complainant [REDACTED] arrived. I would not have handled it any differently since I did not know any of the specifics regarding the incident [REDACTED] wanted to report.

Why didn't you call Investigator Hoyt once the victim told you what had occurred when she was at the station?

-Trooper ALBERT L. MIANO J.R. and I were leaving SP Rhinebeck to arraign our prisoner at the time the complainant's came to SP Rhinebeck. Tpr. MIANO and I did not call Investigator Hoyt at that time because we were unsure exactly what the complainant [REDACTED] was reporting. I collected the complainant's contact information [REDACTED].

[REDACTED] We advised the complainant's we would patrol to their residence as soon as we cleared the arraignment and interview [REDACTED].

If possible please provide the time(s) you contacted Investigator Hoyt by retrieving the times from your cell phone?

-I reviewed my cell phone but can only access calls made after 09/10/12. I do not recall the exact time I contacted Investigator HOYT.

Contents in your second email to Investigator William Popow titled "FYI" and dated 08/12/12, "I didn't put this in SJS either, I was waiting to see what was going to happen". This makes it sound like not putting the first contact in SJS is an intentional omission. Explain.

- I was informed that the complainants were going to come to SP Rhinebeck to speak with Inv. Popow so I just wanted to let him know that if he was going to look for an SJS entry it had not been generated yet. I only informed Inv. Popow via earlier email the morning of the incident.

## NEW YORK STATE POLICE

## MEMORANDUM

Troop K Station SP RhinebeckDate September 7, 2012

To: Troop Commander, Troop K, Poughkeepsie, NY

From: Trooper Albert L. Miano J.R. *alm*

Subject: COMPLAINT AGAINST PERSONNEL 0375

**I was advised of my rights to representation pursuant to Article 16.2 of the contract by Captain Scott L. Brown on September 5, 2012 and submit the following account.**

Type this list of questions (but do not number them) and provide a clear and concise answer directly after each question.

How did you know that Investigator Hoyt was the on duty and the recall investigator for 8/2/12?  
-Investigator HOYT was at the station during the C-line, while we were processing the prisoner at Sp Rhinebeck.

Did you see Investigator Hoyt at SP Rhinebeck when you returned to the station with the prisoner at approximately 11:00pm?  
-Yes

Do you know if Investigator Hoyt was at SP Rhinebeck at anytime between 11:00 PM and 12:00 AM?  
-Yes.

If he wasn't at SP Rhinebeck do you know where he was? N/A

Did you check the BCI Pers 29 to see who was working on 8/2/12?  
-No.

Were you aware that Investigator Hoyt was working from 4:00 PM to 12:00 AM on 8/2/12?  
-Yes.

If Investigator Hoyt was present at the station would you have been aware of that fact?  
-Yes.

Did you go into the BCI area of SP Rhinebeck between 11:00 PM and 12:00 AM?

-I do not recall if I went into the BCI area.

If Investigator Hoyt had been at the SP Rhinebeck when the complainant [REDACTED] arrived at the station, would you have handled the situation any differently?

-I do not remember, whether Investigator Hoyt was still at Sp Rhinebeck. I was attempting to leave the station for a arraignment at Town of Rhinebeck court. I did not have the particulars of the incident reported. I don't think I could have handled the situation differently.

Why didn't you call Investigator Hoyt once the victim told you what had occurred when she was at the station?

-I was with my prisoner and did not speak directly to the Victim. I was not involved in the conversation with the victim at this time.

ENCLOSURE #18

State of New York           )  
County of Dutchess        )  
Town of Pleasant Valley   )

This statement is being taken from Investigator WILLIAM POPOW at SP Poughkeepsie, Troop K Headquarters, Pleasant Valley, NY, on September 10, 2012. This statement is being taken by Lieutenant JAMES H. MURPHY commencing at 12:41 P.M.

The letters "JHM" will denote questions asked by Lieutenant MURPHY.

The letter "A" will denote answers from Investigator POPOW.

JHM: Please state your name, rank, date of entry and assigned station for the record.

A: WILLIAM POPOW, January 8, 1996, SP Rhinebeck.

JHM: Investigator POPOW you were advised on August 16, 2012 by Senior Investigator WILLIAM GRAY of the matter being investigated and that I would be taking a statement at this time. The purpose of this interrogation is to inquire into your activities as a member of the State Police, specifically as it relates to a rape investigation that was reported to the State Police on August 2, 2012. You are not the target of any known criminal investigation. This interrogation is being conducted pursuant to Article 16(2) of the agreement between the State of New York and your certified employee representative organization and the regulations of the New York State Police. You have a right to contact and consult with an attorney and/or union delegate before being interrogated and to have an attorney and/or delegate present during the interrogation. This agreement and the State Police regulations require you to cooperate and answer truthfully questions relating to the investigation. A refusal to answer or failure to answer truthfully may result in disciplinary action which could result in separation from service. Are you represented at this time and if so by whom?

A: Yes by the NYSPIA delegate.

JHM: But no attorney?

A: No.

JHM: Again I am Lieutenant JAMES H. MURPHY and have been designated by the Superintendent to conduct this interrogation. Present during this interrogation are myself, Investigator WILLIAM POPOW, Investigator JAMES SERAFINI, NYSPIA Union Representative. This statement is being mechanically recorded, do you understand this?

A: Yes.

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JHM: Having been advised of all of the above are you ready to proceed with this interrogation?

A: Yes.

JHM: I am going to show you a copy of the SP Rhinebeck BCI Member Attendance Record, PERS 29, for August 3, 2012. It shows that you were working a B line on that date from the hours of 8:30 to 4:30 P.M. Is this document correct and are those your initials?

A: Yes.

JHM: With reference to the work schedule for that day, at what time would you have been, uh become the recall BCI member for SP Rhinebeck on August 3, 2012?

A: Um the normal uh change would be 3:00 A.M.

JHM: Um did you have any, any agreement with Investigator HOYT on August 2<sup>nd</sup> where you would be the recall, recall investigator starting at any other time prior to 3:00 P.M. on August 3<sup>rd</sup>?

A: No.

JHM: Is this the normal time that the recall investigator responsibility changes for SP Rhinebeck? 3, 3:00 A.M.?

A: 3:00 A.M., yeah, correct.

JHM: 3:00 A.M., okay. Um now I am going to show you a copy of an email from Trooper JEREMY MERGANDAHN to you titled "Heads Up" which was sent to you on August 3, 2012. Do you recognize this email?

A: Yes.

JHM: Did you send this email to anyone else or advise anyone else of this information?

A: No.

JHM: When did you first see this email?

A: Uh sometime during the day on August 3<sup>rd</sup>.

JHM: Okay. Was there any reason you did not forward it to anyone else or advise anyone else?

A: Uh well the email was uh I, I had, when I, when I read the email sometime during the 3<sup>rd</sup> I knew uh I didn't know of the incident so I really wasn't uh know I didn't know really what that email was referring to. Uh I referenced it through SJS and there was nothing in SJS so other than just with this email I had no other information regarding the incident and I, I remember recalling that the uh I don't know if the two shift that had responded to this uh had mentioned to the one shift that Investigator HOYT has, was contacted and advised of it uh so I just uh figured that he was uh the one that was gonna investigate it.

JHM: Okay so that would be the reason you didn't take any further action?

A: Correct.

JHM: Um did Investigator HOYT contact you any time on the 3<sup>rd</sup> or shortly thereafter regarding this investigation?

A: Uh no.

JHM: And you didn't make any phone calls to anybody else about this case or the complainant for that matter?

A: Uh no I had no phone numbers for the complainant and uh no I didn't.

JHM: Um my next question I think you kind of already answered, knowing you were going on AL at the end of your shift uh were you planning on any follow up on this investigation if any, at all?

A: I didn't, I didn't think I was uh you know I didn't know it, other than this email I knew nothing more uh of what had happened. Like I said I, I uh had heard that Investigator HOYT was contacted and I figured that uh, uh there's nothing in SJS and he didn't respond to it I figured there was no action that I could have taken that would uh have been any different then or had any impact on it you know. I figured he was handling it.

JHM: Okay. So I'm not putting words in your mouth, you expected Investigator HOYT to continue with the investigation if there was anything required?

A: Correct, yeah.

JHM: Okay. Um do you know why Trooper MERGANDHAL states in his email "I did not put this in SJS either" oh hold on I'm sorry, I'm referring to the second email. Trooper MERGANDHAHL sent a second email to you titled "FYI" um August 12<sup>th</sup>. Are you familiar with that one?

A: Uh yes, yeah.

JHM: In that he says that "I didn't put this in SJS either" um, do you have any reason or know why he says he didn't put that in either or why he didn't put the first one in SJS?

A: Well the second one was the day I came back from vacation, I think it was a C line that day and what when I got this like I said I was still under the assumption that it was Investigator HOYT's case um so I had uh came across AL MIANO who was uh who actually went to the original one and I asked him what this email, the second email was in reference to and he had said [REDACTED], the matter that came in on uh August 1<sup>st</sup> I believe it was or 2<sup>nd</sup> so I uh told him to call the complainant or give me the, her number so I could call her and her and the victim came down and that's when I started my investigation.

JHM: Just to clarify, did Investigator MIANO say Investigator HOYT hadn't done anything to that point? Is that what....

A: Well I, I really didn't even ask him. I didn't uh, he just, being I was a C line, uh he came, [REDACTED] I had him contact them and I think I ended up talking to [REDACTED] told her to come down to SP Rhinebeck that night and uh I really didn't even uh worry if Investigator HOYT was, did anything with....

(unintelligible – talking over each other)

A: I still don't think there was anything in SJS when I pulled it up after I came back from vacation so.

JHM: Right. Did you contact Investigator HOYT at that point when you started handling the investigation just to check in with him?

A: No.

JHM: No. Um did anybody ever say to you why it wasn't in SJS even at that point?

A: No. No.

JHM: Um referring to the first email Trooper MERGANDAHN states that he left some uh associated paperwork with this case for you on your desk on August 3<sup>rd</sup>. Do you recall that or did he leave you anything?

A: I, when I came in on, on the 3<sup>rd</sup> there was nothing other than all of my case folder sbut there was no, nothing that they left me with that had any contact information on it.

JHM: Okay. Um just to go back to the 3<sup>rd</sup> again, do you recall what you uh what duties or what tasks you did on the 3<sup>rd</sup>?

A: I know I came in on the 3<sup>rd</sup> uh and I had I'm not sure what I did but it was probably like around ten or ten thirty when you had me go up to the fire up in Columbia County.

JHM: Right and how long did you remain up there?

A: Uh I probably got back to Rhinebeck around uh three thirty quarter to four.

JHM: Alright and your shift ended at four thirty....

A: Four thirty.....

JHM: Correct? So the bulk of your shift was spent up in Columbia County.

A: Yes.

JHM: And where were you in Columbia County when you got assigned to the fire detail?

A: Where was I where?

JHM: Where'd you get assigned when you went to the fire detail?

A: Uh the, the uh the command post up by BAC.

JHM: (unintelligible)

A: (unintelligible) the Ghent, Town of Ghent.

JHM: Right.

A: What was your question? Where...

JHM: Well which, there was two command posts BILL. Where did you get assigned?

A: Right in the parking lot of BAC, right next to the incident location.

JHM: Right, okay. I don't think I have any further questions for you. Is there anything else you want to add to this?

A: No.

JHM: Okay this concludes the interview. The time is 12:50 P.M.

JHM: It is 12:53 P.M. um we have a follow up question for Investigator POPOW  
. All the rules and warnings still apply that were previously read. It's basically a continuation of the statement. Um just to clarify, Investigator POPOW you stated when you read the email um you assumed that Investigator HOYT was handling the investigation, um is there any other reason that you assumed that Investigator HOYT was handling the investigation?

A: Yeah I, I don't really remember if it was prior to me reading the email or after me reading the email but I do remember uh you know troopers always come into the office and, and, and they'll say so and so got called last night whatever so I someone had told me that Investigator HOYT had been contacted regarding uh what was in the email or the incident uh so I was that even made me more think that he was uh you know assigned the case and, and whatever he did he did you know so I didn't think there was anything on my part to be following up on his case so. Pretty much it.

JHM: Okay thank you for that additional information. This again concludes the statement. It is 12:54 P.M.

I have read this statement consisting of 6 pages and it is all true to the best of my knowledge. I have placed my initials on the bottom of each page and next to each correction, and I signed it below.

Signature \_\_\_\_\_

Witness \_\_\_\_\_  
Or

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 2012  
\_\_\_\_\_

Notary Public

09.27.12

State of New York           )  
 County of Dutchess        )  
 Town of Pleasant Valley   )

This statement is being taken from Investigator MICHAEL HOYT at SP Poughkeepsie, Troop K Headquarters, Pleasant Valley, NY, on September 10, 2012. This statement is being taken by Lieutenant JAMES H. MURPHY commencing at 2:20 P.M.

The letters "JHM" will denote questions asked by Lieutenant MURPHY.

The letter "A" will denote answers from Investigator HOYT.

JHM: Please state your name, rank, date of entry and assigned station for the record.

A: MICHAEL J. HOYT, Investigator, October 28, 1996, SP Rhinebeck BCI.

JHM: Investigator HOYT you were advised on August 16, 2012 by Senior Investigator WILLIAM GRAY of the matter being investigated and that I would be taking a statement at this time. The purpose of this interrogation is to inquire into your activities as a member of the State Police, specifically as it relates to a rape investigation that was reported to the State Police on August 2, 2012. You are not the target of any known criminal investigation. This interrogation is being conducted pursuant to Article 16(2) of the agreement between the State of New York and your certified employee representative organization and the regulations of the New York State Police. You have the right to contact and consult with an attorney and/or union delegate before being interrogated and to have an attorney and/or delegate present during the interrogation. This agreement and the State Police regulations require you to cooperate and answer truthfully questions relating to the investigation. A refusal to answer or failure to answer truthfully may result in disciplinary action which could result in separation from service. Are you represented at this time and if so by whom?

A: Yes by JIM SERAFINI from the NYSPIA.

JHM: Again I am Lieutenant JAMES H. MURPHY and have been designated by the Superintendent to conduct this interrogation. Present during this interrogation are myself, Investigator HOYT and Investigator SERAFINI, NYSPIA Union Representative. This statement is being mechanically recorded, do you understand this?

A: Yes.

JHM: Having been advised of all of the above are you now ready to proceed with this interrogation?

A: Yes.

JHM: I'm going to show you a copy of the SP Rhinebeck BCI Member Attendance Record, PERS 29, for August 2, 2012. It shows that you were working a C line on that date and that you signed out of service at 12 M, which I'm assuming means midnight. Is that correct and are those your initials indicating this to be true?

A: Yes.

JHM: What time and when did you make this entry?

A: The entire entry?

JHM: Yes. When did you sign out?

A: Uh.

JHM: Did you sign out actually at that time?

A: Did I sign out when I walked out the door at that time?

JHM: Hm.

A: I don't remember if I signed out then or the next day. I'm not sure; or when I came to work next. Sometimes we forget sign out when we leave, it could have been my next tour of duty. I couldn't say.

JHM: Right. That's what I was asking.

A: Yeah.

JHM: Because you had a C line would it be correct to assume that you were the recall BCI member immediately following your shift?

A: Um not on that day no.

JHM: Why not?

A: I was on a Pass day the following day.

JHM: Is that standard practice that you don't have the calls once your shift ends?

A: Yeah depending on what your shift is the next day the call times vary.

JHM: When would your uh when would your recall have ended for the 2<sup>nd</sup>?

A: Midnight.

JHM: When you were done working you were done with the calls?

A: Yes.

JHM: Is that the normal practice for SP Rhinebeck?

A: Yes.

JHM: Did you and invest, did you and invest, let me back up. Investigator POPOW had the B line the next day uh what time would he have been responsible for recall?

A: Because I was on Pass it would have been midnight. We trade off the calls at midnight.

JHM: Is that the normal procedure?

A: Yes. In less I'm the C line the next day. It's, it's different depending on what the C line guy works the next day.

JHM: Hm. Um did you and Investigator POPOW have any prearranged agreement for 8/3 that would have modified or changed the time that the BCI recalls responsibilities changed?

A: That day no. No.

JHM: Uh on August 2, 2012 were you at the barracks when Trooper MIANO and Trooper MERGANDAHN arrived with a subject under arrest at approximately 10:50 PM?

A: Yeah I was there while they had him arrest, yes.

JHM: And what time did you leave Rhinebeck that night?

A: Right around midnight. I could have been couple minutes before, it could have been right at or a couple of minutes after. I don't, depending on what clock you looked at I guess.

JHM: Um were you present when the complainant in the rape investigation arrived at the barracks?

A: Not the, to my knowledge no. Don't recall it. I don't remember being aware of anyone being in the building other then the troopers and the uh, and the uh defendant that they had.

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JHM: Do you recall seeing any other cars in the parking lot that didn't normally uh would normally be there when you left for the night?

A: No. I don't, I really didn't know what the troopers drive necessarily so it would be hard to say.

JHM: Uh do you recall receiving a telephone call from Trooper JEREMY MERGANDAHL that evening um regarding a possible rape complaint?

A: I do.

JHM: Approximately what time did you receive this call?

A: Shortly after 12.

JHM: What did Trooper MERGANDAHL tell you?

A: He told me that uh, uh a subject had come in [REDACTED] report some type of sex offense. Um that they had an arrest which I knew they had in custody at that time and that they were scheduled to do an arraignment so that they interviewed them briefly in the, in the lobby and that they had sent them home to,

[REDACTED]

Um so um like I said th, th, they, I don't know where he called me from but they had already sent them you know home to, [REDACTED]

JHM: Alright. Where were you when you received the phone call?

A: In my car. I was driving home, I just got home. I'm not a hundred percent sure. I remember having the conversation. It was maybe a five, ten minute conversation so I think I remember I was driving when I initially got the call and I think I arrived home while I was talking to him on the phone.

JHM: Um why didn't you respond back uh at the initial phone call?

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A: Well th, the way, the way it came off to me was as if it was um being report as a

[REDACTED]

That's the way that it came off to me initially. Um so I told them

[REDACTED] find out what you have, call me back cause I'm already awake. I mean at this point they called me I'm not gonna have them wake somebody else up unless somebody else needs to get wakened up so I said call me back, let me know what you have and if somebody has to come out we, I'll decide at that point if I'm gonna respond or if I'm gonna call BILLY in and have BILLY come in". So that was the decision I made at that point.

JHM: Okay. Um were there any other follow up telephone calls after that? After the first phone call?

A: Yes they did call me again.

JHM: At approximately what time?

A: I want to say it was around 1:30.

JHM: And do you recall what was said?

A: Yeah. He told me, they were actually surprised....

JHM: Who was it? Who called you?

A: It was MERGANDAHL again.

JHM: Yut.

A: And they told me that uh, he told me rather, that he was surprised, he said we got to the house [REDACTED]

[REDACTED]

[REDACTED]

Um and basically you know told them that's it we don't need you any further. That's the way it was explained to me by the Troopers the second time they called me.

JHM: Um when Trooper MERGANDAHN told you that what, what instructions did you give him?

A: Um well I, I told him at that point that yeah, I asked if they needed me to respond and at that point they said no there's no you know what are you going to do the [REDACTED]. So I instructed him at that point email uh POPOW who was working in the morning so that if there was any follow up investigation that needed to be done in the morning that he could, that he could take care of that because I was on pPass that day.

JHM: What did you expect POPOW to do with the information?

A: I don't know I thought maybe he would at least you know tell the boss you know and see if, if someone wanted to call up. [REDACTED]

JHM: Did you see a copy of the email that uh Trooper MERGANDAHN sent to Investigator POPOW?

A: Yeah I saw one.

JHM: Um, when did you see it?

A: Uh it was within the last week. It wasn't sent to me.

JHM: Okay. Um do you know why they didn't send it to you too?

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A: No I don't.

JHM: Um the next day which would be the 3<sup>rd</sup> you were on Pass obviously but did you ever call Investigator POPOW just to see what transpired?

A: You know boss I didn't and, and I guess that's my mistake. I just assumed that, that this would get picked up in the morning. I thought BILLY would read the email, that there would be an SJS. I didn't know there was no SJS entry until like over a week later. I thought that someone would catch on, BILL GRAY reviews SJS every day, I thought at the very least he would see it and, and you know up with it in the morning so it didn't occur to me to call and check with BILLY to make sure. I didn't know there was any confusion about the case at all otherwise I would.

JHM: Right. Did you ever tell anybody else about the complaint?

A: Na. I told BILL GRAY later, at a later date because I realized it had been overlooked or I thought it may have been overlooked at that point.

JHM: Do you remember when that was?

A: It was uh not that week, maybe the following week. [REDACTED]

[REDACTED] so I said well do you know what, if BILLY did anything with it and if what. He said I don't know but I referred him to BILLY. I said alright and I so I went to look in SJS to see if it was there and it wasn't so I went back and I told BILL GRAY about it at that point just so he knew what was happening and that this guy wanted it investigated at this point.

JHM: Do you know why the troopers didn't put it in SJS?

A: I do not know boss.

JHM: Is that like a normal course of conduct for them to not put something in there and wait for you guys to put it in later on?

A: These are two Troopers that I trust, they do a good job they do thorough interviews. Their, I, I, I'll go to bat for them one hundred percent, I, I don't believe that they did this one purpose. I think it was just an oversight, for whatever reason. I don't know why. I can't speak for that part of it. Neither one of them has been able to tell me why they didn't make the entry. So it, it you know, like I said it's not something that's the normal course of conduct for either of those Troopers that I've encountered.

JHM: Right. Um if you expected Investigator POPOW to handle this do you think he should have been advised after the initial phone call, the one that you received uh shortly after midnight so he could have the opportunity to respond?

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A: Well if I had it to do over yes uh, I feel like, I you know I, I feel like maybe now at this point I should have called BILLY or called my boss but I, I kind of made a decision in the middle of the night that I really fielded the call the second time because I didn't want him to get waken up unless someone had to be and at that point I was honesty going to make a decision when they called back if somebody didn't respond, Whether I was gonna go in myself or I was going to call BILLY to go in cause it was my Pass day but it didn't, at that point based on what the troopers were telling me and what we believed it to be I didn't feel it required an immediate response that night so in hindsight should I have called my boss and told him about it so he would know, absolutely and should, could I have called BILLY so he would know and this wouldn't have gotten overlooked, absolutely and that's my bad you know um but it just didn't occur to me to do that, I, it was my whole point to keep him from getting waken up, I'm already up.

JHM: Right.

A: If it needs to be handled tonight, I'll handle it...

JHM: Sure

A: and you know he could pick up with it in the morning.

JHM: Right. Uh lets see I think some of these questions you already answered but I...when you returned to duty from your three day Pass on Monday, 8/6 did you ever speak with Senior Investigator GRAY about this or check in SJS to see if anything had been done.

A: No. I once again, I asked one of the Troopers in passing through the week, I think it was JEREMY, I asked him if BILLY had every gotten back to him or what happened with the case and he said he didn't know. He hadn't received an email, it didn't occur to me at that point to look into it so I just didn't until the, the trooper told me [REDACTED] called back.

JHM: That answered my next question; did you ask Troopers MERGANDAHN or MIANO about what became of this case? When you spoke with JEREMY you said about (unintelligible) follow up?

A: I'm pretty sure it was JEREMY during the week I asked him I know because he had said that he sent an email and I just asked him if, if BILLY ever responded or if he knew what he did if anything and he said he wasn't sure so like I said at that point it didn't occur to me to check into it.

JHM: Um and did any time did you instruct the Troopers not to make an SJS entry?

A: Absolutely not.

JHM: I don't think I have any further questions MIKE um is there anything you wish to add?

A: Uh no, I don't know, I don't think so, no.

JHM: No. Okay...

A: Just if there was any miscommunication I maybe is there was any miscommunication over who was on call when I, I guess that I, I'll take the credit for that like I, I take being on the calls very seriously and I know I like to be available and answer the phone when I'm on call so I, if there's a discrepancy there and someone has to, to take the heat for that then please I, I'd rather that be me.

JHM: There is a discrepancy there and that's really what this whole boils down to um I know we're going off script now because I don't have any more questions for you. But I'm told by everyone at the station, the Troopers and the Investigators that you guys change at 3:00. You're the first one to say that when you go onto Pass your recall time ends when your, your duty ends which....

A: Well if I can clarify that, usually the way we do it is I work C's mostly so if I work C to C we used to, you work C to B, I don't always do that I work C, C, C so when we do that we made an agreement that you know I'll cover the calls till 3 in the morning and then the B line guy cause it doesn't make sense for me to come in at 5 or 6 in the morning.....

JHM: Right.

A: for something when those guys are getting up to come in to work anyway so we kind of said alright at 3 am we'll do the switch. Um if I work a B line the next day, which sometimes happens, I always cover the calls all night because I'm coming back in for the B line and we've always done it that when a guys on Pass um I've even seen it when guys have details the next day they put off of a C line they'll put from the B line on the calls at midnight because it's technically your Pass day.

JHM: Where would you guy record that? Like how would the Troopers know that if they walked in....

A: I write it on the board. There a board that we write who's on call and I write it every night. I make sure.

MST  
09/25/2012

JHM: Where's that board located?

A: It's right if you're in our patrol room there's two doors, there's one on right hand side, the boards right there in front of you and you write the recall, I always, that's one of the things I do when I'm on the C line, always is make sure that that's on the board so those guys know who to call.

JHM: Do you know if you did it the night of August 2<sup>nd</sup>?

A: Yeah I did. I did. Definitely.

JHM: Boy I'd like to know why uh Troopers MERGANDAH and MIANO called you then instead of....

A: Because they knew I just left, they knew I was around and, and I don't have a problem with that uh I don't mind them calling me. It's not like if, if I walk out the door at midnight and they call me ten minutes later I'm gonna be lot hot potato call BILLY and wake him up.

JHM: Right.

A: Um at that point they, they had made a decision, a judgment to tell these people go home we'll deal with that we're dealing with and you know based on the situation that was presented to them that was, it was okay with me at the time um so they made a decision to send these people home [REDACTED]

[REDACTED] So based on what they had told me and they said we're gonna to back out and interview them as soon as we're done I said alright well then since you called me, I'm awake anyway, call me when you know what you have and we'll make a decision at that point if somebodies gonna respond and I like I said I was up in the air, if they called me back and I needed to come in I wasn't sure if I was just gonna come in and eat it or, or call BILLY.

JHM: Alright.

A: So but when they called me back once again in hindsight I, maybe I should have called the boss so I wouldn't be sitting here but I, I made a decision that based on those circumstances that were reported to me at that time it didn't seem to me like it required an immediate response and I was comfortable with that. My general rule of thumb with the calls and the boss is if I'm coming in I'm calling so he knows I'm out, I don't want him getting....

JHM: Well you should do that.

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A: Right and, and if I'm, if I'm up in the air a lot of times I'll kind him. If I'm like I don't know if I should go to this, I really don't know it's a gray one I'll call him and ask his opinion. This one I was pretty comfortable that it didn't, that there was nothing I could do at that point at the night that the troopers hadn't already done. Um once again I didn't have the benefit of knowing the complete circumstances of the case at that point otherwise I would've responded or had BILLY respond.

JHM: Alright the other big sticking point I have with your investigation MIKE is that as I did the investigation I found out that the troopers were at the station, they left the station at midnight or 12:02...

A: Okay.

JHM: To go out and do their arraignment with a, with the defendant they had there. That means that the subject had come into the station to complain of the rape case prior to midnight and uh obviously you're not there so I was just wondering wha, where would you have been?

A: I, I can't say that I wasn't there, I don't know. I, I don't like I said I don't know specifically, I don't remember looking at the clock, I don't want to give you definitive answer whether I walked out at 11:58, 12:00 or 12:02. I, I can't say that but I didn't know those people were in the lobby. I didn't hear a doorbell or I didn't pay attention. I could've even had the door to the patrol room <sup>close</sup> because a lot of times I'll close the door to our office because [REDACTED] So a lot of times I'll close the....

MST  
09/25/2012

JHM: When you leave which door do you go out?

A: Oh I go out the back door.

JHM: Do you normally tell the troopers when you're leaving the building?

A: Na. They were working, they were working on an arrest, I don't think I walked in there to tell them I was leaving. I mean if I haven't spoken to them and I'm going home for the night and I haven't told them who's on call cause a lot of times throughout the shift I'll interact with them and tell em what time I'm on call til and who's after even though it's already on the board, but I don't remember specifically walking in there and telling em I was leaving. I know they were busy with something so it wasn't like we were hanging out smoking and joking so.

JHM: I mean I gotta assume we all know how it works. If a BCI complaint comes walking in the door the first thing they're doing is going "hey Investigator HOYT"...

MST  
09/25/2012

A: Well you know, I, I agree with you there some Troopers would do that and once again you have two Troopers here that, that like I feel that they're not the guys, some Troopers will call on the way to something "I'm going to a Burg", they don't even know it's a Burg.

JHM: Right.

A: Then they're on their way there. These were two guys that really call ya when they know what they have and tha, that's what they were trying to do I think in this sense. You know I, this isn't a case of, of them trying to make this go away or disappear or anything like that or minimize anything so. Not in my opinion.

JHM: Uh huh. I didn't get that impression either. I think they were just busy.

A: Yeah.

JHM: Alright um I have nothing further so if you have nothing further to add we'll conclude it at this point. This concludes the interview. The time is 2:38 P.M.

I have read this statement consisting of 12 pages and it is all true to the best of my knowledge. I have placed my initials on the bottom of each page and next to each correction, and I signed it below.

Signature \_\_\_\_\_

Witness \_\_\_\_\_

Or

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 2012

\_\_\_\_\_

Notary Public

MOT  
09/25/2012